FIRE
Foundation for Individual Rights and Expression

May 21, 2026

St. Croix Central School Board
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Dear St. Croix Central School Board Members:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech nationwide, writes regarding restrictions on public comment announced at a meeting of the St. Croix Central School Board last year. Because those restrictions are inconsistent with the First Amendment, we urge the Board to rescind them or confirm that they do not reflect its current policy or practice.

Our concerns arise from the following statement read aloud during the Board's June 16, 2025, meeting at the opening of public comment:

> Speakers may not make allegations, charges, or complaints against any specific or identifiable student or employee. … Speakers may not [make] comment[s] or gestures that are threatening, profane, lewd, vulgar, obscene, harassing, or abusive. Speakers may not make personal attacks against others, including, but not limited to, any student, parent, community member, employee, or Board members.

It does not appear the Board has codified these restrictions or read them aloud at subsequent meetings. However, it is unclear if the Board still enforces them, and an individual contacted FIRE with their concerns.

The First Amendment protects speech by members of the public at government meetings.[1] Public comment periods by their nature are, at minimum, limited public forums, where the government may impose only viewpoint-neutral restrictions that are reasonable in light of the forum's purpose.[2] It may not restrict comments because they are critical of government

[1] *City of Madison, Joint Sch. Dist. No. 8 v. Wis. Emp. Rels. Comm'n*, 429 U.S. 167, 174–76 (1976).

[2] *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

officials or employees, or in other instances "when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction."[3]

Bans on "allegations, charges, or complaints," "harassing" or "abusive comments," or "personal attacks" unconstitutionally discriminate based on viewpoint as they selectively target speech expressing a negative or critical perspective. The Supreme Court has made clear that even a restriction that "evenhandedly prohibits disparagement of all groups" is viewpoint-discriminatory,[4] and federal courts across the country have invalidated meeting rules banning "personal attacks" or "antagonistic," "abusive," "derogatory," "offensive," "rude," "insulting," or "personally directed" public comments.[5] It is a "bedrock principle underlying the First Amendment" that officials cannot restrict speech simply because some find it "offensive or disagreeable."[6]

The Board's regulations flagged here are also unreasonable and unconstitutionally overbroad as they prohibit "a substantial amount of protected speech … not only in an absolute sense, but also relative to the [regulation's] plainly legitimate sweep."[7] Restrictions on critical comments of Board members and district employees raise especially grave constitutional issues. The First Amendment reflects our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and … may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."[8] The government cannot allow officials to "be praised but not condemned."[9] Even a viewpoint-neutral ban on merely mentioning district officials or employees is unreasonable for a forum designed to allow the public to express concerns related to school district operations.[10] In

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[3] *Id.*

[4] *Matal v. Tam*, 582 U.S. 218, 243 (2017).

[5] *See, e.g.*, *Moms for Liberty — Brevard Cnty. v. Brevard Cnty. Pub. Schs.*, 118 F.4th 1324 (11th Cir. 2024) (restrictions on "abusive," "personally directed," and "obscene" public comments are unconstitutional); *Ison v. Madison Loc. Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 894–95 (6th Cir. 2021) (bans on "antagonistic," "abusive," and "personally directed" public comments violated First Amendment as "impermissible viewpoint discrimination" that prohibited nondisruptive speech "purely because it disparages or offends"); *Mejia v. Lafayette Consol. Gov't*, No. 6:23-CV-00307, 2025 U.S. Dist. LEXIS 52868, at *24–25 (W.D. La. Mar. 20, 2025) (library board had no authority to restrict public comments on grounds they were "vile," "derogatory," or "confrontational"); *Mama Bears of Forsyth Cnty. v. McCall*, 642 F. Supp. 3d 1338, 1350 (N.D. Ga. 2022) (school district's public comment protocol that "attacks of a personal nature … will not be allowed or tolerated" evidenced viewpoint discrimination).

[6] *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

[7] *United States v. Williams*, 553 U.S. 285, 292 (2008).

[8] *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964); *see also Snyder v. Phelps*, 562 U.S. 443, 452 (2011) ("[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.").

[9] *Barron v. Kolenda*, 203 N.E.3d 1125, 1139 (Mass. 2023) (quoting *Matal*, 582 U.S. at 249 (Kennedy, J., concurring)).

[10] *Moms for Liberty*, 118 F.4th at 1337 (holding unconstitutional a school board's prohibition on "personally directed speech" because it "actively obstructs a core purpose of the Board's meetings—educating the Board and the community about community members' concerns").

many circumstances, members of the public cannot meaningfully comment on government actions without referencing the individuals who carry them out.[11]

Restricting "profane," "lewd," and "vulgar" comments and gestures is similarly unreasonable and unconstitutionally overbroad. In the landmark case *Cohen v. California*, the Supreme Court held the First Amendment protected the right to wear a jacket reading "Fuck the Draft" in a public courthouse where children were present.[12] Absent additional facts that give rise to actual disruption of Board proceedings, speech that officials deem "profane," "lewd," or "vulgar" is protected.[13]

Finally, the prohibitions announced at the June 2025 meeting are also unconstitutionally vague as they fail to provide persons of ordinary intelligence reasonable notice of what speech is prohibited and afford officials too much discretion to decide what speech to allow.[14] Without clear, precise definitions, such restrictions invite arbitrary and viewpoint-discriminatory enforcement. When, for example, does criticism of a school district policy or official become "harassing," "abusive," or a "personal attack"? What language qualifies as "profane"? Only certain four-letter swearwords? Or does it include expression disrespectful of religion?[15] No further guidance exists. Commenters are left to guess at the boundaries of permissible speech, while officials retain broad discretion to silence disfavored viewpoints.

The Board can certainly prohibit genuinely disruptive conduct—such as speaking when not recognized or after one's time expires. But officials must not stretch the meaning of disruption to encompass constitutionally protected speech. When it comes to protected speech that some listeners may find objectionable, "the remedy to be applied is more speech, not enforced silence."[16]

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[11] *Id.* ("If a parent has a grievance about, say, a math teacher's teaching style, it would be challenging to adequately explain the problem without referring to that math teacher. Or principal. Or coach. And so on. Likewise when a parent wishes to praise a teacher or administrator.").

[12] 403 U.S. 15 (1971).

[13] Although obscenity, properly defined, is unprotected, the term has a precise legal meaning narrower than its more colloquial usage. *See Miller v. California*, 413 U.S. 15, 24 (1973) (expression is obscene only if (1) the "average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest"; (2) it portrays "sexual conduct" in a "patently offensive" manner; and (3) "taken as a whole," it lacks "serious literary, artistic, political, or scientific value"). A government body may not label language "obscene" if it is simply offensive, crude, or sensual, and a school board is not equipped to make the complex legal determination of whether expression is obscene on the spot. Similarly, while the Board may prohibit true threats, this too is a narrow category of unprotected speech with a precise legal definition far narrower than common usage. *See Virginia v. Black*, 538 U.S. 343, 359 (2003) (defining "true threat" as a statement by which "the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals").

[14] *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

[15] One definition of "profane" is: "characterized by irreverence or contempt for God or sacred principles or things; irreligious." *Profane*, DICTIONARY.COM, https://www.dictionary.com/browse/profane.

[16] *Whitney v. California*, 274 U.S. 357, 377 (1927).

FIRE thus urges the St. Croix Central School Board to rescind all of the restrictions identified above, or confirm that they do not currently reflect formal or informal Board policy and will not be enforced going forward.

We respectfully request a substantive response to this letter no later than June 4, 2026.

Sincerely,

Aaron Terr
Director of Public Advocacy