EDUCATION LAW CENTER | FACT SHEET

THE SCHOOL BOARD, ITS POWER, & HOW TO ADVOCATE

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School boards play a pivotal role in shaping the education that public school students receive. Setting budgets, adopting curriculum, and approving school policies, including disciplinary policies, are among their many responsibilities.

Through elections, school boards are accountable to the residents of the district they serve. This means they have a responsibility to keep the community informed and to make their decisions using input from the public and members of the school community.

WHAT IS A SCHOOL BOARD?

A school board is the local legislative body that governs a school district.[1] The board adopts and revises districtwide policies and oversees resources for the schools in the district. Each school board consists of nine members,[2] and one superintendent, appointed by the board.[3] School board members are elected by residents of the district, except in Philadelphia, where board members are appointed by the mayor and confirmed by City Council.[4] School board members serve terms of four years, with roughly half the board up for reelection every two years.[5]

WHAT POWERS DOES A SCHOOL BOARD HAVE?

School boards have the duty to "establish, equip, furnish, and maintain" the schools in their district.[6] They have numerous powers, including the power to levy taxes,[7] adopt curriculum and courses of study, establish disciplinary policies and other districtwide policies, and hire school personnel.[8] Here are some examples:

THE POWER TO HIRE OR TERMINATE A SUPERINTENDENT: Pennsylvania law gives school boards the authority to hire superintendents for their district.[9] School boards must vote on their choice for superintendent in a public meeting and make the superintendent's contract available to the public through the Pennsylvania Right-to-Know Law.[10] School boards in the commonwealth are required by law to conduct formal superintendent evaluations.[11] If a superintendent is not meeting expectations, the school board may vote to terminate the superintendent's contract for "neglect of duty, incompetency, intemperance, or immorality."[12]

THE POWER TO ADOPT AND CHANGE CURRICULUM: School boards have the power to "arrange a course or courses of study" for their schools.[13] Therefore, the school board has the power to make important curriculum decisions, such as whether to fund a new robotics program or whether to approve a new ethnic studies class.

In making curriculum decisions, including whether to remove books, school boards cannot contradict the state's learning standards[14] or violate the First Amendment by imposing what the U.S. Supreme Court has called a "pall of orthodoxy" in the classroom.[15] For example, the Supreme Court has struck down a school board's decision to mandate the pledge of allegiance.[16] In addition, local school boards may not remove books from school library shelves simply because they dislike the ideas contained in them and cannot seek the books' removal to "prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion."[17]

For more information relating to book bans, see ELC-PA's fact sheet on book bans. For more information on a board's power to adopt curriculum, as well as strategies for advocating for inclusive schools and honest education, see this ELC-PA webpage.

THE POWER TO ESTABLISH DISCIPLINARY POLICIES: School boards have considerable power to adopt and enforce districtwide policies regarding student conduct.[18] Under the law, they may regulate student conduct that occurred while the student was at school — including the time spent coming to and returning from school[19] and at any school-sponsored event[20] — or conduct that caused a "substantial disruption or material interference with the operations of the school," even if it occurred off school grounds.[21] There are important limitations and First Amendment protections against some discipline. You can read more in ELC-PA's fact sheet about student expression rights.

Pennsylvania's school code requires school boards to establish formal complaint procedures and make them available on their websites.[22]

POWER TO ESTABLISH THE SCHOOL CALENDAR: School boards have the authority to adopt a district's academic calendar, set start/end dates, and schedule non-mandated holidays. All district and charter schools must comply with state minimums of 180 instructional days or 900 hours (elementary) and 990 hours (high school) per year.[23] Boards can choose the traditional 180-day calendar or the hourly requirement, which allows for alternative scheduling like longer school days but shorter weeks. State law also authorizes school districts to use up to five remote or virtual school days per year during emergencies, such as severe weather or building closures. These are called "flexible days" and count toward the state's required 180-day instructional year without the need to add make-up days.[24] Under a new law adopted in 2026, districts must discuss the use or potential use of "flexible days" and "remote or virtual days" at an open school board meeting prior to finalizing their academic calendar.[25] Districts must also report their use of flex days and any remote or virtual days to the state, identifying the legal authority for these days.[26]

WHAT ARE THE LIMITATIONS OF A SCHOOL BOARD'S POWERS?

LIMITATIONS TO BOARD AUTHORITY: Among the important constraints to a board's power are state and federal laws that board members must follow, including laws that protect students and staff from discrimination on the basis of race, national origin, disability, sex, gender identity, and sexual orientation.[27]

Boards cannot issue rules that are vague[28] or discipline students for rules not yet listed in the code of conduct. Each school district must publish a code of conduct and give copies to students and their families so that students know what is expected of them.[29] For more information about a school board's disciplinary power, including the rights of students, see ELC-PA's fact sheets about suspensions and expulsions.

In addition, a school board may be challenged for acting "arbitrarily and capriciously" or unreasonably, including in situations where a school board or superintendent does not follow or enforce its laws.[30] "Arbitrary" has been defined as "conduct … based on random or convenient selection or choice rather than on reasonable nature." "Capricious" means "erratic, flighty, or unpredictable." Examples often involve school board policies regarding student discipline, but can also include grooming policies or residency documentation requirements.[31]

DUTY TO UPHOLD SEPARATION BETWEEN CHURCH AND STATE: School boards have a duty to comply with the First Amendment, which both prevents the government from establishing religion and protects religious expression from unwarranted government interference and discrimination.[32] Schools cannot discriminate against private religious expression by students, and a school board or school official cannot promote religion, favor one faith over another, or adopt policies that coerce students.[33] For example, a public school and its officials may not prescribe prayers to be recited by students or by school authorities, including at school board meetings.[34]

ARE SCHOOL BOARD MEMBERS SUBJECT TO ETHICS REQUIREMENTS?

Yes. School board members must follow conflict of interest laws, including the Pennsylvania Public Official and Employee Ethics Act.[35] Under the Pennsylvania Ethics Act, a conflict of interest occurs when the actions or decisions of a board member or candidate could personally or financially benefit themselves, their family, or a business they're associated with.[36] The law primarily focuses on financial gain, but it is not limited to that topic.[37] The restriction does not apply to a minimal economic impact or a benefit to the board member that is the same benefit received by the public or a large group to which the board member belongs (*e.g.*, a whole industry or occupation).[38] School board members and candidates for school board (as well as superintendents and other staff positions) are required by the Ethics Act to file a Statement of Financial Interest each year to help identify potential conflicts of interest.[39]

Board members are legally required to avoid taking part in any decision where they, a family member, or a business they are associated with have a financial interest not shared by the general public.[40] In situations where a board member has a conflict of interest, the board member must abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest in a written memorandum to be included in the meeting minutes.[41] Community members with concerns about potential conflicts of interest for a board member should raise the issue during a public board meeting. For more information on public comments at school board meetings, see ELC-PA's fact sheet on Transparency in Public Schools: The Sunshine Act and Right-to-Know Law.

The State Ethics Commission can investigate and penalize violations of the Ethics Act — including ordering restitution (repayment) or financial penalties — and can refer violations to law enforcement for prosecution.[42] However, the commission does not have the power to remove board members from office, even if they are found to have committed a violation.[43] Only the district attorney or attorney general can pursue criminal charges for violations.[44] Any person can file a complaint with the Ethics Commission, and a preliminary inquiry must be completed within 60 days.[45]

In addition, many school boards adopt ethical standards such as the Principles for Governance and Leadership[46] from the Pennsylvania School Boards Association ("PSBA") or standards of their own making, like the more specific Ethics Policy adopted by the School District of Philadelphia.[47] Under this framework, board members pledge to act ethically, avoid real or perceived conflicts of interest, and work collaboratively. If your school board has not adopted an ethics policy, you could provide public comments at a board meeting requesting that they do so.

HOW ARE SCHOOL BOARD POLICIES ADOPTED?

School boards are policy-making bodies responsible for developing and revising policies that govern the actions of board and school district employees. These policies provide the framework, or guardrails, for district activities and ensure that school district actions comply with state and federal law. Policy revisions must go through a public review process, which generally includes review by a committee and consideration at two separate board meetings. Learn more about the common policy-making steps taken by school boards at Pennsylvanians for Welcoming and Inclusive Schools (PA WINS). The public must have the opportunity to provide input on proposed policy changes, as described more fully below.

WHAT ARE THE TYPES OF SCHOOL BOARD MEETINGS?

What you can expect at a school board meeting will largely depend on the type of meeting you are attending. Two types are open to the public: general action and committee meetings. A third type, executive sessions, takes place behind closed doors because of the confidential and sensitive nature of the issues involved.[48] Here is a description of each type of meeting:

GENERAL ACTION MEETINGS: These meetings often take place with the full board present and the board president presiding. After considering and revising a proposed policy at committee meetings, the board takes final action on new or revised policies at general action meetings. These meetings must comply with the Sunshine Act requirements on giving public notice, publishing an agenda, and allowing the public "reasonable opportunity" to speak on matters of concern before the board may take official action.

COMMITTEE MEETINGS: Because the tasks that a school board performs are so varied, the boards are typically subdivided into committees. The committees meet at a separate time, and these meetings may not be attended by the full board. At committee meetings, school board members may discuss and propose initiatives, set and track achievement goals, or hear experts and members of the public express their concerns. Committees often make official recommendations and final revisions on policies for the full board to vote on at general action meetings. Committee meetings must comply

with the Sunshine Act requirements on giving notice, publishing the agenda, and giving the public "reasonable opportunity" to speak on matters of concern before the board may take official action.

EXECUTIVE SESSIONS: In these meetings, the board is deliberating on confidential and sensitive issues. This often involves the termination of an employee, an expulsion hearing, or a private consultation with the board's attorney.[49] Executive sessions are limited to certain subjects, and under the Sunshine Act, a school board cannot discuss or take "official action" — that is, take a vote or make a recommendation — on an issue that should have been addressed in a meeting open to the public.[50]

School boards must announce when they are holding executive sessions, identify the matters to be discussed with enough specificity to indicate a real, discrete matter, and use such sessions sparingly.[51] If a school board is not following these parameters for executive sessions, those actions may be a violation of the Sunshine Act and can be challenged. However, in general, a school board's operations during an executive session will be considered acceptable as long as the members take "official action" during a subsequent general meeting to ratify whatever happened during the executive session, even if it violated the Sunshine Act. In such cases, courts often conclude that the subsequent public meeting "cured" the prior error.[52]

WHAT KIND OF PUBLIC ACCESS AND INPUT MUST SCHOOL BOARD MEETINGS HAVE?

School boards, as local government bodies, must comply with Pennsylvania's open meetings law, called the Sunshine Act.[53] The law applies to all meetings where the board may take "official action," which includes making recommendations, establishing policies, making decisions, or taking a vote on any motion or proposal.[54] The Sunshine Act requires that all meetings involving official action and deliberation be open to the public unless they are executive sessions (detailed below).[55] Meetings may be recorded or livestreamed, and the public must be given at least 24 hours' notice of a meeting, including an agenda of business to be addressed there.[56]

A school board is required to allow a "reasonable opportunity" for public comment at each general meeting before it can take official action or vote on a proposal or motion.[57] The law does not detail exactly how long this comment period must last, but generally, school boards set a certain amount of time per speaker (such as three minutes), a maximum number of speakers, or a total time allowed for comment.

Anyone attending a public meeting may object to a perceived violation of the Sunshine Act at any time during the meeting.[58] You can do this by simply verbally "objecting" or asking for a "point of order" to clarify what action the board is or isn't taking. You will be required to explain your perceived violation of the Sunshine Act.[59] Unfortunately, there is no agency to file a complaint with regarding a Sunshine violation. If you believe your school board has violated this law and you would like to pursue legal action to enforce it, you must file a complaint in the Court of Common Pleas within 30 days of the incident.[60] You can file this on your own (called filing *pro se*) or seek legal representation by searching online or through your local bar association. You are also entitled to make a request under Pennsylvania's Right-to-Know Law for school board records as long as they don't contain confidential or privileged information.[61] For more information, see our fact sheet Transparency in Public Schools: The Sunshine Act and Right-to-Know Law.

CAN SCHOOL BOARDS PLACE RESTRICTIONS ON THE CONTENT OF PUBLIC COMMENTS?

Yes, but it is a narrow exception. Boards are allowed to reasonably restrict or prohibit public comments that are deemed "disruptive." Disruptive speech or conduct at a school board meeting refers to behavior that **materially interferes** with the orderly conduct of the meeting, such as shouting over others, refusing to yield time after being asked, making personal threats, using profane or obscene language that disrupts proceedings, or refusing to comply with lawful rules or published policies of decorum.[62]

However, speech is **not** considered disruptive merely because it is critical, controversial, passionate, or offensive to school officials or members of the public.[63] School boards' restrictions on public comment must be viewpoint-neutral and evenly enforced.[64] This means that the school board cannot restrict public comments simply because they disagree with the opinions or ideas of the speaker.[65] A viewpoint need not be political; any form of support or opposition to an idea could be considered a viewpoint.[66] For example, citing the First Amendment, courts have struck down restrictions on public comments that were deemed "abusive," "offensive," "intolerant," and "personally directed."[67] Language that many would find offensive, including comments described as racist, may not be prohibited because, under the First Amendment, "giving offense is a viewpoint."[68] Restrictions against "irrelevant" comments were found to be applied in a subjective way that targeted a particular viewpoint, particularly when the board had opened the comment period for non-agenda items.[69]

The court also found that board restrictions against "personally directed" comments were too vague and were applied in a way that targeted particular viewpoints that the board disliked.[70] Many comments could be considered "personally directed" if a speaker addresses the competence of a school employee or board member in performing their duties or asserts that they are violating the law.[71] The court predicted that a policy "could sensibly prohibit personal attacks not related to the school board's business (*e.g.*, criticizing a school employee's personal relationships, accent, or preferred home décor)" but there was no such limiting language in the policies at issue.[72]

By contrast, board policies may impose procedural requirements that do not prevent speakers from discussing certain topics but merely change how statements are made. Courts have upheld board policy that requires speakers to direct all statements to the presiding officer and prohibits speakers from addressing or questioning board members individually. [73]

Members of the public can ask questions of the school board during the public comment period, but the board is not required by law to provide an answer. However, when board members answer questions informally during public meetings, this can "demonstrate a commitment to helping constituents, and ... can also reduce future requests under the RTKL, which saves time and money for both the agency and the commentor/requestor."[74]

Finally, school boards cannot require speakers at public comment periods to preface their remarks by announcing their home address.[75] Courts have found this to be an unreasonable compulsion to speak when, for example, each speaker's address could be collected in writing when they sign up or speakers could be asked to announce only their township.[76]

CAN SCHOOL BOARD MEMBERS MAKE COMMENTS OUTSIDE OF BOARD MEETINGS?

Yes, with certain limitations. A board member is permitted to discuss agency business with members of the public, whether in person or by email or social media. However, board members are not permitted to deliberate except at a public meeting, so if board members exchange opinions about an upcoming policy vote or encourage other board members to vote in a particular way in an email discussion or via social media, that would violate the Sunshine Act.[77]

Recent cases have considered whether school board members' social media posts can be attributed to the school district and whether board members can block community members on social media without violating the First Amendment. The U.S. Supreme Court created a test to determine whether the social media activity of a public official, including a school board member, is considered state action attributable to the government entity. Public officials can be held liable for violating the First Amendment when they block their critics on social media only when (1) they have actual authority to speak on behalf of the government entity and (2) they are actually exercising that authority with their comments on social media.[78] This fact-specific analysis requires considering whether the official is using speech to fulfill their official responsibilities and whether a social media account is solely or sometimes used for personal versus official use.[79] Merely repeating or sharing information that is otherwise available is less likely to be an exercise of authority and more likely to instead be permissible private speech related to their public employment or regarding information learned during that employment.[80]

HOW CAN I LEARN MORE ABOUT BOARD ACTIONS OR ADVOCATE TO MY SCHOOL BOARD?

RESEARCH: School boards are required to post agendas, minutes,[81] policies,[82] and votes[83] on their public websites. Policies are arranged by topic, and the person responsible for implementing the policy is identified. Many school districts make their policies easy to access and read. Learn more about school board policies and practices at Pennsylvanians for Welcoming and Inclusive Schools (PA WINS).

You can also learn about members of your school board, including their priorities, values, and how they intend to ensure access to a quality education for all students in the district. If a school board member is particularly committed to an issue of interest to you, consider raising your concerns with that person directly.

ATTEND A MEETING: You have the right to attend all nonconfidential school board meetings.[84] School boards are required to announce when and where meetings will be held and post their agendas on their website.[85] During the school term, school boards are required to meet at least once every two months, but most meet at least once per month.[86] Most school districts provide a way for the public to attend virtually.

> **TIP:** Boards typically follow formal parliamentary procedures, such as a call to order, reading and approval of prior minutes, and committee reports. Look up the agenda ahead of time and bring it with you; it will help you follow along and understand what is happening.

CONTACT YOUR SCHOOL BOARD MEMBERS: School boards have an obligation to engage with the community that they represent. Under the Pennsylvania School Code, school board members must post their email addresses on the board's website within 180 days of assuming office.[87] Writing an email, giving a call, or arranging a brief meeting with your representative are common ways to engage with your school board.

> **TIP:** Email can be an effective way to communicate with school board members. Here are three tips for writing an effective email:
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> **(1) Introduce yourself and state why you are emailing up front.** Tell your board members that you are a parent or resident of the district and identify the specific policy or issue you are writing about.
>
> **(2) Keep it brief.** Limit your email to a few short paragraphs. Board members are often very busy and may not have time to go through more than that.
>
> **(3) Personalize your message.** Tell a personal story that shows how this issue affects you and your community. School board members are more likely to be persuaded by a personal story than by facts and data points.
>
> (4) **Ask questions.** You may ask a board member to ask a question or propose a recommendation at an open meeting relating to your concern.
>
> For a sample email to school board members, click here.

MAKE YOUR VOICE HEARD: You have the right to speak at a school board meeting about matters that are within the board's authority. School boards can enact **reasonable** rules limiting public comment, but they cannot refuse to receive public input.[88]

Courts have held that school boards' restrictions on public comment must be evenly enforced and viewpoint-neutral, meaning without favoring or suppressing any particular opinion, ideology, or perspective. A school board cannot restrict public comments simply because members disagree with the opinions or ideas expressed by the speaker.[89]

Reasonable and viewpoint-neutral restrictions on public comment include requiring speakers to sign up in advance, restricting speakers to 2-5 minutes, limiting overall time allotted to public comments, prohibiting disruptive conduct, and limiting comments to agenda items only.[90]

> **TIP:** Research the board's rules and procedures ahead of time. Some school boards require speakers to sign up in advance, while others distribute speaking slots on a first-come, first-served basis. Keep your message short and simple; most likely, you will only have a few minutes to speak. Be respectful. Boards reserve the right to eject anyone engaging in disruptive conduct.

VOTE AND RUN IN A SCHOOL BOARD ELECTION: School board elections are held every two years, with roughly half the positions up for election each time. There are no limits to the number of terms a member may serve, and there is no compensation for the time spent on the board.[91] Just about anyone can become a school board member or director. The main qualifications are that you must be 18 years or older, have good moral character, and have lived as a resident of the district for at least one year.[92] To learn more about campaigning to be a school board member, check out the Neighbors for Public Education trainings, and Pennsylvania School Boards Association's Great Pennsylvania Schools website for information, including a webinar, on Running for School Board.

The Education Law Center-PA (ELC-PA) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC-PA advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ+ youth, children experiencing homelessness, and children at the intersection of multiple underserved identities.

ELC-PA's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC-PA's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

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[1] *See* 24 P.S. § 3-301 ("The public school system of the Commonwealth shall be administered by a board of school directors, to be elected or appointed…").
[2] *See id.* §§ 3-302,1–303.
[3] *Id.* § 10-1071.
[4] Generally, school boards are elected by the residents of the district. School board members may be elected at large, by region, or a combination of both. If elected at large, candidates must be residents of the school district, but may live anywhere in the district. All the voters in the district may vote for them. If elected by region, school directors who reside in each region are elected by the voters of their respective regions, with each region electing an equal number. *See* 24 P.S. § 3-302; *Running for School Board*, Pa. Sch. Bds. Ass'n, https://greatpaschools.com/how-to-run-for-school-board/ (last visited July 2026). In the City of Philadelphia, school board members are nominated by the Educational Nominating Panel, and finalists are appointed by the mayor. *See* Philadelphia Home Rule Charter Article XII § 12-201.
[5] 24 P.S. § 3-302.
[6] *See id.* §§ 5-501–528.
[7] *Id.* § 5-507.
[8] *See* 24 P.S. § 5-508 (listing actions a school board can take: fixing length of school term; adopting textbooks; appointing or dismissing district superintendent; adopting the annual budget; levying and assessing taxes; purchasing or selling land; locating new buildings; dismissing a teacher after a hearing; adopting courses of study; establishing additional schools; fixing salaries, etc.).
[9] *Id.* § 10-1071.
[10] *Id.* § 10-1073.
[11] *Id.* § 10-1073.1.
[12] *Id.* § 10-1080 (requiring hearing notice sent by mail to the accused and board members at least one week before the vote).
[13] *Id.* § 15-1512.
[14] *See* 22 PA. CODE § 4.12.
[15] *See Zykan v. Warsaw Cmty. Sch. Corp.*, 631 F.2d 1300, 1306 (7th Cir. 1980) (holding that school board has the right to establish a curriculum on the basis of its own discretion, but is forbidden to impose a "pall of orthodoxy" over the classroom"); *see also Bd. of Educ., Island Trees Union Free Sch. Dist. v. Pico,* 457 U.S. 853, 864 (1982) ("the discretion

of the State s and local school boards must be exercised in a manner that comports with the transcendent imperatives of the First Amendment").
[16] 22 PA. CODE § 12.10; *Circle Schs. v. Pappert*, 381 F.3d 172, 174 (3d Cir. 2004) (holding that state law that required school officials to notify guardians of students who declined to recite the pledge of allegiance or salute the flag violated the students' First Amendment right to free speech); *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) (compelling students to salute the American flag violates First Amendment religious and free speech rights).
[17] *Pico,* 457 U.S. at 872 (citing *Wa. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).
[18] 24 P.S. § 5-510 ("The board of school directors … may adopt and enforce such reasonable rules and regulations as it may deem necessary and proper, regarding … the conduct and deportment … of all pupils").
[19] *Id.*
[20] *Id.* § 5-511.
[21] *See* 22 PA. CODE § 12.9(b) ("Students shall have the right to express themselves unless the expression materially and substantially interferes with the educational process, threatens serious harm to the school or community, encourages unlawful activity or interferes with another individual's rights"); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969) (holding that student action of wearing political armbands was protected by the First Amendment because it was not substantially disruptive).
[22] 24 P.S. § 5-510.2(5)(v).
[23] 22 Pa. Code § 51.61.
[24] 24 P.S. § 5-1506(h).
[25] *Id.* § 5-1506(e.1).
[26] *Id.* § 5-1506(e.3).
[27] 42 U.S.C § 2000d (Title VI of the Civil Rights Act of 1964); 20 U.S.C § 1681 (Title IX); 43 P.S. Ch. 17 (Pennsylvania Human Relations Act).
[28] Courts must balance the requirement of putting students on fair notice of proscribed behavior with the school's need to impose sanctions for a "wide range of unanticipated conduct." *See Sypniewski v. Warren Hill Reg'l Bd. of Educ.,* 307 F.3d 243, 260 (3d Cir. 2002) (holding school policy limiting racially provocative speech was acceptable); *see also Killon v. Franklin Reg'l Sch. Dist.,* 136 F. Supp. 2d 446, 459 (W.D. Pa. 2001) (holding rule prohibiting "verbal/written abuse of a staff member" to be unconstitutionally vague); *Flaherty v. Keystone Oaks Sch. Dist.*, 247 F. Supp. 2d 698, 704 (W.D. Pa. 2003) (holding that a policy that prohibited "abuse, offense, and harassment" was overly vague because the terms were not defined in any way); *Miller v. Penn Manor Sch. Dist.*, 588 F. Supp. 2d 606, 610 (E.D. Pa. 2008) (holding that a rule prohibiting student dress that is "a distraction to the educational environment" was void for vagueness).
[29] 22 PA. CODE § 12.3(c); *see also* 22 PA. CODE § 12.6(a) (explaining that the school board must "define and publish the types of offenses that would lead to exclusion from school").
[30] *See* 24 P.S. § 5-510; 22 PA. CODE § 12.3(b); *Katzman v. Cumberland Valley Sch. Dist.,* 479 A.2d 671, 675 (Pa. Commw. Ct. 1984) (reducing student's grades for entire marking period as punishment for having a glass of wine while on school trip was held unreasonable because punishment misrepresented academic achievement).
[31] *See, e.g., Thunberg v. Strause,* 682 A.2d 295, 299 (Pa. 1996) (defining "arbitrary" and "capricious"); *First Phila. Charter Sch. for Literacy v. Dudely (In re C.D.),* 2011 Phila. Ct. Com. Pl. LEXIS 136 (Phila. Cty. Ct. C.P. May 23, 2011) (finding the permanent expulsion of a kindergartner who touched teacher's thighs to be arbitrary); *DeCaro v. Pocono Mountain Sch. Dist.*, No. 5561-cv-2010, 15 Pa. D & C.5th 388, 392 (Monroe Cty. Ct. C.P. June 18, 2010) (punishing vandalism of non-school property more harshly than vandalism of school property was held to be arbitrary); *Bender v. Exeter Twp. Sch. Dist.*, 63 Pa. D. & C.4th 414, 425 (Berks Cty. Ct. C.P. July 18, 2003), *aff'd mem.,* 839 A.2d 486 (Pa. Commw. Ct. 2003) (holding that a transfer to an alternative school for minor misbehavior was arbitrary and capricious).
[32] U.S. CONST. AMEND. I. ("Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech"). These clauses are often referred to as the Establishment Clause and the Free Exercise Clause of the First Amendment, collectively the Religion Clauses. The Supreme Court has held that the Fourteenth Amendment makes these provisions applicable to states and localities, *see, e.g., Everson v. Bd. of Educ.*, 330 U.S. 1, 15 (1947); *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940), including public schools.
[33] *See, e.g., Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 142 S. Ct. 2407, 213 L.Ed.2d 755 (2022) (football coach alleging freedom of expression who knelt at midfield after games to offer a quiet prayer of thanks and led pregame or postgame prayers for those who wanted to participate did not coerce students to participate). *See also Freedom from Religion Foundation, Inc.,* 127 F. Supp. 3d 283, 318 (W.D. Pa. Aug. 28, 2015) (school board's unanimous vote to retain monument with inscription of the Ten Commandments violated Establishment Clause as it endorsed a religious message rather than acknowledging religious history); *Hilsenrath on behalf of C.H. v. Sch. Dist. of the Chathams*, 698 F. Supp. 3d 752 (D.N.J. 2023) (school board's curriculum and materials instructing seventh graders about Islam were not coercive and did not otherwise resemble the hallmarks of religious establishments that the framers sought to prohibit);

Freiler v. Tangipahoa Parish Bd. of Educ., 185 F.3d 337 (5th Cir. 1999) (school-board-drafted disclaimer to be read to students before a unit on evolution violated the Establishment Clause).
[34] *Town of Greece v. Galloway*, 572 U.S. 565, 581 (2014) (citing *Engel v. Vitale*, 370 U.S. 421, 430 (1962)); *see Doe v. Indian River Sch. Dist.*, 653 F.3d 256, 290 (3d Cir. 2011) (holding that the school board's prayer policy that permitted board members to open the board's meetings with a prayer violated Establishment Clause); *Lee v. Weisman*, 505 U.S. 577 (1992); *Sch. Dist. of Abington Twp., Pa v. Schempp*, 374 U.S. 203, 225 (1963).
[35] 65 PA. CONS. STAT. §§ 1101–1113.
[36] *Id.* § 1103. The business association is defined as "any business in which the person or a member of the person's immediate family is a director, officer, owner, employee or has a financial interest." *Id.* § 1102.
[37] *Id.* §§ 1102–03.
[38] *Id.* § 1102 (definition for "conflict of interest").
[39] *Id.* §§ 1104–05; *see also Ethics FAQs*, State Ethics Comm'n, https://www.pa.gov/agencies/ethics/laws-acts-and-regulations/the-ethics-act/faqs (last visited Aug. 12, 2025).
[40] 65 PA. CONS. STAT. §§ 1102, 1103.
[41] *Id.* § 1103(j).
[42] *Id.* §§ 1106-09.
[43] *Id.* § 1109; *Ethics FAQs*, State Ethics Comm'n, https://www.pa.gov/agencies/ethics/laws-acts-and-regulations/the-ethics-act/faqs (last visited Aug. 12, 2025).
[44] *Id.*
[45] 65 PA. CONS. STAT. § 1108. Ethics complaint forms are available at https://www.pa.gov/services/ethic/file-an-ethics-complaint.
[46] *Principles for Governance and Leadership: A pledge to school board effectiveness*, PSBA, https://www.psba.org/principles-for-governance-and-leadership/ (last visited Aug. 10, 2025).
[47] 008 Ethics Policy, Sch. Dist. of Phila. (2023), https://www.philasd.org/schoolboard/wp-content/uploads/sites/892/2023/10/008-Ethics-Policy.docx.pdf.
[48] 24 P.S. § 4-425(a); 65 PA. CONS. STAT. § 703.
[49] 65 PA. CONS. STAT. § 708(a); *see Smith v. Twp. Of Richmond*, 623 Pa. 209 (2013) (holding that a closed executive session where members only received information about an upcoming decision was acceptable under the Sunshine Law).
[50] 24 P.S. § 4-425(c); 65 PA. CONS. STAT. § 708 ("Nothing in this section … shall be construed to require that any meeting be closed to the public, nor shall any executive session be used as a subterfuge to defeat the purposes of [the Sunshine Law]").
[51] 24 P.S. § 4-425(b); *Reading Eagle Co. v. Council*, 156 Pa. Commw. 412, 416-17 (1993) (finding that when an executive session is called, the Sunshine Act requires the agency to describe with specificity what is being discussed, and "legal matters" is insufficient).
[52] *See, e.g.*, *Picone v. Bangor Area Sch. Dist.*, 936 A.2d 556 (Pa. Commw. Ct. 2007) ("[T]his Court has repeatedly held that official action taken at a later, open meeting cures a prior violation of the Sunshine Act.").
[53] Sunshine Act, 65 PA. CONS. STAT. § 701-716; *see also Pennsylvania's Sunshine Act (Open Meetings Law)*, Off. of Open Recs., https://www.openrecords.pa.gov/SunshineAct.cfm (last visited June 12, 2023).
[54] 65 PA. CONS. STAT. § 703.
[55] *Id.* § 704.
[56] *Id.* § 711(a), 709(a)-(c.1); *see Coleman v. Parkland Sch. Dist.*, 346 A.3d 1266, 1278–80 (Pa. 2025) (clairifying that there are four distinct exceptions to the 24-hour rule: emergency action; insignificant matters brought to the board's attention within 24 hours of the meeting that do not require expenditures, contracts, or agency agreement; matters that are brought to the board's attention by a member of the public at the meeting; and matters that are added to the agenda upon a majority vote and later posted publicly).
[57] 65 PA. CONS. STAT. § 710.1(a); *see also Pennsylvania's Sunshine Act (Open Meetings Law)*, Off. of Open Recs., https://www.openrecords.pa.gov/SunshineAct.cfm (last visited June 12, 2023).
[58] 65 PA. CONS. STAT. § 710.1(c).
[59] *See Pennsylvania's Sunshine Act (Open Meetings Law)*, Off. of Open Recs., https://www.openrecords.pa.gov/SunshineAct.cfm (last visited June 12, 2023). For a recent example of a public meeting objection, *see* Mike Crowley, *Penncrest Approves Policy to Restrict Library Materials*, Meadville Tri. (Jan. 14, 2023), https://www.meadvilletribune.com/news/penncrest-approves-policy-to-restrict-library-materials/article_f48dcd16-9371-11ed-b462-b7961ca97f83.html.
[60] *See Pennsylvania's Sunshine Act (Open Meetings Law)*, Off. of Open Recs., https://www.openrecords.pa.gov/SunshineAct.cfm (last visited June 12, 2023); *Smith v. Twp. of Richmond*, 623 Pa. 209 (2013) (holding that a complainant bore the burden of proof in proving an infraction of the Sunshine Act).

[61] 65 P.S. § 67.101 *et seq.*; *see also About the Right-To-Know Law*, Off. of Open Recs., https://www.openrecords.pa.gov/RTKL/About.cfm (last visited June 12, 2023); Ed Mahon, *Sunshine Week: 5 Tips to Win a Pa. Open Records Fight and Overcome Secrecy in Government*, Spotlight PA (Mar. 17, 2023), https://www.spotlightpa.org/news/2023/03/pa-sunshine-week-appeal-records-denial/.
[62] *Ward v. Rock Against Racism*, 491 U.S. 781, 791–803, 109 S.Ct. 2746, 2753–60, 105 L.Ed.2d 661 (1989); s*ee Eichenlaub v. Twp. of Ind.*, 385 F.3d 274 (3d Cir. 2004) (the removal of a speaker during a public forum was "perfectly sustainable and content-neutral" to prevent "badgering, constant interruption, and disregard for the rules of decorum"); *Galena v. Leone*, 638 F.3d 186, 199 (3d Cir. 2011) (reasonable time, place, and manner restrictions on speech during a limited public forum do not violate the First Amendment when they are content-neutral, narrowly tailored to serve an important government interest, and leave open ample alternatives for communication).
[63] *Galena*, 638 F.3d at 198 (even when there is a reasonable time, place, and manner restriction, limitations on speech due to the speaker's viewpoint violate the First Amendment).
[64] *See Marshall v. Amuso*, 571 F. Supp. 3d 412, 421, 422 (E.D. Pa. 2021) (quoting *NAACP v. City of Phila.*, 834 F.3d 435, 441 (3d Cir. 2016)).
[65] *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829-30, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995) ("The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction"); *see also Galena,* 638 F.3d at 199.
[66] *Matal v. Tam*, 582 U.S. 218, 250 (2017) (Kennedy, J., concurring in part) ("The First Amendment's viewpoint neutrality principle protects more than the right to identify with a particular side. It protects the right to create and present arguments for particular positions in particular ways, as the speaker chooses").
[67] *Marshall*, 571 F. Supp. 3d at 424-26 (the policies were "vague" and "irreparably clothed in subjectivity." What may be considered "irrelevant," "abusive," "offensive", "intolerant," "inappropriate" or "otherwise inappropriate" varies from speaker to speaker, and listener to listener.").
[68] *See id.* at 421 (citing *Matal*, 582 U.S. at 250) ("Giving offense is a viewpoint").
[69] *Id.* at 424.
[70] *Id.* at 424-27.
[71] *Id.*
[72] *Id.* at 426.
[73] *Miller v. Goggin*, 672 F. Supp. 3d 14, 39 (E.D. Pa. 2023) (while the board policy required public comments to address the presiding officer instead of individual board members, it was both content and viewpoint neutral as speakers are not prohibited from discussing certain topics or commenting about specific members).
[74] *See Pennsylvania's Sunshine Act (Open Meetings Law) FAQ #8*, Off. of Open Recs., https://www.openrecords.pa.gov/SunshineAct.cfm#:~:text=The%20Pennsylvania%20Sunshine%20Act%2C%2065,receives%20regarding%20the%20Sunshine%20Act (last visited July 21, 2025).
[75] *See Marshall*, 571 F. Supp. 3d at 426 (granting a preliminary injunction of school board policies including the requirement to announce a home address).
[76] *Id.*
[77] *Pennsylvania's Sunshine Act (Open Meetings Law),* Off. of Open Recs., https://www.openrecords.pa.gov/SunshineAct.cfm (last visited June 12, 2023).
[78] *Lindke v. Freed,* 601 U.S. 187, 191 (2024).
[79] *Id.* at 203. Likewise, under the RTKL, a school board official's use of a private social media account or a personal email may be subject to disclosure if the messages are related to school board business and, in the case of social media accounts, is analogous to public discussion of school board matters. *See Penncrest Sch. Dist. v. Cagle*, 341 A.3d 720, 734–37 (Pa. Commw. Ct. 2025) (determining that posts on a school board member's private Facebook page could be a public record under the RTKL if certain conditions were met); *and see Penncrest Sch. Dist. v. Rodgers*, 337 A.3d 604 (Pa. Commw. Ct. 2025) (holding that emails from a school board member's personal email account could be public and subject to search under the RTKL).
[80] *Lindke*, 601 U.S. at 203. *See also O'Connor-Ratcliff v. Garnier*, 601 U.S. 205, 207 (2024) (applying *Lindke* test to school board members' use of social media and remanding for fact-specific analysis).
[81] 65 PA. CONS. STAT. § 706.
[82] 24 P.S. § 5-510.2.
[83] 65 PA. CONS. STAT. § 705.
[84] *Id.* § 704.
[85] *Id.* § 709(a)-(c.1).
[86] 24 P.S. § 4-4-421.
[87] *Id.* § 3-329.

[88] 65 PA. CONS. STAT. § 710.1 ("the board … shall provide a reasonable opportunity at each advertised regular meeting and advertised special meeting for residents … or for taxpayers … to comment on matters of concern, official action or deliberation which are or may be before the board or council prior to taking official action."); *but see* 65 PA. CONS. STAT. § 710 ("Nothing in this chapter shall prohibit the agency from adopting … rules and regulations necessary for the conduct of its meetings and the maintenance of order."); *Sklaroff v. Abington Sch. Dist.*, No. 2134 C.D. 2016, 2017 WL 4582638, at *2 (Pa. Cmwlth. 2017) ("[T]he denial of a right to speak before a board … may give rise to cause of action under the [Sunshine] Act, [but] limiting comments is not violative thereof as long as a person is afforded a reasonable opportunity to comment on matters of concern").

[89] *Madison Joint Sch. Dist. No. 8 v. Wis. Emp. Rels. Comm'n,* 429 U.S. 167 (1976) (holding First Amendment protections apply to speaking at public school board meetings); *Marshall v. Amuso*, 571 F. Supp. 3d 412 (E.D. Pa. 2021) (finding that disfavoring offensive speech is viewpoint discrimination, which "is presumed impermissible when directed against speech otherwise within the forum's limitations.") (citing *Rosenberger v. Rector & Visitors of Univ. of Va.,* 515 U.S. 819, 829-30 (1995)).

[90] 65 PA. CONS. STAT. § 710; *Sklaroff v. Abington Sch. Dist.*, No. 2134 C.D. 2016, 2017 WL 4582638, at *3 (Pa. Cmwlth. 2017) (holding that policy limiting speakers to 3 minutes and to agenda items only, not violative of the Sunshine Act); *Duff v. City of Philadelphia,* 2015 WL 4644138 (E.D. Pa. 2015) (holding that policy limiting public comment to agenda items did not violate First Amendment because it was narrowly tailored to serve an important government interest); *Alekseev v. City Council of Philadelphia,* 976 A.2d 1253 (Pa. Cmwlth. 2009) ("[L]imiting public comment to the subject of the proposed legislation under consideration by the committee is patently reasonable and in no way violates the [Sunshine] Act").

[91] 24 P.S. § 3-321.

[92] *Id.* § 3-322.