

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

Office of Government Ethics

Thursday, April 30, 2026



Advisory Opinion – Representation Through Testimony

Pursuant to D.C. Official Code § 1–1162.19(a), this opinion clarifies that the Code of Conduct does not prohibit Board or Commission Members from testifying before or providing information, in their official capacity, to the D.C. Council regarding their board or agency’s budget. The Director of Government Ethics for the Board of Ethics and Government Accountability (“BEGA”) received an inquiry concerning whether the ethics rules prohibit members of the Food Policy Council from testifying before the D.C. Council regarding the Mayor’s proposed fiscal year 2027 budget.

On September 7, 2022, BEGA previously opined through Advisory Opinion, Outside Employment and Private Representation¹, that Board or Commission Members are prohibited from representing a third party before their board or commission and employing agency. Pursuant to DPM § 1807.5 “[a]n employee who is employed for not more than one hundred thirty (130) days during any period of three hundred sixty-five (365) consecutive days, to perform temporary duties, either on a fulltime or intermittent basis, shall be subject to Subsection 1807.1(h) only in relation to a particular matter involving specific parties in which he or she has at any time participated personally and substantially as a District government employee, or which is pending before his or her employing agency.” Most Board or Commission Members are defined as special government employees because their service does not exceed one hundred and thirty (130) days in a calendar year.² The type of representation prohibited in DPM § 1807.5 pertains to Members representing an outside person or entity in their personal capacity before the District government. Consistent with the previous opinion, the ethics rules do not apply to providing testimony on an agency’s budget or operations as such conduct is tantamount to the Board Member’s duties and service to the District government.

Regarding Financial Conflicts of Interest, the Code of Conduct prohibits employees and public officials from using their official position or title, or personally and substantially participating, in a judicial, application, contract, claim, or other particular matter, or attempt to influence the outcome of a particular matter, in a manner that the employee knows is likely to have a direct and predictable effect on the employee’s financial interests or the financial interests of a person closely affiliated with the employee.³ Testifying before the Council as a public official regarding the

¹ Outside Employment and Private Representations Advisory Opinion, September 7, 2022, available at <https://bega.dc.gov/sites/bega/files/publication/attachments/Outside-Employment-Private-Rep-Advisory-Opinion-090722.pdf>.

² DPM § 1899.1 (defining Special Government employee).

³ D.C. Official Code § 1–1162.23(a).

budgetary needs and operational functions of an agency does not violate financial conflicts of interest statute.

Please be advised that this advice is provided to you pursuant to section 219 of the Ethics Act (D.C. Official Code § 1-1162.19), which empowers me to provide such guidance. **Pursuant to Chapter 3 of the D.C. Municipal Regulations § 5405.7 this proposed advisory opinion shall be published in the District of Columbia Register for a 30-day public-comment period during which time a person may submit information or comment to bega@dc.gov.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley', is written over a horizontal line.

ASHLEY D. COOKS
Director of Government Ethics
Board of Ethics and Government Accountability