



Public Commentary Going Global:  
The Good, the Bad, and How It Can Get *Ugly*

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by

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*This information is only intended to provide general information and is not a substitute for legal advice. Laws vary from state to state and jurisdiction to jurisdiction. It is important to consult your School Board Attorney about your specific legal needs.*

## Introduction

Consider the following real-life scenarios and imagine a video camera, front and center:

- ❖ Ontario, CA: Pastor Sabbath addressed a city council, protesting a lack of funding for his organization. His comments culminated in placing a curse on the city manager and his family.
- ❖ Santa Cruz, CA: A homeless-rights advocate raised his arm towards a city council in a Nazi salute. He was arrested after refusing to leave.
- ❖ Kirkwood, MO: A federal judge rejected the Constitutional claims of a man who was removed from city council meetings for “irrelevant debate” and “repetitive, personal and virulent attacks”. These attacks included displaying a large picture of a donkey and beginning his commentary with “Jackass, jackass, jackass . . .”. *Thorton v. City of Kirkwood*, 2008 U.S. Dist. LEXIS 6062 (E.D. Mo., 2008).
- ❖ Las Vegas, NV: A public commentator was removed from a city council meeting after shouting statements at the mayor and hurling an anti-Semitic insult relating to the Holocaust. The speaker also referred to the showgirls that accompany the mayor to promotional events as “bimbos”.
- ❖ Yelm, WA: Tired of complaints about Wal-Mart’s application to build a superstore, the city council banned the use of the terms “Wal-Mart”. The council also banned the use of “big-box stores” when speakers used this term as code for “Wal-Mart”.
- ❖ Dayton, OH: A citizen wore a ninja mask to a city commission meeting. When he refused to remove it, he was arrested. A court found that the mask conveyed this citizen’s dissatisfaction with the commission and that his message was entitled to First Amendment protection. *City of Dayton v. Esrati*, 125 Ohio App. 3d 60 (Ohio Ct. App. 1997).

## Technology

Over the past several years, information technology has grown by leaps and bounds. In 2004, a Google search of the term “podcast” produced only 24 results; today the number of hits totals approximately 114 million.<sup>1</sup> Similarly, webcasts and streaming video have become common on many school systems and state educational agency websites. Television, formally the most advanced method of image and information distribution, remains popular as School Systems

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<sup>1</sup> Searls, Doc. DIY radio with PODcasting, Doc Searles IT Garage. Sept. 28, 2004, [www.itgarage.com/node/462](http://www.itgarage.com/node/462).

partner with local cable television entities to produce educational access programming. It is now easier than ever for your School System to provide community access to School Board meetings.

As an initial matter, it is important that the School Board and the relevant personnel have a functional understanding of the more recent information-sharing advancements, including “webcasts” and “podcasts”. Of course, many other media options for School Systems exist, including screencasting, photocasting, videocasting or vodcasting, skypecasting, mobilecasting, textcasting, coursecasting, and blogcasting.<sup>2</sup> However, understanding the following two concepts provide a good background.

### *Podcasts*

A podcast is defined as “a digital recording of a radio broadcast or similar program, made available on the Internet for downloading to a personal audio player.”<sup>3</sup> Podcasts can contain visual and audio content. These programs can be purchased or obtained from music-sharing applications such as iTunes or can be made available on websites. They can last several minutes to several hours. Podcasts can be offered as a one-time download or as a subscription. With a subscription podcast, the subscriber’s computer automatically identifies and downloads the most recent podcast in that series.

Once a podcast has been downloaded, it can be played directly on the user’s computer or placed on a portable MP3 player. Podcasts are a cost-effective, flexible, and popular method to share information.

### *Webcasts*

A webcast includes live or recorded information distributed over the Internet using streaming media technology.<sup>4</sup> Essentially, webcasting is “broadcasting” over the Internet.<sup>5</sup> Many media outlets “simulcast” their programming on websites, and the practice has become quite common and expected by media savvy consumers.

## **First Amendment Considerations**

In addition to understanding the technology options available, a working understanding of the First Amendment is crucial. Managing public commentary implicates the Speech Clause of the First Amendment. This clause states, “Congress shall make no law . . . abridging the freedom of speech . . .”. The First Amendment, as incorporated through the Due Process Clause, applies to action taken by state and municipal governments, state-created entities, and state and municipal employees. *Holloman v. Walker County Bd. of Educ.*, 370 F.3d 1252, 1268 (11<sup>th</sup> Cir. Ala. 2004). The right of free speech, however, is not unlimited. *Heffron v. Int’l Soc. for Krishna*

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<sup>2</sup> See Digital Inspiration at <http://labnol.blogspot.com/2006/05/geek-speak-screencast-photocast.html> for a helpful overview of these terms

<sup>3</sup> PR Newswire, Dec. 5, 2005. <http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/12-05-2005/0004228195>

<sup>4</sup> Wikipedia, January 2008, <http://en.wikipedia.org/wiki/Webcast>

<sup>5</sup> *Id.*

*Consciousness, Inc.*, 452 U.S. 640 (1981). The First Amendment does not “guarantee the right to communicate one’s views at all times and places or in any manner that may be desired.” *Id.*

### *Communication Forums*

The limits of speech in public meetings depend on the nature of the forum, or the time and place of the speech. *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106 (2001). The Supreme Court has recognized three types of forums, and each has its own standard for restricting speech.

Traditional Public Forum. These public forums include areas that have been traditionally used for purposes of assembly and communicating, such as streets and parks. See *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 267 (1988); *Bannon v. School District of Palm Beach County*, 387 F.3d 1208 (11<sup>th</sup> Cir. 2004). In these areas, the state can establish content-neutral “time, place, and manner” restrictions or content-based rules that are “necessary to achieve a compelling state interest” only if those restrictions are “narrowly drawn to achieve that interest.” *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45 (1983).

Non-Public Forum. This term includes public property which is not by tradition or designation a forum for public communication, and is therefore governed by different standards. *Perry*, 460 U.S. at 46. The United States Supreme Court has recognized that the “First Amendment does not guarantee access to property simply because it is owned or controlled by the government.” *U.S. Postal Serv. v. Council of Greenburgh Civil Ass’ns*, 453 U.S. 114, 129 (1981). Control over access to a nonpublic forum can be based on subject matter and speaker identity so long as the distinctions drawn are “reasonable” in light of the purpose of the forum and are “viewpoint neutral.” *Cornelius v. NAACP Legal Defense & Educ. Fund. Inc.*, 473 U.S. 788, 806 (1985).

Designated (Limited) Public Forum. Limited public forums are generally “for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects.” *Id.* at 802. In *Perry*, the United States Supreme Court cited a school board meeting discussed in *Madison Joint School Dist. v. Wisconsin Employment Relations Comm’n*, 429 U.S. 167 (1976), as an example of a designated public forum. *Perry Educ. Ass’n*, 460 U.S. at 45. Since *Perry*, courts have repeatedly read *Madison* to have declared open school board meetings to be limited public forums. See, e.g., *Cornelius*, 473 U.S. at 803 (“In *Madison* . . . , the Court held that a forum for citizen involvement was created by a state statute providing for open school board meetings.”); *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 728, 729 (C.D. Cal. 1996) (citing *Madison* and holding that school board meetings are limited public forums); *Clark v. Burleigh*, 4 Cal. 4th 474, 489 (Ca. 1992) (noting that *Madison* “presented a designated public forum unlimited as to speakers but not as to topic: any member of the public could speak, but only on school board business”).

A School Board’s regulation of speech in a designated public forum is subject to “strict scrutiny”. *United States v. Kokinda*, 497 U.S. 720, 726-27 (1990). Therefore, any restrictions on public commentary that are content-based must be narrowly drawn to achieve a compelling governmental interest. *Perry*, 460 U.S. at 46. In a limited public forum, however, the School System may restrict speech on an objective basis as long as those restrictions are viewpoint neutral, reasonable in light of the purpose served by the forum, and leave other opportunities for

communication. *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989); *DiLoreto v. Downey Unified Sch. Dist. Bd. of Educ.*, 196 F.3d 958, 965 (9th Cir. 1999), citing *Rosenberger v. Rector & Visitors of the Univ. of Virginia*, 515 U.S. 819, 829 (1995) and *Lamb's Chapel v. Center Moriches Union Free Sch.*, 508 U.S. 384, 392-93 (1993).

### *Common Types of Restrictions*

#### Elimination of Public Commentary

School Boards may be tempted to eliminate public commentary all together. Most School Systems are not required to have public commentary at School Board meetings. However, many find that community input, even on a limited or periodic basis, can assist the School Board in making important decisions. Such discourse can also foster community involvement. As noted by the United States Supreme Court, “Those who won our independence believed . . . that public discussion is a political duty; and that this should be a fundamental principle of the American government.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

Some states have taken the position that public commentary should be allowed at open meetings. In *Board of Public Instruction of Broward County v. Doan*, 224 So. 2d 693, 699 (Fla. 1969), the Florida Supreme Court held that governments “should not be allowed to deprive the public of this inalienable right to be present and to be heard at all deliberations wherein decisions affecting the public are being made.” Fla. Stat. § 286.0115; Cal. Gov. Code § 54954.3.

#### Time Limits

School Board meetings need not be open for endless public commentary. *Lowery v. Jefferson County Board of Education*, 522 F. Supp. 2d 983, 993 (E.D. Tenn. 2007). Imposing consistent time limits on all speakers is permissible. It is important that the same time limitations be applied to all speakers, regardless of their point of view. For instance, one court found that a 45-minute time period for public commentary with five minutes of speaking time per commentator was permissible, was a “content-neutral restriction on time, manner, and place” of speech, and did not violate Constitutional rights of the speakers. *Hansen v. Westerville City Sch. Dist. Bd. of Ed.*, 1994 U.S. App. LEXIS 31576 (5th Cir. 1994).

#### Repetitive Speaking Opportunities

It is unclear whether a School Board can prevent an individual from speaking because he/she has spoken at a recent meeting. Generally, such restrictions could be problematic as it appears to target an individual and, therefore, a particular viewpoint. However, authority exists that refusing a speaker the opportunity to address the School Board more than once, at least on the same topic, is permissible. See *Lowery*, 522 F. Supp. 2d at 987.

#### Disruption

Courts agree that the government, including School Boards, have a significant interest in conducting orderly, efficient and effective public meetings. See e.g., *Madison*, 429 U.S. at 175,

n. 8; *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266, 271 (9th Cir. 1995) (board has “legitimate interest in conducting efficient, orderly meetings”); *Jones v. Heyman*, 888 F.2d 1328, 1332-33 (11th Cir. 1989) (City Commission has significant governmental interest “in conducting orderly, efficient meetings”); *Godwin v. East Baton Rouge Parish School Bd.*, 408 S.2d 1214, 1218 (La. 1981) (“board’s interest in conducting its meetings in an orderly and dignified manner is a substantial consideration and a valid governmental objective”).

Constitutional protection is generally not extended to speech that is substantially likely or certain to cause disruption. The School Board need not wait until “havoc is wreaked” to take action. *Cornelius*, 473 U.S. at 810, citing *Perry*, 460 U.S. at 52, n.12. Some states have even adopted statutes that specifically forbid disruption of public schools or public meetings. See O.C.G.A. § 20-2-1181; Wyo. Stat. § 16-4-406.

Disruption is not only violence and physical disruptions. It could also include serious violations of the rules of order that a body has established to govern its meetings. *Luckett v. City of Grand Prairie*, 2001 U.S. Dist. LEXIS 3102, 17, n. 2 (N.D. Tex. 2001). School Boards should be careful of considering common behaviors such as clapping a disruption serious enough to restrict speech. While the disruption of a School Board meeting or School System operations could certainly cause the School System to limit certain speech, it should be kept in mind that the School System “cannot simply defer to the specter of disruption or the mere theoretical possibility of discord, or even some de minimis, insubstantial impact” on decorum. *Holloman*, 370 F.3d at 1271.

Certainly, a speaker’s behavior could be considered disruptive if the School Board is prevented from accomplishing its business. *White v City of Norwalk*, 900 F.2d 1421, 1426 (9<sup>th</sup> Cir. 1990). This could include repetitious or irrelevant commentary, as such behavior could also interfere with the rights of other speakers. *Id.* See also *Kindt*, 67 F.3d at 270.

### Criticism

Public commentary must be based on a commitment to the principle that “debate on public issues should be uninhibited, robust, and wide open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials”. *Sullivan*, 376 U.S. at 270. School Systems cannot prohibit criticism of the School Board, School Board members, or the School System during public commentary. Such restrictions are content-based and the School System’s efforts to control public commentary “cannot outweigh the public’s fundamental right” to engage in public discourse on school issues. *Levental v. Vista Unified School District*, 973 F. Supp. 951 (S.D. Cal. 1997). See, also, *Bach v. Sch. Bd. of the City of Virginia Beach*, 139 F. Supp. 2d 738 (E.D. Va. 2001).

Although addressing student political speech, the United States Supreme Court offered sound advice in *Tinker v. Des Moines Indep. Cnty. Sch. Dist.*, 393 U.S. 503, 509 (1969), when it cautioned that

In order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused

by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.

A School Board will violate the First Amendment if it denies access to a speaker solely to suppress the point of view he espouses on an otherwise appropriate subject. *Cornelius*, 473 U.S. at 806.

### “Bad” and Tortious Speech

School Systems are generally entitled to limited profane speech or speech that would be a violation of defamation laws. As stated in *Chaplinsky v. New Hampshire*, 315 U.S. 568, 571-572 (1942),

There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include and lewd and obscene, the profane, the libelous, and the insulting or ‘fighting’ words- those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Of course, the subject of these attacks may affect whether or not the speech would be shown to be slanderous. Public officials are generally subject to harsh criticism unless the speaker acts with “actual malice” or knowledge the comments to be false, or acted with reckless disregard of whether it was false or not. *Sullivan*, 376 U.S. at 279-80. However, the standard for slander is lower when the subject of the speech is a private citizen. Generally, all that must be proven in those cases is negligence in attempting to determine that the information is false.

The application of these standards can become quite complicated. Some basic rules of thumb can be helpful: It is a safe assumption that a School Board member will be considered a public figure and will therefore be subject to much sharper criticism. Private citizens are generally entitled to a “kinder and gentler” standard of speech. However, states vary on whether principals and other school system administrators are considered public officials. School Board members should familiarize themselves with the applicable law in their state.

### Incorrect Information

Speakers are generally entitled to share information that is incorrect but that falls short of slander or defamation. “Erroneous statement is inevitable in free debate, and . . . it must be protected if the freedoms of expression are to have the ‘breathing space’ that they ‘need . . . to survive.’” *Sullivan*, 376 U.S. at 272 (quoting *NAACP v. Button*, 371 U.S. 415, 433 (1963)). False statements are seen to make a contribution to public debate as it may bring about a “clearer perception” of the truth. *Sullivan*, 376 U.S. at 279, n. 19.

### Limiting Speakers to Residents

Such restrictions are typically viewed as acceptable and do not restrict speech based on a speaker's viewpoint. *Rowe v. City of Cocoa*, 358 F.3d 800, 803-04 (11th Cir. 2004).

### Limiting Speakers to Topics on the Agenda

This is an objective standard that has been upheld. Public bodies may confine their meetings to specified subject matter. *Madison*, 429 U.S.167, n. 8. In *Kindt*, 67 F.3d at 272, a public speaker was not limited because of the content of his comments, but he was appropriately interrupted because he attempted to speak on items that were not held open for commentary until a subsequent item on the meeting agenda. Permitting "repetitious questions and arguments not related to an agenda topic would be 'to deny the presiding officer the authority to regulate irrelevant debate . . . would cause such meetings to drag on interminably, and deny others the opportunity to voice their opinions'." *Rowe*, 358 F.3d at 803 (quoting *Heyman*, 888 F.2d at 1333).

### Excluding Certain Topics

School Boards are generally permitted to exclude a topic from discussion in a limited public forum, provided that the exclusion is viewpoint neutral and reasonable. *Good News Club v. Milford Cent. School*, 533 U.S. 98, 106-07 (2001) ("The State may be justified in reserving its forum for certain groups or for the discussion of certain topics"). Some states have statutes that make it clear that certain topics are not subject to public meetings. See O.C.G.A. § 50-14-3.

Denying a commenter the opportunity to speak on specific topics at public meetings, both for and against, has been upheld. See *Prestopnik v. Whelan*, 83 Fed. Appx. 363 (2d Cir. N.Y. 2003); *Gagnon-Smith v. City of Middletown*, 2004 U.S. Dist. LEXIS 5560 (D. Conn. Mar. 24, 2004). This is especially true when the School Board has limited involvement in the topic at issue, or when citizens have been given other opportunities to express opinions about topics by contacting the School Board or school administration directly. *Lowery*, 522 F. Supp. 2d at 987.

However, the United States Supreme Court invalidated a regulation that prohibited public speech by non-union teachers "on matters subject to collective bargaining." *Madison*, 429 U.S. at 176. The Supreme Court noted its broad scope, remarking that "there is virtually no subject concerning the operation of the school system that could not also be characterized as a potential subject of collective bargaining." *Id.* at 177.

### Requiring Speakers to Request Permission or Sign In

Asking speakers to gain permission to be placed on the agenda is not an impermissible prior restraint on speech and does not rise to censorship. *Lowery*, 522 F. Supp. 2d at 986-87. Similarly, asking speakers to sign in is a reasonable request.

## Employee Discipline Based on Commentary

Disciplining an employee for commentary made on matters of public concern is generally impermissible. Employees may have a whistleblower or retaliation cause of action if they are terminated for such speech. See *Thompson v. Aramark School Support Services, Inc.*, 490 F.3d 506 (6<sup>th</sup> Cir. 2007).

## **Application of Technology and Other Practical Considerations**

In addition to being familiar with the legal requirements of public commentary in general, School Boards and School Systems should consider the following factors with respect to filming and broadcasting public commentary:

- ❖ School Boards should have a comprehensive policy for public commentary that is consistently applied. A sample of such a policy is attached. Limited public forum status may be lost where policy restrictions are not enforced or if “exceptions are haphazardly permitted.” *Hopper v. City of Pasco*, 241 F.3d 1067, 1076 (9<sup>th</sup> Cir. 2001). Courts will examine whether a School System consistently enforces its policy when reviewing a speech issue. *United Food & Commercial Workers Union, Local 1099 v. Southwest Ohio Regional Transit Authority*, 163 F.3d 341, 352 (6<sup>th</sup> Cir. 1998.)
- ❖ To avoid privacy concerns, speakers and attendees should be fully aware that School Board meetings may be taped and broadcast, and that their image and voice may be recorded for use on the web and/or television. This can be accomplished by notice in Board policy, on School System websites, on commentary sign-in sheets, and at appropriate locations in the Board meeting room, including the entrance. Example documents are attached.
- ❖ The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, requires that most personally identifiable student information be kept confidential. If public commentary is broadcast, School Board members should pay close attention to speaker comments about students other than the speaker’s own child. If information about another child is shared at the meeting, it may be important to edit that name prior to rebroadcast. Although the School System would probably not be held responsible for the speaker’s live comments, the School System may have FERPA concerns with re-airing the student’s private information at a later time.

*Hypothetical: During the filmed public comment portion of the Board meeting, a parent speaker publicly states that Johnny Jones is an aggressive, disabled student at her son's school. She is sick and tired of Johnny bullying her son, Sammy Smith, and wants the School Board to do something about it.*

- ❖ Similarly, the School System should recognize true slander and other speech that could be actionable. If the School System makes these comments available for rebroadcast, consideration should be given to editing this unprotected speech. However, it is very

important that School Systems seek out advice from the School Board attorney as the application of the First Amendment can sharply turn on the facts.

- ❖ In general, if a School Board could not legally limit comments at the live School Board meeting, the School Board could not limit them in a rebroadcast. Therefore, School Boards should not edit out speech that is critical, makes them uncomfortable, or is not in keeping with the School Board's opinion on a matter.
- ❖ To avoid entanglement with the opinion of public commentators, the School System should add a statement at the beginning of the program, podcast, or webcast that the views expressed in the public commentary portion of the School Board meeting do not necessarily reflect the views of the School System or the School Board.

Of course, the application of First Amendment principles is always difficult. Rarely do real-life school scenarios present exactly as discussed in court cases. It is important that School Board members making these "on the spot" decisions understand the basic constitutional framework, and have an understanding of when they may need assistance in making a decision.

**Proposed Title:**

Public Commentary : The Good, the Bad and How It Can Get Ugly

**Synopsis of Session:**

From podcasts to webcasts, school boards face an increasing array of methods to involve the community. Learn what unique issues surface when technologies meet the public commentary portion of school board meetings. Explore the options for structuring public commentary within a constitutional framework.

**Objectives of Presentation:**

To provide a basic understanding of public fora and how these are impacted by newer tools such as podcasting;

To examine recent trends in structuring public commentary; and

To provide the school board attorney practical, real world public commentary options.

**Practical Tools:**

A model school board policy and tips for effective implementation—along with the pitfalls hidden in both.

**Amplified Description:**About the Presenter

The law firm of Brock, Clay, Calhoun & Rogers, P.C. is located in metro Atlanta, Georgia. The firm represents the Cobb County School District (approximate enrollment 104,000), the Fulton County School District (approximate enrollment 75,000), and Marietta City Schools (approximate enrollment 8,000), among other Districts.

Suzann M. Wilcox, Esq. works exclusively with public school districts in Brock Clay's Education Group. She specializes in advising the firm's large and small school district clients in areas such as student issues, discipline, special education and constitutional matters.

Rationale and Brief Overview

This topic addresses the following areas of interest: free speech, privacy issues, civil rights, and technology.

The “dos and don'ts” of public commentary are often sticky, and this presentation will give school attorneys a useful overview of the constitutional parameters and

considerations. Because parental involvement has come to the forefront in laws such as Section 1118 of No Child Left Behind, the topic of public commentary at board meetings is growing in popularity. Displaying technological advancement is also a feather in the cap of school districts of all sizes.

Boards have found tools like podcasts, webcasts and cable access to be extremely helpful in involving the community, while allowing the school district to flex its technological muscles. There is hesitation, however, in how to implement such a program legally. Considerations including the following will be explored:

- Drafting a policy that works;
- Speaker information and how to inform the crowd of school district expectations;
- Privacy considerations in broadcast;
- Whether to go live or pre-record;
- How broadcasting impacts the free speech analysis; and
- Limiting liability for rogue public commentary.

After participating in this presentation, the school attorney will have a greater understanding of how to guide their clients into the on-demand age.

## Sample Public Commentary Policy

### A. Commentary in General:

The Board of Education (Board) will hear public commentary from any interested resident of the School System, including a student or parent/guardian of a student; non-resident owner of property within the geographic boundaries of the School System; and/or employee of the School System pursuant to the guidelines outlined in this Policy. Students under the age of 18 must be accompanied by the student's parent/guardian.

### B. Commentary Process:

1. The Board provides a 45 minute public comment session prior to the beginning of all Board meetings to allow individuals, an opportunity to address the Board.
2. Procedures:
  - a. Before addressing the Board, individuals are urged to seek a solution to their concerns through the proper administrative channels.
  - b. Individuals desiring to appear before the Board must first complete a sign-in sheet which should be available 30 minutes prior to the public presentation session. Speaker information must contain:
    - (1) Name;
    - (2) Full physical address, (not Post Office box). School System property owners not residing in the School System must provide both their School System property address as well as their mailing address;
    - (3) Telephone number;
    - (4) Discussion topic and which, if any, Board agenda item is related to their topic;
    - (5) Whether they are a resident of the School System; a School System student or parent/guardian of a School System student; a non-resident owner of property within the geographic boundaries of the School System; and/or an employee of the School System;
    - (6) Whether or not they have materials to submit to the Board.
  - c. Speakers should present any materials brought for the Board, i.e., letters, photos, petitions, written comments or other documentation, etc., to the School System representative at the sign-in table when signing-in. Speakers are asked to provide 10 copies of these materials. The School System representative will provide a copy of these materials to each of the following:
    - (1) Each Board Member;
    - (2) Superintendent;
    - (3) Board attorney; and
    - (4) The School System's records representative.

If 10 copies are not available, the School System representative shall deliver the material to the Board Chair for distribution.
  - d. Speakers will have an allotted amount of time, up to five minutes, to speak before the Board, with the time for speakers being determined by the Chair depending on the number of speakers. There will be a maximum of 15 speakers.
  - e. At the Board's discretion, the Board may make additional time, up to 45 minutes, available for public comment immediately following the Board Meeting.
  - f. Speakers will be scheduled on a first come, first served basis. However, the Board Chair may give priority to those discussing Board agenda items being considered during the Board meeting.

- g. Individuals will not be denied the opportunity to address the Board on the basis of their viewpoint. The Board requests that speakers maintain appropriate decorum and that comments remain focused and respectful. Speakers may comment on issues scheduled for consideration at the Board meeting or other concerns pertinent to the operation of a school or the School System. In addition to the guidelines in this Policy, public commentary may not be permitted or may be interrupted if:
  - (1) The topic is excluded by the Open Meetings Act (This may include, but may not be limited to, certain land, legal or personnel items);
  - (2) The speaker makes obscene, profane, defamatory, slanderous, or threatening gestures/remarks during his/her public commentary;
  - (3) The speaker discusses a student other than his/her child by name, or shares other information that could lead to the personal identification of such a student (See, for example, Family and Educational Rights Privacy Act, 20 U.S.C. § 1232g); or
  - (4) The speaker disrupts or attempts to the disrupt the Board meeting
- h. Speakers may not gain an additional opportunity to speak by reserving or dividing their allotted time for another speaking occasion, and may not pass their allotted time to other speakers.
- i. Speakers should:
  - (1) State their name to the Board prior to beginning public commentary; and
  - (2) End their remarks when their allotted time expires.
- j. Speakers should be aware that their public commentary may be filmed, photographed, or recorded by the School System or other non-School System media sources. The School System may rebroadcast public commentary on educational television, by podcast, or on the School System or school websites. Any portion of the public commentary that is not in compliance with this Policy may be edited prior to broadcast. The School System also reserves the right to edit to fit the time allotted for media purposes.
- l. Board Members and or the Superintendent may ask questions for clarification.
- m. If requested during his/her remarks, a speaker will receive a written response from the appropriate Administrator within forty-five (45) calendar days.

## Public Participation Sign In for Board of Education Meeting

Speakers will have an allotted amount of time of up to five minutes and will be scheduled on a first come, first served basis. Priority may be given to those discussing current Board agenda items. The Board requests that speakers maintain appropriate decorum and that comments remain focused and respectful. **Public commentary may be limited or interrupted if:**

- (1) The topic is excluded by the Open Meetings Act; (This may include, but may not be limited to, certain land, legal or personnel items);
- (2) The speaker makes obscene, profane, defamatory, slanderous, or threatening gestures/remarks;
- (3) The speaker discusses a student other than his/her child by name, or shares other information that could lead to the personal identification of such a student; or
- (4) The speaker disrupts or attempts to disrupt the Board meeting.

Any person who willfully violates the guidelines found in Board Policy \_\_\_\_\_ may forfeit the remainder of their speaking time and may face additional sanctions. **Public commentary may be filmed, photographed or recorded by the School System or other outside media sources. The School System may rebroadcast public commentary on television or on the School System websites. Public commentary may be edited prior to broadcast as discussed in Board Policy \_\_\_\_\_.**

Name (Please print clearly)	Phone	Check as applicable: <input type="checkbox"/> Parent/Guardian of School System Student <input type="checkbox"/> School System Resident <input type="checkbox"/> School System Property Owner <input type="checkbox"/> School System Student <input type="checkbox"/> School System Employee
School System Address (full street address, city and zip code; NO P.O. Boxes)		
Topic / Related Agenda Item (if applicable)	Materials for Presentation? (10 pre-made copies should be provided) <input type="checkbox"/> Yes <input type="checkbox"/> No	
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Topic / Related Agenda Item (if applicable)	Materials for Presentation? (10 pre-made copies should be provided) <input type="checkbox"/> Yes <input type="checkbox"/> No	

## **NOTICE:**

**School Board Meetings, including the audience and participants, may be filmed, photographed, or recorded by the School System or outside media.**

**The School System may simulcast or rebroadcast these recordings on television or on School System websites.**