

The Commonwealth Court Holds That Time Limits for Public Comments at School Board Meetings Are Valid Under the Sunshine Act

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Sklaroff v. Abington School District, 2017 WL 4582638 (Pa. Cmwlth. 2017). The Commonwealth Court reaffirms a school district's authority under the Sunshine Act to impose reasonable time limits on citizens' comments during the public comment period of a school board meeting.

Summary and Factual Background

In May 2016, Doctor Robert B. Sklaroff ("Parent") attended the Abington School District's regular board meeting. During the citizen comment segment of the meeting, the Parent rose to speak on two issues that were neither on the agenda nor anticipated to be on the board's agenda in the near future. Specifically, the Parent requested adding a semester of mandated Social Studies during twelfth grade and developing a curriculum addressing "Holocaust, Genocide and Human Rights Violations."

The Parent was informed he could only speak for three minutes. That was not the first time the Parent was told about time limits for public comments. The Parent also spoke at the April 2016 meeting and was informed then about the time limits for public comments.

After the Parent had spoken for six minutes at the May 2016 meeting, the board president interrupted the Parent and told him his time to speak had elapsed. Nobody else at the meeting spoke about the two issues the Parent discussed. The School's policy on public comments at board meetings indicated the School should allow "20 minutes for comments on any matter regarding school affairs." Regarding comments on school affairs, the School's policy stated that "a citizen will be recognized once and each citizen's comments will be **limited to three minutes**."

The Parent filed a lawsuit against the School alleging the School violated Pennsylvania's Sunshine Act by limiting his time to speak at the May 2016 meeting. The Parent believed the two issues he raised at the meeting were matters of concern, official action and/or deliberation. The issues, he believed, had already been or would be before the board. However, the Parent admitted he could not confirm this was true because of the School's failure to communicate items on their agendas before meetings and its refusal to schedule a follow-up meeting at the Parent's request.

The School filed preliminary objections to the Parent's complaint. The Court of Common Pleas of Montgomery County sustained the School's preliminary objections and dismissed the Parent's complaint. The Parent appealed the trial court's order to the Commonwealth Court.

Discussion

Section 710.1 of the Sunshine Act states, in relevant part, that "the board . . . of a political subdivision . . . shall provide a reasonable opportunity at each advertised regular meeting . . . to comment on matters of concern, official action or deliberation which are or may be before the board . . . prior to taking official action." 65 Pa. C.S. § 710.1(a).

The Commonwealth Court noted that the Sunshine Act only gives a citizen at a public meeting a right to a "reasonable opportunity" to comment on matters of concern, official action or deliberation which are or may be before the board. Limiting public comments at a board meeting does not violate the Sunshine Act, as long as a person is not completely

denied the opportunity to speak. The Court also noted that subject-matter limitations on public comments at a school board meeting are “patently reasonable and in no way violate the [Sunshine Act].”

Regarding the School’s three-minute limit policy, the Court stated that such a policy was valid in light of Section 710 of the Sunshine Act, which provides, in relevant part: “[n]othing in this chapter shall prohibit the agency from adopting by official action the rules and regulations necessary for the conduct of its meetings and the maintenance of order.” 65 Pa. C.S. § 710.

The Court noted the Parent had pled he was afforded approximately six minutes to speak on topics that were neither on the agenda nor anticipated to be thereon in the near future. Accordingly, there was no indication under the facts the Parent pled that the “public participation” provision of the Sunshine Act, which prescribes only a reasonable opportunity to comment, were violated. As a result, the Commonwealth Court affirmed the trial court’s order sustaining the School’s preliminary objections and dismissing the Parent’s complaint.

Practical Advice

This case is a reminder that school districts are allowed to set time limits for public comments at board meetings. If your school district has not adopted a policy for public participation at a board meeting that includes time limits for each speaker, this case is a signal that it may be time for your school’s administration to work with its solicitor to revise its policy accordingly. Further, once a school district has adopted a policy for public comment that includes time limits, it is recommended that the board chairperson enforce said time limits uniformly.

For additional information, contact Daniel Conlon.