

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

NATHANIEL BORRELL DYER,

Plaintiff,

v.

ATLANTA INDEPENDENT  
SCHOOL SYSTEM,

Defendant.

Civil Action No. 1:18-CV-03284-TCB

**DEFENDANT ATLANTA INDEPENDENT SCHOOL SYSTEM'S  
ANSWER TO PLAINTIFF'S COMPLAINT**

COMES NOW, the Atlanta Independent School System ("Defendant"), and hereby files its Answer to Plaintiff's Complaint, showing the Court as follow:

**FIRST DEFENSE**

Plaintiff's Complaint fails to state a claim upon which relief may be granted against Defendant.

**SECOND DEFENSE**

Defendant denies that any of its actions or omissions caused Plaintiff to sustain any injuries that are actionable under federal or state law.

**THIRD DEFENSE**

To the extent that Plaintiff has sustained any injuries as a result of any act or omission on the part of Defendant, Plaintiff failed to take reasonable measures to mitigate his damages.

**FOURTH DEFENSE**

Plaintiff is barred from bringing the alleged causes of action due to the doctrines of estoppel, waiver, laches, unclean hands, and assumption of the risk.

**FIFTH DEFENSE**

Plaintiff cannot recover punitive damages against Defendant, because Georgia law does not authorize imposition of punitive damages against public school districts.

**SIXTH DEFENSE**

Plaintiff's claims under 42 U.S.C. § 1983 fail because Plaintiff cannot establish that any of his alleged constitutional injuries was caused by any of Defendant's customs, policies, or practices or otherwise establish grounds for municipal liability under *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978).

**SEVENTH DEFENSE**

Plaintiff's claims under 42 U.S.C. § 1983 fail because Plaintiff cannot establish that Defendant acted with deliberate indifference toward known instances of unconstitutional conduct.

**EIGHTH DEFENSE**

Plaintiff's due process claim fails because state law afforded him adequate procedural safeguards.

**NINTH DEFENSE**

Plaintiff's First Amendment claim fails because Plaintiff's speech was not constitutionally protected.

**TENTH DEFENSE**

Plaintiff's causes of action fail because any restrictions placed on his speech were justified in a limited public forum.

**ELEVENTH DEFENSE**

Defendant reserves the right to raise additional affirmative defenses as may be discovered during the course of these proceedings.

**TWELFTH DEFENSE**

Without waiving any defense at law or in equity, Defendant responds to Plaintiff's Complaint as follows:

**PREAMBLE**

Defendant admits that it is properly named the Atlanta Independent School System, is a resident of Fulton County, Georgia, is located at 130 Trinity Avenue, Atlanta, Georgia 30309, and is subject to physical jurisdiction in this Court. The remaining allegations contained in the Preamble to Plaintiff's Complaint state legal conclusions without any facts, and therefore require no answer by Defendant. All remaining allegations stand denied.

**FACTS**

1.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1 of Plaintiff's Complaint and therefore deny the same.

2.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2 of Plaintiff's Complaint and therefore deny the same.

3.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 3 of Plaintiff's Complaint and therefore deny the same.

4.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 4 of Plaintiff's Complaint and therefore deny the same.

5.

Defendant admits that Plaintiff volunteered in 2006 at John F. Kennedy Middle School. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 5 of Plaintiff's Complaint and therefore deny the same.

6.

Defendant denies the allegations contained in Paragraph 6 of Plaintiff's Complaint.

7.

Defendant denies the allegations contained in Paragraph 7 of Plaintiff's Complaint.

8.

Defendant admits that Plaintiff was charged with disorderly conduct in 2006 in connection with his behavior at John F. Kennedy Middle School but denies the remaining allegations contained in Paragraph 8 of Plaintiff's Complaint.

9.

Defendant admits that Plaintiff was removed from the volunteer list at John F. Kennedy Middle School. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 9 of Plaintiff's Complaint and therefore deny the same.

10.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 10 of Plaintiff's Complaint and therefore deny the same.

11.

The information reported by the Atlanta Journal Constitution are a matter of public record, the language of which speaks for itself. The individuals indicted are also a matter of public record. Defendant denies the remaining allegations contained in Paragraph 11 of Plaintiff's Complaint.

12.

Defendant denies the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13.

Defendant denies the allegations contained in Paragraph 13 of Plaintiff's Complaint.

14.

Defendant admits that Plaintiff speaks at public board meetings but denies the remaining allegations contained in Paragraph 14 of Plaintiff's Complaint.

15.

Defendant admits that Plaintiff has distributed printed material critical of Defendant. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 15 of Plaintiff's Complaint and therefore deny the same.

16.

Defendant admits that Plaintiff met with Deputy Superintendent David Jernigan and former Ombudsman Jodi Merriday and that Forrest Hills Academy is an alternative school. Defendant is without sufficient knowledge or information to

form a belief as to the truth of the remaining allegations contained in Paragraph 16 of Plaintiff's Complaint and therefore deny the same.

17.

Defendant admits the allegations contained in Paragraph 17 of Plaintiff's Complaint.

18.

The terms and language of the January 15, 2016 letter issued by Defendant speak for themselves. Any remaining allegations stand denied.

19.

The terms and language of the January 15, 2016 letter issued by Defendant speak for themselves. Any remaining allegations stand denied.

20.

Defendant denies the allegations contained in Paragraph 20 of Plaintiff's Complaint.

21.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiff's Complaint and therefore deny the same.



22.

Defendant admits that Plaintiff attended the February 1, 2016 board meeting but deny the remaining allegations contained in Paragraph 22 of Plaintiff's Complaint.

23.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 23 of Plaintiff's Complaint and therefore deny the same.

24.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 24 of Plaintiff's Complaint and therefore deny the same.

25.

Defendant admits that Plaintiff attempted to speak at the February 1, 2016 board meeting and was intercepted by APS resource officers. Defendant denies the remaining allegations contained in Paragraph 25 of Plaintiff's Complaint.

26.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 26 of Plaintiff's Complaint and therefore deny the same.

27.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 27 of Plaintiff's Complaint and therefore deny the same.

28.

Defendant denies the allegations contained in Paragraph 28 of Plaintiff's Complaint.

29.

Defendant denies the allegations contained in Paragraph 29 of Plaintiff's Complaint.

30.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 30 of Plaintiff's Complaint and therefore deny the same.

31.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 31 of Plaintiff's Complaint and therefore deny the same.

32.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 32 of Plaintiff's Complaint and therefore deny the same.

33.

Defendant denies the allegations contained in Paragraph 33 of Plaintiff's Complaint.

34.

Defendant denies the allegations contained in Paragraph 34 of Plaintiff's Complaint.

35.

Defendant admits that Plaintiff was issued a criminal trespass warning, the terms of language of which speak for themselves. Any remaining allegations stand denied.

36.

Defendant admits that Plaintiff attended a meeting on or about February 29, 2016 with former Chief of Police Marquenta Sands-Hall and an attorney for Defendant and that another criminal trespass warning was issued. Defendant denies the remaining allegations contained in Paragraph 36 of Plaintiff's Complaint.

37.

Defendant denies the allegations contained in Paragraph 37 of Plaintiff's Complaint.

38.

Defendant admits that a second suspension letter was issued to Plaintiff on or about October 11, 2016, the terms and language of which speak for themselves. Any remaining allegations stand denied.

39.

Defendant admits that Plaintiff called children who attended APS schools "Sambos" and was asked to leave the podium. Defendant denies the remaining allegations contained in Paragraph 39 of Plaintiff's Complaint.

40.

Defendant denies the allegations contained in Paragraph 40 of Plaintiff's Complaint.

41.

Defendant denies the allegations contained in Paragraph 41 of Plaintiff's Complaint.

42.

Defendant denies the allegations contained in Paragraph 42 of Plaintiff's Complaint.

43.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 43 of Plaintiff's Complaint and therefore deny the same.

44.

Defendant denies the allegations contained in Paragraph 44 of Plaintiff's Complaint.

45.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 45 of Plaintiff's Complaint and therefore deny the same.

46.

Defendant admits that a third suspension letter was issued to Plaintiff on or about February 8, 2018, the terms and language of which speak for themselves. Any remaining allegations stand denied.

47.

Defendant admits that a third suspension letter was issued to Plaintiff on or about February 8, 2018, the terms and language of which speak for themselves. Any remaining allegations stand denied.

48.

Defendant admits the allegations contained in Paragraph 48 of Plaintiff's Complaint.

49.

Defendant admits that Board Chairman Jason Esteves told Plaintiff that he had been warned before and that his speaking privilege had ended. Defendant denies the remaining allegations contained in Paragraph 49 of Plaintiff's Complaint.

50.

Defendant admits that a letter was delivered to Plaintiff on or about February 8, 2018 and that he was not permitted to remain on Defendant's property. Defendant denies the remaining allegations contained in Paragraph 50 of Plaintiff's Complaint.

51.

Defendant denies the allegations contained in Paragraph 51 of Plaintiff's Complaint.

52.

Defendant admits that a third suspension letter was issued to Plaintiff on or about February 8, 2018, the terms and language of which speak for themselves. Any remaining allegations stand denied.

**STATEMENT OF DAMAGES**

**COUNT I. VIOLATION OF THE FIRST AMENDMENT  
TO THE UNITED STATES CONSTITUTION**

The allegations contained in Count I to Plaintiff's Complaint state legal conclusions without any facts, and therefore require no answer by Defendant. All remaining allegations stand denied.

**COUNT II. VIOLATION OF THE FOURTEENTH AMENDMENT  
TO THE UNITED STATES CONSTITUTION**

The allegations contained in Count II to Plaintiff's Complaint state legal conclusions without any facts, and therefore require no answer by Defendant. All remaining allegations stand denied.

**COUNT III. SLANDER PER SE AGAINST ALL DEFENDANTS**

Pursuant to the Court's Order issued on March 14, 2019, Count III to Plaintiff's Complaint has been dismissed and judgment entered for Defendant. Therefore, no response is required from Defendant. Any remaining allegations stand denied.

**COUNT IV. DISCRIMINATION AND RETALIATION**

Pursuant to the Court's Order issued on March 14, 2019, Count IV to Plaintiff's Complaint has been dismissed and judgment entered for Defendant. Therefore, no response is required from Defendant. Any remaining allegations stand denied.

**COUNT V. HARASSMENT**

Pursuant to the Court's Order issued on March 14, 2019, Count V to Plaintiff's Complaint has been dismissed and judgment entered for Defendant. Therefore, no response is required from Defendant. Any remaining allegations stand denied.

Defendant denies that Plaintiff is entitled to any of the relief requested and set forth in the "Request for Relief," including the subparts (1) through (6).

Defendant denies each and every allegation contained in the Plaintiff's Complaint that has not heretofore been admitted.



**REQUEST FOR RELIEF**

WHEREFORE, Defendant respectfully demands and prays as follows:

1. That it be discharged without any liability to the Plaintiff;
2. That the Court dismiss the present action against it;
3. That all costs and expenses be taxed against the Plaintiff; and
4. That Defendant shall have all such other relief as is permitted by law.

Respectfully submitted this 4<sup>th</sup> day of April 2019.

/s/Laurance J. Warco

Laurance J. Warco

Georgia Bar No. 736652

Brandon O. Moulard

Georgia Bar No. 940450

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**CERTIFICATE OF COMPLIANCE**

The undersigned counsel certifies that the foregoing has been prepared in Times New Roman (14) font, as approved by the Court in L.R. 5.1.B.

*/s/Laurance J. Warco*

Laurance J. Warco

Georgia Bar No. 736652

Brandon O. Moulard

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day I electronically filed and served a copy of the foregoing DEFENDANT ATLANTA INDEPENDENT SCHOOL SYSTEM'S ANSWER TO PLAINTIFF'S COMPLAINT by using CM/ECF, which will send notification of such filing and by depositing a copy of same in the U.S. mail in a properly addressed envelope with sufficient postage affixed thereto to ensure delivery to the following:

Nathaniel Borrell Dyer, *pro se*  
202 Joseph E. Lowery Blvd., NW  
Atlanta, GA 30314

This 4<sup>th</sup> day of April, 2019.

/s/Laurance J. Warco

Laurance J. Warco  
Georgia Bar No. 736652  
Brandon O. Moulard  
Georgia Bar No. 940450  
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