

Client Alert August 7, 2023

New Features of Public Participation at School Committee Meetings

Following our Alert from March 16, 2023, *Civility is Dead – The Supreme Court Rules Municipal Control of Public Speak Limited to Reasonable Time/Place/Manner Restrictions*, which discussed the holding to the Supreme Judicial Court’s decision in Barron v. Kolenda and the Town of Southborough (SJC-13284), we promised to bring you more detailed guidance on developing a Public Speak policy for your public body or municipality. The Barron case involved a constitutional challenge to the Town of Southborough’s public comment policy, which attempted to impose a code of civility on members of the public who participated in public comment before public bodies. In Barron, the court interpreted the state constitution to mean that public bodies may request, *but not require*, that public commentators be respectful and courteous. Instead, a public body may set restrictions on reasonable time, place, and manner comments to ensure that the meeting retains an orderly and peaceable manner.

We provide a sample “Public Speak” policy in the attached link. The key takeaways from the court’s decision are:

1. Public comment can be for a reasonably limited time, generally 15 minutes, and scheduled whenever the chair chooses, either before or after the meeting’s agenda.
2. Only speakers recognized by the chair may speak, and all other persons must remain silent.
3. Board members should refrain from interrupting speakers that have been recognized unless a speaker makes a true threat of violence or incites imminent lawless conduct by others.
4. Speakers can be required to address matters within the board’s jurisdiction. Whether topics concerning items not on the agenda or agenda items only can be addressed is up to each public body or municipality.
5. Individual speakers may be limited to a certain number of minutes per person. For example, assuming five or fewer speakers sign up to engage in public comment, each speaker may be allowed 3 minutes each.
6. Neither the chair nor a committee/board can require a speaker to present their remarks in a respectful manner, but they may require that a speaker conduct themselves in a peaceable and orderly manner.

This Client Alert was prepared by ETTY SINGER. This Alert was reviewed by Karis North and Andrew Waugh. If you have any questions about this issue, please contact the attorney responsible for your account, or call (617) 479-5000.



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