



ACLU: Public meetings can be efficient, orderly, and open for public comment after SJC free speech ruling

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BOSTON – The ACLU of Massachusetts today [delivered a letter](#) to the Massachusetts Municipal Lawyers Association and the Massachusetts Association of School Committees sharing how cities and towns can conduct orderly and efficient government meetings while retaining public comment sessions. The letter follows a [new Supreme Judicial Court ruling](#) that holds government officials cannot silence members of the public based on the substance of their input during such sessions.

“From the way we access the ballot to the books available in school libraries, municipal bodies like city councils and school boards determine many aspects of our lives,” **said Carol Rose, Executive Director of the ACLU of Massachusetts.** “It’s crucial that we preserve the rights of residents to express themselves in these meetings—including by criticizing public officials. This ruling is an important recognition of these core democratic values.”

In the opinion issued earlier this week, the state’s highest court ruled that “civility” codes that limit criticism of public officials by giving the chair discretion to decide whether comments are sufficiently “courteous” are contrary to multiple provisions of the Massachusetts Constitution. While recognizing that governments may have rules about when, how long, and about which topics the public may speak during public meetings, the Supreme Judicial Court emphasized that “civility restraints on the content of speech at a public comment session in a public meeting are forbidden,” because they are content- and viewpoint-based, and vague and manipulable, restrictions that can be used to suppress core political speech.

“As the Supreme Judicial Court so eloquently explained, public comment periods have a particularly long and important history in Massachusetts—including before and during the Revolution,” **said Ruth Bourquin, senior and managing attorney at the ACLU of Massachusetts.** “Now, at a time when our local cities and towns are at the epicenter of essential discussions about civil rights and civil liberties, Massachusetts municipalities can embrace this new court opinion to ensure public meetings are efficient, orderly, and open.”

Ending public comment periods altogether in response to this decision would raise serious constitutional questions, according to the new ACLU letter. In light of the Court’s analysis, there is strong reason to believe that eliminating public comment sessions could violate Articles 16 and 19 of the state’s Declaration of Rights, as well as the First Amendment to the U.S. Constitution.

Public bodies have many tools that are consistent with the Court’s decision to continue public comment sessions and ensure meetings are orderly. In 2019, the ACLU of Massachusetts [represented two mothers](#) in a case against the Natick School Committee after the women were shut down while expressing concerns about the operation of the Natick Public Schools during a “Public Speak” session. After a court ruled that this violated free speech rights, the Natick School Committee [adopted a policy](#) that honored free speech and ensured a process for orderly meetings.

For the full ACLU letter, go to: <http://aclum.org/public-comment>

For more information about the ACLU of Massachusetts, go to: www.aclum.org

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