

# BYLAW: MEETING CONDUCT/PUBLIC PARTICIPATION

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Boards of education have significant discretion in establishing bylaws and determining meeting procedures. The public has the right to attend board of education meetings, but the board does not have to permit public participation. A board of education meeting must be held in public, but it is not a public meeting.

However, most boards of education, through policy or bylaw, provide the public with the right to make comments to the board, usually in a “public comment” agenda item at the beginning of the meeting. However, there is no legal obligation for boards of education to do so.

If a board of education chooses to hear from the public at its meetings, it must do so in a manner that is constitutional. A board of education meeting is a public forum. Therefore, free speech requirements apply to public statements made at board meetings. A board of education that has decided to create a public forum by allowing public comments may not pick and choose among the speakers based on the viewpoints they express.

However, the board can limit public comments to a specific topic or to agenda items. In doing so, the board creates a limited public forum. Creating a limited public forum in this manner may limit (but not prevent) opportunities for public comments that could include allegations or complaints against a board employee.

It is permissible for boards of education to adopt reasonable restrictions as to the time and manner of speech at their meetings. Boards of education can require speakers to sign up to speak and adopt a rule limiting each speaker to a specific number of minutes, typically 3 to 5. The board, generally acting through its chairperson, can also require that speakers adhere to reasonable standards of decorum. “Robert’s Rules of Order” stipulates that the chairperson may require speakers to be courteous, avoid personal attacks, and refrain from using vulgarity and similar language. Such requirements must be evenly imposed, without regard to the viewpoint, as opposed to the manner of the individual’s speech. No speaker at a board of education meeting has a right, under the First Amendment, to be disruptive or rude.

## **Policy Implications**

Bylaw #9325, “Meeting Conduct,” pertains to this issue. In addition, policy #1120, “Public Participation at Board of Education Meetings,” also pertains to this topic.

An issue has arisen with the following language, which appears in bylaw #9325:

*No oral presentation shall include charges or complaints against any employee of the Board of Education, regardless of whether or not the employee is identified in the presentation by name or by another reference that tends to identify an individual. All charges or complaints against employees shall be submitted to the Board of Education under the provisions of Board of Education policy.*

Such language is considered inappropriate if the board, through policy or bylaw language, has created a public forum for public comments. In such a case, the board cannot restrict an individual’s comments.

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In summary, Boards of Education should consider the following in adopting a meeting bylaw that offers rules on public comments:

## 1. Content-Based Restrictions

The U.S. Supreme Court and lower courts have consistently ruled that public bodies cannot ban speech simply because of its subject matter (e.g., "personnel" or "students").

- While the intent is to protect the board's role as a neutral "quasi-judicial" body in future hearings, courts generally hold that the public's right to petition the government outweighs the board's preference for silence.
- Specifically, you cannot ban "complaints." If a board allows "praise" of a teacher but bans "complaints" about a teacher, it engages in viewpoint discrimination, which is almost always unconstitutional.

## 2. Privacy vs. Free Speech

A common misconception is that FERPA (student privacy) or personnel privacy laws allow a board to stop a citizen from speaking.

- These laws prevent *the Board* and *the District* from releasing confidential information.
- They do **not** prevent a parent or citizen from standing up and sharing their own experiences or opinions regarding a staff member or student.

## 3. How to Make Its Bylaw Rules Defensible

To achieve the board's goal without violating the law, bylaws typically shift the focus from what is said to how and when it is said. A defensible bylaw should:

- Instead of a ban, state that "the Board encourages members of the public to utilize established administrative channels for specific complaints regarding personnel or students before bringing them to the Board."
- The Board can state: "To protect the impartiality of the Board in the event of a future hearing, the Board cautions that its members will not respond to comments regarding pending litigation or matters that may come before the Board for a formal hearing."
- You can limit the *time* (e.g., 3 minutes per person) and the *conduct* (e.g., prohibiting disruptive behavior or vituperative language), but you cannot easily limit the *topic*.

If the board wishes to protect its "impartiality," a more defensible version would be:

"The Board provides a period for public participation to hear the views of the community. However, the Board will not respond to or engage in dialogue regarding specific personnel or student matters during this period. The Board's silence should not be construed as agreement or disagreement. Matters involving specific employees or students should be directed to the Superintendent's office in accordance with Board Policy [X] regarding grievances."

**Legal Note:** This is a high-stakes area of constitutional law. Before formally adopting bylaw language, the board should have it reviewed by its legal counsel to ensure it aligns with the most recent judicial rulings.

January 2015

Revised

May

2026

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*CABE's suggested bylaw. This version permits public comment on any subject that lies within the jurisdiction of the board, thereby creating a public forum.*

## **Bylaws of the Board**

### **Meeting Conduct**

Meetings of the Board of Education shall be conducted by the Chairperson in a manner consistent with the Board's adopted bylaws and the provisions of the Freedom of Information Act.

All Board meetings shall commence at or as close as practicable to the stated time, provided there is a quorum, and shall be guided by an agenda which has been prepared and delivered in advance to all Board members and other designated persons.

The conduct of meetings shall, to the fullest possible extent, enable members of the Board to (1) consider problems to be solved, weigh evidence related thereto, and make wise decisions intended to solve the problems, and (2) receive, consider, and take any needed action with respect to reports of accomplishments of students or of school system operations.

Provisions for permitting any individual or group to address the Board concerning any subject that lies within its jurisdiction shall be as follows:

1. *(Five)* minutes may be allotted to each speaker and a maximum of twenty minutes to each subject matter, with the prerogative of the Board Chairperson to extend the time as appropriate. The Board may modify these limitations at the beginning of the meeting if the number of persons wishing to speak makes it advisable.
2. No boisterous conduct (*alternate – inappropriate or disruptive conduct*) shall be permitted at any Board of Education meeting. Persistence of such conduct shall be grounds for the Chairperson to summarily terminate that person's privilege of address. If necessary, the Chairperson may clear the room to allow the Board to continue the meeting.
3. The Board provides this opportunity for public participation to hear the views of the community. To protect the Board's impartiality and the privacy rights of individuals, the Board will not respond to or deliberate on specific personnel or student matters raised during this period. The Board's silence should not be construed as agreement or disagreement. Matters involving specific employees or students should be directed to the Superintendent's office in accordance with the district's established grievance policies.
4. Speakers are asked to express themselves in a civil manner, with due respect for the dignity and privacy of others who may be affected by their comments. While it is not the Board's intent to stifle public comment, speakers should be aware that if their statements violate the rights of others under the law of defamation or invasion of privacy, the speaker may be held legally responsible. Speakers unsure of the legal ramifications of what they are about to say are urged to consult their legal advisor first.

## Bylaws of the Board

### Meeting Conduct (continued)

The Board of Education may adjourn any regular or special meeting to a specified time and place. If all members of the Board are absent, the clerk may adjourn the meeting. A copy of the notice of adjournment shall be conspicuously displayed near the meeting room door within twenty-four hours of adjournment.

### Actions by the Board

No action will be taken unless the subject acted upon was listed in the agenda published for that meeting, except that an item of business not included on the agenda of a regular meeting may be considered and acted upon after a two-thirds vote of the members present and voting to add such business to the agenda.

The Board of Education shall not adopt resolutions except where such adoption is required by law, or where the intent of the Board is to publish a status position of the Board, as in advising the General Assembly of the Board's position on a proposed law, or commending staff members or other agencies for work well done.

All actions taken by the Board shall be identified clearly in minutes of the Board meeting as provided in Bylaw 9326, Minutes.

- (cf. 1120 - Board of Education Meetings re Public Participation)
- (cf. 1312 - Public Complaints)
- (cf. 9321 - Time, Place, Notification of Meetings)
- (cf. 9321.2 – Attendance at Meetings via Electronic Communications)
- (cf. 9322 - Public and Executive Sessions)
- (cf. 9323 - Construction/Posting of Agenda)

Legal Reference:            Connecticut General Statutes  
                                   1-200 Definitions.  
                                   1-206 Denial of access of public records or meetings. Notice. Appeal.  
                                   1-210 Access to public records.  
                                   1-225 Meetings of government agencies to be public.  
                                   1-226 Recording, broadcasting or photographing meetings.  
                                   19a-342 Smoking prohibited in certain places. Sign required. Penalty.  
                                   1-231 Executive sessions.  
                                   1-232 Conduct of meetings (re disturbances).  
                                   10-224 Duties of the Secretary.

Bylaw adopted by the Board:

rev 3/25  
 rev 5/26

*This version of this bylaw limits public comment to items on the posted agenda or to particular topics, thereby creating a limited public forum.*

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All Board meetings shall commence at or as close as practicable to the stated time, provided there is a quorum, and shall be guided by an agenda which has been prepared and delivered in advance to all Board members and other designated persons.

The conduct of meetings shall, to the fullest possible extent, enable members of the Board to (1) consider problems to be solved, weigh evidence related thereto, and make wise decisions intended to solve the problems, and (2) receive, consider, and take any needed action with respect to reports of accomplishment of students or of school system operations.

Provision for any individual or group to address the Board concerning any subject on the meeting agenda shall be as follows:

1. Five minutes may be allotted to each speaker and a maximum of twenty minutes to each subject matter.
2. No boisterous, inappropriate, or disrespectful conduct shall be permitted at any Board of Education meeting. Persistence in such conduct shall be grounds for the Chairperson to summarily terminate that person's privilege of address. If necessary, the Chairperson may clear the room to allow the Board to continue the meeting.
3. To protect the Board's impartiality in the event of a future hearing, the Board cautions its members not to respond to comments regarding pending litigation or matters that may come before the Board for a formal hearing.
4. Speakers are asked to express themselves in a civil manner, with due respect for the dignity and privacy of others who may be affected by their comments. While it is not the Board's intent to stifle public comment, speakers should be aware that if their statements violate the rights of others under the law of defamation or invasion of privacy, the speaker may be held legally responsible. Speakers unsure of the legal ramifications of what they are about to say are urged to consult their legal advisor first.
5. The Board will not respond to any comments made during the public comment, except to clarify issues.
6. The Board of Education will consider comments made by the public at meetings and hearings. Questions, concerns, and requests directed to the Board will usually be deferred pending administrative and Board consideration.

## Bylaws of the Board

### Meeting Conduct (continued)

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