



VIA EMAIL: [mianluo@stanford.edu](mailto:mianluo@stanford.edu)

March 7, 2018

Jason Luo

**OUTCOME LETTER**

Dear Jason,

By letter dated February 12, 2018, I notified you of an allegation against you that, if proven, would violate Stanford University's Title IX policies, Administrative Guide 1.7.3 (Sexual Assault and/or Sexual Misconduct). Specifically, the Complainant alleges that, on the evening of September 14, 2017, inside your Stanford-subsidized apartment located at 488 Winslow Street in Redwood City, you repeatedly kissed her, attempted to remove her clothing, physically restrained her from leaving by hugging her tightly and blocking her exit, and touched her intimate body parts, including her breasts and vagina, without her consent and even after she told you not to do so and attempted to physically resist you.

This matter was investigated by the Title IX Office under Stanford's Student Title IX Investigation & Hearing Process ("Student Title IX Process"). That investigation has concluded. The Investigators interviewed you and they interviewed the Complainant twice. They also interviewed one witness and obtained video evidence from your apartment building on the night of the incident.

Section IX.C of the Student Title IX Process sets forth the options by which the Title IX Coordinator may resolve a matter in which a Notice of Concern has been sent. The available options depend on whether the Title IX Coordinator can conclude that a reasonable Hearing Panel could find by a preponderance of the evidence that the alleged Prohibited Conduct occurred. Based upon the information gathered during the investigation, I have determined that a reasonable Hearing Panel could not find by a preponderance of the evidence that the alleged Prohibited Conduct occurred. Thus, with regard to the Complainant's allegations, I have determined that no charge will be issued.

**Applicable Policy**

Section 1.7.3 of Stanford's Administrative Guide sets forth the policy against which the facts must be measured. It provides, in pertinent part:

4. What Are Sexual Misconduct and Sexual Assault?

a. What is Sexual Misconduct?

Sexual misconduct is the commission of a sexual act, whether by a stranger or nonstranger and regardless of the gender of any party, which occurs without indication of consent.

1. The following acts or attempted acts can be the subject of a Sexual Misconduct or Sexual Assault charge:

- a) vaginal or anal intercourse;
- b) digital penetration;
- c) oral copulation; or
- d) penetration with a foreign object

2. Additional Acts of Sexual Misconduct

The following completed acts can be the subject of a Sexual Misconduct charge:

- a) unwanted touching or kissing of an intimate body part (whether directly or through clothing); or
- b) recording, photographing, transmitting, viewing or distributing intimate or sexual images without the knowledge and consent of all parties involved.

b. What is Sexual Assault?

Sexual Assault is an act described in Section 4.a.1 accomplished by use of (a) force, violence, duress or menace; or (b) inducement of incapacitation or knowingly taking advantage of an incapacitated person.

Definitions of force, violence, duress or menace

The following definitions (drawn from California law) inform whether an act was accomplished by force, violence, duress or menace:

- An act is accomplished by force if a person overcomes the other person's will by use of physical force or induces reasonable fear of immediate bodily injury.
- Violence means the use of physical force to cause harm or injury.
- Duress means a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity to do or submit to something that he or she would not otherwise do or submit to. When deciding whether the act was accomplished by duress, all the circumstances, including the age of the impacted party and his or her relationship to the responding party, are relevant factors.
- Menace means a threat, statement, or act showing intent to injure someone.

### c. What is Consent?

Consent is an affirmative nonverbal act or verbal statement expressing consent to sexual activity by a person that is informed, freely given and mutually understood. It is the responsibility of person(s) involved in sexual activity to ensure that he/she/they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. Lack of protest or resistance does not mean consent, nor does silence mean consent. Consent to one act by itself does not constitute consent to another act. The existence of a dating relationship between the persons involved, or the fact of past sexual relations, should never by itself be assumed to be an indicator of consent. Whether one has taken advantage of a position of influence over another may be a factor in determining consent.

### **Rationale for Decision not to Charge**

As noted above, the decision whether to charge or not rests on the Title IX Coordinator's determination as to whether a reasonable Hearing Panel could find by a preponderance of the evidence that the alleged Prohibited Conduct occurred. Where, as here, the Title IX Coordinator concludes that a reasonable Hearing Panel could not find responsibility, she must issue no charge. See Student Title IX Process, Section IX.C.1.

### **Sexual Assault**

The Complainant alleges that the Responding Student directly touched her vagina, but she does not allege digital penetration or any other conduct listed in Section 4.a.1 of Administrative Guide 1.7.3. Thus, there is no factual basis to support a charge of sexual assault.

### **Sexual Misconduct**

The Complainant alleges acts of sexual misconduct in three locations in the Responding Student's apartment: the kitchen; the sofa; and the bedroom. She alleges that the Responding Student first hugged her from behind while in the kitchen, and then kissed her. He admits this but adds that he hugged her to comfort her and that she turned around and hugged him back. He says she kissed him back, while she says she was "shocked," "passive," and tried to move away from his embrace and distract him by talking about other things, but did not say no at that point.

Both parties say that they left the kitchen and sat on the sofa. She alleges that he pushed his body on top of hers and started to kiss and touch her, including on her breasts by pushing up her bra and shirt. She says that, when he tried to take off her pants, she said no several times and that she even kicked him. He denies getting on top of her or trying to take off her pants while on the couch, but does admit to kissing her, pulling up her bra and

touching her chest. He denies that she ever told him no or indicated that she wanted him to stop, and, in fact, says that she was an active participant by kissing, hugging, and touching him back.

The Complainant says that she then tried to leave the apartment but the Responding Student told her that he had something in his bedroom that he wanted to give her, so she agreed to go to his bedroom with him. The Responding Student says that he suggested moving from the sofa to the bedroom and that the Complainant agreed. She says that she tripped and fell onto the bed and he climbed on top of her and began to kiss and touch her. He denies that he pushed her onto the bed or that she tripped and fell onto the bed. Instead, he says that they first sat and then lay down next to each other, all the while mutually kissing each other. He admits that he touched her body and removed her pants but asserts that she cooperated with his removing her pants by lifting her hips. While the Complainant alleges that he unbuttoned her pants, reached underneath her underwear, and touched her vagina, RS does not believe that he touched her vagina but says that, if he did so, it was over her underwear. He does admit to touching the inner parts of her thighs. The Complainant says that she was shaking, struggling, and physically resisting him the whole time they were in the bedroom, and that when he touched her vagina, she again said no and told him that she knew judo. The Responding Student describes the entire encounter as completely mutual and states that the first time she said no was when he suggested they have sexual intercourse, at which point he stopped. According to him, they then sat up and talked on the bed, and the Complainant told him that she could explain kissing him to her boyfriend, but could not explain having sex with him.

The Complainant says that, after leaving the bedroom, they went back to the kitchen and the Responding Student hugged her from behind in such a manner that she could feel his erection. She says she wanted to leave but the Responding Student was between her and the door and she did not want to push him away because she was fearful. She does not indicate that she said she needed to leave at that point, but she says that she “tried to escape” when he hugged her from behind and rubbed his erection against her backside, which lasted for about twenty minutes. The Responding Student says they went back to the kitchen and continued to talk for another hour.

The Complainant acknowledged in her first interview that the Responding Student walked her to her car. The Responding Student confirms this, but he adds that when they got to the first floor just outside the elevator, before they exited the building, the Complainant pushed him against the wall, and kissed him in a “rather aggressive” way. He found this “very surprising” because he felt there was no prior indication that she would do that.

The Investigators were able to access security video from the lobby of the Responding Student’s apartment building on the date of the incident. It shows the parties exiting the elevator and leaving the apartment building after the alleged conduct took place. In the video, the Complainant appears to smile and touches the Responding Student’s shoulder, after which the

Responding Student appears to playfully push the Complainant against a wall that is out of the camera's range, and then the two seem to be engaged in playful talk or kissing for just under a minute. Then they exit the building. During this time, the Complainant is laughing and both parties look happy and at ease.

During her second interview with the Investigators, before she knew about the existence of the surveillance video, the Complainant asserted that there was no physical contact between the parties after they exited the elevator. The Investigators then revealed that they had obtained this video and asked her to explain it. She then told them that she was "kind of falling down" as she exited the elevator so there was some physical contact as he tried to hold her up. She denied kissing him, and she said she did not previously mention this physical contact because she did not deem it relevant to the investigation. Later that same day, the Complainant contacted the Investigators and asked to speak again that day. At that point, she admitted that she had lied about what happened in the lobby. She says that he pushed her against the wall and kissed her but that she did not kiss him back initially. Then, however, she says that she turned him around, pushed him against the wall, and kissed him. She explains that she was trying to act toward him as he had acted toward her because she wanted to understand why he was doing what he was doing to her. She told Investigators she had initially lied about this portion of the night because she felt she'd been "very stupid" to kiss him and that it would make her "story [seem] very weak."

The statements by the parties as to what happened in the Responding Student's apartment might normally be sufficient to charge the matter. However, the Complainant's credibility has been called into question by her admitted lies to the Investigators. Moreover, her actions in the lobby – as captured on video and to which she eventually admitted – are wholly inconsistent with the account that she gave as to what happened in the apartment just prior to that. She described a two-hour ordeal in which the Responding Student essentially held her hostage in his apartment and repeatedly sexually assaulted her, which she physically and verbally resisted throughout. It is simply not credible that she would then kiss her alleged assaulter when she is finally able to escape the situation, just moments away from getting in her car and being free of him. She states that she was fearful and visibly shaking during the encounter, but this is contradicted by her apparent demeanor on the video footage, which shows her smiling, laughing, and at ease with the Responding Student. Finally, the parties' moving from the kitchen to the sofa to the bedroom is more consistent with consensual sexual activity, as described by the Responding Student, than it is with the Complainant's claim that she was actively resisting the Responding Student's unwanted sexual advances. Thus, I do not believe that a reasonable Hearing Panel could find responsibility.

This determination is not a finding as to what did or did not happen but rather an assessment regarding the available evidence. This letter constitutes an Outcome Letter and can be appealed pursuant to Section XIII of the Student Title IX Process.

Please do not hesitate to contact our office should you have any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Catherine Glaze', with a stylized flourish extending to the right.

Catherine Glaze  
Title IX Coordinator