

To: Craig Wood
From: Tom Brandt, Laura O’Leary, Christopher Brandt
Date: July 3, 2023
Re: Investigation of [REDACTED] Complaint

Craig,
Please accept this report on our investigation of Humble ISD employee [REDACTED]’ complaint about Humble ISD [REDACTED], [REDACTED].

Investigation Overview

We were engaged by Craig Wood, of the law firm Walsh Gallegos Trevino Kyle and Robinson, P.C., to investigate [REDACTED]’ departure from the HISD Athletic Department and to investigate [REDACTED]’ complaints against her supervisor, [REDACTED], to enable Mr. Wood and his firm to provide legal advice to their client, the HISD Board of Trustees, regarding these matters. We have been asked to determine the current status of each party’s employment and whether [REDACTED]’ complaints asserting violations of law and District policies are supported by documentation and others’ experiences.¹ We have no firsthand knowledge about the events underlying [REDACTED]’ complaints and have no previous relationship with any of the individuals involved. Instead, we are reporting about information provided by current and former District employees and information found in various District documents and/or District employees’ communications, to enable Mr. Wood and his firm to provide legal advice to the District’s Board.

Concerns About Possible Retaliation

Many people we interviewed expressed concerns about possible retaliation against themselves and/or their family members for participating in this investigation. To protect these individuals, we are generally not identifying which individuals provided us with specific information.

Methodology

We received and reviewed documents from [REDACTED], [REDACTED], and District personnel. We also obtained documents from the District’s website. The documents we reviewed generally fall into the following categories:

- Communications from [REDACTED] and her attorney, with attachments, including additional documents provided during and after [REDACTED]’ interviews.
- Communications from [REDACTED] and his attorney, with attachments, including additional documents provided during or after [REDACTED]’s interview.
- HISD Board Policies.
- HISD Employee Handbook, dated July, 2022.
- Documents from the personnel files for [REDACTED] and [REDACTED].
- Documents from HISD’s Human Resources Department.

¹ We have also been asked to conduct the neutral, third party investigation identified in Humble ISD’s Board Policies regarding Title IX complaints. That process is ongoing, and this document is not intended to be the report contemplated by Humble ISD’s Title IX policies.

- Organizational Charts for HISD’s Athletic Department and Human Resources Department.
- Emails concerning staffing and remuneration of Athletic Department personnel.
- Communications among HISD personnel relating to Athletic Department positions.

Issues and Findings

Issue 1: The Parties’ Current Employment Status

A. [REDACTED]

[REDACTED] is under contract for the 2023-24 year. [REDACTED] received a contract from HISD on May 12, 2023 and signed it the same day. As is standard practice for the District, [REDACTED]’s contract does not identify his position. Instead, it is entitled “One Year Term Contract for Certified Professional Positions” and states that “Employee agrees to serve the Board as a certified professional by engaging in duties as assigned by the Superintendent.” Exh. A. This is the same language that was in [REDACTED]’s 2022-23 contract.

[REDACTED] has been on administrative leave with pay since May 22, 2023, pending investigation of “allegations brought forward as to [his] level of conduct and behavior being unprofessional and inappropriate.” Exh. B.²

B. [REDACTED]

[REDACTED] and her attorney have notified us that she wishes to rescind her prior statements that she was retiring.

[REDACTED] received a contract from HISD on June 7, 2023 and signed the contract on June 14, 2023. As is standard practice for the District, [REDACTED]’ contract does not identify her position. Instead, it is entitled “One Year Term Contract for Certified Professional Positions” and states that “Employee agrees to serve the Board as a certified professional by engaging in duties as assigned by the Superintendent.” Exh. C. This is the same language that was in [REDACTED]’ 2022-23 term contract.

[REDACTED] went home on April 26, 2023 after meeting with [REDACTED], [REDACTED] [REDACTED]. Although [REDACTED] originally recorded her absences as personal days, on May 22, 2023, [REDACTED] sent [REDACTED] a letter notifying her that she was on administrative leave with pay, retroactive to April 27, 2023. Exh. D.

Relevant Policies:

DFBA (LOCAL) addresses administrative leave and states:

² [REDACTED]’s administrative leave letter refers to his “decision to voluntarily be placed on administrative leave” pending the investigation. We found evidence that the Board President gave [REDACTED] the option to volunteer to go on administrative leave in lieu of being placed on leave involuntarily.

A term contract employee may be suspended with pay and placed on administrative leave by the Superintendent during an investigation of alleged misconduct by the employee or at any time the Superintendent determines that the District's best interests will be served by the suspension.

DCB (LEGAL) and DCB (LOCAL) address term contracts for professional employees.

Issue 2: The Environment Within the Athletic Department

A. Overview

Many interviewees characterized the Athletic Department as having a casual, friendly environment in which the employees got along and joked around with each other. However, Athletic Department interviewees universally characterized ██████'s temper and emotional outbursts as being a problem for years which became worse during the 2022-23 school year. Interviewees also noted that cursing is common within the Athletic Department, from ██████ and some others. Many interviewees said that the atmosphere in the Athletic Department became more professional when people from outside the Department were present. We heard repeatedly that ██████ discouraged Athletic Department personnel from discussing matters that took place within the office with people from outside the office, even with employees' spouses. Several interviewees used some variation of the phrase, "what happens in the Athletic Department stays in the Athletic Department."

B. Sexually Explicit Comments

We found strong corroboration from many witnesses for ██████'s claims that ██████ repeatedly made sexually explicit comments about Athletic Department personnel or other District personnel. These included sexually explicit comments about people's anatomy and people's clothing or footwear. Witnesses also told us about at least one comment ██████ made about a woman's breasts, which people working at a District athletic event, not just people from within the Athletic Department, heard.

We also found corroboration that some other individuals within the Athletic Department made sexually explicit comments, including comments about one another's appearance, clothing, and/or footwear.

Some individuals within the Athletic Department denied being made uncomfortable by ██████'s sexually explicit comments, but others expressed discomfort with such comments and with the fact that sexually explicit comments were permitted within the Athletic Department.

C. ██████'s Temper

We found strong corroboration for ██████'s claims that ██████'s temper and emotional outbursts have negatively affected the working environment within the Athletic Department. Witnesses support the contention that ██████ frequently cursed at and/or belittled certain Athletic Department personnel when he was in a bad mood. Witnesses agree that the problems

arising from ██████'s temper and emotional outbursts have been going on for years, but they got sharply worse during the 2022-23 academic year. We found strong corroboration of allegations that ██████ has repeatedly thrown and/or broken District equipment, including phones, keyboards, and a headset. Witnesses and documents corroborated ██████'s contention that Athletic Department personnel would regularly warn one another about ██████'s mood. Witnesses also supported the contention that, when he was in a bad temper, ██████ would frequently leave the Athletic Department office without providing information about where he was going. This sometimes interfered with other people's ability to perform their duties.

Relevant Policies:

DAA(LEGAL) addresses "Equal Employment Opportunity" including the prohibition on discrimination based on sex, including discrimination based on sexual orientation.

DIA(LEGAL) and DIA (LOCAL) address discrimination against employees based on sex, including sexual harassment.

DIA(LOCAL) states:

Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, religion, sex, national origin, age, disability, or any other basis prohibited by law, that adversely affects the employee's employment.

DIA(LOCAL) provides the following definition of "Prohibited Harassment" and includes offensive jokes, name calling, and slurs as examples of harassment:

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee's race, color, religion, sex, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment;
- or
3. Otherwise adversely affects the employee's performance, environment, or employment opportunities

FFH (LEGAL) addresses sexual harassment in violation of Title IX and identifies legal requirements for the processes for addressing formal complaints under Title IX.

The District's "Title IX Formal Complaint Procedures" addresses the District's obligations once a formal Title IX complaint has been filed.

DH (EXHIBIT) addresses "Ethical Conduct Toward Professional Colleagues" and includes the following standards:

Standard 2.5. The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, gender, disability, family status, or sexual orientation.

Standard 2.8. The educator shall not intentionally or knowingly subject a colleague to sexual harassment.

DFBB (LOCAL) addresses nonrenewal of term contracts and identifies the following as possible reasons for nonrenewal:

Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, or colleagues.

Use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.

Issue 3: Perceptions Regarding ██████'s Relationship with ██████

A. Knowledge of the Relationship

Many witnesses said that the District's ██████ has spent significant time in the Athletic Department for years. As a result, many witnesses believed that ██████ and ██████ were in a romantic relationship.

We found evidence that either ██████ or ██████ told various individuals within HISD's central administration and/or within the Athletic Department that they were, in fact, in a romantic relationship and that the Board of Trustees had approved of this relationship.³ Witnesses claim that they received such communications either during the Spring or Fall of 2022.

B. Effect Upon District Personnel

We found evidence that the initial perception and subsequent confirmation of this relationship affected HISD personnel and/or processes in several ways.

With respect to Athletic Department personnel, we found strong corroboration of ██████'s contention that Athletic Department staff have been reluctant to complain about ██████'s behavior due to his relationship with the ██████.⁴ Many witnesses identified this relationship as the cause of their concerns about possible retaliation for their having participated in this investigation as well as the reason they did not complain to anyone about ██████'s behavior.

³ It is our understanding that the Board was not formally informed that ██████ and ██████ are cohabiting.

⁴ Some witnesses told us that ██████ was present in the Athletic Department for at least one of ██████'s emotional outbursts. Evidence supports the finding that, in ██████'s presence, ██████ accidentally cut himself and began bleeding when he, as part of an angry outburst, broke a computer keyboard. ██████ denies that she witnessed such an event.

Our investigation found evidence that, because of this relationship, central administrators did not pursue ordinary procedures identified in District policies concerning grievances and Title IX complaints in connection with ██████'s complaints about ██████. This has led to a situation in which a high level District employee has been on administrative leave for more than two months and another high level District employee has been on administrative leave for more than one month, while the Athletic Department is functioning without a Director and with two newly hired Assistant Directors.

C. ██████'s Concerns About Unequal Treatment

██████ has expressed strong dissatisfaction with what she perceives as unequal treatment of ██████ in connection with administrative leave, and she attributes this to ██████'s relationship with ██████. Specifically, ██████ complains: (1) that ██████ was permitted to continue working in the Athletic Department after he was given a copy of ██████'s May 4, 2023 complaint, thereby enabling ██████ to compromise the investigation by speaking with his staff about ██████'s complaint; and (2) that ██████ has been allowed to attend District or UIL events as a representative of HISD even though he is on administrative leave.

The evidence strongly supports the contention that ██████ was permitted to continue working in the Athletic department for several weeks after District personnel received ██████'s May 4, 2023 complaint about ██████ and after ██████ received a copy of this complaint. However, we have not found corroboration of ██████'s concerns that ██████ spoke to Athletic Department personnel during that time period in a way that affected their participation in our investigation. Instead, our perception is that the Athletic Department personnel we interviewed were honest and forthcoming in their responses to our questions.

The evidence also strongly supports the contention that ██████ was permitted to attend graduation ceremonies for his ██████ and ██████'s ██████ while he was on administrative leave, and that ██████ sat on the stage, wearing a robe, and posed for pictures on stage during these ceremonies with ██████ and ██████'s ██████. ██████ attended these ceremonies and sat on the stage for these ceremonies with ██████'s written permission. Exh. E.⁵

██████ has since expressed concern about ██████ allegedly attending a UIL event with ██████. We believe that she is referring to the Texas High School Athletic Directors Association conference which was held in a resort hotel in Round Rock, Texas from June 11-14. On June 5, 2023, ██████ asked for permission to attend an Athletic Director conference on Sunday, June 11, 2023. ██████ denied permission. ██████ then noted that he had plans to take his family and asked whether he was allowed to stay at the conference hotel with his family if he paid for his room and did not attend the conference which took place in the hotel's conference center. HISD's ██████, gave ██████ permission to do so, saying, "What you do with your family is up to you. Family time is outside of school

⁵ ██████ denied ██████'s subsequent request to attend a golf tournament on June 1, 2023 and to work as an administrator for an event for an outside group at Turner Stadium on June 3-4, 2023.

business.” ██████ then noted that his authority is limited to decisions about attendance at district or school events, so he agreed with ██████’s determination. ██████ counseled ██████ not to discuss the pending case if other employees, parents, or students were present. Exh. F.

Relevant Policies

Policy DK (LOCAL) addresses “Disruptive Relationships” and states:

Employees who are engaged in a personal relationship either by marriage, dating, or other scenarios who are not otherwise prohibited by this policy from working in the same department, campus, or building may be reassigned or may face other employment consequences if the relationship becomes disruptive to the operations of the District or if the relationship is not in the best interests of the District.

Policy DFBA (LOCAL) addresses administrative leave.

Issue 4: ██████’ Retirement, Rapid Replacement, and Rescission

██████ contends that, on April 19, 2023, ██████ called her into his office to discuss his decision to hire ██████ to replace ██████, who had resigned as Assistant Athletic Director in July of 2022. This meeting included a discussion of job duties, and ██████ perceived that ██████ was giving her additional responsibilities. ██████ then requested information about a position review to increase her salary in response to extra duties. This led to a tense confrontation between ██████ and ██████ relating to salary and job title issues. ██████ then stated that she would go ahead and retire. ██████ then spoke with ██████, ██████, about retiring in December of 2023. ██████ did not complete any retirement paperwork and still has not done so.

We found evidence that ██████’ position was filled with unusual rapidity, and District personnel did not follow the typical procedures of posting the vacancy and gathering relevant employees to interview multiple applicants.

Instead, very shortly after his April 19, 2023 meeting with ██████, ██████ contacted ██████, who was then serving as a coach and ██████ at a high school in HISD, asking whether she would interview for the ██████ position from which ██████ was retiring.⁶ During the morning of April 19, 2023, ██████ interviewed first with ██████⁷ and then with ██████. At noon on April 19, 2023, ██████ sent an email to ██████ and ██████ stating, “██████ has just let us know she intends to retire at the end of December” and recommending that the District double staff ██████’ position from July 1-December. ██████ supported ██████’s desire to fill both ██████ positions from the pool created in connection with ██████’s vacancy and encouraged ██████ and ██████ to “come in strong on offers” with the

⁶ Although ██████ initially applied for the ██████ position that had been ██████’s, she withdrew her name from consideration after deciding that she wasn’t ready to give up coaching yet.

⁷ We found evidence that candidates for the ██████ position that had been ██████’s were interviewed first by a committee including ██████, not by ██████ alone.

expectation that the Board would approve [REDACTED] and [REDACTED] for these positions at the April 25, 2023 Board meeting. Exh. G. On April 20, 2023, at 12:21, [REDACTED], emailed [REDACTED] to offer her the position from which [REDACTED] was retiring. [REDACTED] accepted this offer about an hour later. Exh. H.

Although [REDACTED] admits that she spoke with several people within the District about retiring and that she anticipated continuing to work for HISD through December to train the incoming [REDACTED]s, [REDACTED] has notified us that she wishes to rescind her retirement. [REDACTED]' attorney has provided us with examples of several other HISD employees who announced their retirement and subsequently rescinded, including [REDACTED]. When [REDACTED] rescinded his retirement from the [REDACTED] position, the Board created a second [REDACTED] position to enable him to remain with the District. Of the four other District employees who rescinded their retirements, only one returned to the position from which she announced her retirement, and she did so very quickly, before the position had otherwise been filled. Two of the five District employees who previously rescinded their retirements were male.

Relevant Policies

DAA(LEGAL) addresses "Equal Employment Opportunity" including the prohibition on discrimination based on sex, including discrimination based on sexual orientation.

DIA(LEGAL) and DIA (LOCAL) address discrimination against employees based on sex.

Issue 5: Salary Reviews and Stipends for the [REDACTED] Position

[REDACTED] contends that [REDACTED] did not seek to obtain salary increases for her position. She also contends that District personnel violated District policies by not providing [REDACTED] with the opportunity to grieve any result of the District's position review process with respect to any reviews of her salary. [REDACTED] also contends that her male colleague, [REDACTED], was paid the same amount as she was despite having fewer responsibilities.

Please note that HISD distinguishes between: (1) the position review process, which considers whether to increase or decrease the salary associated with a position due to permanent changes in duties or due to a need to align the position's salary with market conditions; and (2) the stipend process, which provides additional payments within one academic year based on temporary changes to an employee's duties.

We did not find support for [REDACTED]' contention that her male colleague, [REDACTED], was paid the same amount as she was despite having fewer responsibilities. Instead, [REDACTED] received annual salaries that were at least \$11,588 higher than [REDACTED]'s salaries. Exh. I.

Although [REDACTED]' salary and/or stipend(s) have increased over the years, with the exception of the 2022-23 year, we found no evidence that [REDACTED] pursued any formal process within the District in an effort to obtain pay increases for [REDACTED].

For the 2019-20 year, we found evidence that ██████ received an equity adjustment which increased her salary beyond the general increase District employees received. This adjustment did not proceed through the District's usual position review process, which is initiated by an employee's supervisor. Instead, this adjustment resulted from a broader reorganization which included ██████ taking on a new title and additional responsibilities for the Fine Arts Department. Exh. J.

For the 2020-21 year, we found evidence that ██████ received no salary increase, but she did receive an increase in her travel stipend. It is unclear who initiated the process which resulted in the increased travel stipend. HISD did not provide a general increase for its employees that year. Exh. J.

For the 2021-22 year, we found evidence that ██████ received an increase in her salary equal to the general increase for District employees, and the District rolled ██████' \$6,000 travel stipend into her salary. Rolling the travel stipend into base salary was advantageous to ██████ because it resulted in a higher salary for TRS retirement calculations. Exh. K.

For the 2022-23 year, we found evidence that ██████ received an increase in her salary equal to the general increase for District employees. Additionally, ██████ received \$8,000 in stipends due to additional tasks she was temporarily assigned after the other ██████, ██████, resigned in July of 2022. Exh. L.

When ██████ resigned, ██████ decided not to replace him immediately, because ██████ thought doing so would hurt students by taking away a coach mid-year. Instead, ██████'s duties were temporarily reassigned to several people. ██████ and ██████ took on the bulk of ██████'s duties. ██████ claims that he went to ██████ hoping to get \$20,000 for ██████, in recognition of the burden of these additional duties. Although we received testimonial support for this contention, we found documentation showing that ██████ sought an additional payment of only \$12,000 for ██████. In response to this request, ██████ explained that \$6,000 is the limit the Board imposed on stipends. Exh. M. Although ██████ initially sought a \$12,000 stipend for ██████ and smaller stipends for himself and the two other employees who took on some of ██████'s duties, after learning that he was not eligible for a stipend and that stipends could not exceed \$6,000, ██████ obtained \$6,000 stipend for ██████ and two other employees. ██████ does not appear to have rebalanced the reassignment of ██████'s duties in connection with the limitation on the size of the stipend, so it appears that two male employees received the same stipend as ██████ while they were given fewer temporary duties.

Since the 2019-20 year, ██████' salary has been above the midpoint but well below the maximum salary for the applicable pay grade for her position. Exh. N. The pay grade for the ██████ positions has not changed in the last four years.

Relevant Policies

DEA (REGULATION) explains the position review process. Key provisions: "Positions that have already been considered for review and/or are already evaluated causing a change in pay

grade in the last two years are not eligible for resubmission.” “An employee not in agreement with the decision of the job evaluation committee outcome may appeal to the Board in accordance with DGBA (LOCAL).”

February 9, 2023 Memo from [REDACTED] “2022-23 Position Review Process. Key provisions: “For a position to be considered, it must:

- be assigned in the midpoint salary schedule
- have experienced a significant change in job duties during the 2022-2023 employment year
- have not been reviewed by the [Job Evaluation] Committee or HR within the past two years.”

Supplemental Duty Pay Situations. Key provisions: “Available Stipend (as approved in the 2022-23 Budget)

- District Wide Impact (max per fiscal year) up to \$6,000.”

DGBA (LOCAL) explains the grievance process and the process for appeal to the Board.

DEAA (LOCAL) addresses stipends and provides:

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the Fair Labor Standards Act (FLSA), as needed, within budgeted amounts. [See DK(LOCAL)] The employee shall be compensated for these assignments according to the compensation plan of the District.

DAA(LEGAL) addresses “Equal Employment Opportunity” including the prohibition on discrimination based on sex, including discrimination based on sexual orientation.

DIA(LEGAL) and DIA (LOCAL) address discrimination against employees based on sex.

Issue 6: Failure to Promote to [REDACTED]

[REDACTED] contends that [REDACTED] discriminated against her based on her sex when he did not promote her to the position of [REDACTED]. [REDACTED] contends that, in 2020, [REDACTED] told her that he had the opportunity to add an [REDACTED], but he did not want to cause hurt feelings between her and [REDACTED]. [REDACTED] contends that the “denial of the promotion to [REDACTED] simply because he did not want to ‘cause hurt feelings’ with her male peer constitutes illegal gender discrimination.”

We have not found support for this contention. We have not found any evidence that an [REDACTED] [REDACTED] position became open in 2020, nor have we found support for the contention that [REDACTED] had the authority to promote [REDACTED] or to prevent her promotion.⁸ Although [REDACTED]’s title changed to [REDACTED] and [REDACTED] took on additional responsibilities over the Fine Arts department, [REDACTED] in fact continued to serve as

⁸ Please note, however, that, in [REDACTED]’ July 19, 2018 performance evaluation, [REDACTED] expressed the desire to involve her more on the financial side because “This will give you knowledge and confidence as you prepare to be an [REDACTED] You are MORE than ready for that role and the responsibilities associated with it.” Exh. O.

██████████ for the District. We also received testimonial support for the proposition that HISD did not want to create a separate ██████████ position after ██████████'s title changed and duties expanded.

Relevant Policies

DAA(LEGAL) addresses "Equal Employment Opportunity" including the prohibition on discrimination based on sex, including discrimination based on sexual orientation.

DIA(LEGAL) and DIA (LOCAL) address discrimination against employees based on sex.

Issue 7: ██████████'s References to ██████████' Domestic Partner

We found support for ██████████' contention that ██████████ made references to ██████████' domestic partner, ██████████, during an interview with an external candidate for ██████████'s Assistant ██████████ position and in an email ██████████ sent to campus ██████████. With respect to the interview, in an attempt to demonstrate his desire that Athletic Department personnel pursue life balance, ██████████ mentioned that ██████████ recently returned from a trip to Colorado with her partner, ██████████. The communication to campus ██████████ was in an email ██████████ sent announcing ██████████' retirement and the decision to hire ██████████ and ██████████.

██████████ wanted to notify the campus ██████████ about ██████████' retirement and the fact that ██████████ and ██████████ had accepted the ██████████ positions. ██████████ and ██████████ dispute the content of their communications about who should announce ██████████' retirement, but it is undisputed that ██████████ sent an email to the campus ██████████ on Sunday evening, April 23, 2023. ██████████ is deeply hurt and upset that she was not the one to make the announcement, but ██████████ contends that ██████████ authorized him to do so.

In his April 23, 2023 email, ██████████ said the following about ██████████:

I want to let everyone know that ██████████ has decided to retire. Obviously, she has been my rock and strength the last 5 years and while I am happy for her and ██████████ it is a huge loss for me personally and our office and this district. Her presence has made us so much better and I am extremely grateful for her as a coworker and more importantly as a friend.

Exh. P.

██████████ sent this email to 31 people in addition to ██████████. ██████████ believes that the campus ██████████ forwarded this email to their coaches, in which case approximately 300 people would have received it. We did not find support for this belief. To the contrary, based on a search the IT department did for us about who forwarded the email, it appears that only 5-6 other people received this email.

We found support for ██████'s contention that ██████ spoke about ██████ in the Athletic Department offices and that ██████ sometimes attended HISD events. However, we also found support for ██████' contention that she is private about her personal life outside of the office and that ██████ revealed details about her personal life to people outside of the office without ██████' permission. We found no evidence that ██████ shared this information with any malicious motive or negative intent.

██████████ believes that, by sharing information about her domestic partner, ██████ violated Standard 2.1 of the Educator's Code of Ethics found in Policy DH (EXHIBIT) as well as the District's prohibition of discrimination because of sex, including discrimination on the basis of an individual's sexual orientation, found in Policy DAA (LEGAL).⁹

Relevant Policies

DAA(LEGAL) addresses "Equal Employment Opportunity" including the prohibition on discrimination based on sex, including discrimination based on sexual orientation.

DH (EXHIBIT) addresses "Ethical Conduct Toward Professional Colleagues" and states:

Standard 2.1. The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.

Issue 8: Events of April 25 and 26, 2023

We found evidence that ██████ and ██████ had a meeting on Tuesday, April 25, 2023 because ██████ perceived that ██████ was angry with him. During this meeting, ██████ told ██████ that she was leaving HISD because of him and the toxic and abusive work environment he had created for ██████ and others in the Athletic Department.

We found evidence that, after this meeting, ██████ met with most of the rest of the Athletic Department staff and shared ██████' concerns with them. At least one other member of the Athletic Department staff confirmed ██████' comments, focusing heavily on the difficulties ██████'s temper and emotional outbursts created. The others in the meeting did not contradict these comments. ██████ apologized, became highly emotional, and promised to improve. We obtained testimonial support for the proposition that, with the exception of ██████'s interactions with ██████ the following day, ██████'s conduct in the office improved during the subsequent 3 ½ weeks, before he went on administrative leave.

We found evidence that, on April 26, 2023, ██████ met privately with ██████ in her office. The parties dispute what occurred during this meeting. ██████ contends that ██████ directed her not to participate in a major upcoming track event, directed her to clear out her office by a certain date, told her that she could finish training ██████ on a particular system but that, after that, her job in the Athletic Department was over, and directed her to go to Human

⁹ When she joined HISD, ██████ submitted the form by which employees can choose not to allow public access to information concerning family member. Exh. Q.

Resources. ██████ contends that he offered ██████ the opportunity not to participate in the track event, that he asked ██████ when she would be out of her office so it could be ready for ██████, that he told her if she did not want to be in the office she could clear out her office before June 30, and that he offered to go to Human Resources with her. Subsequent events provide greater support for ██████'s version of these events than for ██████'s version.

We found evidence that, immediately after meeting with ██████ on April 26, 2023, ██████ met with ██████. ██████ was highly emotional during this meeting. ██████ perceived ██████ to have said that on April 25, 2023, she had "finally stood up" to ██████ and told him that she decided to retire because of the way ██████ had been treating her and others in the office. ██████ told ██████ that ██████ was a bully who takes out his emotions on his staff and that all the staff are afraid to stand up to him. ██████ characterized the working environment as hostile and dysfunctional. ██████ also expressed anger that ██████ had mentioned her domestic partner, ██████, in the email he sent out about ██████ retiring. ██████ also told ██████ that ██████ told her not to work at the track meet that weekend and "that there is nothing more he needs her to do, just finish training [██████] on Kronos and clean out her office." ██████ asked ██████ whether she would be reassigned and if so, where and for what reason. ██████ said he would need to speak with ██████. In his memo about this meeting, ██████ states that he asked ██████ whether she wanted to go back to the office to continue work and that she said no, she was done. ██████ asked what to do next, and ██████ suggested that she take personal days and provide him with a written statement about the events she described in the meeting. ██████ said he would be back in touch with her on the next steps. Exh. R.

During the evening of April 26, 2023, ██████ emailed ██████ asking "whether or not I need to put in my personal days while being directed to be away from the office?" ██████ responded "yes, please do." Exh. S. Thus, although ██████ appears to have suggested that ██████ not return to the Athletic Department due to concern for her and to enable him to investigate her complaints, ██████ perceived that she was being directed not to come into the office. On May 1, 2023, ██████ again told ██████ to continue to use personal days, saying, "Once I receive your statement I can continue to review." Exh. T.

Since that time, nobody from the District has contacted ██████ about returning to work in any capacity.

Relevant Policies

DK (LOCAL) addresses reassignment of employees and states:

All personnel are employed subject to assignment and reassignment by the Superintendent or designee when the Superintendent determines that the assignment or reassignment is in the best interest of the District. Reassignment shall be defined as a transfer to another position, department, or facility that does not necessitate a change in the employment contract of a contract employee. Any change in an employee's contract shall be in accordance with policy DC.

Issue 9: Communications About ██████ and ██████' Absence

██████ believes that District personnel are treating ██████ more favorably with respect to communications about both individuals' absence from the District. ██████ believes that HISD personnel have lied by saying that ██████ is out of town while he has been on administrative leave. We have not found support for this contention. Instead, we have obtained testimonial support for the proposition that District personnel have told others, with respect to both ██████ and ██████, that they are "out of the office" without further elaboration.

Relevant Policies

DFBA (LOCAL) addresses administrative leave.

Issue 10: ██████'s Characterization of ██████' Departure from the District

██████ believes that ██████ falsified government records by mischaracterizing her departure as a resignation rather than a retirement.

We found evidence that, on April 21, 2023, ██████ submitted a personnel action form in which he recommended ██████ for the ██████ position and listed "resignation" as the reason for the vacancy in this position. Exh. U. We obtained testimonial evidence that ██████'s erroneous designation on this form did not have any effect and would have been corrected through ordinary human resources processes if ██████ had submitted retirement paperwork.

Relevant Policies

DFBB (LOCAL) addresses nonrenewal of term contracts and includes falsification of records as a possible ground for nonrenewal.

To: ██████████, Complainant
██████████, Respondent

From: Giana Ortiz, Decision-maker

Date: February 9, 2024

Re: Formal Title IX Determination – Investigation dated November 30, 2023

All,

Pursuant to Humble Independent School District Board Policy and Title IX Formal Complaint Procedures, below is the Title IX Determination related to the above-referenced investigation.

I. Identification of the allegations potentially constituting sexual harassment

The District’s Formal Title IX Investigation Report dated November 30, 2023 (the “Report”) defines the scope of this Determination by identifying the allegations potentially constituting sexual harassment. The parties as identified in the Report are Respondent, ██████████, and Complainant, ██████████.¹ The allegations potentially constituting sexual harassment identified in the Report are as follows:

1. Complainant alleges she experienced a hostile environment on the basis of sexually explicit language by ██████████ within the Humble ISD Athletic Department about employees in the Athletic Department and other District employees.
2. Complainant alleges discrimination on the basis of sexual orientation, such as when ██████████ publicly disclosed, via email on April 23, 2023, Complainant’s sexual orientation to other District employees by including complainant’s domestic partner’s name in a mass email.
3. District retaliated against ██████████ when ██████████ interviewed potential candidates to replace her on the same day she expressed intent to retire but had not yet submitted any formal record of retirement; and thereafter hired the replacement.

¹ The Humble ISD Title IX Formal Complaint Procedures provide that the decision-maker shall make an “independent determination regarding a respondent’s responsibility for alleged sexual harassment.” The parties have raised various ancillary issues which are outside the scope of this Determination. For example, in her Response dated December 12, 2023, Complainant suggests that I evaluate the District’s and the Board’s compliance with Title IX. (Determination Ex. 2.) This Determination is not so broad.

- a. Sub-Issue: [REDACTED] also contends that [REDACTED] discriminated against her by failing to promote her to the position of [REDACTED] and by failing to initiate position reviews in order to obtain raises for her when her duties expanded. [REDACTED] asserts that she received less favorable treatment than her male colleagues with respect to her compensation and job duties.
4. [REDACTED] contends that she was removed from her [REDACTED] position and placed on administrative leave in retaliation for having opposed gender discrimination and sexual harassment.

II. A description of the procedural steps taken from the receipt of the formal complaint through the determination

The procedural background is set forth below for informational purposes. Where appropriate, these recitations shall be deemed findings of fact.

August 15, 2023: [REDACTED] did not submit a formal Title IX complaint; however, as permitted under Title IX, the Title IX Coordinator signed a formal complaint based on a determination that signing a formal complaint to initiate an investigation over the wishes of the Complainant was not clearly unreasonable in light of the known circumstances. The Title IX Coordinator provided the parties with notice that the Title IX Coordinator, as provided in the regulations, filed a Title IX complaint to investigate the allegations made by [REDACTED]. The notice provided a summary of the allegations, the procedures of the investigation, confirmation of Ms. O’Leary as the Title IX Investigator and me as the decision-maker.

August 15, 2023 – November 30, 2023: The Investigator conducts witness interviews and gathers information.

October 9, 2023 – October 19, 2023: Investigator provided the parties with the ability to inspect and review the evidence gathered in connection with the investigation, including the summaries of the witness interviews.

November 2, 2023: The Title IX Coordinator provides witnesses Title IX Investigation Directive and Expectations Notice to witnesses: [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

November 5, 2023: The Title IX Coordinator writes a second letter to [REDACTED] ([REDACTED]’ counsel) regarding Title IX allegations that [REDACTED] made during the investigation; the letter includes informal resolution option with deadline extension to respond.

November 3, 10, 15, 19, 21 and 30, 2023: The Investigator received written responses from the parties pursuant to Title IX regulations.

November 28, 2023: The Title IX Coordinator writes a letter to [REDACTED] ([REDACTED]' counsel) regarding Title IX allegations that [REDACTED] made during the investigation; the letter includes informal resolution option with deadline to respond.

December 5, 2023: the Title IX Coordinator, Marianna McGowan, shared with me as decision-maker official documentation and notice that Investigator Laura O'Leary has completed the investigation of [REDACTED] [REDACTED]' Title IX claims against [REDACTED] [REDACTED]. Attorney McGowan shared:

1. Formal Title IX Investigation Report
2. Evidence Index
3. Evidence Exhibits
4. Summaries of Witness Follow-up Interviews
5. Contact information for the parties

December 6, 2023: I reached out to the Complainant, [REDACTED] [REDACTED], and the Respondent, [REDACTED] [REDACTED], to introduce myself and advise them of their right to submit a written response to the Report, and written, relevant questions that either party wants asked of any other party or witness noted in the Report by December 12, 2023. (Determination Ex. 1.)

By subsequent emails dated December 12, 2023, I received responses and proposed questions from both the Complainant and Respondent's counsel. I reviewed the proposed party and witness questions to ensure that the questioning was relevant, respectful, and non-abusive.

December 27, 2023: I circulated to both parties, simultaneously, the parties' written responses to the investigation report, and the relevant questions which were reviewed to ensure they are relevant, respectful, and non-abusive. In this process, the Complainant proposed questions to a person who was not noted in the Report. I notified the parties that under Humble ISD Title IX Formal Complaint Procedures, such questions would exceed the scope of permitted questioning at the decision-making phase, and the questions were excluded.

Because the questions were sent to the parties during the Winter Break Holiday, I notified them that using District business days, these questions would be "received" by the parties on January 4, 2024, and thus, each party had until January 11, 2024 (five (5) District

business days) to submit written responses to the questions.² I reminded the parties that according to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party. I notified the parties that I do not find a hearing on this matter to be appropriate, and the questioning process will proceed as indicated in the letter from Attorney McGowan and in Humble ISD policy. (Determination Ex. 2.)

December 28, 2023: I disseminated questions to witnesses [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

January 11, 2024: I disseminated questions to witnesses [REDACTED] and [REDACTED].³

January 12, 2024: I disseminated responses to witness and party questions to the parties. (Determination Ex. 3-4.) I advised the parties that according to HISD Title IX Procedures, each party had additional time to submit follow-up questions to me for review in the same manner as the initial questions.

January 22-23, 2024: I received follow-up questions from the Respondent to the Complainant and witness responses to questions. I reviewed the questions to ensure they were relevant, respectful, and non-abusive and circulated those questions to the parties. (Determination Ex. 5.) Counsel for Complainant notified me that he had sent questions January 22, 2024, but those questions were not received. Thus, the Complainant's follow-up questions were resubmitted, and those questions were reviewed to ensure they were relevant, respectful, and non-abusive. Certain questions were excluded in that process, and I informed the parties of same.

January 24, 2024: I circulated Complainant's follow up questions to the parties and witnesses. (Determination Ex. 6.)

January 30-31, 2024: I received responses to the follow up questions

February 1, 2024: I circulated all responses to the follow up questions to the parties simultaneously by email dated February 1, 2024. (Determination Ex. 7.)

III. Preliminary matters

Certain preliminary matters are set forth below for informational purposes. Where appropriate, these recitations shall be deemed findings of fact and/or Title IX conclusions.

² The District was closed from December 18, 2023 – January 4, 2024 for Winter Break Holiday.

³ Email addresses for these witnesses were not received by the decision-maker until January 11, 2024.

A. Statement of review

As decision-maker, I conducted an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence. This evidence consisted of:

- The Report
- All exhibits to the Report
- Summaries of all witness interviews
- Summaries of all follow-up witness interviews
- The parties' responses to the Report
- Answers to the parties' questions during the decision-making phase of the process
- Answers to the parties' follow-up questions during the decision-making phase of the process

B. Standard of evidence

The District's Board Policy FFH(Local) provides that the standard of evidence used to determine responsibility in a Title IX formal complaint of sexual harassment shall be the preponderance of the evidence.

C. Credibility

No credibility determinations have been based on the person's status as a complainant, respondent, or witness.

D. Respondent's allegations regarding Complainant's conduct

██████ makes certain allegations about ██████' own conduct, which he raises, presumably to undermine her credibility. ██████'s allegations (and a summary of ██████' responses) include:

- ██████ saying she did not want to be under ██████'s leadership because he tucks his tie into his pants (while imitating ██████ using feminine gestures) but that she wanted to be "under" another District employee named ██████. ██████ denies this allegation.
- ██████ often saying "she would love to be under or over ██████," referring to sexual positions. ██████ saying that she would "do" ██████ and her ██████, who is also a District employee.⁴ ██████ admitted to speaking about ██████

⁴ ██████ acknowledged that he participated in some communications about ██████, although he does not find her attractive. (Report at 12.) ██████ provided an example in which he sent a screenshot of ██████, who was not wearing makeup, to the others asking,

and her [REDACTED]'s attractiveness with [REDACTED], but denies this allegation that she made sexual comments about [REDACTED].

- [REDACTED] participating in game in which she, [REDACTED], and [REDACTED] would send each other pictures of unattractive people asking, "how much" or "how long"? These questions referred to how much money it would take to have sex with the unattractive person or how long it had been since the unattractive person had seen his or her private parts without looking in a mirror. [REDACTED] acknowledged her participation in this game by group text with [REDACTED] and [REDACTED].
- [REDACTED] regularly making references to male genitals, including comments like, "with huge feet like those he has to have a big dirty dooder," made in reference to District personnel, including former Trustee [REDACTED]. [REDACTED] acknowledged using the term "dooder" in various contexts, but denied that "dooder" is a sexual term and denied making sexually suggestive comments about feet. [REDACTED] and [REDACTED] corroborated that the term "dooder" was not a sexual phrase. [REDACTED] and [REDACTED] denied hearing any sexual comments about feet.
- [REDACTED], and other women in the office, referring to [REDACTED] as "dirty kitty" and frequently commenting about how his butt looked in jeans, while patting him on the butt. [REDACTED] stated that the term "dirty kitty" or "bad kitty" was used by various people in the Athletic Department Office, but not in a sexual way. [REDACTED] and others corroborated that the term "bad kitty" and/or "dirty kitty" was not used as a sexual phrase. [REDACTED] denied making a comment (or hearing someone make a comment) about [REDACTED]'s jeans. She denied patting his butt and denied seeing anyone else pat [REDACTED]'s butt.
- [REDACTED] and [REDACTED] referring to [REDACTED] as "Rick the Dick" during the Fall of 2022. [REDACTED] denies this allegation.
- [REDACTED] referring to a football coach who was accused of posting a picture of his genitals online as "dick pic." [REDACTED] denies this allegation.
- [REDACTED] frequently talking about her dating and sexual exploits during and after college, describing herself as "bad kitty," and telling explicit stories about cheating on her girlfriends. [REDACTED] said [REDACTED] would refer to herself as being "a little cheaty cheaty" and would tell stories about picking up women in bars. [REDACTED] said [REDACTED] would describe her sexual past openly, without

"are you sure?" (*Id.* See also Summaries of Interviews of Complainant and Respondent at 15.)

hesitation, and without being asked for such information.⁵ [REDACTED] contends that, since she joined the District, [REDACTED] has initiated conversations with [REDACTED] and others about matters that [REDACTED] originally shared with [REDACTED] over the course of their 40+ year relationship. [REDACTED] states that [REDACTED] encouraged her to share stories with [REDACTED], but that no one else in the Athletic Department Office heard the stories. Witnesses almost universally described [REDACTED] as a private person who did not share stories about herself.

- [REDACTED] and other Athletic Department employees buying [REDACTED] Lululemon underwear as part of a Christmas gift one year. [REDACTED] denies this allegation. [REDACTED] corroborated that [REDACTED] was not a part of the staff gift and that the gift carried no sexual connotation.
- [REDACTED] expressing frustration with two coaches who called her with questions frequently by saying that she couldn't get these men "off her tit."⁶ [REDACTED] said [REDACTED] made such comments "all the time" during the 2022-23 school year in the Athletic Department office when people from outside the office were not present. [REDACTED] denied this allegation, but acknowledged once saying about a coach, [REDACTED], that "he needs to get off the tit."

It is not alleged that [REDACTED] used sexually explicit language about and to her subordinates. Further, it was widely reported that all employees engaged in "banter" in the Athletic Department Office. The fact that any of [REDACTED]'s subordinates (including [REDACTED]) may have participated in that banter does not undermine their credibility to raise a complaint about [REDACTED]'s sexually explicit language about and to subordinates.

⁵ In her December 12, 2023 Response to the Investigation (Ex. 4), Complainant correctly states that the Title IX Regulations provide that a complainant's prior sexual behavior is "not relevant." *See* 34 C.F.R. § 106.45(b)(6)(i)-(ii). In this Determination, the cited allegation does not relate to [REDACTED]' prior sexual behavior. The cited allegation is only considered for the limited purpose of evaluating [REDACTED]' alleged statement(s). [REDACTED] acknowledged that [REDACTED] encouraged her to share stories about the past with [REDACTED]. This evidence is not evidence that the underlying events shared occurred or did not occur—but only that [REDACTED] spoke about the matters with [REDACTED] and [REDACTED]. [REDACTED]' prior sexual behavior is not relevant.

⁶ [REDACTED] adopts [REDACTED]'s version of the above-referenced events, nearly wholesale. No other witness's version of the work environment was so synchronized with any other party or witness's recollection of the events.

IV. Findings of fact supporting the Determination

After due consideration of and based upon the preponderance of the credible evidence, including the credibility of the witnesses and matters officially noticed, in my capacity as decision-maker, I make the following Findings of Fact (citations to evidence are not exhaustive or exclusive, but are intended to indicate some basis for the particular finding of fact):

1. ██████ served as the ██████ from July 1, 2008 until July 2019. (Report at 2.) In July 2019, ██████'s duties were expanded to include responsibilities over the ██████ and ██████'s title was changed to ██████. (Id.)
2. ██████ maintains a position of power within the District and the Athletic Department Office.
3. ██████ has overseen the Athletic Department for many years. (Report at 2.)
4. The District has not added an ██████ position since ██████ took on the ██████ duties. (See Report at 30.) July 14 or 15, 2023, ██████ was appointed as an ██████ in ██████'s absence. (Report at 3; Summaries of Interviews of Complainant and Respondent at 26.)
5. Many witnesses in the investigation are subordinate to and ultimately report to ██████, including ██████, ██████, ██████, and ██████. ██████ formerly reported to ██████.⁷
6. Athletic Department Office employees fear bringing allegations against ██████ and fear retaliation. (See Report at 8 n.24, 9-10, 15 n.40; Summaries of Interviews of Complainant and Respondent at 33, 41.) Many witnesses feared retaliation for their participation in the investigation underlying this Determination.⁸ (Report at 5.) ██████ acknowledged that he created fear in staff and has apologized to staff for creating fear. (Report at 34.)
7. ██████ has had a romantic relationship with the Humble ISD ██████, ██████ since Spring 2022. (Report at 2.) ██████ is now married to ██████. (Report at 3.)

⁷ ██████ is no longer employed by the District.

⁸ ██████ stated that he believed some women in the Athletic Department Office were afraid to bring up discomfort for fear of retaliation and anger from ██████. (Report at 2.) ██████ further stated that ██████ discouraged Athletic Department personnel from talking about what happens in the office with anyone from outside the office, including their spouses. (Id.) ██████ believes the Athletic Department personnel were scared to tell anyone about ██████'s sexually explicit language. The investigation indicates that "many" witnesses feared retaliation for their participation in the investigation into ██████'s conduct.

8. Every District employee witness in the investigation is subordinate to and ultimately reports to ██████.⁹
9. Athletic Department Office employees fear bringing allegations against ██████ because of his relationship with ██████.¹⁰ (Report at 2; Summaries of Interviews of Complainant and Respondent at 33.)
10. Throughout her employment, ██████ has met or exceeded the District's performance expectations according to her evaluations. (See Report at Tabs 28-33.)
11. ██████' position underwent position reviews for the 2019-20 and 2020-21 school years. (Report at 31.) The first of these resulted in a salary increase above the annual raises for the 2019-20 school year. (*Id.*) The second resulted in an increase in ██████' annual travel stipend. (*Id.*)
12. ██████' annual salary since the 2019-20 year was within the District's range for the ██████ position, but not at the top of that range. (Report at 30.)
13. ██████' salary for the 2019-20, 2020-21, and 2021-22 school years was higher than that of her male counterpart, ██████. (Report at 31.)
14. ██████ resigned his ██████ position in July 2022. (Report at 31.)
15. After ██████'s resignation, ██████ sought additional compensation for ██████ and others for covering duties formerly handled by ██████. (Report at 32.) ██████ sought a \$12,000 stipend for ██████. (*Id.*)
16. The District limits supplemental duty stipends to \$6,000 per fiscal year. (*Id.*) The District approved two stipends for ██████ for the 2022-23 school year, totaling \$8,000—an extra duty stipend of \$6,000 based on the additional duties she incurred due to ██████'s resignation, and \$2,000 for an inventory project. (*Id.*)
17. This additional compensation was requested by ██████ for ██████, and was the highest extra duty stipend available.¹¹

⁹ See Tex. Educ. Code § 11.201(a).

¹⁰ ██████ expressed fear of reporting ██████ to ██████ because of the romantic relationship between ██████ and ██████ (█████'s supervisor). ██████ expressed that other Athletic Department personnel did not complain due to fear of retaliation given ██████'s relationship with ██████. (Report at 8 n.24. See also Report at 10 (█████ discussing that some in the department fear retaliation from ██████).) ██████ and ██████ stated that ██████'s relationship with ██████ made them "nervous" for themselves because of ██████'s position with the District. (Report at 2 n.3.)

¹¹ ██████ confirmed that ██████ "went up the chain of command" in an effort to get additional compensation for ██████ during the 2022-23 school year. (Report at 30.)

18. ██████████ would have received a higher salary than ██████████ for the 2022-23 school year, but ██████████ resigned. (Report at 31.)
19. ██████████ regularly made sexual comments in the Athletic Department Office. ██████████ made sexually explicit comments about his female subordinates' appearance, clothing and footwear. (Report at 7-9.) ██████████ would state, "You have fuck me heels on today," and "Don't get close to me wearing that."¹² (Report at 6, 9.)
20. ██████████ asked ██████████ to have a female employee run across the finish line of the track so he could "see her boobs bounce."¹³ (Report at 7, 9.)
21. ██████████ made sexually explicit comments about the anatomy and/or attire of women in the office.¹⁴
22. Under ██████████'s supervision and leadership, the Athletic Department staff (██████████ and others) engaged in adult banter and sexual comments. (Report at 8.) This behavior occurred for many years. (*Id.*)
23. ██████████ described the Athletic Department Office banter as "locker-room talk."¹⁵ (Report at 8; Summaries of Interviews of Complainant and Respondent at 13.)

¹² ██████████ alleged ██████████ telling female Athletic Department employees, "You have fuck me heels on today" and "Don't get close to me wearing that." (Report at 6.) The allegation that ██████████ made sexually explicit comments about people's appearance, clothing, and footwear was corroborated by ██████████, ██████████, ██████████ and ██████████. (Report at 9, 11. *See also* Summaries of Interviews of Complainant and Respondent at 38.) ██████████ reported hearing ██████████ regularly making sexual comments to women in the office, primarily ██████████ and ██████████, including comments about them wearing "fuck me heels" and comments like, "why are you wearing that to work – the things I could do to you!" (Report at 9.) In his response to the Report, ██████████ indicates that a number of ██████████' allegations are unsupported or disputed, but the record does not reflect that ██████████ has disputed this allegation. (Ex. 2.)

¹³ ██████████ alleged that ██████████ asked ██████████ to run across the finish line as part of testing the system. When ██████████ went up to the press box with ██████████ he said, "when you go back down, can you have [██████████] run through one more time so I can see her boobs bounce?" This allegation was corroborated by ██████████. (Report at 9.) This allegation was not denied by ██████████, rather ██████████ asserted he did not recall this comment. (*Id.*)

¹⁴ ██████████ reported that ██████████ was the only one in the Athletic Department Office who made sexually explicit comments about anatomy. (Report at 10.) ██████████ described being "shocked" by ██████████'s sexually explicit comments about employees' attire and footwear. (Report at 11.)

¹⁵ ██████████ admitted that "everybody within the back office of the Athletic Department . . . participated in adult banter, including sexually charged or sexually explicit comments about attire, appearance, footwear, and anatomy, among other topics." (Report at 8.) This admission was corroborated (at least in part) by ██████████, ██████████

24. ██████ acknowledged that the language used was unprofessional and sexually explicit. (Summaries of Interviews of Complainant and Respondent at p. 13.)
25. ██████'s sexually explicit comments, including about employees' attire and footwear, caused others in the office to be uncomfortable.¹⁶ (Report at 9-12.)
26. ██████ called the District's female ██████ a "bitch," a slur based on the ██████'s gender.¹⁷ (Report at 8 n.20.)
27. ██████ made reference to his wife in a sexual context while at work.¹⁸ (Report at 7, 7 n.16.)

██████, ██████, ██████, ██████, ██████, ██████, ██████, ██████, and ██████. (See Report at 9-11.) ██████ stated that this behavior took place only within the Athletic Department Office. (Report at 8.) He contended that the atmosphere within the Athletic Department Office has not changed over the last ten years (during which time he has overseen the Athletic Department Office). (*Id.*) ██████, ██████, ██████, ██████, and ██████ all corroborate that prior to the start of the investigation, sexually explicit banter and joking in the Athletic Department office had been consistent for many years. (Report at 8 n.24, 10.)

¹⁶ ██████ reported that ██████'s comments about Athletic Department employees and/or anatomy caused him to think, "What the hell?" (Report at 10.) ██████ reported that he believed ██████'s comments made others in the department uncomfortable. (Report at 11.) ██████ heard ██████ make sexually explicit comments about anatomy and sexual orientation, which comments she believed made others feel uncomfortable. (Report at 12.) ██████ indicated that she was uncomfortable with the sexually explicit comments and jokes made by Athletic Department staff, including ██████. (Report at 11.) ██████ reported ██████'s behavior as unwelcome. (Report at 6.)

¹⁷ See, e.g., *Forrest v. Brinker Int'l Payroll Co., LP*, 511 F.3d 225, 229 (1st Cir. 2007) (regarding the use of "bitch" and other "sexually degrading, gender-specific epithets"). ██████ alleged that ██████ spoke in sexually graphic terms about the District's female ██████, calling her a bitch and saying "She's the type you grab by the back of the hair and just fuck the shit out of her!" (Report at 6.) ██████ admitted that he called the ██████ a "bitch" but denied any sexual comment. (Ex. 21 (Q: "Did you ever call the former ██████ for Humble ISD a 'bitch'?" A: "Yes, during private during a closed-door discussion with my assistants more than two years ago when she tried to rewrite athletic handbook policy, based on a Supreme Court decision, to provide that athletes could not be disciplined for anything they put on their social media if it was on their own tine [sic]."))

¹⁸ ██████ contends that ██████ told ██████ that because he and his wife both work in the same building, they could meet in a closet in the building to have sex. This contention was corroborated (at least in part) by ██████, who recalled a "veiled sexual reference," but was not bothered by the reference. (Report at 7 n.16.)

28. The above-referenced behaviors occurred in the presence of one or more District employees.
29. ██████ stated she would “go ahead and retire” in a heated meeting with ██████ on or about April 19, 2023. (Report at 23-25.) ██████ did not, on April 19, 2023 or thereafter, submit a written notice of retirement or resignation.
30. On or about this same day, ██████ and ██████ interviewed ██████ to replace ██████. (Report at 25.) ██████ also interviewed with ██████ on or around April 19, 2023. (*Id.*)
31. ██████ states he did not have authority to hire employees. (Summaries of Interviews of Complainant and Respondent at 17.)
32. ██████ publicly made reference to “█████,” in an email to other District employees on April 23, 2023, stating:
- First, I want to let everyone know that ██████ has decided to retire. Obviously, she has been my rock and strength the last 5 years and while I am happy for her and ██████ it is a huge loss for me personally and our office and this district. Her presence has made us so much better and I am extremely grateful for her as a coworker and more importantly as a friend.*
- (Report at 19.)
33. ██████ is ██████’ partner. (Report at 19.)
34. ██████ was not “open” about ██████ at work outside the Athletic Department office.¹⁹
35. ██████ is also a District employee. (Report at 21 n.46.) ██████ is not “out” with her coworkers. (*Id.*)
36. Multiple third parties questioned the appropriateness of ██████’s reference to ██████ in the email.²⁰
37. ██████ was displeased with ██████’s mention of ██████ in the email. On April 24, 2023 and/or April 25, 2023, ██████ met with ██████ and expressed anger for his mentioning her partner in the April 23, 2023 email.²¹
38. On April 25, 2023, ██████ told ██████ that he is toxic and/or creating a toxic environment for the Athletic Department Office. (Report at 33-35.)

¹⁹ ██████ and ██████ all corroborate that ██████ was either “not really open,” or was “guarded” about her relationship with ██████. (Report at 20, 22-23.)

²⁰ ██████ admitted that ██████ told him, “it might not have been the best idea” to have mentioned ██████ in the email. (Report at 21.) ██████ also stated that he told ██████ that it seemed “odd” to reference ██████ in the email. (Report at 22.)

²¹ ██████ contends this meeting happened April 24, 2023. (Report at 33.) ██████ contends that ██████ expressed frustration with him for speaking about ██████ in a meeting on April 25, 2023. (Report at 34.)

39. ██████ encouraged ██████ to hire into Complainant's position so the Board could approve the replacement at the April 25, 2023 meeting. (Report at 24.) The District's top central administrators approved hiring ██████' replacement from the candidate pool that was created to fill the ██████ position ██████ left in July of 2022. (Report at 25.)
40. On April 25, 2023, the administration formally recommended ██████ and ██████, who were hired for the ██████ positions, effective July 1, 2023. (Report at 27.)
41. The evidence does not indicate that ██████ complained to anyone about sexual harassment, a hostile working environment based on sexually explicit language, or discrimination based on sexual orientation prior to ██████ being interviewed for and offered the ██████ position from which ██████ had said she was retiring. (Report at 25.)
42. On April 26, 2023, ██████ and ██████ had a heated meeting. (Report at 2.)
43. On April 26, 2023, ██████ met with ██████ and asserted that the Athletic Department office was "hostile," but did not make mention of ██████'s sexually explicit language or adult banter in that meeting. (Report at 22, 25.) ██████ did share with ██████ that she was upset about the April 23, 2023 email mentioning ██████. (Report at 35-36.)
44. In this April 26, 2023 meeting between ██████ and ██████, ██████ asked if ██████ felt comfortable returning to the Athletic Department Office, and ██████ said no. (Report at 36.) ██████ directed and/or suggested ██████ take a couple of days off to write a statement of what happened with ██████. (*Id.*)
45. ██████ first sent a written complaint of sexual harassment to the District by letter dated May 4, 2023. (Report at 2, Tab 1.)
46. ██████ and ██████ were both placed on administrative leave by letters dated May 22, 2023. (Report at 3, Tab 40-41.)
47. ██████' administrative leave letter indicates that personal days used since April 27, 2023 will be provided "back to" her and coded as administrative leave. (Report Tab 40.) The leave letter indicates that she is being placed on leave while an investigation takes place into allegations she brought forward in her statement received May 4, 2023. (*Id.*) ██████ acknowledges that her personal days were, in fact, restored when she was placed on administrative leave. (Report at 33 n.62.)
48. ██████'s administrative leave letter indicates that he is being placed on leave while an investigation takes place into allegations of his "level of conduct and behavior being unprofessional and inappropriate." (Report at 41.)
49. Both ██████' and ██████'s administrative leave letters indicate that the leave is paid leave by the District and it is not intended to be disciplinary. (Report at Tab 40-41.) The letters provide that the leave is designed to "protect [the employee]

protect you as well as the district and allow the district to look into the situation further with regard to the allegations being made.” (Report at Tab 40-41.)

50. On May 22, 2024, ██████ requested permission to attend and be on stage for his ██████ and ██████'s ██████ graduations. (Report at 37, Tab 42.) These requests were approved. ██████ requested permission to attend additional District events on May 31, 2023. (Report at 37, Tab 43.) Those requests were denied. (Report at 37.)
51. The record does not reflect that ██████ requested to and/or was denied permission to attend any events during her period of administrative leave.
52. ██████ was returned to work in her position as ██████ on July 24, 2023. (Report at 3, Tab 50.)
53. Multiple witnesses describe that the sexual comments and environment in the Athletic Department Office have improved since ██████ has been removed from the office and/or since ██████ came forward about the problems in the Athletic Department Office. (Report at 17; Summaries of Interviews of Complainant and Respondent 34, 49, 42, 48.)

V. Conclusions regarding the application of the District’s applicable code of conduct or other policy to the facts and results as to each allegation

After due consideration of the evidence, the submissions from the parties and witnesses, and matters in the Report and Findings of Fact, in my capacity as decision-maker, I make the following conclusions:

- A. **Conclusion 1:** ██████ created a hostile environment within the Humble ISD Athletic Department by using sexually explicit language to and about his subordinates in the Athletic Department.

1. Applicable Authority

Humble ISD’s Board Policy DIA(Local) applies the definition of Title IX “sexual harassment” found in Humble ISD Board Policy FFH(Legal). Board Policy FFH(Legal) defines Sexual Harassment as follows:

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct;²²
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Humble ISD Board Policy DIA(Local) also prohibits verbal conduct based on an employee's sex when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee's performance, environment, or employment opportunities.

Board Policy DIA(Local) prohibits conduct, including harassment, even if the behavior does not rise to the level of “unlawful conduct.”

The State Board of Educator Certification (“SBEC”) adopts and enforces an Educator Code of Ethics, requiring that all Texas educators comply with the standard practices. 19 Tex. Admin. Code § 247.1(a)-(c). SBEC requires compliance with standard practices and ethical conduct toward professional colleagues and school officials. 19 Tex. Admin. Code § 247.1(b). SBEC requires that all Texas educators maintain dignity of the profession, respecting and obeying the law, and demonstrating personal integrity. *Id.*

The Educator Code of Ethics is codified in Humble ISD Board Policy DH(Exhibit). Standard 2.8 of the Educator Code of Ethics provides that an educator “shall not intentionally or knowingly subject a colleague to sexual harassment.” 19 Tex. Admin.

²² The first prong of this definition is what’s commonly called “*quid pro quo*” harassment. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30,147 (May 19, 2020) (codified at 34 C.F.R. § 106.30). *Quid pro quo* harassment need not be “severe and pervasive.” The Department also states that when a complainant acquiesces to unwelcome conduct in a *quid pro quo* context, “consent” does not necessarily mean that the sexual conduct was not “unwelcome.”

Code § 247.2(2)(H). *See also* Humble ISD Board Policy DH(Exhibit) Standard 2.8. The Texas Administrative Code provides the following definitions pertinent to the Educator Code of Ethics and this Determination:

(10) Intentionally--An educator acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.

(11) Knowingly--An educator acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct when he or she is aware that the conduct is reasonably certain to cause the result.

* * *

(17) Sexual harassment--Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.

19 Tex. Admin. Code § 247.1(e).

Board Policy DFBB(Local) provides reasons for nonrenewal of an employee's term contract, including:

6. Failure to comply with Board policies or administrative regulations.²³

* * *

14. Failure to meet the District's standards of professional conduct.

* * *

19. Any activity, school-connected or otherwise, that, because of publicity given it, or knowledge of it among students, faculty, or the community, impairs or diminishes the employee's effectiveness in the District.

* * *

²³ *See also* Humble ISD Board Policy DH(Exhibit) at Standard 1.7: "The educator shall comply with state regulations, written local school board policies, and other state and federal laws."

21. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, or colleagues.

* * *

25. Use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.

There is no definition of “good cause” in the Texas Education Code applicable to termination of a teacher’s term contract of employment. The Commissioner of Education has adopted the definition “of good cause” for termination of a term contract as set forth in the case *Lee-Wright, Inc. v. Hall*, 840 S.W.2d 572, 580 (Tex. App. – Houston [1st Dist.] 1992, not writ), as follows:

Good cause for discharging an employee is defined as the employee’s failure to perform the duties in the scope of employment that a person of ordinary prudence would have done under the same or similar circumstances. An employee’s act constitutes good cause for discharge if it is inconsistent with the continued existence of the employer-employee relationship.

2. Application of Authority to the Facts

Here, there is no dispute that sexual “banter” has occurred in the Athletics office for many years. ██████ is not only the leader of that department, but engaged in unprofessional and sexually explicit comments, including about clothing and anatomy of his subordinates. ██████’s own conduct in this regard was more outrageous than that of others in the department. His language has been described as shocking and making his subordinates in the Athletic Department uncomfortable.

His conduct:

- Was unwelcome, severe, pervasive, and objectively offensive to an extent that it effectively denied access to the district’s education program or activity;
- Unreasonably interfered with the performance of others in the Athletic Department Office;
- Created an intimidating, threatening, hostile, or offensive work environment for others in the Athletic Department Office;
- Adversely affected the performance, environment, and/or employment opportunities of his subordinates; and
- Constitutes unwelcome verbal conduct of a sexual nature.

Witnesses confirm that the environment has improved in his absence during this investigation. ██████'s conduct was knowing (if not intentional). ██████ admitted his language was unprofessional and sexually explicit. ██████'s position of power creates a compounded concern for the District—and multiple witnesses expressed fear of retaliation or “nervousness” about participating in the investigation given his position. ██████'s power within the District stems not only from his actual assignment within the District, but also his status as the ██████'s spouse. The acquiescence of any of ██████'s subordinates in any prior sexual harassment (i.e., banter) does not cure its nature as sexual harassment.

██████'s conduct constitutes sexual harassment and:

- A violation of Board Policy DIA(Local);
- A violation of the Educator Code of Ethics, Standard 2.8;
- Unethical conduct toward professional employees in violation of 19 Texas Administrative Code § 247.1(b);
- Reasons proposed nonrenewal of an employee's term contract under DFBB(Local):
 - A failure to comply with Board policies or administrative regulations;
 - A failure to meet the District's standards of professional conduct (e.g., the Educator Code of Ethics);
 - A failure to maintain an effective working relationship, or maintain good rapport, with colleagues;
 - The use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.
- May constitute “good cause,” as determined by the Board, to terminate an educator's contract of employment.²⁴

3. Result of Allegation 1

For the reasons stated herein, ██████ is responsible for creating a hostile environment within the Humble ISD Athletic Department by using sexually explicit language to and about employees in the Athletic Department.

²⁴ Texas Education Code § 21.211 provides that only a district's board of trustees may make a determination of good cause.

B. Conclusion 2: ██████'s disclosure, via email on April 23, 2023, Complainant's sexual orientation to other District employees by including complainant's domestic partner's name in a mass email did not constitute a violation of Title IX, but was nonetheless an unauthorized disclosure of private information.

1. Applicable Authority

Sexual harassment under Title IX and other policy and law is set forth in Part V.A.1, *supra*.

In addition, the Educator Code of Ethics provides that an educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law. 19 Tex. Admin. Code § 247.2(2)(A). *See also* Humble ISD Board Policy DH(Exhibit) Standard 2.1.

2. Application of Authority to the Facts

██████ mentioned ██████ in his April 23, 2023 email announcing ██████' retirement with no apparent legitimate and/or professional reason. Multiple disinterested witnesses questioned ██████'s mention of ██████. The witnesses interviewed almost universally agreed that ██████ was guarded and/or private about her domestic partner. ██████, who is also a District employee, is not "out," about her sexuality with her own co-workers. ██████' domestic partner's existence and/or identity were not "public knowledge." ██████ articulated no legitimate and/or professional reason to justify why he disseminated ██████' and ██████'s private information in the email.

The mention of ██████ in the email does not meet the definition of sexual harassment in Title IX, Board Policy DIA(Local), or the Texas Administrative Code.

However, ██████'s conduct does constitute:

- A violation of Educator Code of Ethics Standard 2.1; and
- A failure to maintain an effective working relationship, or maintain good rapport, with colleagues.

3. Result of Allegation 2

For the reasons stated herein, ██████ is not responsible for Title IX sexual harassment when he publicly disclosed, via email on April 23, 2023, Complainant's sexual orientation to other District employees by including complainant's domestic partner's name in a mass email.

C. Conclusion 3: Interviewing potential candidates to replace [REDACTED] on the same day she expressed intent to retire but had not yet submitted any formal record of retirement did not violate Title IX. The fact that [REDACTED] was not promoted to [REDACTED] likewise did not violate Title IX. Position reviews were conducted for [REDACTED]' position.

1. Applicable Authority

Sexual harassment under Title IX and other policy and law is set forth in Part V.A.1, *supra*. As it relates to this allegation, the evidence does not support a violation of Title IX or other Board Policy.

2. Application of Authority to the Facts

A preponderance of the evidence does not support a violation of Title IX or Board Policy for any of the cited allegations. Although [REDACTED] was hired in an unusually speedy fashion for the [REDACTED] position, the District's top central administrators approved hiring [REDACTED]' replacement from the candidate pool that was created to fill the [REDACTED] position [REDACTED] left in July of 2022. The evidence does not indicate that [REDACTED] complained to anyone about sexual harassment, a hostile working environment based on sexually explicit language, or discrimination based on sexual orientation prior to [REDACTED] being interviewed for and offered the [REDACTED] position from which [REDACTED] had said she was retiring. At the current time, [REDACTED] continues to serve in her role as [REDACTED]. No one was promoted to the [REDACTED] position. The evidence shows that [REDACTED] conducted multiple position reviews for [REDACTED]' position.

3. Result of Allegation 3

[REDACTED] is not responsible for Title IX retaliation when he interviewed potential candidates to replace [REDACTED] on the same day she expressed intent to retire but had not yet submitted any formal record of retirement. [REDACTED] is not responsible for Title IX discrimination for failing to promote [REDACTED] to [REDACTED] and/or for failing to initiate position reviews for her position.

D. Conclusion 4: Placing [REDACTED] on administrative leave was not retaliatory against her for her report of Title IX violations.

1. Applicable Authority

Board Policy DFBA(Local) states that a term contract employee may be placed on administrative leave during an investigation at any time the Superintendent determines that the leave is in the District's best interest.

2. Application of Authority to the Facts

There is no evidence to suggest that the administrative leave was retaliatory, but rather that it was implemented to:

1. Curtail ██████' use of personal time;
2. Reinstate ██████' personal time used after she stated she did not feel comfortable returning to the office;
3. Conduct an investigation into the allegations ██████ brought forward about ██████.

The evidence does not support that the initial placement on administrative leave was motivated by retaliatory animus. Nonetheless, ██████ was returned to work after discussions with Mr. Wood.

3. Result of Allegation 4

For the reasons stated herein, ██████ and/or the District are not responsible for alleged retaliation in placing ██████ on administrative leave.

VI. Title IX disciplinary sanctions the District will impose on the Respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided to the Complainant

A. Title IX disciplinary sanctions.

"Title IX disciplinary sanction" means an action that is not a supportive measure as defined by 34 C.F.R. § 106.30 and is imposed against a respondent only after the District follows the Title IX formal complaint process in compliance with law and board policy. Title IX disciplinary sanctions do not include an authorized interim action or measure, and do not refer to discipline imposed on a respondent under the District's Student Code of Conduct for conduct other than sexual harassment, as defined by Title IX.

It is my recommendation that ██████'s employment be ended. If ██████ has a Chapter 21 educator contract of employment, I recommend that the District propose termination and non-renewal of that employment contract for the reasons stated herein.

This recommendation is made based on the finding of ██████'s Title IX sexual harassment creating a hostile environment within the Humble ISD Athletic Department by using sexually explicit language to and about employees in the Athletic Department. Nonetheless, and as fully set forth herein, separate and apart from a violation of Title IX, ██████'s conduct also constitutes:

- A violation of Board Policy DIA(Local);
- A violation of the Educator Code of Ethics, Standard 2.8;
- Unethical conduct toward professional employees in violation of 19 Texas Administrative Code § 247.1(b);
- Reasons proposed nonrenewal of an employee's term contract under DFBB(Local):
 - A failure to comply with Board policies or administrative regulations;
 - A failure to meet the District's standards of professional conduct (e.g., the Educator Code of Ethics);
 - A failure to maintain an effective working relationship, or maintain good rapport, with colleagues;
 - The use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional;
- A violation of Educator Code of Ethics Standard 2.1;
- Possible "good cause" as determined by the Board under, e.g., Texas Education Code § 21.211(a)(1).

B. Title IX remedies designed to restore or preserve equal access to the District's education program or activity will be provided to the Complainant

As a result of the conduct reported in the Athletic Department Office, it is recommended that the Department receive Department-wide remedial action:

- That Complainant and any witnesses who work at the District, have family members who work at the District, and/or have children enrolled at the District be assured that they shall not suffer retaliation for their participation in this Investigation and that the District²⁵ monitor and maintain this assurance;
- Offering a confidential reporting mechanism for any Athletic Department Office employees who believe they have witnessed or experienced sexual harassment, retaliation, or other inappropriate behavior;
- Creating and conducting sexual harassment awareness and prevention training, and bystander intervention training for the Athletic Department Office.

In addition, any remedial measures currently in place should remain in place during the pendency of any appeal of this Determination and/or employment action related to [REDACTED].

²⁵ Given the [REDACTED]'s relationship with the Respondent, it is recommended that a neutral third-party monitor and maintain such assurances.

VII. The procedures and permissible bases for the Complainant and Respondent to appeal the determination

In accordance with law and local policy, either party may appeal the written determination regarding responsibility or a dismissal of a formal complaint or any allegations therein only on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Title IX does not require the District to accept appeals based on any other reasons.

To initiate an appeal, a party must file a written request for appeal with the Title IX Procedures Coordinator within 5 days of a party's receipt of the decision-maker's written responsibility determination.

The Title IX Coordinator will review the request and assign an appropriate appeal hearing officer in compliance with law and policy. If the reason for appealing the dismissal or determination of responsibility is not one of the permitted bases for appeal, the District may dismiss the appeal.

If the request for an appeal is not dismissed, the Coordinator will designate an appeal hearing officer to proceed. The appeal hearing officer may not be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator who investigated the complaint at issue, or the Title IX Coordinator.

The Title IX Coordinator will notify the non-appealing party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will be provided a reasonable, equal opportunity to submit a written statement in support of, or challenging, the dismissal of a formal complaint or determination of responsibility. Written statements must be submitted within 5 days of receipt of the notice of appeal to be considered.

[END]

Exhibit 1

Giana Ortiz

From: Giana Ortiz
Sent: Wednesday, December 6, 2023 4:39 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: Humble ISD Title IX

Greetings, counsel:

As you know, I have been appointed as Decisionmaker in the Title IX investigation for Humble ISD regarding the claims raised by [REDACTED] against [REDACTED].

I am writing to introduce myself, and to notify the parties of the next deadline. I understand the parties have received the investigative report as of December 5, 2023. Thus, each party will have until **December 12, 2023** (five (5) District business days) to submit any written response to the investigation report, and written, relevant questions that a party wants asked of any party or witness noted in the investigation report.

Any submissions made in this regard should be sent **to me only** at this email address. Any questions that a party wants asked of any other party or witness should be sent to me in a Word document as an attachment to an email (not a document link or through google drive), with the intended recipient clearly listed on the face of the document above the questions for that witness. Questions should be clearly set forth in a list fashion.

Thereafter, I shall review the submissions to ensure that any questioning is relevant, respectful, and non-abusive. I will circulate to all parties, simultaneously, any written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information. Likewise, if you should anticipate requesting an extension of this or any timeline as we proceed from this point forward, please include all counsel on your request and make such requests as soon as the need is anticipated.

I look forward to working with you all.

Sincerely,

Giana Ortiz

THE ORTIZ LAW FIRM

ATTORNEYS AT LAW

1304 West Abram, Suite 100
Arlington, Texas 76013
t. 817-861-7984
f. 817-549-7358

Exhibit 2

Giana Ortiz

From: Giana Ortiz
Sent: Wednesday, December 27, 2023 2:02 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX
Attachments: Respondent's Response (12-12-23).pdf; Respondent's Witness Questions (12-12-23).docx; Complainant's Response (12-12-23).pdf; Complainant's Response TAB A.pdf; Complainant's Witness Questions (12-12-23).doc

Greetings Counsel,

I received responses and party/witness questions from both parties on December 12, 2023. I have reviewed the proposed questions to ensure that any questioning is relevant, respectful, and non-abusive.

I am now circulating to all parties, simultaneously, the parties' written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive. I have changed the file names to clearly identify the proponent party. I have made one exclusion of questions proposed. In particular, the Complainant has proposed questions to a person who is not noted in the Investigation Report. Under Humble ISD Title IX Formal Complaint Procedures, that would exceed the scope of permitted questioning at this time. Thus, I have indicated where the questions have been excluded in that document, but there have been no other changes to the parties' documents I am transmitting to you.

As you know, today is not a District Business Day. I have decided to pass these along to you nonetheless in case you or your clients wish to use this additional time. Using District business days, these questions will technically be "received" by the parties on January 4, 2024. Each party must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, each party will have until **January 11, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding the parties' responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions. Please note that I do not find a hearing on this matter to be appropriate, and the questioning process will proceed as indicated in the letter from Attorney McGowan and in Humble ISD policy.

In the meantime, I will ask the District to provide me contact information for the other witnesses for whom you have each propounded questions so that I may share each witness's questions with that witness as well. If you or your clients can provide email addresses for these witnesses, that may help expedite that part of the process given that the District is now on break.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Wednesday, December 6, 2023 4:39 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com;

ethan@mincesrankin.com; grace@mincesrankin.com

Subject: Humble ISD Title IX

Greetings, counsel:

As you know, I have been appointed as Decisionmaker in the Title IX investigation for Humble ISD regarding the claims raised by [REDACTED] against [REDACTED].

I am writing to introduce myself, and to notify the parties of the next deadline. I understand the parties have received the investigative report as of December 5, 2023. Thus, each party will have until **December 12, 2023** (five (5) District business days) to submit any written response to the investigation report, and written, relevant questions that a party wants asked of any party or witness noted in the investigation report.

Any submissions made in this regard should be sent **to me only** at this email address. Any questions that a party wants asked of any other party or witness should be sent to me in a Word document as an attachment to an email (not a document link or through google drive), with the intended recipient clearly listed on the face of the document above the questions for that witness. Questions should be clearly set forth in a list fashion.

Thereafter, I shall review the submissions to ensure that any questioning is relevant, respectful, and non-abusive. I will circulate to all parties, simultaneously, any written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information. Likewise, if you should anticipate requesting an extension of this or any timeline as we proceed from this point forward, please include all counsel on your request and make such requests as soon as the need is anticipated.

I look forward to working with you all.

Sincerely,

Giana Ortiz

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December 12, 2023

Via e-mail at gortiz@ortizlawtx.com

Giana Ortiz
The Ortiz Law Firm
1304 West Abram
Suite 100
Arlington, Texas 76013

Re: Humble Independent School District (“Humble ISD” or the “District”) Title IX Investigation

Dear Ms. Ortiz:

I write in response to your December 6, 2023 email, as well as Marianna McGowan’s December 5, 2023 letter forwarding the Formal Title IX Investigation Report (“Report”), the Evidence Index, the Evidence Exhibits, and the Summaries of Witness Follow-up Interviews to you.

I represent the Complainant, ██████████, who is an ██████████ at Humble ISD. In this position, ██████████ reported to ██████████, who was the ██████████ when she was hired and later promoted to ██████████ during 2019. Since ██████████ was promoted to ██████████, there has not been an individual with the title of ██████████ at Humble ISD. On the other hand, as discussed below, ██████████ and the District has since promoted a male to the position of ██████████.

The following is ██████████’ written response to the Formal Investigation Report. Questions for ██████████ and other witnesses have been sent to you under a separate email.

PRELIMINARY MATTERS

In her December 5, 2023 letter, Ms. McGowan states that “[a]s the Title IX Coordinator, our role is to ensure that procedural requirements are being met.” She also notes that “one of the supportive measures for ██████████ is the provision of weekly status reports to his legal counsel regarding the status of the complaint.” Due to ██████████’s request, Ms. McGowan asks that you keep her advised as to the status of your review of ██████████’ Complaint.

According to the Humble ISD Title IX Formal Complaint Procedures, “[t]he Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.” *See* Humble ISD Title IX Formal Complaint Procedures at page 2. Moreover, “[s]upportive measures must be offered to a complainant and, as appropriate, also to a respondent.” *Id.* Like ██████’s counsel, I previously have requested updates from Ms. McGowan. Given the comments in her letter, I have since requested that Ms. McGowan provide weekly status reports to me as well. We ask that you please keep us advised as to the status of the complaint.

In her December 5, 2023 letter, Ms. McGowan noted that you are not required to conduct a hearing since Humble ISD is a K – 12 entity. Ms. McGowan, however, indicated that you may conduct a hearing in accordance with 34 C.F.R. § 106.45 (b)(6)(ii). *See* December 5, 2023 letter at page 2. Respectfully, we believe that a hearing would be appropriate and beneficial to you as the Decision-Maker.

A hearing would allow you to assess the credibility of ██████ and ██████ and, more importantly, hear directly from the Athletic Department office employees who have “expressed concern[s] that they or their family members would be subjected to retaliation due to their participation due to their participation in this investigation.” *See* Report at page 5. These concerns may be based upon (a) the personal relationship between ██████ and ██████, (b) ██████’s attempted removal of ██████ from the Athletic Department in April 2023, (c) ██████’ 89 day suspension after voicing complaints about ██████, and (d) ██████’ October 10, 2023 suspension which occurred the day after the Investigator, Laura O’Leary, provided counsel for ██████ and ██████ with the evidence that had been gathered in connection with the investigation. As you may know, ██████ were dating and living together when ██████ initially voiced her complaints in late April and early May 2023. Since then, ██████ and ██████ became engaged in July 2023 and were married in November 2023.

Notably, but not surprisingly, there has been an effort on the part of ██████ and a District employee who he refers to as his “sister” (and him as her “brother”), ██████, to portray ██████ as someone who regularly made sexual comments and discussed prior sexual relationships which occurred decades ago when ██████ was in college. The assertions made by ██████ and ██████ are not supported by the other individuals interviewed by Ms. O’Leary, who described ██████ as someone who (1) was reserved about her personal relationship and sexual orientation, (2) did not make comments that were sexually explicit like ██████ did, and (3) unlike some of them, did exhibit some discomfort about the statements that ██████ was making. In this regard, there were witnesses who were interviewed that indicated that they were offended by the sexually explicit comments being made by ██████.

By making allegations about ██████’ past, ██████ is engaging in a tactic known as “DARVO,” which stands for “Deny, Attack, and Reverse Victim and Offender.” Importantly, Title IX, as Ms. McGowan noted, provides that attacks on the complainant of this nature are inappropriate and are not relevant:

With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

34 C.F.R. § 106.45 (b)(6)(ii). As a result, much of the evidence provided by [REDACTED] and [REDACTED] should be excluded as not relevant.

ROLE OF MS. MCGOWAN AS THE TITLE IX COORDINATOR

At the outset, it is important for you to understand Ms. McGowan is not the designated Title IX Coordinator for Humble ISD. Rather, the District designated and authorized Terry Perkins, [REDACTED], "as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for employees." See Humble ISD Title IX Board of Trustee's (Board") Policy DIA (EXHIBIT), attached as Tab A. While Ms. McGowan included Board Policies DIA (LEGAL) and DIA (LOCAL) as attachments to her December 5, 2023 letter, she failed to include Board Policy DIA (EXHIBIT). We ask that you review and consider Board Policy DIA (EXHIBIT) when you evaluate the District's and the Board's compliance with Title IX.

To date, Mr. Perkins has not taken any action in his capacity as Title IX Coordinator in response to my May 4, 2023 letter to the members of the Board, then [REDACTED] and [REDACTED]. [REDACTED] **never** contacted [REDACTED] or me to discuss the May 4, 2023 letter, **never** offered or inquired about any supportive measures, or **never** took any steps to prevent any retaliation against [REDACTED] for having filed a Title IX complaint. [REDACTED] has completely failed "to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended," for [REDACTED].

Moreover, it is not clear from Ms. McGowan's letter whether she provided you with all of the documents that were provided by Investigator Laura O'Leary to her. While Ms. McGowan refers to the "Summaries of Witness Follow-up Interviews," she did not refer to the 48 page "Formal Title IX Complaint: Summaries of Interviews of Complainant and Respondent." Can you please confirm that you received these summaries as well?¹

¹ In the Formal Investigation Report, Ms. O'Leary stated: "On October 19, 2023, I provided you with summaries of witness interviews which identified the witnesses." See Report at page 1. She also noted: "Pursuant to the District's Title IX Formal Complaint Procedures, prior to our completion of this report, you were given the opportunity to inspect and review the evidence and to submit a written response to me." See Report at page 1. Respectfully, these statements are incorrect. While Ms. O'Leary apparently sent the unredacted summaries to [REDACTED]'s counsel on that day, she failed to send them to me until December 1, 2023. According to Ms. O'Leary, she sent the unredacted summaries to an incorrect email address on October 19, 2023 and did not realize her error until I inquired about the summaries upon receipt of the Formal Investigation Report. Notably, when [REDACTED] provided comments to the

As discussed below, the failure of the District and the Board to comply with their Title IX Board Policies and Procedures constitutes a violation of Title IX and is evidence of deliberate indifference on their part. We request that you, as the Title IX Decision-Maker, expand the scope of your review of the issues to include the failure of the District and the Board to comply with Title IX, the regulations implementing Title IX, the Board's Title IX Policies – including Board Policy DIA (EXHIBIT), and the Humble ISD Title IX Formal Complaint Procedures.

SCOPE OF REVIEW

In the Report, Ms. O'Leary provided a timeline for your use in "understanding the broader picture." As Ms. O'Leary has indicated in the Report, there are alleged Title IX violations involving the District and other District personnel. *See* Report at page 1 fn. 1. There are also complaints that were raised in the May 4, 2023 letter related to ██████ that are not encompassed by the three issues identified by Ms. McGowan or the Report.

As noted above, I sent a letter on ██████' behalf to the members of the Board, then ██████ and ██████ on May 4, 2023. *See* Exhibit Tab 1 to the Report. In the May 4, 2023 letter, ██████ asserted complaints about (1) ██████'s emotional outbursts and tirades, (2) unwelcome sexual comments made by ██████, (3) the denial of salary increases and promotional opportunities, (4) the circumstances leading to ██████' involuntary decision to retire from Humble ISD,² (5) ██████'s disclosure of ██████' sexual orientation and partner during an interview for an ██████ and in an April 23, 2023 email to Humble ISD coaches, (6) ██████' complaints about ██████ creating a toxic, dysfunctional, and abusive work environment, (7) ██████'s removal of ██████ from the Athletic Department on April 26, 2023, (8) ██████' meeting with ██████ on April 26, 2023 and his decision to send ██████ home while she prepared a written statement outlining her complaints, and (9) events that had occurred after ██████ was sent home. *See* Exhibit Tab 1 to the Report.

In the May 4, 2023 letter,³ ██████ alleged that ██████'s actions and conduct created a hostile and offensive work environment in violation of Title VII of the Civil Rights Act of 1964,

(fn 1 cont.) redacted witness statements on November 10, 2023, Ms. O'Leary failed to supply ██████ with the unredacted summaries or to indicate that the unredacted summaries had been previously provided.

In the unredacted summaries, Ms. O'Leary noted that ██████ objected to the withholding of names in the witness summaries as it "interfered with his ability to respond to the evidence provided in connection with the investigation." *See* "Formal Title IX Complaint: Summaries of Witnesses' Interviews" at page 23. ██████ agrees that the failure to connect the witnesses to their statements would, and did, interfere with the ability to fully respond to the statements. While Ms. O'Leary's mistake may have been inadvertent and unintentional as she has indicated, it is yet one more impediment in ██████' obtaining a prompt and unbiased review of her allegations.

² In the May 4, 2023 letter, it was made clear that ██████ did not want to retire from the District and was rescinding her decision to retire.

³ ██████ also filed a Charge of Discrimination with the Equal Employment Opportunity Commission and the Texas Workforce Commission – Civil Rights Division on May 21, 2023 and an Amended Charge of Discrimination on June 26, 2023. *See* Exhibit Tabs 2 and 3 to the Report.

as amended (“Title VII”), the Texas Human Rights Act (“THRA”), and Title IX of the Education Amendments of 1972, as amended (“Title IX”). [REDACTED] also alleged that [REDACTED]’s behavior violated Humble ISD District policies, including, but not limited to: (1) “Violations of Standards of Conduct” and “Harassment or Abuse,” of Policy DH (LOCAL), “Employee Standards of Conduct;” (2) Standards 1.7, 2.1, 2.5, and 2.8 of Policy DH (EXHIBIT), “Educators’ Code of Ethics;” and (3) Policy DIA (LOCAL) and DIA (LEGAL), “Freedom from Discrimination, Harassment, and Retaliation.” See Exhibit Tab 1 to the Report at page 2.

As you know, Title IX provides: “No person in the United States shall, on the basis of sex, be excluded from participation, in be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681. The regulations implementing Title IX provide that discrimination on the basis of sex in employment is prohibited under Title IX:

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives Federal financial assistance.

34 C.F.R. § 106.51(a) (emphasis added). The prohibitions against employment discrimination apply, among other things, to: (1) upgrading, promotion, and application of nepotism policies; (2) rates of pay or any other form of compensation, and changes in compensation; (3) job classifications and structure, including lines of progression; and (4) any other term, condition, or privilege of employment. 34 C.F.R. § 106.51(b)(2), (3), (4), and (10). Thus, it is clear that Title IX prohibits not only sexual harassment, but also a full range of activities related to the recruitment, evaluation, classification, payment, assignment, retention or treatment of employees.

Further, retaliation against an employee for invoking Title IX is strictly prohibited:

Retaliation prohibited. No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation. The recipient must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any

witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under § 106.8(c).

34 C.F.R. § 106.71(a).

Finally, how the recipient of federal funds treats a complainant can constitute a violation of Title IX:

Discrimination on the basis of sex. A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under title IX.

34 C.F.R. § 106.45(a). As discussed below, we contend that the immediate suspension of ██████████ ██████████ for almost three months following her participation in protected activity was both retaliation and discrimination under 34 C.F.R. § 106.45(a).

Currently, the scope of the Report is focused upon four issues:

1. **Hostile Environment Based on Sexually Explicit Comments** (See Report at pages 6 – 19);
2. **Discrimination on the Basis of Sexual Orientation** (See Report at pages 19 – 23);
3. **Retaliation: Accelerated Hiring of ██████████? Replacement** (See Report at pages 19 – 26); and
4. **Retaliation: ██████████ Being Placed on Administrative Leave After Meeting with ██████████ and ██████████ on April 26, 2023** (See Report at pages 32 - 37).

Ms. O'Leary does identify a "Sub-issue: Allegations of Failure to Promote and Failure to Seek Raises for ██████████." See Report at pages 27 – 32).

We believe that the "Sub-Issue" dealing with promotional opportunities and salary increases should be included as an issue for your review. With respect to Items 3 and 4, we believe that they are part of a larger pattern of retaliation on the part of the District, the Board, and the employees and should be included when the actions of the other individuals who engaged in retaliation are being considered by you. It is important for you to understand that ██████████ did not request that Ms. McGowan split the investigation into multiple parts. Rather, it has been her desire since the initiation of her complaint that the District conduct a prompt investigation of her complaints.

TIMELINE OF CERTAIN EVENTS

In her Report, Ms. O’Leary does identify a number of events in order to assist you in evaluating the evidence. We agree that a timeline is helpful, but would like to elaborate on a few events:

█’s Removal of █ from her position as █ and the Athletic Department on April 26, 2023: It is undisputed that █ did not have the authority under Humble ISD Board Policy to remove █ from her position and the Athletic Department. Humble ISD Board Policy DK (Reassignments and Transfers) provides:

All personnel are subject to assignment and reassignment by the Superintendent or designee when the Superintendent determines that the assignment or reassignment is in the best interest of the district. ...

█ is not the Superintendent and, therefore, did not have the authority to remove █ from her position. Nevertheless, nothing was done for almost three months to return █ to her position.

Conversation with █ on April 26, 2023: Based upon her conversation with █ on April 26, 2023, █ believed that she would return to work after the May 4, 2023 letter was sent. After all, she was the victim, not the perpetrator, of the complained of conduct. Instead, the Board and the District made the conscious decision to allow █ to work, bring in the individual hastily selected by █ and █ to replace █ (█), disregard their obligations under Board policy, and ignore their obligations under federal and state law.

According to █, it was the policy and practice of the District to suspend the individual who voiced complaints of misconduct while allowing those who were the subject of the complaints to continue to work. This “policy and practice,” however, is contrary to the Humble ISD Board Policy on Administrative Leave and Title IX (as well as Title VII and the THRA)>

After numerous requests that the Board and Humble ISD return █ to work, she finally returned to work on July 24, 2023 – eighty nine (89) days after she had been sent home by █.

Humble ISD Ignores its Own Policies and Title IX to Conduct a Prompt Investigation of █’ Claims:

Humble ISD Board Policy DIA, “Employee Welfare: Freedom from Discrimination, Harassment, and Retaliation,” provides:

Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

Despite [REDACTED] filing a formal complaint of discrimination on May 4, 2023, the investigation still has not been completed.

Suspension Prior to Being Placed on Administrative Leave: From April 27, 2023 until May 22, 2023, [REDACTED] instructed to remain at home and use her personal days in order to be paid. *See* Exhibit Tab 39 to the Report. The District’s actions amounted to an involuntary suspension without pay.

Involuntarily Place on Administrative Leave on May 22, 2023: On May 22, 2023, the placed [REDACTED] on Administrative Leave pending an investigation of her complaints involving [REDACTED]. *See* Report at page 3; Exhibit Tabs 3 and 40 to the Report.

Given Opportunity to Elect to go on Administrative Leave: Conversely, [REDACTED] was allowed to “voluntarily be placed on administrative leave while an investigation takes place into allegations brought forward as to [his] level of conduct and behavior being unprofessional and inappropriate. *See* Exhibit Tab 41 to the Report.⁴

Efforts to Return to Work for Almost Three Months: Since her May 4, 2023 letter to the Board, [REDACTED] has requested that the Board return her to work. Indeed, in the May 4, 2023 letter, I stated:

We do ask that the District advise [REDACTED] as to when and where she should return to work. The rumors as to why she is no longer part of the Athletic Department are rampant and are causing her great emotional distress. [REDACTED] should **not** be punished for coming forward and complaining about a toxic, hostile, and offensive work environment that is replete with sexual comments and innuendos from [REDACTED].

Since then, I made repeated requests that the District return [REDACTED] to work, which were ignored for months.

Despite Having Much More Experience as an [REDACTED], [REDACTED] Selects an Employee with Less than Three Months Experience to Serve as [REDACTED]: On July 24, 2023, [REDACTED] was returned to work as an [REDACTED]. Prior to her return, [REDACTED], who had been an [REDACTED] for less than three months, was named [REDACTED]. At the time that she was introduced to the coaches as the [REDACTED], [REDACTED] was introduced as the “acting [REDACTED].” Despite [REDACTED] having years of experience as an [REDACTED] and it being known for weeks that she would be returning to work, there does not appear to be any indication that the District considered naming [REDACTED] as the [REDACTED].⁵

⁴ According to the Report, [REDACTED] was placed on Family and Medical Leave Act (“FMLA”) leave on July 7, 2023.

⁵ According to the Witness Summaries, [REDACTED] (who was living with engaged to [REDACTED] at the time) made the decision to name [REDACTED] as th [REDACTED] [REDACTED].

The District Imposed an Impermissible “Gag Order” on ██████████ when She Returned to Work: ██████████’s July 20, 2023 letter returning ██████████ to work contained a “gag order” that violated 34 C.F.R. Section 106.45(b)(5). The regulations provide that a recipient of federal funds “must ... not restrict the ability of either party to discuss the allegations under investigation.” Despite numerous requests that the District rescind the gag order, it remained in effect until August 31, 2023.

██████████ Was Suspended Again From October 10, 2023 to October 31, 2023 While Employees who Participated in the Same Conduct (or were Aware of the Conduct) Remained at Work: On October 10, 2023, ██████████ was placed on Administrative Leave, purportedly due to her involvement in a game called “how much, how long” that had been started by ██████████ and former co-██████████ (and current Humble ISD employee) years before ██████████ joined the District. ██████████ was not suspended at the same time and appears not to have been subject to any investigation as to her behavior.

Moreover, ██████████ is not only aware of the game, but also has indicated that she was “impressed” by the lone photograph shared by ██████████ with ██████████ and ██████████. Like ██████████, ██████████ was neither suspended nor the subject to any investigation as to her knowledge of, and response to, the game.

██████████ was returned to work **after** I made the Board aware of these facts. If I had not intervened on behalf of ██████████, it is unknown if and when she would have been returned to work.

EVIDENCE SUPPORTS ██████████’ CLAIMS

Based upon a review of the witness summaries, the exhibits, Board Policies, and Title IX and the regulations implementing Title IX, we believe that the evidence clearly supports a finding that ██████████ and the District violated Title IX in the following manner:

1. **Hostile Environment Based on Sexually Explicit Comments.** The record is replete with evidence that ██████████ regularly made sexually explicit comments and created an environment where such comments were commonplace. I have attached, as Tab B, a chart which outlines the comments witnessed by the employees within the Athletic Department. As noted above, while some of the employees have indicated that the sexually explicit comments did not bother them, they acknowledged that the comments made others, including ██████████, uncomfortable.

Many of these same witnesses also indicated that ██████████ engaged in emotional outbursts, threw things, and broke things. Because of his tirades and outbursts, the employees were afraid of confronting him about his inappropriate behavior. I have included, as Tab C, a chart which addresses ██████████’s inappropriate behavior. Notably, ██████████, ██████████, commented that actions need to be taken to address the “atmosphere” in the Athletic Department office.

2. **Discrimination on the Basis of Sexual Orientation.** [REDACTED] does not deny that [REDACTED] and others in the Athletic Department office knew about her sexual orientation and her partner, [REDACTED]. However, [REDACTED] and [REDACTED] again overstate how much was known about [REDACTED]'s personal life and sexual orientation. I am attaching, as Tab C, a chart which discusses how [REDACTED] kept her personal life private.

In his April 26, 2023 email to the [REDACTED] and in an interview with an Athletic Department applicant, [REDACTED] discussed personal facts about [REDACTED] that effectively "outed" her to individuals who were not aware of her sexual orientation and partner. It was inappropriate for [REDACTED] to do so and was contrary to [REDACTED]'s stated wishes to the District that her personal life be kept private.

3. **Retaliation: Accelerated Hiring of [REDACTED]'s Replacement.** The evidence establishes that [REDACTED] and [REDACTED] failed to follow applicable Board Policies regarding the positing of positions.

4. **Retaliation: [REDACTED] Being Placed on Administrative Leave After Meeting with [REDACTED] and [REDACTED] on April 26, 2023.** As noted above, Humble ISD Board Policy and Title IX prohibit the suspension of the complainant for having brought forth a complaint in good faith. Nevertheless, that is what was done in April 2023.

If you have any questions, please contact me at 281-928-4932.

Very truly yours.



J. Alfred Southerland

Enclosures

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Title IX Coordinator

The District designates and authorizes the following person as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for employees:

Name: Mr. Terry Perkins
Position: [REDACTED]
Address: 10203 Birchridge Drive, Humble, TX 77338
Email: [Title IX coordinator](mailto:tperkin@humbleisd.net) (tperkin@humbleisd.net)
Telephone: (281) 641-8005

ADA/Section 504 Coordinator

The District designates and authorizes the following person as the ADA/Section 504 coordinator for programs and services to be responsible for coordinating the District's efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, for employees:

Name: Rick Meyer
Position: 504 Program Coordinator
Address: 10203 Birchridge Drive, Humble, TX 77338
Email: [ADA/Section 504 coordinator](mailto:rmeyer@humbleisd.net) (rmeyer@humbleisd.net)
Telephone: (281) 641-8316

The District designates and authorizes the following person as the ADA/Section 504 coordinator for facilities accessibility to be responsible for coordinating the District's efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, for employees:

Name: Jason Seybert
Position: Associate Superintendent for Operational Support Services
Address: 1703 Wilson Road, Humble, TX 77347
Email: [ADA/Section 504 coordinator](mailto:jseyber@humbleisd.net) (jseyber@humbleisd.net)
Telephone: (281) 641-8700

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NAME	OBSERVE █████'S TEMPER	OBSERVE █████ THROWING THINGS	OBSERVE █████ BREAKING THINGS	COMMENTS
█████ █████	Yes	Yes	Yes	
█████	Admitted that he has "struggled with emotional issues due to his divorce six years ago."	Not asked/Did not say.	Not asked/Did not say.	█████ says that the atmosphere within the Athletic Department has not changed over the last 10 or more years.
█████	Aware of some incidents where █████ "engaged in physical manifestations of his stress."	Believes that █████ engaged in 3-4 incidents over six years, including throwing a spreadsheet, a headset, and a phone in an office.	Yes. Broke a computer keyboard.	█████ is married to █████. They were dating and living together when █████ filed her complaint.
█████	Did not see █████ lose temper.	Not asked/Did not say.	Did not see █████ break anything.	█████ was an █████ under █████ and is very good friends with █████.
█████	█████ has a temper.	Yes	Has not seen █████ break things.	

<p>██████████</p>	<p>Not aware of any issues with ██████'s temper.</p>	<p>Did not know.</p>	<p>Did not know.</p>	<p>While ██████ is the ██████, he said he was unaware of any issues that ██████, other administrators, and employees in the Athletic Department have observed.</p>
<p>██████████</p>	<p>█████ is "volatile," "very emotional," "curses," and is "rambunctious."</p>	<p>Yes. Seen ██████ throw things.</p>	<p>Yes. Is aware ██████ broke things.</p>	<p>██████████ acted as ██████'s spiritual adviser when ██████ was dealing with personal issues.</p>
<p>██████████</p>	<p>"Issues with his temper, including screaming, yelling, and cursing." "Prone to violent outbursts when frustrated, engaging in almost physical confrontations with Athletic Department staff."</p>	<p>Yes.</p>	<p>Yes. "Broken things and damaged walls."</p>	

<p>██████████ ██████████</p>	<p>██████████ sometimes “snapped at people.”</p>	<p>Not asked/Did not say.</p>	<p>Not asked/Did not say.</p>	<p>██████████ is one of ██████████’s best friends and an ardent supporter.</p>
<p>██████████</p>	<p>No negative interactions with ██████████.</p>	<p>Not asked/Did not say.</p>	<p>Not asked/Did not say.</p>	<p>██████████ was promoted by to ██████████ ██████████ in April 2023.</p> <p>Was not in the Athletic Department office much prior to then.</p>
<p>██████████</p>	<p>██████████ has a “temper,” “often in a bad mood due to issues with his divorce,” “very reactive and confrontational”</p>	<p>Does not say that ██████████ threw things, but said that he has “broken things in the office.”</p>	<p>Yes.</p>	<p>She witnessed ██████████ present when ██████████ broke a piece of equipment.</p>
<p>██████████</p>	<p>██████████ has a “temper, is moody, and can switch moods abruptly.”</p>	<p>Yes.</p>	<p>Not asked/Did not say.</p>	
<p>██████████ ██████████</p>	<p>██████████ “is moody,” “his moods became worse during the 2022-2023 year,” “sometimes made Athletic Department</p>	<p>Yes. Thrown things, slammed doors.</p>	<p>Yes. Broken things in the office.</p>	<p>██████████ “regularly belittled people from outside the office, calling them stupid or retarded.”</p>

	<p>personnel nervous and afraid to talk to him or ask questions, unapproachable at times.”</p>			<p>“ [REDACTED] perceived that Respondent sometimes made Athletic Department personnel nervous and afraid to talk to him or ask questions. [REDACTED] [REDACTED] acknowledged that, for more than a year, Athletic Department personnel regularly communicated with one another about Respondent’s mood, notifying each other when they perceived Respondent to be in a bad mood.”</p> <p>“ [REDACTED] perceived that various Athletic Department employees believed that someone needed to address the problems of [REDACTED]’s temper and moodiness, but she feared retaliation if she discussed matters with [REDACTED]’s</p>
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				supervisor, because [redacted's] supervisor reports to [redacted], and [redacted] was aware that [redacted] and [redacted] were in a romantic relationship. [redacted] feared that any complaint would get passed on to [redacted] who would then become angry."
[redacted]	[redacted] "is moody and has a temper," "moods have been a problem for years," "they were worse during the 2022 – 2023 year."	Not asked/Did not say.	Yes.	[redacted] was present at times when [redacted] engaged in angry outbursts and was present once when [redacted] broke a piece of equipment.
[redacted]	Did not perceive any anger issues in the Athletic Department.	Not aware.	Not aware.	
[redacted]	[redacted] has "temper issues," treated him and [redacted] worse than others in the office.	Yes.	Yes.	
[redacted]				

	<p>█ has “temper,” “could improve way he treats women.”</p>	<p>Not asked/Did not say.</p>	<p>Not asked/Did not say.</p>	
<p>█</p>	<p>█ is “very moody,” “moodiness worsened during the 2022 – 2023 year,” “afraid to approach █ when he was in a bad mood.”</p>	<p>Not asked/Did not say.</p>	<p>Not asked/Did not say.</p>	

TAB C

NAME	OBSERVE [REDACTED] MAKING SEXUAL COMMENTS	OFFENDED BY COMMENTS	AWARE OF OTHERS OFFENDED BY COMMENTS	COMMENTS
[REDACTED]	<p>Yes.</p> <p>(1) Made sexually explicit comments about female Athletic Department members' clothing and footwear ("fuck me heels");</p> <p>(2) Called former [REDACTED] a "bitch" and made explicit sexual comment about her;</p> <p>(3) Made crude comments about women.</p>	Yes.	Yes.	
[REDACTED]	Admitted that "the language used was unprofessional and sometimes sexually explicit."	No. Described the Athletic Department's office's atmosphere as a "coach's office" with a "lot of banter."	Not asked/Did not say. Identified "two women who did not participate in the sexually explicit jokes/banter/conversations" and "one woman who only did so infrequently."	[REDACTED] was dating and living with [REDACTED] when [REDACTED] filed her complaint. They are now married. [REDACTED]'s responses mirror [REDACTED]

				<p>██████████ and focus on alleged statements made by ██████████, not himself.</p>
<p>██████████ ██████████</p>	<p>No. But also states that the “athletic locker roomy way” talk did not occur when she was present.</p>	<p>Not applicable.</p>	<p>States that “she never perceived sexual harassment.”</p>	<p>██████████ was engaged to ██████████ when she was interviewed. They have since married.</p>
<p>██████████</p>	<p>No.</p>	<p>Not applicable.</p>	<p>Not applicable.</p>	<p>██████████ was an ██████████ under ██████████ and is very good friends with ██████████.</p>
<p>██████████</p>	<p>No.</p>	<p>Not applicable.</p>	<p>Not applicable.</p>	<p>During his interview, he “perceived the need for the District to take action to address issues with the atmosphere in the Athletic Department.”</p>
<p>██████████</p>	<p>No.</p>	<p>Not applicable.</p>	<p>Not applicable.</p>	<p>While ██████████ ██████████ is the ██████████ ██████████, he</p>

				said he was unaware of any issues that [REDACTED], other administrators, and employees in the Athletic Department have observed.
[REDACTED]	No.	Not applicable.	Not applicable.	[REDACTED] acted as [REDACTED]'s "spiritual adviser." Efforts were made not to say anything inappropriate in his presence.
[REDACTED]	Yes. [REDACTED]: (1) "sometimes makes degrading comments to Athletic Department personnel;" (2) "has regularly made sexually explicit comments for years and that these comments relate to people's attire, appearance, footwear, and anatomy."	No.	Yes. "some of the women within the Athletic Department as seeming to be okay with these comments but other Athletic Department personnel as being afraid to talk about it due to fear of retaliation and fear of [REDACTED]'s anger."	"[REDACTED] perceived that everyone in the Athletic Department office participated in sexually explicit joking and banter at some level. He described most of what he saw and heard having been in a group setting, and he said, 'you could stand there silent or laugh and listen.'" [REDACTED] stated that [REDACTED]

	<p>“ [REDACTED] recalls that, several years ago, [REDACTED] made a veiled sexual reference to [REDACTED] about the fact that he and his wife work in the same building. [REDACTED] believes that his wife was present at the time but nobody else was present. This comment did not bother [REDACTED] [REDACTED], and he said it did not bother his wife either.”</p> <p>“With respect to sexually explicit comments about attire, footwear, or appearance, [REDACTED] was ‘not going to say everyone made such comments,’ but he said [REDACTED] [REDACTED] did make such comments and that only [REDACTED] [REDACTED] made sexually explicit comments about anatomy. [REDACTED] [REDACTED] stated that only [REDACTED] made comments made him think ‘what the hell?’”</p>			<p>“discouraged Athletic Department personnel from talking about what happens in the office with anyone outside the office, including spouses.”</p> <p>“ [REDACTED] said the sexually explicit joking and banter did not change over time as far as he recalls. [REDACTED] [REDACTED] noted that before the Athletic Department moved to the new building, he was not present in the office as often.”</p>
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<p>██████████ ██████████</p>	<p>“Except as otherwise noted herein, ██████████ could not recall any other specific examples of sexually explicit jokes or banter in the Athletic Department office, but she perceived such conduct as having occurred constantly throughout the years.”</p>	<p>No.</p>	<p>“Nobody ever complained to ██████████ about the sexually explicit jokes/banter/comments in the Athletic Department office.”</p>	<p>██████████ is one of ██████████’s best friends and an ardent supporter. ██████████ responses mirror ██████████’s and focus on alleged statements made by ██████████, not ██████████.</p>
<p>██████████</p>	<p>Not asked/Did not say.</p>	<p>Not asked/Did not say.</p>	<p>Not asked/Did not say.</p>	<p>██████████ was promoted by to ██████████ ██████████ in April 2023 after ██████████ indicated that she would retire due to ██████████’s belittling of her. ██████████ was not in the Athletic Department office much prior to then or when the comments were made.</p>

<p>██████████</p>	<p>“Some of the joking around the Athletic Department was sexually explicit.”</p> <p>██████████ “made sexually explicit comments about people’s appearance.”</p>	<p>No.</p>	<p>Not asked/Did not say.</p>	<p>“██████████ characterized her participation in comments about people’s attire and appearance as being more like complimenting each other. The women in the office would tell each other ‘you look great’ but never ‘you look sexy,’ and they would never make comments like ‘you’re wearing come fuck me shoes.’”</p>
<p>██████████</p>	<p>“██████████ perceived that Respondent made sexually explicit comments including comments about people’s appearance and footwear. ██████████ did not take offense at such comments. ██████████ perceived that Respondent set the tone for the casual atmosphere in</p>	<p>No.</p> <p>“These jokes did not make ██████████ feel uncomfortable.”</p>	<p>Yes.</p> <p>“██████████ perceived that most people in the Athletic Department participate in this joking, but she perceived that Complainant did not participate very much.”</p> <p>“██████████ perceived that Complainant had recently become unhappy with some of</p>	<p>“██████████ said there was a mutual understanding in the Athletic Department office not to use sexually explicit language when people from outside the office were present.”</p> <p>“██████████ perceived that people within the Athletic Department</p>

	<p>the Athletic Department, which included cursing and comments about people's appearance. [REDACTED] [REDACTED] was happy with this atmosphere.”</p> <p>“ [REDACTED] heard, second hand, that Respondent made a comment at a track meet during the Spring of 2023, when Respondent said he wanted a woman to run by so he could see her boobs bounce. [REDACTED] [REDACTED] did not witness this or hear this comment.”</p> <p>“Prior to the commencement of this investigation, [REDACTED] does not believe that the sexually explicit joking and banter within the Athletic Department office changed over the years.</p>		<p>Respondent's comments, though she did not know which comments disturbed Complainant.”</p>	<p>thought someone should talk to Respondent about his conduct, but she perceived that people were afraid to do so. [REDACTED] was afraid to talk to Respondent about his conduct.”</p>
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	<p>██████████ previously noted that sexually explicit joking and banter ended when this investigation began.”</p>			
<p>██████████ ██████████</p>	<p>“██████████ acknowledged that Athletic Department personnel, including Respondent, made sexually explicit comments and jokes, including comments about people’s appearance, clothing, and footwear.”</p> <p>“██████████ said the sexually explicit joking and banter in the Athletic Department office has been the same every year since she’s been there, although she acknowledged that this has changed since the beginning of this investigation.”</p>	<p>No.</p> <p>“██████████ was not offended by Respondent’s sexually explicit comments or jokes.”</p>	<p>Not asked/Did not say.</p>	<p>“██████████ stated that there was a mutual understanding among Athletic Department office personnel not to make sexually explicit jokes around people from outside of the office. ██████████ said that nobody told Athletic Department office personnel to change their behavior when others were present.”</p>

<p>██████████</p>	<p>“██████████ acknowledged that Athletic Department personnel, including Respondent, made sexually explicit comments and jokes.”</p>	<p>Yes. “██████████ is uncomfortable with these comments and jokes.”</p>	<p>Yes. “██████████ perceived that Complainant was upset when Respondent made a reference in an email to Complainant’s partner.”</p>	<p>“██████████ acknowledged that Athletic Department personnel are aware that ██████████ and Respondent are in a romantic relationship. ██████████ perceived that ██████████ has spent time in the Athletic Department office daily for more than a year. ██████████ perceived that ██████████’s presence in the Athletic Department office affected Athletic Department personnel’s willingness and/or ability to speak to Respondent.”</p>
<p>██████████</p>	<p>Yes. “██████████ acknowledged that people in the Athletic Department, including Respondent, made sexually</p>	<p>No. “These jokes and comments did not make ██████████ feel uncomfortable.”</p>	<p>Not aware.</p>	

	explicit jokes and comments.”			
██████████	<p>Yes.</p> <p>“██████████ acknowledged that Respondent made sexually explicit comments including comments about people’s attire and footwear.”</p>	<p>Yes.</p> <p>“██████████ was shocked that anybody would say the kind of things that Respondent said in the office.”</p>	<p>Yes.</p> <p>“██████████ believes that Respondent’s sexually explicit comments made Athletic Department personnel uncomfortable.”</p>	<p>“██████████ perceived that ██████████ spent significant time in the Athletic Department for years, and he considered this abnormal. ██████████ perceived that people thought that ██████████ and [██████████] were in a romantic relationship because ██████████ ██████████ spent so much time in the Athletic Department. During the Spring of 2022, [██████████] confirmed that he was in a romantic relationship with ██████████ with the Board’s knowledge and approval. ██████████ found this information troubling. ██████████ perceived [██████████]’s relationship with ██████████</p>

				<p>as a problem for Athletic Department office personnel. [REDACTED]</p> <p>[REDACTED] perceived that it would be a bad idea to bring concerns about [REDACTED]'s behavior to anybody at the District because [REDACTED] was in a romantic relationship with the [REDACTED] [REDACTED] was unwilling to complain about [REDACTED]'s conduct because he perceived [REDACTED] as too powerful.”</p>
[REDACTED]	<p>Not asked/Did not say.</p> <p>“ [REDACTED] perceived that [REDACTED] could improve the way he treats women.”</p>	Not asked/Did not say.	Not asked/Did not say.	
[REDACTED]	<p>“ [REDACTED] described the Athletic Department as a</p>	Not asked/Did not say.	<p>Yes.</p> <p>“ [REDACTED] learned that</p>	

	<p>good old boys' network before Complainant got there.”</p> <p>“ [REDACTED] heard others talk about Respondent making sexually explicit remarks. [REDACTED] heard that Respondent made sexually explicit remarks about people's anatomy and sexual orientation.”</p>		<p>Respondent's sexually explicit remarks made Athletic Department personnel uncomfortable, even though they don't act like they are uncomfortable.”</p>	

TAB D

NAME	AWARE OF ██████████', SEXUAL ORIENTATION / PARTNER	DISCUSSION OF SEXUAL ORIENTATION / PARTNER IN ATHLETIC DEPARTMENT	██████████', DISCUSSION OF SEXUAL ORIENTATION / PARTNER OUTSIDE OF ATHLETIC DEPARTMENT	██████████'S DISCUSSION OF ██████████', SEXUAL ORIENTATION / PARTNER
██████████		<p>“Complainant said that she is very private about her personal life.” (Summaries at p. 8)</p>		<p>“Complainant expressed significant displeasure and sorrow about Respondent having announced her retirement in an email he sent out on April 23, 2023 (Tab 18). Complainant thought that she should have been able to announce her retirement and maybe have a party. Complainant was very upset that Respondent referred to Complainant’s partner, ██████████, in this email. Complainant believed that the campus ██████████ ██████████ forwarded this email to their coaches, such that approximately</p>

				<p>300 people ultimately received it, many of whom knew nothing about Complainant's private life. Complainant was in tears at home after she received this email. Complainant said that she started getting messages from people asking what was happening. Complainant said Respondent told her that next day that [REDACTED] told him he should not have mentioned [REDACTED] in his email about Complainant retiring. Complainant said she told Respondent, 'she's right' and expressed her anger." (Summaries at p. 8)</p> <p>"Complainant expressed significant displeasure over another time when Respondent mentioned Complainant's partner to</p>
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				<p>someone outside the Athletic Department office. Complainant said that Respondent made reference to a trip Complainant and her partner had taken when Respondent was interviewing [REDACTED] for [REDACTED]'s position. Complainant said that Respondent apologized and cried when Complainant expressed her anger over his mentions of her partner.” (Summaries at p. 8)</p>
[REDACTED]	<p>“Respondent said that, at no prior time in the last seven years did Complainant discourage Respondent from talking about [REDACTED]. Respondent said that Complainant has taken [REDACTED] to events at the District and that Respondent had gotten [REDACTED] an interview for a</p>	<p>“Respondent said that Complainant spoke openly about [REDACTED] in the office and made no attempt to keep their relationship a secret.” (Summaries at page 20)</p>	<p>“Respondent fully believed that Respondent was wholly open about her sexual orientation both inside and outside of the Athletic Department office.” (Summaries at page 20)</p>	<p>“Respondent stated that, on or about Friday, April 21, 2023, he met with Complainant to discuss an email announcing her retirement and [REDACTED] and [REDACTED]'s new positions. Respondent explained that Complainant did not tell Respondent what</p>

	<p>job at the District.” (Summaries at page 20)</p>			<p>to say in the email but that Complainant agreed that Respondent could say that Complainant was retiring. Respondent texted [REDACTED] before sending the email, but Respondent ultimately sent the email before [REDACTED] provided any feedback on it. Respondent said he sought [REDACTED]'s opinion about whether the email had a sufficiently positive tone with respect to Complainant, not whether he should mention Complainant's partner, [REDACTED], in the email. [REDACTED] ultimately told Respondent that it might not have been the best idea to have mentioned [REDACTED] in the email, but [REDACTED] thought the message was positive. Respondent said</p>
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				<p>that it never occurred to him that he should not have mentioned [REDACTED] in the email, because, in his view, mentioning a retiring employee's spouse is standard protocol to show respect. Respondent said he intended to be complimentary about Complainant's relationship with [REDACTED], because he was respectful of this relationship. Respondent said he had no idea that Complainant would find it problematic for him to have referred to [REDACTED]. Respondent said he sent the email to approximately 30 people who serve as [REDACTED] within the District. Respondent sent the email during the evening of Sunday, April 23, 2023. Respondent did not know whether the recipients forwarded this email to coaches</p>
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				<p>or others within the District.” (Summaries at pages 19 – 20)</p> <p>Note: [REDACTED]'s comments do not take into consideration the fact that it would be expected that the [REDACTED] [REDACTED] would provide the information contained in the email to the coaches and other Athletic Department personnel at their campuses.</p> <p>“Respondent acknowledged that he made a comment during an interview for the [REDACTED] [REDACTED] position that [REDACTED] [REDACTED] left in [REDACTED] which he mentioned a recent trip Complainant had taken with [REDACTED]. Respondent explained that his point in making the comment was to show the applicant that he wanted Athletic Department employees to</p>
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				have a healthy work/life balance.” (Summaries at page 20)
<p>██████████ ██████████</p>	<p>“██████████ perceived that Complainant speaks openly about her partner.” (Summaries at page 28)</p> <p>Note ██████████ does not indicate how she came to this perception, as she does not regularly talk to ██████████ about work or personal matters.</p>			<p>“██████████ believes that Complainant told Respondent to go ahead and tell Athletic Department personnel that she was retiring and that Complainant declined to write the email herself.” (Summaries at page 28)</p> <p>Note: ██████████ has no first hand knowledge. Her comments would result from her discussions with ██████████.</p> <p>“██████████ was surprised that Complainant was upset by Respondent mentioning her partner in that email, because ██████████ had attended ██████████’s retirement party where coaches and campus coordinators were present.”</p>

				(Summaries at page 28) Note: [REDACTED] has no first-hand knowledge. Her comments would result from her discussions with [REDACTED] and/or [REDACTED]. [REDACTED] did not attend the retirement party.
[REDACTED]	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.
[REDACTED]	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.
[REDACTED]	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.
[REDACTED]	Aware, but... “ [REDACTED] perceived that Complainant was not really open about [REDACTED] in the office.” (Summaries at page 32)	“ [REDACTED] perceived that Complainant was not really open about [REDACTED] in the office.” (Summaries at page 32)	“ [REDACTED] perceived that Complainant was not really open about [REDACTED] in the office.” (Summaries at page 32)	“ [REDACTED] was aware of the email Respondent sent mentioning Complainant’s partner, [REDACTED]. [REDACTED] perceived that Complainant was unhappy about Respondent’s reference to [REDACTED].” (Summaries at page 32)
[REDACTED]				

	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.	Not asked/did not say.
<p>[REDACTED]</p>	<p>“ [REDACTED] thought that it was clear that Complainant is gay.” (Summaries at page 36)</p> <p>Was a former [REDACTED] partner roomed with [REDACTED] at [REDACTED]</p> <p>“ [REDACTED] perceived that Complainant was happy because she did not have to hide her sexual orientation at Humble ISD.” (Summaries at page 36)</p> <p>“ [REDACTED] perceived that Complainant wanted to retire to spend time with her family and her partner.” (Summaries at page 36)</p> <p>Note: This statement mirrors [REDACTED]’s</p>	<p>“ [REDACTED] reported hearing Complainant talk about her domestic partner and her sexual orientation in the Athletic Department office.” (Summaries at page 36)</p>	<p>“ [REDACTED] was aware that Complainant brought her partner to athletic events and school-related parties where many coaches were present.” (Summaries at page 36)</p> <p>“ [REDACTED] thought it was obvious that Complainant’s partner attended these events as Complainant’s date.” (Summaries at page 36)</p> <p>“ [REDACTED] believes that all the District coaches were aware of Complainant’s sexual orientation, but she perceives that Complainant is more guarded about her sexual orientation outside the Athletic</p>	<p>“ [REDACTED] perceived that, during April of 2023, Complainant had decided to retire. [REDACTED] learned of Complainant’s decision to retire after Complainant spoke to Respondent about retiring.” (Summaries at page 36)</p> <p>Note: [REDACTED] heard this from [REDACTED].</p> <p>“ [REDACTED] thought Respondent’s email about Complainant retiring was nice and unobjectionable.” (Summaries at page 36)</p> <p>Note: [REDACTED] said: “ [REDACTED] ultimately told Respondent that it might not have been the best idea to have mentioned [REDACTED] in the email.”</p>

	April 23, 2023 email.		Department office.” (Summaries at page 36)	“ [REDACTED] does not recall seeing any other retirement announcement emails which mentioned the retirees’ spouses.” (Summaries at page 36).
[REDACTED]	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.
[REDACTED]	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.
[REDACTED]	<p>“ [REDACTED] knew that Complainant is gay and knew that Complainant has a spouse.” (Summaries at page 39)</p> <p>“ [REDACTED] acknowledged that Athletic Department personnel were open in the office about their families.” (Summaries at page 39)</p>	<p>“ [REDACTED] never heard Complainant talk about her past dating experiences or sexual exploits. [REDACTED] does not think that Complainant would share such personal information.” (Summaries at page 37)</p> <p>“ [REDACTED] did not perceive Complainant as private about her personal life, but noted that Complainant may have been more private than</p>	<p>“ [REDACTED] never heard Complainant talk about her past dating experiences or sexual exploits. [REDACTED] does not think that Complainant would share such personal information.” (Summaries at page 37)</p> <p>“ [REDACTED] has not met Complainant’s partner at District events, but she is aware that Complainant’s partner attended</p>	<p>“ [REDACTED] perceived that Complainant was very upset when Respondent sent an email about Complainant retiring that mentioned Complainant’s partner.” (Summaries at page 39)</p>

		<p>others in the office about her family.” (Summaries at page 39)</p> <p>“██████████ noted that Complainant does not keep pictures of her partner in her office.” (Summaries at page 39)</p>	<p>some District events.” (Summaries at page 39)</p>	
██████████	<p>“██████████ perceived that Athletic Department personnel are very open and that everybody talks about their personal lives in the office. ██████████ described Athletic Department personnel as being like a big family. ██████████ perceived Complainant as being more private than others about her personal life.” (Summaries at page 41)</p> <p>“██████████ had no idea initially that</p>	<p>“██████████ perceived Complainant as being more private than others about her personal life.” (Summaries at page 41)</p> <p>“██████████ said Complainant was not open about her sexual orientation and did not have any pictures of her partner in her office.” (Summaries at page 41)</p>	<p>“██████████ perceived Complainant as being more private than others about her personal life.” (Summaries at page 41)</p> <p>“██████████ said Complainant was not open about her sexual orientation and did not have any pictures of her partner in her office.” (Summaries at page 41)</p> <p>“██████████ perceived that Complainant was upset when Respondent made a reference in an email to</p>	<p>“██████████ perceived that Complainant was upset when Respondent made a reference in an email to Complainant’s partner. ██████████ believes that coaches in the District would not have known about Complainant’s partner.” (Summaries at page 42)</p>

	<p>Complainant was gay.” (Summaries at page 41)</p> <p>“ [REDACTED] said Complainant was not open about her sexual orientation and did not have any pictures of her partner in her office.” (Summaries at page 41)</p> <p>“ [REDACTED] was not aware of Complainant’s domestic partner for many years.” (Summaries at page 41)</p>		<p>Complainant’s partner. [REDACTED] believes that coaches in the District would not have known about Complainant’s partner.” (Summaries at page 42)</p>	
[REDACTED]	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.	“ [REDACTED] perceived that Complainant was upset when Respondent made a reference in an email to Complainant’s partner.” (Summaries at page 43)
[REDACTED]	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.
[REDACTED]	“ [REDACTED] knew about	“ [REDACTED] perceived	“ [REDACTED] perceived	

	<p>Complainant's relationship with her partner." (Summaries at page 44)</p>	<p>Complainant as being very private about her sexuality and other people's sexual orientation." (Summaries at page 44)</p> <p>"██████████ characterized Complainant as very hesitant to talk about her personal life." (Summaries at page 44)</p> <p>"██████████ believed that Complainant's sexual orientation and relationship with her partner were common knowledge within the Athletic Department office, but he thought 'that was where the line was drawn.'" (Summaries at page 44)</p>	<p>Complainant as being very private about her sexuality and other people's sexual orientation." (Summaries at page 44)</p> <p>"██████████ characterized Complainant as very hesitant to talk about her personal life." (Summaries at page 44)</p> <p>"██████████ believed that Complainant did not speak about her personal life with anyone else in Humble ISD, including coaches and others. ██████████ believed that coaches and anyone outside the Athletic Department office generally did not know about Complainant's partner." (Summaries at page 44)</p> <p>"██████████ is aware that Complainant's partner attended</p>	
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			<p>██████████'s retirement party, but he does not recall Complainant's partner attending other District events." (Summaries at page 44)</p> <p>"██████████ believed that Complainant's partner attended ██████████'s retirement party because she and Complainant are good friends with ██████████ and her partner. ██████████ did not necessarily perceive Complainant's partner as her date at this event." (Summaries at page 44)</p> <p>Note: ██████████ attended the retirement event.</p>	
██████████	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.	Not asked/Did not say.
██████████	"██████████ perceived that	"██████████ perceived that		"██████████ only learned

	<p>Complainant was private about her personal life and never even insinuated that she was in a relationship.” (Summaries at page 47)</p> <p>“ [REDACTED] only learned about Complainant’s partner when she learned that Complainant was angry about Respondent having mentioned Complainant’s partner in an email about Complainant retiring.” (Summaries at page 47)</p>	<p>Complainant was private about her personal life and never even insinuated that she was in a relationship.” (Summaries at page 47)</p>		<p>about Complainant’s partner when she learned that Complainant was angry about Respondent having mentioned Complainant’s partner in an email about Complainant retiring.” (Summaries at page 47)</p> <p>“ [REDACTED] heard that Respondent made sexually explicit remarks about people’s anatomy and sexual orientation.” (Summaries at page 47)</p>

Questions for [REDACTED]

1. Did you ever hear [REDACTED] make a derogatory remark about Humble ISD [REDACTED]?
2. If so, what did you hear him say?
3. When did the conversation occur if you recall?
4. Did [REDACTED] ever say anything about 20-inch male genitalia (penis, pecker, or dick)?
5. If so, what did you hear him say?
6. When did the conversation occur if you recall?

Questions for [REDACTED]

1. Did [REDACTED] call you to talk about [REDACTED]?
2. If so, what was the story that [REDACTED] told you?
3. When did the conversation occur if you recall?

Question For [REDACTED]

1. During your interview for the Humble ISD [REDACTED] position, did [REDACTED] mention [REDACTED] and [REDACTED] taking a vacation together?
2. Do you recall what was said?

Questions for [REDACTED]

1. Did [REDACTED] ever tell you that [REDACTED] told her that [REDACTED] was a “freak” in bed, sexually, or words to that effect?
2. If so, what did she say?
3. What was your response?
4. Did you think it was appropriate for [REDACTED] to refer to [REDACTED] in that manner at work?
5. Did you interview for the position filled by [REDACTED]?

Questions for [REDACTED]

[EXCLUDED – Witness is not noted in the investigation report. Humble ISD Title IX Formal Complaint Procedures at 7.]

Questions for [REDACTED]

1. Why did you give the May 4, 2023 letter from [REDACTED]' counsel to [REDACTED] the day or day after you received it and prior to the investigation beginning with Laura O'Leary?
2. Did someone tell you to give the statement to [REDACTED]?
3. Why did you send [REDACTED] home and tell her to take personal days on April 26, 2023?
4. Where is the Board's policy which states that the complainant (complaining individual) is to be sent home during an investigation?
5. Where is the Board's policy which states that the respondent (the accused individual) is to be allowed to remain at work during an investigation?
6. Why was [REDACTED] allowed to elect to go on administrative leave while [REDACTED] was not given a choice?

Questions for Respondent [REDACTED]

1. Did you tell female office staff not to come near your wearing certain outfits? If so, who did you say that to and what did you mean by that?
2. Did you ask the female office staff if they were wearing their “fuck me heels?” If so, who did you say that to and what did you mean by that?
3. Did you say that you wished you had a 20-inch pecker? If so, who did you say that to and what did you mean by that?
4. Did you tell [REDACTED] that you were exit only?
5. When did you apply for FMLA leave?
6. Did someone suggest that you apply for FMLA leave? Who?
7. Did you discuss with [REDACTED] applying for FMLA leave?
8. Who approved your request for FMLA leave?
9. At the time that you applied for FMLA leave were you on Administrative Leave?
10. Did you travel to Mexico after being approved for FMLA leave?

Questions for [REDACTED]

1. How did you become aware of [REDACTED]' May 4, 2023 complaint?
2. What was you told about the complaint?
3. Who instructed you not to take any action?
4. If you understood that the Board was going to handle the Complaint, why did [REDACTED] give a copy of the Complaint to [REDACTED]?
5. If you understood that the Board was going to handle the Complaint, was the Board informed that [REDACTED] was providing assistance to [REDACTED] in responding to the Complaint?
6. What was the process followed when [REDACTED], a male, was promoted to [REDACTED] [REDACTED] in June 2020?
7. Were you aware that [REDACTED] had told [REDACTED] that he had an opportunity to promote her to [REDACTED] but chose not to do so?

Questions for [REDACTED]

1. Since you saw [REDACTED] angry and throw things, why did [REDACTED] not take action or intervene on the Athletic Department staff's behalf?
2. Do you, the Board, [REDACTED], [REDACTED], [REDACTED], and other members of HISD's upper management take the position that it is perfectly acceptable for [REDACTED], the [REDACTED] to engage in temper tantrums and throw things?
3. Have you spoken to the Board to confirm the accuracy of what [REDACTED] has told you and others about the Board's awareness and, according to her, approval of her dating [REDACTED]?
4. If [REDACTED] told you that she "would not be part of any supervisory issue involving [REDACTED] and others within the central administration would have a free hand with respect to any issues involving him," why didn't you take steps to counsel, curtail, and stop [REDACTED]'s temper tantrums and throwing of District property?
5. Why did [REDACTED] provide a copy of the May 4, 2023 Complaint to [REDACTED] within hours of receiving it?
6. Does the Board know that [REDACTED] gave the May 4, 2023 Complaint to [REDACTED]?
7. Were you aware that [REDACTED] had told [REDACTED] that he had an opportunity to promote her to [REDACTED] but chose not to do so?



David M. Minces

Board Certified Labor & Employment Law
Texas Board of Legal Specialization

December 12, 2023

Ms. Giana Ortiz
The Ortiz Law Firm
1304 West Abram, Suite 100
Arlington, Texas 76013

Via Email

Re: [REDACTED] | Response to Investigative Report

Dear Ms. Ortiz:

I write in response to the Investigative Report summarizing the allegations of discrimination and retaliation made by Complainant [REDACTED] against our client, [REDACTED].

It appears that [REDACTED]'s complaint is motivated by bitterness toward [REDACTED]. She wanted to be paid more than the District was willing to pay her, blames this on [REDACTED], and was hurt when the Athletic Department found a capable replacement for her quickly after she expressed an intent to retire. Her complaint appears to be a spiteful response to those hurt feelings. Each of her specific allegations is separately addressed.

Allegation #1: *Complainant alleges she experienced a hostile work environment on the basis of sexually explicit language by [REDACTED] within the Humble ISD Athletic Department about employees in the Athletic Department and other District Employees.*

This allegation has neither factual nor legal merit.

When a party alleges hostile work environment, as [REDACTED] does here, she must show harassment that was sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.¹ The alleged conduct must be objectively and subjectively hostile or abusive, and the totality of the employment circumstances determines whether an environment is objectively hostile.²

The requirement to prove sexual harassment in a hostile work environment are that (1) the Plaintiff belongs to a protected class; (2) the Plaintiff was subject to

¹ *West v. City of Houston, Texas*, 960 F.3d 736 (2020).

² *Id.*

unwelcome sexual harassment; (3) the harassment was based on the Plaintiff's sex; (4) the harassment affected a term, condition, or privilege of employment; and (5) the employer either knew or should have known of the harassment and failed to take prompt remedial action.³

Four factors guide the severe and pervasive standard: (1) the frequency of the discriminatory conduct; (2) the severity; (3) whether it is physically threatening or humiliating, or merely an offensive utterance; and (4) whether it interferes with an employee's work performance.⁴ No single factor is determinative.⁵

In 1993, the Supreme Court explained in *Harris v. Forklift Systems, Inc.* that a hostile work environment does not exist unless the complained-of offensive conduct is both subjectively hostile and objectively hostile.⁶ Thus, an employee's own statement that she perceives conduct as hostile is legally insufficient. Subjective hostility may be established, for example, if there is evidence that an individual made a complaint about the conduct.⁷ Here, that never happened.

Even if conduct is subjectively hostile to the aggrieved employee, there is no hostile work environment claim unless the complained-of conduct is objectively hostile—i.e., unless a reasonable person in the plaintiff's position would find it to be sexually hostile.⁸ This requires analysis of the “surrounding circumstances, expectations, and relationships.”⁹ These factors “are sufficiently demanding to ensure that Title VII does not become a general civility code.”¹⁰ Thus, “not all harassment, including ‘simple teasing, offhand comments, and isolated incidents (unless extremely serious)’ ” is actionable.¹¹

The classic example of a sexually hostile work environment involves unwanted sexual overtures. Here, there is no such allegation. Rather, ██████████ contends that she was exposed to lewd comments. Even if her allegations—many of which are disputed and in some instances controverted by credible evidence—are taken as true, there is still no actionable harassment because the behavior she reports is legally

³ *Jackson v. Texas A&M Univ.*, 975 F. Supp. 943, 946 (S.D. Tex. 1996).

⁴ *Harris v. Forklift Sys.*, 510 U.S. 17, 23 (1993).

⁵ *Id.*

⁶ 510 U.S. 17, 21-22 (1993).

⁷ *See, e.g., Wallace v. Performance Contractors, Inc.*, 57 F.4th 209, 223 (5th Cir. 2023).

⁸ *Oncala v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 81 (1998).

⁹ *Id.* at 82.

¹⁰ *West*, 960 F.3d at 742 (citation omitted) (cleaned up).

¹¹ *Alaniz v. Zamora-Quezada*, 591 F.3d 761, 771 (5th Cir. 2009) (citation omitted).

insufficient. It includes the following statements (again, nearly all of which are unsupported or disputed), which allegedly were spread out over a period of years:

- “Why do women have to be so difficult? I need to bat for your team, but I’m exit only.”¹²
- ██████ sent a text message to the Athletic Department Employees, sharing a photo of a tattoo on his upper arm that symbolizes the relationship between him and his ██████.¹³
- The allegation that ██████ speaking with ██████ about the quality of his sexual experience with ██████.¹⁴
- The allegation that ██████ commented to ██████ about a conversation that he had with ██████ about whether ██████ and her ex-█████ had had sex in a specific room in her house.¹⁵
- The allegation that ██████ commented to a male coworker that he wished he had a larger private part.¹⁶
- The allegation that ██████ once said he “wished he were a bull so his job could be to breed with cows and just fuck all the time.”¹⁷
- The allegation that ██████ commented to a male coworker that he and his wife work in the same building and can meet up and have sex.¹⁸

The investigative report concluded that numerous employees in the athletic department perceive the work environment as familial and characterized by friendliness and informality.¹⁹ In general, employees see the environment as jovial, informal and marked by frequent joking and banter.²⁰

¹² Investigative Report Pg. 6.

¹³ Investigative Report Pg. 6 and 8.

¹⁴ Investigative Report Pg. 6.

¹⁵ Investigative Report Pg. 7.

¹⁶ Investigative Report Pg. 6.

¹⁷ Investigative Report Pg. 7.

¹⁸ Investigative Report Pg. 6.

¹⁹ All individuals interviewed for the investigation that were not a party to the investigation all describe the Athletic Department office as being a “family” and a positive environment to work in. Investigative Report Pg. 9-10.

²⁰ ██████’s description of Humble ISD Athletic Department office.

While now claiming such comments made the work environment sexually hostile, ██████████ was an active participant in this kind of banter, making sexually-charged references such as “bad kitty,”²¹ playing the “how much/how long” game, and commenting crudely about her own breasts and others’ genitalia,²² and discussing individuals’ attire.²³ Other examples of ██████████’ own sophomoric banter includes the following (all of which are established by either documentary evidence or information provided by persons other than ██████████):

- More than once, ██████████ told coworkers that “she would love to be under or over ██████████,” referring to a sexual position.²⁴
- ██████████ told coworkers she would “do” ██████████ and her ██████████, who is also a district employee.²⁵
- On multiple occasions, ██████████ played the “how much/how long” game,²⁶ in which she, ██████████, and ██████████ circulated pictures of people they believed were unattractive and joked about having sex with them and/or their ability to see their own genitalia without a mirror.
- ██████████ made frequent references to male genitals, including comments like, “with huge feet like those he has to have a big dirty dooder.”²⁷
- ██████████ frequently commented about how ██████████’s butt looked in jeans, sometimes patting him on the butt.²⁸
- ██████████ (and others) referred to ██████████ as “Rick the Dick” in Fall 2022.²⁹

²¹ ██████████ acknowledged that people in the Athletic Department office used the phrases “dirty kitty” or “bad kitty” sometimes. Investigative Report Pg. 15.

²² ██████████ using the phrase “big dirty dooder” or “little dooder.” Investigative Report Pg. 15. She also stated that a Humble ISD coach “needs to get off the tit.” Investigative Report Pg. 16.

²³ Attire comments were viewed as flattering to ██████████. Investigative report Pg. 10.

²⁴ Investigative Report Pg. 12.

²⁵ *Id.*

²⁶ Questions referred to how much money it would take to have sex with the unattractive person or how long it had been since the unattractive person had seen his or her private parts without looking in the mirror. *Id.*

²⁷ Investigative Report Pg. 13.

²⁸ *Id.*

²⁹ *Id.*

- [REDACTED] used the nickname “Dick pic” when referring to a football coach who was accused of posting a picture of his genitals online.³⁰
- [REDACTED] sometimes called herself “bad kitty” or “a little cheaty cheat”³¹ when discussing the fact that she sometimes cheated on past girlfriends.³²
- [REDACTED] claimed that she could not get certain HISD employees “off her tit.”³³

The fact that [REDACTED] and others in the workplace generally did not find the workplace to be sexually hostile or abusive before [REDACTED]’ tardy complaint weighs dispositively against a finding that the environment was objectively hostile or abusive.³⁴ There is no credible evidence that [REDACTED] found the work environment intolerable or that a reasonable employee would feel compelled to resign based on the applicable law, and the fact that [REDACTED] ultimately did not resign also weighs against such a finding.³⁵

Allegation #2: *Complainant alleges discrimination on the basis of sexual orientation, such as when [REDACTED] publicly disclosed, via email on April 23, 2023, Complainant’s sexual orientation to other District employees by including Complainant’s domestic partner’s name in a mass email.*

[REDACTED] did not suffer legally cognizable discrimination.

To establish a prima facie case of discrimination, [REDACTED] must present evidence that she was (1) a member of a protected class, (2) qualified for her position, (3) subject to an adverse employment action, and (4) either replaced by someone

³⁰ *Id.*

³¹ Investigative Report Pg. 16.

³² *Id.*

³³ Investigative Report Pg. 13.

³⁴ *Meritor* standard for determining whether conduct is actionable under Title VII as “abusive work environment” harassment requires objectively hostile or abusive environment—one that reasonable person would find hostile or abusive—as well as victim’s subjective perception that environment is abusive; conduct that is not severe or pervasive enough to create objectively hostile or abusive work environment is beyond Title VII’s purview, as is conduct that victim does not subjectively perceive as abusive. Civil Rights Act of 1964, §§ 701 et seq., 703(a)(1), as amended, 42 U.S.C.A. §§ 2000e et seq., 2000e–2(a)(1).

³⁵ *Barrow v. New Orleans S.S. Ass’n*, 10 F.3d 292, 297 (5th Cir. 1994).

outside her protected class or treated less favorably than a similarly-situated employee outside her protected class.³⁶

An adverse employment action is an “ultimate employment decision” such as hiring, granting leave, discharging, promoting, or compensating.³⁷ Here, there was no adverse employment action. [REDACTED] resigned and then changed her mind. She was not fired or demoted, and her hostile work environment allegations fail for the reasons already discussed. Thus, the analysis ends at element (3).³⁸ Beyond that, [REDACTED] made her sexual orientation known to coworkers and had a penchant for engaging in sex-related banter and making lewd comments while at work.

Allegation #3: *Complainant alleges the District retaliated against her when [REDACTED] interviewed potential candidates to replace her on the same day (April 19, 2023) that she expressed her intent to retire but had not yet submitted any formal record of her retirement; [REDACTED] hired her replacement, [REDACTED], on April 23, 2023; and sent a mass internal email announcing Complainant’s retirement and replacement, on April 23, 2023. The Complainant never submitted records of her retirement and has since retracted her statement of intention to retire.*

To establish a prima facie case of retaliation, [REDACTED] must establish that (1) she engaged in protected activity, (2) the District took an adverse employment action against her, and (3) the protected activity and the adverse employment action were causally connected.³⁹ Here, [REDACTED]’ retaliation fails for the same reason as her discrimination claim—she did not suffer an adverse employment action. Absent an adverse action, the causation analysis is not reached, so no further analysis is required.

Sincerely,



David M. Mincez

³⁶ *Metro. Transit Auth. of Harris Cty. v. Ridley*, 540 S.W.3d 91, 106 (Tex. App.—Houston [1st Dist.] 2017, pet. denied).

³⁷ *Thomas v. Cook Children's Health Care System*, Civil Action No. 4:20-cv-01272-O, 2022 WL 1308039 (N.D. Tex. May 2, 2022).

³⁸ *McDonnell Douglas Corp. v. Green*, 411 U.S. 793 (1973); 534 F.3d 473 (5th Cir. 2008); *Aryain v. Wal-Mart Stores Tex. LP*, 534 F.3d 473 (5th Cir. 2008).

³⁹ *Donaldson v. Tex. Dep't of Aging & Disability Servs.*, 495 S.W.3d 421, 441 (Tex. App.—Houston [1st Dist.] 2016, pet. denied).

QUESTIONS FOR WITNESSES

Questions for [REDACTED]

- 1) I would like to talk to you briefly about your relationship with [REDACTED].
 - a. Is it true that you have known her since you were a teenager?
 - b. Did you have a close friendship with her for decades?
 - c. Did you share many social activities outside of work?
 - d. Is it true that you have had many private communications outside of work over the years?
 - e. Is it accurate that [REDACTED] partner was once your college roommate? (See Interview Summary at 2)
 - f. Did you ever complain to [REDACTED] about [REDACTED] during the six years you worked at the District?
- 2) How would you rate your memory from 1-10, with 10 being that you never forget anything, 5 being average, and 1 being that you have a terrible memory and forget everything?
- 3) Did you ever tell [REDACTED] you were going to nominate [REDACTED] for [REDACTED]?
 - a. Did you tell her you planned to do that “because he deserves it”?
 - b. When?
- 4) Do you believe [REDACTED] wanted you to succeed or fail during the time you worked together?
- 5) Is there anything in your performance evaluations that you think is an example of discrimination or retaliation?
- 6) Is it accurate that you were the second-highest paid employee in the Humble ISD Athletic department, second in pay only to [REDACTED]?
- 7) Were you friends with [REDACTED] for most of your employment?
- 8) Did you offer [REDACTED] the free use of your houses in [REDACTED] and [REDACTED]?
- 9) Did you make these offers while you thought he was creating a sexually hostile work environment?

QUESTIONS FOR WITNESSES

- 10) Did you ask [REDACTED] to help find your partner a nursing job at the new HHS Memorial Hermann clinic when it was announced?
- 11) Did you do that while you thought he was creating a sexually hostile work environment?
- 12) Do you think that [REDACTED] had the authority to create the position of [REDACTED] [REDACTED] in the District?
- 13) Did anyone at Humble ISD promise you that you would be the [REDACTED]?
 - a. Who and when?
- 14) Do you know whether pay raises need to be approved by someone above [REDACTED]'s level?
 - a. If you know, who?
- 15) Did [REDACTED] ever expressly promise you a promotion or salary increase?
 - a. If so, how many times?
 - b. For each time she alleges it occurred, when and where did this occur?
- 16) Did anyone at Humble ISD promise you [REDACTED] would not return as [REDACTED]?
 - a. Who and when?
- 17) Do you believe others at work know your sexual orientation?
 - a. When/how do you think they found out?
- 18) Have you ever told anybody at work about your sexual orientation?
 - a. Did you ever ask [REDACTED], [REDACTED] and/or [REDACTED] to help get your partner [REDACTED] an interview at AHS for the nurses job?
 - b. Did they do it?
 - c. Did they know she was a woman?
 - d. Did she get the job?
 - e. Does she still have the job?
 - f. Why not?
 - g. Did her quitting put financial strain on your 27-year household?

QUESTIONS FOR WITNESSES

- 19) Did you once tell [REDACTED] that your brother bought you a [REDACTED] and bought [REDACTED] a [REDACTED]?
- 20) Are you claiming you were denied any promotion or raise b/c of your sexual orientation?
- 21) Is the promotion of [REDACTED] part of your discrimination claim?
- 22) You allege that [REDACTED] revealed about you in violation of Standard 2.1 of the Educators' Code of Ethics.
- a. You claim he did this by revealing that you have a female partner.
 - b. Do you consider that to be health information, personnel information, or both?
 - c. Do you agree that your sexual orientation is not health information?
 - d. Do you agree that your sexual orientation is not personnel information?
 - e. When you started work at Humble ISD didn't you elect to NOT keep your home address, telephone number, and family member information private. See Evidence Tab 27.
 - f. Do you know if [REDACTED] considered [REDACTED] your family member?
 - g. Do you deny that [REDACTED] is a family member?
- 23) Are you aware of other rules or policies prohibiting a reference to a spouse/partner?
- 24) Did [REDACTED] ever mention anybody else's spouse/partner by name or gender?
- 25) What date do you contend the work environment became sexually hostile?
- a. What happened on this date?
- 26) Do you agree that [REDACTED] never made a sexual advance toward you at any time?
- 27) You said that you "learned quickly [after starting in the winter of 2017] that Respondent has a temper" (see Interview Summary at 1).
- 28) Did you have a chance to accept a position as Clear Creek AD in 2021?
- a. Why didn't you accept it?
- 29) When is it that you allege [REDACTED] broke a keyboard?

QUESTIONS FOR WITNESSES

- a. What motivated you to take a picture of it?
 - b. Are you claiming that was an example of sexual harassment?
- 30) Did [REDACTED] send a photograph of the tattoo under his arm to you? See Evidence Tab 5.
- a. If so, when and how did he send it to you?
 - b. If not, who did he send it to? How did you get the photograph?
 - c. Do you know what the tattoo means?
 - d. Did other employees in the athletic office ever send their tattoos to you? To [REDACTED]? If so, who and when?
- 31) Prior to April 2023, did you ever complain about [REDACTED] to anyone HR or management employees at Humble ISD?
- a. Who and when?
- 32) Prior to April 2023, did you ever complain about [REDACTED] to anyone HR or management employees at Humble ISD?
- a. Who and when?
- 33) Do you know [REDACTED] [REDACTED]?
- a. Did you once say you “would love to be over or under [REDACTED]” – referring to sexual positions?
 - b. Did you once tell [REDACTED], in reference to [REDACTED] and her [REDACTED], that you would “do them both”?
 - c. Did others in the office think it was funny?
 - d. Did it appear to make any coworkers uncomfortable?
- 34) Are you familiar with the “how much/how long” game?
- 35) Did you participate in the “how much/how long” game?
- a. You played this game with [REDACTED] and [REDACTED], right?
 - b. “How much” meant how much money, right?
 - c. “How long” referred to how much time had passed since that person could see their privates without looking in the mirror, right?
 - d. Do you agree that the subjects of this game were people who you thought were overweight, slovenly, or unattractive?

QUESTIONS FOR WITNESSES

- e. Are you claiming that game made the work environment sexually hostile for you?
 - f. But you played the game even when you were not at work, didn't you?
 - i. Why?
- 36) Did you sometimes talk about male genitals at work?
- 37) Did you ever say something like this: "With huge feet like those, he has to have a big dirty dooder"?
- a. Who did you say this to?
 - i. [REDACTED]?
 - ii. [REDACTED]?
 - iii. [REDACTED]?
 - iv. [REDACTED]?
 - v. [REDACTED]?
- 38) Did you ever refer to anybody as a "dirty kitty"?
- a. Do you agree that this has sexual connotations?
 - b. Who did you say this to?
 - i. [REDACTED]?
 - ii. Girls in the office?
 - iii. Did they play along/think it was funny?
 - iv. Did it appear to make coworkers uncomfortable?
- 39) Did you ever pat/slap [REDACTED] on the butt in front of others?
- a. Ever in front of [REDACTED]?
- 40) Did you sometimes refer to [REDACTED] as "Rick the dick" after you didn't a raise that you requested?
- a. Who would you say this to?
 - b. How often?
- 41) Did you ever refer to a high school football coach by the nickname, "Dick pic"?
- a. Who were you referring to?
 - b. Who would you say this to?
 - c. Did they think it was funny?

QUESTIONS FOR WITNESSES

- d. Did it appear to make coworkers uncomfortable?
- 42) Did you ever talk to coworkers about your own dating and sexual exploits?
- a. To [REDACTED]?
 - b. To [REDACTED]?
 - c. To others?
- 43) Did you talk to coworkers about times you “cheated” on your “girlfriends”?
- a. Did they think it was funny?
 - b. Did it appear to make coworkers uncomfortable?
- 44) Would you sometimes tell coworkers that you were “a little cheaty cheat” when you were in college?
- a. Did they think it was funny?
 - b. Did it appear to make coworkers uncomfortable?
 - c. Did you ever talk to coworkers about a time when you called [REDACTED] [REDACTED] to pick you up because your Hispanic girlfriend found out you cheated on her and intentionally crashed a car, prompting you to tell [REDACTED] that “Hispanic girls are crazy”?
 - i. Did they think it was funny?
 - ii. Did it appear to make coworkers uncomfortable?
- d. Did you ever talk to coworkers about a time when you were cheating with a girl that had a girlfriend and the girl’s partner found out and attacked you with scissors?
- i. Did they think it was funny?
 - ii. Did it appear to make coworkers uncomfortable?
- 45) Did you ever refer to another HISD employee as someone you “could not get off your tit”?
- a. [REDACTED] and [REDACTED]?
 - i. Did they think it was funny?
 - ii. Did it appear to make coworkers uncomfortable?
- 46) Do you think you had a role in making the work environment sexually hostile?
- 47) Do you think your conduct caused others to believe you enjoyed the sexual banter?
- 48) Do you have any regrets about any of your own behavior?

QUESTIONS FOR WITNESSES

- a. Which behavior, and why?
- 49) Do you still plan to retire at the end of 2023?
- a. If not, why not?

QUESTIONS FOR WITNESSES

Questions for [REDACTED]

- 1) Do you agree with the following regarding [REDACTED]: (1) you have known her since she was a teenager, (2) you had a close friendship with her for decades, (3) you have shared many social activities outside of work, (4) you have had many private communications outside of work, and (5) your wife is her former college roommate. *See Interview Summary at 2.*
- 2) At any time during [REDACTED]'s six-year employment at Humble ISD, did she ever complain to you about [REDACTED] discriminating, retaliating or creating a sexually hostile work environment?
 - a. Did she ever complain about him at all, about anything?
- 3) Did [REDACTED] tell you that she was going to nominate [REDACTED] for [REDACTED] of [REDACTED] "because he deserves it"? When?
- 4) Did [REDACTED] ever pat/slap [REDACTED] on the butt in front of you?
 - a. How often?
 - b. Did this appear to make people uncomfortable, or did they think it was funny?
- 5) How would you rate your memory, from 1-10, with 10 being that you never forget anything, 5 being average, and 1 being that you have a terrible memory and forget everything?
- 6) Did you participate in the "how much/how long" game?
 - a. You played this game with [REDACTED] and [REDACTED], right?
 - b. "How much" meant how much money, right?
 - c. "How long" referred to how much time had passed since that person could see their privates without looking in the mirror, right?
 - d. Do you agree that the subjects of this game were people who you thought were overweight, slovenly, or unattractive?
 - e. Did that game make the work environment sexually hostile for you?
 - f. Did the game appear to offend, embarrass, or bother [REDACTED]?
 - g. Was she an enthusiastic participant or was she reluctant?
 - h. Did she sometimes play/initiate the game even outside of work?

QUESTIONS FOR WITNESSES

- 7) Did [REDACTED] ever say something like this in your presence: “He has to have a big dirty dooder”?
- a. Was it your understanding this referred to male genitalia?
 - b. Who did she say this to/in front of?
 - i. [REDACTED]?
 - ii. [REDACTED]?
 - iii. [REDACTED]?
 - iv. [REDACTED]?
 - c. Who was she referring to?
 - d. Did this appear to bother others, or did they think it was funny?
 - e. Did others in the office also say, “big dirty dooder”?
 - f. Who/how often?

QUESTIONS FOR WITNESSES

Questions for [REDACTED]

- 1) Did you send [REDACTED] a picture of the tattoo you and your [REDACTED] got before he ever got a tattoo?
- 2) Did you ask [REDACTED] to send a picture of the tattoo he got under his arm? Did you provide [REDACTED] picture of this tattoo?
- 3) Did [REDACTED] ever say something like this in your presence: "With huge feet like those, he has to have a big dirty dooder"?
 - a. Who did she say this to/in front of?
 - i. [REDACTED]?
 - ii. [REDACTED]?
 - iii. [REDACTED]?
 - iv. [REDACTED]?
 - b. Who was she referring to?
 - c. Did this appear to bother others, or did they think it was funny?

QUESTIONS FOR WITNESSES

Questions for [REDACTED]

- 1) Is it customary during peak hiring season to compact the hiring process to meet the deadlines imposed by the scheduled and posted board meetings?
 - a. Are there situations where the timelines are shorter because handling them otherwise would lengthen the approval timeline and filling the vacated position by up to a month?
 - b. Would delaying the hiring and the filling of the vacated position create substantial hardships throughout the district?
 - c. Was this the case with [REDACTED]?
- 2) Do you believe that leaving [REDACTED]'s position open for a year created hardships throughout the district? Is this an example of why late hiring in athletics is a problem?
- 3) Did you ever hear that [REDACTED] was referring to you "Rick the dick"?
 - a. Who told you this?
 - b. Anybody else overhear this?

Exhibit 3

Daniel Ortiz

From: Giana Ortiz
Sent: Friday, January 12, 2024 9:08 AM
To: 'alf@southerlandlawfirm.com'; 'keith@lapezejohs.com'; 'critico@triticorainey.com'; 'david@mincesrankin.com'; 'ethan@mincesrankin.com'; 'grace@mincesrankin.com'
Subject: RE: Humble ISD Title IX
Attachments: [REDACTED].pdf; [REDACTED].pdf; Respondent's Witness Answers 01-11-23.pdf; [REDACTED] Responses to Respondent's Witness Questions (1-11-24).pdf

Good morning,

I am attaching the responses I received to questions propounded by the parties. Please note that I did not receive email addresses for [REDACTED] or [REDACTED] until yesterday, and questions were sent to those witnesses yesterday. I have not received a personal email address for [REDACTED] so those questions have not been sent. If either party has a personal email address or phone number for [REDACTED], please send it to me. With these three exceptions ([REDACTED], [REDACTED], and [REDACTED]), all other questions propounded by the parties were distributed prior to January 4, 2024, and I am attaching all responses received.

According to HISD Title IX Procedures, each party now has 5 District business days to submit follow-up questions to me for review in the same manner as the initial questions. Thus, each party will have until **January 22, 2024** (five (5) District business days) to submit follow up questions to these responses. (*If/when I receive responses to the questions propounded to [REDACTED] and [REDACTED], I will circulate those and the parties shall have five District business days to submit follow-up questions to those witnesses (if any).)

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Wednesday, December 27, 2023 2:02 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX

Greetings Counsel,

I received responses and party/witness questions from both parties on December 12, 2023. I have reviewed the proposed questions to ensure that any questioning is relevant, respectful, and non-abusive.

I am now circulating to all parties, simultaneously, the parties' written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive. I have changed the file names to clearly identify the proponent party. I have made one exclusion of questions proposed. In particular, the Complainant has proposed questions to a person who is not noted in the Investigation Report. Under Humble ISD Title IX Formal Complaint Procedures, that would exceed the scope of permitted questioning at this time. Thus, I have indicated where the questions have been excluded in that document, but there have been no other changes to the parties' documents I am transmitting to you.

As you know, today is not a District Business Day. I have decided to pass these along to you nonetheless in case you or your clients wish to use this additional time. Using District business days, these questions will technically be "received" by the parties on January 4, 2024. Each party must submit a response to any questions provided within five (5) District

business days of receiving the questions. Thus, each party will have until **January 11, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding the parties' responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions. Please note that I do not find a hearing on this matter to be appropriate, and the questioning process will proceed as indicated in the letter from Attorney McGowan and in Humble ISD policy.

In the meantime, I will ask the District to provide me contact information for the other witnesses for whom you have each propounded questions so that I may share each witness's questions with that witness as well. If you or your clients can provide email addresses for these witnesses, that may help expedite that part of the process given that the District is now on break.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz

Sent: Wednesday, December 6, 2023 4:39 PM

To: alf@southerlandlawfirm.com; keith@lapezejohs.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com

Subject: Humble ISD Title IX

Greetings, counsel:

As you know, I have been appointed as Decisionmaker in the Title IX investigation for Humble ISD regarding the claims raised by [REDACTED] against [REDACTED].

I am writing to introduce myself, and to notify the parties of the next deadline. I understand the parties have received the investigative report as of December 5, 2023. Thus, each party will have until **December 12, 2023** (five (5) District business days) to submit any written response to the investigation report, and written, relevant questions that a party wants asked of any party or witness noted in the investigation report.

Any submissions made in this regard should be sent **to me only** at this email address. Any questions that a party wants asked of any other party or witness should be sent to me in a Word document as an attachment to an email (not a document link or through google drive), with the intended recipient clearly listed on the face of the document above the questions for that witness. Questions should be clearly set forth in a list fashion.

Thereafter, I shall review the submissions to ensure that any questioning is relevant, respectful, and non-abusive. I will circulate to all parties, simultaneously, any written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information. Likewise, if you should anticipate requesting an extension of this or any timeline as we proceed from this point forward, please include all counsel on your request and make such requests as soon as the need is anticipated.

I look forward to working with you all.

Sincerely,

Giana Ortiz

THE ORTIZ LAW FIRM

ATTORNEYS AT LAW

1304 West Abram, Suite 100

Arlington, Texas 76013

t. 817-861-7984

f. 817-549-7358

Questions for [REDACTED]

1. Did [REDACTED] ever tell you that [REDACTED] told her that [REDACTED] was a “freak” in bed, sexually, or words to that effect?

* [REDACTED] **did not make these comments to me.**

2. If so, what did she say?

*NA

3. What was your response?

*NA

4. Did you think it was appropriate for [REDACTED] to refer to [REDACTED] in that manner at work?

* **I have never heard [REDACTED] mention anything in that regard about [REDACTED].**

5. Did you interview for the position filled by [REDACTED]?

* **I followed the application process to apply and interview for the posted position of [REDACTED].**

Questions for [REDACTED]

- 1)
 1. Yes, I have known her since she was 13 years old.
 2. Yes, we have been close personal friends professionally and socially for decades
 3. Yes, we were very close and had dinner and social activities together frequently. She, [REDACTED] and her [REDACTED] lived with us for many weeks after their home [REDACTED]. She would call me frequently when she needed help Or advice and I would always respond with whatever it was that she needed.
 4. Again, yes, we have been very close personal friends for decades.
 5. Yes

- 2) She never once complained to me about [REDACTED] creating a sexually hostile work environment, nor any comments regarding retaliation or discrimination. In fact, she would say how much she loved working with him and how good he was at his job.

- 3) She did tell me that she was going to nominate him for [REDACTED] after Hurricane Harvey hit here and the way he handled the athletic department under these stressful and extenuating circumstances.

- 4) Although not frequently, I did witness [REDACTED] tap [REDACTED] on the butt on at least one occasion. This did not appear to make anyone uncomfortable, including herself nor [REDACTED]. It was consistent with the family atmosphere and humor amongst department staff.

- 5) I would rate my memory an 8/10

- 6)
 - . No, this game did not make the work place sexually hostile.
 - . The game absolutely did NOT offend, embarrass or both [REDACTED].
 - . Yes, she was a willing participant.
 - . Yes, she did indeed initiate the game.I believe the text message I shared from [REDACTED] illustrates this question

- 7) [REDACTED] did use the term "dirty dooder" referring to male genitalia. I do not recall her saying this about a specific person. I can not attest to her saying this in front of anyone else in the office as I did not hear her specifically say "He has to have a big, dirty dooder". [REDACTED] along with myself and some of the other girls in the office ([REDACTED] and [REDACTED]) used the term "dooder" frequently to refer to male genitalia in a humorous context. This in no way was offensive, nor sexually harassing to anyone involved in the conversations.

Answers from Respondent [REDACTED]

1. Did you tell female office staff not to come near you wearing certain outfits?
If so, who did you say that to and what did you mean by that?

No.

2. Did you ask the female office staff if they were wearing their “fuck me heels?”
If so, who did you say that to and what did you mean by that?

No.

3. Did you say that you wished you had a 20-inch pecker? If so, who did you say that to and what did you mean by that?

The entire office engaged in adult banter, but [REDACTED] does not recall making this specific comment. Note that [REDACTED] has not been working in the office for the past 18 months.

4. Did you tell [REDACTED] that you were exit only?

No.

QUESTIONS FOR WITNESSES

Response to Questions for [REDACTED]

1) I would like to talk to you briefly about your relationship with [REDACTED]

a. Is it true that you have known her since you were a teenager?

Yes. [REDACTED] and [REDACTED] me at [REDACTED] Middle School and [REDACTED] High School. See Summaries of Interviews of Complainant and Respondent (“Summaries”) at page 2.

In fact, [REDACTED] would say, “I have known [REDACTED] since before she started wearing a bra.” [REDACTED] has made that comment in the Athletic Department office since I joined Humble ISD.

b. Did you have a close friendship with her for decades?

Yes. We were close enough friends that she was aware of my sexual orientation and my partner of 27 years, [REDACTED]. [REDACTED] was also a close enough friend to where she knew that I wanted to maintain the privacy of my sexual orientation and partner.

I initially met [REDACTED] when I was a middle school student at [REDACTED] Middle School. [REDACTED] was one of my teachers and basketball coaches during middle school and later at [REDACTED] High School. She was also a tutor and mentor. During this time, [REDACTED] was more of a teacher, tutor and mentor, rather than a friend. As I noted above, [REDACTED] would talk about having known me since before I began wearing a bra.

[REDACTED] continued to have contact with me after high school, including during the time that I attended Texas A&M University and thereafter. When I was in college, [REDACTED] would travel to College Station to visit one of my roommates, [REDACTED] who had also attended [REDACTED] High School and had been coached by [REDACTED].

I first met [REDACTED] when she was in the 5th grade at [REDACTED] Elementary School and I was in the 7th grade at [REDACTED] Middle School. I met [REDACTED] for the first time when I went over to her house to meet [REDACTED] for tutoring. [REDACTED] and her partner at the time, [REDACTED], were at [REDACTED] house to babysit [REDACTED] and her [REDACTED]. I next met [REDACTED] once we were both at [REDACTED] High School.

[REDACTED] and I became friends when we attended [REDACTED] High School and later at Texas A&M University, where [REDACTED] played volleyball and we were college roommates for two years. While [REDACTED] and I were college roommates, [REDACTED] would travel to College Station to visit [REDACTED] and watch her play volleyball. When [REDACTED] was visiting with [REDACTED], she would occasionally

QUESTIONS FOR WITNESSES

talk to me and our other roommates. During that time, [REDACTED] may have talked to [REDACTED] or me about people that I may have dated.

After she graduated from Texas A&M University in the early to mid 1990s, [REDACTED] moved to Dallas, and my interaction with [REDACTED] was infrequent. We may have interacted at high school sporting events when I was working at another school district. Approximately nine years ago, [REDACTED] and I reconnected when [REDACTED] moved from Dallas to Houston to live with [REDACTED]. As a result of my friendship with [REDACTED], I began to spend time socially with [REDACTED] and [REDACTED]. My partner participated in some of those activities.

c. Did you share many social activities outside of work?

Yes. Many of these social activities were due to my friendship with [REDACTED]. Prior to joining Humble Independent School District as an [REDACTED] in 2017, I had never worked with [REDACTED]. I also never worked with [REDACTED]. The social activities included dinners and concerts after [REDACTED] returned to Houston approximately nine years ago.

d. Is it true that you have had many private communications outside of work over the years?

Yes. As noted above, I would talk to [REDACTED] when she would come to College Station to see [REDACTED]. When she was there, we would talk about a variety of things, including how each other was doing, how college was going, [REDACTED] and volleyball, and [REDACTED] ([REDACTED]'s partner). During that time, [REDACTED] may have talked to [REDACTED] or me about people that I may have dated.

After [REDACTED] returned to Houston, [REDACTED] and I talked about the social activities mentioned above. We also would discuss our out of town trips, such as my trips to [REDACTED] and [REDACTED]'s annual trips to [REDACTED] with [REDACTED] and [REDACTED].

After I became an [REDACTED] at Humble ISD, [REDACTED] and I continued to talk about our trips. We also talked about [REDACTED]'s erratic behavior when he was having a tough time dealing with his [REDACTED]. [REDACTED] would ask, "how's brother" (referring to [REDACTED]). More recently, we had talked about [REDACTED] and [REDACTED] planning a trip to Cabo San Lucas to attend [REDACTED] and [REDACTED]'s engagement.

e. Is it accurate that [REDACTED]'s partner was once your college roommate? (See Interview Summary at 2)

Yes. See above.

QUESTIONS FOR WITNESSES

- f. Did you ever complain to [REDACTED] about [REDACTED] during the six years you worked at the District?

Yes.

- 2) How would you rate your memory from 1-10, with 10 being that you never forget anything, 5 being average, and 1 being that you have a terrible memory and forget everything?

I would say average or above, probably 5 – 7 (or 8 if 7 and 8 are a better than average memory and 9 and 10 being perfect or near perfect).

- 3) Did you ever tell [REDACTED] you were going to nominate [REDACTED] for [REDACTED]?

No.

- a. Did you tell her you planned to do that “because he deserves it”?

No/not applicable.

- b. When?

No/not applicable.

- 4) Do you believe [REDACTED] wanted you to succeed or fail during the time you worked together?

Both. [REDACTED] consistently rated my performance at the highest levels in my annual performance reviews. In my first performance review (Tab 28, 6/1/2017), [REDACTED] stated:

You have come in and hit the ground running. You have immediately made an impact on our coaches. Your patience and poise is exactly what we need. Your creativity with making the scholarships an exciting and personal event was phenomenal. Continue to look at how / what we can do better. I value your input greatly.

He also referred to me as a “true professional.”

In my second performance review (Tabs 3 and 29, 7/19/2018, revised 8/6/2018), [REDACTED] referred to me as an “excellent communicator” and commented positively about my work with the coaches and [REDACTED], the other [REDACTED]. [REDACTED] said:

Your first full year was a huge success. The attention to detail you have with your assignments are excellent. The success of your sports and to see your personal involvement was a great sight. The coaches felt supported and valued. Your influence on [REDACTED] has brought his standard of work up tremendously. He wouldn't be where he is at without.

QUESTIONS FOR WITNESSES

██████ added: “You identify what needs to be done and get it done without having to be told. Your visibility with our coaches is phenomenal – you have built great relationships with our coaches.”

██████ also acknowledged that my job was made more difficult due to his personal issues, as I had to cover for him when he was away from the office or dealing with his divorce : “I can’t begin to say thank you enough for the year. Your support and quite frankly your work covered for me as I went through things.” ██████ filed for divorce from his then wife, ██████ ██████ (who was also an employee at ██████ ISD), in late 2017.

During my second performance evaluation, ██████ stated that I was qualified to become an ██████ :

You have made this department so much better in the 18 months you have been on board. We need to involve you more on the financial side going forward. **This will give you knowledge and confidence as you prepare to be an ██████ You are MORE than ready for that role and the responsibilities associated with it.**

In the subsequent performance reviews, ██████ continued to evaluate my performance as “distinguished” and “accomplished.” In my review for the 2018-2019 school year (Tabs 3 and 30, 6/5/2019, revised 6/12/2019), ██████ commented: “You continue to amaze me with your work ethic and attention to detail. You are patient and kind yet you are willing to hold people accountable. Your meetings with your coaches are organized and thorough.” He referred to me as a “phenomenal leader and motivator,” “very visible,” and an “excellent mediator with parent issues that arise.” ██████ added that I lead by example and earn the coaches respect.

Once again, ██████ stated that I was qualified to become an ██████ : **“You are ready for bigger things. Your loyalty to the district and to me personally are noticed and appreciated. You make us better every year.”**

In my fourth performance review (Tabs 3 and 31, 7/30/2020, revised 7/31/2020), ██████ praised me as an “excellent communicator.” He also said I was someone “willing to spend whatever time necessary to complete her assignments,” who “anticipates needs in advance and gets things accomplished in a professional and timely manner.”

██████ also said:

██████ has really shown growth in owning her responsibilities. Track season, although shortened, was a huge success due to her preparation and planning. She continues to grow confidence in her ability to lead our coaches and community. She is an excellent communicator and has proven she is able to hold her people accountable in a positive manner.

In my fifth performance review (Tabs 3 and 32, 6/28/2021, revised 6/29/2021), ██████ continued to praise the work that I have done in connection with track:

QUESTIONS FOR WITNESSES

█████ really grew with her responsibilities. She has really owned track and how it is organized. She was instrumental in running of a very successful UIL regional Track meet. This year basketball, wrestling and track all overlapped and she excelled despite the extreme workload.

█████ also said that I was “extremely effective in her communication with co-workers, principals, and campus coaches” and “amazing at building collaborative relationships with our ancillary departments such as police and transportation.”

In this evaluation, █████ referred to my decision to stay at Humble ISD, rather than pursue a promotional opportunity in another district:

█████ had a opportunity to leave and she chose to stay. That single decision is the best thing that has happened to our department this year. She has become my rock that I rely on, trust, and more importantly she represents our district with integrity, pride, and honor. She is a tireless worker. I worry that she is working too many nights vs being home more.

You have made us so much better by being our district.

In the last evaluation prepared by █████ (Tabs 3 and 33, 6/20/2022), █████ stated:

You continue to grow and master your assignments. Regional Track was a home run. Kronos a home run. What I am most impressed with is your ability to anticipate what needs to be done and get it done without asking. You tackled stipends, interviews, and managing our office staff very well.

He also referred again to █████, the other █████, stating: “You are the rock that holds █████ and I together.” █████ also stated:

Your calmness, demeanor and work ethic is exactly what I need. You never get flustered. Always professional and our coaches, regardless of where they work, respect you greatly. You are willing to have the hard conversations when needed and yet have a soft side as well. Great combination. Most of all you have an amazing ability to deal with my emotions and I know that isn’t easy.

Thank you for what you do for our office, our community, our coaches and me. Truly amazing █████.

In addition to the comments contained in the performance reviews, █████ sent me a note during Christmas 2022, in which he stated: “I’m moody, irrational & downright crazy but somehow you put up w/ me. I’m also grateful, lucky, & blessed to be able to work w/ you.” (Tab 16)

In addition to the above, █████ had discussed with me the possibility of a promotion to █████ (after he was promoted to █████) and

QUESTIONS FOR WITNESSES

salary increases in recognition of my assumption of additional duties within the Athletic Department.

I view the above comments in my performance reviews and ██████'s statements about promotional opportunities and salary increases as supportive.

At the same time, ██████ engaged in conduct and behavior that negatively impacted the workplace and my ability to do my job. In my first evaluation (Tab 28), ██████ told me to "push what you believe in. Do not worry about my feelings or reaction." Within months of the evaluation, ██████ made a comment that caused me to question whether he would welcome hearing any complaints or concerns. When ██████ separated from ██████ ██████ in late 2017, ██████ called the staff together and threatened to fire anyone who talked about his marriage and the separation. I did not know what he was talking about the time; I later learned that he was referring to a comment that he was not wearing his wedding ring. ██████, however, made it clear that any discussion of his personal affairs would result in termination.

As ██████ noted in my 2018 evaluation, there were times when he was not in the office due to his divorce and personal issues. I had to perform many of his duties, as well as my own. (Tabs 3 and 29) When ██████ was in the office, his frequent sexual comments and erratic behavior (throwing things, breaking computer keyboards, and emotional outbursts) created a hostile work environment and adversely impacted the ability to do one's job. The Athletic Department office staff and I would communicate with each other as to ██████'s "temperature" that day and whether he had engaged in any tirades and emotional outbursts.

Even in my last performance review and his Christmas note, ██████ acknowledged the difficulty in dealing with his emotions. In his written statement that is an exhibit,¹ ██████ admitted that "there have been times when I have snapped at people," his "temper has been shorter," and "at times my temper has flared." (Tab 4). He added: "**I take full responsibility for that.**" (Tab 4). Despite his own statement confirming that my complaint about his erratic behavior has merit, ██████ now tries to cast my complaints as being motivated by bitterness over not receiving a raise or promotion.

¹ In the witness summaries, ██████ said that she told ██████, ██████ and ██████'s immediate supervisor, that "he was completely in charge of supervising Respondent and that she would never interfere with any of his supervisory decisions." (Summaries at pages 26 – 27).

████████ said that "when this situation arose, she went to ██████ and ██████ and said she should not handle the situation due to a perceived conflict of interest. ██████ said she told them to handle the situation and assured them that she would not interfere. ██████ stated that she wanted to remove the possibility that people would perceive the investigation as unfair, and she did not want to be in a personnel situation that involve someone she cares for. ██████ said she has made a concerted effort to keep out of the situation and that she has kept away from the Athletic Department because she did not want anyone to think she was trying to affect the investigation. (Summaries at page 27).

After I was sent home in late April, ██████ said she spoke only to ██████ about my complaint. While she told ██████ and ██████ that she would not interfere, ██████ said "she suggested that Respondent work on a timeline for his response and that she talked him through the process of gathering his thoughts. (Summaries at page 29).

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As the [REDACTED] and later the [REDACTED], [REDACTED] dictated how the Athletic Department office would operate. [REDACTED] has admitted that the language used in the Athletic Department office was “unprofessional and sometimes sexually explicit.” (Summaries at page 13). During his interview, [REDACTED] contended that “the atmosphere within the Athletic Department office has not changed over the last ten or more years,” and predated my employment at Humble ISD. (Summaries at page 14). This would include the time when [REDACTED] and [REDACTED] were co-[REDACTED]s.

[REDACTED] clearly knew that the sexually explicit comments and the banter that he encouraged was inappropriate. He “discouraged Athletic Department personnel from talking about what happens in the office with anyone outside the office, including spouses.” (Summaries at page 33). It was also known that sexually explicit language should not be used when people from outside the office were present. [REDACTED]’s constant use of sexually explicit language and graphic discussion of female staff employee’s attire adversely impacted the professionalism of the Athletic Department and was an unneeded distraction.

There were nine employees in the Athletic Department office, including seven women. While [REDACTED] has noted that no one else has complained in the Athletic Department office about the sexually explicit comments, he identified three women (out of the seven) who were not active participants in these comments. [REDACTED] said there were “two women who did not participate in sexually explicit jokes/banter/conversations and one woman who did so infrequently.” (Summaries at page 13). According to one employee in the Athletic Department, “some of the women within the Athletic Department as seeming to be okay with these comments but other Athletic Department personnel as being afraid to talk about it due to fear of retaliation and fear of [REDACTED]’s anger.” (Summaries at 33).

Additionally, despite the promises of a promotion and salary increases, none came to fruition. [REDACTED] told me that he had an opportunity to add an [REDACTED], but he did not want to cause hurt feelings between [REDACTED] and me. [REDACTED] had complained to me about [REDACTED]’s performance and said that my “influence on [REDACTED] has brought his standard of work up tremendously. He wouldn’t be where he is at without.” If [REDACTED] wanted to me to succeed, he would have taken that opportunity to promote me. Around the same time, [REDACTED] promoted a male [REDACTED], [REDACTED], to the [REDACTED] position.

When I would ask about the status of a pay increase, [REDACTED] would claim that he had prepared a “Position Review” of my position and duties. When I would inquire about the status of my Position Review, [REDACTED] would become agitated and state: “They denied it upstairs!” and “Do you think I’m not trying?” At the same time, [REDACTED] would continue to add to my duties and responsibilities, as evidenced by her performance evaluations. I have since requested copies of the Position Reviews prepared by [REDACTED]. No documents were provided in response to my request. If [REDACTED] wanted me to succeed, he would have prepared the Position Reviews, as he had represented to me.

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While I have received salary increases over the years, these increases typically were the across the board increases that all employees received. During the one year that [REDACTED] and I received an increase above the across the board increase, [REDACTED] received a greater salary increase, despite [REDACTED] noting issues with [REDACTED]'s performance.

In his written statement, [REDACTED] claims that he went to [REDACTED], [REDACTED] [REDACTED], "hoping to get \$20,000 for [REDACTED] and \$20,000 for [REDACTED]." (Tab 4). The email exchange between [REDACTED] and [REDACTED] does not support his claim. (Tab 12). In his July 11, 2022 email (which was sent after [REDACTED] [REDACTED] had resigned), [REDACTED] sought stipends – which is an one payment and not added to salary – in the amount of \$12,000 for me, \$6,000 for himself, \$4,000 for [REDACTED], and \$3,000 for [REDACTED]. (Tab 12). After [REDACTED] told [REDACTED] that the stipends were capped at \$6,000 and that he was ineligible for a stipend, [REDACTED], [REDACTED], and I all received \$6,000 in stipends. (Tab 14).

Once he became [REDACTED], [REDACTED] apparently requested and obtained salary increases for the [REDACTED], including an increase in their salary grade. In his written statement, [REDACTED] stated:

She feels she is not valued at her salary and I said she makes more than several directors. She also told me she feels strongly that I didn't fight for her. I met with [REDACTED] and [REDACTED] over the frustration and tried to get her more money that they denied.

(Tab 4). According to the Witness Summaries (at page 30), [REDACTED] stated that he believed that **"it may have been possible to get Complainant more money, but [REDACTED] was not aware of requests for salary increases for Complainant."** If [REDACTED] wanted me to succeed, he would have followed through on his promises and is immediate supervisor would have been aware of efforts to obtain a salary increase for me.

When I questioned [REDACTED] about the status of my salary increases on April 19, 2023, he became defensive, condescending, and belittling. [REDACTED] told me that the salary request had been denied upstairs. Again, Humble ISD has not produced any Position Reviews completed by [REDACTED] and [REDACTED] denied any knowledge of a request for more money.

[REDACTED] also claimed that I would have to be moved to the next pay grade to obtain a salary increase. It would have been possible to obtain a salary increase for me and my salary remain in the existing pay grade. Moreover, during this same time, Humble ISD increased the pay grade of the [REDACTED], presumably following a request by [REDACTED].

When I asked [REDACTED] about the [REDACTED] position, he responded: "I'm the [REDACTED]! Do you not think that plenty of people would be lined up to make the money you do for the work you do? We are all replaceable!" It became apparent to me that [REDACTED] had not only failed to follow through on his prior promises to seek a salary increase and promotion for me, but was belittling me for asking for a legitimate question. After years of a hostile and offensive work environment caused by [REDACTED]'s sexual comments, volatile behavior, and disrespectful

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attitude, I reached a breaking point and told ██████ that I would go ahead and retire. I had not planned to retire that day and, in fact, had no definite plan as to when I would retire. ██████ had created an untenable situation where I felt that I had no other option at the time.

On April 25, 2023, I met with ██████. During this meeting, he asked me what was wrong. I asked ██████ if he really wanted to know. After he said yes, I proceeded to tell ██████ that I was leaving because of him and the toxic, dysfunctional, and abusive work environment that he had created for me and the others in the Athletic Department office. I told him how his behavior adversely impacted the Athletic Department. ██████ cried and thanked me for being honest. He also asked me why I had never mentioned his behavior before. I told him that we could not talk to him without him blowing up and it being held against us.

After he spoke to me, ██████ met with the rest of the Athletic Department office staff. According to his written statement (Tab 4), he asked them about what I had said. ██████ wrote: "They told me they were afraid to come to me." If ██████ wanted me, as well as the rest of the Athletic Department office staff, to succeed, he would have not created an environment where we were afraid to complain about the sexually explicit comments, his toxic behavior, and his destruction of District property.

The next day, April 26, 2023, ██████ told me not to report to Regional Track that weekend and to could clean out my office. He said that my "job in the athletic office is done." ██████ asked me whether I wanted him to go, or I go, to Human Resources to determine where I would report until the end of June 2023. I said that I would go to HR. ██████ did not have the authority under Humble ISD Board Policy and the Employee Handbook to remove me from the Athletic Department. His actions were not supportive of me and evidenced an intent on his part for me to fail.

Since then, ██████, as well as his then girlfriend and current spouse ██████, have tried to discredit my complaints as being driven by money. Despite the repeated praise that I received for my work with respect to track in my performance reviews, they now claim that I did not do a good job. ██████'s actions were not supportive of me and evidenced an intent on his part for me to fail.

5) Is there anything in your performance evaluations that you think is an example of discrimination or retaliation?

All of the performance reviews contain positive comments about the work that I have done as an ██████. Beginning with the second performance review that I received in July 2018 (Tab 3), ██████ has said that I was "MORE than ready for that role [of ██████] and the responsibilities associated with it."

When ██████ decided not to promote me to, or recommend me for, the ██████ position because he did not want to hurt the feelings of my male peer, ██████, ██████ ignored his prior statements about me being qualified for the role. His decision not to promote me was discriminatory.

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After I complained about his conduct and behavior, [REDACTED] has criticized my performance with respect to track and claimed that I somehow would negatively impact the Athletic Department office. [REDACTED] repeatedly commented in the performance reviews about how track was a success under my leadership. He also praised how I was “[a]lways professional and our coaches, regardless of where they work, respect you greatly.” When [REDACTED] casts my performance and attitude in a negative light, and ignores the years of positive – and justified – comments about me, [REDACTED]’s disparaging comments and behavior amounts to retaliation.

6) Is it accurate that you were the second-highest paid employee in the Humble ISD Athletic department, second in pay only to [REDACTED]?

No.

7) Were you friends with [REDACTED] for most of your employment?

[REDACTED] was my direct supervisor, and we certainly were business colleagues. I would also consider myself a friend to [REDACTED] and others in the Athletic Department office.

8) Did you offer [REDACTED] the free use of your houses in [REDACTED], [REDACTED], and [REDACTED] [REDACTED]?

I did offer to [REDACTED] the use of my [REDACTED] condominium in either 2017 or 2018 (I do not recall the exact date.) [REDACTED] accepted the offer and he stayed the night. I offered [REDACTED] the use of my condominium because he was saying that he and his two [REDACTED] were having a difficult time due to his separation/divorce from [REDACTED].

Around the same time, I also offered him and his [REDACTED] the use of a condominium that I had rented in [REDACTED], [REDACTED]. [REDACTED] declined the offer.

9) Did you make these offers while you thought he was creating a sexually hostile work environment?

No. I extended the offers because [REDACTED] and his [REDACTED] were having a difficult time following his separation, and subsequent divorce, from [REDACTED]. [REDACTED]’s conduct and behavior, and the environment in the Athletic Department office, worsened after the offers.

10) Did you ask [REDACTED] to help find your partner a nursing job at the new HHS Memorial Hermann clinic when it was announced?

No. According to [REDACTED], the agreement between Humble ISD and Memorial Hermann provided that Humble ISD would build the clinic and Memorial Hermann would pay for the medical equipment and supplies and staff the clinic. Per [REDACTED], any RN working at the clinic would be employed by Memorial Hermann. It should be noted that construction on the clinic has not yet commenced.

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11) Did you do that while you thought he was creating a sexually hostile work environment?

No. Again, [REDACTED] would not have any impact any hiring decision made by Memorial Hermann.

12) Do you think that [REDACTED] had the authority to create the position of [REDACTED] in the District?

The [REDACTED] position has existed since I came to work at Humble ISD. According to the Salary Schedules provided by Humble ISD (Tab 15), both the Director Athletics and Director Fine Arts have the same pay grade, even after [REDACTED] was promoted to the Executive Director UIL Athletics/Fine Arts position. [REDACTED] did not need to create the position of [REDACTED].

13) Did anyone at Humble ISD promise you that you would be the [REDACTED]?

Yes.

a. Who and when?

[REDACTED]. I do not recall exactly the first time when he mentioned me becoming the [REDACTED]. In my 2017 – 2018 performance review, [REDACTED] said that I more than ready to be an [REDACTED]. He made similar comments in later performance reviews.

In a conversation which I believe occurred in 2019, [REDACTED] told me that [REDACTED], the other [REDACTED], would never become the [REDACTED]. [REDACTED] said that I would become the [REDACTED] one day.

It was after that conversation when [REDACTED] told me that he had the opportunity to name someone [REDACTED] and that he chose not to do so, because he claimed he did not want to hurt [REDACTED]'s feelings.

14) Do you know whether pay raises need to be approved by someone above [REDACTED]'s level?

Yes.

a. If you know, who?

The Position Review Committee. I do not know who is on the committee.

I requested copies of any Position Reviews prepared by [REDACTED] and received by the Position Review Committee. None were produced by Humble ISD.

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15) Did [REDACTED] ever expressly promise you a promotion or salary increase?

Yes.

a. If so, how many times?

I do not recall the exact number of times.

b. For each time she alleges it occurred, when and where did this occur?

I do not recall exactly when the conversations occurred. They would have occurred in either my or [REDACTED]'s office.

[REDACTED] would tell me that he was seeking a raise for me. There would be follow up discussions between us as to the status of the request for a raise.

16) Did anyone at Humble ISD promise you [REDACTED] would not return as [REDACTED]?

No.

a. Who and when?

Not applicable.

Note: I have heard that, while I was on [REDACTED] [REDACTED] has said that [REDACTED] may or may not return. [REDACTED] also apparently said that (a) I may or may not return, (b) only one of us would return, and (c) neither of us would return.

17) Do you believe others at work know your sexual orientation?

Yes.

a. When/how do you think they found out?

[REDACTED] knew about my sexual orientation prior to me going to work at Humble ISD.

I believe that [REDACTED] learned about my sexual orientation from [REDACTED]. I made the decision to share my sexual orientation and the existence of my partner, [REDACTED], with those employees in the Athletic Department office that I felt I could trust with the information and respect my desire to keep the information private. I believe that those individuals have respected my desire to keep the information private.

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████████ referred to my partner, ██████, during an interview with ██████████ who was a candidate for the ██████████ position filled by ██████████. She was an applicant, not an employee of Humble ISD.

████████ referred to my partner in an email to over 30 ██████████ and coaches on April 23, 2023. (Tabs 18 – 19). It is unknown whether any of the recipients discussed the email with other employees. Some of the recipients forwarded the email to other individuals. (Tab 19).

18) Have you ever told anybody at work about your sexual orientation?

Yes. *See 17 above.*

a. Did you ever ask ██████████, ██████████ and/or ██████████ to help get your partner ██████████ an interview at AHS for the nurses job?

I mentioned to ██████████ that ██████ applied at Atascocita High School for a ██████ position. ██████████ and I discussed the opening, and he offered to contact ██████████, ██████████, and ██████████ on her behalf. I accepted his offer.

b. Did they do it?

I believe that ██████████ did.

c. Did they know she was a woman?

I assume so.

d. Did she get the job?

Yes.

e. Does she still have the job?

No.

f. Why not?

She left to care for her ailing father who recently passed away.

g. Did her quitting put financial strain on your 27-year household?

No. Not at all.

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19) Did you once tell [REDACTED] that your [REDACTED] bought you a [REDACTED] and bought [REDACTED] a [REDACTED]?

[REDACTED] came into the Athletic Department office one day and asked whose [REDACTED] [REDACTED] is in the parking lot. The office staff said it was [REDACTED]'s, and I said my [REDACTED] bought it for me. I never told [REDACTED] that my [REDACTED] bought [REDACTED] a [REDACTED].

20) Are you claiming you were denied any promotion or raise b/c of your sexual orientation?

[REDACTED] has made inappropriate comments referring to my sexual orientation. [REDACTED] also said that he did not want to promote me to the [REDACTED] position because he did not want to hurt [REDACTED]'s feelings. Around the same time, [REDACTED] decided to promote [REDACTED] from [REDACTED]. These decisions could have been due to my sexual orientation as well as my gender.

21) Is the promotion of [REDACTED] part of your discrimination claim?

No.

22) You allege that [REDACTED] revealed about you in violation of Standard 2.1 of the Educators' Code of Ethics.

a. You claim he did this by revealing that you have a female partner.

Yes.

b. Do you consider that to be health information, personnel information, or both?

Personnel information.

c. Do you agree that your sexual orientation is not health information?

Yes.

d. Do you agree that your sexual orientation is not personnel information?

No.

e. When you started work at Humble ISD didn't you elect to NOT keep your home address, telephone number, and family member information private. See Evidence Tab 27.

That is incorrect. The Public Access Notification Form (Tab 27) asks: "I want my home address, telephone number, SSN and family member information released pursuant to a member of the public's request for information under the Texas Public Information Act." My response, according to the Form, was "No."

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f. Do you know if [REDACTED] considered [REDACTED] your family member?

I do not know.

g. Do you deny that [REDACTED] is a family member?

No.

23) Are you aware of other rules or policies prohibiting a reference to a spouse/partner?

No. However, I am not familiar with all of the Board and District policies, rules, and procedures. I am aware that [REDACTED] called an office meeting and threatened to fire anyone who talked about his personal business and directed us to ask him directly if we have any questions about his personal life. After the meeting, [REDACTED] said it was her fault because she made a comment about [REDACTED] not wearing his wedding ring when rumors were floating around about him and [REDACTED] having marital issues and it got back to [REDACTED].

24) Did [REDACTED] ever mention anybody else's spouse/partner by name or gender?

Yes. For example, [REDACTED] mentioned [REDACTED] [REDACTED] when he was married to her and [REDACTED] when he disclosed that he was dating and later living with her. I believe that he may have referred to [REDACTED] who works in [REDACTED] by her nickname, [REDACTED].

I am not aware of [REDACTED] ever mentioning anyone else's spouse/partner during an interview with an outside applicant. I am also not aware of [REDACTED] ever sending an email to others in the Athletic Department about someone's spouse/partner.

25) What date do you contend the work environment became sexually hostile?

I do not recall a specific date. [REDACTED]'s conduct and behavior became more toxic, offensive and hostile over time. It worsened once [REDACTED] learned that his [REDACTED], was getting married and after he acknowledged his relationship with [REDACTED].

a. What happened on this date?

Not applicable.

26) Do you agree that [REDACTED] never made a sexual advance toward you at any time?

Yes. However, [REDACTED] did make me uncomfortable when he hugged me, cried, and kissed me on the head after he apologized for being upset with me for helping [REDACTED] with a 16-5A DEC issue that he thought [REDACTED] handled by herself.

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27) You said that you “learned quickly [after starting in the winter of 2017] that Respondent has a temper” (see Interview Summary at 1).

Yes. I observed ██████ slamming a phone, throwing a phone, and destroying items (phone and computer keyboard) in the office.

28) Did you have a chance to accept a position as Clear Creek ██████ in 2021?

No.

I had an opportunity to interview for the ██████ position at Clear Creek ISD in 2021. I declined.

a. Why didn't you accept it?

I grew up in the Humble ISD and played sports for teams in Humble ISD. So did my ██████ and his ██████. I own a home and am a tax payer in Humble ISD. I have friends who went to school in Humble ISD and have had children attend schools in the District. When I had the opportunity to return to Humble ISD as an ██████, I did so because I am a proud product of Humble ISD and it is home to me.

I had previously worked for ██████ ISD and had an opportunity to interview for the ██████ position.

██████ had also discussed with me the possibility of a promotion to ██████ (after he was promoted to ██████) and salary increases in recognition of my assumption of additional duties within the Athletic Department. After I declined to be interviewed for the ██████ position at Clear Creek ISD, ██████ told me: “Let's talk about salary when you get back.” In my 2021 performance review, ██████ discussed my decision to remain at Humble ISD, stating “██████ had an opportunity to leave and she chose to stay. That single decision is the best thing that has happened to our department this year.”

29) When is it that you allege ██████ broke a keyboard?

██████ broke more than one keyboard. I do not recall the exact dates. ██████, ██████, ██████ and Athletic Department office staff witnessed ██████ breaking keyboards.

a. What motivated you to take a picture of it?

I did not take a photograph of the broken keyboards.

b. Are you claiming that was an example of sexual harassment?

No. ██████'s breaking of computer keyboards is an example of ██████'s erratic, intimidating, and volatile behavior.

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30) Did [REDACTED] send a photograph of the tattoo under his arm to you? See Evidence Tab 5.

No.

a. If so, when and how did he send it to you?

Not applicable.

b. If not, who did he send it to? How did you get the photograph?

I do not know who all [REDACTED] may have sent the tattoo picture to. I received it from an Athletic Department office staff member whom [REDACTED] sent it to.

c. Do you know what the tattoo means?

I am not sure. I heard that it has something to do with the past and the future.

d. Did other employees in the athletic office ever send their tattoos to you? To [REDACTED] [REDACTED]? If so, who and when?

Not to me. If anyone sent a tattoo to [REDACTED], I do not know.

31) Prior to April 2023, did you ever complain about [REDACTED] to anyone HR or management employees at Humble ISD?

Yes.

a. Who and when?

[REDACTED], [REDACTED], on a number of occasions.

32) Prior to April 2023, did you ever complain about [REDACTED] to anyone HR or management employees at Humble ISD?

Yes.

a. Who and when?

[REDACTED], [REDACTED], on a number of occasions. I also complained to [REDACTED] about [REDACTED]. As I noted above, [REDACTED] would ask me "how's [REDACTED]" ([REDACTED] referred to [REDACTED] as "[REDACTED]" and she referred to him as "[REDACTED].")

33) Do you know [REDACTED] [REDACTED]?

Yes.

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- a. Did you once say you “would love to be over or under [REDACTED]” – referring to sexual positions?

No.

- b. Did you once tell [REDACTED], in reference to [REDACTED] and her [REDACTED], that you would “do them both”?

No.

- c. Did others in the office think it was funny?

No, not applicable.

- d. Did it appear to make any coworkers uncomfortable?

No, not applicable.

34) Are you familiar with the “how much/how long” game?

Yes.

35) Did you participate in the “how much/how long” game?

Yes, I received several text messages from [REDACTED] and [REDACTED] after joining Humble ISD. I did respond to some of them, but not all.

I sent one text message to [REDACTED] and [REDACTED] on December 31, 2022. The photograph was of a woman in Las Vegas wearing pants that were cut down the sides. [REDACTED] responded to my text message, stating that [REDACTED] [REDACTED] was impressed.”

- a. You played this game with [REDACTED] and [REDACTED], right?

Yes, I received several text messages from [REDACTED] and [REDACTED] after joining Humble ISD. I did respond to some of them, but not all. It is my understanding that [REDACTED] and [REDACTED] had been sending each other text messages with photographs for years (predating my employment at Humble ISD).

I sent one text message to [REDACTED] and [REDACTED] on December 31, 2022. The photograph was of a woman in Las Vegas wearing pants that were cut down the sides. [REDACTED] responded to my text message, stating that [REDACTED] [REDACTED] was impressed.”

- b. “How much” meant how much money, right?

That was my understanding.

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- c. “How long” referred to how much time had passed since that person could see their privates without looking in the mirror, right?

That was my understanding.

- d. Do you agree that the subjects of this game were people who you thought were overweight, slovenly, or unattractive?

As I indicated above, the photograph of the woman that I texted was wearing pants that I do not believe were appropriate in a public setting.

██████████ and ██████████ typically sent photographs of individuals who were overweight. I recall (a) a photograph of an obese man at a water slide or swimming pool; (b) an overweight woman with a very small backpack; and (c) an overweight construction worker.

██████████ also sent a photograph of a woman wearing an evening dress at a work related dinner that he attended with ██████████. The photograph was of the woman from behind. The woman was wearing formal attire.

- e. Are you claiming that game made the work environment sexually hostile for you?

No.

██████████’s repeated reference to “fuck me heels” did. ██████████’s “don’t come close to me wearing that outfit” comments did. ██████████’s comment about being “exit only” did. ██████████’s reference to Humble ISD ██████████ being a “bitch” and making a violent and graphic sexual comment about her did. ██████████’s “I wish I had a 20-inch pecker” comments did.

- f. But you played the game even when you were not at work, didn’t you?

As I indicated above, I sent a text message on December 31, 2022. I did respond to some text messages (but not all). When I did respond, it was not during work hours. (I do recall receiving text messages during work hours).

- i. Why?

It is my understanding that ██████████ and ██████████ had been sending each other text messages for years (prior to my employment at Humble ISD). I do not know if they had sent the text messages to other employees at Humble ISD (or individuals outside the District).

I do not recall whether it was ██████████ or ██████████ who sent me the first text asking, “how much” or “how long.” I do recall receiving the texts on an infrequent basis from them. As I noted above, I did not respond to all of the

QUESTIONS FOR WITNESSES

messages. When I received the text message and did respond, I would often use face emojis.

Moreover, based upon what [REDACTED] said, [REDACTED] was apparently aware of the game and the text messages. To my knowledge, [REDACTED] did not express any disapproval or instruct [REDACTED] and [REDACTED] to stop sending the messages. Rather, in response to the message that I sent on December 31, 2022, [REDACTED] said [REDACTED] [REDACTED] was impressed.”

36) Did you sometimes talk about male genitals at work?

I did use the term big or little “dooder,” which was a term used by my Grandmother, and does refer to a penis.

I used the term to refer to men who were acting rudely or inappropriately – not in a sexual way and never direct at anyone.

37) Did you ever say something like this: “With huge feet like those, he has to have a big dirty dooder”?

No.

a. Who did you say this to?

Not applicable.

i. [REDACTED]?

Not applicable.

ii. [REDACTED]?

Not applicable.

iii. [REDACTED]?

Not applicable.

iv. [REDACTED]?

Not applicable.

v. [REDACTED]?

Not applicable.

QUESTIONS FOR WITNESSES

38) Did you ever refer to anybody as a “dirty kitty”?

I did use the phrase “bad kitty” or “dirty kitty” to refer to mischievous behavior. It was not in a sexual way.

a. Do you agree that this has sexual connotations?

No. I was referring to mischievous behavior – not sexual behavior.

After I recounted the story from my early twenties at a track meet at ██████████’s urging, ██████████ would chuckle and use the phrase “bad kitty” or “dirty kitty” in the Athletic Department office. I recall one of the office staff referring to herself as a “bad kitty” when she was hungover and another calling herself a “bad kitty” when she was drinking beer.

I also recall ██████████ sending a text message from Vail, Colorado of a bar called the “Bad Kitty Lounge.” ██████████ indicated that he wanted to buy a t-shirt from the lounge.

b. Who did you say this to?

██████████, ██████████ and Athletic Department office staff in reference to mischievous behavior.

i. ██████████?

Yes.

ii. Girls in the office?

Yes.

iii. Did they play along/think it was funny?

As I indicated above, some of the staff used the term for mischievous behavior when they were drinking or hungover. It was not sexual.

iv. Did it appear to make coworkers uncomfortable?

No.

39) Did you ever pat/slap ██████████ on the butt in front of others?

No.

QUESTIONS FOR WITNESSES

a. Ever in front of [REDACTED]?

No.

40) Did you sometimes refer to [REDACTED] as “Rick the dick” after you didn’t a raise that you requested?

No.

a. Who would you say this to?

Not applicable.

b. How often?

Not applicable.

41) Did you ever refer to a high school football coach by the nickname, “Dick pic”?

No, [REDACTED] referred to a coach by that nickname after a meeting with [REDACTED] and the coach.

a. Who were you referring to?

Not applicable.

b. Who would you say this to?

Not applicable.

c. Did they think it was funny?

Not applicable.

d. Did it appear to make coworkers uncomfortable?

Not applicable.

42) Did you ever talk to coworkers about your own dating and sexual exploits?

I never discussed with anyone at work any “sexual exploits” or my sexual relationship with anyone.

Since [REDACTED] visited my college roommate (who is her current partner) and me when we were at Texas A&M, she knew about some of the people that I dated in college and in my early twenties.

QUESTIONS FOR WITNESSES

As I indicated above, [REDACTED] and [REDACTED] were talking about their prior relationships. [REDACTED] encouraged me to tell [REDACTED] a story from my early twenties. This happened one time.

Other than this one occasion with [REDACTED] and [REDACTED], I have not discussed any of my prior dating experiences with any other employees in the Athletic Department.

a. To [REDACTED]?

As I discussed above, I did tell [REDACTED] about someone that I dated during my early twenties. [REDACTED] would discuss his extramarital affair with [REDACTED] (a former Humble ISD [REDACTED]) that he had when he was married to [REDACTED] [REDACTED]. I recall one conversation where he commented that [REDACTED] had found evidence of his infidelity. [REDACTED] [REDACTED] also discussed extramarital affairs she had when she was in a long-term relationship with [REDACTED].

b. To [REDACTED]?

As I mentioned above, [REDACTED] already knew about some of the people that I dated in college and in my early twenties.

c. To others?

No.

43) Did you talk to coworkers about times you “cheated” on your “girlfriends”?

During the conversation with [REDACTED] and [REDACTED] identified above, [REDACTED] brought up a story that I told her during my early twenties. [REDACTED] encouraged me to share what happened with [REDACTED]. It was during this conversation that I referred to a “little cheaty cheat.”

The discussion occurred on that one occasion and was not discussed with anyone other than [REDACTED] and [REDACTED]. The conversation occurred shortly after I came into the athletic office about six years ago at a track meet.

a. Did they think it was funny?

Yes. That was why [REDACTED] wanted me to share the story with [REDACTED]. He also thought it was funny.

b. Did it appear to make coworkers uncomfortable?

No.

QUESTIONS FOR WITNESSES

44) Would you sometimes tell coworkers that you were “a little cheaty cheat” when you were in college?

During the conversation with [REDACTED] and [REDACTED] identified above, [REDACTED] brought up a story that I told her during my early twenties. [REDACTED] encouraged me to share what happened with [REDACTED]. It was during this conversation that I referred to a “little cheaty cheat.”

The discussion occurred on that one occasion and was not discussed with anyone other than [REDACTED] and [REDACTED]. The conversation occurred about six years ago at a track meet.

a. Did they think it was funny?

Yes. That was why [REDACTED] wanted me to share the story with [REDACTED]. He also thought it was funny.

b. Did it appear to make coworkers uncomfortable?

No.

c. Did you ever talk to coworkers about a time when you called [REDACTED] to pick you up because your Hispanic girlfriend found out you cheated on her and intentionally crashed a car, prompting you to tell [REDACTED] that “Hispanic girls are crazy”?

No. I never shared any stories that occurred in my early twenties with the Athletic Department office staff. I shared the “cheaty cheat” comment at a track meet during a conversation with [REDACTED] and [REDACTED] at [REDACTED]’s urging. That comment was made by me to the driver of a car when I was in my early twenties. No Athletic Department office staff was present during that conversation.

Did they think it was funny?

[REDACTED] thought that the “cheaty cheat” comment I made to someone I dated during my early twenties was funny. He would occasionally repeat it under his breath to as he walked by and laughed.

i. Did it appear to make coworkers uncomfortable?

No.

d. Did you ever talk to coworkers about a time when you were cheating with a girl that had a girlfriend and the girl’s partner found out and attacked you with scissors?

No.

QUESTIONS FOR WITNESSES

i. Did they think it was funny?

Not applicable.

ii. Did it appear to make coworkers uncomfortable?

Not applicable.

45) Did you ever refer to another HISD employee as someone you “could not get off your tit”?

Yes.

a. [REDACTED] and [REDACTED]?

With respect to [REDACTED] yes. With respect to Kingwood Park High School [REDACTED] no.

i. Did they think it was funny?

I made the comment about [REDACTED] one day out of frustration. In connection with the scheduling of travel of his Kingwood Park High School track team to the 2023 Regional Track Meet in Arlington, [REDACTED] was very needy and called me often. I became frustrated and said, “he needs to get off the tit.” I did not intend this comment in a sexual way.

[REDACTED] thought it was funny. I made this comment to [REDACTED] and not to [REDACTED]. I used the term out of frustration following numerous communications with [REDACTED] about an issue. It was not meant in a sexual manner.

ii. Did it appear to make coworkers uncomfortable?

No.

46) Do you think you had a role in making the work environment sexually hostile?

No. By his own admission, [REDACTED] has regularly made sexually explicit comments for years. [REDACTED] was the only individual to make sexually explicit comments about female Athletic Department employees’ attire, appearance, footwear (“fuck me heels”), and anatomy, as well as telling female office staff, “don’t come near me wearing that outfit.”

[REDACTED] was the only individual to call the former District [REDACTED] a “bitch” and say that she needed to be subjected to a graphic sexual act. [REDACTED] was the only individual to make crude and degrading comments about women.

QUESTIONS FOR WITNESSES

Moreover, [REDACTED] has admitted that there were female office staff employees who did not participate in the sexually explicit discussions, but nevertheless he continued to perpetuate a sexually charged work environment as he has done for more than ten years.

[REDACTED] has argued that, because no one complained about his behavior, the comments were welcome. [REDACTED] ignores the fact that his behavior and conduct created an environment where employees were afraid to complain due to fear of retaliation and fear of his anger and ire. Once [REDACTED] disclosed that he was dating [REDACTED], moved in with her, and planned to propose to her, the Athletic Department office staff were even more reluctant to complain about [REDACTED]'s conduct and behavior. [REDACTED] would spend quite a bit of time daily in [REDACTED]'s office.

47) Do you think your conduct caused others to believe you enjoyed the sexual banter?

No. In fact, others indicated that they believed that some of the individuals in the Athletic Department office were uncomfortable with some of the comments, including me.

48) Do you have any regrets about any of your own behavior?

Yes.

a. Which behavior, and why?

I regret using the term “dooder” in the workplace. As I indicated above, it was a term that was used by my Grandmother and was intended to refer to a man who was rude or inconsiderate. While most of the individuals in the office did not view the term as having sexual connotations, [REDACTED] (with [REDACTED]'s assistance) is claiming that I used the term in a way that has sexual innuendos.

I regret yielding to [REDACTED]'s encouragement and sharing my college experiences with [REDACTED]. [REDACTED] ended up injecting comments – “bad kitty” and a “little cheaty cheat” – that I made in a private conversation into conversations with Athletic Department office staff. [REDACTED] and [REDACTED] since have twisted comments that I made about my dating life almost thirty years ago into discussions of sexual exploits.

I also regret participating in what has been called the “how much how long” game. While I responded to some of the texts sent by [REDACTED] and [REDACTED], I could have ignored their messages or asked them to exclude me from them. Despite [REDACTED] texting that [REDACTED] was “impressed” by the photograph that I texted, I have been the only employee suspended because of the game. Nothing was done to [REDACTED], who sent a number of texts, or [REDACTED], who was aware of the game and never indicated that any of the messages were inappropriate.

Finally, while I voiced concerns about [REDACTED]'s conduct and behavior to [REDACTED], I should have insisted upon the complaints being investigated and appropriately

QUESTIONS FOR WITNESSES

handled. I was concerned about possible retaliation for pursuing a complaint and retribution from [REDACTED] and/or [REDACTED]. My concerns about retaliation from [REDACTED] and [REDACTED] have since been validated.

49) Do you still plan to retire at the end of 2023?

No.

a. If not, why not?

I made the decision to retire in response to [REDACTED]'s failure to follow through on what he had said he would do and belittling of me when I asked him about the promotion and salary increase. When [REDACTED] angrily said that we were all replaceable, I decided that it was best that I retire.

After I was suspended for having complained about [REDACTED], I decided that I wanted to return to work. Other employees, including [REDACTED] have rescinded their decision to retire and returned to work without issue.

Exhibit 4

Daniel Ortiz

From: Giana Ortiz
Sent: Friday, January 12, 2024 3:18 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX
Attachments: Wagnon.pdf

Good afternoon: Please see attached additional responses received today.

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Friday, January 12, 2024 9:08 AM
To: 'alf@southerlandlawfirm.com' <alf@southerlandlawfirm.com>; 'keith@lapezejohs.com' <keith@lapezejohs.com>; 'ctritico@triticorainey.com' <ctritico@triticorainey.com>; 'david@mincesrankin.com' <david@mincesrankin.com>; 'ethan@mincesrankin.com' <ethan@mincesrankin.com>; 'grace@mincesrankin.com' <grace@mincesrankin.com>
Subject: RE: Humble ISD Title IX

Good morning,

I am attaching the responses I received to questions propounded by the parties. Please note that I did not receive email addresses for [REDACTED] or [REDACTED] until yesterday, and questions were sent to those witnesses yesterday. I have not received a personal email address for [REDACTED] (a non-HISD employee), so those questions have not been sent. If either party has a personal email address or phone number for [REDACTED], please send it to me. With these three exceptions ([REDACTED], [REDACTED], and [REDACTED]), all other questions propounded by the parties were distributed prior to January 4, 2024, and I am attaching all responses received.

According to HISD Title IX Procedures, each party now has 5 District business days to submit follow-up questions to me for review in the same manner as the initial questions. Thus, each party will have until **January 22, 2024** (five (5) District business days) to submit follow up questions to these responses. (*If/when I receive responses to the questions propounded to [REDACTED] and [REDACTED], I will circulate those and the parties shall have five District business days to submit follow-up questions to those witnesses (if any).)

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Wednesday, December 27, 2023 2:02 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX

Greetings Counsel,

I received responses and party/witness questions from both parties on December 12, 2023. I have reviewed the proposed questions to ensure that any questioning is relevant, respectful, and non-abusive.

I am now circulating to all parties, simultaneously, the parties' written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive. I have changed the file names to clearly identify the proponent party. I have made one exclusion of questions proposed. In particular, the Complainant has proposed questions to a person who is not noted in the Investigation Report. Under Humble ISD Title IX Formal Complaint Procedures, that would exceed the scope of permitted questioning at this time. Thus, I have indicated where the questions have been excluded in that document, but there have been no other changes to the parties' documents I am transmitting to you.

As you know, today is not a District Business Day. I have decided to pass these along to you nonetheless in case you or your clients wish to use this additional time. Using District business days, these questions will technically be "received" by the parties on January 4, 2024. Each party must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, each party will have until **January 11, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding the parties' responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions. Please note that I do not find a hearing on this matter to be appropriate, and the questioning process will proceed as indicated in the letter from Attorney McGowan and in Humble ISD policy.

In the meantime, I will ask the District to provide me contact information for the other witnesses for whom you have each propounded questions so that I may share each witness's questions with that witness as well. If you or your clients can provide email addresses for these witnesses, that may help expedite that part of the process given that the District is now on break.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz

Sent: Wednesday, December 6, 2023 4:39 PM

To: alf@southerlandlawfirm.com; keith@lapezejohns.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com

Subject: Humble ISD Title IX

Greetings, counsel:

As you know, I have been appointed as Decisionmaker in the Title IX investigation for Humble ISD regarding the claims raised by [REDACTED] against [REDACTED].

I am writing to introduce myself, and to notify the parties of the next deadline. I understand the parties have received the investigative report as of December 5, 2023. Thus, each party will have until **December 12, 2023** (five (5) District business days) to submit any written response to the investigation report, and written, relevant questions that a party wants asked of any party or witness noted in the investigation report.

Any submissions made in this regard should be sent **to me only** at this email address. Any questions that a party wants asked of any other party or witness should be sent to me in a Word document as an attachment to an email (not a document link or through google drive), with the intended recipient clearly listed on the face of the document above the questions for that witness. Questions should be clearly set forth in a list fashion.

Thereafter, I shall review the submissions to ensure that any questioning is relevant, respectful, and non-abusive. I will circulate to all parties, simultaneously, any written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information. Likewise, if you should anticipate requesting an extension of this or any timeline as we proceed from this point forward, please include all counsel on your request and make such requests as soon as the need is anticipated.

I look forward to working with you all.

Sincerely,

Giana Ortiz

THE ORTIZ LAW FIRM

ATTORNEYS AT LAW

1304 West Abram, Suite 100
Arlington, Texas 76013
t. 817-861-7984
f. 817-549-7358

Questions for [REDACTED]

1) Did you send [REDACTED] a picture of the tattoo you and your [REDACTED] got before he ever got a tattoo?

I sent a picture of our tattoo, I do not recall whether is was before or after his.

2) Did you ask [REDACTED] to send a picture of the tattoo he got under his arm? Did you provide [REDACTED] picture of this tattoo?

Yes I asked him to send a picture, I do not recall if I sent the picture to anyone.

3) Did [REDACTED] ever say something like this in your presence: "With huge feet like those, he has to have a big dirty dooder"?

No, I do not recall every hearing this

a. Who did she say this to/in front of?

i. [REDACTED]?

ii. [REDACTED]?

iii. [REDACTED]?

iv. [REDACTED]?

b. Who was she referring to?

c. Did this appear to bother others, or did they think it was funny?

Exhibit 5

Daniel Ortiz

From: Giana Ortiz
Sent: Tuesday, January 23, 2024 4:29 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX
Attachments: [REDACTED].pdf; Follow Up Questions for Complainant (1-22-24).docx

Greetings: I have received additional witness responses (attached) from [REDACTED]. I have also received the attached follow up questions from the Respondent to the Complainant. Complainant must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, she will have until **January 30, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions.

Thank you,
Giana

Giana Ortiz
817-522-1384

From: Giana Ortiz
Sent: Friday, January 12, 2024 3:18 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX

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817-861-7984

From: Giana Ortiz
Sent: Friday, January 12, 2024 9:08 AM
To: 'alf@southerlandlawfirm.com' <alf@southerlandlawfirm.com>; 'keith@lapezejohs.com' <keith@lapezejohs.com>; 'ctritico@triticorainey.com' <ctritico@triticorainey.com>; 'david@mincesrankin.com' <david@mincesrankin.com>; 'ethan@mincesrankin.com' <ethan@mincesrankin.com>; 'grace@mincesrankin.com' <grace@mincesrankin.com>
Subject: RE: Humble ISD Title IX

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exceptions ([REDACTED], [REDACTED], and [REDACTED], all other questions propounded by the parties were distributed prior to January 4, 2024, and I am attaching all responses received.

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If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz

Sent: Wednesday, December 27, 2023 2:02 PM

To: alf@southerlandlawfirm.com; keith@lapezejohns.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com

Subject: RE: Humble ISD Title IX

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If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Wednesday, December 6, 2023 4:39 PM
To: alf@southerlandlawfirm.com; keith@lapezejohns.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: Humble ISD Title IX

Greetings, counsel:

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If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information. Likewise, if you should anticipate requesting an extension of this or any timeline as we proceed from this point forward, please include all counsel on your request and make such requests as soon as the need is anticipated.

I look forward to working with you all.

Sincerely,

Giana Ortiz

THE ORTIZ LAW FIRM

ATTORNEYS AT LAW

1304 West Abram, Suite 100
Arlington, Texas 76013
t. 817-861-7984
f. 817-549-7358

FOLLOW-UP QUESTIONS FOR [REDACTED]

Follow Up Questions based on [REDACTED] Response.

1. What if any instances of intimidating behavior, besides breaking a keyboard, did [REDACTED] exhibit? (See Q 29 Pg 16)
 - a. How (if at all) do you contend such instances related to sex/gender/were discriminatory?
2. Was the erratic, intimidating, and volatile behavior you allege directed at anyone specific, or did it appear to be general frustration and stress associated with the job? (See Q 29 Pg 16)
3. On what facts/data is the claim made that [REDACTED] receives a higher salary than yourself based? (See top of Page 8)
 - a. Did [REDACTED] voluntarily share this salary information with you? (See top of Page 8)
4. How did [REDACTED] respond when you told him that "we" (in reference to yourself and others) couldn't talk to him without it resulting in an explosion and potential repercussions? (See Q4 Page 9)
 - a. Who are the others you included in "we"? In other words, who else do you maintain felt uncomfortable talking to [REDACTED]?
5. What was HR's response on April 26th, 2023? (See Q4 Pg 9)
6. Did HR indicate to you that [REDACTED] required authority under Humble ISD Board Policy and the Employee Handbook to remove you from the Athletic Department? (See Q4 Pg. 9)
 - a. Do you dispute this?
7. Does [REDACTED] possess the authority to promote you? (See Q5 Pg. 9)
 - a. If yes, what information/documents support your answer?
8. Were the instances of breaking phones and keyboards you allege directed at a specific individual or a result of general frustration? What triggered [REDACTED]'s frustration, if you know? (See Q5 p. 9)
9. Regarding your potential interview at Clear Creek ISD, did you decline it because [REDACTED] discussed the possibility of the [REDACTED] position at Humble ISD or for other reasons? (See Q28 a)

FOLLOW-UP QUESTIONS FOR [REDACTED]

10. Regarding your potential interview at Clear Creek ISD, did you decline it because [REDACTED] promised the [REDACTED] position at Humble ISD or for other reasons? (See Q28 a)
11. What specific face emoji did you reply with regarding the how much how long game? (See Q35f i)
 - a. Please paste the actual emojis used into your answer to this question.
12. If not referring to a male specifically, what were you referring to when you used the word “dooder” in the workplace? (See Q 36)
13. Since you admit that [REDACTED] participated in the how much/how long game, why did you report only [REDACTED] for the game? (See Q 48a)

Questions for [REDACTED]

1. Did you ever hear [REDACTED] make a derogatory remark about Humble ISD [REDACTED] [REDACTED]?

YES

2. If so, what did you hear him say?

I DO NOT 100% recall his exact words but I do know he was extremely agitated with her about something to do with our athletic policy. I don't recall exactly what it was that he was upset with her about. I don't remember exactly what he said but I do remember it catching me off guard.

3. When did the conversation occur if you recall?

Over two years ago because I have not worked there since July of 2022

4. Did [REDACTED] ever say anything about 20-inch male genitalia(penis, pecker, or dick)?

YES

5. If so, what did you hear him say?

His statement or rebuttals whenever I would say something like, "I wish we had...." Or "if we could just....." would be something like, "well If I had a 12 inch pecker, I wouldn't be here, but I don't"

6. When did the conversation occur if you recall?

Don't remember exactly but I do remember it once while setting up track timing equipment.

Exhibit 6

Daniel Ortiz

From: Giana Ortiz
Sent: Wednesday, January 24, 2024 4:23 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX
Attachments: Claimant's Followup Witness Questions.Reviewed (1-22-24).docx

Greetings:

By some apparent failure of technology, I did not receive questions propounded by the Complainant January 22. Complainant's follow up questions to the Respondent and other witnesses have now been received and reviewed to ensure they are relevant, respectful, and non-abusive. Those questions are attached. (*Note that some questions have been excluded by way of this review and are omitted from this attachment. Respondent's questions circulated yesterday were also reviewed to ensure they are relevant, respectful, and non-abusive and no exclusions were made.) Respondent must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, he will have until **January 31, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions.

Thank you,
Giana

Giana Ortiz
817-522-1381

From: Giana Ortiz
Sent: Tuesday, January 23, 2024 4:29 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; ctritico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX

Greetings: I have received additional witness responses (attached) from [REDACTED]. I have also received the attached follow up questions from the Respondent to the Complainant. Complainant must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, she will have until **January 30, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions.

Thank you,
Giana

Giana Ortiz
817-522-1384

From: Giana Ortiz
Sent: Friday, January 12, 2024 3:18 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX

Good afternoon: Please see attached additional responses received today.

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Friday, January 12, 2024 9:08 AM
To: 'alf@southerlandlawfirm.com' <alf@southerlandlawfirm.com>; 'keith@lapezejohs.com' <keith@lapezejohs.com>; 'critico@triticorainey.com' <critico@triticorainey.com>; 'david@mincesrankin.com' <david@mincesrankin.com>; 'ethan@mincesrankin.com' <ethan@mincesrankin.com>; 'grace@mincesrankin.com' <grace@mincesrankin.com>
Subject: RE: Humble ISD Title IX

Good morning,

I am attaching the responses I received to questions propounded by the parties. Please note that I did not receive email addresses for [REDACTED] or [REDACTED] until yesterday, and questions were sent to those witnesses yesterday. I have not received a personal email address for [REDACTED] (a non-HISD employee), so those questions have not been sent. If either party has a personal email address or phone number for [REDACTED] please send it to me. With these three exceptions ([REDACTED], [REDACTED], and [REDACTED]), all other questions propounded by the parties were distributed prior to January 4, 2024, and I am attaching all responses received.

According to HISD Title IX Procedures, each party now has 5 District business days to submit follow-up questions to me for review in the same manner as the initial questions. Thus, each party will have until **January 22, 2024** (five (5) District business days) to submit follow up questions to these responses. (*If/when I receive responses to the questions propounded to [REDACTED] and [REDACTED], I will circulate those and the parties shall have five District business days to submit follow-up questions to those witnesses (if any).)

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Wednesday, December 27, 2023 2:02 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX

Greetings Counsel,

I received responses and party/witness questions from both parties on December 12, 2023. I have reviewed the proposed questions to ensure that any questioning is relevant, respectful, and non-abusive.

I am now circulating to all parties, simultaneously, the parties' written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive. I have changed the file names to clearly identify the proponent party. I have made one exclusion of questions proposed. In particular, the Complainant has proposed questions to a person who is not noted in the Investigation Report. Under Humble ISD Title IX Formal Complaint Procedures, that would exceed the scope of permitted questioning at this time. Thus, I have indicated where the questions have been excluded in that document, but there have been no other changes to the parties' documents I am transmitting to you.

As you know, today is not a District Business Day. I have decided to pass these along to you nonetheless in case you or your clients wish to use this additional time. Using District business days, these questions will technically be "received" by the parties on January 4, 2024. Each party must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, each party will have until **January 11, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding the parties' responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions. Please note that I do not find a hearing on this matter to be appropriate, and the questioning process will proceed as indicated in the letter from Attorney McGowan and in Humble ISD policy.

In the meantime, I will ask the District to provide me contact information for the other witnesses for whom you have each propounded questions so that I may share each witness's questions with that witness as well. If you or your clients can provide email addresses for these witnesses, that may help expedite that part of the process given that the District is now on break.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz

Sent: Wednesday, December 6, 2023 4:39 PM

To: alf@southerlandlawfirm.com; keith@lapezejohns.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com

Subject: Humble ISD Title IX

Greetings, counsel:

As you know, I have been appointed as Decisionmaker in the Title IX investigation for Humble ISD regarding the claims raised by [REDACTED] against [REDACTED].

I am writing to introduce myself, and to notify the parties of the next deadline. I understand the parties have received the investigative report as of December 5, 2023. Thus, each party will have until **December 12, 2023** (five (5) District business days) to submit any written response to the investigation report, and written, relevant questions that a party wants asked of any party or witness noted in the investigation report.

Any submissions made in this regard should be sent **to me only** at this email address. Any questions that a party wants asked of any other party or witness should be sent to me in a Word document as an attachment to an email (not a document link or through google drive), with the intended recipient clearly listed on the face of the document above the questions for that witness. Questions should be clearly set forth in a list fashion.

Thereafter, I shall review the submissions to ensure that any questioning is relevant, respectful, and non-abusive. I will circulate to all parties, simultaneously, any written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information. Likewise, if you should anticipate requesting an extension of this or any timeline as we proceed from this point forward, please include all counsel on your request and make such requests as soon as the need is anticipated.

I look forward to working with you all.

Sincerely,

Giana Ortiz

THE ORTIZ LAW FIRM

ATTORNEYS AT LAW

1304 West Abram, Suite 100
Arlington, Texas 76013
t. 817-861-7984
f. 817-549-7358

Follow-up Questions for Witnesses

Follow-Up Questions for [REDACTED]

- 1) As the [REDACTED], and as an employee of Humble ISD, isn't it true that you were required to comply with Humble ISD Board Policies?
- 2) As the [REDACTED], and as an employee of Humble ISD, isn't it true that you were required to comply with the policies set forth in the Employee Handbook?
- 3) As the [REDACTED], and as an employee of Humble ISD, isn't it true that you supervised all of the employees in the Athletic Department?
- 4) Isn't it true that, as the [REDACTED] and later the [REDACTED] [REDACTED] you were responsible for the environment of the Athletic Department office?
- 5) Isn't it true that you have make sexual comments and/or engaged in adult banter in the Athletic Department office for years?
 - a. More than a decade?
- 6) Isn't it true that not all of the employees in the Athletic Department office would engage in the sexual comments and/or adult banter?
- 7) Isn't it true that most of the employees in the Athletic Department office are female?
- 8) I would like to talk to you briefly about your relationship with [REDACTED].
 - a. How long have you known [REDACTED]?
 - b. When did you first meet [REDACTED]?
 - c. How long have you worked with [REDACTED]?
 - d. Did you work with her at Humble ISD?
 - e. Did you work with her anywhere else?
 - f. Was there a time when you and she were co-[REDACTED]s at Humble ISD?
 - g. When was that?
 - h. When did [REDACTED] cease being a co-[REDACTED]?
 - i. How did her employment end as co-[REDACTED]?
 - j. Has [REDACTED] returned to work at Humble ISD?

Follow-up Questions for Witnesses

- k. When did that happen?
- l. Were you involved in [REDACTED] coming back to work for the District?
- m. If so, how were you involved?
- n. What is [REDACTED]'s current job?
- o. Have you been [REDACTED]'s supervisor since her return to Humble ISD?
- p. Have you and [REDACTED] ever worked together outside of Humble ISD?
- q. Did you and [REDACTED] ever operate the concession stand at track events held at Turner Stadium?
- r. If so, during what time period?
- s. Did you and [REDACTED] ever operate the concession stand at any other events held at Turner Stadium?
- t. If so, during what time period?
- u. Did you and [REDACTED] ever operate a concession stand at any other events held at Humble ISD?
- v. If so, during what time period?
- w. Have you had a close friendship with [REDACTED] for decades?
- x. Did you share many social activities outside of work with [REDACTED]?
- y. Did you ever go out of town with [REDACTED] for a social activity (or meet [REDACTED] out of town)?
- z. Did [REDACTED] travel to Mexico to be there when you proposed to [REDACTED]?
- aa. Did [REDACTED] attend your and [REDACTED]'s wedding?
- bb. Did you ever refer to [REDACTED] as "[REDACTED]" (or something similar)?
- cc. Did [REDACTED] ever refer to you as "[REDACTED]" (or something similar)?
- dd. After [REDACTED] complained about you, did you ask [REDACTED] to send you text messages that she may have had with [REDACTED]?
 - i. If yes, when did you ask her?

Follow-up Questions for Witnesses

- ii. Did she send you any text messages?
 - iii. When did she send them to you?
- 9) How would you rate your memory from 1-10, with 10 being that you never forget anything, 5 being average, and 1 being that you have a terrible memory and forget everything?
- 10) Did you ever hear that members of the Athletic Department staff were gossiping about your pending divorce from [REDACTED] [REDACTED]?
- 11) Did you ever hear that someone in the Athletic Department was telling people that you were not wearing your wedding ring?
- 12) After hearing about the gossip, did you call a meeting of the Athletic Department staff?
- 13) During this meeting, did you hit the table?
- 14) During this meeting, did you say, "if my own staff is going to gossip about my private life, they can't work here"?
- 15) Do you recall when this meeting occurred?
- 16) Did you ever curse in the Athletic Department office?
- 17) Did [REDACTED] ever spend any time in your office?
- 18) How often would [REDACTED] visit you in your office?
- a. Once a week?
 - b. Twice a week?
 - c. Three or four days a week?
 - d. Every day that you and [REDACTED] were in the office?
- 19) How long, on average, would [REDACTED] stay in your office when she would visit your office?
- a. Less than 30 minutes?
 - b. More than 30 minutes but less than an hour?
 - c. More than an hour?
- 20) Were you [REDACTED] supervisor at one time?
- 21) Did you ever tell the Athletic Department office staff that you were dating [REDACTED] [REDACTED]?

Follow-up Questions for Witnesses

- a. If yes, when?
 - b. If yes, how did you tell the office staff?
 - i. By email?
 - ii. By text message?
 - iii. By telephone?
 - iv. In person?
 - v. If in person, who was present at the meeting?
 - vi. Had you previously disclosed to anyone in the Athletic Department that you were dating [REDACTED]?
 - vii. If so, who?
 - viii. If so, when did you tell him/her?
 - ix. If so, how did you inform the individual(s) that you were dating [REDACTED] (in person/text message/telephone/etc.)?
- 22) Did you ever tell anyone else in the Athletic Department that you were dating [REDACTED]?
- a. If yes, when?
 - b. If yes, who?
 - c. If yes, how did you tell them?
 - i. By email?
 - ii. By text message?
 - iii. By telephone?
 - iv. In person?
 - v. If in person, who was present at the meeting?
- 23) Did you ever tell the Athletic Department office staff that you had moved into [REDACTED]'s home?
- a. If yes, when?
 - b. If yes, how did you tell the office staff?

Follow-up Questions for Witnesses

- i. By email?
- ii. By text message?
- iii. By telephone?
- iv. In person?
- v. If in person, who was present at the meeting?

24) Did you ever tell anyone else in the Athletic Department that you had moved into [REDACTED]'s home?

- a. If yes, when?
- b. If yes, who?
- c. If yes, how did you tell them?
 - i. By email?
 - ii. By text message?
 - iii. By telephone?
 - iv. In person?
 - v. If in person, who was present at the meeting?

25) Did you ever talk to coworkers about your own dating and sexual exploits?

- a. To [REDACTED]?
 - i. If yes, when?
 - ii. If yes, where you at the time?
 - iii. If yes, was anyone else present?
- b. To [REDACTED]?
 - i. If yes, when?
 - ii. If yes, where were you at the time?
 - iii. If yes, was anyone else present?
- c. To others?
 - i. If yes, who?

Follow-up Questions for Witnesses

- ii. If yes, when?
- iii. If yes, where were you at the time?
- iv. If yes, was anyone else present?

26) Did you talk to coworkers about times you “cheated” on your [REDACTED] [REDACTED]?

- a. To [REDACTED]?
 - i. If yes, when?
 - ii. If yes, where you at the time?
 - iii. If yes, was anyone else present?
- b. To [REDACTED]?
 - i. If yes, when?
 - ii. If yes, where were you at the time?
 - iii. If yes, was anyone else present?
- c. To others?
 - i. If yes, who?
 - ii. If yes, when?
 - iii. If yes, where were you at the time?
 - iv. If yes, was anyone else present?

27) Did you ever make comments about a female employee’s appearance, clothing, footwear, and/or anatomy?

- i. If yes, when?
- ii. If yes, what did you say?
- iii. If yes, who did you make the comments to?

28) Did you ever tell any sexually explicit jokes in the Athletic Department office?

- i. If yes, when?
- ii. If yes, what did you say?
- iii. If yes, who did you make the comments to?

Follow-up Questions for Witnesses

29) Did you ever tell any sexually explicit jokes to Athletic Department employees?

- i. If yes, when?
- ii. If yes, what did you say?
- iii. If yes, who did you make the comments to?

30) Did you ever make any sexually explicit comments in the Athletic Department office?

- i. If yes, when?
- ii. If yes, what did you say?
- iii. If yes, who did you make the comments to?

31) Did you ever tell any sexually explicit comments to Athletic Department employees?

- i. If yes, when?
- ii. If yes, what did you say?
- iii. If yes, who did you make the comments to?

32) Did you ever make a sexual comment/reference to [REDACTED] about he and his [REDACTED] working in the same building?

- i. If yes, when?
- ii. If yes, what did you say?
- iii. If yes, who was present when you made the comments?

33) Did you ever call the former [REDACTED] for Humble ISD a “bitch”?

- i. If yes, when?
- ii. If yes, who was present when you made the comments?

34) Did you consistently rate [REDACTED]’ performance at the highest levels in her annual performance reviews?

35) Did you ever refer to [REDACTED] as a “true professional”?

36) Did you ever say that [REDACTED]’ “influence on [REDACTED] has brought his standard of work up tremendously. He wouldn’t be where he is at without” it?

37) Did you indicate in [REDACTED]’ second performance evaluation that she was qualified to become an [REDACTED]?

Follow-up Questions for Witnesses

- 38) Did you say that [REDACTED] was “more than ready for” the [REDACTED] “role and the responsibilities associated with it”?
- 39) Did you refer to the track season being a “huge success due to [REDACTED] preparation and planning”?
- 40) Did you ever say that [REDACTED] “has really owned track and how it is organized. She was instrumental in running of a very successful UIL regional Track meet”?
- 41) Did you ever say that “Regional Track was a home run” under [REDACTED]?
- 42) Did you ever say that [REDACTED] was “the rock that holds [REDACTED] and I together”?
- 43) Isn't it true that [REDACTED] indicated that she did not want her “home address, telephone number, SSN and family member information released pursuant to a member of the public’s request for information under the Texas Public Information Act.” (Tab 27)?
- 44) Did you prepare written position reviews for [REDACTED]?
- a. If yes, when did you prepare them?
 - b. If yes, where are the position reviews?
 - c. Did you comply with the Humble ISD policy regarding position reviews?
 - d. If yes, did you inform [REDACTED] of her right to request that the Board of Trustees review her the request for an increase in her salary?
- 45) Isn't it true that, once you became the [REDACTED], you promoted (or were involved in the decision to promote) a male employee to Director of Fine Arts?
- 46) Isn't it true that, once you became the [REDACTED], the pay/salary grade of Assistant Directors of Fine Arts was increased by one pay/salary grade?
- 47) Isn't it true that [REDACTED] could have received a salary increase without having to move to another pay/salary grade?
- 48) Isn't it true that [REDACTED] was not at the high point of her salary grade?
- 49) Was it important for you to be accurate in your evaluation of [REDACTED]’ performance?
- 50) Do you stand by what you said in her evaluations?
- 51) Did you have the authority to recommend someone for the position of [REDACTED] in the District?

Follow-up Questions for Witnesses

- 52) Did you have the authority to recommend someone for the position of Director of Fine Arts?
- 53) Did anyone at Humble ISD promise you that [REDACTED] would not return to work at Humble ISD?
- a. Who and when?
- 54) How did you learn about [REDACTED]'s sexual orientation?
- 55) Have you ever told anybody at work about [REDACTED]'s sexual orientation?
- a. If yes, who?
 - b. If yes, when?
 - c. If yes, what did you say?
- 56) Have you ever mentioned [REDACTED]'s partner at work?
- a. If yes, when?
 - b. If yes, to whom?
- 57) Are you familiar with the "how much/how long" game?
- 58) Did you participate in the "how much/how long" game?
- a. You played this game with [REDACTED] before [REDACTED] joined the District, right?
 - b. "How much" meant how much money, right?
 - c. "How long" referred to how much time had passed since that person could see their privates without looking in the mirror, right?
 - d. Do you agree that the subjects of this game were people who you thought were overweight, slovenly, or unattractive?
 - e. You played the game even when you were at work, didn't you?
 - f. Didn't you text that [REDACTED] was "impressed" with the photo that [REDACTED] [REDACTED] texted on December 31, 2022?
- 59) Did you ever refer to anybody as a "dirty kitty" or "bad kitty" at work?
- 60) Isn't it true that you texted an photo of a bar called the "Bad Kitty Lounge" while on an out of state trip?

Follow-up Questions for Witnesses

- 61) Isn't it true that you commented that you wanted to buy a t-shirt from the bar?
- 62) Did you ever refer to a high school football coach by the nickname, "Dick pic"?
- 63) Isn't it true that [REDACTED] did not interview for the position filled by [REDACTED]?
- 64) Isn't it true that the District did not post the [REDACTED] position filled by [REDACTED]?
- 65) Isn't it true that some of the Athletic Department office employees told you that they were afraid of approaching you or discussing issues with you?
- 66) Do you have any regrets about any of your own behavior?
 - a. Which behavior, and why?

Follow-up Questions for Witnesses

Questions for [REDACTED]

- 1) Isn't it true that you did not interview for the [REDACTED] position filled by [REDACTED]?
- 2) Isn't it true that you removed your name as a candidate for the position filled by [REDACTED]?
- 3) Isn't it true that the [REDACTED] position that you filled was not posted by the District?
- 4) To your knowledge, did anyone else interview for the [REDACTED] position that you filled?

Follow-up Questions for Witnesses

Follow-up Questions for [REDACTED]

- 1) Did you coach [REDACTED] at Creekwood Middle School?
- 2) Did you coach [REDACTED] at Kingwood High School?
- 3) Did you tutor [REDACTED] when she was in middle school?
- 4) After [REDACTED] graduated from high school, did you have any contact with her before [REDACTED] and [REDACTED] became roommates?
- 5) After [REDACTED] became [REDACTED]'s roommate, was your primary reason for visiting College Station was to see [REDACTED]?
- 6) Isn't it true that your contact with [REDACTED] when she was at Texas A&M was connected to your visits to see [REDACTED]?
- 7) After [REDACTED] graduated from Texas A&M University, isn't it true that your contact with [REDACTED] was limited until [REDACTED] returned to Houston?
- 8) After [REDACTED] returned to Houston, did you begin to see [REDACTED] on a social basis?

Exhibit 7

From: [Giana Ortiz](#)
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX
Date: Thursday, February 1, 2024 4:23:31 PM
Attachments: [Responses to Follow Up Questions for Complainant \(1-30-24\).pdf](#)
[\[REDACTED\] Answers to Follow-Up Questions 01-31-24.docx](#)
[Questions for \[REDACTED\] - Follow Up \(1\).pdf](#)

Greetings all,
Please find the responses to follow up questions I have received.
Thank you,
Giana

Giana Ortiz
817-522-1381

From: Giana Ortiz
Sent: Wednesday, January 24, 2024 4:23 PM
To: alf@southerlandlawfirm.com; keith@lapezejohs.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: RE: Humble ISD Title IX

Greetings:

By some apparent failure of technology, I did not receive questions propounded by the Complainant January 22. Complainant's follow up questions to the Respondent and other witnesses have now been received and reviewed to ensure they are relevant, respectful, and non-abusive. Those questions are attached. (*Note that some questions have been excluded by way of this review and are omitted from this attachment. Respondent's questions circulated yesterday were also reviewed to ensure they are relevant, respectful, and non-abusive and no exclusions were made.) Respondent must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, he will have until **January 31, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions.

Thank you,
Giana

Giana Ortiz

817-522-1381

From: Giana Ortiz

Sent: Tuesday, January 23, 2024 4:29 PM

To: alf@southerlandlawfirm.com; keith@lapezejohns.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com

Subject: RE: Humble ISD Title IX

Greetings: I have received additional witness responses (attached) from [REDACTED]. I have also received the attached follow up questions from the Respondent to the Complainant. Complainant must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, she will have until **January 30, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party.

Regarding responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions.

Thank you,

Giana

Giana Ortiz
817-522-1384

From: Giana Ortiz

Sent: Friday, January 12, 2024 3:18 PM

To: alf@southerlandlawfirm.com; keith@lapezejohns.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com

Subject: RE: Humble ISD Title IX

Good afternoon: Please see attached additional responses received today.

Giana Ortiz
817-861-7984

From: Giana Ortiz

Sent: Friday, January 12, 2024 9:08 AM

To: 'alf@southerlandlawfirm.com' <alf@southerlandlawfirm.com>; 'keith@lapezejohns.com' <keith@lapezejohns.com>; 'critico@triticorainey.com' <critico@triticorainey.com>; 'david@mincesrankin.com' <david@mincesrankin.com>; 'ethan@mincesrankin.com' <ethan@mincesrankin.com>; 'grace@mincesrankin.com' <grace@mincesrankin.com>

Subject: RE: Humble ISD Title IX

Good morning,

I am attaching the responses I received to questions propounded by the parties. Please note that I did not receive email addresses for [REDACTED] or [REDACTED] until yesterday, and questions were sent to those witnesses yesterday. I have not received a personal email address for [REDACTED] (a non-HISD employee), so those questions have not been sent. If either party has a personal email address or phone number for [REDACTED], please send it to me. With these three exceptions ([REDACTED], [REDACTED], and [REDACTED]), all other questions propounded by the parties were distributed prior to January 4, 2024, and I am attaching all responses received.

According to HISD Title IX Procedures, each party now has 5 District business days to submit follow-up questions to me for review in the same manner as the initial questions. Thus, each party will have until **January 22, 2024** (five (5) District business days) to submit follow up questions to these responses. (*If/when I receive responses to the questions propounded to [REDACTED] and [REDACTED], I will circulate those and the parties shall have five District business days to submit follow-up questions to those witnesses (if any).)

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information.

Thank you,

Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz

Sent: Wednesday, December 27, 2023 2:02 PM

To: alf@southerlandlawfirm.com; keith@lapezejohns.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com

Subject: RE: Humble ISD Title IX

Greetings Counsel,

I received responses and party/witness questions from both parties on December 12, 2023. I have reviewed the proposed questions to ensure that any questioning is relevant, respectful, and non-abusive.

I am now circulating to all parties, simultaneously, the parties' written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive. I have changed the file names to clearly identify the proponent party. I have made one exclusion of questions proposed. In particular, the Complainant has proposed questions to a person who is not noted in the Investigation Report. Under Humble ISD Title IX Formal Complaint Procedures, that would exceed the scope of permitted questioning at this time.

Thus, I have indicated where the questions have been excluded in that document, but there have been no other changes to the parties' documents I am transmitting to you.

As you know, today is not a District Business Day. I have decided to pass these along to you nonetheless in case you or your clients wish to use this additional time. Using District business days,

these questions will technically be “received” by the parties on January 4, 2024. Each party must submit a response to any questions provided within five (5) District business days of receiving the questions. Thus, each party will have until **January 11, 2024** (five (5) District business days) to submit written responses to these questions. According to Humble ISD Title IX Formal Complaint Procedures, a party or witness is not required to respond to any questions posed by the other party. Regarding the parties’ responses to the questions: Please make such responses underneath the question answered, maintaining the order (i.e., sequence) of questioning created by the propounding party. The answers should be sent to me only at this email address, as a PDF or Word document, and as an attachment to an email (not a document link or through google drive). Thereafter, I will circulate to all parties, simultaneously, the responses to all questions. Please note that I do not find a hearing on this matter to be appropriate, and the questioning process will proceed as indicated in the letter from Attorney McGowan and in Humble ISD policy. In the meantime, I will ask the District to provide me contact information for the other witnesses for whom you have each propounded questions so that I may share each witness’s questions with that witness as well. If you or your clients can provide email addresses for these witnesses, that may help expedite that part of the process given that the District is now on break. If you should have any questions about this email or the process, please “Reply All” so that all parties can receive the same information.

Thank you,
Giana

Giana Ortiz
817-861-7984

From: Giana Ortiz
Sent: Wednesday, December 6, 2023 4:39 PM
To: alf@southerlandlawfirm.com; keith@lapezejohns.com; critico@triticorainey.com; david@mincesrankin.com; ethan@mincesrankin.com; grace@mincesrankin.com
Subject: Humble ISD Title IX

Greetings, counsel:

As you know, I have been appointed as Decisionmaker in the Title IX investigation for Humble ISD regarding the claims raised by [REDACTED] against [REDACTED].

I am writing to introduce myself, and to notify the parties of the next deadline. I understand the parties have received the investigative report as of December 5, 2023. Thus, each party will have until **December 12, 2023** (five (5) District business days) to submit any written response to the investigation report, and written, relevant questions that a party wants asked of any party or witness noted in the investigation report.

Any submissions made in this regard should be sent **to me only** at this email address. Any questions that a party wants asked of any other party or witness should be sent to me in a Word document as an attachment to an email (not a document link or through google drive), with the intended recipient clearly listed on the face of the document above the questions for that witness. Questions should be clearly set forth in a list fashion.

Thereafter, I shall review the submissions to ensure that any questioning is relevant, respectful, and non-abusive. I will circulate to all parties, simultaneously, any written responses to the investigation report, and the relevant questions which have been reviewed to ensure they are relevant, respectful, and non-abusive.

If you should have any questions about this email or the process, please "Reply All" so that all parties can receive the same information. Likewise, if you should anticipate requesting an extension of this or any timeline as we proceed from this point forward, please include all counsel on your request and make such requests as soon as the need is anticipated.

I look forward to working with you all.

Sincerely,

Giana Ortiz

THE ORTIZ LAW FIRM

ATTORNEYS AT LAW

1304 West Abram, Suite 100
Arlington, Texas 76013
t. 817-861-7984
f. 817-549-7358

Answers from Respondent [REDACTED]

Preliminary Statement: Some of [REDACTED]' follow-up questions are repetitive and have already been asked and answered. Others are harassing, needlessly intrusive, and/or seek information that is not relevant. Accordingly, such questions were not answered.

1) As the [REDACTED], and as an employee of Humble ISD, isn't it true that you were required to comply with Humble ISD Board Policies?

Yes – all employees are required to comply with Humble ISD Board Policies.

2) As the [REDACTED] and as an employee of Humble ISD, isn't it true that you were required to comply with the policies set forth in the Employee Handbook?

Yes – all employees are required to comply with the polices set forth in the Employee Handbook.

3) As the [REDACTED], and as an employee of Humble ISD, isn't it true that you supervised all of the employees in the Athletic Department?

Yes.

4) Isn't it true that, as the [REDACTED] and later the [REDACTED], you were responsible for the environment of the Athletic Department office?

This question is actually two questions and is not entirely clear, but if I understand it correctly, we all play a part in the work environment.

5) Isn't it true that you have made sexual comments and/or engaged in adult banter in the Athletic Department office for years?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O'Leary.

a. More than a decade?

No.

6) Isn't it true that not all of the employees in the Athletic Department office would engage in the sexual comments and/or adult banter?

All employees of the athletic department engaged in adult banter, except for [REDACTED] and [REDACTED].

7) Isn't it true that most of the employees in the Athletic Department office are female?

There are a similar number of male and female employees in the Athletic Department office.

8) I would like to talk to you briefly about your relationship with [REDACTED].

a. How long have you known [REDACTED]?

20 years.

b. When did you first meet [REDACTED]?

When [REDACTED] was the volleyball coach at Kingwood Highschool.

c. How long have you worked with [REDACTED]?

11 years.

d. Did you work with her at Humble ISD?

Yes.

e. Did you work with her anywhere else?

No.

f. Was there a time when you and she were co-[REDACTED]s at Humble ISD?

Yes.

g. When was that?

11 years ago.

h. When did [REDACTED] cease being a co-[REDACTED]?

Roughly 7 years ago.

i. How did her employment end as co-[REDACTED]?

[REDACTED] retired.

j. Has [REDACTED] returned to work at Humble ISD?

Yes.

k. When did that happen?

Roughly 7 years ago.

Were you involved in [REDACTED] coming back to work for the District?

Yes.

l. If so, how were you involved?

I approached [REDACTED] to come back to work for the district.

m. What is [REDACTED]'s current job?

I am unsure of her current title, but she is currently responsible for working on the bond playground project.

n. Have you been [REDACTED]'s supervisor since her return to Humble ISD?

Upon her initial return, but once she started, she works with the bond playground project, I no longer am her supervisor.

o. Have you and [REDACTED] ever worked together outside of Humble ISD?

No.

p. Did you and [REDACTED] ever operate the concession stand at track events held at Turner Stadium?

No.

q. If so, during what time period?

N/A.

r. Did you and [REDACTED] ever operate the concession stand at any other events held at Turner Stadium?

No.

s. If so, during what time period?

N/A.

t. Did you and [REDACTED] ever operate a concession stand at any other events held at Humble ISD?

No.

u. If so, during what time period?

N/A.

v. Have you had a close friendship with [REDACTED] for decades?

Yes.

w. Did you share many social activities outside of work with [REDACTED]?

We shared a few social activities outside of work.

x. Did you ever go out of town with [REDACTED] for a social activity (or meet [REDACTED] out of town)?

We have occasionally gone to a planned trip to Mexico that would happen once a year.

y. Did [REDACTED] travel to Mexico to be there when you proposed to [REDACTED]?

Yes.

z. Did [REDACTED] attend your and [REDACTED]'s wedding?

No.

aa. Did you ever refer to [REDACTED] as "[REDACTED]" (or something similar)?

Yes.

bb. Did [REDACTED] ever refer to you as "[REDACTED]" (or something similar)?

Yes.

cc. After [REDACTED] complained about you, did you ask [REDACTED] to send you text messages that she may have had with [REDACTED]?

No.

i. If yes, when did you ask her? N/A.

ii. Did she send you any text messages? N/A.

iii. When did she send them to you? N/A.

9) How would you rate your memory from 1-10, with 10 being that you never forget anything, 5 being average, and 1 being that you have a terrible memory and forget everything?

8.

Did you ever hear that members of the Athletic Department staff were gossiping about your pending divorce from [REDACTED] [REDACTED]?

Yes.

10) Did you ever hear that someone in the Athletic Department was telling people that you were not wearing your wedding ring?

Yes.

11) After hearing about the gossip, did you call a meeting of the Athletic Department staff?

Yes.

12) During this meeting, did you hit the table?

Yes.

13) During this meeting, did you say, "if my own staff is going to gossip about my private life, they can't work here"?

No.

14) Do you recall when this meeting occurred?

No.

15) Did you ever curse in the Athletic Department office?

Everyone in the athletic office used foul language occasionally, except [REDACTED] and [REDACTED], but not when students, parents, or others from outside our department were present.

16) Did [REDACTED] ever spend any time in your office?

Yes.

17) How often would [REDACTED] visit you in your office?

- a. Dependent on when and issue presented itself. Once a week? **N/A.**
- b. Twice a week? **N/A.**
- c. Three or four days a week? **N/A.**
- d. Every day that you and [REDACTED] were in the office? **N/A.**

18) How long, on average, would [REDACTED] stay in your office when she would visit your office?

Dependent on when and issue presented itself.

- a. Less than 30 minutes? N/A.
- b. More than 30 minutes but less than an hour? N/A.
- c. More than an hour? N/A.

19) Were you [REDACTED] supervisor at one time?

Yes.

20) Did you ever tell the Athletic Department office staff that you were dating [REDACTED] [REDACTED]?

This question is harassing.

- a. If yes, when?
- b. If yes, how did you tell the office staff?
 - i. By email?
 - ii. By text message?
 - iii. By telephone?
 - iv. In person?
 - v. If in person, who was present at the meeting?
 - vi. Had you previously disclosed to anyone in the Athletic Department that you were dating [REDACTED]?
 - vii. If so, who?
 - viii. If so, when did you tell him/her?
 - ix. If so, how did you inform the individual(s) that you were dating [REDACTED] [REDACTED] (in person/text message/telephone/etc.)?

21) Did you ever tell anyone else in the Athletic Department that you were dating [REDACTED] [REDACTED]?

- a. If yes, when?
- b. If yes, who?
- c. If yes, how did you tell them?
 - i. By email?
 - ii. By text message?

- iii. By telephone?
- iv. In person?
- v. If in person, who was present at the meeting?

22) Did you ever tell the Athletic Department office staff that you had moved into [REDACTED]'s home?

- a. If yes, when?
- b. If yes, how did you tell the office staff?
 - i. By email?
 - ii. By text message?
 - iii. By telephone?
 - iv. In person?
 - v. If in person, who was present at the meeting?

23) Did you ever tell anyone else in the Athletic Department that you had moved into [REDACTED]'s home?

- a. If yes, when?
- b. If yes, who?
- c. If yes, how did you tell them?
 - i. By email?
 - ii. By text message?
 - iii. By telephone?
 - iv. In person?
 - v. If in person, who was present at the meeting?

24) Did you ever talk to coworkers about your own dating and sexual exploits?

No.

- a. To [REDACTED]? N/A.
 - i. If yes, when? N/A.
 - ii. If yes, where you at the time? N/A.

iii. If yes, was anyone else present? N/A.

b. To [REDACTED]? N/A.

i. If yes, when? N/A.

ii. If yes, where were you at the time? N/A.

iii. If yes, was anyone else present? N/A.

c. To others? N/A.

i. If yes, who? N/A.

ii. If yes, when? N/A.

iii. If yes, where were you at the time? N/A.

iv. If yes, was anyone else present? N/A.

25) Did you talk to coworkers about times you “cheated” on your wife, [REDACTED] [REDACTED]?

This question is harassing, but no.

a. To [REDACTED]? N/A.

i. If yes, when? N/A.

ii. If yes, where you at the time? N/A.

iii. If yes, was anyone else present? N/A.

b. To [REDACTED]? N/A.

i. If yes, when? N/A.

ii. If yes, where were you at the time? N/A.

iii. If yes, was anyone else present? N/A.

c. To others? N/A.

i. If yes, who? N/A.

ii. If yes, when? N/A.

iii. If yes, where were you at the time? N/A.

iv. If yes, was anyone else present? N/A.

26) Did you ever make comments about a female employee’s appearance, clothing, footwear, and/or anatomy?

I sometimes made ordinary polite comments to male and female employees in the Athletic Department regarding their appearance.

- i. If yes, when? N/A
- ii. If yes, what did you say? N/A
- iii. If yes, who did you make the comments to? N/A

27) Did you ever tell any sexually explicit jokes in the Athletic Department office?

See response to question 5 and 6.

- i. If yes, when? N/A.
- ii. If yes, what did you say? N/A.
- iii. If yes, who did you make the comments to? N/A.

28) Did you ever tell any sexually explicit jokes to Athletic Department employees?

See response to question 5 and 6.

- i. If yes, when? N/A.
- ii. If yes, what did you say? N/A.
- iii. If yes, who did you make the comments to? N/A.

29) Did you ever make any sexually explicit comments in the Athletic Department office?

See response to question 5 and 6.

- i. If yes, when? N/A.
- ii. If yes, what did you say? N/A.
- iii. If yes, who did you make the comments to? N/A.

30) Did you ever tell any sexually explicit comments to Athletic Department employees?

See response to question 5 and 6.

- i. If yes, when? N/A.
- ii. If yes, what did you say? N/A.
- iii. If yes, who did you make the comments to? N/A.

31) Did you ever make a sexual comment/reference to [REDACTED] about he and his wife working in the same building?

No.

- i. If yes, when? N/A.
- ii. If yes, what did you say? N/A.
- iii. If yes, who was present when you made the comments? N/A.

32) Did you ever call the former [REDACTED] for Humble ISD a “bitch”?

Yes, during private during a closed-door discussion with my assistants more than two years ago when she tried to rewrite athletic handbook policy, based on a Supreme Court decision, to provide that athletes could not be disciplined for anything they put on their social media if it was on their own time.

This related to an argument that arose from her telling me that even if an athlete posted racist remarks on his/her social media account on their own time, we could not implement discipline. I considered this unacceptable.

- i. If yes, when? **2021**
- ii. If yes, who was present when you made the comments? **[REDACTED] and [REDACTED].**

33) Did you consistently rate [REDACTED]’ performance at the highest levels in her annual performance reviews?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

34) Did you ever refer to [REDACTED] as a “true professional”?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

35) Did you ever say that [REDACTED]’ “influence on [REDACTED] has brought his standard of work up tremendously. He wouldn’t be where he is at without” it?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

36) Did you indicate in [REDACTED]’ second performance evaluation that she was qualified to become an [REDACTED]?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

37) Did you say that [REDACTED] was “more than ready for” the [REDACTED] “role and the responsibilities associated with it”?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

38) Did you refer to the track season being a “huge success due to [REDACTED] preparation and planning”?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

39) Did you ever say that [REDACTED] “has really owned track and how it is organized. She was instrumental in running of a very successful UIL regional Track meet”?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

40) Did you ever say that “Regional Track was a home run” under [REDACTED]?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

41) Did you ever say that [REDACTED] was “the rock that holds [REDACTED] and I together”?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O’Leary.

42) Isn’t it true that [REDACTED] indicated that she did not want her “home address, telephone number, SSN and family member information released pursuant to a member of the public’s request for information under the Texas Public Information Act.” (Tab 27)?

I lack the knowledge to answer this question.

43) Did you prepare written position reviews for [REDACTED]?

No. I intended to, but I did not formally submit a third position review for [REDACTED] because I met with [REDACTED] and [REDACTED], and there was no next-pay grade level to move her to as an [REDACTED]. She was in the proper pay range for her position and duties.

- a. If yes, when did you prepare them? N/A.
- b. If yes, where are the position reviews? N/A.
- c. Did you comply with the Humble ISD policy regarding position reviews? N/A.
- d. If yes, did you inform [REDACTED] of her right to request that the Board of Trustees review her the request for an increase in her salary? N/A.

44) Isn't it true that, once you became the [REDACTED], you promoted (or were involved in the decision to promote) a male employee to Director of Fine Arts?

The [REDACTED] at the time ([REDACTED]) left. After that, we posted the position and hired a new director to fill the vacant position that [REDACTED] left vacant.

45) Isn't it true that, once you became the [REDACTED], the pay/salary grade of Assistant Directors of Fine Arts was increased by one pay/salary grade?

I lack the knowledge to answer this question.

46) Isn't it true that [REDACTED] could have received a salary increase without having to move to another pay/salary grade?

This question would have to be answered by the Humble ISD HR department, as they are the ones who handle any inquiries regarding pay increases.

47) Isn't it true that [REDACTED] was not at the high point of her salary grade?

I lack the knowledge to answer this question.

48) Was it important for you to be accurate in your evaluation of [REDACTED]' performance?

This question is not entirely clear, but I always try to be accurate when evaluating any employee.

49) Do you stand by what you said in her evaluations?

I would need to know which evaluation and part you are referring to in order to answer this question. See response to question 48.

50) Did you have the authority to recommend someone for the position of [REDACTED] in the District?

No.

51) Did you have the authority to recommend someone for the position of Director of Fine Arts?

No.

52) Did anyone at Humble ISD promise you that [REDACTED] would not return to work at Humble ISD?

No.

a. Who and when? N/A.

53) How did you learn about [REDACTED]' sexual orientation?

It was common knowledge, and she openly discussed her long-time relationship with [REDACTED].

54) Have you ever told anybody at work about [REDACTED]'s sexual orientation?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O'Leary.

If yes, who? N/A.

a. If yes, when? N/A.

b. If yes, what did you say? N/A.

55) Have you ever mentioned [REDACTED]'s partner at work?

[REDACTED]'s partner is mentioned in conversation between me and [REDACTED]. Her partner has also been in conversation amongst those in the Athletic Department.

a. If yes, when? Cannot remember specific instances.

b. If yes, to whom? [REDACTED].

56) Are you familiar with the "how much/how long" game?

Yes.

57) Did you participate in the "how much/how long" game?

Yes.

a. You played this game with [REDACTED] before [REDACTED] joined the District, right?

Yes.

b. "How much" meant how much money, right?

Yes.

c. "How long" referred to how much time had passed since that person could see their privates without looking in the mirror, right?

Yes.

d. Do you agree that the subjects of this game were people who you thought were overweight, slovenly, or unattractive?

Yes.

e. You played the game even when you were at work, didn't you?

These remarks did occur at work between [REDACTED], [REDACTED] and I.

f. Didn't you text that [REDACTED] was "impressed" with the photo that [REDACTED] [REDACTED] texted on December 31, 2022?

This question is repetitive and has been answered in the Formal Title IX Investigative Report from Laura O'Leary

58) Did you ever refer to anybody as a "dirty kitty" or "bad kitty" at work?

No.

59) Isn't it true that you texted a photo of a bar called the "Bad Kitty Lounge" while on an out of state trip?

Yes.

60) Isn't it true that you commented that you wanted to buy a t-shirt from the bar?

No.

61) Did you ever refer to a high school football coach by the nickname, "Dick pic"?

No – [REDACTED] referred to [REDACTED] as "Dick pic."

62) Isn't it true that [REDACTED] did not interview for the position filled by [REDACTED]?

Yes.

63) Isn't it true that the District did not post the [REDACTED] position filled by [REDACTED]?

No, the [REDACTED] position was posted, and we used candidates from that pool to hire both [REDACTED] and [REDACTED]'s positions. This is typical of positions with multiple openings, like principal and assistant principal.

64) Isn't it true that some of the Athletic Department office employees told you that they were afraid of approaching you or discussing issues with you?

Yes, in May 2023 (this was the first time I heard this). I apologized to them immediately.

65) Do you have any regrets about any of your own behavior?

a. Which behavior, and why?

I regret participating and allowing adult banter and jokes within the athletic department office specifically the how much game, looking back, was extremely poor taste for all of us.

Questions for [REDACTED]

- 1) Isn't it true that you did not interview for the [REDACTED] position filled by [REDACTED]?

False.

- 2) Isn't it true that you removed your name as a candidate for the position filled by [REDACTED] [REDACTED]?

I submitted the proper documents to apply for the [REDACTED] position. There was a point where I expressed that I was no longer interested, but after careful prayer and consideration, I ultimately decided to reconsider for the position that was posted.

- 3) Isn't it true that the [REDACTED] position that you filled was not posted by the District?

I have not filled a position for [REDACTED].

- 4) To your knowledge, did anyone else interview for the [REDACTED] position that you filled?

The district has not opened nor filled a position for [REDACTED].

RESPONSES TO FOLLOW-UP QUESTIONS FOR [REDACTED]

Follow Up Questions based on [REDACTED]'s Response.

1. What if any instances of intimidating behavior, besides breaking a keyboard, did [REDACTED] exhibit? (See Q 29 Pg 16)

As I indicated in response to Question Number 29, [REDACTED]'s breaking of computer keyboards is an example of his erratic, intimidating, and volatile behavior. Moreover, he broke more than one computer keyboard.

In response to Question Numbers 4, 26, 27, 29, and 35, I identified examples of intimidating behavior on the part of [REDACTED]. These include:

- (1) [REDACTED] calling the staff together and threatening to fire anyone who talked about his marriage and the separation. [REDACTED] made it clear that any discussion of his personal affairs would result in termination;
- (2) [REDACTED] throwing things such as his telephone in his office and a headset at a track event;
- (3) [REDACTED] snapping at people and engaging in emotional outbursts;
- (4) [REDACTED]'s repeatedly referring to women in sexual terms such as wearing "fuck me heels" or saying "don't come close to me wearing that outfit;"
- (5) [REDACTED]'s commenting about my sexual orientation by commenting about him being "exit only;"
- (6) [REDACTED]'s referring to [REDACTED], the former Humble ISD [REDACTED], as being a "bitch;"
- (7) [REDACTED] making a violent and graphic sexual comment about [REDACTED] (saying that [REDACTED]'s "the type you grab by the back of the hair and just fuck the shit out of her!");
- (8) [REDACTED] saying that he wished he "had a 20-inch pecker;" and
- (9) [REDACTED] belittling me when I inquired about the [REDACTED] position and a salary increase.

[REDACTED] also made me uncomfortable when he hugged me, cried, and kissed me on the head after he apologized for being upset with me for helping [REDACTED] with a 16-5A DEC issue that he thought [REDACTED] handled by herself.

RESPONSES TO FOLLOW-UP QUESTIONS FOR [REDACTED]

- a. How (if at all) do you contend such instances related to sex/gender/were discriminatory?

I do not contend that all of the above instances were related to sex or gender or were discriminatory. However, Numbers 4, 5, 6, 7, and 8 do involve situations where [REDACTED] made sexually explicit comments, a reference to my sexual orientation, and/or related to sex or gender. The comments amount to sexual harassment, gender discrimination, and/or sexual orientation discrimination. As previously discussed, [REDACTED]'s belittling comments and conduct identified in Number 9 were also discriminatory.

2. Was the erratic, intimidating, and volatile behavior you allege directed at anyone specific, or did it appear to be general frustration and stress associated with the job? (See Q 29 Pg 16)

Most of the [REDACTED]'s erratic, intimidating, and volatile behavior was not the result of "general frustration and stress associated with the job."

[REDACTED] did direct some of his comments at specific individuals:

- (1) [REDACTED]'s threats of termination were directed at the Athletic Department office staff who were present during the meeting;
- (2) [REDACTED]'s references to women in sexual terms were directed at some of the female staff in the Athletic Department office;
- (3) [REDACTED]'s comment about my sexual orientation (him being "exit only") was directed at me;
- (4) [REDACTED]'s references to [REDACTED] as a "bitch" was made to [REDACTED] and me;
- (5) [REDACTED]'s comment that [REDACTED] was "the type you grab by the back of the hair and just fuck the shit out of her!" was made to [REDACTED] and me;
- (6) [REDACTED]'s comment that he wished he "had a 20-inch pecker" was made to [REDACTED] and me; and
- (7) [REDACTED]'s belittling comments in response to my questions about the [REDACTED] position and a salary increase were directed at me.

3. On what facts/data is the claim made that [REDACTED] receives a higher salary than yourself based? (See top of Page 8)

I did not say that [REDACTED] received a higher salary than me. I said:

While I have received salary increases over the years, these increases typically were the across the board increases that all employees received. During the one year that

RESPONSES TO FOLLOW-UP QUESTIONS FOR [REDACTED]

[REDACTED] and I received an increase above the across the board increase, [REDACTED] received a greater salary increase, despite [REDACTED] noting issues with [REDACTED]s performance.

The statement is based upon a review of compensation records that were produced by either [REDACTED] or Humble ISD and are located at Tab 9.

- a. Did [REDACTED] voluntarily share this salary information with you? (See top of Page 8)

No/not applicable.

- 4. How did [REDACTED] respond when you told him that “we” (in reference to yourself and others) couldn’t talk to him without it resulting in an explosion and potential repercussions? (See Q4 Page 9)

It is my understanding that [REDACTED] met with the other members of the Athletic Department office staff and asked them about my comments.

- a. Who are the others you included in “we”? In other words, who else do you maintain felt uncomfortable talking to [REDACTED]?

The others included in “we” were [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

In [REDACTED]’s written statement (Tab 4), [REDACTED] wrote: “They told me they were afraid to come to me.”

- 5. What was HR’s response on April 26th, 2023? (See Q4 Pg 9)

When I mentioned that [REDACTED] had identified my partner, [REDACTED], in an email to Athletic Department coordinators, [REDACTED], [REDACTED], commented that it seemed odd that [REDACTED] would include her in the email.

After I told [REDACTED] that I wanted to file a grievance, [REDACTED] sent me home to prepare a written statement of the events that had happened. I subsequently engaged Alf Southerland as my legal counsel who sent a letter on May 4, 2023 to the Humble ISD Board of Trustees, [REDACTED], and [REDACTED] on my behalf.

[REDACTED] initially required me to utilize my personal days while off to prepare the statement if I wanted to be paid. After Mr. Southerland sent the letter, I was not allowed to return to work. Instead, I was required to use my personal days until May 22, 2023, when [REDACTED] placed me on Administrative Leave.

RESPONSES TO FOLLOW-UP QUESTIONS FOR [REDACTED]

6. Did HR indicate to you that [REDACTED] required authority under Humble ISD Board Policy and the Employee Handbook to remove you from the Athletic Department? (See Q4 Pg. 9)

No.

- a. Do you dispute this?

Not applicable.

7. Does [REDACTED] possess the authority to promote you? (See Q5 Pg. 9)

[REDACTED] could recommend me, or any other employee in the Athletic Department (and in the Fine Arts Department when he was [REDACTED]), for promotion. [REDACTED]'s then girlfriend, and now wife, [REDACTED] would typically approve any recommendation that he made. (See Tab 21, for example). I am not aware of any recommendation for promotion that [REDACTED] made that was not approved by [REDACTED].

Under Humble ISD Policy DK LOCAL, [REDACTED] had the authority to assign or reassign an employee to another position. [REDACTED] would then advise the Board of Trustees of the promotion.

- a. If yes, what information/documents support your answer?

I based this answer upon my prior experiences with [REDACTED] when I interviewed candidates for positions in the Athletic Department, including, but not limited to, the [REDACTED] position filled by [REDACTED]. In text messages between [REDACTED] and me, he indicated that the decision as to who would become the [REDACTED] was his to make.

Additionally, once [REDACTED] became the [REDACTED], [REDACTED] was involved in the decision to promote [REDACTED], male, from the position of [REDACTED] High School to [REDACTED]. [REDACTED]'s July 31, 2020 Performance Appraisal (Tab 36) indicated that [REDACTED] "has facilitated the replacement of the [REDACTED]."

8. Were the instances of breaking phones and keyboards you allege directed at a specific individual or a result of general frustration? What triggered [REDACTED]'s frustration, if you know? (See Q5 p. 9)

Question Number 5 asked about my performance evaluations, not the destruction of telephones or computer keyboards.

I do not believe that [REDACTED]'s destructions of telephones and computer keyboards was directed at a specific individual inside the Athletic Department office or as a result of general frustration about work.

RESPONSES TO FOLLOW-UP QUESTIONS FOR [REDACTED]

I do not know what exactly caused [REDACTED] to destroy Humble ISD property. The breaking of telephones and computer keyboards is not a typical or appropriate response to general frustrations.

9. Regarding your potential interview at Clear Creek ISD, did you decline it because [REDACTED] discussed the possibility of the [REDACTED] position at Humble ISD or for other reasons? (See Q28 a)

As I indicated in response to Question Number 28, I grew up in Humble ISD and played sports for teams in Humble ISD. So did my [REDACTED] and his [REDACTED]. I own a home and am a taxpayer in Humble ISD. I have friends who went to school in Humble ISD and have had children attend schools in the District. When I had the opportunity to return to Humble ISD as an [REDACTED], I did so because I am a proud product of Humble ISD and it is home to me.

[REDACTED] had discussed with me the possibility of a promotion to [REDACTED] (after he was promoted to [REDACTED]) and salary increases in recognition of my assumption of additional duties within the Athletic Department. Those discussions were a factor in my decision not to interview for the [REDACTED] position at Clear Creek ISD. I would rather become the [REDACTED] in the district that I grew up in and is home to me than return to Clear Creek ISD (where I had been successful in the past).

10. Regarding your potential interview at Clear Creek ISD, did you decline it because [REDACTED] promised the [REDACTED] position at Humble ISD or for other reasons? (See Q28 a)

As I indicated in response to Question Number 28, I grew up in Humble ISD and played sports for teams in Humble ISD. So did my [REDACTED] and his [REDACTED]. I own a home and am a taxpayer in Humble ISD. I have friends who went to school in Humble ISD and have had children attend schools in the District. When I had the opportunity to return to Humble ISD as an [REDACTED], I did so because I am a proud product of Humble ISD and it is home to me.

[REDACTED] had discussed with me the possibility of a promotion to [REDACTED] (after he was promoted to [REDACTED]) and salary increases in recognition of my assumption of additional duties within the Athletic Department. Those discussions were a factor in my decision not to interview for the [REDACTED] position at Clear Creek ISD. I would rather become [REDACTED] in the district that I grew up in and is home to me than return to Clear Creek ISD (where I had been successful in the past).

11. What specific face emoji did you reply with regarding the how much how long game? (See Q35f i)

I am enclosing copies of the text messages related to the how much how long game. (Tabs 1 to Tab 7).

As can be seen from the text messages, I did not respond to all of the text messages sent by [REDACTED] (see Tab 1).

RESPONSES TO FOLLOW-UP QUESTIONS FOR ██████████

I used a laughing crying face emoji (😂) in the text messages which are part of Tabs 2, 3, and 6.

I also used a thinking face emoji (🤔) in the text messages which are part of Tab 3.

I used a face with a medical mask emoji (😷) in the text messages which are part of Tab 5.

I used a face vomiting emoji (🤮) in the text messages which are part of Tab 6. That emoji followed ██████████'s comment "Just have her have a happy ending" with the following image:



a. Please paste the actual emojis used into your answer to this question.

Copies of the emojis are attached above and in the enclosed documents.

12. If not referring to a male specifically, what were you referring to when you used the word "dooder" in the workplace? (See Q 36)

As I indicated in response to Question Number 36, I used the term to refer to men who were acting rudely or inappropriately – not in a sexual way and never direct at anyone.

13. Since you admit that ██████████ participated in the how much/how long game, why did you report only ██████████ for the game? (See Q 48a)

I did not "report only ██████████ for the game." Any discussion that I have had about the "how much/how long game" has included both ██████████ and ██████████ as participants.

I have also mentioned that ██████████ was aware of the game, given ██████████'s December 31, 2022 text which stated: ██████████ impressed." (See Tab 7).

When I was placed on ██████████ because of the game in October 2023, I indicated that (1) both ██████████ and ██████████ were participants in the game, (2) they had been participants since before I joined Humble ISD, (3) ██████████ was aware of the game, (4) ██████████ had reportedly said that she was "impressed" by the one photograph that I sent on December 31, 2022, and (5) despite their involvement and ██████████'s knowledge, I was the only one suspended.

Tab 1



2 People >

Aug 5, 2021 at 1:59 PM



How much ??



No chance in hell!

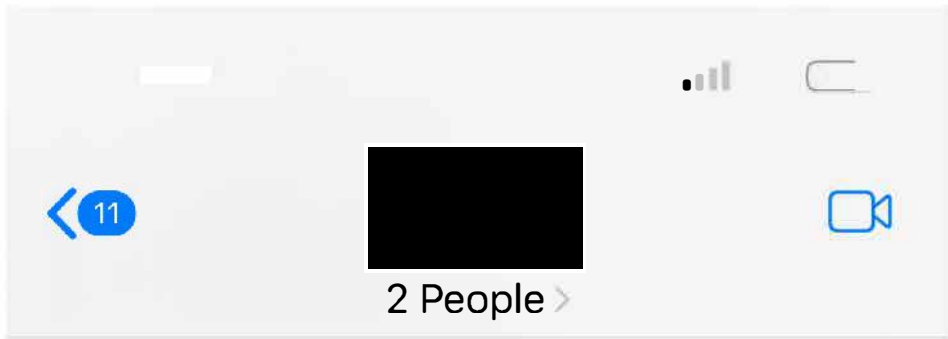
iMessage



iMessage



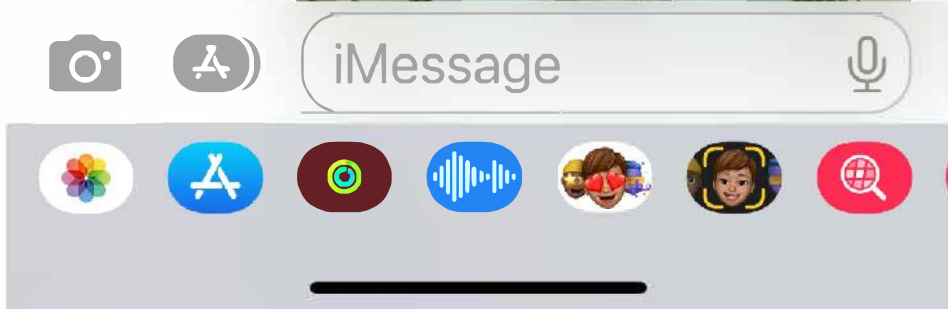
Tab 2

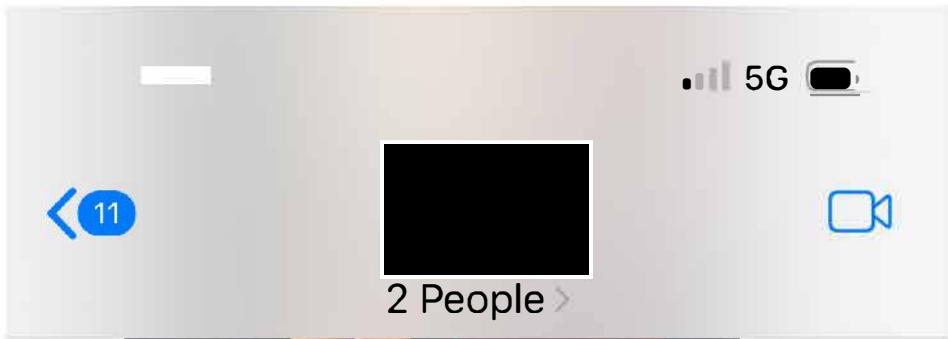


Sat, Mar 11 at 6:46 PM



How much





How much



The shit I go to 🤑



Arm candy

Mon, Mar 12 at 10:22 AM



iMessage



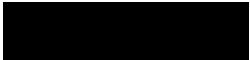
Tab 3



Sat, Apr 1 at 6:38 PM

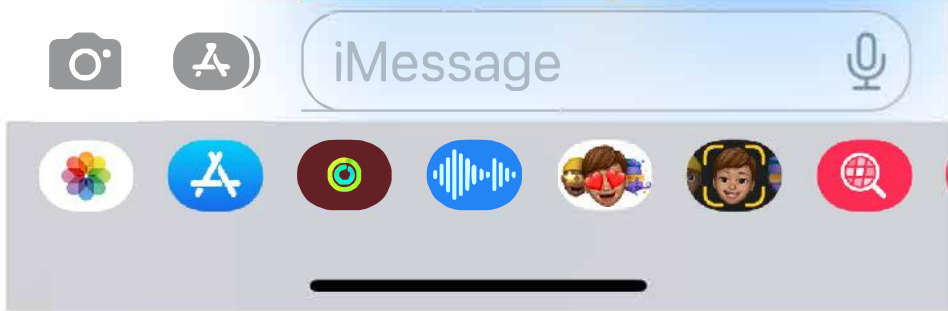


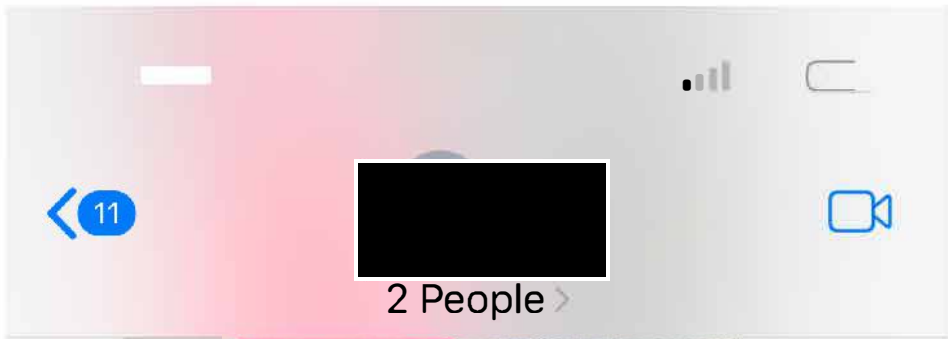
How much



That's a lot of woman!

I can't get past the tiny





How much

[Redacted]

That's a lot of woman!

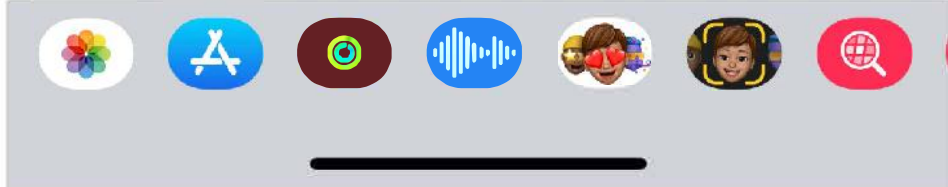
I can't get past the tiny backpack! 🤔

[Redacted]

It's really not that tiny 😬

[Redacted]

Lol!



Tab 4



2 People >

Text Message
Mon, Feb 13 at 5:12 PM



How long and how much?



iMessage





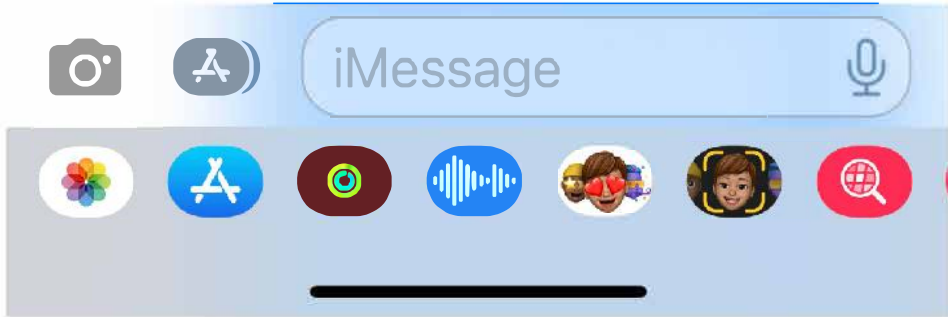
How long and how much?

iMessage

Lmao



Wed, Feb 15 at 11:49 AM



Tab 5



2 People >

Mon, Mar 13 at 10:32 AM



If we had to see this, y'all have to see it too!



iMessage



11

2 People >



If we had to see this, y'all have to see it too!

[Redacted]

Lmao

Mon, Mar 13 at 11:48 AM



Sat Apr 1 at 6:38 PM



iMessage



Tab 6



2 People >

Sat, Dec 31 at 10:25 PM



How much?



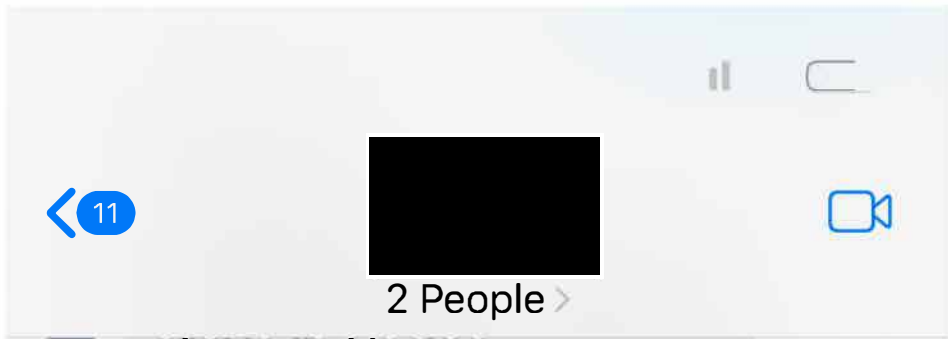
No way!!

What happens in Vegas stays in Vegas



iMessage





M stays in Vegas

[Redacted]

Holy shit

I'm crying

That can't be real

😂 nothing right about that!

[Redacted]

I can't stop crying

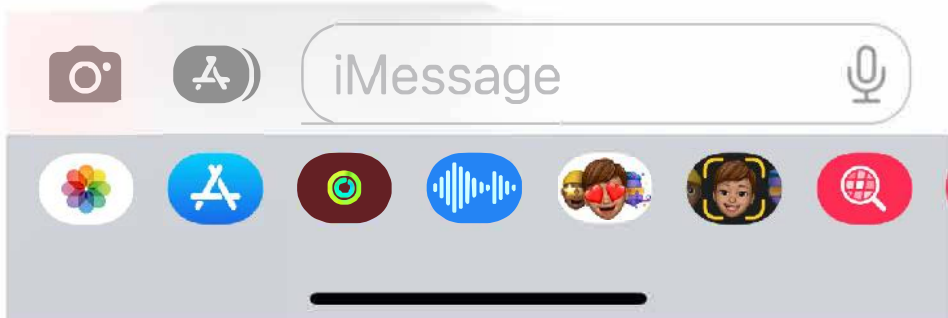
[Redacted] impressed

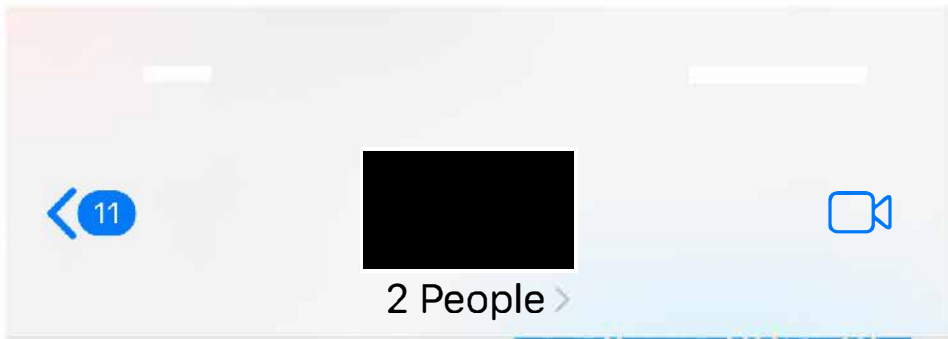
[Redacted]

SMH

Only in Vegas!

[Redacted]





Only in Vegas!

[Redacted]

Million dollars

[Redacted]

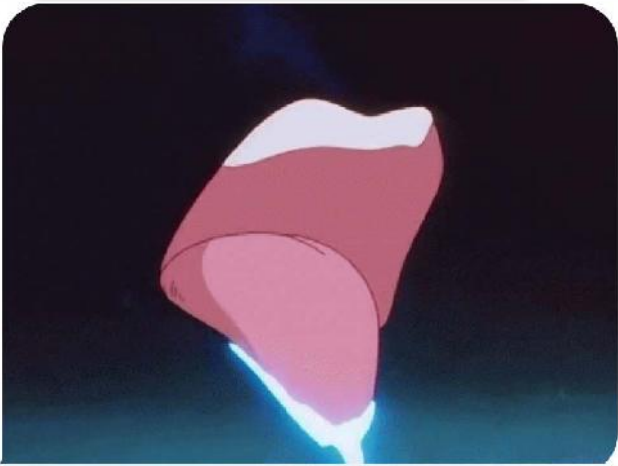
Nope

No amount of money!!!

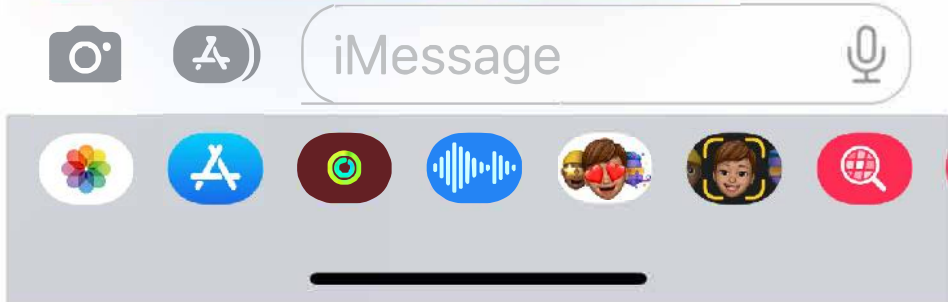
[Redacted]

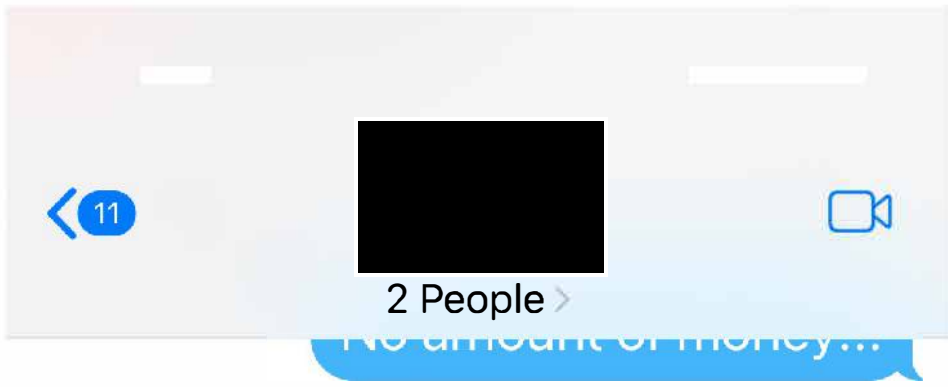
Cash

Just have her have a happy ending



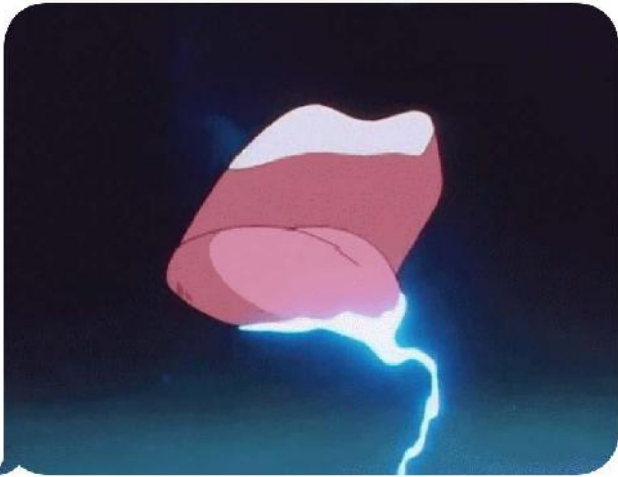
[Redacted]





Cash

Just have her have a happy ending



GIF Keyboard via #images



That's sick



Read



iMessage



Tab 7

< 11



stays in Vegas

[Redacted]

Ho y shit

I'm crying

That can't be rea

😂 nothing right about that!

[Redacted]

I can't stop crying

[Redacted] impressed

[Redacted]

SMH

Only in Vegas!

[Redacted]

Camera App iMessages Search

