

## How can the law affect you?

### Role of School Board Chairman

It is the responsibility of the school board chairman to enforce the rules governing public comment and basic decorum:

- If a commenter moves to topics that are not related to school district affairs a board chair may ask the person to stay on topic;
- If a time limit has been implemented, the board chair can notify the person that they have exceeded their allotted time;
- If a citizen attempts to comment on an item before the board the board chair can invite that citizen to return to the podium when that item is being discussed; and
- If a person acts inappropriately or uses offensive, obscene, or hostile language the citizen may be asked to observe good manners or sit down.

If a member of the public disrupts a board meeting it is a violation of state law punishable by a \$100 fine or 10 days in jail or both.<sup>3</sup>

3. *Section 45-8-101(g), MCA.*

# Public Comment in Montana

## A Guide to Rights and Responsibilities

2010

# It is every Montanan's right to participate in the operation of their government.

## How is the law written?

### Montana Constitution

#### **Article II, Section 8. Right of participation.**

The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.

### Montana Code Annotated

**2-3-103. Public participation -- governor to ensure guidelines adopted.** (1) (a) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures must ensure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public. The agenda for a meeting, as defined in 2-3-202, must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. However, the agency may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter. Public comment received at a meeting must be incorporated into the official minutes of the meeting, as provided in 2-3-212.

(b) For purposes of this section, "public matter" does not include contested case and other adjudicative proceedings.

## What does the law say?

Stated plainly, the 2-3-103 Montana Code Annotated governs public comment periods during government meetings by ensuring:

- Citizens may comment on matters within the control of the board not on the current agenda;
- No action may be taken on a matter raised during the comment period as notice has not been provided;
- Matters raised by the public must be included in the meeting minutes;
- Comments may not be taken and should not be accepted on personnel and student discipline matters as these are not public issues;<sup>1</sup>
- Comments on matters appearing on the agenda should be taken during discussion of the specific agenda item; and
- Multiple comments from the same citizen on the same topic during the same meeting should not be permitted.<sup>2</sup>

The intent of these changes was to give the public an opportunity to interact with their board on issues that may come before the school board.<sup>3</sup>

1. *Lawson, Rep. Bob, Sponsor Response to Question*, Senate Committee on Local Government, 58th Gen. Session, (February 6, 2003).

2. *Governor's Amendments Letter, House Bill 94*, 58th Gen. Session, (March 20, 2003), Amendments adopted April 11, 2003 and April 15, 2003.

3. *Lawson, Rep. Bob, Sponsor's Opening Statement*, Senate Committee on Local Government, 58th Gen. Session, (February 6, 2003).

## How is the law interpreted?

### Montana Supreme Court

"[W]e conclude that imposition of reasonable and view-point neutral time, place, and manner restrictions at a city council meeting will not unduly hamper debate on public issues or criticism of the conduct of public affairs" *Denke v. Shoemaker*, 347 Mont. 322, 198 P.3d 284, (2008).

In *Denke*, the Montana Supreme Court states that reasonable limits can be placed on individual citizens during the public comment period:

- A 3 or 5 minute limit per person;
- Hearing all non-agenda discussion during one portion of the agenda;
- Limiting comment to areas related to district issues; and
- Establish a policy regarding public comment and providing a summary of the policy to meeting attendees.

These limitations cannot be designed to restrict public debate or suppress the viewpoints of certain citizens so long as their comments meet the previously stated guidelines. These limitations must be adopted for the purpose of conducting an organized meeting and should not be directed at selected individuals.