

# GRAPPLING WITH A SHIFT IN CULTURE: THE #MeToo REVOLUTION AND TITLE IX

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September 21, 2018



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# Significant Shift in Focus and Awareness of Sexual Harassment in the Workplace

- 100+ public, high profile sexual harassment accusations made against celebrities, public figures, politicians, and corporations.
- 1998: 36% of Americans described sexual harassment as “a very serious problem.”
- 2017: 70% of Americans described sexual harassment as “a very serious problem.”



# #MeToo – How did we get here?

- The “Me Too” Movement—2006
  - Created by Tarana Burke.
  - Assist survivors of sexual violence, particularly women of color from low income communities, find a pathway to healing.
- #MeToo—2017



# Overall Impact of #MeToo

- Over 500K people responded to Milano's tweet in the first 24 hours.
- #MeToo was used by 4.7 Million people in 12 Million posts during the first 48 hours.
- 45% of U.S. users have friends with #MeToo posts.
- #MeToo reached every continent and 85 countries.
- It was heavily reproduced in the U.S., Europe, India, and Australia.



# Impact of #MeToo in Academia

- 2015 Association of American Universities Climate Survey
  - 27 prominent universities surveyed
  - 10% female graduate and professional students experience SH from faculty/staff
- 2017 Cultivating Learning and Safe Environments (CLASE) UT System Study
  - 14% of students experienced SH from faculty/staff
  - 19% of female graduate and professional students experience “sexist gender harassment”
  - 9% of female graduate and professional students experience “crude sexual harassment”
- 2018 National Academies of Sciences, Engineering and Medicine Climate Survey
  - 3 types of SH found = sexual coercion, unwanted sexual attention and gender harassment
  - 50% of women faculty/staff in academia experience SH
  - 20-50% of female students in science, engineering and medicine experience SH from faculty/staff





# Impact of #MeToo at UT System

- Since #MeToo, there has been an increase in cases involving allegations of sexual harassment.
  - Students against faculty
    - Within last 2 years year, increase in cases involving initiation of termination proceedings under UT System’s *Regents Rule 31008*.
  - Staff against key employees—*i.e.*, the “untouchables”



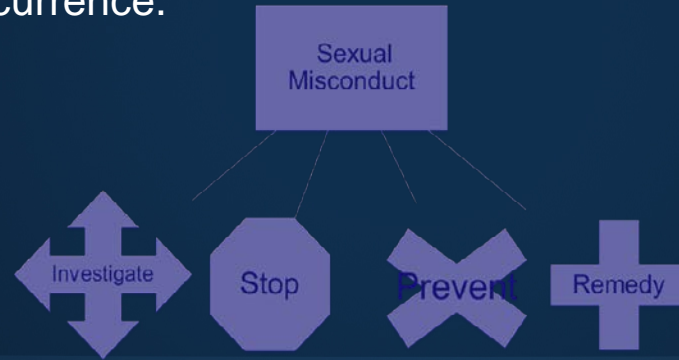
## Title IX – Remind me again...?

*“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”*



# Refresher on Title IX Compliance: The Big Picture

- Investigate when there is actual or constructive notice of sexual harassment/sexual misconduct
- Take prompt and effective action to:
  - Stop the misconduct;
  - Remedy the effects of harassment; and
  - Prevent the recurrence.





# Case Study 1: The “Groomer”



Katie Holmes and Michael Douglas in *Wonder Boys*



# Case Study 1: The “Groomer”

- Stacy Studious was recently accepted as a graduate student in the Ph.D. program in Biomedical Engineering, College of Engineering.
- Dr. Justin Jett is an Associate Professor in the College of Engineering.
  - He has over \$1 million in grants for his research in biomaterials and tissue engineering and world-renowned in his area of search.



# Case Study 1: The “Groomer”

- Stacy is well aware of Justin’s research accolades and immediately sends him an email.

Dr. Jett:

As you may know, I was recently admitted into the Biomedical Engineering Ph.D. program and am highly interested in concentrating in the biomaterials/tissue engineering track—which is your area of expertise. I am hoping you are interested in being my graduate advisor and would love an opportunity to meet with you over coffee to discuss my research and career path.

Best regards, Stacy



# Case Study 1: The “Groomer”

- Dr. Jett responded to Stacy’s email and invites her to his office the following Monday afternoon.
- As Stacy walks into his office, Dr. Jett immediately notices Stacy’s striking green eyes, short dress and long legs and says: “Well, aren’t you a sight for sore eyes!”
- Stacy was visibly uncomfortable (yet blushing). But she smiled, shook his hand and responded: “It is a true privilege to finally meet you, Dr. Jett.”
- After the meeting, Dr. Jett told Stacy he was impressed by her application, her knowledge and would be delighted to be her supervising professor and research advisor.



# Case Study 1: The “Groomer”

- Within the first two months of the academic year, Stacy visited several times with Dr. Jett to discuss her courses, research and plans for completing the program. Those meetings either took place in his office, campus coffee shops or local restaurants.
- Dr. Jett repeatedly praised Stacy about her intellect and her “killer good looks.”
- At one of their meetings at a restaurant, Dr. Jett asked Stacy about her sex life and whether she was interested in dating older men.





# Case Study 1: The “Groomer”

- During the last week of October, Dr. Jett invited Stacy to attend his annual Halloween party where other students and faculty within the department would be in attendance.
- Stacy went to the party and consumed several beers throughout the evening.
- Stacy and Dr. Jett socialized at the party and engaged in reciprocal flirting; and she was the last to leave. As she was leaving, Stacy threw herself at Dr. Jett and they kissed passionately for several minutes.
- The following week, Dr. Jett and Stacy began seeing each other romantically and eventually began having a sexual relationship. They would often have sex in his office, her apartment and his home.



# Case Study 1: The “Groomer”

- The two were inseparable. And often “sexted,” flirted in the lab and exhibited excessive “touchiness” in the lab.
- The sexual encounters between Dr. Jett and Stacy that occurred off campus often involved alcohol after evenings of “bar hopping.”
- By the spring semester, other faculty and students began to notice that the two were close.
- Stacy’s female colleague/friend, Lucy, approached her and told her that people were gossiping about her relationship with Dr. Jett and were resentful that Stacy was getting better research opportunities.



# Case Study 1: The “Groomer”

- Stacy ended the relationship near the end of her first academic year.
- For the spring semester, Dr. Jett awarded Stacy zero research credit hours—which led to Stacy losing her teaching assistant position.
- Stacy reached out to Dr. Jett in attempt to clear the air and decided to continue her relationship for fear of losing out on research opportunities.
- Subsequently, the sexual encounters between Stacy and Dr. Jett were exclusively in his office and were limited to oral sex performed by Stacy.
- Other than the sexual encounters, Dr. Jett rarely communicated with Stacy and began to ignore her.



# Case Study 1: The “Groomer”

- Stacy told Dr. Jett that she could no longer continue the relationship, that she was depressed and that she needed help.
- Dr. Jett discouraged her from seeking help.
- Stacy was devastated and told her friend, Lucy, the details about relationship and that she was afraid to come forward with a complaint stating “I don’t want this to ruin my career!”
- Lucy went to the Title IX Office and shared Stacy’s story.



# Case Study 1: The “Groomer”

- The Title IX investigation found sufficient evidence supporting violations of both the sexual misconduct and consensual relationship policies.
  - The investigation also found that Dr. Jett had engaged in at least 3 other sexual relationships with former students and current students.





## Case Study 1: The “Groomer”

The Provost comes to you as the Chief Legal Officer and asks for your advise.

- What do you do?



# Legal and Practical Considerations

- What is the appropriate disciplinary action, if any?
  - Suspension? Termination?
  - Liability if the University does not take disciplinary action?
- Media/publicity concerns?
- How do we stop the culture of the “groomer”?
  - Education? Training? Does it work?
  - Has the #MeToo Movement helped in getting people to come forward?
  - How do we encourage students and faculty to continue to come forward?
- How do we address retaliation and fear of retaliation?
- Concerns about false reporting?
  - How do we deal with false reports?
  - Assistance to faculty members?
  - False vs. Perception/Misunderstanding



# Case Study 2: The “Untouchable”



## Case Study 2: The “Untouchable”

- The Dean of the Medical School is an alum and has been at the University for most of his career.
- It is rumored that he is on the short list to take over when the president retires.
- He is well-connected in the community and an excellent fundraiser.
- He is known to be a demanding boss but is generally well-liked on campus.





## Case Study 2: The “Untouchable”

You receive an anonymous hotline report about the following scenario:

- Dean asks someone from the development office “JJ”, to accompany him to a dinner with a donor.
- All three of them are drinking wine with dinner, though the donor has had more than his share.
- The donor starts to make suggestive comments to JJ and put his hand on JJ’s leg.





## Case Study 2: The “Untouchable”

- JJ is clearly uncomfortable, but the Dean laughs along with the donor.
- When the donor gets up to use the restroom, the Dean chastises JJ for not reciprocating the donor’s flirtation. Dean tells JJ to get over it and do what needs to be done to make the donor happy. Dean asks JJ, “Why do you think I asked you to attend? This is your chance to prove you have what it takes to succeed in development.”



## Case Study 2: The “Untouchable”

- At the end of the dinner, the Dean announces that he has an early meeting but that JJ would be happy to take the donor out for a nightcap.
- While at the bar having a nightcap, the donor put his arm around JJ and groped JJ’s buttocks and inner thigh.
- The anonymous report indicates that this is not the first time the Dean has suggested that sex appeal be used to encourage donors.
- Anonymous report also says that others have asked to be assigned to assist other deans or have left the university entirely because they have been put in similar situations.



## Case Study 2: The “Untouchable”

- Because of the sensitivities involved, HR and the Title IX Coordinator come to you for advice.
- You review HR records and determine that there is nobody by the name of, or with the initials, “JJ” in the development office.
- What do you do?



# Legal and Practical Considerations

- Do you launch a full investigation when you cannot identify a complainant?
- Who conducts the investigation?
- Where do you start?
- What do you tell the Dean about the allegations and investigation?
- How do you manage the political dynamics?
- How do you reduce the risk of retaliation? Investigation interference?



## Case Study 2: The “Untouchable”

- During the course of the investigation, several witnesses provide accounts of similar behavior by the Dean, though there is no suggestion that the Dean ever made any sexual advances himself.
- Several individuals indicated that they had been harassed by this donor and identify two other donors who have engaged in similar behavior.
- The Dean denies the allegations against him but admits that he has observed one of the donors being a little, “handsy.”





# Legal and Practical Considerations

- Assuming the evidence of misconduct is credible and a violation of the policy is found, who determines disciplinary action?
- What should the disciplinary action be?
- Does it matter that he did not actually make the comments or do the touching?
- Would it matter if the Dean were a woman?
- What do you do about the donors?

