

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

NICHOLAS BLANCHARD,)

)

)

Plaintiff)

)

v.)

Civil Action No. 1:26-cv-00049-SDN

)

AUGUSTA BOARD OF EDUCATION,)

et al.,

Defendants

**DEFENDANTS’ MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFF’S
MOTION FOR A PRELIMINARY INJUNCTION**

INTRODUCTION

At their best, school board meetings are ideal arenas for teaching students about civic involvement and civic responsibility. However, over a period of several months, the public comment periods at Augusta School Department (“ASD” or “District”) board meetings have become a reality television type spectacle, with some members of the public, including the Plaintiff, engaging at times in disruptive behavior and belittling specific individuals. On October 8, 2025, Mark O’Brien, the Mayor of the City of Augusta, made the following remarks to the Augusta School Department Board of Education (the “Board”) during the public comment portion of its school board business meeting:

I’m here tonight not to take a position on any particular issue before this board, but to speak about how we engage with one another as a community. Our city has always prided itself on being a place where neighbors can disagree without becoming enemies, where we listen before we speak, and where we remember that every person in this room, no matter their viewpoint, cares about the same thing, the wellbeing of our children and the future of our community. Lately, our school board meetings have grown louder, more contentious, more tense, more divisive, and at times, less respectful. Passions are understandable. The topics we discuss affect our kids, our teachers, and our shared values. Passions naturally run high. That’s a sign that people care. But I want to

remind us all that the way we speak to each other matters just as much as what we say. When anger replaces understanding and when personal attacks drown out dialogue, we all lose something precious, our sense of community. Democracy doesn't work when only the loudest voices are heard. It works when we listen to one another, when we assume good intentions, and when we treat each other with dignity, even when we disagree. This room should be a place where every voice can be heard without fear, where disagreement doesn't become disrespect, and where strong opinions can be expressed with civility. Democracy doesn't depend on everyone agreeing. It depends on everybody being willing to listen. Students, parents, community members across our city are watching. Not just what is said, but how it is said. We are modeling something here where they're learning from us what responsible citizenship looks like. Let's show them that we can debate issues forcefully, but also respectfully, that we care deeply and still treat one another with dignity. Tonight, I urge everyone here to help us return to the best traditions of civic life, patience, civility, and mutual respect. Let's model for our students the kind of thoughtful, constructive conversation we want them to practice in their lives.

Tracy Dec. ¶ 72. Mayor O'Brien's words encapsulate what this case is all about: the right—indeed, one might argue, the obligation—of a school board to impose reasonable, viewpoint neutral rules of decorum on those who choose to speak in the limited public forum of a school board business meeting.

We expect that our public schools will teach students how to become productive members of society and, in Maine, this expectation is codified into law in, for example, the Maine Learning Results' Guiding Principles and the requirements that school boards enact student codes of conduct and prevent bullying of staff and students. As Mayor O'Brien observed, modeling appropriate behavior by adults is critical, and it would frustrate ASD's obligation to teach students to be responsible citizens if the District is powerless to create some level of decorum that requires adults to adhere to a minimum standard of conduct approaching that to which its students are held. In furtherance of this interest and in order to avoid disruption of its business, the Board requires adults, as well as students, regardless of viewpoint, to refrain from providing public comments at its business meetings in ways that are harassing or personally attacking toward specific individuals.

Following this and other rules of decorum outlined in Board Policy BEDH, the Chair of

the ASD Board, Defendant Martha Witham, has steadfastly protected the rights of all citizens wishing to speak their views. She has, however, attempted to maintain a minimum level of decorum, shutting speakers down (only after warning) when they violate Policy BEDH. She has been required to make these decisions in real time in a highly charged emotional environment and she has done so in good faith without consideration of the viewpoint being expressed. That is not a violation of the First Amendment. It is a reasonable limit for this type of forum. There is, therefore, no merit to the Plaintiff's claims and his motion should be denied.

BACKGROUND

The Board holds monthly School Board Business meetings which are open for the public to attend and are broadcasted in real time on the District's Youtube channel. Witham Dec. ¶ 4. "Board meetings are conducted for the purpose of carrying on the official business of the school system." Public Participation at Board Meetings (March 6, 2023) (ECF Doc. No. 3) ("Policy BEDH" or the "Policy").

Remarks from the public on "school and education matters" are permitted at Board meetings during only the public comment period, for which Maine law expressly permits the Board to establish "reasonable standards for the public comment period, including time limit and conduct standards." 20-A M.R.S. § 1001(20). Pursuant to Section 1001(20), the Board adopted Policy BEDH "to allow a fair and adequate opportunity for the public to be heard while ensuring that the time allowed for public discussion does not interfere with the fulfillment of the scheduled agenda." Policy BEDH at Page ID #: 55. To achieve these ends, Policy BEDH contains guidelines that govern speakers' comments during public comment. Paragraph E of the Policy provides that "Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language." *Id.* at Page ID #: 56. Paragraph H provides that "No complaints or allegations will be

allowed at Board meetings concerning any person employed by the school system or against particular students. Personal matters or complaints concerning student or staff issues will not be considered in a public meeting but will be referred through established policies and procedures.”¹*Id.* Paragraph J provides the Chair with “the authority to stop any presentation that violates these guidelines or the privacy rights of others.” *Id.* Policy BEDH specifically cross-references Board Policy KE, which provides a procedure for the public to submit “complaints or concerns” to the District, including those about specific employees. Witham Dec. ¶ 11 & Ex. C.

Because the relevant factual record from those Board meetings present voluminous facts for this Court to consider, the Defendants adopt herein Superintendent Tracy’s recitation of those Board meetings rather than repeat that factual background here. The official recordings of the Board meetings are available online and, because it is not only what Blanchard says, but also the way that he says it, which is significant to assessing his claims, Defendants encourage the Court to review the official videos of the public comment portion of the meetings at issue.²

ARGUMENT

I. THE STANDARD FOR INJUNCTIVE RELIEF

This Court considers four factors when considering a request for a preliminary injunction:

(1) whether the plaintiff is likely to succeed on the merits, (2) whether he is likely to suffer irreparable harm in the absence of immediate relief, (3) the balance of equities, and (4) whether granting the injunction is in the public interest.

Norris ex rel. A.M. v. Cape Elizabeth Sch. Dist., 969 F.3d 12, 22 (1st Cir. 2020). Although the School Board bears some burden as to Plaintiff’s First Amendment claim, Plaintiff, as the movant,

¹ The introductory text of Policy BEDH also states that “members of the public may speak on any subject directly related to the operations of the schools, except for personal matters or complaints concerning specific employees or students, which shall be addressed through established policies and procedures.” Policy BEDH at Page ID #: 55.

² This Court can consider the facts in the official videos of the Augusta School Board Business meetings, which are publicly available online at <https://vimeo.com/showcase/augustaschoolboard>, and which Blanchard cites to. *See McBreairty v. School Board of RSU 22*, No. 1:22-cv-00206, 2022 WL 2835458, at *2 n.3 (D. Me. July 20, 2022).

nonetheless bears the burden of “establishing that a temporary restraining order should issue.” *McBreairty*, 2022 WL 2835458, at *5. “Injunctive relief is an extraordinary and drastic remedy that is never awarded as of right,” *Monga v. Nat’l Endowment for the Arts*, 323 F. Supp. 3d 75, 82 (D. Me. 2018), and “trial courts have wide discretion in making judgments regarding the appropriateness of” preliminary injunctive relief, *Sanchez v. Esso Standard Oil Co.*, 572 F.3d 1, 14 (1st Cir. 2009). “[I]t is well established general law with respect to equitable injunctive relief that the Court is to bear constantly in mind that an injunction is an equitable remedy which should not be lightly indulged in, but used sparingly and only in a clear and plain case.” *Saco Defense Sys. Div. Maremont Corp. v. Weinberger*, 606 F. Supp. 446, 450 (D. Me. 1985).

Here, Blanchard is asking the Court to require the School Board to change its policy pursuant to his wishes and allow him to name individual employees and communicate his comments in ways that are currently not permitted under Policy BEDH. *See* Complaint at PageID #: 26 (“Prayers for Relief”). Because such a request for “a mandatory preliminary injunction alters rather than preserves the status quo, it normally should be granted only in those circumstances when the exigencies of the situation demand such relief.” *Atl. Salmon Fed’n U.S. v. Merimil Ltd. P’Ship*, No. 1:21-cv-00257-JDL, 2022 WL 558358, at *4 (D. Me. Feb. 24, 2022). There are no such exigencies that demand the drastic relief that Blanchard seeks.

I. PLAINTIFF CANNOT SUCCEED ON THE MERITS

Blanchard challenges only Paragraphs E, H, and J of Policy BEDH (hereinafter “Rules” E, H, and J). *See* Complaint ¶¶ 95, 98, 102, 107, 112; *see also id.* at PageID #:26 (requesting an injunction as to the enforcement of “Provisions E, H, and J”). In Counts 1 and 2 of the Complaint, Blanchard alleges that Rules E, H, and J violate his right to free speech and to petition, both facially

and as applied to him, based on viewpoint discrimination and unreasonableness.³ In Counts 3 and 4, Blanchard alleges that Rules E, H, and J are unconstitutionally vague and overbroad. All of Blanchard’s claims will fail on the merits because, as he acknowledges, the Board’s business meetings are a limited public forum, and the government is allowed to set reasonable ground rules and is afforded discretion in implementing them, which is all it has done here.

“[P]rotected speech is not equally permissible in all places and at all times. Nothing in the Constitution requires the Government freely to grant access to all who wish to exercise their right to free speech on every type of Government property without regard to the nature of the property or to the disruption that might be caused by the speaker’s activities.” *Cornelius v. NAACP Legal Defense and Educ. Fund, Inc.*, 473 U.S. 788, 799-800 (1985). School Board meetings are one such place and time where not all speech is equally permissible. The nature of the business conducted by school boards and the designation of the public comment period for discussion of “school and education matters” make the public comment period a limited public forum. *See McBreairty v. Miller*, No. 1:23-cv-001430NT, 2023 WL 3096787, at *4-5 (D. Me. April 26, 2023) (“*Miller I*”), *vacated on other grounds*, 93 F.4th 513; *see also McBreairty*, 2022 WL 2835458, at *7 (holding that school board meetings are limited public forums).⁴

When the State establishes a limited public forum, “the State is not required to and does not allow persons to engage in every type of speech.” *Good News Club v. Milford Cent. Sch.*, 533

³ This Court should not address Blanchard’s purported “right to petition” because he does not argue in his Motion that Policy BEDH infringes on his right to petition and it is therefore waived. *See, e.g., United States v. Zannino*, 895 F.2d 1, 17 (1st Cir. 1990). The Complaint also fails to state a claim for a violation of Blanchard’s right to petition because he states only that Policy BEDH prevents him from petitioning the Board to fire certain employees without considering that he has alternate avenues to do so. *See Roussel v. Mayo*, No. 1:22-CV-00285-JAW, 2022 WL 17338877, at *3 n.1 (D. Me. Nov. 30, 2022) (prohibition on accessing property did not support a claim for violation of plaintiff’s right to petition where the plaintiff did not assert that defendants “imposed any restrictions on his ability to correspond with government officials by alternate means”).

⁴ The First Circuit equates a “non-public forum” with a “limited public forum.” *See Ridley v. Mass. Bay Transp. Auth.*, 390 F.3d 65, 76 n.4 (1st Cir. 2004); *Curnin v. Town of Egremont*, 510 F.3d 24, 28 (1st Cir. 2007).

U.S. 98, 106 (2001); *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 830 (1995) (explaining that, in a limited public forum, content discrimination is permissible if it “preserves the purposes of that limited forum”). The School Board can therefore restrict expression so long as such restrictions are viewpoint neutral and are “reasonable in light of the purpose served by the forum.” *Good News Club*, 533 U.S. at 106-07.

A. Blanchard Does Not Allege that He Will Be Prevented From Sharing his Viewpoint

“[T]he First Amendment does not guarantee the right to communicate one’s views at all times and places or in any manner that may be desired.” *Heffron v. Int’l Soc’y for Krishna Consciousness*, 452 U.S. 640, 647 (1981). Here, in support of his need for the drastic remedy that he seeks, Blanchard alleges that, at future Board meetings, he wants to “express himself in the same way that he did previously, using words and phrases that the board may find negative, defamatory, derogatory, disparaging, abusive, gossipy, vulgar, or rude.” Complaint ¶¶ 81, 83. He states that he “intends to refer to board members and to school employees by name or by position” and that he wants to “criticize employees and board members when that criticism is relevant to the school matter under discussion.” *Id.* ¶ 82. He further alleges that he intends to “express his opposition to the school district’s transgender policies;” “criticize the board and individual members for their violation of First Amendment rights” and “about curricular and budgetary matters;” and “petition the board to fire [named employee] or other employees who he claims have promoted unlawful policies.” *Id.* ¶ 80.⁵

Blanchard does not allege, however, that he will be prevented from offering his criticism

⁵ Blanchard does not allege in his Complaint a concrete intent to name students in his future comments, and he lacks standing to challenge the portion of Rule H that prohibits public comments as to particular students. *See McBrearty v. Miller*, 93 F.4th 513, 518 (1st Cir. 2024). The Board therefore focuses its briefing herein on the portion of Rule H that restricts comments on employees. Also Blanchard does not independently challenge Rule J. He does not argue that the Chair’s authority to stop comments is itself unconstitutional; rather, he argues only that the Chair should not be permitted to do so in the ways that he alleges violate the First Amendment. It is not discussed further herein.

on any of these topics; rather, he alleges that “[u]nless [he] is able to obtain protection from the Court, he expects that he will not speak about Augusta’s transgender policies and these other matters using the language that he would choose at future Board of Education meetings.” Complaint ¶ 88 (emphasis supplied); *see also id.* ¶¶ 84, 87. Blanchard therefore concedes that he is allowed to express his viewpoint during public comment. All that Blanchard has alleged in this lawsuit is that he wants to use “words and phrases that the board may find negative, defamatory, derogatory, disparaging, abusive, gossipy, vulgar, or rude” and to “refer to . . . school employees by name or by position.”

The record shows that Blanchard has been permitted to use words that could be perceived by some as “negative,” “rude,” “derogatory,” or “disparaging.” But, as described below, the First Amendment does not require the Board to permit Blanchard to communicate his viewpoint at its business meetings through defamation, or with language that is communicated in abusive or vulgar ways, including through personal attacks, nor does it require the Board to permit him to name specific school employees. Blanchard’s claims will therefore fail on the merits.

B. Blanchard’s Facial First Amendment Challenges Will Fail on the Merits

When considering Blanchard’s facial challenges, this Court must consider the challenged provisions of the policy in the context of the Policy as a whole, and it should also interpret any ambiguity in the challenged provisions so as to avoid any constitutional doubt. *See Miller I*, 2023 WL 3096787 at *6; *see also Gaspee Project v. Mederos*, 13 F.4th 79, 92 (1st Cir. 2021) (“[F]acial challenges leave no room for particularized considerations and must fail as long as the challenged regulation has any legitimate application.”).

i. **Rules E and H are Viewpoint Neutral**

“The essence of viewpoint discrimination is not that the government incidentally prevents

certain viewpoints from being heard in the course of suppressing certain general topics of speech, rather, it is a governmental intent to intervene in a way that prefers one particular viewpoint in speech over other perspectives on the same topic.” *Ridley v. Mass. Bay Transp. Auth.*, 390 F.3d 65, 82 (1st Cir. 2004). The government must therefore “abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Rosenberger*, 515 U.S. at 829. “Reasonable ground rules, so long as they are not intended to give one side an advantage over another, can be set without falling prey to viewpoint discrimination.” *Ridley*, 390 F.3d at 81. The government “discriminates based on viewpoint only if it ‘denies access to a speaker solely to suppress the point of view he espouses.’” *Miller 1*, 2023 WL 3096787 at *5 (quoting *Ridley*, 390 F.3d at 82).

Rule E. Rule E provides that “[s]peakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language.” These restrictions are viewpoint neutral. First, defamation is not protected under the First Amendment regardless of forum, *see, e.g., Felton v. Griffin*, 185 Fed.Appx. 700, 702 (9th Cir. 2006) (city council’s rule banning “slanderous” speech was permissible because the First Amendment does not protect slanderous speech), and “gossip” would not constitute speech on “school or education matters” for which the public comment period is designated, nor does a restriction on “gossip” take into account a speaker’s ideology.

Second, the restrictions on “abusive or vulgar language” do not take into account a speaker’s ideology because they restrict modes of expression and personally directed attacks on individuals. Case law supports that these restrictions are viewpoint neutral in a limited public forum. *See Ridley*, 390 F.3d at 91 (upholding an MBTA regulation that “prohibit[ed] the use of advertisements that demean or disparage an individual or group of individuals”); *Davison v. Rose*,

19 F.4th 626, 635-36 (4th Cir. 2021) (school board’s public participation policy prohibiting comments “that are harassing or amount to a personal attack against any identifiable individual” was viewpoint neutral), *cert. denied*, 143 S. Ct. 106 (2022); *see also Miller I*, 2023 WL 3096787, at *8 n.14 (explaining that a restriction on “complaints or allegations” about school staff or students is likely constitutional in a school board’s limited public forum); *Platt v. Mansfield*, 162 F.4th 430, 438-39 (4th Cir. 2025) (expressing no concern for viewpoint discrimination with respect to a policy that prohibited “comments that target, criticize, or attack individual students”); *cf. Moms for Liberty v. Brevard Pub. Schs.*, 118 F.4th 1324, 1334 (11th Cir. 2024) (explaining that school board policy restricting “abusive” comments was problematic when the Chair testified that it prohibited “calling people names that are generally accepted to be unacceptable” but noting that it would be acceptable if it prohibited “viewpoint-neutral characteristics” of speech).⁶

Rule H. Rule H prohibits the naming or identification of particular District employees during a speaker’s public comments—any “personal matters . . . concerning student or staff issues.” This restricts speakers from discussing a named or identifiable District employee regardless of whether the comment associated with that individual employee is criticism, praise, or something in between. This Court has twice determined that such a restriction on public comments regarding personnel matters at school board meetings is likely viewpoint neutral. *Miller I*, 2023 WL 3096787 at *6; *McBreairty v. Miller*, No. 1:23-cv-00143-NT, 2024 WL 2187436, at *6 (D. Me. May 15, 2024) (“*Miller 2*”).

In *Miller I*, this Court interpreted a similar provision in another school district’s Policy BEDH to prohibit “any discussion—whether complimentary or critical—involving the

⁶ Even Supreme Court case law outside of forum analysis supports the viewpoint neutrality of Rule E. *See Iancu v. Brunetti*, 588 U.S. 388, 400 (2019) (Roberts, C.J., concurring) (explaining that “refusing registration to obscene, vulgar, or profane [trade]marks does not offend the First Amendment” and categorizing “vulgarity and profanity” as “mode[s] of expression”).

performance of named RSU 22 teachers and staff,” and it concluded that such a restriction was viewpoint neutral because “it does not take into account the speaker’s view,” and “the public can still express their pleasure or displeasure with what is happening at the schools, including what is being taught or not taught, but they cannot call out a named teacher either for praise or criticism.” *Miller 1*, 2023 WL 3096787 at *6-8. In *Miller 2*, this Court again explained that such a restriction on discussion of personnel matters “does not impermissibly prefer one particular viewpoint in speech over other perspectives on the same topic” and instead “suppresses certain general topics of speech.” *Miller 2*, 2024 WL 2187436, at *6. This Court also concluded that even a restriction on discussing only “complaints or allegations” with respect to school personnel would likely also be viewpoint neutral. *Miller 1*, 2023 WL 3096787 at *8 n.14.

The weight of authority from other jurisdictions also supports the viewpoint neutrality of Rule H. *See Prestopnik v. Whelan*, 83 F. App’x 363, 365 (2d Cir. 2003) (upholding a school board policy that excluded speech about personnel decisions because the “First Amendment generally permits the government to exclude a topic from discussion in such a limited public forum”); *Fairchild v. Liberty Ind. Sch. Dist.*, 597 F.3d 747, 753, 755-60 (5th Cir. 2010) (school board policy was viewpoint neutral when it did not permit discussion of individualized complaints and “dovetailed” with the school board’s policy of not permitting personnel matters); *Cipolla-Dennis v. Cnty. of Tompkins*, No. 21-712, 2022 WL 1237960, at *1-2 & n.1 (2d Cir. Apr. 27, 2022) (unpublished) (rule of prohibiting public “comments about the job performance of named County employees,” was viewpoint neutral because the policy did not “single out any subset of views for exclusion”); *see also Pollak v. Wilson*, No. 22-cv-49, 2024 WL 5164934, at *11 (D. Wyo. 2024) (policy “prohibiting the naming of staff members” does not discriminate based on viewpoint).

In his Motion, he argues that the Supreme Court “has identified bans on ‘derogatory,

‘disparaging,’ ‘vulgar,’ and ‘abusive’ speech as impermissible viewpoint discrimination because they target offensive speech.” *See* Mot. at 10 (citing case law). This is a great oversimplification of the case law and ignores the forum analysis. The trademark cases cited by Blanchard in support of that proposition did not address speech in a limited public forum.⁷ *See Iancu v. Brunetti*, 588 U.S. 388, 391-92 (2019) (ban on registering trademarks that are “immoral” or “scandalous” was viewpoint discriminatory); *Matal v. Tam*, 582 U.S. 218, 223 (2017) (ban on registering trademarks that may “disparage persons. . . or bring them into contempt or disrepute” was unconstitutional because it banned speech “on the ground that it expresses ideas that offend” (emphasis supplied)).⁸

Those trademark cases have been distinguished on that basis by both this Court and others. *See Miller 1*, 2023 WL 3096787 at *8 n.14 (explaining that *Matal* and *Iancu* “are distinguishable” and that “the First Amendment must be understood in the context of the forum at issue”); *Am. Freedom Def. Initiative v. Washington Metro. Area Transit Auth., WMATA*, 901 F.3d 356, 364 (D.C. Cir. 2018) (“The relevance of [*Matal*,] in which the Supreme Court did not engage in a forum analysis at all escapes us; *Matal* did not discuss forum doctrine in any depth because *Matal* dealt not with the Government permitting speech on government property but with government protection of speech from commercial infringement.”), *cert. denied*, 587 U.S. 1039 (2019); *see also Brevard Pub. Schs.*, 118 F.4th 1324, 1341 (2024) (Wilson, J., concurring in part and dissenting in part) (expressing concern for the “dearth of limited public forum cases in the majority’s opinion”

⁷ *Counterman v. Colorado*, 600 U.S. 66, 86-87 (2023), also cited by Blanchard, did not even address restrictions on “disparaging,” “vulgar,” or “abusive speech;” rather, that case addressed what kind of *mens rea* the First Amendment demands with regard to crimes involving “true threats.”

⁸ In *Matal*, the government determined whether trademarks were “disparaging” by considering whether a “substantial composite” of the group referenced by the trademark would find the proposed trademark to be disparaging “in the context of contemporary attitudes.” 582 U.S. at 228. Likewise, in *Iancu*, trademarks were considered “immoral” or “scandalous” if a “substantial composite of the general public would find the mark shocking to the sense of truth, decency, or propriety” and “giving offense to the conscience or moral feelings.” 588 U.S. at 391. Thus, unlike the rules of decorum here, the trademark registration requirements targeted offensive ideas. *See Miller 1*, 2023 WL 3096787 at *8 n.14 (distinguishing *Matal* and *Iancu* on this basis).

and struggling to see how a “ban on abusive speech [was] an undercover prohibition on offensive speech”).

Unlike the trademark provisions at issue in *Matal* and *Iancu*, here, “the offensive ideas themselves are not banned” by a school board policy that restricts comments about named employees or personally directed attacks; rather, it is “only the connecting of those complaints to any person employed by the school system” or communication of criticism in the form of a personally directed attack that is banned. *Miller 1*, 2023 WL 3096787 at *8 n.14 (internal quotation marks omitted); *see also Brevard Pub. Schs.*, 118 F.4th 1324, 1344-45 (2024) (Wilson, J., concurring in part and dissenting in part) (concluding that a policy that prohibits speakers from directing comments “at” particular people, rather than “about” particular people, is viewpoint neutral and reasonable at a school board meeting). In fact, the viewpoint neutrality of Rule E finds support in a close reading of the trademark cases, which reveals that a restriction on modes of expression, such as those in Rule E, are viewpoint neutral because it does not single out a particular idea. *See Iancu*, 588 U.S. at 401 (Roberts, C.J. concurring in part) (“The Government . . . has an interest in not associating itself with trademarks whose content is obscene, vulgar, or profane. The First Amendment protects the freedom of speech; it does not require the Government to give aid and comfort to those using obscene, vulgar, and profane modes of expression.”).⁹

ii. Rules E and H are Reasonable at a School Board Business Meeting

Viewpoint neutral restrictions on speech in a limited public forum must also be “reasonable in light of the purpose served by the forum.” *Ridley*, 390 F.3d at 93. For example, a “guideline

⁹ *See also Iancu*, 588 U.S. at 405 (Breyer, J., concurring) (“It is hard to see how a statute prohibiting the registration of only highly vulgar or obscene words discriminates based on viewpoint. Of course, such words often evoke powerful emotions. Standing by themselves, however, these words do not typically convey any particular viewpoint.); *id.* at 411 (Sotomayor, J. concurring) (explaining that she would interpret “scandalous” narrowly such that it permissibly restricted “only offensive modes of expression”); *id.* at 400 (Alito, J., concurring) (“Our decision does not prevent” a statute “that precludes the registration of marks containing vulgar terms that play no real part in the expression of ideas.”).

preventing demeaning or disparaging advertisements” was “eminently reasonable” given the MBTA’s “stated purposes” in maximizing revenue through advertisements while not reducing ridership, maintaining a safe and welcoming environment for its riders, and avoiding identification with any disparaging ads that would otherwise be displayed. *Id.*

Here, the School Board’s many interests are significant. The District is first and foremost an educator. The Maine Learning Results’ Guiding Principles state that “each Maine student must leave school as: [] A responsible and involved citizen who [] participates positively in the community[;] demonstrates ethical behavior and the moral courage to sustain it[;] and understands and respects diversity.”¹⁰ 05-071 C.M.R. ch. 132. Maine law also mandates public schools to hold students to codes of appropriate conduct, to prohibit students and staff from bullying others, and to protect them from being bullied. 20-A M.R.S. §§ 1001(15), 1001(22), 6554. The Board also seeks to model productive public discourse and appropriate language for its students.¹¹ In light of its role as a school district and these state law duties, the Board has a significant interest in not facilitating a forum for bullying. *See Ridley*, 390 F.3d at 85 (“It is indisputable that the MBTA has a legitimate, viewpoint-neutral interest in not being used as a messenger to convey messages promoting illegal conduct among juveniles.”).

The Board’s participation in the broadcasting of unverified personal attacks would frustrate the Board’s business and educational mission. *See Fairchild*, 597 F.3d at 760 (school board restriction on complaints involving the naming of employees was reasonable because “[t]he Board has a legitimate interest, if not state-law duty, to protect student and teacher privacy and to avoid

¹⁰ The Maine Learning Results Standards are required under Title 20-A, Chapter 222 of the Maine Revised Statutes, which requires that the Commissioner of Education develop rules to accomplish the purposes of the Statute. 20-A M.R.S. § 6211. The rules adopted by the Maine Department of Education begin with the Guiding Principles. *See* 05-071 C.M.R. ch. 132.

¹¹ This includes students who are in attendance in-person or remotely, students who provide comments themselves during public comment, and students who serve as representatives on the Board. Tracy Dec. ¶¶ 6, 16, 68.

naming or shaming as potential frustration of its conduct of business”). The Board also has a statutory obligation to keep personnel information confidential, 20-A M.R.S. § 6101, and its personnel have a right to notice before their employment is discussed before the Board, *see Tracy Dec.* ¶ 5.¹²

The Board has an interest in conducting orderly and undisrupted School Board business meetings, which it often conducts late into the evening. *See Davison*, 19 F. 4th at 635-36 (school board’s policy restricting personal attacks on identifiable individuals was reasonable in light of the forum’s purpose of conducting “good business” in an orderly, effective, efficient, and dignified manner); *Scroggins v. City of Topeka, Kan.*, 2 F. Supp. 2d 1362, 1373 (D. Kan. 1998) (“[E]motionally charged personal attacks could antagonize and even incite others” and “a rule restricting such attacks is both a rational and reasonable means for achieving [a city council’s] interest in orderly, efficient, effective and dignified meetings.”). Abusive and vulgar language, including personally directed attacks, are disruptive to the Board’s ability to conduct its business, and such disruption is commonly recognized as a reasonable reason for restricting public comments at school board meetings. *See, e.g., id.* (agreeing that a “rule against personal and slanderous remarks, like other rules of decorum, serves the important governmental interest of preventing disruptions to its meetings.”); *Hotchkiss v. Cedar Rapids Comm. Sch. Dist.*, No. 23-cv-33, 2023 WL 4684915, at *8 (N.D. Ill. 2023) (discussing cases); *see also Felton*, 185 Fed.Appx. at 701-02 (comments were disruptive at city council meeting when they were “repetitive, loud,

¹² The Board’s restriction on any comments attributed to a specifically-named employee, whether laudatory or otherwise, is reasonable in light of the practical fact that the Chair has no way of knowing in real time what will be said about an employee either before or after they are named during the course of one’s public comments. This practical concern implicates the school’s interests in protecting the rights of school unit employees, who are entitled to notice and an opportunity to be heard when their job performance and conduct are discussed by the Board, and it also implicates the school’s liability for any infringement of those rights in addition to defamation. *Cf. Pollak*, 2024 WL 5164934, at *10 (concluding, contrary to other Circuits, that a ban on any mention of an employee name is unreasonable because it “excludes more speech than the government has a legitimate interest in excluding” and failing to take into account the Chair’s practical implementation of such a rule).

and abrasive”).

The Board’s ability to conduct an orderly, efficient, and dignified meeting is not mutually exclusive from the Board’s interest in hearing all comments from members of the public. *See Steinberg v. Chesterfield Cnty. Planning Com’n*, 527 F.3d 377, 386-87 (4th Cir. 2008) (restriction on “personal attacks” in limited public forum was facially constitutional where it related to the Commission’s “significant interest in maintaining civility and decorum during the public comment sessions of its meetings” and “a personal attack leads almost inevitably to a responsive defense or counter-attack and thus to argumentation that has the real potential to disrupt the orderly conduct of the meeting”); *see also Lowery v. Jefferson Cnty. Bd. of Educ.*, 586 F.3d 427, 433 (6th Cir. 2009) (“Unstructured, chaotic school board meetings not only would be inefficient but also could deny other citizens the chance to make their voices heard.”); *Minn. Voters Alliance v. Mansky*, 585 U.S. 1, 16 (2018) (concluding that State could choose to prohibit apparel that conveys certain messages at polling places because “the public are brought together at that place, at the end of what may have been a divisive election season, to reach considered decisions about their government and laws,” and the “State may reasonably take steps to ensure that partisan discord not follow the voter up to the voting booth”).

Relatedly, the Board’s ability to restrict abusive speech serves its interest in promoting public participation, which the record shows is a real concern here. One speaker at the August 2025 meeting shared her view that “expressing anger is not the most effective approach,” explaining that she feels “intimidated . . . by some of what goes on here.” Tracy Dec. ¶ 49. Likewise, “permitting anyone with a comment about a particular individual at the school to voice it at a School Board meeting,” also threatens public participation because it risks “derailing the agenda.” *Miller I*, 2023 WL 3096787 at *9 & n.15.

As to Rule E, the Board has an interest in not being used as a conduit for gossip or defamation, including its related interest in shielding the District from potential defamation claims, and the restriction on “gossip and defamatory comments” serves this interest, alongside the Board’s other interests in maintaining an orderly meeting.

In light of these interests, Rules E and H are reasonable. Under the Board’s Policy, speakers are still permitted to air grievances and criticism; all that the Policy requires is that speakers do so without identifying specific employees or students and without communicating their comments through defamation or in abusive or vulgar ways. *See Fairchild*, 597 F.3d at 756, 760 (explaining that the policy still allows complaints, “just not if the complaint involves naming of people”) (alterations omitted). Further, the Board provides speakers with alternative channels for “concerns and complaints,” including complaints about specific employees, with the language of the Policy itself referring such individualized comments to the Board’s established alternative procedures. *See Christian Legal Soc. Chapter v. Martinez*, 561 U.S. 661, 690 (2010) (explaining that the availability of other avenues to express restricted speech “lessen the burden” of viewpoint neutral barriers and make a limited forum’s policy “more creditworthy”); *Fairchild*, 597 F.3d at 760 (explaining that a school board left “ample opportunity to be heard” when it channeled any issues that arose in public comment into its grievance processes).

That there is both a method and process for members of the public to still express their grievances to the Board makes the Board’s restrictions here even more “creditworthy.” *Cf. Pollak*, 2024 WL 5164934, at *9 (school board’s alternative forum for excluded comments on personnel matters was a non-public “executive session”); *see also* Witham Dec. ¶ 11 & Ex. C (providing a process to submit “complaints or concerns regarding any aspect of the Augusta School Department or an employee thereof”).

iii. Policy BEDH is Not Subject to Vagueness Challenge

A law is void for vagueness only if the challenged provision is such that persons of “average intelligence would have no choice but to guess at its meaning.” *Nt'l Org. for Marriage v. McKee*, 649 F.3d 34, 62 (1st Cir. 2011). The government is permitted “considerable discretion,” *see Ward v. Rock Against Racism*, 491 U.S. 781, 794 (1989), and “perfect clarity and precise guidance have never been required even of regulations that restrict expressive activity,” *Mansky*, 588 U.S. at 21 (citing *Ward*, 491 U.S. at 794).

Here, however, Policy BEDH is not even subject to this Fourteenth Amendment vagueness inquiry. Courts, including the First Circuit, have doubted the applicability of vagueness challenges to provisions other than statutes, ordinances, and licensing schemes. *See Ridley*, 390 F.3d at 93-94 (questioning the extent to which the vagueness inquiry applies to the MBTA’s advertising guidelines and explaining that the “void-for-vagueness argument classically arises where the government imposes criminal sanctions for conduct or speech.”); *Milestone v. City of Monroe*, 665 F.3d 774, 785 (7th Cir. 2011) (doubting whether the rules of decorum in a municipal senior center were subject to vagueness challenge because they were neither statute nor ordinance).

iv. Rules E and H are Not Unconstitutionally Vague

Even if Policy BEDH is subject to some level of vagueness inquiry, that inquiry is not as exacting as Blanchard contends. “Excessive discretion and vagueness inquiries under the First Amendment are not static inquiries, impervious to context.” *Ridley*, 390 F.3d at 95 (explaining that the vagueness inquiry is most rigorous in the criminal context and finding it significant to the vagueness inquiry that the regulatory scheme at issue was neither a traditional nor a designated public forum). “Selectivity and discretionary access are defining characteristics of non-public fora, which unlike public fora are not intended to be open to all speech.” *Id.* at 95.

Whether such discretion is reasonable is the only vagueness inquiry where, as here, Rule E restricts only modes of expression and the only consequence that results from violation thereof is first, a warning, second, being asked to leave the podium, and, third, only upon persistent disruption, being asked to leave the meeting.¹³ Witham Dec. ¶ 10. The vagueness inquiry here therefore “reduces to an investigation into whether the discretion” given to the Board under the Policy is “unconstitutionally excessive.” *Ridley*, 390 F.3d at 94 (explaining that this was the vagueness inquiry where there were no criminal or monetary sanctions that would create a chilling effect in a limited public forum); *see also Milestone*, 665 F.3d at 785 (high level of clarity not required for rules of decorum, prohibiting vulgar language, where the rules did not result in arrest, incarceration, or even a fine).

In conducting that inquiry, a “grant of discretion to exercise judgment in a non-public forum must be upheld so long as it is reasonable in light of the characteristic nature and function of that forum.” *Ridley*, 390 F.3d at 95 (quotation marks omitted); *see also Mansky*, 585 U.S. at 16 (explaining that “there is no requirement of narrow tailoring in a nonpublic forum” and explaining that the State must draw only “a reasonable line” when prohibiting certain apparel because of the message it conveys).

Here, any discretion afforded to the Chair under Rules E and H is reasonable because such restrictions are explicitly purposed to maintain decorum in a limited public forum that is intended for the Board to conduct its business efficiently and openly. *See Ridley*, 390 F.3d at 95 (where the chief purpose of the MBTA’s advertising program was raising revenue without losing ridership, discretion afforded to government in deciding whether speech was “demeaning” was not

¹³ The Chair “may request law enforcement assistance as necessary” under Policy BEDH; however, the Chair only does so when a speaker refuses to leave the podium after being asked to do so. Witham Dec. ¶ 10. Speakers are warned of this in advance when the Chair explains the Policy in advance of public comment.

unreasonably vague); *Lowery*, 586 F.3d at 436 (school chair’s discretion to determine what constituted “repetitive” or “harassing” comments was “unavoidable” when a school board must “be able to keep its meetings in order” so that it can function).

Further, the discretion afforded to the Chair under the rules requires making judgment calls about criteria unrelated to the message of the speaker; if speech is being communicated in an abusive or vulgar way, or if the speaker identifies a specific employee or student, the Chair may interrupt the speaker.¹⁴ That the record unequivocally shows that the Chair has not applied the challenged rules in a viewpoint discriminatory way further underscores that the necessary discretion under these Rules is not “unconstitutionally excessive.” *See Ridley*, 390 F.3d at 94 (noting in the vagueness analysis that there was no viewpoint discrimination).

In any event, for purposes of “the acceptance or rejection” of comments before the Board, Rules E and H have “reasonably clear meanings” when the consequence of not following the rules—whether accidentally or intentionally—will result initially in a speaker merely being interrupted briefly before being permitted to continue with further comments to the Board. *See Ridley*, 390 F.3d at 96 (concluding that words like “demean” or “disparage” had “reasonably clear meanings” when decisions were made in the context of the MBTA accepting or rejecting an advertisement and explaining that “vagueness concerns are more pressing when there are sanctions . . . attached to violations of a challenged regulation”); *see also Fairchild*, 597 F.3d at 761 (noting that plaintiff, who challenged a policy that did not permit discussion of personnel matters, “wisely [did] not push the vagueness” argument because it lacked merit).

¹⁴ This is distinct from the case law cited by Blanchard. *Cf. Mansky*, 585 U.S. at 20-21 (statute’s prohibition on “political apparel” in a polling place was not a “discernible” enough approach to making polling places “free of partisan discord” where “the whole point of the exercise [was] to prohibit the expression of political views” and enforcement required election judges “to maintain a mental index of the platforms and positions of every candidate and party on the ballot” and decide what constituted “recognizable political views”).

The record shows that Blanchard does understand the meaning of Rule H. *See* Tracy Dec. ¶ 28. Further, Rules E and H are not unreasonably vague even if they require some interpretation. *See Ridley*, 390 F.3d at 95 (restriction on advertisements that “demean” or “disparage” was not unreasonably vague even where it required “some degree of interpretation”); *see also Felton*, 185 Fed.Appx. at 701-02 (city council rule of decorum prohibiting “slanderous” speech was not facially vague). “The mere fact that a regulation requires interpretation does not make it vague.” *Ridley*, 390 F.3d at 93; *Lowery*, 586 F.3d at 436.

v. Rules E and H Do Not Violate the Overbreadth Doctrine

Blanchard does not have standing to assert an overbreadth challenge, which requires him to show “the risk that the Policy will have a chilling effect on the speech of others is a sufficient injury to [him].” *Doe v. Hopkinton Pub. Schs.*, 19 F.4th 493, 510 (1st Cir. 2010). That requires “a realistic danger that the statute itself will significantly compromise recognized First Amendment protection of parties not before the Court.” *Members of City Council of City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 801 (1984). Other than alleging that the Policy “bans all comments that the Board finds offensive,” Blanchard has not alleged or argued how the Policy sweeps too broadly to affect the First Amendment rights of third parties, and indeed the record does not support his case. Nevertheless, “[t]he overbreadth doctrine is strong medicine that should be employed with hesitation, and then only as a last resort.” *National Org. for Marriage v. McKee*, 649 F.3d 34, 51 (1st Cir. 2011). “For that reason, courts vigorously enforce the requirement that a statute’s overbreadth be substantial.” *Id.* at 53 (quotation marks omitted).

In arguing for overbreadth, Blanchard merely reiterates his belief that the Chair is afforded too much discretion and is able to apply the rules in a viewpoint discriminatory way. Mot. at 16-17. Where a restriction on speech is reasonable in a limited public forum, it will not be overbroad.

See Ridley, 390 F.3d at 94 (explaining that the “danger of excessive discretion in this case is that it could lead to viewpoint-discriminatory decisions in practice even under a facially neutral regulation” and reiterating that the Court had already concluded there was no viewpoint discrimination). Here, there are no concerns for overbreadth for the same reasons that Rules E and H are reasonable in light of the Board’s interests. *See id.* at 95 (requirement that advertisements not “demean or disparage[] an individual or group of individuals,” based on “prevailing community standards,” was not “unreasonably vague or overbroad” given the MBTA’s purposes); *see also Felton*, 185 Fed.Appx. at 701-02 (city council rule against “personal” speech was not overbroad when the city council’s construction of that rule would “in the vast majority of cases” bar disruptive conduct).

Even setting aside the forum, the overbreadth doctrine requires Blanchard to demonstrate “from the text of [the rule] and from actual fact that substantial overbreadth exists.” *Virginia v. Hicks*, 539 U.S. 113, 122 (2003) (quotation marks omitted and emphasis supplied). Blanchard does not even attempt in his Motion to argue that, in “actual fact,” the Chair’s application of these rules has resulted in restricting too much otherwise protected speech, *see* Motion at 16-17; nor could he given that the record shows he and other speakers have been able to share the very concerns he contends he cannot share, *see, e.g.*, Tracy Dec. ¶¶ 13-14, 21, 24, 33, 38, 55.

C. Blanchard’s As-Applied First Amendment Challenges Will Fail on the Merits

i. Blanchard was not interrupted based on viewpoint

“Where a speaker is interrupted in a limited public forum for violating a facially constitutional speech policy, there is no as-applied First Amendment violation unless the defendant applies the policy in a discriminatory way.” *Platt*, 162 F.4th at 440-41 (concluding a school board’s public comment policy was not applied in a discriminatory way when school board interrupted

based on the policy). Here, the record does not show that the Chair applied Policy BEDH in a viewpoint discriminatory way; rather, it shows that the Chair interrupted Blanchard pursuant to Policy BEDH.¹⁵ See *Ridley*, 390 F.3d at 82 (“The essence of viewpoint discrimination . . . is a governmental intent to intervene in a way that prefers one particular viewpoint in speech over other perspectives on the same topic” (emphasis supplied)).

In **January 2025**, Blanchard said “it seems we have too many soft beta males that won’t stand up for what is right. And it seems that I’m looking at a couple of them right here” when the Chair interjected. Blanchard then went on, uninterrupted, to criticize the Board and express his view that there’s “only two genders.” Tracy Dec. ¶ 11.

In **February 2025**, Blanchard pointed at Principal Kim Liscomb, a District employee, identifying her as “the President of the Maine Principals Association,” and stating that she was “going to cause all of our federal funding to go right out the window” when the Chair interjected. *Id.* ¶ 19. By contrast, at the **March 2025** meeting, Blanchard offered criticism of “the Maine Principals Association,” without naming individuals employed by the District, and he was not interrupted. *Id.* ¶ 23. Also by contrast, another speaker, Representative Soboleski, referenced the Maine Principals Association at the October 2025 meeting in the context of his criticism of the District’s transgender policies; he did not name employees, and he was not interrupted. *Id.* ¶ 69.

In **April 2025**, Blanchard thanked six board members for the way that they voted recently and then singled out for “shame” the one board member who had voted no, when the Chair interjected. Blanchard, who was wearing a t-shirt that said “YOUR FIRED” above a picture of

¹⁵ There are only two instances in which Blanchard was actually stopped from speaking such that he was unable to speak for the entire amount of time allotted for each speaker: the April 2025 meeting, when he identified a specific employee for the second time after being warned not to do so again, and the May 2025 meeting in which he was asked to leave the podium after he refused to speak in his own voice or identify himself as a speaker and instead continued to play a recording of President Trump. Tracy Dec. ¶¶ 28, 32.

Principal Kim Liscomb, then went on to state that he was starting a petition to ask “if you . . . will put up a vote to have Ms. Kim. . . .” when the Chair interrupted. Indicating his understanding about why he was interrupted, Blanchard stated “Okay, I won’t say the name.” But he continued to provide comments identifying Principal Liscomb, and was therefore asked to leave the podium. *Id.* ¶¶ 27-28.

At the **May 2025** meeting, the Chair interrupted Blanchard pursuant to Rule A of Policy BEDH, which requires that all speakers identify themselves, when he played a recording of President Trump. Blanchard does not challenge Rule A in this lawsuit. Nevertheless, by contrast, another speaker, Alan Sarvinas identified himself and used his own voice at the May 2025 meeting, also providing criticism on the Board’s Policy BEDH, and he was not interrupted. *Id.* ¶¶ 32-33.

At the **June 2025** meeting, Blanchard provided uninterrupted comments, stating that he was there to “demand answers,” and that the Board showed “cowardice,” abuse of power, and censorship. He then went on to criticize the Board’s rules for public comment, and stated that the Board had “lost sight of its duty . . . too busy waving the rainbow flags.” He then stated, “to miss Jenny from Yarmouth, you are the exact reason why so many parents are pushing back this year. It’s not hate. It’s called boundaries. We are done watching the alphabet cult shove their propaganda down our throat and in our schools” when the Chair interjected. After he refused to leave the podium when his time was up, he shouted at the Board while packing up his things, calling them “sheep,” “communists” and “a freaking joke,” while other members of the public waited for their turn to speak. Another speaker at the June 2025 meeting, Pavel Dokuken, also expressed his dissatisfaction with the Board’s protocol for public comment periods; none of his comments attacked a particular person. *Id.* ¶¶ 36-38.

At the **July 2025** meeting, Blanchard provided uninterrupted comments, demanding

answers to his emails, stating that he will seek to replace every single Board member who does not advocate for parents and students, commenting that the Board acts like tyrants with communist actions, and demanding that “Ms. Muffy” go home and read the Constitution. Blanchard concluded his comments and then added, while pointing at a particular Board member and speaking in a condescending and harassing tone, “And also, I just want to say it's nice to finally see you attend a meeting. You got elected, what? In December, and how many meetings have you been here?” when the Chair interjected. As he left the podium, he referred to the Board member who keeps the time for public comment as “your little puppet sitting right there.” *Id.* ¶ 41.

At the **August 2025** meeting, Blanchard communicated most of his comments through shouting, asking the Board a series of rhetorical questions, claiming that the Board is silencing Augusta Residents and that “Ms. Muffy” shuts down people with different opinions, and stating that the Board is a “bunch of tyrants.” He then shouted, angrily, while pointing, “it's the fact that you guys sit up here and act like you guys are a bunch of tyrants and that we live in communist China. That's why a communist Chinese flag was put on the podium over there, Ms. Susan?” when the Chair interjected. After being interrupted, he shouted at the Board about being interrupted, demanding answers from the Chair but not permitting her to respond. After that, he was still given his speaking time back for the interlude he took to shout about being interrupted, and he then went on, uninterrupted, to criticize “Ms. Muffy” directly and shout about his grievances regarding public comment period. *Id.* ¶¶ 45-48. Another speaker at the August 2025 meeting, Timothy Bodner, similarly critiqued the Board regarding its handling of public comment, including that it had let Jennifer Curran speak at the May meeting, and he also expressed his belief that “God created the male and the female;” he was not interrupted. *Id.* ¶¶ 51.

Blanchard spoke twice uninterrupted at the **September 2025** meeting, with the Board

permitting him to speak a second time when another speaker yielded her time to Blanchard despite that being against the Board’s rules of order. *Id.* ¶¶ 56, 58 . He also spoke twice again at the **October 2025** meeting, once during the comment on agenda items and again during the comment for non-agenda items; he again spoke uninterrupted both times, and he was even given an additional thirty seconds to finish reading his pre-written remarks. *Id.* ¶¶ 70, 73. Blanchard spoke once again at the **November 2025** public comment period, during which he announced his candidacy for School Board, he was uninterrupted. *Id.* ¶ 76.

The record therefore does not support that Blanchard’s perspective or ideology was the Chair’s rationale for interrupting him. *See Rosenberger*, 515 U.S. at 829 (government must “abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction” (emphasis supplied)). Whether the Chair was textbook in citing the precise reason why he was interrupted will not help Blanchard’s case. *See Platt*, 162 F.4th at 438-39 (declining, at the preliminary injunction stage, “to flyspeck [the Chair’s] statements for whether she cited chapter and verse in trying to keep [speakers] within the bounds of the Policy. Her statements were made in the heat of the moment while managing a public meeting”). The Chair interrupted Blanchard “in the heat of the moment,” while managing what were almost always contentious public comment periods in which the videos show that Blanchard’s behavior was in many instances adversarial or confrontational.

Particularly in light of all the ways—and all the time—that Blanchard otherwise shared his viewpoint uninterrupted by the Board, the record is clear that Blanchard was interrupted not because of his viewpoint but because he was speaking about an identified District employee or speaking with abusive language, including by shouting at, levying an attack on, or antagonizing other people. Blanchard was otherwise permitted to speak, most often uninterrupted, to convey

myriad comments to the Board that expressed the viewpoint that he now claims was stifled. *See, e.g.*, Tracy Dec. ¶¶ 23, 56, 58, 73. In fact, he used the Board’s public comment period as a platform to announce that he would be running against current Board members in the next School Board election, referring to specific Board members by name, including “Ms. Muffy,” and telling them, “I’m coming for you”—all without being interrupted. *Id.* ¶ 76. The Board even permitted him to speak a second time when it did not have to, and in another instance it addressed him directly to let him know that he is heard in response to his frequent concerns that he feels unheard. *Id.* ¶¶ 40, 57-58.

Despite all this, he now seeks drastic relief from this Court, claiming that the Chair will stop him from saying “anything she dislikes.” The record simply does not support his fear, and Blanchard will not succeed on the merits of his as-applied claims. *See Miller 1*, 2023 WL 3096787 at *9-11 (rejecting the as-applied challenge and noting all of the ways the plaintiff voiced displeasure to the board); *Davison*, 19 F.4th at 637 (characterizing comments that made reference to public officials “meeting their creator” as “antagonizing behavior” rather than protected speech).

The record shows that the Chair applied the Policy at each meeting in an evenhanded way. *See Miller 1*, 2023 WL 3096787 at *9 (considering whether the Chair had applied Policy BEDH in an “evenhanded” way at each particular Board meeting in light of the Chair’s understanding of the policy at the time of that meeting); *Platt*, 162 F.4th at 443-44 (agreeing that plaintiffs were unlikely to succeed on the merits where the “cited comparator [speakers] actually demonstrate that the School Board has been consistent in its application of the Policy”); *Hotchkiss*, 2023 WL 4684915, at *8 (plaintiff could not show that he was singled out for his critical views of vaccination and masking policies when other speakers criticized those same policies); *see also Ridley*, 390 F.3d at 92 (transportation authority was not required to accept an advertisement, contrary to its

guidelines, by virtue of the fact that it had previously and mistakenly admitted two prior adds contrary to its guidelines).

Here, the Board listened to myriad other speakers who shared views similar to those of Blanchard, and those speakers were not interrupted because they did not violate Policy BEDH. *See Tracy Dec.* ¶¶ 13-14, 21, 24, 33, 38, 42, 50-51, 55, 69, 74, 77.

ii. Any interruptions of Blanchard were reasonable

“The reasonableness standard is not a particularly high hurdle; there can be more than one reasonable decision, and an action need not be the most reasonable decision possible in order to be reasonable.” *Ridley*, 390 F.3d at 90. The Chair’s interruptions of Blanchard were reasonable in furtherance of the Board’s interests described above. Blanchard was interrupted either because he was speaking about a specific employee, or speaking with abusive language by shouting at, levying a personal attack on, or antagonizing individuals in the room, all of which tends to disrupt the Board’s attention to the matter at hand and frustrate the Board’s interests. *See Hotchkiss*, 2023 WL 4684915, at *8 (explaining that speaker’s “emotionally charged attacks,” could adequately be considered by the school board to be disruptive when they “repeatedly belittle[ed] one of the Board members by calling her ‘Ms. Psychology’ and singling her out”); *see also Davison*, 19 F.4th at 636 (“[D]enying a speaker at the podium in a . . . hearing the right to launch personal attacks does not interfere with what the speaker could say without employing such attacks.”). Further, in every instance, the Chair gave Blanchard a warning and an opportunity to keep speaking. *See Miller 1*, 2023 WL 3096787 at *11; *Davison*, 19 F.4th at 636 (school board policy limiting personal attacks was made more reasonable when speakers were warned that their personal attacks were out of order but were allowed to continue speaking).

III. PLAINTIFF HAS NOT DEMONSTRATED AN ‘UNEQUIVOCAL’ RIGHT TO RELIEF BASED ON THE REAMINING FACTORS

A. Blanchard Has Not Established that He Will be Irreparably Harmed if a Preliminary Injunction is Not Issued

Blanchard contends that injunctive relief is necessary because he wants to be able to communicate the concerns and criticisms that he already has been allowed to communicate, only he wants to be able to say them in ways that are not permitted under Policy BEDH, and he contends that the Chair will shut him down for whatever she does not like. The Record does not support his fear, and Blanchard has not shown irreparable harm.¹⁶ In fact, Blanchard has not been interrupted since August 2025, six months ago, and he has spoken uninterrupted five times since then at three different Board meetings. Accordingly, there are insufficient exigencies for this Court to change the status quo at this juncture. *See* 11A Fed. Prac. & Proc. Civ. § 2948.1 (3d ed.) (“[A] preliminary injunction will not be issued simply to prevent the possibility of some remote future injury. A presently existing actual threat must be shown.”). Meanwhile, Blanchard can still “speak his piece,” as he has been, pursuant to Policy BEDH. *See Miller 1*, 2023 WL 3096787 at *11.

B. The Balance of Harms and Public Interest Weigh Against Injunctive Relief

Blanchard cannot show a level of hardship that will outweigh the hardship that the Board and the District will incur if its purposes and interests underlying Policy BEDH are frustrated by Blanchard’s extraordinary request to change the status quo. If Blanchard, and others, are allowed to say whatever they want about school employees by name and are also allowed to speak in abusive and vulgar ways that are disruptive, the Board will be left powerless, in its own forum that is publicly televised, to protect its employees from harassment and provide its employees with a safe working environment. It will also risk increasingly disruptive meetings—with even more

¹⁶ The record demonstrates that, contrary to Blanchard’s contention in this lawsuit that he is increasingly fearful of what to say during public comment, he is in fact increasingly comfortable speaking before the Board. For example, at the October 2025 Board meeting, he began his comments by asking the Board, “How you guys feeling tonight? Palms sweaty?” as he seemingly looked on at the Board unperturbed. Tracy Dec. ¶ 70.

disruption than there already is—and the frustration of its agenda when some members of the public have already expressed their impatience with the lack of decorum at the Board’s meetings. Ultimately, the result will be less public attendance and attention at the Board’s meetings, and less voices will be heard. *See id.* at *12 (“[T]here is no question that the School Board’s interest—conducting the orderly and undisrupted business of the School Board, governing [the] public school system—is significant.”).¹⁷ Conversely, hardship to Blanchard if he is not allowed to speak in the way that he wants to is not significant, particularly when balanced against “the minimal viewpoint-neutral and reasonable interference” with Blanchard’s “right to unfettered speech.” *Id.* (finding the balance of harms “strongly favors” the school board).

Finally, denial of the preliminary injunction is in the public interest. Maine Law requires school boards to protect school employees from harassment, 20-A M.R.S. § 1001(20), which is not mutually exclusive from the Board’s ability to attract and retain talented educators. The Board’s ability to conduct orderly business meetings is paramount to its ability to run the District and to promote, and model, civil discourse and civic participation on matters of public importance.

The videos of the Board’s meetings show that the Augusta School Department has extraordinary respect for the importance of public comment on all matters relating to education; however, the public harm at stake here is unequivocal. Because Plaintiff has not shown a substantial likelihood of success on the merits and because all other remaining factors fail to reveal any exigencies that compel change of the status quo, this Court must deny Plaintiff’s request for a preliminary injunction.

Dated: March 9, 2026

/s/ Melissa A. Hewey
Melissa A. Hewey
Susan M. Weidner

¹⁷ The School Board could also face liability or allegations thereof if it permits defamation. Importantly, the Board has no way of knowing in real time – as comments are made during the public comment period – whether comments are defamatory.

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**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

NICHOLAS BLANCHARD,)
)
)
Plaintiff)

v.)

Civil Action No. 1:26-cv-00049-SDN

AUGUSTA BOARD OF EDUCATION,)
MARTHA WITHAM, Chair, Augusta)
Board of Education, in her official and)
individual capacities, and AUGUSTA)
SCHOOL DEPARTMENT,)
Defendants)

DECLARATION OF MICHAEL TRACY, JR.

Pursuant to 28 U.S.C. § 1746, I, Michael Tracy Jr., declare under penalty of perjury as follows:

1. I have personal knowledge of the matters set forth herein.
2. I am the Superintendent of the Augusta School Department, a role that I began in August 2022.
3. In my role as Superintendent, I attend almost all business meetings of the Augusta School Board (the “Board”). Specifically, I have attended all of the Board’s business meetings between January 2025 and the present.
4. Members of the public are invited to, and do, attend our Board meetings. All of our meetings are live streamed and broadcast on the schools YouTube Channel, and members of the public are able to tune into Board meetings remotely that way as well. Our Board meetings

also remain available to watch on our website after they conclude.¹

5. The job performance and conduct of public employees who work for our school department is separately discussed by the Board in executive sessions, which are governed by a statutory process for which teachers are entitled to notice and an opportunity to be heard.

6. There is a student representative on the Augusta School Board who generally attends all of the Board meetings.

7. I am familiar with the Plaintiff, Nicholas Blanchard, who has also attended at least some portion of every one of the Board's business meetings since January 2025. Mr. Blanchard regularly provides public comments during the public comment portions of the Board's agenda.

8. I have tried to the best of my ability to accurately describe herein the Board's business meetings, both as I remember them and as I see and hear them in the recorded official videos. To the extent the official video is inconsistent with my description herein, I defer to the accuracy of the video.

9. At the January 8, 2025 Board Meeting, the Board was voting on updated policies and procedures for making complaints of discrimination and harassment under Title IX. Many members of the public appeared to provide comments on these policies, to listen to others' comments on the policies, and to hear Board discussion on this agenda item.

10. The public comment period at the January 8, 2025 meeting, which starts at approximately 43:00 of the video, began with Board Chair Martha Witham (hereinafter the "Chair") explaining the public comment period.² She stated "[e]ven though we may not agree with what you have to say, we respect your right to say it, and we welcome comments from the

¹ They can be accessed at this link: <https://vimeo.com/showcase/augustaschoolboard>

² The January 8, 2025 Board meeting can be seen here: <https://vimeo.com/showcase/augustaschoolboard?video=1038397320>

citizens of Augusta.” She then explained the protocol for public comments, including her explanation that:

Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language. No complaints or allegations will be allowed at board meetings concerning any person employed by the school system or against particular students.

11. Mr. Blanchard provided comments at the January 8, 2025 meeting, beginning at approximately 49:18 of the video. After introducing himself by “Cornpop,” he began his comments by requesting respect from the Board members, asking that they look at him while he speaks. Next, after quoting a bible verse, he stated that it is “my job to protect the safe spaces for our daughters and the women of the community, because here in Maine, it seems we have too many soft beta males that won’t stand up for what is right. And it seems that I’m looking at a couple of them right here.” The Chair interjected, stating “I’m sorry but disparaging remarks are not allowed.” Mr. Blanchard immediately stated, “okay,” and quickly continued on with his comments, telling the Board that they should have “an IQ test” because even his “six-year-old son . . . knows that there’s only two genders and that boys go in the boys’ room and that little girls go in the girls’ room.” Mr. Blanchard then described a story about a “boy in a skirt” that “raped” a woman in Virginia. He then concluded his comments by stating that “come January 20th, daddy’s coming home and he’s going to put an end to all this crap” as he held up a sign that said “Trump will fix it.” Mr. Blanchard spoke for the entire two minutes that was allotted to each speaker for comments.

12. A minor child can be seen in the audience, directly behind the podium, during Mr. Blanchard’s comments and others comments at the January 8, 2025 Board Meeting.

13. Seven other speakers at the January 8, 2025 meeting expressed similar views as that of Mr. Blanchard. None of them were interrupted. Wendy McDowell, whose comments begin at

approximately 45:20 of the video, identified herself as a member of Moms of Liberty and Parental Rights in Education, and encouraged the Board not to adopt the Title IX policies, stating that the Board would be “robbing young women of their voice to speak up about being uncomfortable.” Selena Robbins, whose comments begin at approximately 47:29, expressed dissatisfaction with individuals using bathrooms associated with their gender identity. Josh Niederer, whose comments begin at approximately 1:11:26, stated his belief that “boys are boys and girls are girls.” Matthew Morse, whose comments begin at approximately 1:16:22, expressed his view that “there are only two sexes, male and female.” Dennis Hammock, whose comments begin at approximately 1:19:12, similarly opposed the school’s transgender policies, stating that gender ideology was “poison,” and also shared comments on the First Amendment and “freedom of speech.” Nathan Basignani, whose comments begin at approximately 1:21:41 stated that he “question[s] the morals of anybody that would vote in favor of a policy that would invite men into women’s . . . spaces.”

14. Pavel Dokuken also expressed similar views at the January 8, 2025 meeting regarding gender ideology and his opposition to the school’s bathroom protocol; his comments begin at approximately 45:20. He was allowed to speak uninterrupted until his allotted two-minutes had concluded, and, when he did not depart from the podium after being asked to do so, a law enforcement officer asked him to leave. When he did not leave the podium in response to law enforcement, the law enforcement officer can be seen physically removing him from the podium. As he was removed, Mr. Blanchard and others can be seen on the livestream video shouting at the Board Chair. Mr. Blanchard can be heard shouting “you guys do not even care” and “you [indiscernible] not even showing people who are speaking respect.” The Board at that point entered a ten-minute recess before resuming the public comment period. Upon resuming public

comments, the Chair asked that all speakers adhere to the two-minute time limit so that everyone would have an opportunity to speak.

15. At the conclusion of the January 8, 2025 public comment period, which is at 1:22:51 of the video, the Chair thanked “both sides” for taking time out of their schedule to share their opinions.

16. At the February 12, 2025 School Board Business Meeting, the meeting began with presentation by some of our high school students, who were introduced by Kim Liscomb, the Principal of Coney Middle and High School, who was in attendance at that meeting.³

17. Prior to the public comment period for non-personnel agenda items, the Chair started by explaining the protocol for public comment, including by stating the following:

We will not permit any defamatory comments or abusive language towards school employees, board members, or others who are present. Please address the chair with your questions or comments. Those questions or concerns that require further research will be addressed at a later time. No complaints or allegations will be allowed concerning any person employed by the school, including administration and board members.

18. Mr. Blanchard’s comments at the February 12, 2025 meeting begin at approximately 1:37:35 of the video. He began his comments by handing out paper copies of a recent Executive Order to members of the Board. As he did that, he played a recording of President Trump speaking about sex discrimination and the roles of mothers and fathers. As President Trump could be heard saying that “there are only two genders,” Mr. Blanchard held up his hand from behind the podium, signaling the number “two” with two fingers. He then addressed the Board, expressing to the Board his disagreement with names he believed they had called him before he then communicated his disagreement with a survey being distributed to students.

³ The February 12, 2025 meeting is available at:
<https://vimeo.com/showcase/augustaschoolboard?video=1055408924>

19. He then stated, as he pointed towards the direction where Kim Liscomb was sitting in the audience, “I think we all should acknowledge the president of the Maine Principal Association that's going to cause all of our federal funding to go right out the window because.” At that point, the Chair interjected, saying “no disparaging remarks allowed.” Blanchard responded:

How is that disparaging? I'm recognizing the principal, the president of the Maine Principal Association that made a statement saying that they were going to completely ignore the executive order that President Trump put out, which would cause federal funding to come away from our children here in the Augusta School District. And that's who you guys actually reached out to, to come up and speak last meeting. You know how we know that? Because we FOIA requested and we've seen that in the communications. You guys asked her to come up and speak. And now she's going to be the reason why we lose our federal funding.

The Chair then stated, “those remarks are inappropriate.” Blanchard asked, “How are they inappropriate?” The Chair asked, “Do you have other comments you'd like to make, not about our personnel?” Blanchard asked again, “How is that inappropriate . . . I am asking you a question.” The chair explained, “Because we aren't accepting any comments regarding our personnel.” Mr. Blanchard then stated:

Well, you claim that it was inappropriate. I mean, I just want to know how that's inappropriate, that I am acknowledging the fact that the president of the principal, of the Maine principal association, that you guys asked to come up here and speak at the last meeting to explain all this is actually coming out and saying that she's going to completely ignore federal law, which is going to cause this district to lose federal funding. There's the executive order. I gave a copy to all of you. I also gave you personally a few other things. I also gave you the executive order that Trump signed about weaponization about parents coming to the school board, because you know what? I feel you owe someone here an apology for violating someone's rights.

20. By the time Mr. Blanchard made these final remarks, the video shows that his tone had escalated to the point of shouting and talking pointedly and directly at the Chair, requesting an apology. As it reached that point, a member of the Board can be heard making a Motion to recess,

which was quickly seconded and approved by other members of the Board. As the Board quickly moved into recess and Mr. Blanchard exited the podium, he stated to the Board “like I said, Daddy’s home baby.”

21. Two other speakers at the February 12, 2025 School Board meeting expressed similar views as that of Mr. Blanchard and were not interrupted. Alan Sarvinas, the state representative for Parents’ Rights in Education, made comments beginning at approximately 1:31:55, stating that “enforcing gender identity undermines the entire point of Title IX” and expressing concern for “childrens’ exposure of their bodies and intimate activities to a person of the opposite sex.” Pavel Dokuken, whose comments begin at approximately 1:49:51, urged the Board to “concentrate on how to properly educate kids” instead of “taking away girls’ ability to report such pervs.” Neither of these speakers identified District employees.

22. At the March 12, 2025 School Board Business Meeting, the Chair began by explaining Policy BEDH:

a reminder that speakers are not permitted to make defamatory comments or rude comments or inappropriate comments about any staff, board members, employees of the district, or to use abusive or vocal language while they're at the podium. No complaints or allegations will be allowed at board meetings concerning any persons employed by the school system.⁴

23. Mr. Blanchard’s comments at the March 12, 2025 meeting begin at approximately 1:19:17, and he spoke uninterrupted for the entire time that he was allotted. He began by posting a sign on the podium, which read “SAVE GIRL’S SPORTS,” and distributing to members of the Board paper copies of a pre-drafted letter that he asked the Board to submit to the Acting Secretary of the Department of Education. He began his comments by saying “congratulations to each of you guys for becoming internet famous, especially you, Madam Chair. I would read you some of the

⁴ The March 12, 2025 Board meeting can be seen here:
<https://vimeo.com/showcase/augustaschoolboard?video=1064501748>

comments on the links to the videos that you guys are in, but they are disparaging remarks, so I'll refrain from doing that.” He then described a recent meeting between President Trump and Governor Janet Mills and expressed his concern for a Title IX investigation, stating “we can thank Janet Mills and the Maine Principal Association for that.” He then went on to state that “the Trump administration interpretation is clear that biological sex defines eligibility, not gender identity,” and he asked “the Augusta School Board to take a stand against Janet Mills and the Maine Principal Association and line our policies with federal expectations to protect our funding.”

24. At the March 12, 2025 meeting, two other speakers expressed views similar to that of Mr. Blanchard. Neither of their comments were disruptive under Policy BEDH or named specific individuals, and none of their comments were interrupted. Lisa Gagne, whose comments begin at approximately 1:14:50, expressed her opposition to the District’s changes to Title IX policies. Pavel Dokuken, whose comments begin at approximately 1:22:47, spoke uninterrupted about gender ideology, expressing his view that “there’s only two genders.

25. At the April 9, 2025 Board Meeting, there were ten people signed up to provide public comments, and the Board was able to give each of them five minutes to speak given the shorter length of that meeting.⁵

26. At approximately 43:30 of the video, the Chair once again began by explaining Policy BEDH, stating, in part:

A reminder that the purpose of our meetings is to conduct the official business of the school system, but we do appreciate and welcome public comment. . . . You're not permitted to share gossip, to make negative comments or use abusive or vulgar language, and to expand on that, no comments on personnel are allowed in any way, so you may not [] speak to any individual employees of the Augusta School System. No complaints or allegations will be allowed at board meetings concerning any person

⁵ The April 9, 2025 Board meeting can be seen here:
<https://vimeo.com/showcase/augustaschoolboard?video=1069039362>

employed will not be tolerated. If these rules are violated, I will gavel you and ask you to step from the podium.

27. Mr. Blanchard's comments at the April 9, 2025 Board Meeting begin at approximately 46:10. He can be seen wearing a t-shirt that says "YOUR FIRED" above a picture of Kim Liscomb, the Principal of Cony Middle and High Schools who also served at the time as the President of the Maine Principals Association.

28. Mr. Blanchard began his April 9, 2025 comments by stating:

I'd like to start off tonight by saying good job and thank you to the six members that voted to go back to the 2020 interpretation of Title IX and shame on the one board member that voted no.

The Chair chimed in, stating "I'm sorry but negative comments will not be allowed." Mr. Blanchard simply continued on with his comments, which he appeared to be reading from notes:

Most of you have heard by now that I have started a petition that Augusta concerned parents, both Republican and Democrat are signing. This petition is asking if you, the school board members, will put up a vote to have Ms. Kim.

At that point the Chair chimed in again, saying "I'm sorry that's not going to be tolerated," to which Mr. Blanchard responded, "Okay. I won't say the name." The Chair then asked Mr. Blanchard to step away from the podium, explaining to him that it was "the second warning [she gave] about making defamatory remarks about . . . school personnel." Mr. Blanchard then asked, "how is that defamatory remarks?" When Mr. Blanchard insisted on an explanation, the Chair said "I'm not going to allow you to speak to school personnel in any way." After Mr. Blanchard continued to remain at the podium and expressed his disagreement with the Chair's explanation, the Chair explained again, "It was involving an employee. It will not be tolerated." Mr. Blanchard then said, "Okay. I won't mention no names," and the Chair gave him a third chance, warning "once more, you're off the podium." Mr. Blanchard thus continued his remarks, saying:

So as most of you know, someone is the president of the Maine Principal Association.

At that point, the Chair interjected, saying “Nope. Close enough. I'm sorry. You're done, Mr. Blanchard.” Mr. Blanchard responded, “Wow. Communist China right here,” and left the podium.

29. Only one other speaker mentioned an employee name at the April 9, 2025 Board meeting, and that was Tony Veit, whose comments begin at approximately 52:01. Tony offered comments as an employee of Cony High School, stating that he feels very supported in his role, and he referenced the Secretary at Cony, Lori Chambers, in the context of stating that an earlier agenda item “resonated” with him, which was the recognition of Lori Chambers as Secretary of the Year.⁶

30. Marianne McKinnon spoke at the April 9, 2025 Board Meeting, beginning at approximately 1:03:53. As part of her comments, she stated, “I feel so grateful that you have rules of engagement that not only probably protect your staff, but also your kids. And hearing that tonight let me relax.”

31. At the May 14, 2025 School Board Business Meeting, the Chair began the public comment period by stating “we really love to have the public participate and to contribute.” She once again went on to explain the rules governing the public comment period, including explaining that:

The chair will be responsible for recognizing all speakers who must identify themselves as they begin talking. Speakers are not permitted to share gossip, make defamatory comments or use abusive or vulgar language. No complaints or allegations will be allowed at board meetings concerning any person employed by the school system or against particular students. The board discourages duplication or repetition of comments to the board. The

⁶ The Assistant Principal of Cony Middle School recognized Lori Chambers as the Secretary of the Year for the State of Maine as part of the “Reports from School Officials” portion of the Business Meeting. This can be seen at 19:54 of the April meeting video.

chair has the authority to stop any presentation that violates these guidelines or the privacy of others. Persons who disrupt the meeting may be asked to leave and the chair may request law enforcement assistance as necessary to restore order.

The public comment period begins at approximately 1:25:10 of the video.⁷

32. Mr. Blanchard's comments at the May 14, 2025 meeting begin at approximately 1:29:20 of the video. He can be seen behind the podium with masking tape over his mouth that read "I cant SPEAK!!!" Instead of speaking, Mr. Blanchard played a recording that addressed the Augusta School Board, with the recording appearing to be in the voice of President Donald Trump.

The Chair stated:

Excuse me, Mr. Blanchard, but this is an opportunity for you to speak and that is not your voice and the person speaking did not recognize himself. Therefore, you may speak or you may stop that or I will ask to have you removed.

Mr. Blanchard's recording continued to play, and the Chair stated "Mr. Blanchard, I'm asking that you stop." Mr. Blanchard continued to play the recording, while staring at the Board with his mouth still taped. As his recording continued to play from the podium, Mr. Blanchard next left the podium, walked up to where the Chair was sitting, and placed what appears to be the flag of China on the lectern in front of the Chair. At that point, the Chair requested a motion for a recess and, upon a motion and a second of that motion, the Board took a ten-minute recess.

33. Alan Sarvinas used his own voice to provide comments on the First Amendment, and he was not interrupted. His comments can be heard starting at 1:49:07 of the video, and he criticized the Board's enforcement of Policy BEDH and urged the Board to send Policy BEDH back to the policy committee for review.

⁷ The May 14, 2025 Board meeting can be viewed here:
<https://vimeo.com/showcase/augustaschoolboard?video=1074124806>

34. Jennifer Curran’s comments at the May 14, 2025 can be heard starting at 1:52:15 of the video, during which Curran expressed dissatisfaction with an unnamed “local conservative podcaster,” who had interviewed someone who she said “speaks here as well,” and she stated that this podcaster was calling her and other women who support LGBTQIA kids “CUN blank TS . . . See you next Tuesdays,” asking “Is this now conservative platform?” After Alan Sarvinas, a member of the audience, shouted out during Curran’s comments, the two of them began talking at one another, and the Board was forced to enter a recess. It then resumed the public comment period at approximately 9 p.m., with Curran resuming her remarks. Board Member Katie McCormick interrupted those remarks with a motion, requesting that Curran not be permitted to speak because her comments violated Policy BEDH and had nothing to do with “the business at hand for Augusta School District.”

At this point, I interjected to explain to the Board that this portion of the public comment period was on non-agenda items, “so people can speak about matters that pertain to public”

I then stated:

I think the position that we should take is one of neutrality and therefore all speakers should be cautioned to not speak positively nor negatively about others, so individuals. As an example, we might say the budget has increased too much this year. We don't like that. That's an appropriate statement. We wouldn't say we don't like the way the assistant superintendent handled the curriculum meeting. That would be an inappropriate comment because it would be directed at an individual. And then at the same time, we shouldn't then positively say, "We really like what the assistant superintendent did with the curriculum meeting." Okay? So we would caution speakers not to speak individually about people or groups, frankly. Disparagingly or positively, that is the nature of the policy. I think there's some liberty with what people speak about clearly in item 23.

Charlie, a member of the Board, then stated “the policy is that we will not speak positively or negatively about any school personnel.” When the Chair responded that the current policy is “only that we won’t speak negatively,” Boardmember Katie McCormick corrected the Chair,

stating that “our policy doesn't say anything about negativity. It says defamatory comments, abusive and vulgar language. It doesn't say anything about negative and positive.” The Chair said “we’re just mincing words,” at the same time that Boardmember Charlie observed that “it seemed like what happened here is that it devolved into people attacking each other, not school personnel.” The Board conversation concluded with Boardmember Katie McCormick requesting that the board chair “handle any person at the podium doing defamatory comments, abusive or vulgar language, and business that does not pertain to Augusta schools,” and she explained that she thought Jennifer Curran’s comments were “such a waste of time,” before telling the Chair to “carry on.” The Board then voted for the Chair to “do her job,” and the Chair instructed Jennifer Curran, “If you would be so kind as to keep your comments non-negatory nor speak about other speakers and address the issue at hand.”

35. At the June 11, 2025 School Board Business meeting, the Chair began the public comment period, at approximately 2:29:20 of the video, by “going over the ground rules” in Policy BEDH.⁸

36. Mr. Blanchard’s comments at the June 11, 2025 Board Meeting begin at approximately 2:43:40. He placed a copy of what appeared to be the United States Constitution on the podium in front of him and then started by saying, “I'm here to demand answers, accountability, and to end the cowardice I have watched on this board.” He then went on to explain that he felt like he had not gotten adequate responses to his emails, addressing the Chair directly as “Madam Chair” and telling her that her response was “unacceptable” and stating to her that “If you can't engage with your constituents honestly and directly, you have no business holding this position.” He then went on to say:

⁸ The June 11, 2025 comment period can be viewed here:
<https://vimeo.com/showcase/augustaschoolboard?video=1084472398>

Let's talk about this so-called rules for the public comment. I've been interrupted, silenced, and censored under the excuse of disparaging remarks. But yet last month, you gave a non-resident nearly five minutes to slander me and others that's not even from this district and didn't even care. That right there is a double standard and an abuse of power and should no longer be tolerated. Equal treatment for all speakers, regardless of political belief, needs to happen immediately. Now let's get to the real issue. This board has lost sight of its duty. Your focus is no longer education, but political pondering. You're too busy waving the rainbow flags to notice that our test scores are shrinking. Our schools are falling behind while you push decisive ideology in place of academic excellence. And unfortunately, she's not here, but to miss Jenny from Yarmouth, you are the exact reason why so many parents are pushing back this year. It's not hate. It's called boundaries. We are done watching the alphabet cult shove their propaganda down our throat and in our schools.

At that point, the Chair interjected, stating "I've asked there not to be disparaging remarks." Mr. Blanchard asked, "what is disparaging about that?" and the Chair said, "I'm not going to discuss that with you, you may continue."⁹ Instead of continuing with his remarks, Mr. Blanchard said well, if you're not going to tell me it's disparaging, you should at least tell me what I'm saying that's disparaging," signaling and calling for the "lawyer" to "kick in," and asking the lawyer "what is disparaging?"

37. The Board remained silent, continuing to listen to Mr. Blanchard's comments, while he continued to insist on an explanation regarding what was disparaging about his comments, asking the Board if they "want to go hide in the room for another 30 minutes?" By this point, Mr. Blanchard's allotted time for speaking was up, but he insisted that his time was "not up," because "you just took up half my time saying that I was making disparaging remarks and won't even clarify what I'm saying that is disparaging." The Chair responded, "I am not obligated to respond to speakers," to which Mr. Blanchard shouted loudly while gesturing pointedly with his right hand:

⁹ Right at this same time, the Board member adjacent to the Chair, who keeps the time for all speakers during public comment, announced that Mr. Blanchard had 20 seconds remaining in his allotted time for comments.

“You are obligated. You work for me.” The Chair stated, “You need to step away from the podium,” and Mr. Blanchard once again insisted on “an answer.”

The Chair then said, “I will ask you one more time to step away from the podium,” and Mr. Blanchard shouted pointedly, “I would like an answer because you guys, you don’t answer any emails. You two. I sent both of you an email.” At this point, the Chair signaled for a law enforcement officer to provide assistance, and Mr. Blanchard responded, “Freaking ridiculous. This is the United States Constitution. Maybe you should read it,” while holding up the Constitution to the Board. Mr. Blanchard then exited the podium, but he continued to shout as he walked away, stating “Freaking joke. You guys are sheep. That’s what you’re acting like. A bunch of Communists.” As he packed up his bags to leave the meeting, he continued to shout, stating again “you’re a freaking joke,” and the video shows other people waiting silently in the area designated for members of the public to watch Board meetings.

38. At the June 11, 2025 meeting, another speaker, Pavel Dokuken, expressed his dissatisfaction with the Board’s protocol for public comment periods. His remarks begin at approximately 2:48:30. Among his comments, he stated:

I know you like to rush people who you disagree with, so hang in there. Almost there. It's going to be fast . . . I did got arrested here on the first time we met and you only gave us two minutes. I'm just trying to figure out how you determine why lesbos out of town get five minutes when there's like what? 25 of them. And actual parents who take kids to the school here and pay your salary only get two minutes. Is there like some sort of, how do you determine who gets what time without discriminating like you did towards me?

39. In advance of the public comment period at the July 9, 2025 meeting,¹⁰ the Chair provided extra context regarding the protocol for the public comment period, stating:

¹⁰ The public comment period starts at approximately 1:34:05 of the July 9, 2025 Board meeting video, which can be seen here: <https://vimeo.com/showcase/augustaschoolboard?video=1092644647>

I just want to read something that I put together, maybe to help things go a little more smoothly. In order to make this agenda item more productive, I'm going to share a little background information on public comment at school board meetings. The Maine legislature passed a law that states that school boards provide an opportunity to comment on school and educational matters. There's actually 20-A MRSA subsection 1001. They further states that nothing in this section restricts the school board from establishing reasonable standards for the public comment period, including time limits and conduct standards. At the beginning of this agenda item, I provide a brief review of the Augusta Board of Education policy BEDH. This policy is available in its entirety on our website. I'm hoping that by sharing the laws and policy the school board is obligated to follow, you will understand why we have and are required to follow policy BEDH. And as I usually start, I will review policy BEDH. Though board meetings are not public forums, the board will provide appropriate opportunities at its meetings for members of the public to express opinions and concerns related to the matters concerning education and the Augusta Board of Education Schools. Members of the public may speak on any subject directly related to the operations of the schools, except for personal matters or complaints concerning specific employees or students, which shall be addressed through the established policies and procedures. Members of the public may address the board within the guideline provided in this policy. The chair shall be responsible for maintaining proper order and compliance with these guidelines. Those addressing the board need to state their name and address for the record. The chair may limit the time allotted for comment to a particular topic as well as the time each individual may speak. Tonight, the time limit will be three minutes. Speakers are not permitted to share gossip, make defamatory statements, or use abusive or vulgar language, and it's been asked in the past that I define exactly what this means, and in looking in Miriam Webster dictionary, a defamatory statement is one that can injure one's reputation. And looking at abusive language is language that is harmful or offensive to a person. No complaints or allegations will be allowed at a board meeting concerning any person employed by the school system or against particular students. Instead, there are other policies and procedures that address these kinds of concerns. The chair has the authority to stop any presentations that violate these guidelines or the privacy of others. Persons who disrupt the meeting may be asked to leave and the chair may request law enforcement assistance as necessary to restore order. This is the policy BEDH that I share with you before we start audience recognition on non-agenda items. With that said, there'll be a three minute limit and we'll have the rules that we have every time.

40. Before Mr. Blanchard began his comments at the July 9, 2025 Board meeting, the Chair acknowledged that this would be Mr. Blanchard's seventh appearance before the Board, and she responded to his previous concerns as follows:

We have heard and understood your concerns regarding transgender policies as they relate to our schools. We have heard you. We've also shared with you that the board is obligated to follow both state laws and our policies, but we did hear your concerns. We have also heard your concerns regarding your perception that your First Amendment rights have been violated. I hope that the previous review that I did will help you understand that we are required to follow both law and policy regarding the opportunity for public comment. So in following those guidelines, I ask you to confine your comments to education and the Augusta schools as required by both the legislative law and policy BEDH. I don't mean for any of this to take your time. We'll begin your time. . . . and you will have our respectful attention.

41. Mr. Blanchard responded that the Board's "policy doesn't overrule my constitution," and he placed a sign on the podium that read "FIGHT FOR THE FUTURE OF AMERICA." He then provided the following comments while pointing at the Board at various times with his finger:

Dear Augusta School Board, particularly you, Ms. Muffy. I address this board to remind you that we live in the United States of America, and a nation founded on principles of liberty and freedom of expression, not a regime that suppresses the opposition. Your persistent efforts to restrict public comment to only those who align with your agenda betray the Constitution principles that we just celebrated this 4th of July. Your policy is used as a shield to silence parents like me. It is not constitutional, and the First Amendment is not a suggestion. It is the supreme law of this land, and it prohibits any attempt by this Board to censor free speech, which is what you guys have been doing. Month after month, this Board demonstrates a troubling pattern of shutting down parents, particularly me, that oppose your position. My emails have gone unanswered by you two. Two months. Decisive responses that fail, and when you do respond, you never answer my questions, Ms. Muffy. I believe you have ignored ... You can believe you can ignore the opposition and run to your little safe space like you guys do every month, but that just shows you guys are unfit to be sitting in these chairs. Mock my words. Elections are approaching, and I will put my time and effort to replace every single one of you that are not advocating for parents and our students. Your actions have drawn national attention with

platforms like Fox News, exposing the communist actions that you guys are acting like tyrants in this room. Do not mistake the absence of parents tonight for indifference. They are watching. They are fed up with the Board that forces them to sit here all night while you guys run an executive session three or four times sitting there for 30 minutes at a time for me to get up here finally at 9:30 at night after working all day to get shut down five seconds after opening my mouth. I demand you, Ms. Muffy, go home and read the Constitution and the Bill of Rights and recognize that your policies will never override my God-given rights as an American citizen. I implore that this board starts acting with integrity and not like the tyrants that you guys have been acting like. Thank you. God bless and God speed. And also, I just want to say it's nice to finally see you attend a meeting. You got elected, what? In December, and how many meetings have you been here?

The Chair interjected at that point, stating “excuse me, but we are not going to do derogatory comments to individuals.” Mr. Blanchard responded, “Really? Come on. That’s defamatory, me congratulating for him finally showing up and doing his job?” The Chair then said, “Your time is up, Mr. Blanchard.” He took his sign off the podium and stated, “No, now my time was up. You shut me off before my time was up,” and, pointing at the Board member next to the Chair who keeps the time, he stated “Your little puppet right sitting right there.”

42. Pavel Dokuken also spoke again at the July 9, 2025 meeting, beginning at approximately 1:43:00 of the video. He began by criticizing the Board’s “evil policy,” which he stated was “aimed to discriminate against defenseless girls.” He also criticized the Board’s public comment period, stating that it “allow[s] a bunch of Lesbos out of town to go on.” At this point, another Board member pointed out that this statement was derogatory. He responded, “a bunch of lesbians, okay?” and continued on with his comments, criticizing the Board’s apportionment of time during public comment periods and expressing support for the prior Title IX policies. He then concluded: “Also, my offer to buy you a ticket to Russia still stands. I already called Comrade Putin and he will gladly accept you as one of his own. Your highness, you're welcome.” When he stopped speaking, the Chair asked him if he was finished, and he responded, “Yes, your highness.”

43. At the August 13, 2025 Board Meeting, the Board made available a handout for attendees to reference the general guidelines of public comment at Board meetings. The Board also printed out Board Policy KE, the procedure for complaints regarding specific personnel, and made that available at the back of the room as well.

44. At the start of the August 13, 2025 public comment period, the Chair referenced these policies that were made available at the back of the room, stating that the Board “tried to help out a little bit by providing” them, and she also reviewed the protocol for public comment, explaining, among other things:

Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language. No complaints or allegations will be allowed at board meetings concerning any person employed by the school system or against particular student.

The Chair’s introduction to the public comment period begins at approximately 1:38:07 of the video.¹¹

45. Mr. Blanchard’s comments at the August 13, 2025 meeting begin at approximately 1:40:28 of the video. He stated the following in a tone that I believe amounted to an intimidating level of shouting, while often times pointing his finger at the Board:

First, I'm going to start off by saying, "I'm sorry, Ms. Muffy, that I made you feel so violated at the last meeting by sitting in your chair. That was not my intent. Unlike you, I can make an apology when apology isn't necessary. When I'm wrong, I'm wrong." Thank you. Second, you talked about threats. When has there ever been any threats made from this podium from anyone on our side? What threats have been made? I'd like to know. You can email me back. I've emailed you guys. Secondly, you guys are literally convening, trying to figure out how you can silence Augusta residents. That's what that meeting was entirely about, how you can shut down people that have an opposite opinion of what you guys want to hear. It wasn't the change to policy meeting. James was right. When we first showed up to these meetings, it was about what was going on in our school districts. It was

¹¹ The August 13, 2025 Board meeting can be seen here: <https://vimeo.com/showcase/augustaschoolboard?video=1100157502>

about Title IX. Then Ms. Muffy decided to shut down people that didn't have the same opinion as her, but decided to let other people get up here and violate the same rules that she was shutting other people down for. That's where this all went. It wasn't people veering off from what's going on in our school district. It's the fact that you guys sit up here and act like you guys are a bunch of tyrants and that we live in communist China. That's why a communist Chinese flag was put on the podium over there. Ms. Susan?¹²

46. At this point, the Chair interjected, saying “Excuse me, but we’re not going to have rude comments either.” Mr. Blanchard responded in a shouting tone, while pointing his finger, which I believe once again rose to a certain level of intimidation:

Rude. How was that rude? How is that rude? Pause my time. How is that? You're not going to take my time up explaining to me how that was just a rude comment because that's what you do every time is you start saying something and shut me down every time. How was that rude? My time is paused. Explain it to me. How is that a rude comment? I need to know what is defamatory. Just like you guys were saying in that meeting. Explain it. And then Mike over here trying to suggest that we're going to just take away public comment because that might be a solution because of the ruckus that's going on. You know what caused this ruckus? You Ms. Muffy shutting down parents to have an opposite opinion of you.

47. Once the Chair was able to get a word in, she stated, “I am starting your time again . . . your time has started.”

48. Mr. Blanchard then went on with his comments, and he was uninterrupted for the balance of his allotted time:

My time is started again? All right, cool. Back to what I was saying. The reason why this ruckus started was because of you, Ms. Muffy, is because you shut down people that have the opposite opinion, but yet let other people get up here and say whatever the heck they want. I'm not going to say no names, but there was another resident not from the Augusta District that came up here and set up here for over five minutes. And another board member tried to bring up and tried to get you to do your job to shut her up because she was up here the entire time talking crap about me and someone else. And you know what you did? You kept and allowed it to go on because

¹² Ms. Blanchard’s comment about the Chinese flag was seemingly directed towards Board member Susan Parks, whom Mr. Blanchard referred to as “Ms. Susan.”

it wasn't deflatory marks in your mark, right? And you say that we can't get up here and make complaints, but when we email you guys, do we get an email back? I emailed two board members what, two months ago and I still haven't received anything. So what are we parents like, what are we supposed to do? I mean, when we got two board members that bring up something, you completely shut them down and completely just tell them that their opinions don't even matter. Give them extra time.

49. One of the next speakers at the August 13, 2025 meeting, Janine Bonk, stated the following during her public comments, which began at approximately 1:45:00 of the video:

I need to speak to the tenor of some of the folks at the podium and in the audience. I feel that the ... I understand passion, but I don't believe that expressing anger is the most effective approach. As a resident of Augusta, I feel a little intimidated myself by some of what goes on here. I would also like to say that I feel very strongly that when someone is talking about being listened to, being listened to doesn't mean everyone agrees with you or that the decisions go your way.

50. Another speaker at the August 13, 2025 Board meeting, Lisa Gagne, expressed dissatisfaction with the Board's Title IX Policy, as Mr. Blanchard has done on several occasions. Those comments begin at approximately 1:50:19 of the video, and Lisa's comments were uninterrupted.

51. Another speaker at the August 13, 2025 meeting, Timothy J. Bodner, identified himself as "the truth slinger online on X," and he expressed similar sentiments as that of Mr. Blanchard related to the Board's public comment period and gender ideology. He began by critiquing the handout that was provided in the back of the room on the public comment period, and he then stated that all of it was a cover up for not talking about gender ideology. He was uninterrupted, and his comments in full were as follows and begin at approximately 1:52:17:

Try peace, peace, but there is no peace. My name is Timothy J. Bodner. I'm the truth slinger online on X. I am the podcaster that was referred to by Jennifer Curran at great length, and I'll use her name, because it doesn't appear to be anything on this. Now, I don't want to make a big hoorah. I watched the whole thing. I understand policies, and I think you guys are

marching down a really bad road because you're trying to clamp more down on speech. And Katie, I love you, but asking everybody for suggestions at that meeting at the end was the worst thing you could ever do. The lawyer gave suggestions to you. The lawyer said, "It is public comment, yes, during a public meeting, but it is public comment," meaning that we get to talk during this time. It is the part you carve out. And I don't think anybody has a problem with keeping it on school issues, but I think the issue is that you put on here, "Your voice matters, join Augusta, community participation, welcome, open to everyone exclamation point. Your platform." Hey, it sounds like an advertisement. "Simple speaking guidelines." Don't say anything negative and you back and forth. Don't say anything negative or too positive. You're like, you're back and forth. You want to nod to both sides, but all of this is under the cover of shutting down what you really don't want to talk about, right? Which is the fact that I believe that God created the male and female and we are created in the image of God and we should leave them that way and that our children and that way I express children, I'm here to try and tell you I love differently than you. I don't hate. I feel profound. I worry about people that are convinced they're in the wrong body. It must be awful. It must be a terrible thing, but I want to read you some scripture here because I think this is really important because I think it's going to inform it. You guys have replaced God in society. You're the modern day Pharisees. You're the scribes in the Pharisees. You're supposed to be the one telling us how to do all this and be professional and be nice to each other. And look, all we just need is basic decorum, okay? But here's what [the scripture] says. "Woe to you, scribes and Pharisees, hypocrites, for you [indiscernible] and dill and cumin and have neglected the weightier provisions of the law, justice and mercy and faithfulness. But these are the things you should be done without neglect the others. Your blind guides who strain out a net and swallow a camel." Okay? You let that woman trash me up here on a podcast that has nothing to do with the school board and you repeatedly over and over, over and over allowed her to go on. After there were objections, objections saying why was this allowed to continue. It didn't have anything to do. It was to drag everything off of the Title IX discussion. We've been six months in the ditch not talking about it. And praise God that now that you have a daughter, all of a sudden you see things differently, which is why I encourage people to have children because it changes the way you think about things. Okay? And I'm telling you, just let us speak. James keeps saying, "Let us speak."

52. After "truth slinger" finished his comments and left the podium when his time was up, he then walked back up towards the front of the room, approaching the Chair's position, pointing his finger at the Chair and shouting directly at her, "you insulted my friend when you say

you felt unsafe and violated by him sitting in your seat because you intimate that makes him a criminal.” The Chair said “Sir.”

53. The public comment period at the September 10, 2025 meeting is shown in the video starting at approximately 1:02:45.¹³ It began by the Chair explaining Policy BEDH, in which she stated, in part:

The intent is to allow a fair and adequate opportunity for the public to be heard while ensuring that the time allowed for public discussion does not interfere with the fulfillment of the scheduled agenda. . . Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language. All speakers are to address the chair and direct comments or questions to particular board members or the superintendent only with the approval of the chair. Again, questions must be addressed through the chair. No complaints or allegations will be allowed at board meetings concerning any person employed by the school system or against particular students. Personnel matters or complaints concerning students or staff issues will not be considered in a public meeting, but will be referred through established policies and procedure, and that policy is KE, if any of you would like to take a look at that on our website. The chair has the authority to stop any presentation that violates these guidelines or the privacy rights of others.

54. Each speaker was allotted three minutes at the September 10, 2025 meeting.

55. At the September 10, 2025 meeting, other speakers expressed similar views to those of Mr. Blanchard with regard to the First Amendment, gender ideology, and dissatisfaction with the Board. William Clardy, whose comments begin at approximately 1:09:03 of the video, critiqued the Board’s handling of the public comment period, stating “if you really care about what people are saying, then you wouldn't put us at the end. You would put public comment directly ahead of the board discussion.” Another speaker, Michael Miranda, stated in part:

You work for the people of Augusta, not the other way around. You are public servants, lest you forget that, and an embarrassment to our community. You have forgotten who you work for and the people of this

¹³ The September 10, 2025 Board meeting can be seen here:
<https://vimeo.com/showcase/augustaschoolboard?video=1109854453>

community. Feelings are not facts and violating someone's right to speak at a board with rules and subjected calls on unconstitutional policies on what is disparaging and what is not, in my opinion, and based on the First Amendment of the unlawful and egregious. Remember, we vote. Your actions are no different than the shooting that we saw earlier today at Charlie Kirk. You cannot silence free speech. You cannot kill the idea no matter how hard you try. . . . This is disgusting and you expect me to send my daughter to this school system. You have failed us. Thank you.

Another speaker, Andrew Laverdiere, criticized the Board, with his comments beginning at approximately 1:14:48, in which he stated, in part:

during the Nuremberg trials in Germany when we hung all these Nazis, what was their excuse? "I was just following orders, sir." And they said, "Mm-mm, sorry." Hang. And all of you are doing the exact same thing. I'm just following orders. This is what the state and what the federal policies want, so I'm just going to do it. It doesn't matter if our children are going to be destroyed, right?

Another speaker, Wendy Lee McDowell, whose comments begin at 1:40:38, stated in part:

I'm absolutely horrified at the way you guys spend my tax dollars. And the fact that you're considering two building projects on schools when our schools are like the Pitts, it's not number 41. We're like 48 in the country. Our kids can't read and they can't write. And your concerns seem to be on all this nebulous hokey pokey fun and fairy stuff instead of what the bottom line is, is math and English. Our kids can't read. We're graduating kids who cannot function as a checkout cashier at the Big Apple. And I'm embarrassed for Maine. I'm embarrassed for Augusta and I'm horrified that you're even considering building new schools. That's it.

Another speaker, Rhonda Snyder, whose comments begin at approximately 1:41:47 stated, in part:

I am here to give my opinion, redress my grievances with the government, and I dare you to violate my constitutional rights tonight. I want to discuss, as I said, my grievances against Ms. Witham, as well as to the Lemings who are unthinkingly, following her into the abyss of serious financial repercussions for violating citizens' constitutional rights. I exclude both James Orr and Katie McCormick who understand the jeopardy in which Ms.

Witham is placing the Augusta Regional School Unit. I've written a lot about the First Amendment and I wrote for a YouTube channel with 1.5 million subscribers, so I am very familiar with our constitutional rights. The first amendment consists of five elements: freedom of religion, freedom of assembly, freedom of protest, which is also the redress of grievances, freedom of press, and lastly, freedom of speech. It's not just about free speech. Based on my observations of these meetings, I have seen an astounding number of constitutional violations relating to viewpoint discriminations, violations of free speech with bans on defamatory comments. This is a viewpoint discrimination. Let's see. Banning abusive language, which is subjective and is another example of viewpoint discrimination, banning vulgar language and swearing. These words are acceptable to say in any public forum.

Another speaker, Julia Dietrich, whose comments begin at approximately 2:00:05 offered comments in support of free speech and against “allowing post-pubescent biological males to compete in female sports.” Another speaker, Andrea Dietrich, whose comments begin at approximately 2:02:52, also spoke in support of her view of Title IX and about free speech, stating that it was a “concept [the Board] struggled with.”

All of these speakers were uninterrupted, and many of them were thanked by the Chair for their comments.

56. Mr. Blanchard's comments at the September 10, 2025 meeting begin at approximately 1:19:06 of the video. He began his comments by asking “Truth Slinger” to pass out an official notice to the Board members regarding what could happen to them if they do not respond to their constituents, and he stated that “especially Rita, Charles, Stacy, and Muffy” should pay attention to it, suggesting that those board members “have been hanging out with Hilary Clinton or something.” He then provided the following comments:

Why are we so focused on gender and not focused on teaching our kids or trying to get to the top? You talk about that trip. You mentioned federal funds. Guess what happens if you don't comply with Title IX? No more federal funds, Ms. Muffy, which means no trip. Second of all, did you guys get the email from Fire? Did she actually send that to you guys? Because I

know she held it back from the rest of the board. Did you guys get that? Because I also got a copy of that too. So I can approach the podium and give that to you guys too. Fire, you said you didn't have no idea who that is. Well, Fire is one of the top law firms in the country for First Amendment. The fact that they're emailing you and offering free help, they're putting you on notice. You're going to cost this district and the Augusta taxpayers a lot of money by doing what you're doing. Or you could just step down because honestly, that's probably the best thing for this district and honestly this board because you're supposed to be representing everybody sitting up there and you didn't send that email to nobody, you held it back. Katie had to bring it up. And then you just rushed through. You guys were so quick to try to change the rules. You guys spent how many meetings talking about this stuff instead of talking about how we can improve our test scores or how we can improve all this? We're talking about public comment. We spent months on this, right? And then you decided not to change anything. Why is that? Because you knew you were in the wrong and it's still in the wrong. It is still wrong. But you did all that to get us off of Title IX because you know what? Guess what's still going on in this school? Boys are still allowed to go in the same bathroom as little girls. Oh, they're going to call for a motion? Yeah. Your time is up. That's fine. I'll be back.

57. After Mr. Blanchard finished his comments, the next speaker, Kelly Smith, “yielded” her allotted time to Mr. Blanchard. The Chair believed that yielding time to another speaker was not permitted under the “Roberts Rules of Order,” by which the Board operates. While the Board tried to speak to one another to clarify whether this was allowed, Mr. Blanchard can be heard on the video interjecting, taunting the Chair, saying “Go ahead, go to executive session, I’m not leaving . . . Look it up. Go to executive session. Cry about it for a minute. . . awww.” The Chair conceded, telling Mr. Blanchard, “I will let you speak again if there is time at the end of the meeting . . . we actually have a time limit on how long our meetings can be.” Mr. Blanchard responded, “we were here until 10 o’clock one night because you guys went into executive session like four times.” After more back and forth, the Chair ultimately told Mr. Blanchard to “go right ahead,” to which Mr. Blanchard said, “Thank you, see, was that so hard? That hurt? You okay now? Good.”

58. Mr. Blanchard thus continued on with a second set of comments at the September 10, 2025 meeting, which were uninterrupted:

Speaking of that, when we were talking about, when I came in, I spoke about how we came in here and we sat all night till 9:30 and had to wait here all night. That was because I didn't get to say what I wanted to say. We don't care about coming in here and listening to the good things that you guys are doing in our school. It's the fact that when we sit here and you guys make us sit here all night, then when we get up here and immediately open our mouth, you kick us off the damn podium and we don't get to say anything. That's when it's a problem. That's when sitting here all night to 9:30. I don't mind public comment being at the end. I really don't. I'd like to see or hear the good things that you guys are doing. I mean, if there is anything, because like I just said, where is Cony ranked in Maine right now? We're in the bottom in both, middle school and high school. We're too focused on what someone identifies as. I emailed about furies. I know Mike, you said that there's none in the school this year, the year just started, but I know several parents that have reached out to me that their kids were disciplined because of this situation last year. Am I wrong? I know for a fact that one of them was kicked off a bus because one barked at them. How would you like if I sat up here for three minutes and just barked at you guys? Am my kids supposed to deal with that? And so my kid says something back and that's harassment and then he's got to go through some kind of course or whatever you guys think to not bully a kid that thinks he's a pet. What are we doing? Where is common sense here in Augusta? You can laugh. But it's the truth. You got kids walking around with cat ears and a tail thinking they're a cat. And parents that send their kids to school is the problem. Great. You can laugh all you want, but that's not acceptance. . . . But seriously, you guys can deny all this stuff. And then we're not allowed to come up here and make disparaging remarks or call things out, but you guys ain't responding to emails. And I know for a fact the reason why you guys won't respond to my email is because you know I'll post it on Facebook and X and you know that it'll get attraction and you guys don't want to be the clown of the show. But you know what, how easy it would be for you guys to be heroes and actually stand up for what is right and do the right thing and change course completely. It wouldn't be that hard. Stop letting boys' and girls' bathrooms comply with Title IX and let parents get up here and speak. It's not that hard.

59. Another speaker, Jane McGuire Tice, whose comments begin at approximately 1:29:44 of the September 10, 2025 Board meeting video, stated her belief that “disdain for free speech is a reason for the assassination today of Charlie Kirk” and then yielded the rest of her time to Mr. Blanchard. The Board then entered a recess before Mr. Blanchard’s third round of

comments. Upon returning from the recess, the Chair explained that Policy BEDH allows each speaker to have three minutes, and she candidly explained that, “yes, in the past, before I understood exactly how these meetings were going to go, I did let somebody cede. And I let you have extra time this time. I'm not giving you any extra time, Mr. Blanchard, this evening.” Mr. Blanchard responded, “I’m not having extra time. I’m having her minutes.” The Chair explained again, “that’s not allowed. I’m sorry . . . I’m asking you to step away [from the podium.]” Mr. Blanchard insisted, “go back into executive session.” Mr. Blanchard remained at the podium, and a recording of President Trump’s voice then started to play as audio throughout the room, at which point Mr. Blanchard said “listen to it for two minutes and everything will be fine. I’m just taking the three minutes.” The Chair asked for the assistance of Security in asking Mr. Blanchard to leave, at which point Mr. Blanchard did leave.

60. Another speaker at the September 10, 2025 meeting, Tim Bodner, began by ripping up what appeared to be the Board’s handout on Policy BEDH while stating “fuck your rules.” His comments begin at 1:45:26 of the video. He stated the following:

in light of what you said, fuck your rules. Your voice matters. I don't believe you. I don't believe you. You're not trustworthy. You arbitrarily and capriciously enact rules that you'd like to do just at your whim. Why watch all your policy meetings? And shame on you, stop telling this woman that this is limited speech. Yes, it's a limited. It's limited to education. This is a public forum, ladies and gentlemen. And if we talk about education, we can say damn well, whatever we please, and you better get used to it. And you need to take this policy and take it back to the policy committee because it went there because of the problems. And you think clamping down moral speech is a good idea? What are you out of your mind? What do you think you're going to do like people of me and Nick? We're going to come back here again and again and again. And you're going to say, "You can't do it this way. We're going to do it some other way." You know what? I didn't bring any props tonight. I didn't bring a flag. I'm not going to approach the diocese because it makes you uncomfortable, but I'm going to ask you when that timer goes off to let me finish tonight because one of ours fell today, Charlie Kirk, and you won't even stop to have a moment of silence for him. So I will. And the reason we're here, the reason he's dead is because you

keep clamping down. He was in the middle of answering a question about whether or not the transgender shooter might have had something to do with all the hormones he was pumped up with and he was assassinated, murdered. You know how many times I've walked in this people and I've heard people say, "I don't feel safe. I don't feel safe." Fuck you people. I don't feel safe from you and your ideology. What you pump into these children, what you fucking teach them.¹⁴ Okay, listen to me. What you teach them is creating them mental confusion and problems. And we're talking about Title IX. We're always supposed to be talking about education like that lady says. But then we're talking about chicks with dicks in bathrooms. Then we're talking about breeze speech issues. We're up in the ditch. Listen, this place, you better figure out who FIRE is. I put this in a ninth-grade level for you. I went into Grock and said, because apparently you don't understand college English people. Okay? You can't be arbitrary and capricious. Okay? You can't ban stuff, unfair, have neutral comments and now nice ones, but not criticism. You can't ban defamatory comments. You can't be the arbiter. And to be more subjective, you're out of your mind, you need to be more objective. It's not your responsibility to make sure the school doesn't get sued. That's way above your pay grade, lady. Okay? You don't have the brains to do that. That's what lawyers do. They figure out defamation. It's all right here. Okay? You can't ban my abusive language. You can't ban vulgar. You can't ban obscene. And this certain crap that you're putting in there about protecting all the LGBTQs, cues and the fuzzies and the furies and the shit I can't talk about up here. Oh, boy.

61. At this point, the Chair informed Mr. Bodner that his time was up, and he stated “no, it’s not,” kept speaking, and held up what he said was a letter from Pam Bondi, and he refused to leave the podium. When Security asked him to stop speaking, he did not, and the Board entered a recess while Mr. Bodner continued to shout in the room as Mr. Blanchard can be seen filming him.

62. When the Board reconvened, the Chair stated the following:

I would really like to continue public session. We've respectfully listened to you, and there've been disrespectful comments. There've been derogatory comments, there's been vulgar comments. We'd really like to hear from the public. We'd really like to hear from the public regarding educational issues.

¹⁴ At this point, the Chair can be heard attempting to interject, which can be heard at approximately 1:47:17 of the video.

Mr. Bodner continued to shout at the Chair from the back of the room, and the Chair stated the following before public comment was eventually able to go on:

If you continue to speak out, I will have the police ask you to remove you from this meeting. I don't want to do that. That's not the choice I want. I want to be able to let the people who have signed up to speak to share their comments with the Board this evening. That's what I'd like to have happen.

63. At the October 8, 2025 Board meeting, the Chair started the Board's Business meeting by explaining that the Board was going to "adhere more strictly to Robert's rules of order" in "order to restore the formality and civility that the board members, the audience, and the citizens of Augusta deserve. This can be seen at approximately 9:44 of the video.¹⁵

64. The Chair also explained at the start of the October 8, 2025 meeting how members of the public could sign up to speak at either the agenda or non-agenda public comment periods, and she explained that the Board wanted to "try to get everybody a chance to speak as best as we can." This can be heard at approximately 11:45 of the video. The Chair also asked members of the audience "to be respectful," recognizing that "this is a business meeting of the Augusta School Board." She asked that there be "no cheering, no heckling, [and] no clapping," stating that "we will warn you of any behavior that's disruptive of the meeting and give you a chance to remedy that. If you can't maintain a decorum that's appropriate for a board meeting, we will ask that you go to the overflow room to observe our meeting from there."

65. The first public comment period at the October 8, 2025 meeting was on agenda items and it can be seen at approximately 1:24:30 through 2:16:31 of the video. The second public comment period at the October 8, 2025 meeting was on non-agenda items, and the Board voted to hold its meeting beyond 10:30 p.m., until 10:50 p.m., in order to allow for that second public

¹⁵ The October 8, 2025 Board meeting can be viewed here:
<https://vimeo.com/showcase/augustaschoolboard?video=1117637333>

comment period on non-agenda items.¹⁶ That second public comment period can be seen at approximately 3:34:00 through 4:01:21 of the video.

66. Given that thirty-four people had signed up to speak at the October 8, 2025 meeting, the Board voted to extend the public comment period to 45-minutes per comment period instead of the usual 30-minutes per comment period.

67. The Chair began the public comment period by explaining Policy BEDH, which can be heard starting at approximately 1:13:30 of the video. The Chair stated, in part:

As I mentioned before, if it's necessary for me to interrupt you at any point, your time will be suspended, you won't lose it, and you'll get back wherever you ended up when you had to be interrupted. . . . Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language. . . . If you do have a complaint or procedure about an employee, you'll refer you to policy KE. That's our policy for complaints against employees. The chair has the authority to stop any presentation that violates these guidelines or the privacy rights of others. Persons who disrupt the meeting may be asked to leave and the chair may request law enforcement assistance as necessary to restore order. I hope that certainly won't be needed this evening.

68. At the October 8, 2025 Board meeting, three Augusta students offered comments throughout the first public comment period, which can be seen at approximately 1:24:51-1:26:53, and 1:38:24-1:39:34 of the video.

69. During the public comment period on agenda items at the October 8, 2025 meeting, at least ten other speakers expressed views similar to those that have been communicated by Mr. Blanchard, and none of them were interrupted during the three minutes that they were allotted to speak. State Representative Mike Soboleski, whose comments begin at approximately 1:28:11 of the video, spoke favorably about how school districts in Maine are “rolling back transgender accommodations in athletics and facilities” and about a recent school Board that “voted to

¹⁶ Board Policy BEDL requires that regular business meetings of the Board “be adjourned no later than 10:30 p.m.”

recognize only two sexes.” As part of his comments, Representative Soboleski referenced “Maine leaders and the MPA,” referring to the Maine Principal’s Association. City Councilor Kevin Judkins, whose comments begin at approximately 1:31:54 of the video, expressed concern for the District losing federal funding as a result of its Title IX policies. Kelly Smith, whose comments begin at approximately 1:34:27 of the video, communicated her view that the Board should “protect girls’ sports,” and that Title IX makes sure “that effort, skill, and determination, not gender, decide who earns a spot on a team.” Nathan Bassignani, whose comments begin at approximately 1:47:06, offered comments, asking “why is it that the Superintendent feels the need to lie to us?,” and he went on to express concern for whether the school system is facilitating gender-affirming care for students. Jane McGuire Tice, whose comments begin at approximately 1:48:58, suggested that the school could have a separate playing field and teams for transgender athletes. Ivy Coreless, whose comments begin at approximately 1:56:16 of the video, stated “policies that allow boys in girls spaces and girls in boys spaces or force trans kids into unsafe environments are doing real harm.” Rebecca Brooks, whose comments begin at approximately 2:01:21, suggested that the Board’s Policy ACAA has created a “chilling effect,” and she told the Board “you have created a threatening, unfair, and dangerous spaces for girls who are afraid to speak up.” Julia Dietrich, whose comments begin at approximately 2:05:33, urged the Board to uphold the national Title IX guidelines, stating that the Boards policies “chip away the spaces and opportunities that were created for girls and women to succeed.” Kim Sousi, whose comments begin at 2:08:38 of the video, encouraged the Board to “enforce Title IX as intended,” stating “the cast report demands adults stop participating in fads with children, especially fads that lead to medical and mental health intervention.” David Jones, whose comments begin at approximately 2:11:41, stated that “the idea of my daughters being in a locker room with some guy walking

around naked just doesn't fit well," and he told the Board that their job was to represent its constituents, and he stated that the discussions today are "mindboggling . . . because I've always believed that boys are boys and girls are girls" and he pointed out that the Bible only "says men and women" but "doesn't say trans" or "gay."

70. Mr. Blanchard's comments at the October 8, 2025 Board meeting begin at approximately 1:42:53. He began by asking the Board, "How you guys feeling tonight? Palms sweaty?" He then offered uninterrupted comments, explaining his view that "allow[ing] biological males identifying as females to compete in girls' sports and have access to private spaces like locker rooms and bathrooms" is "an inversion of the very protections Title IX was designed to uphold." He went on to cite statistics and a study related to this issue, and he urged the Board "to vote for clear, common sense policies, safeguard privacy in the locker rooms, bathrooms, and other intimate facilities." When the alarm went off, signaling that his allotted three minutes for speaking was up, he was permitted to speak for thirty additional seconds in order to finish the written comments that he appeared to be reading from.

71. Gabriel Berby, whose comments begin at 1:49:27 of the October 8, 2025 video, gave comments in support of the Board's current Title IX policies and encouraged the Board to comply with state and federal law. Berby then stated:

I am disgusted by the fearmongering and misinformation spewing forth from the mouths of some of the elected officials before me today. As a parent of an almost eight-year-old daughter and a nine-year-old son, I am relieved that those spreading misinformation and fearmongering tonight are not the ones in the classroom with my children.

At that point in Berby's comments, Mr. Blanchard shouted from the back of the room, "She's talking to us and you're not stopping her." The Board consequently took a recess, stayed in its seats, and paused Berby's time remaining for public comment. As the Board stood in recess,

Mr. Blanchard shouted from the back of the room, “When I get up there and make the same comments, I get shut down every time.” While the Board stood in recess, the audio and visual of the live-streamed Board meeting went away.

72. At the October 8, 2025 meeting, the Mayor of the City of Augusta provided comments during the comment period for non-agenda items, and those comments begin at approximately 3:35:04 of the video. Mayor O’Brien stated, in part, the following:

I’m here tonight not to take a position on any particular issue before this board, but to speak about how we engage with one another as a community. Our city has always prided itself on being a place where neighbors can disagree without becoming enemies, where we listen before we speak, and where we remember that every person in this room, no matter their viewpoint, cares about the same thing, the wellbeing of our children and the future of our community. Lately, our school board meetings have grown louder, more contentious, more tense, more divisive, and at times, less respectful. Passions are understandable. The topics we discuss affect our kids, our teachers, and our shared values. Passions naturally run high. That’s a sign that people care. But I want to remind us all that the way we speak to each other matters just as much as what we say. When anger replaces understanding and when personal attacks drown out dialogue, we all lose something precious, our sense of community. Democracy doesn’t work when only the loudest voices are heard. It works when we listen to one another, when we assume good intentions, and when we treat each other with dignity, even when we disagree. This room should be a place where every voice can be heard without fear, where disagreement doesn’t become disrespect, and where strong opinions can be expressed with civility. Democracy doesn’t depend on everyone agreeing. It depends on everybody being willing to listen. Students, parents, community members across our city are watching. Not just what is said, but how it is said. We are modeling something here where they’re learning from us what responsible citizenship looks like. Let’s show them that we can debate issues forcefully, but also respectfully, that we care deeply and still treat one another with dignity. Tonight, I urge everyone here to help us return to the best traditions of civic life, patience, civility, and mutual respect. Let’s model for our students the kind of thoughtful, constructive conversation we want them to practice in their lives.

73. Mr. Blanchard offered comments again at the October 8, 2025 meeting during the comment period for non-agenda items, his comments begin at approximately 3:46:10 of the video

and he was uninterrupted. During the beginning of Mr. Blanchard's second round of comments, two individuals can be seen undressing in the front row adjacent to where Mr. Blanchard was standing, and while they were undressing and dressing, he asked the Board,

Yeah, you feel uncomfortable, right? Feel uncomfortable, huh? That's what these young girls feel like every time a young boy changes in front of them. You can look at me like that all you want. That's exactly how they feel. And you, Ms. Murphy. Oh, well, I don't know if I stand with girls or if I stand with my ... So you don't care how young girls feel. You don't care about the safety of young kids?

Mr. Blanchard then continued on with more comments:

What about what happened in Virginia with that boy that raped a young girl in a bathroom, then got sent to another school and did it again? What are we going to do when that happens here? How are you going to look that girl in the face and said, sorry, I didn't protect you? This is Maine's capital. We should be setting an example for the rest of the state. You know what example you guys are setting? That we do not care about the young girls in this state. You guys care about politics. Oh, we can't change it because it's not law. It got changed by an executive order by Biden. Which is why we're here in the first place. You said you're ... I don't want to misquote, was it aunt, grandmother, I'm sorry, whoever it was, was part of that legal team that made it the law that it was at first, until Biden reversed it. So if you were voting with the law, you should have voted the first time. And when you were all just talking about you were thanking everybody- 57 seconds. ... you forget to thank the public, the people that put you in that seat. You guys get paid to sit here tonight. Guess what? We don't. I was at work all day and now it's almost 11 o'clock. I still haven't had dinner. I'm here on my free time. You guys are getting paid. So how about you thank the people that put you in that seat? Because without us, you wouldn't be there. Thank you. Have a good night.

74. Other speakers during the October 8, 2025 non-agenda comment period expressed similar views as that of Mr. Blanchard. Rhonda Snyder, whose comments begin at approximately 3:50:40, critiqued the Board's policies as they relate to the First Amendment. Tim Bodner, whose comments begin at approximately 3:53:20 and who identified himself as "the truth slinger," stated "I think the queer and trans thing is a social contagion," and "the law means shit . . . this whole

thing is all designed to quench free speech. . . time limits are hostile. They display you do not trust us, that I can't go on for three and a half minutes . . . Decorum goes both ways. When you don't look at me, when you run away, you run out of recess and you run away from us." When the timer for Mr. Bodner's allotted speaking time went off, he requested 30 more seconds to speak, and the Chair granted it. He then went on to say that he wanted an "open forum to talk about Title IX furries out of Maine in middle schools. Out Maine is putting up this crap . . . Communist teaching, school-based health clinics, antichrist teachings," and he requested a meeting with FIRE, his team, and the Board's attorneys to go over a redline. Brittany Young, whose comments begin at approximately 3:58:30, stated that "telling kids they can magically become the oppose sex or furries," is among the "masks of inclusion . . . otherwise known as Marxism," and she stated that "we are one sleep away from waking up to a socialist takeover with communist leaders." Young concluded that "honoring single sex spaces is the first step towards ensuring America remains the land of the free we all know and love." None of these speakers were interrupted during their allotted time for speaking.

75. At the November 12, 2025 Board meeting, the Chair began the non-agenda public comment period by reviewing the public participation policy, stating, in part:¹⁷

The purpose of carrying on official board meetings are conducted for the purpose of carrying on official business of the school system. They're open to the public, and the public is cordially invited to attend and to participate. Although board meetings are not public forums, the board will provide appropriate opportunities as long as the following guidelines are . . . adhered to . . . The chair may limit the time allowed for comments, and that's gonna be three minutes, which is what I usually assign for this during the time. . . . Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language. No complaints or allegations will be allowed at board meetings concerning any person employed by the school system or against particular students. . . . And the chair has the authority to stop any presentation that violates these guidelines or the privacy of others.

¹⁷ The non-agenda public comment period begins at 1:34:57 of the November 12, 2025 meeting, which can be seen here: <https://vimeo.com/showcase/augustaschoolboard?video=1125737656>

Persons who disrupt the meeting may be asked to leave and the chair may request law enforcement assistance as necessary to restore our order. I also ask that the audience please refrain from responding to comments and I ask the board members to, to not respond as well.

76. Mr. Blanchard's comments at the November 12, 2025 meeting begin at 2:00:50 of the video. His uninterrupted comments at this meeting were as follows:

Good evening, Augusta School Board. Let's start with a round of applause. Congratulations on becoming internationally famous as the woke liberal board that refuses to protect safe spaces for young women in Augusta schools. You made headlines worldwide for all the wrong reasons. Well done. You sneak through a tough election. But let's be honest, we didn't get enough conservative voters to the polls and we split a vote in, in one ward and handed you an extra seat on a silver platter. So now Augusta residents gets to suffer through one year of your radical woke agenda, just like America had to endure for four long years under the Biden administration and with their disaster before people finally woke up to what was at state. Mark your calendars. 2026 is coming. Three seats are up for grab. Ward Two—Susan Parks, Ms. Point of Order.¹⁸ Ms. Muffy and you, Mr. Hicks. And I'm, tonight I'm officially announcing that I am running for an at large seat in 2026. And make no mistake, we will replace you, Ms. Muffy, and we'll replace you, Ms. Point of Order. Your days of liberal domination on this board are numbered. Mr. Hicks, if you have the guts to run again, I challenge you right here, right now to a public debate, anytime, any place, you pick the moderator. Let's let the people see who actually stands for real education and who stands for woke indoctrination. Because here's the truth, you've turned school board meetings into taxpayer silencing sessions month after month. You've pushed radical policies while our kid test scores sit right at the bottom in Maine's ranking. Enough is enough. If I'm elected, I will fight like hell to protect safe spaces for young women. No more exp - No more expectations. No more compromises. I will rip out every woke policy you have shoved down our throats. I will stop silencing Augusta taxpayers and start listening to parents. We will hold real meanings. Not political theater forced on one thing, getting schools, getting Augusta schools back into Maine's top ten. No more excuses. No more distractions. We will make education first again. And I will fight, fight, fight to make that happen every single day. Thank you. Godspeed. And God help Augusta and its children if common sense doesn't win in 2026. I'm coming for you.

¹⁸ Mr. Blanchard referred to Board Member Susan Parks as “Ms. Point of Order” in a tone and with a gesture of his finger that I interpreted to be mocking Member Parks, who had just recently requested a “point of order.” At that moment in Mr. Blanchard's comments, the Chair stated “excuse m—,” and Mr. Blanchard continued on with his comments.

77. Two other speakers at the November 12, 2025 public comment period provided comments that conveyed views similar to those of Mr. Blanchard. Julia Dietrich, whose comments begin at approximately 1:51:49, criticized the Board’s decisions regarding its Title IX policy, urging the District to “follow the executive order” and asked the Board to “act decisively to protect our girls.” Another speaker, who at previous meetings stated that his name was Timothy Bodner or Truth Slinger but at this meeting stated that they identified as “Bella Balls,” said that they were “excited” to be at the meeting “in light of me changing . . . my identity,” and asked the Board “who’s gonna come tinkle with me” in the “women’s bathroom?,” stating “we can sit on the other side of the stalls” and “talk about girl things . . . lean in on the Maine Human Rights Act.”¹⁹

Executed: March 9, 2026

/s/ Michael Tracy Jr.

Michael Tracy Jr.

¹⁹ When Bella Balls’s comments focused only initially on asking the Board who among them would come tinkle with Bella Balls, the Chair interrupted to remind Bella Balls that the guidelines permit comment on educational issues. The Chair explained that her interjection to provide this reminder would not take away from the three minutes that Bella Balls was allotted, and thereafter did use, for comment.

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

NICHOLAS BLANCHARD,)
)
)
Plaintiff)

v.)

Civil Action No. 1:26-cv-00049-SDN

)
AUGUSTA BOARD OF EDUCATION,)
MARTHA WITHAM, Chair, Augusta)
Board of Education, in her official and)
individual capacities, and AUGUSTA)
SCHOOL DEPARTMENT,)
)
Defendants)

DECLARATION OF MARTHA WITHAM

Pursuant to 28 U.S.C. § 1746, I, Martha Witham, declare under penalty of perjury as follows:

1. I am the Chair of the Augusta Board of Education (the “Board”), a position I have held since the summer of 2023.
2. Prior to serving as the Chair, I served as a member of the Board starting in November 2020 when I was elected to the Board.
3. The Augusta School Department is a Maine school district that provides a free public education to students in Augusta, Maine. We operate four elementary schools, a middle school, and a high school, which together educates approximately 2,000 students. We employ approximately 450 full-time and part-time administrators, teachers, and staff.
4. In my role as Chair of the Board, I am responsible for running the Board’s monthly business meetings, which are open to the public to attend. Our business meetings are also broadcast live on our YouTube channel, and they remain available for viewing online on

our webpage of archived Board meetings. The link for our webpage with archived videos is: <https://vimeo.com/showcase/augustaschoolboard>.

5. The Board permits public participation at its Business meetings in compliance with 20-A M.R.S. § 1001(20). In 2025, we had two public comment periods at each of our meetings: one for comments on agenda items, and one for comments on non-agenda items. In response to feedback from the public, we now have one public comment period for all comments.
6. Augusta's Board Policy BEDH "Public Participation in Board Meetings" was adopted on March 13, 1989, and it has since been revised five times, most recently on March 6, 2023. A copy of our current Policy BEDH is attached hereto as **Exhibit A**.
7. The Policy contains eleven provisions (A through K) that govern the structure of the public comment period and provide rules of conduct for speakers. These rules are designed to promote public participation at our meetings, by providing for decorum, and to ensure that public comment complies with applicable law, including respecting the privacy and due process rights of our employees.
8. I summarize Policy BEDH prior to the first public comment period at each meeting.
9. Pursuant to the Policy, every speaker is allotted the same amount of time for public comment at each meeting. I previously calculated from meeting to meeting how much time we could give each speaker, depending on our agenda length and how many people signed up to speak that night. Starting sometime in 2025, I began consistently allotting three minutes to each speaker to keep things consistent and predictable for members of the public who wish to speak or attend our meetings.

10. The Policy provides me with the authority to stop any speaker's comments that violate the rules and to ask individuals who disrupt the meeting to leave. It also provides me with authority to "request law enforcement assistance as necessary to restore order." When a speaker has violated Policy BEDH, I always provide that speaker with a warning first before I stop them from completing their time for public comment. And I only request the assistance of law enforcement if a speaker refuses to leave the podium so that we can continue with our Business meeting.

11. Starting around January 2025, there was an increase in the number of people coming to speak at the Board's public comment periods, and Policy BEDH itself started to become a focus of some speakers' comments and criticism. I tried to take steps to respond to the concerns that we were hearing from the public about Policy BEDH. For example, at the August 2025 meeting, our Board made available a handout with the guidelines for public comment, which is attached hereto as **Exhibit B**. We also printed off copies of Board Policy KE, which is available online, to be sure that attendees were aware of our process for them to submit concerns to the District, including any complaints about specific personnel. Board Policy KE is attached hereto as **Exhibit C**.

12. Members of the public are looking to us, as the Board, to control the public comment period so that they can listen to and provide comments in an orderly fashion. I consistently try to maintain order and allow all speakers to express their opinions regardless of their viewpoint.

Executed: March 9, 2026

/s/ Martha Witham
Martha Witham



Code: BEDH

PUBLIC PARTICIPATION AT BOARD MEETINGS

Board meetings are conducted for the purpose of carrying on the official business of the school system. All meetings of the Augusta Board of Education are open to the public. The public is cordially invited to attend and participate in Board meetings as provided in this policy. Board meetings will be conducted in person unless the Board calls a remote meeting per policy BED. This policy applies only to meetings of the full Board, not to meetings of Board subcommittees.

Although Board meetings are not public forums, the Board will provide appropriate opportunities at its meetings for members of the public to express opinions and concerns related to the matters concerning education and the Augusta Board of Education schools. The intent is to allow a fair and adequate opportunity for the public to be heard while ensuring that the time allowed for public discussion does not interfere with the fulfillment of the scheduled agenda.

The Board will designate a portion of its agenda as an opportunity for public participation. During the time allotted for public participation, members of the public may speak on any subject directly related to the operations of the schools, except for personal matters or complaints concerning specific employees or students, which shall be addressed through established policies and procedures.

Members of the public may address the Board within the guidelines provided in this policy. The Chair shall be responsible for maintaining proper order and compliance with these guidelines.

The following guidelines shall apply to public participation at Board meetings.

- A. Citizens and employees of the school unit are welcome to participate as provided in this policy. Others may be recognized to speak at the Chair's discretion. Individual employees and/or employee groups will not be permitted to discuss matters for which complaint or grievance procedures are provided. Those addressing the Board need to state name and address for the record.

Code: BEDH

- B. The Chair may limit the time allotted for comments on a particular topic as well as the time each individual may speak.
- C. In the event of a sizable audience, the Chair may require persons interested in speaking to sign up so they may be called on in a fair and efficient manner.
- D. During the time set aside for public participation, the Chair will be responsible for recognizing all speakers, who must identify themselves as they begin talking.
- E. Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language.
- F. All speakers are to address the Chair and direct questions or comments to particular Board members or the Superintendent only with approval of the Chair. Requests for information or concerns that require further research may be referred to the Superintendent to be addressed at a later time.
- G. Members of the Board and the Superintendent may ask questions of any person who addresses the Board but are expected to refrain from arguing or debating issues. Questions must be addressed through the Chair.
- H. No complaints or allegations will be allowed at Board meetings concerning any person employed by the school system or against particular students. Personal matters or complaints concerning student or staff issues will not be considered in a public meeting but will be referred through established policies and procedures.
- I. In order to make efficient use of meeting time, the Board discourages duplication or repetition of comments to the Board. The Board requests that groups or organizations be represented by designated spokespersons.
- J. The Chair has the authority to stop any presentation that violates these guidelines or the privacy rights of others.

Page 2 of 3

AUGUSTA BOARD OF EDUCATION

CODE: BEDH

- K. Persons who disrupt the meeting may be asked to leave, and the Chair may request law enforcement assistance as necessary to restore order.

An agenda shall be published in advance of each meeting in accordance with Board policy. The agenda for remote meetings will include information on how the public is able to participate during the times noted on the agenda for public participation. Members of the public who need accommodations should contact the board chair. Copies will be posted and/or available prior to regular meetings, on the school unit's website. Anyone desiring additional information about an agenda item or a hard copy of the agenda should direct such inquiries to the Office of the Superintendent.

Opportunity for public participation at Board subcommittee meetings is not required but may be permitted at the discretion of the subcommittee.

Legal Reference: 1 MRSA § 401 et seq.
20 MRSA §1001(20)

Cross Reference: BEC – Executive Session
BED – Remote Participation in School Board Meetings
BEDA – Notification of Board Meetings
BEDB – Agenda
BEDD – Rules of Order
KE – Public Concerns and Complaints

Adopted: March 13, 1989

Revised: July 10, 2002; October 12, 2011; April 8, 2020, April 13, 2022, **March 6, 2023**



YOUR VOICE MATTERS!

Join Augusta School Board Meetings



COMMUNITY PARTICIPATION WELCOME!

What You Need to Know

Open to Everyone!

All Board meetings are open to the public

Education Focus

Speak about school and educational matters

Your Platform!

Public participation on every agenda

Fair & Organized

Speak respectfully so that everyone gets heard

Simple Speaking Guidelines

State your name & address for the record

Address the Board Chair directly

Stay on topic - school-related matters only

Keep it respectful - no gossip or personal attacks

Time limits may apply for fairness

Sign up if there's a large audience

What NOT to Discuss

Personnel Issues

Complaints about specific employees

Grievance Matters

Issues with established complaint procedures

Student Privacy

Complaints about particular students

Not a forum for complaints

See Policy *KE to lodge a formal complaint

Meeting Information

Published Agendas

Available online and at meetings in advance

Accommodations

Contact the Board Chair for special needs

Questions Welcome

Board members may ask clarifying questions

BE PART OF THE CONVERSATION!

For agenda copies or questions:

Contact the Office of the Superintendent

Visit our website for meeting schedules & agendas: <https://www.augustaschools.org/>



Code: KE

PUBLIC CONCERNS AND COMPLAINTS

Parents, students or other citizens with complaints or concerns regarding any aspect of the Augusta School Department or an employee thereof shall be encouraged to seek a resolution at the lowest possible level. The only exceptions are complaints that concern Board actions or operations. Such complaints should be addressed to the Board Chair. Those submitting complaints or concerns will receive acknowledgements and/or responses in a timely manner.

If the complaint cannot be resolved at the lowest level, the person initiating the complaint may appeal the decision to the next level (e.g., Teacher, Principal, Directors, or Assistant Superintendent).

If the complaint cannot be resolved at any lower level, it may be appealed to the Superintendent. If the complaint remains unresolved at the Superintendent's level, the person making the complaint may request that the matter be placed on the agenda of the next regular Board meeting. The Superintendent/Board Chair shall determine whether the complaint should be placed on the agenda.

At all levels of the complaint process, school employees are required to inform the person making the complaint of his/her right to appeal the decision to the next level.

This policy shall not be utilized by employees for matters or grievances relating to any term or condition of their employment. Such matters shall be addressed through established channels for grievances.

Cross Reference: BEDB – Agenda Preparation and Dissemination
 BEDH – Public Participation at Board Meetings

Adopted: May 8, 2013

Revised: July 13, 2016, June 8, 2022

AUGUSTA BOARD OF EDUCATION