

Barron v. Kolenda

Overview
& Lessons

“Public Participation at Public Meetings”

“All remarks and dialogue in public meetings must be respectful and courteous, free of rude, personal or slanderous remarks. Inappropriate language and/or shouting will not be tolerated.”

“Public Participation at Public Meetings”

“Furthermore, no person may offer comment without permission of the Chair, and all persons shall, at the request of the Chair, be silent. No person shall disrupt the proceedings of a meeting.”

Open Meeting Law – G.L. c. 30A, § 20(g)

“No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a public body.”

Open Meeting Law – G.L. c. 30A, § 20(g)

“If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting
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Powers of Moderator – G.L. c. 38, § 17

“No person shall address a town meeting without leave of the moderator, and all persons shall, at the request of the moderator, be silent. If a person, after warning from the moderator, persists in disorderly behavior, the moderator may order him to withdraw”

Video

Superior Court Declaration No. 1

Prohibition constitutional *only* “when it is employed to maintain order and decorum or to prevent disruptions of the Board’s meeting.”

Superior Court Declaration No. 2

Board may not prohibit speech under Paragraph 3 of the Policy “based solely on the viewpoint or message of a speaker or the Board’s desire to avoid criticism.”

SJC Decision – March 7, 2023
Reversed & Remanded

Southborough Policy held
unconstitutional under Arts. 19 & 16 of
Massachusetts Declaration of Rights

Restriction on “rude, personal, or slanderous remarks” allows speakers to praise government officials but prohibits harsh criticism of government officials and, therefore, is not viewpoint-neutral.

“Although civility can and should be encouraged in political discourse, it cannot be required.”

“[P]olitical speech must remain ‘uninhibited, robust, and wide-open.’”

Lessons (post-Barron)

Government body may:

1. Enforce time limits on public comment sessions.
2. Enforce time limits on speakers.
3. Adopt rules “preventing speakers from disrupting others” and remove those speakers who disrupt others.

Lessons (post-Barron)

Government body may:

4. Require speech be “peaceable and orderly.”
5. Restrict public meeting(s) to a discussion of particular subject(s) “so long as it provides other opportunities to exercise this right [to peaceable assembly]”

Unanswered Questions (post-Barron)

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