

# EAST STROUDSBURG AREA SCHOOL DISTRICT

SECTION: COMMUNITY  
TITLE: PUBLIC COMMENT IN BOARD MEETINGS  
ADOPTED: August 19, 2002  
REVISED: October 18, 2021  
May 16, 2022  
**DRAFT**

## 903. PUBLIC COMMENT IN BOARD MEETINGS

### Purpose

The Board recognizes the value of public input and the importance of designating time for public comment during open Board meetings. The Board also recognizes the importance of diverse viewpoints and commentary.

This policy addresses the right for the public to comment at open Board meetings and the responsibility of the Board to conduct its business in an orderly and efficient manner. An authorized individual's public comment will be free from interruption, except when the individual's conduct is in violation of law or Board policy.[1]

### Authority

An opportunity for district residents, taxpayers, **employees, and students** to provide comment on matters of concern, official action or deliberation which are or may be before the Board, shall be provided as designated on the Board meeting agenda and in compliance with law, Board policy and district procedures.[1][2][3][4][5]

**The presiding officer may expand the opportunity to provide public comment to others when deemed necessary to inform the Board.**

Copies of the agenda, which includes a listing of each matter of business that will be or may be the subject of deliberation or official action at the meeting, shall be made available to individuals in attendance at the meeting.[3]

The Board requires that public comment on agenda items be made at the beginning of each meeting.[4]

If the Board determines there is not sufficient time at a meeting for public comments, the comment period may be deferred to the next regular meeting or to a special meeting occurring before the next regular meeting.[4]

~~{ } The Board shall provide a second public comment period, after the items for action or deliberation have been completed, to comment on items of concern or other matters involving the school district.~~

When items are added to the agenda after the public comment period has ended, the Board shall offer a further public comment opportunity limited to the added items.[4][6]

An individual's public comment may be interrupted or terminated only under limited circumstances, such as when the individual's commentary is in clear violation of law or Board policy, including but not limited to the following:

1. Sexual harassment, racial, ethnic, religious or nationality intimidation towards an individual or individuals in the school community.[7][8][9]
2. Disclosure of confidential personal information regarding students or staff.
3. Speech that traditionally has not been protected under the First Amendment, such as obscenity, defamation and speech integral to criminal conduct.
4. Speech that is profane.
5. Speech that constitutes true threats such as inciting imminent lawless action or subjecting individuals to fear of violence.

Speech that does not concern matters that may come before the Board for deliberation or official action, for example, sales of commercial products or services.

## Guidelines

### **Sign-in and Request to Comment**

All individuals attending the meeting wishing to comment during the Board meeting shall sign in on the sheet provided at the meeting or online and provide their first and last names (and email address when registering online). the following information on the sign-in sheet:

All individuals wishing to comment during the Board meeting shall complete a document designated for requests to comment and submit the document to the Board Secretary prior to the start of the meeting.[1]

1. Name of commenter.

2. Affiliation with the district.

2.3. Municipality of the commenter (resident/taxpayer).



The presiding officer and the district solicitor have the authority to:

1. Interrupt an individual to warn the commenter that the statement is too lengthy, or conduct is otherwise in violation of this policy.
2. After warning, terminate the individual's opportunity to comment when the conduct continues and is in violation of this policy.
3. Call a recess or adjourn to another time when an individual's conduct is otherwise in violation of this policy.
4. Request an individual to leave the meeting when that person's conduct is disrupting the operation of the meeting.[10][11]
5. If the individual refuses to leave the meeting, request the assistance of school security personnel or law enforcement to remove the disorderly person to enable the Board to proceed with the orderly operation of the meeting.[12][13]
6. Waive the Board's rules regarding public comment with the approval of a majority of those present and voting.

Where the presiding officer's ruling regarding public comment is disputed, it may be overruled by a majority of those school directors present and voting.

### **Response to Public Comment**

The purpose of public comment at Board meetings is to allow the Board to learn the thoughts of the public prior to Board deliberation and official action.

Although the public comment period of the meeting is not a question-and-answer session between the public and the Board, the Board may direct staff to follow up and address public inquiries in a reasonably prompt manner.

Whenever public comments are subject to the Board policy regarding public complaints, the individual shall be directed to follow the process outlined in the policy for resolution of the issue.[14]

### **Recording and Release of Public Comment**

District recordings shall not be the official record of an open Board meeting, but may be available for public access, upon request, in accordance with the law, relevant court decisions and Board policy. Recordings of Board meetings, including the public comment portions of the meeting, shall be retained and disposed of in accordance with the district's records retention schedule.[5][15][16][17][18]

### **Public Comment Recorded in Board Minutes**

The following information regarding public comment is required to appear in the official minutes of each open Board meeting:[5][19]

1. The names of all citizens who appeared before the Board.
2. The subject of their testimony.

### **Board Committees**

Public comment at committee meetings shall be at the discretion of each committee.[4][5][20]

~~{ } In general, meetings of committees of the Board shall not include a public comment period.[4][5][20]~~

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~~{ }, unless held as a Committee of the Whole.~~

### **Recording Devices and Cameras**

Electronic recording devices and cameras, in addition to those used as official recording devices, shall be permitted at open meetings. The Board is authorized to establish reasonable rules for the use of recording devices and cameras during Board meetings.[1][21]

### **NOTES:-**

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~~If a policy uses the statement allowing public comment prior to each official action of the Board, please keep it in the policy. (This is permissible under the Sunshine Act.)~~

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~~Language regarding placards or banners being permitted within the meeting room has been removed due to legal challenges. Please note that the district should review this language with their solicitor.~~

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Legal References:

1. 65 Pa. C.S.A. 710
  2. 24 P.S. 407
  3. 65 Pa. C.S.A. 709
  4. 65 Pa. C.S.A. 710.1
  5. Pol. 006
  6. 65 Pa. C.S.A. 712.1
  7. Pol. 103
  8. Pol. 103.1
  9. Pol. 104
  10. 18 Pa. C.S.A. 5101
  11. 18 Pa. C.S.A. 5508
  12. 18 Pa. C.S.A. 3503
  13. Pol. 805.2
  14. Pol. 906
  15. Pol. 113.4
  16. Pol. 216
  17. Pol. 800
  18. Pol. 801
  19. 65 Pa. C.S.A. 706
  20. *Alekseev v. City Council of Philadelphia*, 8 A.3d 311 (Pa. 2010)
  21. 65 Pa. C.S.A. 711
- U.S. Const. Amend. I  
PA Const. Art. I  
65 Pa. C.S.A. 701 et seq  
18 Pa. C.S.A. 1 et seq  
18 Pa. C.S.A. 5903  
*Counterman v. Colorado*, 600 U.S. 66, 143 S. Ct. 2106, 216 L. Ed. 2d 775 (2023)  
*Hatchard v. Westinghouse Broadcasting*, 516 Pa. 184, 532 A.2d 346 (1987)  
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