

Guidance from the Public Access Counselor on Public Comment at School Board Meetings



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Last year, the Indiana General Assembly enacted [legislation](#) requiring school boards to allow patrons who attend school board meetings the opportunity to provide oral comment. Very little direction was given to school boards other than (1) public comment must occur before the board takes final action on a topic; and, (2) school boards may adopt reasonable rules to govern the taking of public comment at its meetings.

Given this authority to adopt reasonable rules, some boards limit the topics that may be raised during the public comment period, limit the amount of time dedicated to public comment, or require patrons to sign up in advance of the meeting to comment. The Public Access Counselor has now issued two advisory opinions that offer some insight into what the Counselor's office considers to be a reasonable rule pertaining to public comment. The opinions are summarized below.

[Grow v. Bartholomew Consolidated School Corporation Board of Trustees](#), 22-FC-124, October 18, 2022

A patron challenged the school board's rule that limited public comment to agenda items. Noting that the Open Door Law does not require governing bodies to use agendas and that an agenda could list topics generically, the Public Access Counselor concluded such a restriction could lead the public to guess what topics may be raised during the public comment portion of that particular meeting. The Public Access Counselor further stated his opinion that the purpose of the new legislation was to allow community members to engage their representatives and that these listening activities could even benefit a public body. While acknowledging that the public comment period should not be a "free-for-all-anything-goes exercise," the Counselor suggested the only limitation on the topics permitted during public comment should be topics related to issues over which the board has authority to address.

[Benjamin Dallas v. Penn-Harris-Madison School Corporation Board of Trustees](#), 23-FC-5, March 14, 2023

A patron filed a complaint with the Public Access Counselor, alleging that the school board failed to allow public comment on the election of school board officers before taking final action on the issue. The school board acknowledged that four members of the public signed up to speak on this agenda item, but were not given the opportunity to comment until after the board selected its officers. The board asserted that the public comment statute was not intended to address internal governance functions. The Public Access Counselor concluded otherwise. The office noted that the Open Door Law does not define the word "topic" for purposes of the public comment law, but minimally requires public comment before a board votes on a matter. Therefore, any public business that requires a vote by the board is arguably a topic that requires public comment before the vote. In this case, the election of officers required a vote by the school board and therefore, it was a topic that the public should have been permitted to raise during the public comment portion of the meeting.

For further guidance on public comment, see the [ISBA FAQ](#).