



allegations of this paragraph are deemed to be wholly factual in nature, it is specifically denied that the District discriminated against Plaintiff in any respect, and strict proof to the contrary is demanded at the time of trial.

### **PARTIES**

2. Admitted.

3. Admitted upon information and belief.

4. The District is without sufficient knowledge to admit or deny the veracity of this averment.

5. The District is without sufficient knowledge to admit or deny the veracity of this averment.

6. Admitted.

7. Admitted.

### **JURISDICTION AND VENUE**

8. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required.

9. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required.

10. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required.

11. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required.

**ALLEGATIONS APPLICABLE TO ALL CLAIMS**

12. Admitted.

13. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

14. Admitted.

15. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial. By way of further response, it is specifically denied that any discriminatory policies or practices were implemented.

16. The District is without sufficient knowledge to admit or deny the veracity of this averment.

17. The District is without sufficient knowledge to admit or deny the veracity of this averment.

18. The District is without sufficient knowledge to admit or deny the veracity of this averment.

19. The District is without sufficient knowledge to admit or deny the veracity of this averment.

20. Denied. Tracey Handling informed the District of A.H.'s gender transition in January 2015.

21. Denied. The allegations as set forth in Paragraph 21 are denied and strict proof thereof is demanded at the time of trial. Tracey Handling informed the District of A.H.'s gender transition in January 2015.

22. Admitted upon information and belief.

23. Denied. The allegations as set forth in Paragraph 23 are denied and strict proof thereof is demanded at the time of trial. Tracey Handling did not inform the District of A.H.'s gender transition until January 2015.

24. Denied. The allegations as set forth in Paragraph 24 are denied and strict proof thereof is demanded at the time of trial. Tracey Handling did not inform the District of A.H.'s gender transition until January 2015.

25. Denied. The allegations as set forth in Paragraph 25 are denied and strict proof thereof is demanded at the time of trial.

26. Admitted with clarification. The unisex bathroom was provided for use by any student.

27. Denied. The allegations as set forth in Paragraph 27 are denied and strict proof thereof is demanded at the time of trial.

28. Admitted that Dr. McBreen advised A.H.'s parent that the District was using all reasonable efforts to accommodate A.H.

29. Admitted with clarification. The kindergarten bathrooms are private and unisex.

30. Denied. The allegations as set forth in Paragraph 30 are denied and strict proof thereof is demanded at the time of trial. By way of further response, the restroom facilities available to students on field trips are not within the control or purview of the District.

31. It is admitted that field trips are under the supervision of the District. The remainder of the allegation as set forth in Paragraph 31 is denied. By way of further response, the restroom facilities available to students on field trips are not within the control or purview of the District.

32. The District is without sufficient knowledge to admit or deny the veracity of this averment.

33. Denied. The allegations as set forth in Paragraph 33 are denied and strict proof thereof is demanded at the time of trial. By way of further response, the restroom facilities available to students on field trips are not within the control or purview of the District.

34. Denied. The allegations as set forth in Paragraph 34 are denied and strict proof thereof is demanded at the time of trial. By way of further response, the restroom facilities available to students on field trips are not within the control or purview of the District.

35. Denied. The allegations as set forth in Paragraph 35 are denied and strict proof thereof is demanded at the time of trial.

36. Denied. The allegations as set forth in Paragraph 36 are denied and strict proof thereof is demanded at the time of trial. By way of further response, at no time was A.H. singled out.

37. Denied. The allegations as set forth in Paragraph 37 are denied and strict proof thereof is demanded at the time of trial. By way of further response, no students made any comments.

38. The District is without sufficient knowledge to admit or deny the veracity of this averment. However, A.H. informed the teachers that it was a great trip and did not complain about the experience to any teachers.

39. Admitted.

40. Denied. The allegations as set forth in Paragraph 40 are denied and strict proof thereof is demanded at the time of trial.

41. Admitted.

42. Denied. The allegations as set forth in Paragraph 42 are denied and strict proof thereof is demanded at the time of trial.

43. Denied. The allegations as set forth in Paragraph 43 are denied and strict proof thereof is demanded at the time of trial.

44. Admitted.

45. Admitted that Tracey Handling made statements to Principal Yacobacci. It is denied that A.H. was a target, and it is denied that any other classmates made any comments.

46. Denied. The allegations as set forth in Paragraph 46 are denied and strict proof thereof is demanded at the time of trial. Principal Yacobacci never made this statement.

47. Denied. The allegations as set forth in Paragraph 47 are denied and strict proof thereof is demanded at the time of trial.

48. Denied. The allegations as set forth in Paragraph 48 are denied and strict proof thereof is demanded at the time of trial.

49. Denied. The allegations as set forth in Paragraph 49 are denied and strict proof thereof is demanded at the time of trial.

50. Denied. The allegations as set forth in Paragraph 50 are denied and strict proof thereof is demanded at the time of trial.

51. Admitted.

52. Denied. The allegations as set forth in Paragraph 52 are denied and strict proof thereof is demanded at the time of trial.

53. Denied. The allegations as set forth in Paragraph 53 are denied and strict proof thereof is demanded at the time of trial.

54. Denied. The allegations as set forth in Paragraph 54 are denied and strict proof thereof is demanded at the time of trial.

55. Denied. The allegations as set forth in Paragraph 55 are denied and strict proof thereof is demanded at the time of trial.

56. Denied. The allegations as set forth in Paragraph 56 are denied and strict proof thereof is demanded at the time of trial.

57. Admitted with clarification. There is no policy or procedure that indicates that a child must use the restroom which corresponds to the sex listed on that child's birth certificate.

58. Admitted with clarification. There is no policy or procedure that indicates that a child must use the restroom which corresponds to the sex listed on that child's birth certificate.

59. Admitted.

60. Denied. The allegations as set forth in Paragraph 60 are denied and strict proof thereof is demanded at the time of trial.

61. It is admitted that Tracey Handling had conversations with Dana Sukeena and Dr. McBreen. It is denied that Principal Yacobacci repeatedly used male pronouns when referring to A.H.

62. Admitted.

63. Admitted upon information and belief.

64. Admitted upon information and belief.

65. Admitted.

66. Admitted.

67. Admitted.

68. It is admitted that there are no individual bathrooms in the classrooms after kindergarten. The remainder of the allegation as set forth in Paragraph 68 is denied.

69. Denied. The allegations as set forth in Paragraph 69 are denied and strict proof thereof is demanded at the time of trial.

70. Admitted.

71. Denied. The allegations as set forth in Paragraph 71 are denied and strict proof thereof is demanded at the time of trial. By way of further response, the restroom facilities available to students on field trips are not within the control or purview of the District.

72. Denied. The allegations as set forth in Paragraph 72 are denied and strict proof thereof is demanded at the time of trial. By way of further response, the restroom facilities available to students on field trips are not within the control or purview of the District.

73. Denied. The allegations as set forth in Paragraph 73 are denied and strict proof thereof is demanded at the time of trial.

74. Admitted.

75. Admitted. Security clearances are required for all chaperones.

76. It is admitted that Tracey Handling did not chaperone. It is admitted that she did appear at the field trip. The remainder of the allegations is denied and strict proof thereof is demanded at the time of trial. Tracey Handling did not speak to anyone on the field trip.

77. It is admitted that A.H. used the bathroom accompanied by her mother without incident.

78. Denied. The allegations as set forth in Paragraph 78 are denied and strict proof thereof is demanded at the time of trial.

79. Denied. The allegations as set forth in Paragraph 79 are denied and strict proof thereof is demanded at the time of trial.

80. Denied. The allegations as set forth in Paragraph 80 are denied and strict proof thereof is demanded at the time of trial.

81. Admitted.

82. Admitted to the extent the "Dear Colleague" letter referenced in this Paragraph speaks for itself.

83. Denied. The allegations as set forth in Paragraph 83 are denied and strict proof thereof is demanded at the time of trial.

84. It is admitted that Dr. McBreen stated that issues would be handled on a case by case basis. It is denied that Dr. McBreen said that there would never be an official policy.

85. Admitted with clarification. A.H. was permitted to use the woman's restroom for the remaining nine (9) days of the school and continues to do so currently.

86. Denied. The allegations as set forth in Paragraph 86 are denied and strict proof thereof is demanded at the time of trial.

87. Denied. The allegations as set forth in Paragraph 87 are denied and strict proof thereof is demanded at the time of trial.

88. Admitted.

89. Denied. The allegations as set forth in Paragraph 89 are denied and strict proof thereof is demanded at the time of trial.

90. Denied. The allegations as set forth in Paragraph 90 are denied and strict proof thereof is demanded at the time of trial.

91. Admitted upon information and belief.

92. Denied. The allegations as set forth in Paragraph 92 are denied and strict proof thereof is demanded at the time of trial.

93. Denied. The allegations as set forth in Paragraph 93 are denied and strict proof thereof is demanded at the time of trial.

94. Denied. The allegations as set forth in Paragraph 94 are denied and strict proof thereof is demanded at the time of trial.

95. Denied. The allegations as set forth in Paragraph 95 are denied and strict proof thereof is demanded at the time of trial.

96. Denied. The allegations as set forth in Paragraph 96 are denied and strict proof thereof is demanded at the time of trial.

97. Denied. The allegations as set forth in Paragraph 97 are denied and strict proof thereof is demanded at the time of trial.

**COUNT I**

**VIOLATION OF TITLE IX OF THE EDUCATION  
AMENDMENTS OF 1972**

**20 U.S.C. § 1681, *et seq.***

**A.H.**

**v.**

**MINERSVILLE AREA SCHOOL DISTRICT**

98. The District incorporates by reference herein the proceeding paragraphs of this Answer as if fully set forth at length.

99. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

100. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

101. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

102. Admitted.

103. Admitted.

104. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial. By way of further response, it is specifically denied that the District discriminated against Plaintiff on the basis of sex.

105. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial. By way of further response, it is specifically denied that the District discriminated against Plaintiff on the basis of sex.

**WHEREFORE**, Defendant, Minersville Area School District, requests that Count I of Plaintiff's Amended Complaint be dismissed in its entirety with prejudice, together with costs of suit and such other relief as the Court deems appropriate.

**COUNT II**  
**DEPRIVATION OF EQUAL PROTECTION IN VIOLATION OF  
THE FOURTEENTH AMENDMENT OF THE UNITED STATES  
CONSTITUTION**  
**A.H.**  
**v.**  
**MINERSVILLE AREA SCHOOL DISTRICT**

106. The District incorporates by reference herein the proceeding paragraphs of this Answer as if fully set forth at length.

107. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

108. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

109. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

110. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

111. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

112. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

113. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of

this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

114. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

115. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

116. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

117. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

118. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

119. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

120. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

121. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial. By way of further response, it is specifically denied that the District discriminated against Plaintiff on the basis of sex.

122. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

123. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

124. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

125. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

126. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of

this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

127. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

128. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

129. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

130. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial. By way of further

response, it is specifically denied that the District discriminated against Plaintiff on the basis of sex.

131. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

132. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

133. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

134. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

135. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

136. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

137. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

138. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

139. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of

this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

140. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

141. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

142. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

143. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

144. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

145. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

146. Denied. The allegations of this paragraph constitute a conclusion of law to which no further response is required. To the extent that the allegations of this paragraph are deemed to be wholly factual in nature, the allegations are denied and strict proof thereof is demanded at the time of trial.

**WHEREFORE**, Defendant, Minersville Area School District, requests that Count II of Plaintiff's Amended Complaint be dismissed in its entirety with prejudice, together with costs of suit and such other relief as the Court deems appropriate.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff has failed to state a claim under 42 U.S.C. §1983 or a violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et. seq.* upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

If Plaintiff has sustained legally cognizable damages, such damages were caused by Plaintiff's own acts and omissions and not by any act or omission of the District.

**THIRD AFFIRMATIVE DEFENSE**

Some or all of Plaintiff's claims may be barred by the applicable statutes of limitation as discovery may reveal.

**FOURTH AFFIRMATIVE DEFENSE**

The District acted in good faith and with reasonable cause to believe that it was complying with its responsibilities under Title IX, the United States Constitution, and all other provisions of applicable federal and state law.

**FIFTH AFFIRMATIVE DEFENSE**

The District denies that it is liable for any act or omission that would permit the Plaintiff to recover any of the relief requested by this Amended Complaint.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate her damages to the extent required by law.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff has not sustained any actual, compensable damages.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to an award of punitive damages, compensatory damages, consequential damages, pre- or post-judgment interest or the recovery of attorneys' fees and costs.

**NINTH AFFIRMATIVE DEFENSE**

The District hereby invokes all rights and defenses which may be available under Title IX and 42 U.S.C. §§1981-1988.

WHEREFORE, Defendant, Minersville Area School District, respectfully requests that this Honorable Court enter judgment in its favor and against Plaintiff; dismiss Plaintiff's claims with prejudice and further award all such other relief as is just and proper.

Respectfully submitted,

MARSHALL, DENNEHEY,  
WARNER, COLEMAN & GOGGIN

DATE: December 6, 2017

BY: /s/Christopher J. Conrad  
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*Attorneys for Defendant Minersville  
Area School District*

**CERTIFICATE OF SERVICE**

I, Christopher J. Conrad, Esquire, of Marshall Dennehey Warner Coleman & Goggin, do hereby certify that I served a true and accurate copy of the foregoing document via the electronic court filing system, on the below date, as follows:

David L. Deratzian, Esquire  
Hahalis & Kounoupis, PC  
20 East Broad Street  
Bethlehem, PA 18018

MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN

Dated: December 6, 2017

BY: /s/Christopher J. Conrad  
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