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February 10, 2026

Sent via Email to:

Members of the School District of New Richmond School Board

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Re: Enforcement of Public Comment Rules and First Amendment Obligations

Dear Members of the School Board:

The Wisconsin Institute for Law & Liberty (WILL) writes to express concern regarding the public comment guidelines the Board has issued for its February 10, 2026 meeting. While the Board may adopt reasonable, content-neutral rules governing time, place, and manner in a limited public forum, several aspects of the guidelines appear unnecessarily restrictive, risk viewpoint discrimination, and could chill participation in matters of public concern.

When a governmental body, such as a school board, opens a period for public comment, it creates a limited public forum for speech on matters of public concern. In such a forum, the First Amendment prohibits viewpoint discrimination. Government entities may impose reasonable time, place, and manner restrictions, but they may not suppress speech simply because they disagree with its message or find it uncomfortable. *See Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995); *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45–46 (1983); *Police Dep't of Chicago v. Mosley*, 408 U.S. 92, 95 (1972).

The guidelines at issue broadly prohibit “personal attack[s],” “allegations,” and “private educational data.” As written, these provisions could be applied to prevent lawful criticism of Board policies, including the bathroom policy currently in effect. While these rules may be appropriate to prevent harassment or unlawful disclosure of confidential student information, they cannot lawfully be used to silence criticism of district policies or to exclude speakers based on viewpoint.

Decorum rules should focus on preventing actual disruption, such as refusing to yield the floor when time expires, materially impeding the business of the Board, or making true threats, not on the tone, sharpness, or content of speech. Similarly, the requirement that speakers be “recognized” by the Chair must be applied according to neutral, objective criteria, such as order of sign-in and adherence to time limits. It cannot serve as a discretionary veto over protected speech.

Student privacy laws such as FERPA (20 U.S.C. § 1232g) impose obligations on school officials but do not prohibit members of the public from expressing opinions about district policies that affect students generally. Any suggestion that FERPA prohibits public comment on the practical effects of the bathroom policy misstates both federal privacy law and First Amendment protections.

Finally, Wisconsin Open Meetings Law, Wis. Stat. §§ 19.31 et seq., requires that public meetings be conducted in a manner that allows for transparency and meaningful public participation. While school boards may establish reasonable procedural rules to manage public comment, these rules cannot be applied to suppress lawful public speech.

We encourage the Board to enforce public comment rules this evening in a manner that respects all viewpoints, focusing strictly on content-neutral decorum, with time limits and recognition applied equally to all speakers.

We plan to observe the meeting and monitor how these guidelines are applied to ensure that protected expression is not unlawfully restricted. We appreciate your prompt attention to this important matter.

Very Truly Yours,
WISCONSIN INSTITUTE FOR LAW & LIBERTY



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