

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

NATHANIEL BORRELL DYER,

Plaintiff,

v.

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

ATLANTA INDEPENDENT SCHOOL
SYSTEM,

Defendant.

DECLARATION OF DAVID JERNIGAN

This Declaration is given by David Jernigan, who, under penalty of perjury, states that the following is true and correct:

1.

My name is David Jernigan. I am over twenty-one (21) years of age, legally competent to make this Declaration, and have personal knowledge of the statements made herein. I make this affidavit on my own personal knowledge for use in supporting the Atlanta Independent School System's ("AISS") Motion for Summary Judgment in the above-styled matters and for all other purposes permitted by law.

2.

I am currently employed as the deputy superintendent of AISS.

3.

The Atlanta Board of Education (“Board”) holds meetings each month, including a work session, community meeting, and a legislative meeting.

4.

Board policies BC and BC-R(1) govern the procedure, conduct, and decorum for these meetings. True and correct copies of those policies are attached as Exhibit 1 and Exhibit 2, respectively.

5.

All individual who attend and participate at public meetings must abide by policies BC and BC-R(1).

6.

The community meetings are open to the public and allow the Board “to receive input from community members regarding policy issues, the educational program, or any other aspect of AISS business except confidential personnel issues.” (Ex. 1).

7.

The public meetings may concern “controversial issues or matters of deep community concern.” (*Id.*).

8.

Members of the public who attend Board meetings are required to “faithfully and impartially conduct themselves in ways that demonstrate mutual respect, fair play, and orderly decorum,” and must be respectful and courteous “even when expressing disagreement, concern, or criticism.” (*Id.*).

9.

The Board reserves a portion of each meeting for public comment, during which members of the public may address the Board directly.

10.

If a person wishes to address the Board during the public comment portion of the meeting, he or she must register to speak in person before the start of the meeting, and the chairperson must recognize the speaker before he or she can speak. (*Id.*)

11.

Upon being called to the podium, the speaker must then identify himself/herself and make his or her comments “as briefly as the subject permits.” (*Id.*).

12.

Board Policy BC-R(1), which governs participation at public comment at community meetings, provides,

Persons are expected to honor meeting decorum. Applause, cheering, jeering, or speech that defames individuals or stymies or blocks meeting

progress will not be tolerated and may be cause for removal from the meeting or for the board to suspend or adjourn the meeting. Those wishing to display place cards, signs and/or banners must remain behind the seating area, or on the side of the seating area, and may not block any attendee's view of the proceedings. Place cards, signs and banners may not have wooden or metal sticks or poles attached to them.

(Ex. 2).

13.

Attendees commonly express criticism of AISS, the Board, and AISS officials during public comment.

14.

AISS never stops or impedes individuals from leveling criticism during public comment.

15.

In fact, Nathaniel Dyer has spoken at numerous community meetings, often making disparaging remarks about AISS's policy decisions and the performance of various AISS officials and Board members.

16.

AISS did not stop Mr. Dyer from making those comments.

17.

However, under Policy BC-R(1), participants at public comments may not use certain types of speech. For instance, a speaker could not use profanity, make

defamatory statements about an AISS official, issue threats, or utter racial slurs or offensive epithets.

18.

Mr. Dyer attended a meeting in January 2016 in which he directed the “n-word” and the word “coons” toward the Board.

19.

As soon as he used those racial slurs, Mr. Dyer’s microphone was turned off and police officers escorted him from the meeting.

20.

Mr. Dyer’s speech at the January 2016 meeting was offensive to the Board members and other AISS staff in attendance. It also violated Board policy governing decorum and appropriate conduct at community meetings.

21.

Following that meeting, AISS suspended Mr. Dyer from attending public meetings until July 2016.

22.

AISS removed Mr. Dyer from the meeting not because of views he communicated, but because his use of racial slurs disrupted the meeting and offended the Board, staff, and audience members.

23.

Mr. Dyer attended and spoke at a Board meeting on October 10, 2016.

24.

He used the racial slur “sambo” during the public comment portion of the meeting.

25.

Upon his utterance of “sambo,” Mr. Courtney English, the Board chair at the time, directed Mr. Dyer to leave the podium. But Mr. Dyer refused and began to shout at the Board.

26.

Police officers then escorted Mr. Dyer from the meeting. He continued to shout outside of the meeting room.

27.

Mr. Dyer attended another Board meeting on February 5, 2018. There, he distributed flyers that featured racial slurs and epithets, including the words “unnigged” and “falcoons.”

28.

After distributing the flyer, Mr. Dyer began to speak at the podium during public comment.

29.

Soon after he began, the Board's general counsel directed his microphone to be shut off because Dyer's flyer contained racial slurs and other offensive language.

30.

Dyer was again escorted from the meeting for his offensive, disruptive behavior.

31.

On February 6, 2018, Board Chair Jason Esteves sent Mr. Dyer a third letter, which suspended him from attending Board meetings until February 6, 2019.

32.

Since his most recent suspension ended, Mr. Dyer has attended and spoken at community meetings. His comments during those meetings included critical remarks about AISS and the Board. He did not, however, use slurs, epithets, or other racially-charged language similar to what he used at past meetings.

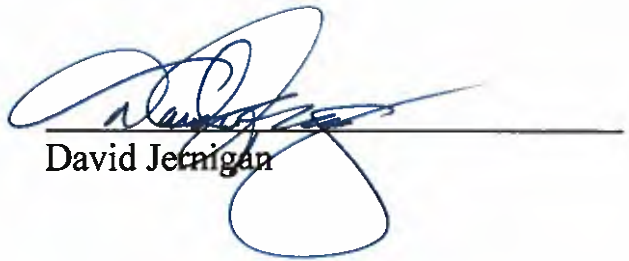
33.

AISS only regulated Mr. Dyer's speech when he used offensive, racially-charged language. Teaching children how to engage civically in appropriate ways and fostering an inclusive environment are core components of AISS's mission. Students frequently attend public Board meetings, and some were likely in attendance at the meetings in January 2016, October 2016, and February 2018 where

Dyer made his offensive comments. Dyer's use of racial slurs and epithets undermined AISS's educational mission and subjected students in attendance at the meetings to degrading speech. AISS does not condone such conduct at its public meetings.

I declare under penalty of perjury that the foregoing is true and correct.

This 3rd day of October, 2019.



David Jernigan