



responded with deliberate indifference. Plaintiff's claim against Superintendent Smith in his official capacity should be dismissed because it is redundant with respect to Plaintiff's claim against Azle ISD.

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**IV.**  
**BACKGROUND**

**A. Procedural Background**

1. On August 11, 2025, Plaintiff filed her Original Complaint. Dkt.1.
2. On August 29, 2025, Defendants filed their Unopposed Motion to Extend Time to File Answers or Other Responsive Pleadings. Dkt. 6. On September 2, 2025, the Court entered an Order Granting Defendants' Motion and granting Defendants until September 30, 2025 to file their respective Answers or Other Responsive Pleadings. Dkt. 7.

**B. Plaintiff's Allegations<sup>2</sup>**

3. Plaintiff alleges that she was a minor student attending Azle High School in AISD at the time she was sexually assaulted by Defendant Alberto Font Santiago. Dkt. 1, ¶3.
4. Plaintiff alleges that at all relevant times, Ms. Spurlock was the Athletic Director of Azle High School Dkt. 1, ¶6.
5. Plaintiff alleges that in August 2020, AISD hired 27-year-old newlywed, Defendant Font Santiago as a Spanish teacher and assistant coach of the girls' volleyball and basketball teams. *Id.*, ¶¶10-11.
6. Plaintiff alleges that she first met Font Santiago in September or October, 2021, at her first basketball practices of the 2021-2022 school year. *Id.*, ¶12. She was a 16-year old sophomore on the junior varsity basketball team. Plaintiff alleges that at the time, Font Santiago was an assistant coach for the girls junior varsity basketball and volleyball teams. *Id.*
7. Plaintiff alleges that Font Santiago began grooming her, and that by October or November 2021, their relationship had progressed to sexual assault and abuse. *Id.*, ¶¶14-16.

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<sup>2</sup> Because this is a Rule 12(b)(6) motion to dismiss, the Court must accept as true all well-pleaded facts in Plaintiff's Complaint. Defendant accepts as true the well-pleaded facts in Plaintiff's Complaint *only* for the purposes of this Motion to Dismiss and does not admit to them for any other purpose.

8. Plaintiff alleges that she sent Font Santiago a Snapchat friend request as a joke with friends, thinking he would never accept “because to do so would violate the high school’s policy prohibiting educators from privately communicating with students through social media or other electronic devices until the student had graduated.” *Id.*, ¶18. Plaintiff alleges she was surprised when Font Santiago quickly accepted her friend request. *Id.*

9. Plaintiff alleges she and Font Santiago communicated via Snapchat and other electronic formats throughout the day from about October or November, 2021, and continuing through mid-spring of 2023, Plaintiff’s junior year. *Id.*, ¶19. Plaintiff alleges that she saved some of the “Snaps.” *Id.* ¶¶21, 27.

10. Plaintiff alleges that she did not take classroom instruction from Font Santiago but was “often provided her with a written hall pass to excuse her tardiness to her classes after she had spent time conversing with him in the hallway between classes.” *Id.*, ¶24. Plaintiff alleges that she received a “patently excessive number of hall passes from Font Santiago” from October 2021 through the end of the 2021-22 school year. *Id.* Plaintiff alleges she was not questioned by teachers or administrators about the hall passes. *Id.*

11. Plaintiff alleges that she and other students frequently went to Font Santiago’s classroom during lunch periods. *Id.*, ¶25.

12. Plaintiff alleges that after spring break of her sophomore year, three to four times per week, she and several other students obtained permission to go to Font Santiago’s classroom during the last 15-20 minutes of class time while he was teaching a Spanish class. *Id.*, ¶26.

13. Plaintiff alleges that beginning in October or November of 2021, and continuing though the end of May 2022, she met with Font Santiago at least three times per week in his empty classroom during seventh period to engage in sexual activity, while Font Santiago locked the

classroom door and covered the window. *Id.*, ¶29. Plaintiff would ask for her teacher, Hopkins' permission to use the restroom and would be gone for approximately 30 minutes. *Id.*, ¶31. Plaintiff alleges that Hopkins did not investigate Plaintiff's restroom breaks or take any action to stop her restroom breaks. *Id.*, ¶34. The Complaint indicates that Hopkins did not report Plaintiff's excessive absences and restroom breaks to Ms. Spurlock or any administrator. *Id.*

14. Plaintiff alleges that her illegal sexual activity with Font Santiago only occurred in his classroom during seventh period while she would take restroom breaks, and that they never engaged in sexual activity elsewhere. *Id.*, ¶33.

15. Plaintiff alleges that in the fall of 2022, Plaintiff's junior year, Font Santiago was no longer assistant coach for the girls' basketball team, but only for the girls' volleyball team. *Id.* ¶36.

16. Plaintiff alleges, upon information and belief, that "in early 2022," head girls' basketball coach Mitzi Marquardt and assistant coach Bert Trevino summoned Font Santiago for a meeting "to discuss his conduct around female students." *Id.*, ¶37. Plaintiff alleges "Marquardt cautioned him that, among other things, he needed to keep a safe distance from the female students due to his relatively young age." *Id.*

17. Plaintiff alleges, upon information and belief, that Font Santiago then met with Ms. Spurlock. *Id.*, ¶38. Plaintiff alleges that Font Santiago "attempted to get Marquardt and Trevino fired for accusing him of inappropriate conduct with female students." *Id.*

18. Plaintiff alleges that Ms. Spurlock then met with Marquardt to discuss the matter. *Id.* Plaintiff alleges that Ms. Spurlock did not take other action against Font Santiago after these meetings, such as reporting Marquardt's concerns to other officials, the AHS Principal, HR, or security personnel. *Id.*

19. Plaintiff alleges that during this same time frame, “the coaches” then had a meeting with the girls’ basketball team, wherein “Head Coach Marquardt cautioned the students that there had been reports of team members going into the classrooms of teachers other than their own during the school day, and that they must remain in their assigned classrooms.” *Id.*, ¶39.

20. Plaintiff alleges that Ms. Spurlock allowed Font Santiago to continue in his position as assistant JV girls’ basketball coach for the remainder of the 2022 basketball season. *Id.*, ¶40.

21. Plaintiff alleges that in the fall of 2022, Font Santiago no longer coached the girls’ basketball team, but continued to coach girls volleyball and later began coaching girl’s softball. *Id.*, ¶41. Plaintiff alleges for the 2024-25 school year, the year after Plaintiff graduated, Font Santiago was promoted to head coach of the girls’ softball team. *Id.*

22. Plaintiff alleges that she and Font Santiago continued to engage in inappropriate electronic communications through the 2022 summer break, and then the relationship ended in August 2022 when Kyndall Font, Font Santiago’s spouse, was employed as an Athletic Trainer at AHS, except for one last physical contact incident the week before Thanksgiving, 2022, when, after obtaining leave from her Peer Helpers class to use the restroom, Plaintiff went to Font Santiago’s athletic office where the two kissed. *Id.*, ¶¶43-45.

23. Plaintiff alleges that they continued to engage in texting and messaging of a sexual nature into the spring semester of 2023, though their physical relationship had ended. *Id.*, ¶47.

24. Plaintiff alleges she ended her relationship with Font Santiago between March and May, 2023, when she developed a romantic relationship with a different young man. *Id.*, ¶48.

25. Plaintiff graduated in May, 2024. *Id.*, ¶49.

26. Plaintiff alleges that on April 17, 2025, another female student alleged that she received inappropriate messages from Font Santiago via SportsYou, an application for coaches

and groups to organize and communicate with their teams. *Id.* Plaintiff alleges that upon information and belief, the student also reported that Font Santiago took her mobile phone and attempted to add himself as a connection on her Snapchat. *Id.*

27. Plaintiff alleges that on April 17 a parent associated with the AHS girls' athletics booster, told Plaintiff that the other student reported on Font Santiago that morning and also "that the AHS administration was aware of the relationship between Font Santiago and Doe." *Id.*, ¶50. Plaintiff alleges this same parent told Plaintiff that she, the parent, "long suspected that there was something going on between Doe and Font Santiago." *Id.*, ¶51. This parent told Plaintiff that, when she knew Plaintiff's parents would be out of town, the parent followed Plaintiff to her home after a softball game to make sure Font Santiago did not come to her home. *Id.*, ¶51. Plaintiff does not allege that this parent ever revealed this information to Ms. Spurlock or any other Azle ISD administrator.

28. Plaintiff alleges that on April 17, 2025, upon learning of the current student's report, Plaintiff revealed her sexual abuse to her boyfriend and parents for the first time. *Id.*, ¶52.

29. Plaintiff alleges that, on April 17, 2025, Plaintiff and her parents went to the Azle Police Department (APD) and filed a police report on Font Santiago. *Id.*, ¶53.

30. Plaintiff alleges that on April 17, 2025, the APD arrested Font Santiago and charged him with a felony for Improper Relationship Between Educator and Student. *Id.*, ¶55. Plaintiff alleges he was also charged with Sexual Assault of a Child. *Id.* Plaintiff's Complaint refers to an April 18, 2025 news release from the APD regarding the arrest of Font Santiago. *Id.*, ¶56.

31. Plaintiff alleges that Azle ISD received the current student's report the morning of April 17. *Id.*, ¶57. Plaintiff alleges that Azle ISD learned that afternoon that Plaintiff had filed a police report against Font Santiago that same day. *Id.* Plaintiff does not allege who at Azle ISD

allegedly learned of the report, what information Azle ISD received, or what instruction Azle ISD was given by the APD. Plaintiff does not allege that she or her parents reported to Azle ISD.

32. Plaintiff alleges that Azle ISD allowed Font Santiago to coach a girls' softball game that evening. *Id.*

33. Plaintiff alleges that on April 21, 2025, a current Azle ISD student and softball team member gave a speech during the public comment period of a meeting of the Azle ISD board of directors, wherein she asked why Font Santiago had been allowed to stay on the game field that night and stated "you let him hang one more thing over our head that night." *Id.*, ¶58.

### **C. Plaintiff's Cause of Action**

34. Plaintiff's Complaint asserts three causes of action.

35. First, Plaintiff brings a Title IX claim against Azle ISD. *Id.*, ¶¶62-74. Plaintiff also sues Superintendent Smith in his official capacity only. *Id.*, ¶5.

36. Second, Plaintiff asserts a 42 U.S.C. §1983 right to bodily integrity and Equal Protection Fourteenth Amendment claim against Font Santiago and Ms. Spurlock. *Id.*, ¶¶75-87. The cause of action is not asserted against Azle ISD.

37. Third, Plaintiff asserts a claim of assault under Texas law against Font Santiago only. *Id.*, ¶¶88-94.

## **VI. ARGUMENTS & AUTHORITIES**

### **A. Motion to Dismiss Standard Under Rule 12(b)(6).**

To survive a Rule 12(b)(6) motion to dismiss, plaintiffs must plead sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.<sup>3</sup> A formulaic recitation

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<sup>3</sup> *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

of the elements of a cause of action will not suffice.<sup>4</sup> In deciding a Rule 12(b)(6) motion, the court does not, “presume true a number of categories of statements, including legal conclusions; mere labels; threadbare recitals of the elements of a cause of action; conclusory statements; and naked assertions devoid of further factual enhancement.”<sup>5</sup> The Court need only accept as true the “well pleaded” facts; and to be “well pleaded,” a complaint must state specific facts to support the claim, not merely conclusions and unwarranted factual deductions.<sup>6</sup> A court is not bound to accept legal conclusions couched as factual allegations.<sup>7</sup> A conclusory allegation is one which lacks factual support.<sup>8</sup> The Court should dismiss a complaint if it lacks an allegation regarding an element of a cause of action.<sup>9</sup>

**B. Plaintiff Has Failed to State a Claim Upon Which Relief May Be Granted Under Title IX Against Azle ISD.**

**1. The Liability Standard Under Title IX.**

Title IX prohibits entities which receive federal funding from intentionally discriminating on the basis of sex in any education program or activity.<sup>10</sup> School districts can be liable under Title IX “only for *intentional* sex discrimination.”<sup>11</sup>

The standard requires more than mere subjective knowledge, and more than that subjective knowledge being possessed by any employee; rather, a plaintiff asserting a Title IX claim based on allegations of sexual abuse by a school employee must provide well-pleaded allegations that an

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<sup>4</sup> *Id.*

<sup>5</sup> *Harmon v. City of Arlington*, 16 F.4th 1159, 1162-63 (5th Cir. 2021) (citing *Morgan v. Swanson*, 659 F.3d 359, 370 (5th Cir. 2011) (en banc)); *Gentilello v. Rege*, 627 F.3d 540, 544 (5th Cir. 2010).

<sup>6</sup> *Tuchman v. DSC Comms. Corp.*, 14 F.3d 1061, 1067 (5th Cir. 1994); *Fee v. Herndon*, 900 F.2d 804, 807 (5th Cir. 1990).

<sup>7</sup> *Papasan v. Allain*, 478 U.S. 265, 286 (1986); *Iqbal*, 556 U.S. at 679; *Tuchman*, 14 F.3d at 1067 (Plaintiff must plead “specific facts, not merely conclusory allegations.”); *Lormand v. US Unwired, Inc.*, 565 F.3d 228, 244 (5th Cir. 2009).

<sup>8</sup> *E.g., Inclusive Communities Project, Inc. v. Lincoln Prop. Co.*, 920 F.3d 890, 911 (5th Cir. 2019).

<sup>9</sup> *Keane v. Fox TV Stations, Inc.*, 297 F. Supp. 2d 921, 925 (S.D. Tex. 2004) (citing *Blackburn v. City of Marshall*, 42 F.3d 925, 931 (5th Cir. 1995)).

<sup>10</sup> 20 U.S.C. §1681(a); *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 280 (1998).

<sup>11</sup> *Edgewood Indep. Sch. Dist.*, 964 F.3d at 358 (emphasis in original).

“appropriate person” within the school district had *actual* knowledge of the employee’s misconduct and responded with deliberate indifference—that is, responded in a manner that was clearly unreasonable in light of the known circumstances.<sup>12</sup> These are stringent requirements.<sup>13</sup> The actual knowledge requirement “cannot be satisfied by showing that the school district should have known there was a substantial risk of abuse.”<sup>14</sup> Rather, Plaintiff must plead facts showing that an appropriate person “actually knew that there was a substantial risk that sexual abuse would occur.”<sup>15</sup>

Deliberate indifference is a “high bar.”<sup>16</sup> A school district avoids liability by responding reasonably to a risk of harm, even if the response is unsuccessful.<sup>17</sup>

Plaintiff’s Title IX claim is based on the allegation that AHS’s former Athletic Director Ms. Spurlock was an “appropriate person” and that she had actual notice that Font Santiago was a substantial risk of sexually abusing Doe. Dkt. 1, ¶¶68-71. Plaintiff’s Title IX claim against Azle ISD should be dismissed because the Complaint fails to allege facts to establish each element of the claim. First, the Complaint fails to allege facts to establish that Ms. Spurlock was an “appropriate person” under Title IX. Second, assuming, *arguendo*, that Ms. Spurlock was an appropriate person, the Complaint fails to allege facts to establish that she actually knew that Font Santiago was sexually abusing Plaintiff or that there was a substantial risk that Font Santiago

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<sup>12</sup> *Gebser*, 524 U.S. at 290-91; *Doe ex rel. Doe v. Dallas Indep. Sch. Dist.*, 220 F.3d 380, 384 (5th Cir. 2000).

<sup>13</sup> *Edgewood Indep. Sch. Dist.*, 964 F.3d at 358 (“it is not easy to prove an intentional violation of Title IX”).

<sup>14</sup> *M.E. v. Alvin Indep. Sch. Dist.*, 840 Fed. App’x 773, 775 (5th Cir. 2020); *see also Gebser*, 524 U.S. at 285 (“it would frustrate the purposes of Title IX to permit a damages recovery against a school district for a teacher’s sexual harassment of a student based on principles of *respondeat superior* or constructive notice, i.e., without actual notice to a school district official”) (citation omitted).

<sup>15</sup> *Rosa H. v. San Elizario Indep. Sch. Dist.*, 106 F.3d 648, 652-53 (5th Cir. 1997) (emphasis added).

<sup>16</sup> *E.M. v. Austin Indep. Sch. Dist.*, 770 Fed. App’x 712, 713 (5th Cir. 2019) (per curiam)

<sup>17</sup> *Ramos v. Webb Consol. Indep. Sch. Dist.*, 724 Fed. App’x 338, 340 (5th Cir. 2018) (per curiam) (citing *Dallas ISD*, 220 F.3d at 384).

would sexually abuse Plaintiff. Third, the Complaint fails to allege facts to establish that Azle ISD responded with deliberate indifference to the facts of which it was made aware.

**2. Plaintiff has failed to allege facts of an “appropriate person.”**

Plaintiff failed to allege facts that would establish the conclusory assertion that Ms. Spurlock was an “appropriate person.” Title IX requires actual notice to an employee “authorized to rectify” the harassment.<sup>18</sup> The court should not assume that, simply because of her title of athletic director, Ms. Spurlock constituted an appropriate person.<sup>19</sup> “[T]o be an ‘appropriate person’ under Title IX, the official must have authority to both repudiate th[e] conduct *and* eliminate the hostile environment.”<sup>20</sup> The Fifth Circuit has “long held that, generally, the ‘bulk of employees’ are not covered for purposes of a district’s ‘notice’ under Title IX.”<sup>21</sup>

Plaintiff does not allege facts to establish that Ms. Spurlock was specifically vested with the duty to supervise and take action against Font Santiago for the sexual abuse, which was alleged to have occurred during the school day in his classroom, or that her alleged knowledge would be functionally equivalent to the school district’s knowledge.

Plaintiff alleges that the only times she was physically abused by Font Santiago was during the school day in his classroom, when Font Santiago was employed as a Spanish teacher, as opposed to during sporting events or practices, when he was to be performing his duties as a coach. Plaintiff does not allege that Spurlock, as Athletic Director, was Font Santiago’s supervisor at times when he was to be performing his employment duties as a Spanish teacher or was an administrator in charge of his classroom environment. Plaintiff does not allege that Spurlock was

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<sup>18</sup> *Brend v. Copperas Cove Indep. Sch. Dist.*, 823 Fed. App’x 261, 262 (5th Cir. 2020) (citation omitted).

<sup>19</sup> *See e.g., Doe v. Lake Travis Indep. Sch. Dist.*, No. A-19-CV-00430-RP, 2022 WL 867033, at \*4 (W.D. Tex. Mar. 23, 2022) (in denying motion to dismiss on Title IX claim where both an athletic director and principal were alleged to have knowledge, the court concluded that the plaintiff had sufficiently pled a claim based on the principal, but was silent as to athletic director).

<sup>20</sup> *Edgewood Indep. Sch. Dist.*, 964 F.3d at 360 (citation omitted) (emphasis in original).

<sup>21</sup> *Id.* (citation omitted).

even physically present on the campus when and where the alleged sexual activity occurred. Plaintiff does not allege that Ms. Spurlock witnessed or was made aware of Plaintiff's excessive restroom breaks. Since Plaintiff did not allege facts sufficient to establish this element of her Title IX claim, it should be dismissed.

**3. Plaintiff has failed to allege facts sufficient to establish that Azle ISD had actual knowledge of sexual abuse or a substantial risk of sexual abuse of Plaintiff by Font Santiago.**

Plaintiff does not allege facts sufficient to establish that Azle ISD actually knew of Font Santiago's sexual abuse of Plaintiff or actually knew that there was a substantial risk that the sexual abuse of Plaintiff by Font Santiago would occur.

For a Title IX claim, "the school must have actual knowledge that harassment has occurred, is occurring, or that there is a 'substantial risk that sexual abuse would occur.'"<sup>22</sup> Azle ISD is not liable if (1) it "did not know of the underlying facts indicating a sufficiently substantial danger and that [it was] therefore unaware of a danger," or (2) it "'knew the underlying facts but believed (albeit unsoundly) that the risk to which the facts gave rise was insubstantial or nonexistent.'"<sup>23</sup>

The only person Plaintiff alleges was an "appropriate person" was Ms. Spurlock.<sup>24</sup> Assuming, *arguendo*, that Ms. Spurlock was an "appropriate person," Plaintiff's claim should be dismissed because Plaintiff failed to allege facts showing that Ms. Spurlock knew of facts indicating a sufficiently substantial danger, such that her response constituted deliberate indifference. The Complaint does not set forth facts indicating that Ms. Spurlock learned of the relationship or otherwise acquired knowledge of any facts of sexual abuse or of a substantial risk of sexual abuse of Plaintiff by Font Santiago.

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<sup>22</sup> *Roe v. Cypress-Fairbanks Indep. Sch. Dist.*, 53 F.4th 334, 341 (5th Cir. 2022) (quoting *M.E.*, 840 Fed. App'x at 775)).

<sup>23</sup> *Rosa H.*, 106 F.3d at 659. (quoting *Farmer v. Brennan*, 511 U.S. 825, 843-44 (1994))

<sup>24</sup> *Gebser*, 524 U.S. at 290-91; Dkt. 1, ¶68.

Plaintiff's claim fails for the simple fact that Plaintiff does not allege actual knowledge by Ms. Spurlock. At most, Plaintiff's allegations infer that Ms. Spurlock *should* have known there was a substantial risk, which is not the standard.<sup>25</sup> A plaintiff cannot "circumvent Title IX's exacting standards by pointing to an official's constructive knowledge of 'red flags;'" rather, "the law requires that the district actually knew of the risk, not just that it should have known."<sup>26</sup> "Vague allegations that do not include sexual harassment do not put a school district on notice of that risk."<sup>27</sup> Title IX liability cannot be based on principles of *respondeat superior* or constructive notice.<sup>28</sup> Conclusory assertions of knowledge of a substantial risk of sexual abuse do not suffice.<sup>29</sup>

Plaintiff's Complaint does not assert that Ms. Spurlock knew of the sexual abuse; rather, in pleading the Title IX claim, Plaintiff's Complaint asserts that Ms. Spurlock merely had "actual notice" (as opposed to actual *knowledge*) that Font Santiago posed a substantial risk. Dkt. 1, ¶69.

The only alleged instances where Ms. Spurlock is said to have gained knowledge of an allegation concerning Font Santiago was her meeting with Font Santiago and subsequent meeting with Coach Marquardt after Font Santiago allegedly had a falling out with Coaches Marquardt and Trevino. Dkt. 1, ¶37. Specifically, Plaintiff alleges "upon information and belief" that Font Santiago himself came to Ms. Spurlock first to attempt to get Coaches Marquardt and Trevino fired for wrongfully accusing him of "inappropriate conduct with female students." *Id.*, ¶38. Plaintiff does not allege, and it would be an unwarranted inference to assume, that Font Santiago

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<sup>25</sup> *J. T. v. Uplift Educ.*, No. 23-10773, 2024 WL 5118486, at \*4 (5th Cir. Dec. 16, 2024) ("the relevant question is not whether administrators could or even should have known about Wazed's misconduct; it is whether they *actually* knew.") (emphasis in original).

<sup>26</sup> *Id.* (quoting *M.E.*, 840 Fed. App'x at 774 (citing *Rosa H.*, 106 F.3d at 652-53, 656); also citing *Moreno v. McAllen Indep. Sch. Dist.*, No. 7:15-CV-162, 2016 WL 3198159, at \*12-13 (S.D. Tex. June 9, 2016) (allegations of "bizarre behavior," including standing too close to a student, were not sufficient to provide actual notice of a substantial risk of sexual abuse or harassment)); *M.E.*, 840 Fed. App'x at 776 (concluding that Title IX's actual knowledge requirement "cannot be satisfied by showing that the school district should have known there was a substantial risk of abuse").

<sup>27</sup> *Doe v. Katy Indep. Sch. Dist.*, 427 F. Supp. 3d 870, 880 (S.D. Tex. 2019).

<sup>28</sup> *Moreno*, 2016 WL 3198159, at \*12-13.

<sup>29</sup> *Gentilello*, 627 F.3d at 544.

admitted to any facts in this meeting indicating that he engaged in any inappropriate conduct with female students, let alone sexual abuse with Plaintiff, or otherwise posed a substantial risk.<sup>30</sup>

Plaintiff alleges that Ms. Spurlock then met with Coach Marquardt “to discuss the matter.” *Id.* Plaintiff does not allege what was specifically communicated at this meeting; however, Plaintiff alleges that Marquardt’s concern regarding Font Santiago was that he needed “to keep a safe distance from the female students due to his relatively young age.” Dkt. 1, ¶37. Learning that a more experienced head coach advised a younger coach “to keep a safe distance” from female students due to his age does not establish actual knowledge that sexual abuse occurred, is occurring, or that Font Santiago was a substantial risk of sexually abusing Plaintiff. Importantly, the Complaint indicates that Marquardt’s alleged concern was due to Font Santiago’s age, not to due to any facts of sexual abuse. That a coach is “relatively young” does not plainly point toward the conclusion that he is sexually abusing students or is a substantial risk thereof.<sup>31</sup>

Plaintiff’s Complaint indicates that the coaches then met with the girls’ basketball team, wherein “Marquardt cautioned the students that there had been reports of team members going into the classrooms of teachers other than their own during the school day, and that they must remain in their assigned classrooms.” *Id.*, ¶39. This allegation does not support a claim against Azle ISD. First, the Complaint does not allege that Ms. Spurlock witnessed the meeting. Second, even assuming, *arguendo*, that Ms. Spurlock could be imputed with knowledge of what was said

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<sup>30</sup> The Court should not accept unwarranted factual inferences as true. *Gentilello*, 627 F.3d at 544.

<sup>31</sup> Even assuming, *arguendo*, that Marquardt expressed an actual concern of Font Santiago being physically close to students, that does not meet Title IX’s high standard of actual knowledge of sexual abuse or a substantial risk thereof. *See Doe v. Northside I.S.D.*, 884 F. Supp. 2d 485 (W.D. Tex. 2012) (the court found “no actual knowledge of abuse despite allegations that teacher had ‘boundary’ issues, hugged plaintiff, and gave chest bumps.”); *Kelly v. Allen Indep. Sch. Dist.*, 602 Fed. App’x 949, 954 (5th Cir. 2015) (an email notifying a school district’s board of trustees and superintendent that a middle school student had sexually assaulted another minor fell “far short of Title IX’s stringent actual-knowledge standard” for notice of the student’s possible sexual harassment of others); *Gebser*, 524 U.S. at 277, 291 (Complaints from parents that a teacher “often made sexually suggestive comments” to students in class were “plainly insufficient” to alert school officials that he might be in a sexual relationship with a student); *Moreno*, 2016 WL 3198159, at \*12-13 (“bizarre behavior,” including standing too close to a student, were not sufficient).

in the meeting, an official learning that a student skips class to visit a teacher alone does not put the official on notice of potential sexual abuse by the teacher, let alone when multiple team members are involved.<sup>32</sup> The alleged conduct “is susceptible to multiple interpretations, and is certainly not definitive to provide actual notice” that Font Santiago was sexually abusing or harassing students, or that a substantial risk of such existed.<sup>33</sup> Third, assuming, *arguendo*, that Ms. Spurlock could be imputed with knowledge of what was said in the meeting, the Complaint does not allege that Font Santiago or Plaintiff were singled out by Marquardt’s cautioning;<sup>34</sup> rather, it was aimed at multiple “team members” and “teachers” (plural). Therefore, it cannot establish that Ms. Spurlock “learned of facts or a pattern of inappropriate sexual behavior by [Font Santiago] pointing plainly toward the conclusion that [Font Santiago] was sexually abusing [Plaintiff].”<sup>35</sup> The Complaint contains no other pled facts of “concerns” regarding Font Santiago, or “conduct” concerning female students reported to Ms. Spurlock.

Plaintiff alleges no other instance of Ms. Spurlock learning of any facts to show she knew of a substantial risk that Font Santiago would sexually abuse Plaintiff. For instance, Plaintiff does

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<sup>32</sup> *M.E.*, 840 Fed. App’x at 776 (citing *Rosa H.*, 106 F.3d at 652-53; *Northside I.S.D.*, 884 F. Supp. 2d at 493 (explaining that a student skipping class to visit a teacher in her classroom “in hindsight ... was problematic” but it did not serve to put school officials on notice of potential abuse because “at the time, there was no indication that [the teacher] was inappropriately touching [the student]”)); *see also*, *Edgewood ISD*, 964 F.3d at 363-64 (An inconclusive investigation into reports that one student spent time with a chemistry teacher at his home did not put school officials on notice that the teacher might be in a sexual relationship with another student.); *Doe v. Beaumont Indep. Sch. Dist.*, 727 F. Supp. 3d 589, 613-14 (E.D. Tex. 2024) (finding that principal and assistant principal’s knowledge that middle school students Jane Does 1 and 2 were skipping class to vape with a substitute teacher, while “weird and inappropriate,” did not support a finding that the principal and assistant principal had actual knowledge that the substitute teacher was sexually harassing or abusing Jane Doe 1 and 2, or that there was a substantial risk thereof so as to meet the “high bar for plaintiffs to recover monetary damages under Title IX.”); *J.T. v. Uplift Educ.*, No. 23-10773, 2024 WL 5118486, at \*4 (5th Cir. Dec. 16, 2024) (finding that knowledge of teacher turning off classroom lights and setting up privacy folders at his desk around him and the young victim did not indicate a substantial risk of harm of sexual abuse; rather, “It is, to the contrary, an unfortunate reality that abuse occurs in a range of otherwise harmless settings: behind closed doors, within private offices, or inside bathroom stalls. While this tragic case involves a dark classroom and privacy folders, a school cannot be held liable for its failure to notice every setting an abuser might use to prey on children.”)

<sup>33</sup> *Moreno*, 2016 WL 3198159, at \*13.

<sup>34</sup> Plaintiff’s allegation that “she sensed” that Marquardt had concerns of a “‘special connection’ between Font Santiago and Doe”, is conclusory and not a well-pled fact to establish that such a concern existed. Dkt. 1, ¶39.

<sup>35</sup> *Taylor Indep. Sch. Dist.*, 15 F.3d at 454.

not allege facts of Spurlock being made aware of Font Santiago having a special relationship or any physical contact with Plaintiff or any other student, let alone of his committing sexual abuse. Plaintiff does not allege that Ms. Spurlock was made aware of Plaintiff's frequent and extended restroom breaks from Hopkins' classroom during seventh period when she engaged in sexual activity with Font Santiago; rather, the Complaint indicates that Hopkins "never once investigated or reported Doe's excessive absences," or took any action to stop Plaintiff's extended breaks. Dkt. 1, ¶¶31-34. Plaintiff does not allege that Ms. Spurlock (or any other Azle ISD employee) was made aware of Font Santiago interacting with Plaintiff or any other student over Snapchat or any other social media, let alone in a sexual manner. Plaintiff admits such communications would have been a violation of Azle ISD policy.

The case of *M.E. v. Alvin Indep. Sch. Dist.*, is instructive.<sup>36</sup> In that case, the Court found that school administrators were aware of an "inappropriately close" relationship between the teacher abuser and student victim, but this did not constitute knowledge of a substantial risk for sexual abuse. In particular, the victim's mother met with an assistant principal and "expressed discomfort with the bond between her daughter and Tennard," and a concern for the daughter's "penchant for confiding personal matters in a school police officer and teacher instead of her school counselor or therapist." The Court found that "the meeting put the district on notice that Tennard had become a trusted confidant for J.E."; however, "it did not provide notice of a substantial risk that sexual abuse was occurring." Additionally, the district's discovery that the victim "had again skipped class to visit Tennard...fell short of putting them on notice of 'a substantial risk' for sexual abuse."<sup>37</sup> "[B]efore Tennard's arrest, there were no allegations of any sexual harassment," and, like Plaintiff and Font Santiago in this case, the victim and alleged abuser

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<sup>36</sup> *M.E.*, 840 Fed. App'x at 776.

<sup>37</sup> *Id.* (citing *Rosa H.*, 106 F.3d at 652-53; *Northside I.S.D.*, 884 F. Supp. 2d at 493).

in that case did not tell any official about their relationship or any sexual abuse.<sup>38</sup> In our case, Ms. Spurlock was not alleged to have been made aware of any relationship between Plaintiff and Font Santiago, but only of Marquardt's generalized concern that he keep a safe distance from female students due to his relatively young age. Even assuming, *arguendo*, that Ms. Spurlock was made aware of Marquardt's concern of girls' basketball team members going to other teachers' classrooms during the day, this would not have put Ms. Spurlock on notice that Font Santiago, specifically, was a substantial risk for sexual abuse.

Since Plaintiff has failed to allege facts sufficient to establish that Azle ISD was subjectively aware of sexual abuse or a substantial risk thereof, Plaintiff's Title IX claim should be dismissed.<sup>39</sup>

#### **4. Plaintiff has failed to sufficiently allege facts of deliberate indifference.**

Plaintiff also cannot establish that Azle ISD, via the alleged appropriate person Ms. Spurlock, demonstrated deliberate indifference. Plaintiff must plausibly plead that an appropriate person responded with deliberate indifference to the report. Deliberate indifference is a high standard which is difficult to meet.<sup>40</sup> "The state actor's actual knowledge is critical to the inquiry—a failure to alleviate a significant risk that he should have perceived but did not, while no cause for commendation, does not rise to the level of deliberate indifference."<sup>41</sup> "Actions and decisions by

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<sup>38</sup> *Id.*

<sup>39</sup> *See Doe v. Ferguson*, 128 F.4th 727, 736 (5th Cir. 2025) ("Because Plaintiffs fail to allege sufficient facts to plausibly show Defendants were subjectively aware of the abuse, we do not reach the second (deliberate indifference) or third (constitutional injury) prongs of the three-prong *Taylor* test.").

<sup>40</sup> *E.g., I.F. v. Lewisville Indep. Sch. Dist.*, 915 F.3d 360, 369 (5th Cir. 2019) ("negligent delays, botched investigations of complaints due to the ineptitude of investigators, or responses that most reasonable persons could have improved upon do not equate to deliberate indifference") (citation omitted); *Sanches v. Carrollton-Farmers Branch Indep. Sch. Dist.*, 647 F.3d 156, 167 (5th Cir. 2011) ("For a school to be liable under title [sic] IX, its response, or lack thereof, to the harassment must be 'clearly unreasonable in light of the known circumstances.' That is a high bar, and neither negligence nor mere unreasonableness is enough.") (quoting *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 648 (1999)); *Dallas Indep. Sch. Dist.*, 220 F.3d at 384, 387-89 (no deliberate indifference when a school official failed to monitor a teacher who had been accused of sexually abusing an elementary school student)

<sup>41</sup> *Id.*

officials that are merely inept, erroneous, ineffective, or negligent do not amount to deliberate indifference.”<sup>42</sup>

Based on the knowledge that can be imputed upon Ms. Spurlock, her alleged actions in response were not deliberately indifferent. For the court to accept an allegation about a defendant's subjective state-of-mind, the allegation must do more than “merely restate[ ] the standard required to demonstrate the requisite subjective knowledge”.<sup>43</sup> “[W]e must carefully discern factual allegations from legal conclusions in plaintiffs' complaint”.<sup>44</sup>

Plaintiff failed to offer well-pled allegations of deliberate indifference by Ms. Spurlock. Plaintiff's bald assertions that Spurlock acted with conscious or deliberate indifference are no more than invalid legal conclusions or conclusory allegations which the Court should not accept as true.<sup>45</sup>

Instead, Plaintiff's more specific allegations actually negate any finding of deliberate indifference. Plaintiff acknowledges that the first instance of Ms. Spurlock being made aware of any potential for concern was when Font Santiago himself came to her and complained of Coaches Marquardt and Trevino making wrongful allegations of inappropriate conduct and requesting that they be fired. Dkt. 1, at ¶¶37-38. Ms. Spurlock met with Font Santiago and did not grant his request. Ms. Spurlock instead then met with Coach Marquardt to address her concerns. *Id.* Based on the Complaint, Ms. Spurlock would have learned that her alleged subordinate Coach Marquardt would have “cautioned him that, among other things, he needed to keep a safe distance from the female students due to his relatively young age.” *Id.* Additionally, Ms. Spurlock would have learned that

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<sup>42</sup> *Doe v. Dallas Indep. Sch. Dist.*, 153 F.3d 211, 219 (5th Cir. 1998); *I.L. v. Houston Indep. Sch. Dist.*, 776 Fed. App'x 839, 842 (5th Cir. 2019).

<sup>43</sup> *Ferguson*, 128 F.4th at 735 (quoting *Edmiston v. Borrego*, 75 F.4th 551, 560 (5th Cir. 2023)).

<sup>44</sup> *Id.* (citing *Robertson*, 751 F.3d at 388 (allegation that defendants “exhibited deliberate indifference” was “merely a legal conclusion”, even if it “might have been couched as a factual allegation”)).

<sup>45</sup> *Gentilello*, 627 F.3d at 544.

her alleged subordinates—“the coaches”—also met with the girls’ basketball team to warn them to discontinue going to other teachers’ classrooms during the school day. *Id.* at ¶39.

With regard to any information Ms. Spurlock can be alleged to have gained from her meetings with Font Santiago and Coach Marquardt, the case of *King v. Conroe ISD*<sup>46</sup> confirms that Plaintiff failed to plead facts to establish deliberate indifference. In *King*, a junior high school student alleged the principal was deliberately indifferent to sexual abuse committed against her by a volleyball coach. In that case, the principal received a report from another student’s parent that the coach was having an “affair” with a female student, and was seen kissing and passing notes with the student.<sup>47</sup> Upon learning of the alleged relationship involving the student, the principal met with coach, “questioned her about the alleged relationship, and, upon receiving a denial, warned her to keep her relationships with students professional at all times,” and no further action was taken. The Fifth Circuit determined that the plaintiff could not establish deliberate indifference, because, “[b]ased on the limited information [the principal] had, such action satisfies the *Doe v. Taylor* standard.”<sup>48</sup> Ms. Spurlock was alleged to have been made aware of far less information than the principal in *King* (i.e, only a generalized concern for Font Santiago to keep a safe distance from female students due to his relatively young age, as opposed to allegations an affair, kissing, and passing notes). However, like the alleged perpetrator in *King*, Font Santiago was warned to keep his relationships with student professional. Under *King*, this shows that Azle ISD was not deliberately indifferent. Plaintiff’s allegations demonstrate that District personnel

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<sup>46</sup> *King v. Conroe ISD*, 289 Fed. App’x 1, 3 (5th Cir. 2007).

<sup>47</sup> *Id.*, at 2.

<sup>48</sup> *Id.* (citing *Doe* at 456, n.12 (“We can foresee many good faith but ineffective responses that might satisfy a school official’s obligation in these situations, e.g., warning the state actor, notifying the student’s parents, or removing the student from the teacher’s class.”)); see also *Dallas ISD*, 153 F.3d at 219 (Administrator was not deliberately indifferent, when, after meeting with the victim’s mother, the administrator “misread the situation and made a tragic error in judgment,” determining that the victim’s allegations were not true, but “[n]evertheless, she warned McGrew to examine his behavior closely and to ensure that he was not doing anything that could be misinterpreted by a child.”))

responded to what information it of which it was made aware in a manner that was not clearly unreasonable in light of the known circumstances.<sup>49</sup> That Ms. Spurlock allegedly did not investigate further or take some other additional steps Plaintiff might suggest does not amount to deliberate indifference, especially since Plaintiff does not allege that any new information indicating Font Santiago was a danger until April 17, 2025.<sup>50</sup>

Finally, the Complaint does not allege any facts indicating that Azle ISD could have learned anything else indicating a substantial threat of sexual abuse of Plaintiff by Font Santiago until after her graduation, when, on April 17, 2025, another student made a report of inappropriate behavior by Font Santiago, compelling Plaintiff to make a police report later that day. Plaintiff does not allege that she ever made a report to Azle ISD. Font Santiago was arrested later on April 17, 2025, showing a swift response. This is a far cry from deliberate indifference. For these reasons, Plaintiff's Title IX claim should be dismissed.

**C. Plaintiff's Official Capacity Claims Against Todd Smith Should Be Dismissed.**

Plaintiff lists Superintendent Smith as a Defendant and states that he is being sued in his official capacity only. Dkt. 1, ¶10. Otherwise, the Complaint contains no allegations regarding Superintendent Smith and it does not explicitly allege any causes of action against him.

Suing a governmental official in his official capacity is merely another way of pleading an action against the entity of which that official is an agent.<sup>51</sup> Official capacity claims against Superintendent Smith are therefore redundant of Plaintiff's claims against Azle ISD. Courts have recognized the propriety of dismissing redundant claims when they are asserted against both an

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<sup>49</sup> *Gebser*, 524 U.S. at 290-91; *Davis*, 526 U.S. at 648; *Sanchez*, 647 F.3d at 167.

<sup>50</sup> *I.L.*, 776 Fed. App'x at 842.

<sup>51</sup> *Kentucky v. Graham*, 473 U.S. 159, 165-166 (1985); *Brandon v. Holt*, 469 U.S. 464, 471 (1985).

individual in his or her official capacity and the entity for which the official works.<sup>52</sup> All of Plaintiff's official capacity claims against Smith should therefore be dismissed as redundant.<sup>53</sup>

**VII.**  
**CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, Defendants Azle Independent School District and Superintendent Todd Smith pray that the Court grant this motion and that Plaintiff's causes of action identified herein be dismissed, with prejudice to the refileing of same; Defendants further pray that Plaintiff take nothing by this suit; that all relief requested by Plaintiff be denied; and for such other and further relief, both general and special, at law or in equity, to which Defendants may show themselves to be justly entitled.

Respectfully submitted,

*/s/ John D. Husted*

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<sup>52</sup> See *Flores v. Cameron County, Tex.*, 92 F.3d 258, 261 (5th Cir. 1996) (dismissing claims against County Judge in his official capacity as redundant of claims against Cameron County); *Sims v. Jefferson Downs Racing Ass'n*, 778 F.2d 1068, 1081 (5th Cir. 1985); *Jenkins v. Board of Education of the Houston Independent School District*, 937 F. Supp. 608 at 613 (S.D. Tex. 1996) (“[B]ecause a suit against a public employee in his or her official capacity is simply another way to sue the public entity... claims against the HISD defendants should be dismissed, as their presence in this case is merely redundant.”).

<sup>53</sup> Alternatively, the official capacity claims against Superintendent Smith should be dismissed for the same reasons Plaintiff's claims against Azle ISD should be dismissed, as set forth in this motion.

**ATTORNEYS FOR DEFENDANTS AZLE  
INDEPENDENT SCHOOL DISTRICT,  
SUPERINTENDENT TODD SMITH, AND  
REBECCA SPURLOCK**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing instrument has been served to all attorneys of record, in compliance with Rule 5 of the Federal Rules of Civil Procedure, on this the 30th day of September, 2025.

/s/ John D. Husted  
**JOHN D. HUSTED**

