

K-12 Title IX Compliance Coordinator Training 2020- Hypothetical

JANE DOE is in the 10th grade at Imaginary High School (“IHS”) in Fictional, Indiana. JANE DOE is a member of the school’s cheerleading team. During her 10th grade school year, the school cheerleading team competed in a national cheerleading competition in Orlando, Florida. On Tuesday February 10th the cheerleading team and coaches returned from Orlando to Indiana on a chartered bus. JANE DOE was seated near the front section of the bus with other female cheerleaders and all six male cheerleaders were seated at the back of the bus. At some point during the trip, JANE DOE moved to the back of the bus to find a quiet place to sleep. She fell asleep in the aisle of the bus near where the male cheerleaders were seated.

JANE DOE awoke to realize that a male cheerleader and 9th-grade student, Trevor Morris (“Morris”), had one hand underneath her sports bra. JANE DOE immediately got up and retreated to the front of the bus, Morris followed her but they did not speak. JANE DOE did not inform anyone of the incident for the remainder of the trip. When the bus arrived back home, the cheerleaders congregated in the arena at IHS to wait for their respective rides. When another cheerleader, Jake Hafley (“Hafley”), inquired as to why she was upset, JANE DOE told him what occurred on the bus. JANE DOE was picked up by her older sister to whom she also confided about the incident.

A week later, on Wednesday, February 18th, at a home basketball game, Hafley, with JANE DOE’s permission, informed the assistant cheerleading coach, Janice Frye (“Frye”), of the incident. Coach Frye took JANE DOE into a separate room to ask her about the incident. JANE DOE told Coach Frye about the incident. Coach Frye then approached Morris, who was present at the basketball game. Morris admitted to the incident, and Frye immediately took Morris home from the game. Morris was dismissed from the cheerleading team that night by the head coach. While at the game, JANE DOE called her parents and informed them of the incident. Mr. DOE, JANE DOE’s father, immediately called principal Gary Fields (“Principal Fields”) and left a voicemail on his phone informing him of the incident.

Principal Fields finally got around to checking his voicemail during his late lunch the next day at 1:30 p.m. JANE DOE and Morris had two classes together that morning. After hearing Mr. DOE’s message, Principal Fields immediately called Morris and Hafley into his office and asked them to give written statements of the incident on the bus. Morris and Hafley’s statements were consistent with Mr. DOE’s report of the incident. Principal Fields also met with Mr. DOE and contacted the Fictional Police Department after Mr. DOE indicated that he wanted to contact the authorities. Principal Fields then contacted the Superintendent of Imaginary School District (“ISD”). Based on Principal Fields’s recommendation, the Superintendent immediately transferred Morris to an alternative school for students with behavioral problems. According to the Superintendent, Morris’s school records revealed that during his 5th grade year in Imaginary Elementary School, Morris and another male student received one day in school suspension for

M.D. v. Bowling Green Indep. Sch. Dist., 115CV00014GNSHBB, 2017 WL 390280, at *1 (W.D. Ky. Jan. 27, 2017).

kissing each other during recess, but Morris did not have any significant disciplinary issues prior to this. Morris also had no previous behavioral issues while on the cheerleading team. Furthermore, JANE DOE testified that Morris's actions were unexpected and were not representative of his past behavior.

Morris remained at the alternative school for the remainder of the academic school year. Twice that semester, once in April and again in May, the Alternative Placement Committee recommended to the Superintendent that Morris return to IHS due to his good behavior, attendance and performance. The Superintendent had never previously rejected a recommendation of the Alternative Placement Committee, but he rejected both of the recommendations. JANE DOE did not see Morris for the remainder of the school year, as he was not present at IHS and no longer on the cheerleading team.

In August of the following year, JANE DOE began her 11th grade year at IHS. One month after school started, Morris was allowed to return to IHS for 10th grade. Upon discovering Morris was back at IHS, Mr. DOE met with the Superintendent to communicate his displeasure with the decision to allow Morris to return. Mr. DOE told the Superintendent that he believed that Morris's presence would "revictimize" his daughter and affect her experience as a student at IHS. He also informed the Superintendent that he was worried for his daughter's safety. Principal Fields instructed the assistant principals to monitor the hallways during class change to watch out for potential contact between Morris and JANE DOE. Additionally, Principal Fields compared JANE DOE and Morris's class schedules to ensure that they would not have any classes together. Upon learning that JANE DOE and Morris had the same lunch period, Principal Fields required Morris to eat lunch in a separate room.

JANE DOE testified that Morris neither attempted to make contact with her nor took any actions towards her during the school year. Moreover, JANE DOE testified that since the incident she has experienced no other incidents of sexual harassment at IHS by anyone.