

## School Board

### Public Participation at School Board Meetings and Petitions to the Board <sup>1</sup>

At each regular and special open meeting, members of the public and District employees may comment to or ask questions of the School Board, subject to reasonable constraints.<sup>2</sup>

The individuals appearing before the Board are expected to follow these guidelines:<sup>3</sup>

1. Address the Board only at the appropriate time as indicated on the agenda and when recognized by the Board President.
2. Identify oneself and be brief. Ordinarily, comments shall be limited to 5 minutes. In unusual circumstances, and when an individual has made a request in advance to speak for a longer period of time, the individual may be allowed to speak for more than 5 minutes.
3. Observe the Board President's decision to shorten public comment to conserve time and give the maximum number of individuals an opportunity to speak.
4. Observe the Board President's decision to determine procedural matters regarding public participation not otherwise covered in Board policy.
5. Conduct oneself with respect and civility toward others and otherwise abide by Board policy, 8:30, *Visitors to and Conduct on School Property*.<sup>4</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> The Open Meetings Act (OMA) and the School Code grant any person the right to address a school board during any open meeting (5 ILCS 120/2.06; 105 ILCS 5/10-6 (board of directors) and 5/10-16 (board of education)). **The Open Meetings Act** requires public bodies to have rules (a policy) on public comment (*Id.*).

<sup>2</sup> **Prohibiting public comment and/or restricting public comment to written filings violates the mandates and overarching purpose of the OMA (Roxana CUSD No. 1 v. EPA, 998 N.E.2d 961 (Ill.App.4, 2013)).**

<sup>3</sup> State law does not provide specific rules and these guidelines may be amended. The guidelines for public comment should be reviewed with the board attorney. Restrictions on public comment during board meetings must respect free speech rights guaranteed by the First Amendment. Do not use viewpoint-based restrictions on public comment time unless approved by the board attorney. Many decisions address the tension between free speech and rules for public comment during meetings. See, for example:

*Lowery v. Jefferson Co. Bd of Educ.*, 586 F.3d 427 (6th Cir., 2009)(upheld a rule prohibiting speakers from being frivolous, repetitive, or harassing).

*Steinburg v. Chesterfield County Planning Commission*, 527 F.3d 377 (4th Cir., 2008), *cert. denied* (upheld removal of a man from a public meeting for behaving in a hostile manner).

*Norse v. City of Santa Cruz*, 586 F.3d 697 (9th Cir. 2009)(upheld community member's removal from city council meeting after community member gave Nazi salute in presiding officer's direction).

*Fairchild v. Liberty Indep. School Dist.*, 597 F.3d 747 (5th Cir., 2010)(upheld a policy banning discussion of personnel matters during public comment; the rationale turned, at least in part, on the Texas open meetings law).

*Bach v. School Board of the City of Virginia Beach*, 139 F.Supp.2d 738 (E.D.Va., 2001)(struck down a rule that prohibited personal attacks during public comments at meetings).

*Mnyofu v. Rich Tp. High School Dist.*, 2007 WL 1308523 (N.D.Ill., 2007)(school boards may impose guidelines for running meetings to maintain effectiveness).

<sup>4</sup> See *Nuding v. Cerro Gordo Community Unit School Dist.*, 730 N.E.2d 96 (Ill.App. 4, 2000)(board was authorized to ban parent from attending all school events and extracurricular activities by 105 ILCS 5/24-24; the ban was based on the parent's exposing a toy gun and a pocketknife at a board meeting).

Petitions or written correspondence to the Board shall be presented to the Board in the next regular Board packet. 5

LEGAL REF.: 5 ILCS 120/2.06.  
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:220 (School Board Meeting Procedure), 8:10 (Connection with the Community), 8:30 (Visitors to and Conduct on School Property)

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Initiating lawsuits against citizens over their uncivil public comments is tricky. Always consult the board attorney, and in some instances, a board member may need to consult his or her own private attorney. The Ill. Citizen Participation Act (CPA) (735 ILCS 110/15) provides citizens a mechanism to stop lawsuits brought against them for their public comments. The law, referred to as “anti-SLAPP legislation,” prohibits public officials from suing citizens for “any act or acts in furtherance of [their] rights of petition, speech, association, or to otherwise participate in government.” SLAPP means “Strategic Lawsuits Against Public Participation.”

The CPA does not bar public officials from seeking relief when they can allege that (a) the citizen’s comments were “not genuinely aimed at procuring favorable government action, result, or outcome,” and/or (b) the citizen engaged in defamation or another intentional tort causing the public official damage (Sandholm v. Kuecker, 962 N.E.2d 418 (Ill., 2012)).

5 A board of directors must reply to a written request for consideration of a matter within 60 days from the board’s receipt of the request (105 ILCS 5/10-6). Boards of education may treat petitions or correspondence according to a uniform, locally developed process.