

NATICK PUBLIC SCHOOLS
School Committee Meeting
December 2, 2024
3:30 PM

Policy Subcommittee Meeting - School Committee Room - 3rd flr, Town Hall - In Person Only

Posted Date: Tuesday, November 26, 2024 @ 10:55 AM

Policy Subcommittee Open Meeting at 3:30 pm

Posted In Accordance with Provisions of M.G.L. Chapter 30A, Sections 18-25

OPEN SESSION

PUBLIC SPEAK

Public Speak is scheduled for a period of fifteen minutes. Each speaker will be permitted a maximum of three minutes during which time they can speak about topics within the scope of responsibility of the School Committee. All remarks will be addressed through the School Committee Chair. Public Speak is not a time for debate or response to comments by the School Committee.

Subcommittee Meeting Item

1. Review Policy BEDH: Public Participation at School Committee Meetings
 - a. Current Policy BEDH: Public Participation at School Committee Meetings - LINK
 - b. MHTL Client Alerts, March and August of 2023 - LINK
 - c. MHTL Draft Policy BEDH:Public Participation at School Committee Meetings - LINK
 - d. MASC Policy BEDH: Public Comment at School Committee Meetings - LINK
 - e. Town of Natick Charter - Article 7 - LINK
2. Review Policy JICJ:Use of Cell Phones and Electronic Devices
 - a. Current Policy JICJ: Use of Cell Phones and Electronic Devices - LINK

Agenda items will be addressed in an order determined by the chair. Times are approximate.

ITEM TITLE: Review Policy BEDH: Public Participation at School Committee Meetings

DATE:

ITEM TYPE:

ITEM SUMMARY:

- a. Current Policy BEDH: Public Participation at School Committee Meetings - LINK
- b. MHTL Client Alerts, March and August of 2023 - LINK
- c. MHTL Draft Policy BEDH:Public Participation at School Committee Meetings - LINK
- d. MASC Policy BEDH: Public Comment at School Committee Meetings - LINK
- e. Town of Natick Charter - Article 7 - LINK

BACKGROUND INFORMATION:

RECOMMENDATION:

ATTACHMENTS:

Description	File Name	Type
Current Policy BEDH: Public Participation at School Committee Meetings	Natick_Current_BEDH_(1).pdf	Cover Memo
MHTL Client Alerts - March and August of 2023	MHTL_Client_Alerts_March_and_August_2023_(1).pdf	Cover Memo
MHTL Draft Policy BEDH: Public Participation at School Committee Meetings	MHTL_Model_Policy_BEDH_(3).pdf	Cover Memo
MASC Policy BEDH: Public Comment at School Committee Meetings	MASC_BEDH_(3).pdf	Cover Memo
Town of Natick Charter - Article 7	Town_Charter_Article_7_(4).pdf	Cover Memo

PUBLIC PARTICIPATION AT SCHOOL COMMITTEE MEETINGS

All regular and special meetings of the School Committee shall be open to the public. Executive sessions will be held only as prescribed by the Statutes of the Commonwealth of Massachusetts.

The School Committee desires members of the Natick school community to attend its meetings so that they may become better acquainted with the operations and the programs of the Natick Public Schools. In addition, the Committee would like the opportunity to hear the wishes and ideas of members of the Natick school community on matters within the scope of their authority. These matters include the budget for the Natick Public Schools, the performance of the Superintendent, and the educational goals and policies of the Natick Public Schools.

In order that all who wish to be heard before the Committee have a chance and to ensure the ability of the Committee to conduct the District's business in an orderly manner, the following rules and procedures are adopted consistent with state and federal free speech laws:

1. At the start of each regularly scheduled School Committee meeting, individuals or group representatives who have signed up to speak will be invited to address the Committee during its 15-minute public comment period, which shall be known as Public Speak. Public Speak shall occur prior to discussion of Agenda items, unless the Chair determines that there is a good reason for rearranging the order at a public meeting that is unrelated to deterring participation in Public Speak.
2. All speakers are encouraged to present their remarks in a respectful manner.
3. Speakers must begin their remarks by stating their name, town or city of residence, and affiliation. All remarks will be addressed through the Chair of the meeting.
4. Public Speak shall concern items that are not on the School Committee's agenda, but which are within the scope of the School Committee's authority. Therefore, any comments involving staff members or students must concern the educational goals, policies, or budget of the Natick Public Schools, or the performance of the Superintendent.
5. Assuming that four (4) or fewer speakers sign up to engage in public comment, each speaker will be allowed three (3) minutes each to present their material. If five (5) or more speakers sign up to engage in public comment, then each speaker will be allowed two (2) minutes each to present their material. No more than six (6) speakers will be accommodated at any individual meeting.
6. Large groups addressing the same topic are encouraged to consolidate their remarks and/ or select a spokesperson to comment at Public Speak.
7. Speakers may not assign their time to another speaker, and in general, extensions of time will not be permitted. However, speakers who require reasonable accommodations on the basis

of a speech-related disability or who require language interpretation services may be allotted a total of five (5) minutes to present their material. Speakers must notify the School Committee by telephone or email at least 48 hours in advance of the meeting if they wish to request an extension of time for one of these reasons.

8. The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not Constitutionally protected because it constitutes true threats, incitement to imminent lawless conduct, comments that were found by a court of law to be defamatory, and/ or sexually explicit comments made to appeal to prurient interests. Verbal comments will also be curtailed once they exceed the time limits outlined in paragraphs 5 and 7 of this policy and/ or to the extent they exceed the scope of the School Committee's authority.
9. Disclaimer: Public Speak is not a time for debate or response to comments by the School Committee. Comments made at Public Speak do not reflect the views or the positions of the School Committee. Because of constitutional free speech principles, the School Committee does not have the authority to prevent all speech that may be upsetting and/ or offensive at Public Speak.

Adopted and approved by the Natick School Committee on January 28, 2019.

Municipal Alert
March 16, 2023

**CIVILITY IS DEAD – THE SUPREME JUDICIAL COURT RULES MUNICIPAL
CONTROL OF PUBLIC SPEAK LIMITED TO REASONABLE
TIME/PLACE/MANNER RESTRICTIONS**

On March 7, 2023, the Supreme Judicial Court ruled in the highly anticipated Barron v. Kolenda and the Town of Southborough (SJC-13284) case. The case brought a constitutional challenge to the Town of Southborough's ("Southborough") public comment policy (the "policy"), which imposed a code of civility on members of the public who participated in so-called "public speak" before Southborough boards and committees. In its decision, the Court ruled that Southborough's policy violated Articles 16 and 19 of the Massachusetts Declaration of Rights.

At the heart of the Barron¹ case was a select board meeting chaired by Kolenda and attended by Barron, and participation in the public comment part of the select board meeting. At the start of that part of the meeting, Kolenda reminded the public of the policy, which included the requirement that "...All remarks and dialogue in public meetings must be respectful and courteous, free of rude, personal or slanderous remarks." Later, Barron spoke, while holding a sign that said: "Stop Spending" and "Stop Breaking Open Meeting Law." Barron also critiqued the select board for its prior Open Meeting Law violations. Kolenda and Barron then entered into a colloquy where Kolenda threatened to stop public comment and go into recess, and Barron called Kolenda a particular name. After the second reference to that name, Kolenda ended the meeting and the video of the meeting ceased. Kolenda allegedly screamed at Barron and threatened to have her escorted out of the meeting. Barron left, believing he would act on that threat.

The Court's opinion reviewed the history of Articles 16 and 19 of the Declaration of Rights, and the long history of freedom of assembly and speech in Massachusetts. The Court noted that long standing Massachusetts cases have stood for "the fullest and freest discussion" which is "sanctioned and encouraged by the admirable passage in the constitution," where that right is "exercised in 'an orderly and peaceable manner.'" The Court also noted that more recent Massachusetts cases have drawn from "well-understood First Amendment principles and provided for reasonable time, place and manner restrictions" to public speech.

In the context of full and fierce discussion, the Court determined that governmental criticism is subject to reasonable time, place and manner restrictions. Such speech, while required to be

¹In her Complaint, Plaintiff sought a declaration that a portion of the public comment policy requiring civility was unconstitutional under the Massachusetts Declaration of Rights because it disallows criticism of board members and decisions. Plaintiff also brought a claim under the Massachusetts Civil Rights Act ("MCRA") against Kolenda individually. The Superior Court granted the Defendants motion for judgment on the pleadings and Barron appealed. The SJC transferred the case to itself, on its own motion.

Municipal Alert
March 16, 2023

peaceable and orderly, was not required to be “respectful and courteous.” The Court noted that even “rude and insulting” speech referencing a particular name is still protected speech.²

The Court also found that the civility code portion of the policy regulated the content of public speech and was “extraordinarily broad.” Where the policy required that speech directed at government be “respectful and courteous, free of rude remarks,” the Court determined it constituted viewpoint discrimination, since it allowed praise, but disallowed criticism.

Finally, the Court found that Kolenda, by allegedly screaming at Barron and threatening to remove her while she was engaging in protected speech, could be subject to a claim under the MCRA, which protects against violations of rights by threats, intimidation, or coercion.

Based on this opinion, and the Court’s description of reasonable time, place and manner restrictions, it is important that municipalities, in consultation with their counsel, take a hard look at their public speak or public comment policies, and consider revising them so that they are limited to designations of:

- when and where a public comment session may occur;
- how long a public comment session may last;
- time limits for each person speaking during public comment session; and,
- establishment of rules preventing speakers from disrupting others and removing those who do.

The Court did not address any portion of the Open Meeting Law or, under that law, the rights of the Chair of a public body to direct speakers at a public meeting. However, the designations listed above that could serve as reasonable time, place and manner, content-neutral limitations on speech are the types of rules which appear to be enforceable by the Chair of a public body, consistent with a Chair’s rights and obligations under the Open Meeting Law.

² Subject to a carve out related to the doctrine of “fighting words” which is not protected speech.

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

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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 Ety 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.

Client Alert
August 7, 2023

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PUBLIC PARTICIPATION AT SCHOOL COMMITTEE MEETINGS

All regular and special meetings of the School Committee shall be open to the public. Executive sessions will be held only as prescribed by the statutes of the Commonwealth of Massachusetts.

The School Committee desires members of the [SCHOOL NAME] school community to attend its meetings so that they may become better acquainted with the operations and the programs of the [SCHOOL NAME] Public Schools. In addition, the Committee would like the opportunity to hear the wishes and ideas of members of the [SCHOOL NAME] school community on matters within the scope of their authority. These matters include the budget for the [SCHOOL NAME] Public Schools, the performance of the Superintendent, and the educational goals and policies of the [SCHOOL NAME] Public Schools.

In order that all who wish to be heard before the Committee have a chance, and to ensure the ability of the Committee to conduct the District's business in an orderly manner, the following rules and procedures are adopted consistent with state and federal free speech and assembly laws:

1. At the start of each regularly scheduled School Committee meeting, individuals or group representatives who have signed up to speak will be invited to address the Committee during its 15-minute public comment period, which shall be known as Public Speak. Public Speak shall occur prior to discussion of Agenda items, unless the Chair determines that there is a good reason for rearranging the order at a public meeting that is unrelated to deterring participation in Public Speak.
2. All speakers must conduct themselves in a peaceable and orderly manner. In addition, they are encouraged, but not required, to present their remarks in a respectful manner.
3. Speakers must begin their remarks by stating their name, town or city of residence, and affiliation. All remarks will be addressed through the Chair of the meeting.
4. Public Speak may concern items that are not on the School Committee's agenda, but which are within the scope of the School Committee's authority. Therefore, any comments involving staff members or students must concern the educational goals, policies, or budget of the [SCHOOL NAME] Public Schools, or the performance of the Superintendent.
5. Assuming that five (5) or fewer speakers sign up to engage in Public Speak each speaker will be allowed three (3) minutes each to present their material. If six (6) or more speakers sign up, then each speaker will be allowed two (2) minutes each. No more than six (6) speakers will be accommodated at any individual meeting.
6. Speakers may not assign their time to another speaker, and in general, extensions of time will not be permitted. However, speakers who require reasonable accommodations on the basis of a speech-related disability or who require language

PUBLIC PARTICIPATION AT SCHOOL COMMITTEE MEETINGS

interpretation services may be allotted a total of five (5) minutes to present their material. Speakers must notify the School Committee by telephone or email at least 48 hours in advance of the meeting if they wish to request an extension of time for one of these reasons.

7. The Chair of the meeting will not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not Constitutionally protected because it constitutes a true threat of violence or incites imminent lawless conduct by others. Verbal comments will also be curtailed once they exceed the time limits outlined in paragraphs 5 and 7 of this policy and/ or to the extent they exceed the scope of the School Committee's authority.
8. In order to allow a peaceable and orderly meeting, no person may offer comment without permission of the Chair, and all persons shall, at the request of the Chair, be silent.
9. Disclaimer: Public Speak is not a time for debate or response to comments by the School Committee. Comments made at Public Speak do not reflect the views or the positions of the School Committee. Because of constitutional free speech principles, the School Committee does not have the authority to prevent all speech that may be upsetting and/ or offensive at Public Speak.

Revised Date: June 29, 2023
 March 26, 2019
 October 6, 2015

REFERENCES: Barron v. Southborough, Natick Public Schools, ACLU letter to the Mass. Municipal Lawyers Assoc. and Mass. Assoc. of School Committees

LEGAL REFS: M.G.L. 30A:18-25, Open Meeting Law
 940 CMR 29 Open Meeting Regulations

CROSS REF: BEC, Executive Sessions

File: BEDH - PUBLIC COMMENT AT SCHOOL COMMITTEE MEETINGS

All regular and special meetings of the School Committee shall be open to the public. Executive sessions will be held only as prescribed by the Statutes of the Commonwealth of Massachusetts.

The School Committee desires individuals to attend its meetings so that they may become better acquainted with the operations and the programs of our local public schools. In addition, the Committee would like the opportunity to hear public comment.

Public comment is not a discussion, debate, or dialogue between individuals and the School Committee. It is an individual's opportunity to express an opinion on issues within the School Committee's authority.

To ensure the ability of the School Committee to conduct the District's business in an orderly manner, the following rules and procedures are adopted:

1. At the start of each regularly scheduled School Committee meeting, individuals will sign in for an opportunity to speak during public comment. The public comment segment shall not exceed 15 minutes. All speakers are encouraged to present their remarks in a respectful manner
2. Speakers will be allowed up to three (3) minutes to present their material and must begin their comments by stating their name and city/town. The presiding Chair may permit extension of this time limit, in extenuating circumstances.
3. Topics for discussion should be limited to those items within the School Committee's scope of authority. The authority of the School Committee primarily concerns the review and approval of the budget of the district's public schools, the performance of the Superintendent, and the educational goals and policies of the district's public schools. Comments and complaints regarding school personnel (apart from the Superintendent) or students are generally prohibited unless those comments and complaints concern matters within the scope of School Committee authority.
4. The Chair of the meeting, after a warning, reserves the right to terminate speech which is not constitutionally protected because it constitutes true threats that are likely to provoke a violent reaction and cause a breach of the peace, or incitement to imminent lawless conduct.
5. Written comments longer than three (3) minutes may be presented to the presiding Chair before or after the meeting. All remarks will be addressed through the Chair of the meeting. Comments made during the public comment portion of the meeting do not necessarily reflect the views or positions of the _____ School Committee.
6. Sign up instructions will be provided for those who wish to participate in Public Comment.

LEGAL REFS.: M.G.L. [30A: 18-25](#)

CROSS REFS: [BE](#), SCHOOL COMMITTEE MEETINGS

[BEC](#), EXECUTIVE SESSIONS

[BEDA](#), NOTIFICATION OF SCHOOL COMMITTEE MEETINGS

SOURCE: MASC - Updated 2023

Section 7-8 Loss of Office, Excessive Absence

If any person appointed to serve as a member of a multiple member body shall fail to attend six or more consecutive meetings, or one half, or more of all meetings held during one calendar year, the remaining members of the multiple member body may by vote petition the appointing authority to remove such person in accordance with the procedures established in Section 7-11.

Section 7-9 Procedure Governing Multiple Member Bodies

- (a) **Meetings** - All multiple member bodies, whether elected, appointed or otherwise constituted, shall meet regularly. All meeting of a multiple member body shall be held in a building that allows the public to enter and meets all Federal, state and local accessibility requirements, unless it is a site visit, and shall be scheduled and posted in accordance with all applicable laws, including but not limited to the Massachusetts Open Meeting Law. A copy of the same notice shall be posted on the town bulletin board.
- (b) **Rules and Minutes** - Each multiple member body shall determine its own rules and order of business, unless otherwise provided by the charter or by law, provided, however, that each multiple member body shall provide some period of time at each of its meetings for members of the public who are present to ask questions, state opinions and exchange information with the members of the multiple member body. Each multiple member body shall also provide for the keeping of minutes of its proceedings. These rules and the minutes shall be a public record.
- (c) **Voting** - If requested by any member, any vote of a multiple member body shall be taken by a roll call vote and the vote of each member shall be recorded in the minutes, provided, however, if any vote is unanimous only that fact need be recorded.
- (d) **Quorum** - A majority of the full membership of a multiple member body shall constitute a quorum. A quorum is required for a meeting to be held. If a quorum is not present at a scheduled meeting, the meeting may only be adjourned. While a quorum is present, unless another provision is made by law or by its own rules, all business shall be determined by a majority of those present and voting.
- (e) **Filling of Vacancies** - Whenever a vacancy shall occur in the membership of an appointed multiple member body, the remaining members shall forthwith give written notice of such vacancy to the appointing authority. If, at the expiration of ninety days following delivery of such written notice to the appointing authority, said appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple member body shall fill such vacancy for the remainder of the unexpired term by a majority vote of the remaining members.

Section 7-10 Notice of Vacancies

Whenever a vacancy occurs in any town agency, or in town employment, or when by reason of retirement or the expiration of a fixed term, a vacancy can be anticipated, the Select Board, or other appointing authority shall forthwith cause public notice of the vacancy or impending vacancy to be posted for not less than ten days. Such notice shall contain a description of the duties of the office or position and a listing of necessary or desirable qualifications for the position. No permanent appointment to fill a position shall be effective until at least fourteen days have elapsed following such

ITEM TITLE: Review Policy JICJ:Use of Cell Phones and Electronic Devices

DATE:

ITEM TYPE:

ITEM SUMMARY: a. Current Policy JICJ: Use of Cell Phones and Electronic Devices -
LINK

BACKGROUND

INFORMATION:

RECOMMENDATION:

ATTACHMENTS:

Description	File Name	Type
current policy jicj: use of cell phones and electronic devices	JICJ_(2).pdf	Cover Memo

USE OF CELL PHONES AND ELECTRONIC DEVICES

Natick Public Schools promotes the use of Technology as an effective environment for learning. However, given the degree to which unregulated use of cell phones and other personal electronic devices may interfere with teaching and learning the following regulations will apply through June 2011 at which time this policy will be reviewed.

In Elementary and Middle Schools:

1. Cell phones and personal electronic devices must be turned off and not visible during the school day. Texting is prohibited. Contact with parents and guardians during the school day must take place through the office. Cell phones maybe used after the school day ends.
2. Electronic devices necessary for a specific educational purpose and/or individual student need may be used in class with the approval of the supervising teacher/staff member.

In Natick High School:

1. Cell phones and personal electronic devices must be turned off and not visible during the school day in all academic wings: A wing, B wing, S wing and N wing hallways and classrooms as well as the gymnasium, the auditorium, the fields and all bathrooms. Texting is prohibited.
2. Electronic devices necessary for a specific educational purpose and/or individual student need maybe used in class with the approval of the supervising teacher/staff member. For example, a student in the library may listen to recordings that serve an educational purpose with the permission of the librarian. Electronic devices may be used responsibly in any non-academic area during non-class time. For example, MP3 players maybe used in the cafeteria, courtyard or front office hallway.
3. Students will be allowed to use MP3 players to listen to music on the balcony portion of the library only. Students who choose to sit in the lower section must adhere to the no usage policy.

It is the expectation of the School Administration that all students will comply with these guidelines. Students not adhering to guidelines of this policy will be subject to consequences outlined in the student handbook.

Natick Public Schools is not responsible for lost or stolen electronic devices under any circumstances.