



CENTRAL COLUMBIA

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570-784-2850 Ext. 1000
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Complaint No. _____

CONFIDENTIAL

[Date]

[Name of Questioning Party]

Re: Title IX Complaint - Explanation(s) for Exclusion of Questions

Dear [Questioning Party]:

This correspondence is being issued in follow up to receipt of written questions you submitted in follow up to receipt of the Investigative Report, which you wished to be asked of another party/witness, including, specifically, [name of person(s) to whom excluded questions were directed]. The School District Policy as well as Title IX Regulations afford you the right to submit such questions but also recognize that the Decision-Maker may deem it necessary to exclude certain questions on the basis of relevancy, and/or where otherwise prohibited by law and/or legally-recognized and unwaived privilege. The following list details reasons that such an exclusion might occur:

Prior Sexual History. Section 106.45(b)(6)(i) of the Title IX regulations contain rape shield protections providing that questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, with two limited exceptions arising only when 1) such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondents committed the conduct alleged by the complainant, or 2) 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.

Legally-Recognized and Unwaived Privilege. Title IX regulations set forth at §106.45(b)(1)(x) prohibit a School Entity's grievance process from requiring, allowing, relying on, or otherwise using questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived it. This prohibition against the use of information protected under a legally recognized privilege applies at all stages of the grievance process, including but not limited to the investigator's gathering of evidence, inspection and review of evidence, investigative report, and any of the proceedings and/or exchanges of information that may follow.

Medical and Psychological Records. Within the Title IX Regulations at 106.145(b)(5)(i), the U.S. Department of Education specifically prohibits the inclusion and/or disclosure of any party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party. Such medical, psychological, and similar records of a party cannot be accessed, considered, disclosed, or otherwise used unless that party has given voluntary, written consent. This restriction applies even where HIPAA and/or any state-law equivalent do not apply.

Other Applicable Law. The *[Name]* School District likewise reserves the right to exclude any content that may not be disclosed under applicable law.

Some of the questions you submitted have been excluded on the basis of their relevancy and/or in accordance with the other prohibitions discussed above. Please see the attached form for a list of these questions as well as a basis for their exclusion.

Sincerely,

[Insert decision-maker(s) name(s) here]

Encl.: Exclusions Log

Decision-Maker's Exclusions Log

Questioning Party:

Person(s) to whom Questions were directed:

Written Question(s)	Specific Language or Material to be Excluded	Basis for Exclusion (Circle One)	Additional Explanation
		<p>Prior Sexual History</p> <p>Legally-Recognized, Unwaived Privilege</p> <p>Medical or Psychological Records</p> <p>Other</p>	
		<p>Prior Sexual History</p> <p>Legally-Recognized, Unwaived Privilege</p> <p>Medical or Psychological Records</p> <p>Other</p>	
		<p>Prior Sexual History</p> <p>Legally-Recognized, Unwaived Privilege</p> <p>Medical or Psychological Records</p> <p>Other</p>	