



VOLUME I – 2024

February 2024

This issue of the Policy News Network+ addresses updates to the policy and administrative regulations regarding public comment at board meetings. This issue also provides an informational update to the attachment to Policy 254. Educational Opportunity for Military Children.

Registration information for our complimentary bi-monthly Web-Based Policy System Training Webinar is provided at the end of the PNN+ - our next training is scheduled for March 7!

The PNN+ is part of an annual subscription service providing information on current policy and administrative regulations and newly developed and revised PSBA policy and administrative regulation guides. The newsletter provides information about changes in federal and state laws and regulations; effects of court and arbitration decisions; and issues related to school governance, administration, student achievement and school liability. The policy and administrative regulation guides provided by PSBA are intended to serve as a basis for drafting policy and administrative regulations that meet the needs of your local school entity. Policy guides should be discussed, modified to meet your local needs and adopted by the board. Administrative regulation guides should be discussed with relevant administrators, modified to meet your local needs and approved by the Superintendent. Please notify PSBA of any newly adopted or revised policies; as part of the service, we review the language from a policy perspective, check and adjust policy format, including legal citations, and notify your school entity upon completion of this process. Administrative regulations vary in content and format based on individual school entity preferences and operations; therefore, PSBA will process administrative regulations with the same content and in the same format as received from your school entity.

The policy and administrative regulations guides provided by PSBA do not constitute the rendering of legal advice or services. The board and administration are responsible for the final review and approval of policies and administrative regulations, and for obtaining independent legal advice and review.

General policy/administrative regulation questions: policyprograms@psba.org

Policy maintenance services: polycymaintenance@psba.org

Web-based Policy System Training Materials: [recorded webinar](#), [short video tutorials](#) and [workflow documents](#)

The policies and any attachments to policies contained in this PNN+ may include optional language, indicated by brackets { }, which require selection by the school entity based on local practices and procedures. Please review all policies and attachments carefully to identify and consider optional language. If such optional language has been edited to indicate inclusion or removal prior to submission to PSBA's Policy Maintenance Program, PSBA will be able to proceed with processing the policies and attachments in a timely manner and the school entity will avoid delays in activating the policies and/or attachments and subsequent posting on the local website.

Policy 903. Public Comment in Board Meetings

The title of Policy 903 was changed from Public Participation in Board Meetings to Public Comment in Board Meetings to focus on the purpose of the Sunshine Act requirement for residents and taxpayers to be provided with a reasonable opportunity to comment on matters of concern, official action or deliberation which are or may be before the board prior to the board taking official action.

Please distribute to board members, administrators and school solicitor.
Evaluate your needs and consult your school solicitor before adopting policy.

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In revising this policy, we took into consideration the points addressed in Douglas Marshall et al. v. Peter Amuso et al. which is a legal case that arose from actions taking place at board meetings regarding public comment. It is important to note that this is not a court decision – it was a preliminary injunction issued by the court that then ended in a legal settlement between the parties. Although not precedential, we focused on this case because it provides us with insight on how a court might decide this type of case in the future, and informs considerations for revising board policy language to address terminology that may be considered overly broad or vague. Specifically, the preliminary injunction order addressed:

1. Prohibitions of speech deemed “personally directed,” “abusive,” “irrelevant,” “offensive,” “otherwise inappropriate,” or “personal attacks”; the court stated that these terms are overly broad and vague, and could be considered viewpoint discrimination.
2. Prohibitions of speech deemed “offensive,” “inappropriate,” “intolerant,” “disruptive,” and “verbally abusive”.
3. Requirement that speakers at public comment periods preface their remarks by announcing their address.

Policy 903 was updated to place more emphasis on recognition of the importance of diverse viewpoints and commentary during the public comment period and the commenter's right to be free from interruption, except under limited circumstances where the commenter's conduct clearly violates law or board policy. The policy now contains a listing of several examples as to when an individual's public comment may be interrupted or terminated; the listing is not to be considered all-inclusive and may be revised in consultation with your school solicitor. The policy also addresses the authority of the presiding officer and the school solicitor to take action including:

1. When circumstances warrant interruption of public comment, such as going beyond the time limit or conduct that is in violation of board policy.
2. Warning or termination of comments when such conduct continues.
3. Recess or adjournment of the meeting.
4. Requests for the individual to leave the meeting when conduct is disrupting the operation of the meeting.
5. Waiving of the board's rules regarding public comment upon approval of those present and voting.

PSBA drafts board policy to serve as a foundation from which school entities can develop policy and revise language to meet their individual needs and reflect their specific operations. For example, this policy asserts the opportunity for residents and taxpayers to comment at board meetings based on the Sunshine Act requirement. If the board wishes to open the public comment period to students, employees or others, the board has the authority to do so and options are provided in the policy.

Similarly, Policy 903 reflects the standard practice of providing the public comment period at the beginning of the meeting to address agenda items; however, some schools choose to allow for public comment prior to each official action of the board, which is also an acceptable practice. Please discuss your local practice and ensure that your practice is reflected in the policy.

As just mentioned, the Sunshine Act only requires that residents and taxpayers be provided the opportunity to address the board at a public meeting. Historically, the method to verify residence or taxpayer status was to have the speaker preface their comments by their name and address. The announcement of a personal address was highlighted in the preliminary injunction as a matter that may inhibit an authorized individual's willingness to comment and as a possible safety concern. The Guidelines section of Policy 903 now provides options designed to meet the requirement of the Sunshine Act while at the same time providing for a more inconspicuous verification process for residents and taxpayers.

903-AR-0. Request to Comment at Board Meetings

The request form to comment at board meetings has been updated and now includes options to document an individual's municipality or address. Check boxes have also been added to verify:

- Acknowledgement that the commenter is authorized to speak on behalf of an organization (as an option).
- Whether the individual is a resident, taxpayer or other.
- Acknowledgement that the requester understands and agrees to the procedures contained in Policy 903.

903-AR-1. Presiding Officer Statement - *New!*

This administrative regulation is designed to assist the board in developing a standard statement that the presiding officer will articulate prior to the public comment period(s) at the board meeting.

Policy 254. Educational Opportunity for Military Children - Attachment Update!

The Military Interstate Children's Compact Commission recently updated the Interstate Compact on Educational Opportunity for Military Children - Compact Rules. The new Compact Rules include an update to the definition of "Uniformed Services" to include Space Force. The definition in the Compact now reads: "Uniformed Service(s)" means: The Army, Navy, Air Force, Space Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration and Public Health Services.

Policy 254. Educational Opportunity for Military Children and an Attachment were originally issued in the December PNN+ Vol V 2023. The Attachment to Policy 254 contains a link to the Compact Rules which was updated to reflect the most recent version of the Compact Rules. Please take the time to download the new Attachment and include it with the policy prior to adoption. If the policy already has been adopted, please access Vol V 2023 and add the new Attachment to the Policy.

**Please note that 24 P.S. Sec. 7302 still contains the old definition which does not identify Space Force. Our Governmental Affairs team is working with the legislature to update that definition.

WEB-BASED POLICY SYSTEM REVIEW WEBINAR

Are you new to working with policy or would you like a refresher on working in the policy system? Please join us for a complimentary webinar to review the policy system, learn how to access policy updates, edit policy documents in the system and customize your school entity's Web-based policy manual. This is a very technical webinar designed for users such as the school board secretary, administrative assistant, school administrators or policy committee chairperson who edit school policies and manage the revision and approval process.

*Please note, this webinar is not eligible for credit for the ASDL recognition program.

The Guidelines section of the policy also contains clarifications regarding the board's response to public comments, the specific requirements for recording public comment in board minutes, and the board's right to establish reasonable rules for the use of recording devices and cameras during board meetings.

Additional **options to consider** in the Guidelines section include:

- The presiding officer reading a statement prior to the public comment period to review the public comment process and to set expectations.
- The time frames established for public comment and a prohibition for commenters to cede their time to other individuals.
- A rule for all statements to be directed to the presiding officer.
- A provision for the presiding officer's ruling regarding public comment to be overruled by a majority of those school directors present and voting. For example, if the presiding officer wants to terminate an individual's comments, the board by a majority vote of those present and voting could overrule that decision.
- A provision addressing the recording and release of open board meetings, which would include the public comment portion of the meeting.

Placards and Banners

Please note that if your current policy contains content regarding placards or banners being permitted within the meeting room, this content could be subject to legal challenges. Please review this language with your solicitor.

Policy 006. Meetings

PSBA's policy guide 006. Meetings did not require an update because Policy 006 contains a brief statement regarding public participation and refers to Policy 903 and the Sunshine Act. If your school entity provides more detailed information in Policy 006 regarding public participation, please review that content to ensure consistency with the revisions to Policy 903.

Solicitor Review

As you can see, outside of the Sunshine Act requirements for the provision of a public comment period, most of Policy 903 is based on the authority of the school board as an agency under the Sunshine Act to adopt by "official action the rules and regulations necessary for the conduct of its meetings and the maintenance of order" in accordance with Section 710 of the Sunshine Act. Please consult with your solicitor in the establishment of local rules and regulations for public comment at your board meetings when reviewing and revising this policy.

Policy 903 is recommended for legal liability purposes in exhibiting compliance with the Sunshine Act. As the majority of this policy is new content, we recommend working from the new policy guide as the foundation for revision and adoption of the policy.

Webinars repeat the same content every other month to provide refresher training on the system or an overview for users who are new to working with the policy system. Sign up for a complimentary webinar by clicking the Registration link below for the date you would like to attend:

March 7, 2024 10:00 AM-11:30 AM

Registration: https://psba-org.zoom.us/webinar/register/WN_TGC3Ka63SHKISOHWmHkVqw

May 2, 2024 10:00 AM - 11:30 AM

Registration: <https://events.teams.microsoft.com/event/643bd85c-7a36-4d97-9e14-c886055cea34@a59b699a-4f48-4607-9019-7011ff524900>

