



Public participation at school board meetings

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This fact sheet is designed to address the most frequently asked questions about public participation at school board meetings. The information is of a general nature. Readers should seek the advice of legal counsel with specific legal problems or questions.

What is public participation?

Public participation, sometimes also referred to as public comment or public forum, is a portion of a school board meeting that is designated to hear comments or receive information from the public.

Are boards of education required to have public participation at their meetings?

No. Ohio Revised Code Section [\(RC\) 121.22](#) requires public officials, including school board members, to take official action and conduct all deliberations upon official business only in open meetings. There is not a legal requirement that those meetings afford the public an opportunity to comment or otherwise participate in the meeting ([1992 Ohio Atty. Gen. Ops. No. 92-032](#)). However, nearly all Ohio school districts have policies in place that provide an opportunity for the community to address the board.

Can a board impose limitations on public comments?

Yes. School boards have flexibility in how they structure the opportunity to hear from community members, students, staff and parents. Boards of education can regulate the time, place and manner of public participation. For example, boards of education may limit an individual's comments to three minutes, may limit the total time of public participation to 30 minutes and may require individuals addressing the board to provide their name and address.

If the board does not like the viewpoint a citizen wants to share, can it prevent the citizen from speaking?

A public comment period during a board meeting constitutes a limited public forum under the First Amendment. If the board chooses to allow such an opportunity, the board may adopt reasonable rules governing the public comments. A board may not, however, discriminate between speakers based on the content of their speech or the message it conveys. A board also must not discriminate against a speaker on the basis of viewpoint. For example, if three speakers arrive to a board meeting to speak about the basketball program, the board cannot agree to hear the individuals who speak favorably of the program and not hear a speaker who criticizes the program.

Is the public only able to comment on items included on the agenda?

It depends on the board's policy. Some boards have adopted policies that permit public comments only for items on the agenda. Other boards have adopted policies that permit the public to offer comments both for items on the agenda as well as for items not included on the agenda. It is also permissible to have two separate times for public participation on your board meeting agenda — one at the beginning of the meeting for comments on items on the agenda and one at the end of the meeting for comments on items not included on the agenda.

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For more information on this subject, please contact OSBA's Division of Legal Services

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Is there a total time limit for public participation (such as no more than 30 or 60 minutes per meeting)?

It depends on the board's policy. Regulating the length of public participation is an example of a permissible policy restriction. Many boards have adopted policy language that authorizes either the board or the board president to extend the period of public participation.

May we limit public comment to only those who reside within the district's boundaries?

Many boards have adopted policies that require individuals to provide their name and address prior to addressing the board. Knowing the speaker's relationship to the district can add important context to their comments. However, districts should be mindful of the potential implications of a policy that limits public comment to only those who reside within the district's boundaries. Such a policy may be difficult to enforce on the spot, unintentionally prohibit interested parties from speaking (for example, teachers who teach in the district but reside in a neighboring school district) and subject the district to challenges under the First Amendment. Districts that are interested in adding this requirement to their board policies should work with their board counsel.

Does OSBA have a model public participation policy?

Yes, BDDH (also KD), Public Participation at Board Meetings.

How can the board put the public on notice of its public participation policy?

The board should inform the public of its public participation policy at each meeting. Many boards have adopted policies that require the board to include a short paragraph on its meeting agenda that summarizes the board's public participation policy. Boards will often also display the public participation policies in the meeting room and on the board's website.

What if we want to change our public participation policy?

Boards of education should ensure that their public participation practices match the board's policy on public participation. The board president should regularly and consistently enforce the board's public participation policy at meetings. If the board is interested in changing its public participation policy on a permanent basis, the board may amend its policy consistent with the board's policies on board policy development and adoption.

Many boards of education also have policies that allow the board to suspend board policies, including the board's public participation policy, on a temporary basis. Boards of education interested in suspending their public participation policy for a specific meeting should work with their board counsel.

How much of the discussion during public participation should the board include in their minutes?

Ohio law doesn't provide details about what should be contained in board minutes. The Ohio Supreme Court held that minutes must be of sufficient specificity that an individual not present at the meeting could read them and understand and appreciate both the board's official actions and the rationale behind them (*White v. Clinton Cty. Bd. of Comms.*, 76 Ohio St.3d 416, 667 N.E.2d 1223 (1996)). Many boards use their minutes to list the names of those who spoke during public participation and the nature of the speaker's comments. Boards of education are not required to publish formal statements provided by members of the public during public participation as part of their minutes.

How should we handle public comments about teachers, coaches or employees?

Courts are not in agreement on whether a board of education may prohibit public commentary directed at specific employees. Some courts find these restrictions to be permissible, and some find such restrictions to be an unconstitutional limitation on free speech. A board of education that is interested in enforcing such a policy should work with its board counsel.

From a practical standpoint, the board should refer members of the community to the proper administrative channels for solutions. Frequently, the board's policy or collective bargaining agreements contain specific procedures that must be followed if complaints are raised about employees. Board members should comply with those procedures and redirect complaints to district staff accordingly.

How should we handle complaints about individual students?

Boards of education are required under federal and state law to protect the privacy of student education records, unless the parent or an eligible student has consented to the release of such information. As a result, complaints about individual students should be heard in executive session, unless the parents or eligible student(s) involved have waived this right.

Can the board of education prohibit the public from recording board meetings?

No. The [Ohio Attorney General \(OAG\)](#) has held that although a school board has the authority to adopt reasonable rules governing the public's conduct at its meetings, these rules may not prohibit the public from recording the meetings. School boards are permitted, however, to implement and enforce rules that are designed to promote the orderly transaction of business, including rules requiring recording equipment to be silent, unobtrusive, self-contained and self-powered to avoid interference with the ability of those present to hear, see and participate in the meeting.

Does the board have to answer the public's questions during public participation?

No, it is not a requirement for board members or for the board as a whole to respond to comments during public participation. A board or board member should not feel pressured to react or to take action as a direct result of public participation. In fact, the board should refrain from engaging in a dialogue with the public on a subject it is not prepared to address. Board members should thank participants for their interest and involvement. They can suggest that the matters will be considered or studied further and perhaps turned over to the superintendent for further action or recommendation at a later meeting.

What can the board do to limit disruptions by members of the public audience?

A board has a right to insist that persons attending the meeting maintain order and follow the board's rules. Boards may adopt operating procedures that set out specific responses that the board president will use when handling disruptions. These procedures may include the use of parliamentary procedure to restore order. The board may make a motion to recess for a set period of time or may move to adjourn the meeting. For more information of these procedures, see [OSBA's Parliamentary Procedure fact sheet](#).

It is imperative that the board president is firm, but polite and consistent, in the way the district's policy and procedures are administered so that all community members are treated fairly.

Can a board of education remove an individual from the board meeting?

Although citizens have a right to be present at board meetings under Ohio's Open Meetings Act, they do not have a right to disrupt meetings. At least one Ohio court has held that "when an audience becomes so uncontrollable that the public body cannot deliberate, it would seem that the audience waives its right to, or is estopped from claiming a right under the Ohio Sunshine Law to continue to observe the proceedings" (*Forman v. Blaser*, 3rd Dist. Seneca Case No. 13-87-12, 1988 Ohio App. LEXIS 3405 (Aug. 8, 1988)).

The board should take care to warn an individual who is mildly disruptive and remove only those individuals who are substantially interfering with the board's ability to conduct business. If any person continues to disrupt a meeting after receiving a warning, the president may request the assistance of local law enforcement to escort the disruptive individual from a meeting. OSBA strongly encourages boards of education to work in advance of board meetings in consultation with board counsel to adequately plan and prepare for the use of law enforcement at board meetings.

The information in this factsheet is designed to provide authoritative general information. It should not be relied upon as legal advice. If legal advice is required, the services of an attorney should be obtained.