

RE: Was sent to all board members

Dave Kimble <jndkimble@wavecable.com>

Wed 12/15/2021 8:31 AM

To: Berg, John <berg@skschools.org>;

Cc: Daily, Jeff <daily@skschools.org>; Pickard, Brian <pickardb@skschools.org>; Wilson, Jeffrey <wilsonj@skschools.org>; espyk@skschools.org <espyk@skschools.org>; Winter, Tim <winter@skschools.org>;

Hello Mr. Berg:

Sorry to have used far more words here than you, but your standard and repeated answers still do not adequately address the real, or precise issues at hand here, at least in my opinion. But I do thank you for your responses. Not all of the directors have yet responded. And since you have provided some great background here, I hope my reply seems cogent and that you are not bothered that I am also copying my reply to you in this email to the other board members.

**Sincerely,
Dave K.**

From: Berg, John [mailto:berg@skschools.org]
Sent: Tuesday, December 14, 2021 9:13 PM
To: jndkimble@wavecable.com
Subject: Re: Was sent to all board members

Mr. Kimble:

The Washington State Open Public Meetings Act (RCW 42.30) grants members of the public the right to "attend" meetings. Nowhere does it grant any right of a member of the public to speak at such meetings, nor does it regulate any "Public Comment" portion of the meetings in any way.

Here, you have again, precisely hit the nail on the head. This is all made up stuff/requirements made by some school districts, ours included. All of them are taking liberties, doing their own things, modeling what other districts do and then taking shelter (making excuses essentially) behind the words that the RCW is silent on regarding public comment. We have read the RCW. By choosing to prohibit or limit you are in a sense reading more into this RCW than is written. You don't read more into RCW's; you read them as written - period. This applies to how this RCW address public comment. And of course as you are aware, once this 'body' allows public comments at a meeting (can be from meeting to meeting in fact) you cannot just turn off the comments at the specific meeting. And muting anyone, and then giving the reason for muting as the meeting was in chaos, disorder, or other undesirable dialogue is patently illegal. No fine line there, just plan old restricting free and public speech. Note I did not cite the 1st Amendment, so please do not "take us there". It appears that on the surface, the past board was just learning about how to manage or deal with unruly attendees (and or body members). Have you stopped to consider than many of the current public policies could in fact be viewed by others as forms of censorship by some?

Nowhere does the SK Board policy restrict public comment to residents, as you claim. The residency requirement was replaced with the current stakeholder requirement. To my knowledge, no one has been denied the right to public comment based upon their not being a stakeholder. I would not support, nor am I seeking to impose any restrictions limiting public comment to residents, as you claim.

Ok, let's make it more simple here. You suggest to me recently that you 'may' (in other words the board as a whole) may consider removing stakeholder requirements. That would mean words would likely need to be inserted in place of, exchange of the current stakeholder words. You could make words like other district do that just say no residency required to speak, some say all can speak in fact. Have you taken the time to look at other districts policies outside of Kitsap County? If the board decides to leave the stakeholder requirement than I guess it would be time to test whether or not anyone would be declined the opportunity to speak. That is of course if the board demands them to identify where they live, which is not something the district can force anyone to comply with.

While persons attending a board meeting can not be required to identify themselves or register as a condition of being present (except perhaps for COVID tracing purposes), the board may impose reasonable conditions upon those wishing to speak during any public comment period, provided that any restrictions are content neutral and do not favor one viewpoint over another. There is no legal prohibition on the board requiring those addressing the board to identify themselves. If you can find one, please cite it.

And here again, we find you employing reverse logic, using words to 'explain' what the board 'can do' - not what they should or must do. So there is no legal requirement to make anyone identify themselves or register to speak - check. But as we all know this board does more than tacitly require (electronic registration) as a condition of speaking during Zoom meetings. And during in person meetings they 'have' required the paper version of yellow cards. The board is choosing to do this. Your words that they are not prohibited from asking are again merely a play on words, an approach I feel is wrong. I have an example. I submitted comments and questions for the last meeting. In fact, you were sent a copy, which you responded with via your last email to me. By the way, you were the only respondent so I give you credit there. Problem for me was that I failed to send those questions/comments too the identified email address to express my intent to also speak. I was not called upon, and I did not have the opportunity during the one public comment period to use Zoom feature of raising my hand to speak. Explain how that is encouraging public comment. Explain how that did not limit my public participation. I would guess the key here is also that the board chooses not to use Zoom the way it is intended to be used. And that again is by board design. Tell me, how it was not a pre-requisite to speak at that meeting to send my comments to, and 'check the box' that I wanted to speak?

I believe we are most all aware that Zoom is set up with names as users, which the board cannot control anyway. And we know that zoom users could assign any name they wish to identify themselves, should they wish to disguise their identity, let's say, to remain anonymous. Call them next speaker or whatever but drop the registration requirements for the reasons I have already detailed.

You are not claiming here that the board is not precluded from requesting speakers to identify themselves, right? But the 'rules' for public speaking do not require speakers to identify theme selves as a condition of speaking. What purpose does this current requirement of sending in a request (pre registering) to speak actually serve or meet? I don't buy the explanation that it better helps the board manage their time, anymore than the claim that two comments periods will waste the board's time. I believe this was the belief that resonated in the past board make up, not the newly constituted board. After all, the board appears to block out 30 minutes for public comment in their agenda. That time is not lost if there are no persons wishing to speak. So please tell me just what purpose does asking anyone them to identify themselves actually serve?

John R. Berg

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Director Position 2

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From: Dave Kimble <jndkimble@wavecable.com>

Sent: Tuesday, December 14, 2021 2:56:07 PM

To: Berg, John

Subject: Was sent to all board members

John,
You know I won't relent on continuing to ask for these changes.

Dave