

PUBLIC COMMENT GUIDE

Best Practices and Answers to Recurring Questions



New York State
School Boards
Association

INTRODUCTION

Public comment, sometimes referred to as comments from the floor or open forum, is the portion of the board meeting that grants district stakeholders the opportunity to address the board with their concerns and comments. It is a key component of transparent governance. Although a staple of nearly every board meeting, public comment is often a source of confusion and misunderstanding among board members and district stakeholders. In fact, it is not uncommon for a disorderly public comment session to sabotage a board meeting and negatively impact the relationship between the board and the community. Having a clear policy and board-developed procedures in place can help ensure that the public comment portion of each meeting is managed consistently. It is important for board members to listen with care to the public and consider what they hear in their deliberations.

Is the board required to hear public comments?

Although school board meetings must be open to the public, there is no requirement that school boards allow members of the public to speak at school board meetings (except in New York City).¹ However, NYSSBA, the NYS Committee on Open Government and the Commissioner of Education encourage school boards, whenever possible, to allow members of the public to speak on matters under consideration.

May nonresidents speak at school board meetings?

The commissioner has ruled that a school board need not permit nonresidents to speak at public board meetings, even when the board has a policy of permitting residents to speak.² The state Committee on Open Government, however, cautions that, under the Open Meetings Law, if a school board permits public participation, it may not discriminate between residents and nonresidents.³ NYSSBA recommends that, should the board allow members of the public to participate, nonresidents should be afforded the same opportunities to address the board. This is because people living outside the district with particular knowledge or expertise; or owners of businesses in the district may not live in the district, but may have relevant input.

Are there recommended protocols for public comment?

While the board is encouraged to establish public comment protocols that best fulfill the needs of the board and community, NYSSBA recommends the following to ensure an orderly public comment session:

- **Share the board's expectations prior to public comment:** Before the public comment session begins, the board president should share the specifics of the board's public comment policy. Such information could be spoken or distributed in a handout or pamphlet, and could include: time limits for speakers, decorum requirements,

addressing all comments to the board president or the board as a whole and rules governing confidentiality.

- **Require participants to sign in:** Having your participants sign in prior to the start of the meeting provides the board president the ability to manage public comment by calling stakeholders to the microphone by name on a first-come, first-served basis.
- **Require participants to identify the topic of their comments:** Requiring the topic of discussion to be stated ahead of time allows the board to determine whether the subject is appropriate for discussion in public. The topic is often requested on the sign in form.
- **Establish a plan for follow-up:** Should a stakeholder comment on an issue that requires an administrative response, the board should have a clear plan that identifies to whom the speaker should be referred and how the results will be communicated back to the board (if desired).

What should our public comment policy include?

It is important for the board to have a public comment policy that identifies the board's expectations and protocols for public comment.⁴ This policy is developed by the board and will typically include:

- A time limit for comments (for both individuals and the public comment period as a whole)
- Protocols for addressing the board
- An identification of non-permissible discussion items (i.e. matters unrelated to the district, matters unrelated to the agenda, and/or matters involving specific individuals)
- Expectations of conduct (prohibiting obscene language, libelous statements, threats of violence, language advocating prejudice, etc.)
- The board president's responsibility and right to end an individual's comments for violation of the policy

How may the board respond to inquiries from speakers during public comments?

Generally, it is not recommended that board members interact with speakers because board meetings are for conducting district business, and are not the proper forum for answering questions. If the speaker's comments are about an agenda item, the board can address those concerns or questions when the item is discussed. Otherwise, the board can request the superintendent or designee follow-up with the speaker to address their concerns. There are only three instances in which a response is recommended:

1. **When the comments made are not factual.**
Occasionally, a participant will share information that is inaccurate. In these instances, it is appropriate for the board president to clarify the misinformation.
2. **When the inquiry can be answered by existing policy.** "Please refer to our [name of policy] for more information."
3. **When the topic warrants placement on a future agenda.** "The board will add your request to the agenda of the next board meeting."

In all cases, the board president should be the only member of the board interacting with participants during public comment. At the end of each participant's comments, the board is encouraged to thank the speaker.

How many public comment opportunities should we provide?

This decision is made by the board. While some boards will host one public comment period, others will offer two opportunities for stakeholders to address the board – one for agenda-related items and another for issues concerning the district in general. We generally do not see boards offer more than two opportunities for public comments.

Where should public comment be placed on the agenda?

This decision is made by the board. Some boards provide this opportunity early in the meeting to eliminate the need for stakeholders to remain for the entire meeting, while others reserve time at the end of the meeting for public comment

to provide an opportunity for stakeholders to respond to board actions and discussions. When boards provide two opportunities for public comments, they are able to address both of these concerns.

How should we position the microphone or podium?

Ideally, the microphone or podium should be placed in a location that enables all board members to clearly see and hear the speaker. Oftentimes, placement will be in a position that is in front of the audience.

How do we handle inappropriate/angry or unruly speakers?

Should a speaker address the board in a manner that is inconsistent with the board's policy (i.e. using profanity, speaking about individual staff members or non-district business, making threats, etc.), the board president has the authority to end the speaker's comments or close the public comment portion of the meeting. The board president should first remind the speaker of the board's policy, thus giving him or her an opportunity to continue. Should the infractions continue, the president should then end the speaker's comments. In the event the public comment portion of the meeting gets out of control, any member of the board can call for a brief recess and pause the meeting. *Note: a recess is not executive session.

What if there is an overwhelming crowd of speakers who wish to address the board?

Occasionally, an issue will arise that will inspire groups of individuals to want to address the board. In these situations, the board president can choose to limit the number of repetitive comments that are being made. For example, if there is an issue regarding the athletic program, and 30 parents come to the meeting asking to share the same message, the board president can announce that the board will limit the number of comments to a certain number, or can request that anyone with an opposing viewpoint be given the opportunity to speak. Your policy may also require that any group of individuals wishing to address the board must identify a single spokesperson.

FOOTNOTES

¹ *Appeal of Kushner*, 49 Ed Dept Rep 263 (2010)

² *Matter of Martin*, 32 Ed Dept Rep 381 (1992)

³ NYS Department of State, Committee on Open Government, OML-AO-4141 (Feb. 24, 2006)

⁴ See NYSSBA Sample Policy 1230



New York State
School Boards
Association

New York State School Boards Association

24 Century Hill Drive, Suite 200
Latham, NY 12110-2125
(518) 783-0200 (800) 342-3360

www.nyssba.org



5-20/037