



July 27, 2022

VIA EMAIL ONLY

Cristine Trooien

Minnesota Parents Alliance

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Re: Claims that School Board Public Comments Create Liability Risk for Board

To Whom It May Concern:

You have asked us, on behalf of School District parents and Board members, whether there is any risk of liability for School Boards, individual Board members or School Districts arising from public comments at a School Board meeting. We find no cases in Minnesota or other states in which any such liability has arisen. In fact, in many cases, Board members were even protected by immunity or privilege against liability for their *own* allegedly defamatory speech at Board meetings.

The most pertinent cases involving political Boards legally equivalent to School Boards are cited and summarized below:

Timmon v. Wood, 633 F. Supp. 2d 453, 460 (W.D. Mich. 2008) ("A city council is acting in its legislative capacity when it exercises its investigatory power by presiding over a **public-comment** period.")

Ritchie v. Coldwater Cmty. Schs, 947 F. Supp. 2d 791, 807 n.6 (W.D. Mich. 2013) ("A city council is [**15] acting in its legislative capacity when it exercises its investigatory power by presiding over a public-comment period. 'A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change.' *McGrain v. Daugherty*, 273 U.S. 135, 175, 47 S. Ct. 319, 71 L. Ed. 580 (1927). Public comment is a useful way for a legislative body to gather necessary information to address the priorities of its constituents, and public comment has become a routine and legitimate part of modern-day legislative process.")

The case law, then, actually supports, and endorses public comment periods.

Cristine Trooien
Minnesota Parents Alliance
July 27, 2022
Page 2

Accordingly, it is our opinion that School Boards, individual Board members and School Districts cannot be held liable for comments made by a member of the public at a School Board meeting. Such liability for public comments, if asserted, would be claimed on the bases of defamation, intentional infliction of emotional distress, or false light. However, no School Board, Board member or School District, in any state, has ever been found liable for any of these civil claims on the basis of comments made by a member of the public during a public-comment period at a School Board meeting, nor have other claims against these parties for comments during public comment period succeeded.

We can only conclude that the asserted “risk of liability” is being raised by those who desire to exclude the public from Board meetings for other reasons.

Very truly yours,



Douglas P. Seaton, J.D., Ph.D.
President and Founder of UMLC

cc: James V. F. Dickey, Esq.