
NOTE

#METOO AND U. THE EFFECT OF INEFFECTUAL SEXUAL ASSAULT REMEDIES AT UNIVERSITIES AND HOW #METOO COULD AFFECT THE PANDEMIC OF UNDERREPORTING

LAUREN E. FRANKLIN

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Abstract—The frequency of campus sexual assaults has perplexed college and university administrators, lawmakers, parents, and students for decades. While lawmakers have created federally mandated protections at schools throughout the country through the adoption of Title IX, more women are now being sexually assaulted on campuses than ever before. What is worse is that these on-campus sexual assaults continue to go unreported to schools and local authorities. Part of the reason for this underreporting phenomenon may be the lack of accountability that the perpetrators face from schools even if they are found to be responsible for the sexual assaults. However, in the wake of the #MeToo phenomenon and a recent North Carolina Court of Appeals decision, victims are reclaiming their silenced voice and the media is exploiting the perpetrators' monstrous crimes in the name of justice. The scope of this article will provide an examination into the Title IX requirements for colleges and universities receiving federal funding, walk through the disciplinary tribunal available for resolving an on-campus sexual assault at the University of North Carolina at Wilmington, and explore how the #MeToo movement and decision in *DTH Media Corporation v. Folt* could affect victim reporting.

I. INTRODUCTION

Imagine you are a parent, about to send your daughter off to college. In addition to the emotions of excitement that your child is going to learn how to live on her own and the bittersweet sadness that her years living at home have come to an end, parents also have to worry and hope that their daughter is not going to be among the one in four to five women that are sexually assaulted while in college.¹ While almost all of these sexual assaults go unreported, the victims live with the traumatic aftermath for the rest of their lives.²

Many sexual assault survivors, activists, and politicians attribute responsibility to the colleges and universities to prevent and combat on-campus sexual assault.³ The standard that schools across the United States

¹ *Statistics About Sexual Violence*, NAT. SEXUAL VIOLENCE RES. CTR. (2015), https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-packet_statistics-about-sexual-violence_0.pdf.

² Bonnie S. Fisher et al., *The Sexual Victimization of College Women*, NAT. INST. OF JUST.: BUREAU OF JUST. STAT. (Dec. 2000), <https://www.ncjrs.gov/pdffiles1/nij/182369.pdf>.

³ See Janet Napolitano, "Only Yes Means Yes: An Essay on University Policies Regarding Sexual Violence and Sexual Assault," 33 *YALE L. & POL'Y REV.* 387, 388–89 (2015) ("Underlying any critique of the current processes for investigation, adjudication, and prevention shaped by federal law is the concern that we in higher education are doing right by those who have

must meet to protect their students against sexual violence comes from the U.S. Department of Education⁴ under the guidelines set forth in Title IX.⁵ While Title IX has changed in its requirements over the last few Administrations,⁶ none of the various versions have eliminated this perpetuating issue.⁷

Some of the blame may be placed on the disciplinary proceedings universities and colleges utilize to adjudicate sexual assault allegations.⁸ In compliance with Title IX, universities and colleges are required to investigate sexual assault violations and adjudicate them accordingly.⁹ In the rare event the accused is found responsible for the sexual violence, he is most likely to receive mere academic suspension, educational sanctions, probation or a combination of these.¹⁰

While college students should have the luxury of relying on their universities to justly adjudicate these attacks, the answer to this epic problem may lie within the realm of social media rather than within the hands of politicians and school administrators. In the wake of the celebrity #Me-Too phenomenon in 2017, women all over the world feel empowered to

suffered sexual violence and sexual assault, and doing all that is within our power to prevent sexual violence and sexual assault from happening in the first place.”)

⁴ See OFF. FOR CIV. RTS., *September 2017 Q&A on Campus Sexual Misconduct*, U.S. DEP’T OF EDUC., <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf> (Title IX guidance created by the Department of Education under President Trump’s Administration).

⁵ See 20 U.S.C. § 1681(a) (2012).

⁶ See OFF. FOR CIV. RTS., *Dear Colleague*, U.S. DEP’T OF EDUC. (Apr. 4, 2011), <https://www2.ed.gov/about/list/ocr/letters/colleague-201104.pdf> (Title IX guidance created by the Department of Education under President Obama’s Administration) [hereinafter *Dear Colleague*]; see also Kimberly Hefling & Caitlin Emma, *Obama-era school sexual assault policy rescinded*, POLITICO (Sept. 22, 2017), <https://www.politico.com/story/2017/09/22/obama-era-school-sexual-assault-policy-rescinded-243016>; OFF. FOR CIV. RTS., *supra* note 4.

⁷ John Haltiwanger, *Campus Sexual Assault Reports Have Tripled in the Past Decade*, ELITE DAILY (May 16, 2017), <https://www.elitedaily.com/news/politics/reports-campus-sexual-assault-tripled-heres-really-means/1953903>.

⁸ Emily D. Safko, Note, *Are Campus Sexual Assault Tribunals Fair?: The Need For Judicial Review And Additional Due Process Protections In Light Of New Case Law*, 84 FORDHAM L. REV. 2289, 2302 (2016).

⁹ *Id.* at 2294. See Matthew R. Triplett, Note, *Sexual Assault on College Campuses: Seeking the Appropriate Balance Between Due Process and Victim Protection*, 62 DUKE L.J. 487, 492–93 (2012).

¹⁰ Tyler Kingkade, *Fewer Than One-Third of Campus Sexual Assault Cases Result in Expulsion*, HUFFINGTON POST, https://www.huffingtonpost.com/2014/09/29/campus-sexual-assault_n_5888742.html (last updated Dec. 6, 2017).

speak out against their sexual abusers and share their stories of victimhood.¹¹ Fast forward a year later, the North Carolina Court of Appeals ruled that the University of North Carolina at Chapel Hill could not protect the names of students found by the University to have violated its campus sexual assault policy.¹² This judicial decision coupled with the empowering social media #MeToo movement will hopefully set the tone for an era in which the underreporting pandemic ceases to exist on university campuses.

To analyze the issues and implications of the aforementioned, Part II of this article will provide an overview of Title IX requirements, and then walk through the reporting procedures and disciplinary proceedings used by the University of North Carolina at Wilmington to address sexual assault allegations.¹³ Next, Part III will examine the factors that could be affecting the underreporting of campus sexual assaults.¹⁴ Part IV.A. will explore how the #MeToo movement is helping victims reclaim their voice and fill the void where their universities have failed them, while Part IV.B. will explore a recent North Carolina Court of Appeals decision that reflects society's demand for attacker responsibility and exposure.¹⁵ Lastly, Part IV.C. will examine the policy arguments made in the Court of Appeals case by the University of North Carolina at Chapel Hill (Defendant) and consider the implications of the verdict on future campus sexual assaults and reporting.¹⁶

II. TITLE IX AND UNIVERSITY CAMPUS TRIBUNALS

It seems that everyone has at least some familiarity with the term "Title IX," whether they heard it in a passing conversation, saw it covered

¹¹ See *infra* Part IV.A.

¹² DTH Media Corp. v. Folt, 816 S.E.2d 518, 520 (N.C. Ct. App. 2018). Since the time this article was written for publication, the following updates have ensued: On May 17, 2018 the North Carolina Supreme Court allowed Folt's motion for a Temporary Stay. DTH Media Corp. v. Folt, 813 S.E.2d 251 (N.C. 2018). On October 24, 2018, the North Carolina Supreme Court allowed Defendant Folt's petition for discretionary review under N.C. Gen. Stat. § 7A-31. DTH Media Corp. v. Folt, 819 S.E.2d 376 (N.C. 2018). As of April 17, 2019, Defendant-Appellant Folt has submitted a new brief for review and an Amici Curiae Brief of Victim Rights Organizations has been submitted. Brief for Defendant-Appellant, DTH Media Corp. v. Folt, 2018 WL 6977736 (N.C. 2018); Brief of Victim Rights Organizations as Amici Curiae Supporting Appellant, DTH Media Corp. v. Folt, 2018 WL 6977622 (N.C. 2018). See also *infra* Part IV.B.

¹³ *Infra* Part II.

¹⁴ *Infra* Part III.

¹⁵ *Infra* Part IV.A.-B.

¹⁶ *Infra* Part IV.C.

in a blurb of a news story, or heard it being mentioned during their college orientation. As a brief overview, Title IX is a federal law that was passed with the Education Amendments of 1972 to reform sexual discrimination and sexual violence in educational programs and activities.¹⁷ Title IX governs all colleges, universities, public schools, private schools, and school districts that receive federal funds,¹⁸ so basically every educational program or activity you can think of. At first glance, the legislation seems simple and easy to comprehend and implement. However, the complexities and innerworkings of Title IX escape not only the lay person, but even scholars, school administrators, and politicians as well.¹⁹

A. Title IX Overview

Due to the complexities of Title IX interpretation and application, the United States Department of Education has made everything from bullet-pointed handouts to detailed checklists to aid educational institutions in their efforts to comply with the federal law.²⁰ Some universities take matters into their own hands, publishing their own checklists and PowerPoint presentations to break down Title IX compliance requirements.²¹ With all of this information readily available, parents and students across the United States should feel knowledgeable about federal requirements in place to protect students from sexual violence, and feel confident in

¹⁷ OFF. FOR CIV. RTS., *Know Your Rights: Title IX Requires Your School to Address Sexual Violence*, U.S. DEP'T OF EDUC. 1, 1, <https://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201404-title-ix.pdf>.

¹⁸ *Id.*

¹⁹ See Anna North, *Betsy DeVos just rolled back protections for sexual assault survivors*, VOX MEDIA (Sept. 22, 2017, 1:22 PM), <https://www.vox.com/policy-and-politics/2017/9/7/16266548/betsy-devos-title-ix-college-sexual-assault>. See also Kevin M. Swartout et al., *Trajectory Analysis of the Campus Serial Rapist Assumption*, 169 JAMA PEDIATRICS 1148, 1152 (2015).

²⁰ See OFF. FOR CIV. RTS., *supra* note 17; OFF. FOR CIV. RTS., *Q&A on Campus Sexual Misconduct*, U.S. DEP'T OF EDUC. (Sept. 2017), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>? [hereinafter *Q&A*]; OFFICE FOR CIVIL RIGHTS, *Title IX Resource Guide*, U.S. DEP'T OF EDUC. (Apr. 2015), <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>.

²¹ Focusing on North Carolina public universities for the scope of this article, see *Safe at NC State*, N.C. ST. UNIV., <https://oied.ncsu.edu/divweb/safe/about-title-ix/>; *What is Title IX*, N.C. A&T UNIV., <https://www.ncat.edu/hr/title-IX/index.html>; *Title IX & Clery Compliance*, UNIV. OF N.C. AT PEMBROKE, <https://www.uncp.edu/resources/title-ix-clery-compliance>; *Office of Equity, Diversity, & Compliance, Harassment, Discrimination, and Retaliation: Title IX*, APPALACHIAN ST. UNIV., <https://edc.appstate.edu/harassment-discrimination-and-retaliation>; *Office of Title IX & Clery Compliance*, UNIV. OF N.C. AT WILMINGTON, <https://uncw.edu/titleix/policies/index.html>.

schools' programs and policy safeguards ensuring that protections are enforced. In the face of all of this transparency by the federal government, universities, colleges, and schools, why is it that one in four to five college women will be sexually assaulted and that, out of those victims, ninety-one percent of them will not report the crime to either their school or local authorities?²²

When considered in the context of the Education Amendments of 1972,²³ the underlying motivation behind Title IX is apparent—to ensure that students are not “denied or limited” in their ability to “participate in or benefit from the school’s programs or activities.”²⁴ Title IX sets forth a governmental acknowledgement that sexual assault at schools affects the victim’s right to participate in and benefit from the school’s education.²⁵ Title IX applies to male and female students, both part-time and full-time students, and elementary through professional school students attending schools that receive federal aid.²⁶ In the context of student-on-student sexual assault, a student’s right to “participate in or benefit from” educational programs is violated when the school fails to, upon notice, utilize the procedures for a “prompt and equitable resolution of complaints.”²⁷

While the goal of Title IX is comprehensible and, notably, necessary, the real issue is with implementation and accountability by the U.S. Department of Education to hold universities, in particular, to the standards set forth in this federal legislation. In contrast to the comprehensible goal of Title IX are the convoluted messages by different presidential administrations as to the guidelines and requirements set forth by the U.S. Department of Education. In 2011, the U.S. Department of Education under the Obama Administration issued the “Dear Colleague” Letter²⁸ (the Letter), asserting that universities, colleges, and primary and secondary schools had a legal responsibility under Title IX to respond fairly and promptly to allegations of sexual assault, and to set forth guidelines for

²² *Statistics About Sexual Violence*, *supra* note 1, at 2; Fisher et al., *supra* note 2, at 10, 13.

²³ OFF. FOR CIV. RTS., *Questions and Answers on Title IX and Sexual Violence*, U.S. DEP’T OF EDUC. (Apr. 29, 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

²⁴ *Id.* at 1.

²⁵ *Id.*

²⁶ *Id.* at 5. Note, the 2017 “Q&A on Campus Sexual Misconduct,” which replaced the “Archived 2011 Questions and Answers and Title IX,” does not include a reference that Title IX applies to LGBT and disabled students, but the 2011 Q&A explicitly made such a reference. More differences are discussed *infra* Part II.A.

²⁷ OFF. FOR CIV. RTS., *supra* note 23, at 1.

²⁸ *Dear Colleague*, *supra* note 6.

how the institutions should handle such allegations.²⁹ This letter, coupled with the “2014 Questions and Answers and Title IX and Sexual Violence,”³⁰ served as the basis for which universities created their policies to comply with the administration’s stance on sexual violence and its effect on one’s right to education.³¹

However, with democracy, legislation favors those in office. In response to an anti-Obama-Era platform, the Trump Administration sought to undermine, challenge, and reverse as much of the residue of President Obama’s Administration as possible, including the “Dear Colleague” Letter.³² What is called a “step back” for campus sexual assault victims and survivors, Betsy DeVos, in her role as Secretary of Education under the Trump Administration, rescinded the Letter and accompanying guidelines in September of 2017.³³ With one reckless assertion of authority, DeVos repealed the Letter and issued an interim guide for universities to utilize until new guidance is produced by the Department of Education on this matter.³⁴

So, what’s the big deal? Well, the new interim guide changes a few significant rules set forth in the Letter. For one, the new guide allows university tribunals to change the standard for which they adjudicate sexual assault cases from a “preponderance of the evidence” standard to allowing schools to use a “clear and convincing evidence” standard.³⁵ Those opposed to this change assert that this creates a higher hurdle for sexual assault victims, ultimately serving to deter the victims from reporting if they think the perpetrator will not be found responsible due to this elevated standard of proof.³⁶ However, supporters of this elevated standard of proof believe that, as things stand now, the system favors the alleged victim and, therefore, campuses do not necessarily encourage victims to come forward

²⁹ *Id.*

³⁰ OFF. FOR CIV. RTS, *supra* note 23.

³¹ Molly Bangs, *In the Time of #MeToo, Will Colleges Hold the Line on Title IX?*, CENTURY FOUND. (Oct. 30, 2017), <https://tcf.org/content/commentary/time-metoo-will-colleges-hold-line-title-ix/>; U.S. CONST. amend. XIV.

³² North, *supra* note 19.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*; OFFICE FOR CIVIL RIGHTS, *supra* note 17.

³⁶ Ella Nilsen, *Betsy DeVos is starting to roll back the Obama-era fight against campus sexual assault*, VOX MEDIA (Sept. 22, 2017), <https://www.vox.com/policy-and-politics/2017/9/7/16263972/betsy-devos-sexual-assault-guidance>.

because it is likely that the victim will prevail in the tribunal, and inevitably, the ruling will look poorly on the university.³⁷ Accordingly, these supporters argue that the clear and convincing evidence standard will create a fairer “playing field” between the accused and the accuser, which would encourage universities to accurately report the number of campus sexual assaults without fear of losing federal funding.³⁸

In addition, other deviations from the Letter include the new policy that allows schools to deny the alleged victim the ability to appeal the tribunal’s decision, and the elimination of the time-limit requirement for which university authorities must complete their investigations.³⁹ Without a time limit, the victims that actually do report cannot be reassured that the process will be “prompt”—which is a primary reason for why some victims report to campus authorities as opposed to their local municipal authorities.⁴⁰

Responses to the revocation of the Letter and accompanying guidelines for Title IX compliance have varied among universities. While DeVos and the Department of Education will issue new guidelines in the near future, some universities, like the University of California Berkeley and the University of North Carolina at Wilmington, are either refusing or simply waiting to change their policies until required to do so.⁴¹

B. University Sexual Assault Tribunals

When dealing with the horrific aftermath of suffering from a sexual assault on a University of North Carolina campus, specifically, the victim

³⁷ *Id.*

³⁸ *Id.* See *infra* Part III.A. (discussing the Office of Civil Rights’ threat to revoke federal funding for schools found non-compliant with Title IX).

³⁹ OFF. FOR CIV. RTS., *supra* note 17.

⁴⁰ Michelle J. Anderson, *Campus Sexual Assault Adjudication and Resistance to Reform*, 125 YALE L.J. 1940, 1962 n.100 (citing Claire Gordon, *Why College Rape Victims Don’t Go to the Police*, AL-JAZEERA (May 19, 2014), <http://america.aljazeera.com/watch/shows/america-tonight/articles/2014/5/19/why-college-rapevictimsdonatgotothepolice.html>).

⁴¹ *Dear Colleague*, *supra* note 6; UNIV. OF N.C. WILMINGTON, *Student Gender-Based/Sexual Misconduct Policy*, <https://uncw.edu/policies/documents/04130StudentGenderBasedSexualMisconductPolicy.pdf> (last revised Aug. 16, 2018); 20 U.S.C. § 1092(f).

has three options: (1) not report the crime; (2) report the crime to the University; or (3) report the crime to the local municipal authorities.⁴² Therefore, the victim can essentially (1) do nothing and try to “move on” from the assault; (2) do something that will potentially provide her with some sense of justice; or (3) place her fate in the hands of local police and prosecutors for the next few years.

A victim of sexual assault on a University of North Carolina’s campus has the option of reporting the assault to the University’s Police Department and/or Title IX Coordinator.⁴³ After reporting to the University Police or Title IX Coordinator, Title IX compliance guidelines then require the victim to complete a form in which he or she is asked to provide the following in detail: the name of the accused (if known), a description of the violation, and the date, time, and location of the alleged violation.⁴⁴ To examine the relevant Title IX policies and procedures within the University of North Carolina system, the University of North Carolina at Wilmington will serve as an example throughout this section.

Buried among crime definitions, campus resources, and crime statistics in the 2017 “Annual Security Report for Main Campus” for the University of North Carolina at Wilmington (UNC Wilmington), is the university’s description of its “Disciplinary Proceedings.”⁴⁵ These proceedings are utilized to resolve allegations of sexual assault, dating violence, domestic violence, and stalking.⁴⁶ These proceedings provide victims and the accused a “prompt, fair, and impartial process from the initial investigation to the final result.”⁴⁷ If the “final result” of the investigation finds the accused responsible for the assault, the tribunal will conduct deliberations on sanctioning him or her.⁴⁸

The victim and the accused must both be students of UNC Wilmington in order for the case to be resolved using the university’s disciplinary

⁴² *Student Gender-Based/Sexual Misconduct Policy*, *supra* note 41, at 1–2. When this article refers to “a University of North Carolina campus,” it is referencing generally any campus that is associated with the UNC university system, i.e. UNC Asheville, UNC Pembroke, UNC Greensboro, UNC Charlotte, etc.

⁴³ UNIV. OF N.C. WILMINGTON, *University of North Carolina: Annual Security Report for Main Campus and the Center for Marine Science 2017* 32 (2017), https://uncw.edu/police/documents/Annual%20Security%20Reports/2017_ASR.pdf.

⁴⁴ *Id.* at 34.

⁴⁵ *Id.* at 33.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 35.

proceedings.⁴⁹ Once the victim or a mandatory reporter fills out the Title IX complaint form, the university's Director of Title IX and Clery Compliance⁵⁰ will initiate a meeting with the victim via email, simultaneously providing the victim with resources, support services, and options, such as the option to use an advisor of choice for assistance during the proceeding.⁵¹ It is then at the discretion of the Director of Title IX and Clery Compliance to initiate an investigation and, if he or she decides to do so, to notify the accused that a report has been filed.⁵²

The investigation is conducted by two selected "fact-finders" who will prepare an Investigation Report with any supporting evidence or documentation.⁵³ Once completed, the Investigation Report will be provided to the Director of Title IX and Clery Compliance, the Dean of Students, and the General Counsel for the University.⁵⁴ This group of administrators then determines whether there is sufficient evidence to indicate that the accused violated a university policy.⁵⁵ If so, the pre-hearing process commences, during which a representative from the Office of the Dean of Students meets with both parties to provide them with a copy of the Investigation Report, review the alleged violations, explain hearing procedures, and to reiterate the rights of the parties.⁵⁶

Once both parties have designated a list of witnesses and identified their University advisor, their non-attorney advocate or attorney advocate of choice, and their support person, the hearing-process commences.⁵⁷ The case proceeds with an external adjudicator who hears testimony from investigators, the parties, and witnesses.⁵⁸ As of July 2018, UNC Wilmington still utilizes the "preponderance of the evidence" legal standard

⁴⁹ *See id.* at 33–35 (discussing the "victim" and "respondent" with the presumption of their status as students at UNC Wilmington).

⁵⁰ *Id.* at 34. (listing various campus authorities which are required to report crimes to University Police, such as the Office of Housing and Residence Life, Athletic Department, Campus Recreation, etc.). *See also Office of Title IX & Clery Compliance*, UNIV. OF N.C. WILMINGTON, <https://uncw.edu/titleix/clery/index.html> (defining the role of the Director of Title IX & Clery Compliance).

⁵¹ UNIV. OF N.C. WILMINGTON, *supra* note 43, at 34.

⁵² *Id.*

⁵³ *Id.* at 35.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ UNIV. OF N.C. WILMINGTON, *supra* note 43, at 35.

⁵⁷ *Id.*

⁵⁸ *Id.*

to adjudicate campus sexual assault allegations.⁵⁹ If the adjudicator finds the accused responsible, the sanctioning deliberations commence.⁶⁰ The sanctions imposed against the responsible party can range from a written warning or disciplinary probation to suspension, expulsion, or degree revocation.⁶¹

In the event that the adjudicator finds the accused responsible, the outcomes of the hearing and sanctioning deliberations are sent in writing to both parties, along with notification of their right to appeal the adjudicator's decision.⁶² And just like that, both the assailant and the victim walk away from the "prompt" proceeding, one with nothing more than a "slap on the wrist" in most cases.⁶³

III. INEFFECTUAL CAMPUS CONSEQUENCES AND ONE OF THE MOST UNDERREPORTED CRIMES

Students found responsible by their university for violating the school's campus sexual assault policies face, in most cases, minimal consequences for their actions, such as probation or suspension.⁶⁴ When universities fail to issue more serious consequences against the attackers, they ultimately deter victims from reporting the sexual assault. Further, when the attackers are allowed to remain enrolled at the university, the school increases the chances of revictimization, giving rise to the opportunity for the victim to have to face her attacker while walking to class, sitting in a lecture, or eating at the dining hall. Universities must abandon their fears of losing federal funding under Title IX,⁶⁵ and should instead shift their efforts towards advocating for victims and advertising their firm stance on the intolerance for campus sexual assaults in order to deter the assaults from occurring in the first place and to encourage the victims to report if, and when, an assault does happen.

A. The Underreporting Pandemic

⁵⁹ *Student Gender-Based/Sexual Misconduct Policy*, *supra* note 41.

⁶⁰ UNIV. OF N.C. WILMINGTON, *supra* note 43, at 35.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Kingkade, *supra* note 10.

⁶⁴ *Id.*

⁶⁵ *See infra* Part III.A.

According to various studies, approximately one in four to five college women will be sexually assaulted during her undergraduate career.⁶⁶ However, in 2015, eighty-nine percent of college campuses reported zero campus sexual assaults.⁶⁷ One reason for this is that sexual assaults could be happening off-campus, and therefore, colleges and universities are not required to report these off-campus sexual assaults in their crime reports.⁶⁸ However, with so many women having allegedly suffered a sexual assault during college, it is doubtful that *all* of the assaults occurred off-campus, as the zero-reporting statistic indicates.⁶⁹ In fact, the University of North Carolina at Wilmington's Annual Security Report even breaks down where the reported assaults occurred into four categories: on-campus, residential facilities, non-campus, and public property.⁷⁰ From 2014 through 2016, all rapes reported by the University were categorized under either on-campus or residential facilities.⁷¹ According to these reports, not one of the reported rapes happened off-campus during this three-year time frame.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act⁷² (or the Clery Act) requires universities and colleges that receive federal financial aid programs in the United States to disclose information about crimes that occurred on campus and "in certain off-campus buildings or property owned, leased or controlled" by the college or university.⁷³ When it comes to the University of North Carolina at Wilmington, the University delegates the collection of crime statistics to the University Police and the Office of Title IX and Clery Compliance.⁷⁴

In its Security Report, the University breaks down the crime statistics for the year into various categories. Situated in the Report before the annual crime statistics, the University defines "sex offenses" as "any sexual

⁶⁶ *Statistics About Sexual Violence*, *supra* note 1, at 2.

⁶⁷ *89 Percent of Colleges Reported Zero Incidents of Rape in 2015*, AM. ASS'N OF UNIV. WOMEN (May 10, 2017), <https://www.aauw.org/article/clery-act-data-analysis-2017/>.

⁶⁸ UNIV. OF N.C. WILMINGTON, *supra* note 43, at 37 (discussing the requirement for the university to report crimes on-campus and "in certain off-campus buildings or property owned, leased or controlled" by the college or university).

⁶⁹ *89 Percent of Colleges Reported Zero Incidents of Rape in 2015*, *supra* note 67.

⁷⁰ See UNIV. OF N.C. WILMINGTON, *supra* note 43, at 42.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Intersection of Title IX and the Clery Act*, DEP'T OF JUST. (Apr. 2014) <https://www.justice.gov/ovw/page/file/910306/download>; 20 USC § 1092(f) (Westlaw through P.L. 115-253).

⁷⁴ UNIV. OF N.C. WILMINGTON, *supra* note 43, at 37.

act directed against another person, without the consent of the victim, including the instances where the victim is incapable of giving consent,” and further defines rape, fondling, incest, and statutory rape as “sex offenses.”⁷⁵ For sexual assault crimes, the University Police use data of the assaults reported directly to their department as well as reports made to the various campus security authorities, such as the Office of Housing and Residence Life, Office of Dean of Students, Director of the Student Health Center, and UNCW Director of Title IX and Clery Compliance.⁷⁶

Even though the University defines multiple types of sex offenses for which students can report, why is it that campus sex crimes are so underreported?⁷⁷ According to the Rape, Abuse & Incest National Network (RAINN)⁷⁸, only four percent of college-age sexual violence victims reported the sexual violence (although, not to the police), while twenty-six percent of college-age sexual violence victims did not report to law enforcement because they believed it was a personal matter; twenty percent did not report for the fear of reprisal; twelve percent because they believed it was not important enough to report; ten percent because the victim did not want the perpetrator to get in trouble; nine percent because they believed police would not or could not do anything to help; and thirty-one percent of victims cited other reasons for not reporting.⁷⁹

What may be even more concerning is the consideration that more victims than indicated by statistics may actually be reporting crimes of campus sexual assault to their universities and colleges, but the schools are failing to disclose the reported assaults under the Clery Act.⁸⁰ Sources that doubt the accuracy of universities reporting zero campus sexual assaults believe that the Office of Civil Rights (OCR) may be to blame.⁸¹ In

⁷⁵ *Id.* at 37–38.

⁷⁶ *Id.* at 4. These other authorities are required to notify the University Police Department of “incidents of offenses occurring in certain geographic locations associated with UNCW.” *Id.* at 7.

⁷⁷ *E.g.*, *Statistics About Sexual Violence*, *supra* note 1.

⁷⁸ *Campus Sexual Violence Statistics*, RAPE, ABUSE, & INCEST NAT’L NETWORK, <https://www.rainn.org/statistics/campus-sexual-violence> (last visited July 15, 2018).

⁷⁹ *Id.*

⁸⁰ *Intersection of Title IX and the Clery Act*, *supra* note 73; see *Nat’l Wrestling Coaches Ass’n v. U.S. Dep’t of Educ.*, 263 F. Supp. 2d 82, 88 n.2 (D.D.C. 2003); Kristin Jones, *Lax Enforcement of Title IX in Campus Sexual Assault Cases*, CTR. FOR PUB. INTEGRITY (Feb. 25, 2010, 12:00 PM), <https://www.publicintegrity.org/2010/02/25/4374/lax-enforcement-title-ix-campus-sexual-assault-cases-0>.

⁸¹ See, *e.g.*, Jones, *supra* note 80.

an attempt to encourage schools to implement and enforce the requirements under Title IX, the OCR has threatened to remove federal funding to schools it finds violate Title IX guidelines.⁸²

Considering the amount of money that most colleges and universities receive in federal funding, the threat of losing this money could affect a school's strategy to underreport campus sexual assaults.⁸³ The theory behind this possible practice by universities and colleges is that they may be trying to minimize the chances that the OCR finds them not in compliance with Title IX requirements if it appears there were no campus sexual assaults on their campus that they had to address.⁸⁴ However, this threat seems harmless considering that the OCR has never exercised its power to terminate funds to a school for failure to comply with Title IX requirements.⁸⁵

When considering that after an attack, sexual assault victims seek vindication, validation, apologies, and accountability for the perpetrator, mostly through public exposure, schools are depriving victims of these desires and deterring reporting through nonconsequential disciplinary verdicts.⁸⁶ Universities and colleges across the country are failing victims by refusing to implement punitive sanctions for sexual attackers, and therefore, implicitly undermining the seriousness of the violence.⁸⁷

B. Ineffectual Consequences of Reporting

In 2014, the *Huffington Post* published a study based on data from nearly three dozen universities and colleges which revealed that, among the students found responsible for a campus sexual assault, thirty percent of the students were expelled; forty-seven percent were suspended; seventeen percent received educational sanctions; and thirteen percent were placed on probation, sometimes in conjunction with other punishments.⁸⁸

⁸² Anderson, *supra* note 40, at 1987 (citing David G. Savage & Timothy M. Phelps, *How a Little-Known Education Office Has Forced Far-Reaching Changes to Campus Sex Assault Investigations*, L.A. TIMES (Aug. 17, 2015, 3:00 AM), <http://www.latimes.com/nation/la-na-campus-sexual-assault-20150817-story.html>).

⁸³ Stephen Henrick, *A Hostile Environment for Student Defendants: Title IX and Sexual Assault on College Campuses*, 40 N. KY. L. REV. 49, 55 (2013).

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Judith L. Herman, *Justice From the Victim's Perspective*, 11 VIOLENCE AGAINST WOMEN 571, 586–89 (2005).

⁸⁷ Kingkade, *supra* note 10.

⁸⁸ *Id.*

Similarly, a study of data from the U.S. Department of Justice of over 125 schools that received federal grants to combat rapes on campuses from 2011 through 2013, revealed that only thirteen to thirty percent of the students found responsible for a campus sexual assault were expelled, while twenty-nine to sixty-eight percent were suspended.⁸⁹

With expulsion being one of the least frequently issued sanctions, what kind of message does this convey to the victims?⁹⁰ While there are Title IX safeguards in place to provide accommodations in which the victim and attacker do not have to share a classroom, why must a victim have to walk around campus knowing that she could possibly walk by the person who the university found responsible for her sexual assault?⁹¹

These less-than-harsh sanctions against campus attackers are supported by the Association for Student Conduct Administration (ASCA), an advocacy and lobbyist organization that advises universities on how to “cultivat[e] student responsibility and accountability through prevention, education, investigation, and adjudication.”⁹² The ASCA encourages universities and colleges to use sexual assault hearings as “educational tools,” rather than to serve as a punitive remedy.⁹³ But, at what point do universities favor the education of the person they found to be responsible for a sexual assault over that of an innocent victim?

The bottom line is that sexual assault crimes should not stay within the university “bubble.” While, until recently, the records of the campus disciplinary proceedings and the names of the responsible attacker remained protected by confidentiality, victims are still forced to seek justice outside of their university safeguards.⁹⁴ Attackers who have been found responsible for violating campus sexual assault policies at their university are handed an “educational lesson” rather than a punishment from their institution, while their victim is indefinitely punished emotionally and physically.⁹⁵

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ UNIV. OF N.C. WILMINGTON *supra* note 43, at 30–31 (listing appropriate measures used by UNC Wilmington to “protect the victims” as including: imposition of a no-contact order; academic accommodations; and changes in housing, work space, parking, and transportation).

⁹² *Frequently Asked Questions*, ASS’N FOR STUDENT CONDUCT ADMIN., <https://www.theasca.org/faq> (last visited July 15, 2018).

⁹³ See Kingkade, *supra* note 10.

⁹⁴ See *infra* Part IV.B. (discussing the North Carolina Court of Appeals case *DTH Media Corp. v. Folt*).

⁹⁵ See Kingkade, *supra* note 10.

When it comes to finding justice for a victim of sexual assault, Judith Herman identified four goals of survivors: validation, vindication, apology, and perpetrator accountability.⁹⁶ Herman noted that many victims found the validation of others in their community to be “of equal or greater value” than wishing that their attacker would confess.⁹⁷ In addition, the victims held in high regard their desire for vindication in the “form of community denunciation of the crime, moving the stigma of shame from them to the perpetrator.”⁹⁸ Universities are failing the victims of campus sexual assault by pitying the attacker more than they protect the victim when they irresponsibly sanction the attacker with anything less than expulsion and, ultimately, fail to recognize and acknowledge the degree of heinousness involved in a sexual assault. However, with the #MeToo Movement, survivors of sexual assault are finding their voice in an arena much bigger than their university campus.

IV. #METOO IN THE UNIVERSITY SETTING

A. Overview of the #MeToo Movement

In an era where sexual assault in workplaces, homes, and schools were underreported and seen as a taboo topic of discussion, the #MeToo phenomenon was born. While the #MeToo Movement recently picked up steam in the fall of 2017 as a trending hashtag in the wake of the sexual assault allegations against Harvey Weinstein,⁹⁹ the origins of #MeToo can be traced back a decade to sexual assault survivor and activist Tarana Burke.¹⁰⁰

In 2006, Burke started a Myspace page to create a community in which survivors of sexual assault could empathize with one another and share their stories.¹⁰¹ Burke recalls that the “me too Movement started in the deepest, darkest place in [her] soul,” as she listened to the secrets of a

⁹⁶ See Herman, *supra* note 86, at 582, 586–89.

⁹⁷ *Id.* at 585.

⁹⁸ *Id.*

⁹⁹ Abby Ohlheiser, *The woman behind ‘Me Too’ knew the power of the phrase when she created it—10 years ago*, WASHINGTON POST (Oct. 19, 2017), https://www.washingtonpost.com/news/the-intersect/wp/2017/10/19/the-woman-behind-me-too-knew-the-power-of-the-phrase-when-she-created-it-10-years-ago/?noredirect=on&utm_term=.c4bd7917463d. See *Harvey Weinstein timeline: How the scandal unfolded*, BBC NEWS (Sept. 19, 2018), <https://www.bbc.com/news/entertainment-arts-41594672>.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

young camper at a youth camp she worked at.¹⁰² At the camp, a young girl named Heaven sought out Burke to open up about her sexual abuse at home, but Burke recalls she could not take listening to Heaven's abuse.¹⁰³ After cutting Heaven off and directing her to another counselor for guidance, Burke recalls identifying with young Heaven and wanting to whisper to herself "me too," as she watched Heaven seclude back into the world, masking her pain, and hiding her secrets.¹⁰⁴

Unbeknownst to Burke, her "me too" Movement would later become a viral hashtag to consume Twitter, Facebook, and other social media platforms.¹⁰⁵ After celebrities were reacting to the Harvey Weinstein accusations, actress Alyssa Milano took to Twitter to ask "[i]f you've been sexually harassed or assaulted write 'me too' as a reply to this tweet."¹⁰⁶ Within twenty-four hours of the tweet, more than 53,000 people left comments on the post and thousands of women declared "Me Too" on Twitter.¹⁰⁷ This sparked a similar phenomenon on Facebook, when the hashtag #MeToo was posted over 12 million times by over 4.7 million Facebook users around the world in less than one day.¹⁰⁸

The undeniable and overwhelming presence of sexual assault and sexual harassment victims on social media accurately reflects the astonishing statistic that one in four to five college women will be sexually assaulted.¹⁰⁹ To put this in perspective, at some schools, women have a higher chance of being sexually assaulted than making the Dean's List.¹¹⁰ The #MeToo movement is a reflection of the disproportionate and inaccurate reporting by colleges and universities across the United States, many

¹⁰² Tarana Burke, *The Inception*, JUST BE INC. (2013), <http://justbeinc.wixsite.com/justbeinc/the-me-too-movement-cmml>.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ See *More than 12M "Me Too" Facebook posts, comments, reactions in 24 hours*, CBS (Oct. 17, 2017, 6:26 PM), <https://www.cbsnews.com/news/metoo-more-than-12-million-facebook-posts-comments-reactions-24-hours/>.

¹⁰⁶ Alyssa Milano (@Alyssa_Milano), TWITTER (Oct. 15, 2017, 1:21 PM), https://twitter.com/alyssa_milano/status/919659438700670976?lang=en; see *Harvey Weinstein scandal: Who has accused him of what?*, BBC NEWS (May 25, 2018), <https://www.bbc.com/news/entertainment-arts-41580010>.

¹⁰⁷ See *More than 12M "Me Too" Facebook posts, comments, reactions in 24 hours*, *supra* note 105.

¹⁰⁸ *Id.*

¹⁰⁹ *Statistics About Sexual Violence*, *supra* note 1.

¹¹⁰ Kelly A. Behre, *Ensuring Choice and Voice for Campus Sexual Assault Victims: A Call for Victims' Attorneys*, 65 DRAKE L. REV. 293, 316 (2017) (providing that in order to make the Dean's List at Duke University, students must be in the top ten percent of their class).

of which report zero rapes on campus year after year.¹¹¹ With approximately ninety percent of these college sexual assaults going unreported,¹¹² victims are finding their voices and justice through social media, not through systematic reporting at their schools or with their local authorities.

The outcry of sexual assault victims on social media under the united #MeToo Movement may be a catalyst to change the “Hollywood” and media industries and other private employment sectors. However, internal procedural issues within the public sector of colleges and universities will likely not be affected by this movement due to the political climate which dictates the minimum standard by which schools address sexual assault allegations.¹¹³ Since it is not likely that the current Trump Administration will determine this a pressing issue to resolve,¹¹⁴ it is up to colleges and universities to recognize the need for a systematic change to prevent sexual assault by educating students about the dangers and consequences of campus sexual assault, encouraging victims to report when an assault has occurred, acknowledging these victims with respect and care, and providing a fair, accommodating, and punitive tribunal for adjudicating sexual assault allegations.¹¹⁵ Until then, the majority of victims and survivors will be left to find their justice in sharing their strength and calling for change on social media platforms.

B. Public Accountability and the Attacker: DTH Media Corporation v. Folt

In the wake of a public demand for accountability during the #MeToo era comes the North Carolina Court of Appeals case *DTH Media Corporation v. Folt*.¹¹⁶ On April 17, 2018, Judge Tyson overturned a May 2017 Wake County Superior Court decision that protected the names and disciplinary records of students at the University of North Carolina at Chapel Hill (UNC-CH) who were found to have violated the school’s sexual assault policy.¹¹⁷ In the trial court’s decision to protect the students’

¹¹¹ 89 Percent of Colleges Reported Zero Incidents of Rape in 2015, *supra* note 67.

¹¹² *Statistics About Sexual Violence*, *supra* note 1.

¹¹³ *See supra* Part II.A. (discussing the variability of Title IX guidelines depending on the administration).

¹¹⁴ *See* Tovia Smith, *Trump Administration Defends Campus Sexual Assault Rules*, NPR (July 20, 2018, 5:11 AM), <https://www.npr.org/2018/07/20/630742928/trump-administration-defends-campus-sexual-assault-rules>.

¹¹⁵ *See* Nilsen, *supra* note 36.

¹¹⁶ *DTH Media Corp. v. Folt*, 816 S.E.2d 518, 520 (N.C. Ct. App. 2018).

¹¹⁷ *Id.* at 529.

names and records, UNC-CH and the court cited protections of those students' privacy under the Family Educational Rights and Privacy Act (FERPA) and the North Carolina Public Records Act (Public Records Act).¹¹⁸

In 2016, DTH Media Corporation, along with three other North Carolina-based news organizations, sued the Chancellor of UNC-CH Carol Folt and the Senior Director of Public Records of UNC-CH Gavin Young after the school denied the media outlets' request for "records made or received by [UNC-CH] in connection with a person having been found responsible for rape, sexual assault or any related or lesser included sexual misconduct by [UNC-CH's] Honor court, the Committee on Student Conduct, or the Equal Opportunity and Compliance Office."¹¹⁹ UNC-CH denied the request on the grounds that the University considered the requested information to be "educational records" under FERPA and therefore, "protected from disclosure."¹²⁰

After mediation between the parties, Plaintiffs narrowed the scope of their records request to ask UNC-CH for "(a) the name of any person who, since January 1, 2007, has been found responsible for rape, sexual assault or any related or lesser included sexual misconduct by the [UNC-CH] . . . ; (b) the date and nature of each violation for which each such person was found responsible;" and "(c) the sanctions imposed on each such person for each such violation."¹²¹ The trial court granted Plaintiffs' request only for such records as they related to UNC-CH employees, but denied the request for such records of UNC-CH students.¹²² The trial court reasoned that FERPA specifically provides and grants UNC-CH the "discretion to determine whether to release (1) the name of any student found responsible under [UNC-CH's] policy for a crime of violence or nonforcible sex offense; (2) the violation; and (3) the sanction imposed."¹²³

On appeal, the North Carolina Court of Appeals took issue with whether Plaintiffs' request for the disciplinary information of UNC-CH students fell within an exemption to FERPA's non-disclosure provisions and, therefore, would require Defendants to comply with Plaintiffs' Public Records Act request.¹²⁴ The Court of Appeals affirmed the trial court's

¹¹⁸ *Id.* at 521 (citing 20 U.S.C. § 1232g (2017); N.C.G.S. §§ 132-1 to 132-11 (2017)).

¹¹⁹ *Id.* at 520.

¹²⁰ *Id.* at 521.

¹²¹ *DTH Media Corp.*, 816 S.E.2d at 521.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

determination that the disciplinary records of UNC-CH students are “public records” under the Public Records Act, but overruled the trial court’s holding that FERPA provides absolute discretion to the University in determining whether to release such public records.¹²⁵ While the court held that Plaintiffs’ request for “the name of the student, the violation committed, and any sanction imposed by the institution on that student” was authorized by FERPA for disclosure, the court held that Plaintiffs’ request as to dates of offenses, i.e. “since January 1, 2007,” did not fall within the disclosable offenses under FERPA.¹²⁶ Ultimately, the court held that “[n]o conflict exists between FERPA and the Public Records Act for [UNC-CH] to release the public records within Plaintiffs’ limited and narrow requests.”¹²⁷

In addition to the statutory interpretation arguments, both parties presented policy arguments for the court to consider.¹²⁸ UNC-CH Defendants argued that the release of the records the Plaintiffs requested would interfere with UNC-CH’s Title IX process of dealing with sexual assault by “(1) deterring victims and witnesses from coming forward and participating in UNC-CH’s Title IX process; and (2) by jeopardizing the safety of alleged sexual assault perpetrators.”¹²⁹ However, the court denied to address the policy arguments, asserting that policy considerations were to be left for the legislature.¹³⁰

C. Policy Arguments and Implications

Policy arguments, however, should be considered in scholarly articles such as this one. In addition to citing concerns about the effect of the Court of Appeals decision on the Title IX process at UNC-CH, the University also mentioned their disappointment that this decision fails to “protect the privacy rights of all students.”¹³¹ UNC-CH elaborates that this concern is rooted in its fear that now there is no protection of the “identities of survivors and other parties who put their trust in the University’s Title IX process and their rights under federal law.”¹³² This concern is moot,

¹²⁵ *Id.* at 522–25.

¹²⁶ *DTH Media Corp.*, 816 S.E.2d at 525.

¹²⁷ *Id.* at 525–26.

¹²⁸ *Id.* at 529.

¹²⁹ *Id.*

¹³⁰ *Id.* at 529.

¹³¹ Anne Blythe, *UNC must disclose sexual assault findings, judges rule*, NEWS & OBSERVER (Apr. 17, 2018), <https://www.newsobserver.com/latest-news/article209094274.html>.

¹³² *Id.*

however, considering the unanimous Court of Appeals' decision noting that federal law "specifically mandates that any disclosures may include the name of any other student, such as victim or witness, *only with the written consent of that other student.*"¹³³ Therefore, it is within the sole power of the victim to consent to his or her name appearing in any disclosures of the records.

While the attorney for Plaintiffs, Hugh Stevens, cited the motivation behind requesting the records as part of an effort by the media outlets to "shed light on how these serious offenses have been handled,"¹³⁴ another effect of publishing the names of perpetrators of campus sexual assault policies is to fulfill the goals set forth previously for victims—validation, vindication, a chance at apology, and perpetrator accountability.¹³⁵ Because the Court of Appeals decision was unanimous, UNC-CH does not have an automatic right to appeal the case to the North Carolina Supreme Court, and it is therefore within the discretion of the Court to determine if it will review *DTH Media Corporation*.¹³⁶ Until, and if, the Court decides to do so, *DTH Media Corporation* is the law in North Carolina—arming sexual assault victims, #MeToo advocates, and media outlets with the means to expose campus attackers and share victim's truths.¹³⁷

Another point that UNC-CH failed to acknowledge was Plaintiffs' request related to the records of individuals, who were already found responsible of a campus sexual assault in a Title IX-approved disciplinary proceeding. The records, therefore, were not going to expose the *accused* (and possibly innocent student), rather, they would expose the *attacker* that the external adjudicator found responsible for the assault beyond a preponderance of the evidence. UNC-CH's argument that they refused Plaintiffs' request for records of the attackers in an effort to "protect" students is the ultimate problem—universities and colleges are shielding those found responsible for sexually assaulting another student from facing any other kind of sanction besides those that the University has a say-so in.¹³⁸ Perhaps if attackers knew that there would be a likelihood of their

¹³³ *DTH Media Corp.*, 816 S.E.2d at 529 (citing 20 U.S.C. § 1232g(b)(6)(C)) (emphasis added).

¹³⁴ Blythe, *supra* note 131.

¹³⁵ Herman, *supra* note 86, at 585–89.

¹³⁶ Emily G. Massey, *Public University Required to Disclose Sexual Assault Disciplinary Records*, WARD AND SMITH, PA (June 8, 2018), <https://www.wardandsmith.com/articles/public-university-required-to-disclose-sexual-assault-disciplinary-records>.

¹³⁷ Catherine A. MacKinnon, *#MeToo Has Done What the Law Could Not*, N.Y. TIMES (Feb. 4, 2018) <https://www.nytimes.com/2018/02/04/opinion/metoo-law-legal-system.html>.

¹³⁸ Blythe, *supra* note 131.

name being exposed if found responsible for a sexual assault, this would serve as a deterrent. It certainly would not hurt.

The power of reporting campus sexual assaults ultimately rests with the victim. However, with a little help from perpetrators and participants of the #MeToo Movement, the taboo of the topic of sexual assault is wearing down. Institutions like universities and colleges must take responsibility for the role they play in perpetuating the pandemic of underreporting on their campuses in an effort to encourage victims to report. Since the North Carolina Court of Appeals decision is so recent, it is unclear what effect making the names of attackers publicly available will have on reporting of campus sexual assaults.¹³⁹ However, in an era where young women feel empowered to use their voice and speak their truth, the #MeToo movement and *DTH Media Corporation v. Folt* decision will hopefully encourage victims to report their assault.¹⁴⁰

IV. CONCLUSION

Due to the ineffectual university disciplinary proceedings in place at University of North Carolina campuses, victims of campus sexual assault are forced to seek justice, validation, vindication, and accountability for their perpetrators by other means.¹⁴¹ One of the most powerful and influential of these means is voicing their stories by participating in the #MeToo Movement. Instead of having the luxury of relying on those in power at the federal level and administrative levels at universities to create change to stop campus sexual assaults, or at the very least, encourage reporting of the assaults, victims have been systematically failed by those who have enough power to make a difference.¹⁴²

At the forefront of this frustrating pandemic of campus sexual assaults are two beacons of hope: the #MeToo Movement and the recent decision of *DTH Media Corporation v. Folt*. Through the social media phenomenon of embracing the stories of sexual assault survivors in this #MeToo era and through the new ability to expose the responsible campus attackers' names and records to hold them accountable from *DTH Media*

¹³⁹ See *DTH Media Corp.*, 816 S.E.2d at 520 (dating the Court's decision in April 2018).

¹⁴⁰ See *id.*; MacKinnon, *supra* note 137.

¹⁴¹ See Herman, *supra* note 86.

¹⁴² See MacKinnon, *supra* note 137.

Corporation, there is hope that universities will follow this trend accordingly and reform their Title IX proceedings to bring justice to campus sexual assault victims.¹⁴³

¹⁴³ See *id.*; *DTH Media Corp.*, 816 S.E.2d at 527–29.