

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JANE DOE, Individually and As Next §
Friend of LISA DOE, §
and LISA DOE, Individually §
V. § CIVIL ACTION NO. G-11-422
ALVIN INDEPENDENT SCHOOL §
DISTRICT, ET AL. §

OPINION AND ORDER

This case is now before the Court with the consent of the Parties pursuant to 28 U.S.C. § 636(b)(1)(c).

On February 3, 2012, this Court held a Hearing with counsel of record on the Defendants’ Motion to Dismiss (Instrument no. 5). Having considered the Motion, the Parties’ submissions and arguments, and the applicable law, the Court now issues this brief Opinion and Order.

For the reasons expressed by the Court during the Hearing, it is **ORDERED** that the Defendants’ Motion is **GRANTED** as to the Plaintiffs’ § 1983 failure to protect claim based upon the existence of a special relationship; the Plaintiffs’ Title IX claims; and the Plaintiffs’ negligence claim against Alvin Independent School District and those claims are hereby **DISMISSED**, without prejudice to being reasserted if discovery discloses evidence of the claims’ viability.

It is further **ORDERED** that the Defendants’ Motion is **DENIED** as to Plaintiffs’ § 1983 failure to protect claim based upon the existence of a “state created danger” pending the completion of adequate discovery and **DENIED** as to Plaintiffs’ § 1983 gender discrimination claim since the allowed discovery may also be relevant to the proper disposition of this claim.

DONE at Galveston, Texas, this 29th day of February, 2012.



John R. Froeschner
United States Magistrate Judge