

**THE IMPACT OF FEDERAL POLICY REQUIREMENTS ON EDUCATOR SEXUAL MISCONDUCT AND PASSING THE TRASH IN FOUR STATES**

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submitted

by

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# The Impact of Federal Policy Requirements on Educator Sexual Misconduct and Passing the Trash in Four States

by

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## Abstract

Educator sexual misconduct (ESM) is prominent in public schools throughout the United States, but scholarly inquiry into this phenomenon is limited and dated. The purpose of this study was to describe and examine the relationship between educator disciplinary cases in four states with the adoption of federal policy requirements addressing ESM and passing the trash. Passing the trash is name given for the ESM cover up culture within public schools. Four states were selected for the study based on the existence of statewide, publicly accessible, educator disciplinary databases. A descriptive analysis of all ESM and passing the trash disciplinary cases from January 1, 1993, to December 31, 2021 ( $N = 19,464$ ) were examined and analyzed.

This research appears to be the first to examine the impact of policy specifically designed to address sexual offending, victimization, and environments conducive to sexual offending. Binary logistic regression was used to identify the ESM – policy and passing the trash – policy relationships and predict the likelihood of future educator disciplinary cases related to ESM or passing the trash. Evidence suggests that ESM and passing the trash policies, which are inclusive of clear, concise definitions, reporting and disciplining of perpetrators, strict guidelines for adult access to students, handling and disciplining false reports, and prohibitions on confidentiality agreements increase the likelihood for educators to be disciplined for other-than-ESM-related behaviors.

Key Words: Educator sexual misconduct, passing the trash

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## DEDICATION

This research is dedicated to honor all survivors of educator sexual misconduct. Without your stories, society would continue to turn a blind eye to this phenomenon. To parents of school-aged children. Be vigilant and know the warning signs! To lawmakers, passing educator sexual misconduct-specific criminal codes will contribute to a better understanding of this phenomenon and establish consistent consequences to those who violate these laws across the country.

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## CHAPTER I: INTRODUCTION

Child sexual abuse occurring within the nation's public schools or perpetrated by school employees against students has been considered educator sexual misconduct (ESM) since the early 2000s. ESM is prevalent in every state (Reilly, 2016; Shakeshaft, 2004). Despite the pervasiveness of this phenomenon, Varela et al. (2019) found that ESM endangers students on a scale greater than school shootings and bullying. Still, few studies have focused on why scholarly attention has failed to target ESM. Scholars have determined which educators are more likely to engage students in sexual misconduct (Walter, 2018) and identified perpetrator and victim demographics (Henschel & Grant, 2019; Kinyaduka & Kiwara, 2014; Jaffe et al. 2013; Mulligan, 2015), but have not studied the efficacy of preventative policies.

Researchers have identified inconsistencies in the ESM literature for perpetrator arrests, gendered differences in convictions (Anderson et al., 2015; Brady & Tajalli, 2018; Mackelprang & Becker, 2015; Zack et al., 2018), and the development of citizen-managed ESM databases (Robert & Thompson, 2018). Henshaw (2016) reported that victims are less likely to report inappropriate sexual contact with public school staff than victims of other forms of institutional sexual abuse (ISA). These inconsistencies have two profound gaps in the ESM literature. They all suggest that ESM is difficult to identify, investigate, and prosecute. Also, they show that the ESM literature is void of studies that measure the efficacy of preventative policies for ESM in public schools throughout the United States or their impact on creating an environment less conducive to sexual abuse (Abboud et al., 2018; Grant et al., 2019; Grant, Wilkerson et al., 2019).

One reason for the lack of scholarly attention on preventative policy effectiveness is the lack of transparency among school administrators and district leaders. Seidule and Pollack (2018) found evidence of a cover-up culture among public school districts in response to a staff member accused of sexual misconduct with a student. Shakeshaft (2004) termed this cover-up culture *passing the trash*. Passing the trash is when school administrators learn of ESM between school personnel and students but decide to forego informing appropriate authorities (and often, parents) to dispose of the case administratively (Shakeshaft, 2013; Walter, 2018). The current research regarding educator-on-student sexual misconduct and passing the trash suggests ESM is a form of ISA (Harris & Terry, 2019).

When the abuse environment remains unchanged, the psychological distress of victims intensifies (Blakemore et al., 2017). Institutional administrators adopting data-driven policies promote changes in the abuse environment and mitigate the psychological distress of ISA victims (Phillips et al., 2019). However, no studies have been identified that link ESM to ISA or to using the ISA data-driven principles to preempt ESM in public schools throughout the United States (Grant, Wilkerson et al., 2019).

### **Justification Statement**

For several years and with little change in frequency, ESM occurs in public schools throughout the United States (Shakeshaft, 2004). Ninety-three percent of all ESM cases occur in public schools (Grant et al., 2017). Grant et al. (2017) found that 1 in 10 students between grades 8 and 11 fall victim to ESM each year, while Jaffe et al. (2013), Koçtürk and Yüksel (2018), and Mulligan (2015) identified student ESM victimization rates at 3.5 million students each school year. Shakeshaft (2004) reported that the actual number of ESM cases is unknown. Other scholars placed the unknown ESM numbers on the failure to report ESM

to law enforcement (Grant et al., 2018; Wurtele et al., 2019), the administrative handling of cases (Grant et al., 2019), and confidentiality agreements between school or district administrators and perpetrators (Surface et al., 2014). These statistics have remained unchanged for nearly 20 years, which indicates that 2 decades' worth of legislation and preventative policies have had little impact on ESM in public schools. Even more disturbing is the unknown number of passing the trash instances.

Grant et al. (2017) and Grant et al. (2018) suggested that passing the trash is one reason an accurate accounting of ESM is unknown. As mentioned earlier, passing the trash is when an educator known to have engaged in sexual misconduct with a student retires without arrest or prosecution, remains unpunished, or quietly leaves the school district with a favorable letter of recommendation for employment in other districts (Grant et al., 2018; Shakeshaft, 2004; Surface et al., 2014). The current literature, federal and state criminal statistics websites, and educational websites present no data on the frequency of passing the trash. Not only does this lack of statistical data indicate a collective "blind eye" to the phenomenon, but also this practice suggests the probability of perpetrators collecting victims in their new school districts. In fact, 1 in 5 perpetrators has more than one victim (Grant et al., 2017).

In response to the ESM and passing the trash phenomena, authors of the Every Student Succeeds Act (ESSA) ratified Section 8546, "Prohibition on Aiding and Abetting Sexual Abuse," to address the passing the trash phenomenon by withholding federal funds to state departments of education (SDOE) for failure to comply. During the Obama Administration, Congress voted (a) to replace the No Child Left Behind Act (NCLB) of the Bush Administration with the ESSA and (b) to maintain one key NCLB concept. This

concept was a reauthorization of federal funding to public schools which was first established under the Elementary and Secondary Education Act (ESEA) of 1965. Under the revitalized ESEA, the U.S. Department of Education distributes money to SDOEs espousing all ESSA requirements. The primary requirements of the ESSA are to hold public school administrators accountable for student safety, learning, and achievement and to provide equal opportunity to the disadvantaged populations by withholding federal funds for the failure to comply. Because Section 8546 was nestled in the last pages of the law, it was little known to state lawmakers and educational administrators and remained unimplemented (Abboud et al., 2018; Grant, Wilkerson et al., 2019). Section 8546 is a supplement to Title IX of the Education Amendments of 1972 (Title IX) to address ESM in public schools (S. Resolution 1177, 2015). Title IX and Section 8546 of the ESSA are explained thoroughly in Chapter II.

Grant et al. (2019) found that states have been slow to adopt this federal legislation. As of 2019, only four states' departments of education (SDOE) have adopted legislation and policies addressing both Title IX and ESSA Section 8546 requirements of policies prohibiting ESM and criminalizing passing the trash (Grant, Wilkerson et al., 2019). These policies are guides for school administrators to define, report, and discipline educators for ESM and establish a publicly accessible database of educator disciplinary actions. A review of the literature, governmental and state reports, and governmental and state data websites found no scholarly studies on adopting these policies or how these policies relate to ESM and passing the trash in public schools throughout the country.

The focus of this study is to examine the relationship between the adoption of federal ESM policy requirements on the instances of ESM and passing the trash in Connecticut, Pennsylvania, Oregon, and Texas. School administrators who pass the trash deny ESM



perpetrators necessary consequences, treatment, and rehabilitation, increasing recidivism likelihood (Harris & Terry, 2019; Phillips et al., 2019). Additionally, these administrators are aiding and abetting known sex offenders without prosecution (Grant et al., 2018) and undermining students' victimization (Wurtele et al., 2019).

Title IX and the ESSA did not address mechanisms for oversight of state implementation and for measuring ESM policies' effectiveness (Grant, Wilkerson et al., 2019). As a result, state policymakers need more research to determine if adoption of federal ESM policy requirements are worth the allocation of public funds (Grant et al., 2018). This study addressed the field of psychology by furthering knowledge of how federal ESM policy requirements contribute to the abuse environment for victims and criminalizes passing the trash for public school administrators in Oregon, Connecticut, Pennsylvania, and Texas.

The results of this research suggest a data-driven means to measure the effectiveness of Title IX and ESSA Section 8546 policy requirements in those states which have not adopted these policies. This study focused on Oregon, Connecticut, Pennsylvania, and Texas as the geographical areas of research because these SDOEs have adopted both Title IX and ESSA mandates for ESM policies. These SDOEs have publicly accessible repositories of school personnel disciplinary actions inclusive of ESM-related incidents (Connecticut Official State Website, 2021a; Grant, Wilkerson et al., 2019; Grant et al., 2018; Pennsylvania Professional Standards and Practices Commission, 2021; Teacher Standards and Practices Commission, 2020; Texas Education Agency, 2020).

This study provided data for school resource officers, school psychologists, and the public on the (a) prevalence of ESM, (b) school administrators who aid and abet sex offenders (Grant et al., 2018), and (c) the impact of an unchanged school environment on the

revictimization and psychological distress of victims (Blakemore et al., 2017; Phillips et al., 2019; Wurtele et al., 2019). Completing this project contributed to public awareness for (a) the wide-scale practice of ESM (Grant et al., 2018; Shakeshaft, 2004; Surface et al., 2014) and (b) the psychological impact of an unchanged abuse environment on students (Koçtürk & Yüksel, 2018; Wurtele et al., 2019). Further, the findings of this study suggested that Title IX and ESSA policy requirements effectively address both ESM and passing the trash. Determining the relationship between cases of ESM (and passing the trash) and the existence (or absence) of federal policy requirements was the method for measuring the effectiveness of policy element adoption. As a result, state legislators have a much-needed set of data-driven practices to address ESM and passing the trash in their respective states.

### **Purpose Statement**

The purpose of this project was to identify the relationship between cases of ESM and passing the trash in Oregon, Connecticut, Pennsylvania, and Texas and federal ESM policy requirements. Educator sexual misconduct is difficult to measure (Shakeshaft, 2004), and no published examination of the relationship between policies governing changes to the abuse environment in school settings and ESM and passing the trash exist (Grant, Wilkerson et al., 2019; Phillips et al., 2019).

The focus of the project was to conduct a quantitative archival study. The approach of this study was to analyze data through logistical regression. The purpose of the study was to determine if a relationship existed between the adoption of Title IX and ESSA Section 8546 policy requirements and ESM-related and passing the trash-related cases. The advantages of using logistic regression analysis were (a) determining if a significant relationship exists between ESM cases and federal policy requirements, (b) determining if a

significant relationship exists between passing the trash and federal policy requirements, and (c) determining the predictability of those relationships (Ernst & Albers, 2017). The benefit of an archival study design was public access to the digital abundance of primary data on educator disciplinary actions from state-created repositories providing insight into ESM in each of the four target states (Guiney, 2020). The project's scope was the examination of the repositories for ESM-related events, as defined later in this chapter. The critical revelations from this project are a basis for state policymakers to adopt federal policy requirements by developing an ESM handbook.

### **Importance of the Study**

This study was important because a need existed to measure the efficacy of federal policy requirements and their relationship to ESM-related and passing the trash-related cases (Grant et al., 2018). This gap in the literature is well-known, but scholars have avoided such a study due to the lack of a national educator disciplinary data repository with public access (Grant et al., 2018). Given how unaddressed ESM situations exacerbate the abuse environment (Blakemore et al., 2017), revictimize and add to the distress of victimized students (Pollack & Reiser, 2020; Wurtele, 2019), and allow for the aiding and abetting of known sex offenders (Seidule & Pollack, 2018) deep analysis of federal policy requirements was necessary.

This project was a unique approach because it focused on the relationship between ESM and passing the trash cases and federal policy requirements. The method of investigation was researching archival records from publicly accessible educator disciplinary repositories for ESM-related offenses and passing the trash in Connecticut, Pennsylvania, Oregon, and Texas (Connecticut Official State Website, 2021a; Pennsylvania Professional

Standards and Practices Commission, 2021; Teachers Standards and Practices Commission, 2020; Texas Education Agency, 2020). Inclusion of disciplinary, arrest, and court records for variables common to this offender typology provided data reliability. This research design was valuable because it added knowledge to the field of psychology by establishing data on the relationship between legislation and the abuse environment (Blakemore et al., 2017) and whether students suffer continued victimization despite efforts to stop ESM (Wurtele et al., 2019).

The most contemporary and available research on ESM was used to identify factors associated with ESM, passing the trash, the abuse environment, and revictimization. The relationship between ESM (and passing the trash) and federal policy requirements (outlined in Chapter IV) was a new contribution to the current ESM literature in the form of a data-driven basis for policies on reducing sexual offending, improving conditions that lower the risk of sexual abuse in public schools, and mitigating the likelihood for revictimization. Blakemore et al. (2017), Grant, Wilkerson, et al. (2019), Gravelin et al. (2019), and Pittenger et al. (2016) identified the need for data-driven policies as knowledge gaps in previous ESM studies. The results of this study are a foundation for allocating public resources to adopt policies and practices addressing ESM and passing the trash before students are victimized (Grant et al., 2018). These findings from this study may be a benefit to school resource officers who receive reports of ESM and investigate passing the trash as well as school psychologists who might be an integral part of changing the abuse environment.

### **Conceptual Framework**

The conceptual framework of this study was theories and paradigms which define and describe the critical aspects of ESM, sexual offending, victimization, the abuse environment,

and ISA. Most important among these theories were the etiological theories of sexual offending, starting with Ward and Beech's integrated theory of sexual offending (Ward, 2014) and the four-factor model of offending. The traumagenic dynamics model (Pittenger et al., 2016) was the basis for understanding the adverse effects of the abuse environment. The power differential theory was the conceptual basis of policies addressing ESM and ISA, and the victim precipitation theory was essential to understanding why certain students fall victim to ESM.

Chapter II presents these theories and paradigms. These theories were the foundation for the data-driven policies on preventative and reactive measures when ESM is identified within public schools and the conceptual mechanisms for creating environments less conducive to sexual abuse (Grant et al., 2018). This project contributes to accumulated learning by applying theories on the impetus for sex crimes, sexual perpetration, and victimization to gaps in the available body of knowledge on ESM and passing the trash.

### **Overview of the Research Project**

The project focused on the relationship between Title IX and ESSA policy requirements with ESM and passing the trash. This project presented an archival design and quantitative logistic regression to create a predictive model. An archival design was appropriate for this project because the four states of this study have repositories of primary data and are publicly accessible (Guiney, 2020). A quantitative logistic regression design was appropriate for this research project because the aim of this study was to describe the number of ESM and passing the trash cases as functions of the federal policy requirements (Ernst & Albers, 2017).

The resultant model was used to assess the strength of the relationship between the policy requirements and ESM and between the policy requirements and passing the trash in Oregon, Texas, Pennsylvania, and Connecticut and to predict the future relationship between the policy requirements, ESM, and passing the trash in other states. The findings of these predictions support adopting an ESM policy and practices handbook of federal ESM policies. Handbooks are beneficial because they contain knowledge that might guide policymakers and school administrators in implementing data-driven policies and practices that might not be found in textbooks or other educational materials (Creagar et al., 2020).

Archival data was collected for three of the four target states, Oregon, Texas, and Pennsylvania from the public educator disciplinary repositories (Pennsylvania Professional Standards and Practices Commission, 2021; Texas Education Agency, 2021; Teachers Standards and Practices Commission, 2020), and the submission of a Freedom of Information Act request in Connecticut (Connecticut Official State Website, 2021b). To improve the generalization of findings, all educator disciplinary cases were extracted from the databases and were included in the sample for this study.

Since no published studies focused on the motivating factors for ESM perpetration, a need existed to identify these factors from concentric research on ISA studies and ISA dyads. In a study on clergy sexual abuse against minors, Terry (2011) eliminated homosexuality and pedophilia as causal factors in sexual perpetration. Terry concluded that situational and emotional factors such as private access to children, prior sexual victimization, and emotional congruence with adolescents were correlated with the sexual offending occurring within the Catholic church. These correlated factors were consistent with those identified for opportunistic ESM perpetrators (Shakeshaft, 2013). One profound result of Terry's (2011)

study was the development of a framework for understanding ISA in any institution, including public schools.

This study addressed the reliability of archival data by examining the emotional, organizational, and situational factors of ESM perpetrators. Terry (2011) concluded that bishops took steps to rehabilitate priests through psychological treatment and/or educational programs before victim disclosures of the abuse were investigated. Administrative leave was another factor common to perpetrators before criminal investigation (Terry, 2011). Terry stated that priests assimilated themselves into the victim's family before perpetration. These variables are consistent with two-thirds of ESM offenders (Shakeshaft, 2013). Pogorelc (2020) paired the clergy-minor dyad with the existence of these variables to explicate the cover-up of ISA within the Catholic church. These findings were instrumental to understanding the motivations and conditions that enable sexual perpetration within public schools in the United States.

One presupposition for this study was the congruence between ESM and ISA. The ISA literature regarding the psychological, cognitive, organizational, and situational factors, common indicators of clergy sexual abuse against minors, were elements common to ESM offenders. The reliability of the archival data was addressed by reviewing public records for these factors through open-source administrative actions, arrest reports, and court records for each case not clearly identified as ESM in each state under investigation. These cases were included in the logistic regression analysis.

This study's results suggested a data-driven basis for states to implement Title IX and ESSA Section 8546 policy requirements to reduce ESM instances and passing the trash in public schools throughout the United States. A handbook of data-driven, ESM-specific

policy suggestions, and implementation practices could inform how school administrators make policy decisions, create environments less conducive to sexual abuse, and lessen passing the trash in public schools across the United States.

### **Research Questions**

The over-arching study question was, to what extent and in what manner did the Title IX and ESSA policy requirements impact instances of ESM in public schools in Oregon, Texas, Pennsylvania, and Connecticut from January 1, 2016, to December 31, 2021. Educator disciplinary data specific to ESM and passing the trash in each state's publicly accessible disciplinary repositories dating back to 1993 was collected for analysis. In addition, disciplinary, arrest, and court records were analyzed using binary logistic regression (Bloomfield & Fisher, 2019; Ernst & Albers, 2017).

The nature of the research question suggested a null hypothesis and multiple alternative hypotheses. The purpose of the hypotheses was threefold. First, the hypotheses were designed to test whether a statistically significant relationship existed and the strength and shape of the relationship between federal policy elements and the number of cases of ESM and passing the trash in each target state. Second, they were structured to describe the extent to which the existence or absence of policy requirements predicted ESM and passing the trash in non-target states. The findings were a valuable resource for adopting these policy requirements as state lawmakers attempt to prevent ESM and passing the trash. Third, the hypotheses were intended to reveal interactive relationships which may not be initially obvious (Bloomfield & Fisher, 2019).

### **Research Question (RQ)**



Were incidences of ESM and passing the trash influenced by the adoption of federal policy requirements in Oregon, Texas, Pennsylvania, and Connecticut from January 1, 2016, to December 31, 2021?

### **Hypotheses**

The following hypotheses were used for the study:

$H_0$  1: The number of ESM cases was not influenced by the number of federal requirements in the policies.

$H_{a(1)}$  1: The number of ESM cases decreased with an increase in the number of requirements included in the policies.

$H_{a(2)}$  1: The number of ESM cases increased with an increase in the number of requirements included in the policies.

$H_0$  2: The number of passing the trash cases was not influenced by the number of federal requirements in the policies.

$H_{a(1)}$  2: The number of passing the trash cases decreased with an increase in the number of requirements included in the policies.

$H_{a(2)}$  2: The number of passing the trash cases increased with an increase in the number of requirements included in the policies.

Alternatively, individual policy elements interacted to impact the number of ESM and passing the trash cases. An interactive effect indicated that the impact of all the policy requirements was greater than the sum of any two requirements acting together. It was also possible that ESM and passing the trash cases could decrease when the number of requirements in the policies decreased. The outcome of this alternative would suggest that policies were poorly conceived and/or implemented. Because the latter scenario was

unlikely, it was not a part of the primary hypotheses tested. No information was in the literature to develop hypotheses on the direction of cases in relation to policy. Therefore, to maintain objectivity, multi-directional hypotheses were necessary to answer the research question (Ernst, 2017).

### **Definition of Terms**

Operational definitions were essential to ensure readers understand concepts and clearly identify the classification of educator disciplinary cases during data collection (Leedy & Ormrod, 2013). This section addresses the terms discussed and referenced throughout this project. These terms appear in alphabetical order.

**Abuse Environment:** The abuse environment is the organizational conditions which allowed sexual abuse to occur or increase the likelihood that sexual abuse may occur (Durso, 2017; Harris & Terry, 2017).

**Child Sexual Abuse:** The definition of child sexual abuse by the World Health Organization was used in this study (WHO). The WHO (2015, p. 1) has defined child sexual abuse as any involvement of a child in sexual activities he or she cannot comprehend fully, cannot give legal consent to, is not developed for, or violates the laws of society. Child sexual abuse may include adult-child, child-child, and power-subordinate dyads.

**Educators:** Educators are any adults within a public school. Educators include paid employees, contractors, and volunteers (Henschel & Grant, 2019; Grant, Wilkerson et al., 2019).

**Educator Sexual Misconduct:** Educator sexual misconduct is when any adult, regardless of whether paid or unpaid (Abboud et al., 2018), within a public school, during any school function, on or off campus, or in a virtual platform (Jaffe et al., 2013), acts in a

way intended to sexually arouse oneself or a student through physical, verbal, or visual means (Abboud et al., 2018; Shakeshaft 2004).

**Fixated ESM Offenders:** For this research, the term fixated ESM offender was used synonymously with fixated abuser. Fixated ESM offenders are predators sexually aroused by prepubescent children (Shakeshaft, 2013).

**Institutional Sexual Abuse:** Institutional sexual abuse is an organizational, sexual relationship between an adult in an authority position and an individual under the legal age of sexual consent (RAINN, 2021).

**Non-Contact Behaviors:** For this research, non-contact behaviors were sexual behaviors other than those using physical touch, but which served to cross a sexual boundary with students including sexting, exchanging nude pictures of themselves, exposure to pornography, and sexual innuendo (Walsh & Krienert, 2021).

**Nondisclosure Statement:** Nondisclosure statements are private, administrative settlements between public school administrators and educators suspected or reported to have engaged in ESM with a student. Nondisclosure statements limit how much information the district leaders can share with other school districts. Nondisclosure statements result in the perpetrator's ability to gain employment in another school district without previous ESM allegations surfacing (Surface et al., 2014). Nondisclosure statements were used interchangeably with confidentiality agreements.

**Opportunistic ESM Offenders:** For this research, the term opportunistic ESM offender was used synonymously with opportunistic abuser. Opportunistic ESM offenders are perpetrators who take sexual advantage of situations but are not sexually attracted to children or teens exclusively (Shakeshaft, 2013).

**Physical Contact Behaviors:** Physical contact behaviors are when an educator touches genitalia, fondles, kisses, penetrates, or has any other physical contact which elicits sexual arousal in either the educator or student (Grant et al., 2017).

**Sexual Abuse:** For this research, the term sexual abuse was used interchangeably with any terms associated with the sexual victimization of a student, including child sexual abuse as defined above.

**Sexual Acts:** The definition of sexual acts provided by the WHO (2015, p. 1) was used in this study. Sexual acts are inducement or coercion, exploitive use of a child in prostitution or other sexual practices, or the exploitive use of children in pornographic performance and materials.

**Students:** For this research, students are any persons enrolled in a kindergarten through 12<sup>th</sup>-grade public educational program. A student does not have to attend the same school as the educator (Grant, Wilkerson et al., 2019).

**Typology:** Typology is a classification of sexual perpetrators based on their behavioral patterns and the characteristics of their offenses (Walsh & Krienert, 2021).

**Verbal ESM Behaviors:** Verbal ESM behaviors are when an educator uses sexually implicit or explicit talk, texts, emails, and other forms of communication in any communication medium (Abboud et al., 2018).

**Visual ESM Behaviors:** Visual ESM behaviors are when an educator shows a student pornography or other pictures meant to titillate the student or educator sexually (Abboud et al., 2018).

## **Delimitations, Assumptions, and Limitations**

This study focused on the number of ESM cases resulting from the adoption of federal policy requirements in Oregon, Texas, Pennsylvania, and Connecticut using archival data. This section addresses the assumptions on which this study rested. The limitations and delimitations of the project are presented.

### **Assumptions**

The private nature of sexual misconduct is a primary reason this form of sexual abuse difficult to prevent. One assumption of this study was that school employees have been provided the ESM and passing the trash policies in each of the states under investigation. School administrators have a duty to hold employees accountable for following the policy but must ensure those employees receive and acknowledge the policy (Grant & Heinecke, 2019). Another assumption was coworker willingness to report suspicions of ESM. Only 11% of school personnel were willing to report suspected ESM if discovered (Shakeshaft, 2013), indicating that most adults within a school system are not safe resources for victims of ESM to report abuse.

The statistical assumptions for binary logistic regression analysis were met. These assumptions were conditions that had to be completed to draw inferences from the model estimates and to make predictions using the model (Ernst & Albers, 2017; Meyers et al., 2017). The assumptions were (a) the variables were categorical, (b) an absence of multicollinearity, and (c) the lack of outliers in the data. All statistical tests for assumptions are detailed in Chapter III.

## **Limitations**

Several limitations were identified in this study. First, the ESSA, Section 8546, indicated that school administrators are guilty of passing the trash in violation of a law in their current state. Some states have no laws addressing ESM or passing the trash. In other states, administrative handling of cases is not in violation of the law due to the age of the student, the state's legal age of sexual consent, or the existence of statutory rape laws. This limitation within the law implies that school administrators are never guilty of passing the trash in those states.

Second, this study is not a "big picture" of ESM or passing the trash in public schools throughout the United States. This project was limited to the states where SDOEs adopted federal policy requirements and created a publicly accessible repository of educator disciplinary cases. The lack of a nationally accepted definition of ESM and specific criminal codes for ESM are reasons authentic tallies of ESM cases are unknown and perpetrators are convicted under umbrella sexual abuse criminal codes.

Third, not all state lawmakers have adopted federal policy requirements to pass criminal codes for passing the trash and ESM. Currently, law enforcement officers rely on existing criminal codes to arrest ESM perpetrators, and prosecutors charge offenders with available criminal codes ranging from contributing to the delinquency of a minor to rape (Abboud et al., 2018; Shakeshaft, 2013). Some state prosecutors do not have criminal codes to address ESM behaviors resulting in a lack of a crime for law enforcement officers to make arrests. Different prosecutors have the freedom to plea bargain to lesser crimes in exchange for a conviction, which is significant because it means that within a single state, ESM

conviction charges vary. Variations in criminal arrest and conviction charges for the same crimes are another reason the actual number of incidences are unknown.

One last limitation of this research was that it does not account for the current cultural gender revolution across the country. Specifically, this research does not address interactions between transgender identity school practices and the abuse environment. These interactions are beyond the scope of the study because transgender school policies were not widely or uniformly implemented across the states of the study and were not within the timeframe for data collection (1993 to 2021). In addition, data records do not contain transgender information. Any relationship between the growing acceptance of gender fluidity and ESM is an important topic for future research.

### **Summary**

Educator sexual misconduct is understudied, and no studies have addressed the efficacy of preventative policies and procedures. Lawmakers established Section 8546 of ESSA and Title IX to mandate states to address ESM and passing the trash but these lawmakers failed to create mechanisms for state adoption, policy implementation, and practice realization. The purpose of this study was to determine if a relationship existed between ESM and passing the trash and federal policy requirements, as well as to predict the probability of these policies reducing ESM and passing the trash in other states.

The study focused on an archival design and binary logistic regression analyses to determine if a relationship existed between the number of federal policy requirements adopted in SDOE policies and the number of ESM and passing the trash cases within the states under investigation. The data was gathered from SDOE databases, examining public court and arrest records, and reviewing administrative disciplinary action paperwork.

Critical outcomes were informative for psychology, criminal justice, and education professionals by shining light on the effectiveness of federal policy requirements on ESM and passing the trash. Critical gaps for further scholarly exploration emerged from the findings of this study.

Chapter I was inclusive of an introduction to ESM and ISA. The background of the study, statement of the problem, importance of the study, research questions, and the methodology used to conduct the study were presented. This first chapter addressed a conceptual framework that provided the backbone for ESM perpetrators rooted in multifactor theories of sexual offending and applied to ESM using the power differential theory and four-factor model. Theories to support the need to address the abuse environment and psychological stressors of students were backed by the victim precipitation theory and the traumagenic dynamics model.

The second chapter addresses the ESM and passing the trash phenomenon from a broad to narrow focus. To fully develop effective ESM policies, a thorough understanding of the demographic and dynamic nature of perpetrators, victims, and offense characteristics was necessary to review. The literature review is a synthesis of ESM and ISA studies, a review of relevant federal and state laws enacted to deal with this type of sex crime, and an examination of current educational practices. Examining Title IX and ESSA Section 8546 policy requirements and accountability measures in the target states is presented at the end of Chapter II.



## CHAPTER II: REVIEW OF THE LITERATURE

The ESM research is limited and dated. A handful of qualitative and quantitative studies on the prevalence of ESM, its characteristics, and offender and victim statistics exist in the literature (Grant et al., 2019; Grant, Wilkerson et al., 2019; Henschel & Grant, 2019; Henshaw, 2016; Jaffe et al., 2013; Kinyaduka & Kiwara, 2014; Mulligan, 2015; Simpson, 2010; Spakowski & Crespi, 2017; Walter, 2018; Wurtele et al., 2019). One study on an ESM statutory analysis (Abboud et al., 2018), one on passing the trash and nondisclosure statements (Surface et al., 2014), and several studies on public perceptions of offenders and their sentences (Anderson et al., 2015; Brady & Tajalli, 2018; Mackelprang & Becker, 2015; Robert & Thompson, 2018; Zack et al., 2018) emerged from this review of the literature. Despite these studies, research on quantifying the impact of federal policy requirements on ESM was absent from the literature.

The lack of research on preventative policy was not the only topics absent from the literature. The literature was void of scholarly attempts to identify factors related to effective policies and practices for (a) preventing ESM, (b) ensuring those who pass the trash were prosecuted, and (c) creating environments less conducive to sexual abuse. This review of the literature addressed the dynamic nature of the ESM phenomenon, a justification for the methodological approach for this study, and the legal framework for developing effective policy.

Included in this section is the background of federal policy requirements for ESM. Federal lawmakers created policies specific to ESM perpetrators, victims, and offense characteristics as well as the psychological, cognitive, social, and cultural impetus for sexual offending. The impact of ESM and passing the trash on perpetrators, victims, and the abuse

environment was discussed using concentric research on Institutional Sexual Abuse (ISA). Research on ISA was necessary to understand the ESM phenomenon due to the absence of scholarly contributions to ESM in the literature. This study addressed relevant federal sex offender and educational acts, court precedents, and state laws to build the basis for adopting federal policy requirements in the target states. Finally, this literature review addressed the Title IX and ESSA Section 8546 policies in the target states.

### **Article Search**

The research for this project first focused on broad searches for ESM then focused on narrower concepts as gaps in the literature were identified. The initial primary sources on ESM indicated, repeatedly, how research into preventative policies and practices were needed, but no studies were found using both open-source search engines or the University of Arizona Global Campus (UAGC) Library of aggregate databases. As a result, searches for primary, scholarly, peer-reviewed resources were conducted concentrically on ISA perpetrator-victim dyads. This literature review focused on resources found through federal and state government websites and non-profit organizations outlining historical and current educational acts, criminal codes on sexual offending, and organizational efforts to inform the public about ESM and passing the trash.

A typical pattern was used to conduct searches for relevant resources. A generic search was conducted on a component of ESM using Google Chrome search engine. This type of search returned key words, colloquialisms, and popular expressions associated with ESM where a more inclusive search was conducted using Google Scholar and the UAGC Library search engines. Searches using SAGE Research Methods, UAGC Library, and Google Scholar returned most of the peer reviewed articles and seminal works relied upon in

this review of the literature. Specifically, SAGE, EBSCOhost, and ProQuest databases were the source for the bulk of the articles on ESM and ISA, while non-profit organizational websites were the source for the hyperlinks to the governmental and state websites for state-specific information on ESM within the target states. Google Scholar was useful in locating legal resources specific to ESM, ISA, and other forms of sexual offending. SAGE Research Methods' electronic books and articles on archival studies and regression analysis was the primary source for the methodological research needed for this study.

The primary strategy used for identifying current articles was keyword searches on Google Scholar. The initial date range was set between 2016 and 2021. The studies resulting from the search were located within the UAGC Library for the full article.

The date range was changed to 2011 through 2021 to encompass older articles. The search was expanded to search for relevant articles for two reasons. First, the initial search between 2016 and 2021 returned a small number of articles. Second, the authors of articles and other website resources consistently relied upon older studies.

Empirical data were derived from three sources. Information on the target state sex offender laws and ESM policies were on Federal and state Departments of Education (SDOE) websites. Qualitative government-sponsored reviews were collected from the U.S. Department of Education (USDOE) and Government Accountability Office (GAO) websites that addressed the scope and extent of ESM and passing the trash. The Inter-Consortium for Political and Social Research (ICPSR) datasets through the University of Michigan website was the source for perpetrator and victim demographic information.

Several professional and non-profit websites were used to gain statistical and professional data regarding ESM and legislative initiatives to prevent student victimization

and passing the trash. These websites, specifically Rape, Abuse, & Incest National Network (RAINN) and Stop Educator Sex Abuse, Misconduct, and Exploitation (S.E.S.A.M.E.) hyperlinked to recent research articles, federal and state legislation, and other initiatives for training educational staff and students on sexual victimization and passing the trash.

RAINN is the nation's premier anti-sexual victimization organization. The organization operates the National Sexual Abuse Hotline and provides the Department of Defense (DOD) with the Safe Helpline for sexual assaults occurring among military personnel. RAINN is governed by a board of directors with a national leadership council consisting of philanthropists, pro bono lawyers, celebrities, comedians, psychotherapists, trauma specialists, journalists, and sexual assault survivors (RAINN, 2021). RAINN's mission is to prevent sex crimes, help victims, and ensure perpetrators are prosecuted. The content on the website was consistent with statistics found in the literature (Grant, Wilkerson et al., 2019; Henschel & Grant, 2019; Shakeshaft, 2004; Surface et al., 2014).

The S.E.S.A.M.E. organization has a board of directors consisting of accountants, Doctor of Philosophy (Ph.D.) researchers, educational evaluators, and parents of victims who are advised by nationally renowned experts in ESM. Parents and educators created this organization in 1991 to bring awareness to communities about teachers who sexually offend. The mission is to eliminate ESM and passing the trash through educating the public with governmental studies, providing access to ESM training materials, and outlining states which have passed laws mandating reporting ESM to an oversight body. This information was consistent with gray literature found on governmental websites and state educational oversight agencies (Iowa Board of Educational Examiners, 2022). The contributors to the website

highlighted the lack of a national database for teacher accountability, which has been cited in other studies (Ratliff & Watson, 2014; Simpson, 2010; Walter, 2018).

Scholarly authorities on ESM were identified by following the links to their credentials, which included a professional biography and peer-reviewed articles which they authored, co-authored, or advised. Charol Shakeshaft and Billie-Jo Grant stood out as ESM experts. Charol Shakeshaft holds a Ph.D. in educational leadership at Virginia Commonwealth University (VCU) where she actively researches gender and race in educational policy, ESM, and the effectiveness for technology for learning. Shakeshaft has authored three books and contributed to over 200 articles on ESM and equality in public schools (VCU, 2021). Second, Billy-Jo Grant holds a Ph.D. in Education Research and is recognized for her contributions in ESM. Grant's contributions include numerous peer-reviewed articles on ESM policy deficits and implementation of federal and state laws specific to preventing ESM (S.E.S.A.M.E., 2016).

Few articles were identified as seminal works. Searches on the varying elements of ESM and their theoretical underpinnings resulted in a return of works by the same authors, repeatedly. The date ranges for these articles were beyond the 5-to-10-year time frame referenced earlier and were cited as authorities in ESM and passing the trash by more recent studies. These seminal works were crossed-referenced with peer-reviewed articles on ESM where they were found to be used extensively as resources in other studies. Accordingly, more recent ESM scholars have not contradicted the findings of these older studies.

The theorist writings presented in this chapter were selected based on the theories and models best suited to explain sexual perpetration, sexual victimization, and the impact of an unchanged abuse environment on victims. Intrinsic and extrinsic pathways leading to sexual

offending were explained using the intrinsic theory of sexual offending and the four-factor model. Sexual offending specific to educator-student dyads were investigated through the lens of the power differential theory. The perceptions of victims and their peers on ESM were explained using the victim precipitation model. The traumagenic dynamics model was applied to understand the impact of an unchanged abuse environment in the context of sexual victimization. These theories were the foundation for effective policy development.

The keywords used to locate relevant articles included colloquialisms and variations of the terms to ensure a thorough return of articles and resources. The keywords were arranged into categories. The first category of keywords focused on trending information on ESM. These keywords included ESM, sexual harassment at school, and teacher-student sexual relationships as well as common terms identified through a simple Google search associated with these concepts.

The remaining categories had fewer keywords. The second category was keywords associated with passing the trash and included other terms such as confidentiality agreements, nondisclosure statements, and administrative handling of cases. The third category of terms was keywords designed to return articles on ESM prevention such as preventative policies, educational oversight, sex abuse training, sexual victimization, and sexual harassment reporting in schools. The fourth category was keywords focused on federal legislation. Keywords in this category were ESSA, Title IX, educational standards, sexual harassment, sexual discrimination, reporting mechanisms, and prosecuting ESM. The fifth category included keywords regarding ISA. These keywords included variations of offender-victim dyads, clergy abuse, forms of ISA, and prison rape in juvenile facilities.

Finally, keywords on theories included etiology of sexual offending, victim theories, and abuse environments. These keywords were instrumental in returning applicable articles.

This study focused on concentric research because of the lack of studies in the literature relevant to legal, psychological, and educational responses to ESM and passing the trash. Contemporary issues surrounding the safety of students such as school bullying and school shootings were researched to gain resources on how federal and state legal and educational systems responded to these threats within the nation's public schools. These studies were used as insight for understanding educational policies on protecting students. Additional concentric research was conducted to understand federal and state legal responses to other forms of child sexual abuse and found evidence ESM was parallel to clergy abuse and sexual abuses occurring within other organizations such as college campuses, the Boy Scouts of America, the Catholic Church, and juvenile detention facilities. As a result, this review of the literature addressed ISA as a parallel sex crime with ESM.

### **The Problem**

Sex crimes are a popular news topic. The more violent or sensational the sex crime, the more it is covered by the media (Reilly, 2018). The public seem captivated by sex crime news stories for weeks or even years. Consider Theodore Robert (Ted) Bundy, one of the most infamous sexual predators in United States history. Ted Bundy was executed for his crimes in 1989 in the state of Florida. Bundy confessed to raping and murdering more than 30 women in several states during the 1970s (Rule, 1980).

Despite his gruesome acts, a simple Google search using the terms "Ted Bundy" and "true crime" returned 11 true crime books and nine Hollywood movies romanticizing his life, victims, and crimes. The first made-for-tv movie aired in 1986, 3 years before he was

executed, and the latest film was introduced in theaters in 2021. Bundy has been the topic of true-crime novelists since 1980. The extent true-crime books and movies continue to normalize sexual perpetrators implies the public considers sex crimes and the people who commit them to be of profound interest.

Sex crimes are categorized into three primary buckets each containing copious umbrella offenses (Yung, 2020). The first bucket of sex crimes includes offenses where violence is a part of the sexual act. Sexual acts in this category are variations of sexual deviance, forcible touching, and sexual assault. Sex crimes which lack the legal consent of one person to the act are the second category. These acts include equivalents of rape, obscenity, non-consensual pornography, and sex trafficking. The last category includes sex crimes committed against minors and individuals who do not have the legal capacity to consent to the sexual act. Examples of sex crimes in this category are child molestation, incest, child pornography, and underaged sex with an authority figure. Crimes in these sexual categories are found in federal statutes and state criminal codes. Although sex crimes vary in definition and degree among the states, generally, these crimes are considered felonies, which carry conviction sentences of more than one year.

### **Background of the Phenomenon**

Federal lawmakers have established harsh consequences for individuals convicted of sex crimes in the violent, non-consensual, and against individuals without the legal ability to consent categories. Title I of the Adam Walsh Child Protection Safety Act of 2006, entitled Sex Offender Registration and Notification (SORNA), is applicable to all 50 states, the District of Columbia, principal United States territories, and Indian tribal governments. Title I, or SORNA, outlines standard practices for registering and monitoring convicted sex



offenders and governs procedures for notifying the public, and the adoption throughout the federal government's jurisdiction (Sex Offender Registration and Notification, 2006). Keeping the Internet Devoid of Predators Act (KIDS Act), Military Sex Offender Reporting Act, and International Megan's Law updated SORNA in 2008, 2015, and 2016 respectively. These acts and laws were federal lawmaker attempts to reduce sex crimes comprehensively when adopted by individual states, districts, and territories.

The primary intent of SORNA was to require the monitoring of convicted sex offenders outside of a confinement setting and to notify the public when a sex offender moves into a new community. As of 2020, spokesmen from the federal Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) announced only 22 states have substantially implemented SORNA (U.S. Office of Justice Programs, 2018). According the U.S. Office of Justice spokesperson, states which fail to implement SORNA forfeit federal funds but face no other consequences. The failure of the federal government to hold states responsible for implementing SORNA results in an environment where the public are subjected to victimization at the hands of known sex offenders.

Nevertheless, sex crimes primarily occur out of the public's eye, especially sex crimes categorized in the third bucket, sex crimes against minors and individuals without the legal capacity to consent. The sex acts are difficult to detect because of the secretive nature of these variations of sex crimes. The unenforced federal laws at the state level indicate a culture where victim disclosure is rare (Harper & Perkins, 2017).

## **Institutional Sexual Abuse**

Administrators of public and private institutions have hidden sexual misconduct against minors for decades, known collectively as institutional sexual abuse (ISA). Public knowledge of offender – victim dyads such as juvenile facility staff – juvenile delinquent, clergy – minor, and professor – college student has resulted in federal legislation adopted at the state level to curb ISA (Prison Rape Elimination Act [PREA], 2003; Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act [Clery Act], 1990). Nationally recognized independent and reputable accrediting organizations have developed standards to audit institutions for policies and practices targeting the reduction of ISA (Commission on Accreditation for Law Enforcement Agencies, 2021, International Association on Campus Law Enforcement Administrators, 2021). The combination of these federal laws and accreditation standards are an accountability mechanism for any institution exercising control over underaged individuals to protect them from sexual abuse, harm, and misconduct at the hands of adults.

### **Juvenile Facility Sexual Abuse**

Employees of state-operated juvenile detention facilities have subjected minors to sexual abuse. The statistics surrounding this form of ISA is problematic. Approximately 1 in 10 incarcerated youths have reported sexual mistreatment at the hands of adult staff members (Annie E. Casey Foundation, 2015). Incarcerated young girls are 46.7% more likely to be sexually victimized than incarcerated boys (Allroggen et al., 2017). In 2018, 7.9% of incarcerated juveniles have been coerced or forced into a sexual relationship with facility staff (U.S. Office of Justice Programs, 2019). These statistics indicated a need to address ISA in juvenile facilities.

As an oversight mechanism, the United States Department of Justice created the Prison Rape Elimination Act (PREA) Resource Center (PRC) to oversee independent PREA audits of facilities housing inmates overnight, including juvenile delinquents and abused or neglected youth (PREA; 2003). The PRC required juvenile detention and residential facilities to adhere to approximately 50 standards specifically related to identifying, reporting, and investigating sexual misconduct of staff towards juvenile inmates (PREA, 2003). The PREA standards and external PRC oversight have resulted in facility adoption of practices designed to reduce sexual misconduct against incarcerated youth across the United States (PRC, 2021).

The adoption of PREA standards have had an impact on creating environments less conducive to sexual abuse and sexual offenses against incarcerated youth, albeit a minimal impact. Between 2012 and 2018, sexual misconduct against youth reduced from 9.5% to 7.1% (OJP, 2018). Although this decline was marginal, the PRC's external auditing and PREA standards were factors in changing the abuse environment within juvenile detention facilities. However, not all child sexual abuse has seen a decline.

### **Church Sexual Abuse**

Consider the Catholic church's history of sexual misconduct and abuse against children and youth under the legal age of sexual consent. The news about church sexual abuse (CSA) against young parishioners was released to the public during the mid-1980s (Park, 2017). Church officials knew of CSA instances and responded by transferring the offending priests from parish to parish, instilling doubt in parents, and traumatizing victims (Harper & Perkins, 2017). Harper and Perkins reported that parents were relegated to an onlooker status, standing by as their children were sexually abused and the clergy were

afforded opportunity to acquire more victims when moved to a new parish. Public awareness of CSA has resulted in the Catholic church's governing body adopting practices to protect children within the church and conducting annual audits of random diocese to determine the implementation of the preventative practices (U.S. Conference of Catholic Bishops, 2020).

One problem with the Catholic church reviews for CSA was the internal nature of the audits. Audits by the Catholic church of the Catholic church for implementation practices created by the Catholic church appeared to have had little impact on CSA. A Washington Post investigative report has uncovered the quadrupling of CSA cases between 2018 and 2019 (Boorstein, 2020). The church can be commended for attempting to address CSA, but a need for an independent, external audit processes like the one implemented in juvenile detention facilities might have more of an impact at reducing this form of child sexual abuse.

Another form of ISA addressed through federal legislation is the sexual victimization of college and university students. The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics (Clery) Act was passed in 1990 in response to sexual misconduct and sexual violence on college and university campuses, regardless of state or private funding. Among other crimes, higher education administrators were required to be transparent about sexual crimes on university and college campuses, and to report crimes to appropriate law enforcement agencies to maintain federal funds, including student financial aid (Clery Act, 1990).

Two reputable and independent accrediting organizations have included Clery Act (1990) language in their accreditation programs for college campus law enforcement agencies. The International Association of College Law Enforcement Administrators (2021) and the Commission on Accreditation for Law Enforcement Agencies (2021) required

campus police departments to train their officers on identification, investigation, and reporting of sexual crimes on campus. The creation and independent audit of Clery Act requirements provided parents and potential students with information about the sex crimes occurring at their chosen college or university campus.

Institutional sexual abuse in juvenile facilities, churches, and higher-education campuses had not only been addressed by legislation but also by external auditing bodies. Except for the Boorstein (2020) findings, these practices have been measured over time to show environments less conducive to sexual abuse. Remarkably, minors are not mandated to attend the Catholic church or continue their education into a college or university. Voluntarily foregoing church attendance and achieving a higher education was one method for reducing instances of ISA regardless of legislation and independent, external audits.

These forms of ISA have had a lot of scholarly attention, creating a vast body of knowledge on the impact of preventative policies and practices. Pittenger et al. (2016) reported how the need to change the abuse environment can enhance the psychological safety of minors. Sadly, one of the largest populations of minors, public school children between kindergarten and 12th grade, are not protected by federal legislation and independent, external audits to protect them from sexual abuse at the hands of adults. Unfortunately, children cannot forgo a primary education to avoid sexual abuse.

### **Educator Sexual Misconduct (ESM)**

State and federal lawmakers mandate parents to ensure their children acquire a primary education. Excluding homeschooling parents, approximately 91% of parents send their children to public schools across the United States (National Center for Education Statistics, 2021). Title IX of the Education Amendments of 1972 (Title IX) was passed to

prohibit sexual discrimination in public schools receiving federal funding (Title IX of the Education Amendment Acts, 1972). Since sexual misconduct differs from sexual discrimination, the United States Supreme Court (USSC) ruled Title IX protects students from sexual discrimination and sexual harassment (Shakeshaft, 2004). Title IX was the first step in addressing ESM in public schools because it implied sexual discrimination and sexual harassment were not part of a public education.

Many loopholes were evident with Title IX. The U.S. Department of Education Office of Civil Rights (OCR), the federal oversight body for Title IX, only required school administrators to report student to student cases and not educator to student cases of sexual discrimination and harassment (2011). The OCR did not require state public education systems to maintain a database of reported cases (Grant et al., 2017; Shakeshaft, 2004; Simpson, 2010; Walter, 2018). Individual states were responsible for implementing Title IX requirements and defining which behaviors constituted sexual harassment, which was largely dependent on state statutory rape and sexual abuse laws (Chaffin et al., 2016; Shakeshaft, 2004). States received federal funding for adopting a Title IX program, but implementation at the district level has been inconsistent (Grant, Wilkerson et al., 2019). Public school students were subject to sex crimes in public schools, in large part, because of the differences in state sex crime laws and the failure of the OCR to define and account for sexual harassment effectively.

In another federal attempt to address ESM in public schools, the Obama administration passed the Every Student Succeeds Act (ESSA; 2015) which required state lawmakers to adopt policies and practices to prevent ESM in public schools and criminalize passing the trash. Grant et al. (2019) and Grant, Wilkerson, et al. (2019) conducted the only

two known studies since 2015 to identify which states have adopted these policies and practices. Both Grant et al. (2019) and Grant, Wilkerson, et al. (2019) found only four states had implemented the ESSA preventative policies and practices, but none of the states have a measuring mechanism in place to determine the efficacy of these policies and practices in reducing ESM in public schools.

The findings from these studies have created a new gap in the ESM literature. Specifically, it was unknown whether SDOE adoption of Title IX and ESSA Section 8546 policies and practices prevented ESM in public schools, created environments less conducive to sexual abuse, and penalized the practice of passing the trash. A scholarly need to measure preventative methods and data-driven practices to preempt ESM in public schools existed.

### **Educator Sexual Misconduct in Context**

Educator sexual misconduct was first coined in the seminal work by Shakeshaft (2004). Shakeshaft defined ESM as any actions of an adult educator intended to sexually arouse oneself or a student. This definition was broad and ambiguous. Subsequent scholars defined the types of acts meant to sexually arouse students to include physical and non-physical sexual behaviors occurring in a school setting between adults and students (Abboud et al., 2018). Abboud et al. expanded the ESM definition, but other scholars recognized the definition was not holistic.

The most current research had defined ESM as all adults working in the school system (administrators, coaches, other faculty, and volunteers) who engaged students in any form of sexually implicit or explicit communication, lewd and lascivious behaviors, and grooming for consensual sexual relationships (Henschel & Grant, 2019). Despite these scholarly definitions, no federal legislators have adopted a universal definition of ESM and

applied it consistently among states. In general, ESM behaviors are inclusive of sexual violence (rape, sexual assault, battery, and coercion); sexual abuse (molestation, forcible touching); sexual communications; lewd and lascivious actions; and possession or creation of child pornography (Jaffe et al., 2013; Simpson, 2010; Walter, 2018). Any adult working or volunteering in a kindergarten through 12th grade setting who engages in any one of the above-listed behaviors is guilty of ESM (Grant et al., 2017; Henschel & Grant, 2019).

Shakeshaft and Levy (2014), in a pivotal study, compared the criminal laws under which ESM cases have been prosecuted among the 50 states. Sixteen states had no identifiable legislation specific to child sexual abuse by an authority figure. Thirty-four states had a prosecutorial process for child sexual abuse inclusive of abuse by an authority figure. Of these 34 states, only 11 states had criminal codes specific to ESM. Four states consider ESM as unethical behavior, but not illegal. These states' legislators explicitly required ESM to be handled administratively. Adoption of state legislation specifically for ESM was useful but continued to fall short of consistent application across the United States.

The degree of ESM and child sexual abuse varied by states. Alaska lawmakers considered any child sexual abuse by an authority figure a Class A misdemeanor (Shakeshaft & Levy, 2014). Misdemeanor offenses carry a maximum conviction sentence up to and including 11 months and 29 days incarceration. Typically, first-time offenders of misdemeanor offenses are given a suspended sentence with or without community-based supervision.

Other states' law makers considered child sexual abuse by an authority figure a felony offense but varied in the degree of felony (Shakeshaft & Levy, 2014). Felony offenders must serve or receive suspended sentences of incarceration for any period over one



year in duration. The degree of felony and state sentencing guidelines are the deciding factors association with the length of incarceration for each offender. Judges have the freedom to suspend a sentence and require community-based supervision based on the evidence or the plea deal presented by the prosecutor.

The varying degrees of crime classification among the states were problematic. Chaffin et al. (2016) reported that prosecutors often relied on the age of the student and the state's statute of limitations when deciding to charge an ESM offender because most prosecutors relied on statutory rape laws and existing child sexual abuse laws. Abboud et al. (2018) confirmed Chaffin et al.'s findings, indicating age of consent laws played a pivotal role in determining to prosecute ESM cases. Thirty-three state law makers recognized the legal age of sexual consent was 16, six state law makers placed the age of consent at 17, and the remaining 11 state law makers required 18 years of age for sexual consent (Abboud et al., 2018). When the victim was post-pubescent, many prosecutors would forgo prosecution due to the victim's participation in the ESM event (RAINN, 2021). Grant et al. (2019) found many prosecutors, regardless of crime classification, continued to consider ESM unethical and allowed ESM cases to be disposed through administrative means. These variations in criminal prosecutions for ESM cases were a driving need for consistent application of an ESM definition and legal statutes.

The results of Shakeshaft and Levy's (2014) study has had little impact on promoting criminal codes specific to ESM. In 2014, 34 states had some sort of legislation for prosecuting ESM through specific ESM language (11 states), criminal codes on child sexual abuse by an authority figure (19 states), or administrative handling of ESM cases (four states). As of 2021, 17 states had ESM specific criminal codes, which was a mere six

additional states over 2014. Twenty-three states included ESM as part of *child sexual abuse by an authority figure* language in their 2021 criminal codes, up by four states over 2014. In 2014, 16 states did not criminalize ESM, which decreased to 11 states in 2021 (Enough Abuse Campaign, 2021). Again, the lack of consistency among the states was a contributor to educational environments where ESM thrived.

According to Shakeshaft (2004), ESM was not always illegal because the sexual behaviors did not always include physical contact. The intent behind ESM was not always sexual gratification through contact (touching, penetration) but typically sexual arousal in the student or educator (Spakowski & Crespi, 2017). These motivating factors indicate ESM perpetrators were a different sex offender typology than pedophiles, hebephiles, and ephebophiles. In a later work, Shakeshaft (2013) identified two types of ESM perpetrators, calling them fixated and opportunistic. Fixated perpetrators (a) offended against elementary-aged students, (b) created offending opportunities, (c) were rare, and (d) had pedophilic psychopathologies. These perpetrators were well researched in the literature (Abboud et al., 2018; Grant et al., 2017; Jaffe et al., 2013; Shakeshaft, 2004, 2013).

Shakeshaft's (2013) second type of ESM offender is the opportunistic offender. Opportunistic offenders focus their attention on post-pubescent adolescents, typically in middle and high schools. These perpetrators act on situational factors and frequently have no psychopathologies associated with sexual deviancies (Shakeshaft, 2013). Opportunistic perpetrators comprise approximately 62% of all ESM convictions but were understudied in the literature (Grant et al., 2017; Shakeshaft, 2013).

## **ESM Statistics**

Although accurate statistics for ESM were unknown, the few studies addressing ESM have provided interesting findings. Grant et al. (2017) found that 93% of all opportunistic ESM cases occurred in public schools. Two conclusions were made from this finding. First, private school administrators have a mechanism in place to prevent ESM from occurring, or, second, private school administrators practice passing the trash more than public schools.

Of the incidents reported, scholars had learned some interesting facts about offense characteristics. Grant and colleagues (2017) found 79% of cases involved physical ESM. Perpetrators rarely had a single victim. Chang (2018) found 1 in 3 perpetrators had more than one victim, and 20% of perpetrators had five or more victims. One-third of all teachers sanctioned for ESM were either new to the profession or new to their school districts (Robert & Thompson, 2018). Knoll (2010) stated that 6% of victims reported ESM to authority figures but not necessarily to law enforcement. One case of ESM is one case too many, and the need to reduce these numbers is of profound importance.

Victimization rates had remained constant since Shakeshaft's seminal work. Shakeshaft (2004) was the first to determine that 1 in 10 students were victims of ESM, annually. In 2007, it was reported 4.5 of 5 million students between kindergarten and 12th grade had been subjected to some form of sexual harassment in public schools (Irvin & Tanner, 2007). Grant et al. (2019) reported 498 known cases of ESM in 2015 but estimated this number represented 5% of actual cases. Constant victimization rates indicated ESM was difficult to measure. Furthermore, constant victimization rates were tell-tale signs of preventative ESM policy failures in public schools.

Educator sexual misconduct was the most cited reason teachers were dismissed from their positions in the public education system. Between 2001 and 2005, 2,570 teaching certifications were revoked due to ESM administrative findings but only 1,285 of these cases were referred to law enforcement (Irvin & Tanner, 2007). In Florida, ESM disciplinary hearings occurred 26% more frequently than other teacher infractions (Simpson, 2010), and this statistic was 60% of all disciplinary hearings in North Carolina (Walter, 2018). These statistics showed a need for Federal intervention to protect students from both fixated and opportunistic predators in the public-school systems.

Administrative handling of ESM cases and passing the trash was a contributor to the unknown extent of ESM throughout the country. Of the few studies conducted on ESM, findings suggested the phenomenon was under-reported (Brady & Tajalli, 2018; Grant et al., 2017; Henschel & Grant, 2019; Jaffe et al., 2013; Shakeshaft, 2004). Findings from other studies indicated an accurate accounting of ESM cases was difficult to ascertain due to the differences in state criminal statutes, misconduct reporting requirements, and the failure of students to recognize themselves as victims (Grant et al., 2017; U.S. Government Accountability Office, 2010). Also contributing to the unknown extent of the ESM phenomenon was the lack of a nationwide database for reporting (Abboud et al., 2018; Grant et al., 2017; Henschel & Grant, 2019; Shakeshaft, 2013). Despite this profound lack of knowledge surrounding ESM, the research conducted was enough to identify patterns in perpetration, victims, and the nature of the offenses.

### **Power Differential Theory**

The power differential theory (PDT) was developed to explain the inherently greater power and influence people in helping professions had over the people they helped. The

misuse or abuse of power resulted in physical, psychological, emotional, and cognitive harm to the victim. Supporters of the PDT theorized abuse as only occurring within a relationship of power where closeness or dependence existed between the abuser and the victim (Mathews & Collin-Vezina, 2017). The PDT was important because it extended the physical violation of the victim to his or her psychological and emotional health.

The literature suggested few points of agreement on theories explaining ESM. The PDT had been used to support the abusive nature when one person holds authority over another (Knoll, 2010). Knoll explained that adults in a school setting abused their authority over students due to power differentials. However, according to Mayer and Furlong (2010), this theory was not a predictor for which adults abused their power, why the abuse of power was sexual, and the motivations behind opportunistic offenders.

Walsh and Krienert (2021) used the PDT to indicate how abuse of power results in sexual abuse. Adults in positions of power over children abuse their power due not only to the age difference between the adult and child but also to the child's admiration and trust of the adult. Walsh's and Krienert suggested that one incentive for the adult's abuse of power to be sexual in nature was a contradiction to Mayer and Furlong's (2010) position. Walsh and Krienert (2021) stated that the sexual nature of the relationship and the trust formed between adult and child increased the likelihood neither perpetrator nor victim would report the relationship to authorities. The PDT was the best candidate to be a driving theory for opportunistic ESM and passing the trash policy development.

Thanks to Walsh and Krienert (2021), the PDT was an explanation for the sexual nature of abuse occurring within public schools. The psychological and social differences, trust, and dependence were power differentials for the dynamic relationship between

educators and students. To develop the drive for sexual offending fully, an examination into single and multi-factor etiological theories of sexual offending was necessary.

### **Etiological Theories of Sexual Offending**

This study focused on sex offending etiological theories to interpret the intrinsic motivational factors for perpetrators. These theories were single factor and multifactor. The single factor theorists hypothesized sexual offending was the result of a single concept such as biology, behavior, or cognitions. Biological theorists indicated sexual offending was the result of certain biological process and may include hormonal imbalances or physiologically predetermined sexual appetites (Andreas, 2018). Behavioral theorists concluded sexual offending was the result of conditioning or learning (Grady et al., 2016). Cognitive theorists implied attachment and intimacy disorders contributed to sexual offending (Szumski et al., 2018). Multifactor theories hypothesized sexual offending was the result of conditioning and was reinforced over time, such as socio-cultural theories. Socio-cultural theorists suggested sexual offending was the result of social and cultural structures supportive of sexual norms and messages (Ward, 2014). These theories are discussed in detail in the following subsections.

#### ***Single-Factor***

One crucial aspect of single-factor theories is they attempt to simplify a phenomenon which is complex. Single-factor theories include biological, behavioral, cultural, and cognitive theories. Biological theorists attributed sexual offending to abnormalities in the brain, genetics, and hormonal levels whereas behavioral theorists explained sexual offending as a learned phenomenon (Andreas, 2018; Grady et al., 2016). Biological theories are relatively new but have not produced empirical evidence to support assertions these factors

resulted in sexually assaultive behaviors. In a study which attempted to link higher levels of testosterone to sexual offending, Wong and Gravel (2016) found no differences in the levels of testosterone in sex offenders and non-sex offenders. The findings from this study suggested that no causal relationship between biological factors and sexual offending existed. This finding also indicated biological factors, in isolation, did not result in the motivation to commit sexual crimes.

Studies on sex offenders relying upon behavioral theories suggested sex crimes were learned behaviors or were the result of conditioning and reinforcement. For example, fathers who exposed their sons to domestic violence conditioned them to devalue women as part of their developmental experience (Ybarra et al., 2014). Behavioral theorists posited the lack of negative consequences for acting on this type of conditioning or inappropriate sexual fantasies was predictive of sexual offending (Grady et al., 2016). Furthermore, self-regulation was a factor in the commission of sex crimes (Ybarra et al., 2014). These studies' findings showed that behavior alone was not causal of sexual offending.

Another behavioral theory, the arousal theory, has merit when explaining the motivation behind sex crimes. Both instrumental and expressive sexual aggression was enhanced when the offender became aroused if he had a low level of agreeableness (Kanters et al., 2017). Study findings on the effects of pornography implied sexual arousal in people with more aggressive personalities experienced increased levels of sexual aggression (Hald & Malamuth, 2014). Hald and Malamuth provided empirical evidence sexual offending was learned, and a lack of negative consequences plus poor behavior controls increased the likelihood offenders will engage in sex crimes. As a result, sexual arousal patterns and sexual preferences can be entrenched through reinforcements.

Cognitive theorists focused on the offender's attitudes, beliefs, and perceptions. Many cognitive distortions were the result of the offender's attitude toward rape (Chaffin et al., 2016). Offenders who denied their behavior, minimized the harm done to the victim, felt entitled to have sex with the victim, and engaged in victim blaming had cognitive distortions (Szumski et al., 2018). An example of a cognitive distortion was the rape myth attitude. In a recent study, McDermott et al. (2015) concluded men's attitudes and statements supportive of male dominance over women were predictive of sexual perpetration. Errors in perception was another cognitive distortion increasing the likelihood of engaging in sexual crimes (Shon & Tewksbury, 2020). These cognitive distortions affected decision-making and increased the likelihood of sexual offending. Cognitive theorists provided empirical support for understanding why some men commit sexual assaults but were stronger when combined with other theories to holistically explain why this phenomenon occurred.

Theorists explaining sexual offending as a result of culture predicated their theories on social norms. Social and cultural acceptance of sexually explicit materials increased the likelihood of adopting aggressive behaviors toward women (Guyon et al., 2019; Hald & Malamuth, 2015). Media portrayals of men dominating women, physically and sexually, increased sexual aggression and violence toward women (Ybarra et al., 2014). Although a causal link between pornography and sexual assaults did not exist, cultural acceptance of pornography was a factor in male attitudes toward women (Bartol & Bartol, 2017). These findings suggested cultural factors were reliable indicators of sexual aggression, but little evidence existed to indicate they were causative. Since multiple characteristics interact to produce people who commit sexual assaults, single factor theories were influential in



informing research but, in isolation, did not address the complexity of why people commit these crimes.

### ***Multifactor***

Theories which integrate behavioral, cognitive, cultural, and situational or contextual factors were stronger theories for explaining why some people engaged in sexual offending. Ward and Beech's integrated theory of sexual offending posited psychobiological, cognitive, developmental, behavioral, cultural, and situational factors were instrumental in forming sexual offending behaviors and attitudes (Ward, 2014). Studies based on theories like Ward's three-factor model produced findings that showed some interesting results. Kanters et al. (2016) found antisociality, sexually deviant fantasies, and cognitive distortions were predictive of sexual offending. This finding suggested that the etiological pathways leading to sexual offending were multi-factor and diverse. Therefore, one presupposition stemming from multi-factor theories was genetic predisposition, adverse developmental conditioning and experiences, psychological dispositions, cognitive distortions, and social and cultural structures interacted with each other along a continuum to result in sexual offending behaviors.

### ***Four-Factor Model of Offending***

The four-factor model of offending was developed in the mid-1980s to explain the pedophilic impetus behind sexual offending. Finkelhor and Araji (1984) developed this multifactor theory specifically to understand pedophilic behaviors. Finkelhor and Araji suggested the diversity of factors associated with adult pedophilic perpetrators centered on emotional congruence, sexual arousal, blockage, and disinhibition.

Emotional congruence occurred when an adult displayed a positive and exaggerated connection with their childhood, assigned child-like qualities to themselves, and experienced strong non-sexual fondness of children (Finkelhor & Araji, 1984). These adults related with minors on an emotional level more than their peers. In one study, McPhail et al. (2018) established that emotional congruence was present in adult sex offenders with and without a diagnosis of pedophilia. McPhail et al. determined emotional congruence applied to pedophilic sexual offenders when those factors were implicit. This finding suggested that when sexual offending adults explicitly associated themselves emotionally with minors, they tended to take advantage of situational factors as opposed to possessing predatory pedophilic behaviors in the commission of their crime.

The second impetus for pedophilic offending was sexual arousal. Finkelhor and Araji (1984) offered no logical explanation why prepubescent children sexually aroused adults, and determined pedophilia was difficult to understand. Pedophilic sexual arousal was the resultant behavior when the adult experienced a physiological, erotic response to a child which may or may not include an emotional need to connect with the child (Finkelhor & Araji, 1986). High incidents of sexual victimization in childhood among convicted pedophiles were correlated with an emotional need to connect with youth in adulthood (Perrotta, 2020). Histories of sexual victimization had also been linked to adults who engage in non-pedophilic sex with minors (Ramirez et al., 2015). These findings indicated two important aspects about sex with underaged individuals. First, sexual victimization had a conditioning effect on adults where early experiences of arousal was associated with the physical characteristics of their bodies during their victimization. Second, perpetrators modeled behavior of their adult perpetrator who found children sexually stimulating.

The third factor in Finkelhor and Araji's (1984) model was blockage. Finkelhor and Araji explained that blockage occurred when adults were unable to have their sexual and emotional needs met in a relationship with another adult. Such sexual and emotional needs were identified as those outside mere sexual gratification, such as power over another person (Kanters et al., 2016), desire for validation as a male or female (Kanters et al., 2016; Szumski et al., 2018; Wong & Gravel, 2016), and need to possess the other person (Ybarra et al., 2014). As Finkelhor and Araji (1986) explored pedophilic blockage, they found many subjects associated adult sexuality with emotional pain from a previous adult relationship ending in sexual frustration due to occasional bouts of impotency. This finding implied that many adult sex offenders had difficulties forming adult social and sexual relationships.

The final factor in the four-factor model was disinhibition. Disinhibition is the lack of conventional reserves against sexual relationships with children (Finkelhor & Araji, 1986). Kristic et al. (2018) found that disinhibitions gave pedophiles a conscious excuse to circumvent any reservations about sex with children through rationalization. Levenson and Grady (2018) concluded that disinhibitions gave pedophiles a higher level of acceptability for sexual relationships with minors. One conclusion implied from Kristic et al. (2018) and Levenson and Grady (2018) was that rational circumvention of reservations and an increased acceptance for sexual relationships outside the social norms was indicative of poor impulse controls, both of which were contributors to opportunistic offending.

Since Finkelhor and Araji's (1986) seminal work, other studies on ISA behaviors were based on multifactor theories on sexual offending but emphasized opportunistic behaviors over pedophilia or hebephilia. Ahlin (2019), Shon and Tewksbury (2020), and Terry (2011) found evidence that clergy, prison guards, and scoutmasters convicted of ISA

were absent diagnoses for pedophilia, hebephilia, and ephebophilia. When interpreted within the context of ESM, fixated ESM offenders implicitly harbored pedophilic emotional congruence with elementary-aged children whereas opportunistic ESM offenders explicitly display emotional congruence with older students (Grant, Wilkerson et al., 2019; Jaffe et al., 2013; Shakeshaft, 2013). Although the percentage of ESM perpetrators who have been sexually abused as children was unknown, these offenders shared cognitive factors with other pedophilic and non-pedophilic sexual offenders.

### **Perpetrators**

Due to qualitative studies on ESM, researchers have uncovered copious information about ESM perpetrators. One of the limitations of these qualitative studies was small sample sizes of targeted populations, which were typically derived from media reports of ESM. Henschel and Grant (2019) pulled their sample from media cases throughout the United States in 2014. Henschel and Grant determined ESM perpetrators were a unique sex offender typology. Zack et al. (2018) used a media website to learn about public opinion regarding female ESM offenders. Zach et al. determined the public was more sympathetic towards female ESM perpetrators over men. These findings were instrumental in determining policies specific to ESM had to be different from other sex offender practices.

Some of the most popular misconceptions of sexual offenses found in the literature were views that sex offenses involve violence, rape, and an unwilling partner. In reality, sex offenses rarely are violent, rape-based, or with an unwilling partner (Kanters et al., 2017). In fact, many researchers observed that sex offenses involved sexual coercion, possession of child pornography, unwanted sexually explicit communications, and lewd and lascivious behavior toward minors (Jaffe et al., 2013; Shakeshaft, 2004; Shakeshaft, 2013; Walter,

2018). Another category of sexual offenses was grooming and consensual participation of the victim who was under the age of legal consent (Knoll, 2010; Pollack & Reiser, 2020). The broad nature of sex offenses suggested that an expansive range of individuals commit them, but few offenders employ violence in the commission of their crime.

Sexual offending was not limited to a specific age, race, or gender. The RAINN (2021) website reported that nearly half of all individuals who committed a sex crime were over 30 years old. Perpetrators in their 20s were 25% of sex offenders, and 24% of offenders were less than 20 years old. Although sex offending was not specific to a race, over half of all sex offenders were white. Black sex offenders made up 27% of the total ESM population, and the remaining 15% of offenders were of unknown ethnicity, other, or mixed race (Mulligan, 2015). Official demographic data indicated most sex offenders were males (Mulligan, 2015; Worrall, 2015). However, victimization surveys suggested female sex offenders committed six times more offenses than the official reported data (Cortoni et al., 2016). Almost all sex offenders had committed more than one crime (Worrall, 2015). These demographic characteristics were supportive of unique policy development for ESM perpetrators.

Despite low numbers of violence in sex offenses, some sex offenders had a history of violent crimes. Violent sex offenders, such as those who committed rape, tended to be serial criminals (RAINN, 2021). Weapons were used in 11% of all rape cases, and 90% of all violent sex offenses were committed by a single individual (Worrall, 2015). Stranger sex crimes occurred in 19.5% of sexual assaults with most violent sex offenses being committed between acquaintances (RAINN, 2021). Again, this perpetrator information was useful in the development of ESM-targeted policies.

Like most sex offenders, educators who engaged in sexual misconduct with students had a variety of factors interacting to inform decision-making. Many of these factors were causal while others were contributory. Studies on these characteristics varied in their findings and conclusions. Most scholarly studies focused on the educational emphasis of the teacher, forgoing other school employees and volunteers. General educators offended most frequently followed by coaches and music teachers (Grant et al., 2017; U.S. Government Accountability Office, 2010; Shakeshaft, 2004; Simpson, 2010; Walter, 2018). As important as these findings were, they did not contribute to the biopsychological, cultural, and cognitive aspects which contributed to the decision to engage in ESM with students.

Etiological theories on sexual offending presented insight into the psychological factors of ESM perpetrators. Different offender groups, such as non-physical contact offenders and physical contact offenders, had divergent motivations and offense pathways (Hamilton & Sanchez, 2018) indicating typical educator-perpetrators did not exist. Common psychological characteristics of these offenders were (a) poor social competence, (b) a lack of professional and personal maturity, and (c) a focus on personal gratification during the commission of the offense (Hamilton & Sanchez, 2018; Jaffe et al., 2013; Kaufman & Erooga, 2016). In other words, ESM perpetrators had (a) psychopathologies, (b) an inhibiting desire for sexual gratification, and (c) employed active strategies to have sex with their students (Hamilton & Sanchez, 2018; Shakeshaft, 2013). Any policies developed to address ESM and passing the trash must focus on atypical sex offender typologies.

Gendered differences existed among ESM perpetrators. Female teachers tended to display a nurturing personality (Hassett-Walker & Lateano, 2014) while male teachers tended to be emotionally isolated with poor socio-affective functioning, poor self-management, and

other personality deficits (Kaufman & Erooga, 2016). Kaufman and Erooga reported male perpetrators were impulsive or had reactive behaviors, a finding which was compelling given that 78% of all ESM perpetrators reported a history of sexual abuse or early exposure to pornography (Hamilton & Sanchez, 2018). These offenders displayed core personality traits found in other hebephiliac and ephebophilic offenders which hinted of hypersexuality, or a preoccupation with sex, sexual compulsivity, and sexual coercion (Grant et al., 2017). These differences suggested a need for policies inclusive of restricting access to students.

Scholars disagreed on the social characteristics common to teacher-perpetrators. In a study on the prevalence of ESM in Ontario, teachers were well-respected, popular teachers (Jaffe et al., 2013). In another study, on a sample from the United States, educators who prey on elementary-aged school children were well-respected, while educators in the high school setting lacked the respect of their peers (Kaufman & Erooga, 2016; Shakeshaft, 2013). Educators with a lack of peer respect engrained themselves in youth culture and social groups and used technology on a personal level with students (Jaffe et al., 2013; Kaufman & Erooga, 2016; Walter, 2018). These factors contributed to a culture supportive of an abuse environment and were significant reasons for schools to define how educators may interact with students.

Cultural attitudes about victim precipitated rape and sexual assaults were significant contributions to an environment supportive of ESM. Supporters of the victim precipitated rape (VPR) theory claimed the victim's actions escalated the criminal tendencies in the perpetrator. If this theory is correct, then student victims were responsible for their abuse, and ESM perpetrators were less culpable for their actions. Also, by-standers were less likely to report the offense (Shakeshaft, 2004), and police and prosecutors were less likely to take

cases of ESM seriously (Spakowski & Crespi, 2017). Groomed victims often protected the teacher out of loyalty or love (Pollack & Reiser, 2020), parents denied the event occurred, and the public had a hard time believing adolescent boys were victims of sexual assaults (Mackelprang & Becker, 2015; Spakowski & Crespi, 2017; Walter, 2018; Zack et al., 2018). As a result, the student, parent, and public unwittingly supported rape myth attitudes and victim precipitation of the crime. Policies need to include mandatory reporting of ALL allegations, regardless of the victim's gender or behaviors.

Few studies have focused on the biological characteristics of sex offenders with fewer studies on specific offender typologies like the ESM perpetrator. One compelling finding was on the gendered differences in ESM perpetrators. Ratliff and Watson (2014) studied the impact of gender on teachers who engaged in sexual relationships with their students and found gender impacted the biological response to sexual advances. Other studies's findings suggested hebephilia and ephrophilia were developmental issues as opposed to psychological deficits (Kaufman & Erooga, 2016). More research in the biological underpinnings of ESM perpetrators is warranted but such factors should be taken into consideration when developing holistic ESM policies.

Studies into the cognitive processes of the ESM offender population also indicated gendered differences. Male perpetrators desired to be perceived as the "cool" teacher (Jaffe et al., 2013) while female perpetrators had an overwhelming need for intimacy (Hamilton & Sanchez, 2018). Walter (2018) reported that many male ESM perpetrators held "hot teacher" fantasies during adolescence, transferred the fantasy to students, and sought to fulfill the fantasy as adults. These offenders sought student acceptance over peer acceptance (Jaffe et al., 2013). These studies' findings suggested most male perpetrators displayed a need for



power and had deviant sexual interests (Hamilton & Sanchez, 2018; Kaufman & Erooga, 2016). The male offender population justified behaviors by blaming the victim and attributed little criminal meaning to their own actions (Hamilton & Sanchez, 2018). Female perpetrators attached romantic significance to their behaviors and attributed the behavior as confusion over the educator-student bond (Hamilton & Sanchez, 2018; Kaufman & Erooga, 2016). For teachers prosecuted for ESM, both male and female perpetrators expressed little concern for the victim during the trial (Hamilton & Sanchez, 2018; Zack et al., 2018). Resultantly, educator gender was considered a suitable element to consider when developing policies on how educators interacted with students.

Cognitive distortions were driving factors in educator-student sexual relationships. Teachers who were prosecuted for ESM viewed themselves as the victim. Male offenders had claimed they were victims of their passion and used the advances of the student as causal factors in the relationship (Hamilton & Sanchez, 2018). Female offenders had claimed their relationship with the student was love and not abuse (Hassett-Walker & Lateano, 2014). Kaufman and Erooga (2016) indicated these attitudes about sex distorted the lines between the educator's reality and their actions. These cognitive distortions contributed to beliefs the educator's actions caused little psychological harm to the student. Thus, policymakers need to consider these factors to create environments less conducive to sexual abuse and limit access to students.

## **Victims**

Most of the information on ESM perpetrators were derived from samples pulled from media reports (Reilly, 2015), but little information on victims was reported in the literature. Due to protocols protecting information of minors, many investigative reports presented little

identifying information. Finkelhor et al. (2014) had found sexual abuse effected 32.7% of children prior to the age of 18 from a wide range of demographics. Low-income students were more likely to be victimized (Grant & Heinecke, 2019). Students who had been bullied, had unhappy home lives, or suffered disabilities tended to be targeted by both fixated and opportunistic perpetrators (Seidule & Pollack, 2018). Again, these characteristics were important for policymakers due to the need to restrict educator access to students.

Study findings had mixed results regarding the gender of victims but tended to agree on the mode for victim age. Typically, victims were female and were an average age of 15 (Henschel & Grant, 2019). Tate (2020) found 79% of victims to be female and approximately 15 years of age. Moulden et al. (2010) found males and females to be approximately equal in victimization and between ages 14 and 17. Other study findings showed most victims were male (79%) with an average age of 15 (Steely & Bensel, 2020). Unfortunately, the lack of empirical research was a limiting factor in the available knowledge about ESM victims, and a complete understanding of why certain children were targeted while others were not. Therefore, restricting access to all students was important to policy developers.

Male and female victims had some characteristics in common. Emotional immaturity combined with underdeveloped communication skills contributed to victim vulnerability (Walsh & Krienert, 2021). Students who had absent, abusive, addicted, alcoholic, or apathetic parents and who had few close friendships were more vulnerable to victimization (Skarbek & Parrish, 2009). Educator training programs inclusive of victim typologies was a necessary element in ESM policy development.

## **Offense Characteristics**

Traditionally, sexual offending was an especially heinous act. However, educators who engage students in sexual relationships rarely used violence in their offenses (Ratliff & Watson, 2014; S.E.S.A.M.E., 2016; Shakeshaft, 2013; Spakowski & Crespi, 2017; Zack et al., 2018). Like violent sex offenders, ESM perpetrators had cognitive distortions supportive of committing sex crimes but had psychosocial controls and a social environment conducive for using less aggressive means to achieve sexual gratification. Social functions within the school environment as well as extracurricular activities involving tactile teaching methods provided these teachers with access to a vulnerable population (Simpson, 2010; Walter, 2018).

The level of maturity and lack of professional development was fuel for the hot teacher fantasy as well as the need to be viewed favorably by students instead of peers (Jaffe et al., 2013; Zack et al., 2018). Due to the combination of cognitive distortions and hypersexuality, offending educators used their position of authority to groom and psychologically coerce students into a sexual relationship. Opportunistic sex offenders did not plan their sexual crimes, but instead, took the occasion to sexually offend when presented with a suitable victim. Specifically, these offenders selected victims they viewed as vulnerable, desirable, and available (Bartol & Bartol, 2017). First, these educators sought students they felt were vulnerable and easy prey, such as those with learning disabilities, special needs, and dysfunctional families (Jaffe et al., 2013).

Second, victim desirability was not limited to physical attraction. Educators selected students for relationships whose credibility was diminished. Jaffe et al. (2013) found students with behavior problems were less believable when reporting ESM to school

authorities. Finally, grooming was a factor in educator access to students. Grooming-inclined educators began with non-physical behaviors and verbal praise, escalated to sharing personal information and giving special attention to the student, and culminated in sexual contact (Jaffe et al., 2013; Spakowski & Crespi, 2017; Walsh & Krienert, 2021; Walter, 2018). As a result, ESM was unnoticed to faculty and staff because of the power differential, lack of violence, and the groomed relationship the teacher established with the student. Additionally, lack of victim believability was an influence in reporting ESM.

### **Prosecution and Bias**

The literature was inundated with inconsistencies between school and criminal justice responses to ESM. Henschel and Grant (2019) found school administrators and the criminal justice system did not address ESM perpetrators in the same manner. These studies' findings suggested that school administrators placed ESM perpetrators on administrative leave in about half of the cases while not reporting the other half to law enforcement. Of those cases reported to proper authorities, all of them resulted in convictions for some degree of sexual abuse (Henschel & Grant, 2019). Henschel and Grant's study was significant for two reasons. First, the findings indicated school administrators may not take ESM cases seriously, or they practice passing the trash, or both. Second, actors in the criminal justice system prosecuted sexual misconduct under the same laws as sexual abuse. Thus far, the goal of this literature review was to establish ESM as a different form of sexual abuse and in need of specific legislation to prosecute its offenders.

Both male and female educational professionals had been prosecuted for sex crimes against students in violation of the different statutory rape laws across the country. Most prosecutions had a male educator-female student dyad (Anderson et al., 2015; Jaffe et al.,

2013; Mackelprang & Becker, 2015; Ratliff & Watson, 2014; Simpson, 2010; Walter, 2018; Zack et al., 2018). The female-teacher-male student dyad may equal accounts of male educator-female students, but these cases were under-reported due to rape myth attitudes about male victimization (Anderson et al., 2015; Mackelprang & Becker, 2015; Zack et al., 2018). Unfortunately, the congruency of the male teacher – female student dyad with other gender dyad compositions is unknown.

Disposition bias was present between male educator-female student and female educator-male student dyads using undergraduate students as mock jurors in passing judgement and making sentencing recommendations (Anderson et al., 2015; Mackelprang & Becker, 2015). In separate but similar studies, both Anderson et al. (2015) and Mackelprang and Becker (2015) found female educators were perceived to be less guilty and were sentenced more leniently than their male counterparts. Based on these findings, Anderson et al. (2015) and Mackelprang and Becker (2015) concluded that the legal system was biased against male sex offenders. Mandatory reporting of ESM regardless of offender gender and consistently applied ESM-specific statutes was missing from the literature.

These ESM studies had focused on bias in sentencing using public opinion, but three primary mistakes were obvious. The first mistake was the studies' omission of the variance in statutory rape laws throughout the country. State legislators implemented either simple legal consent age minimums or used complex age-gap formulas to determine the legality of sexual intercourse (Chaffin et al., 2016). Scholars had used instruments during data collection which required participants to determine guilt for sexual relationships which may be legal in some states and not others (Anderson et al., 2015; Mackelprang & Becker, 2015).

The second mistake was differences in sentencing guidelines among states. Certain crime characteristics, such as educator-student age variance and victim preference, enhanced or mitigated criminal sentences depending on the state (Abboud et al., 2018; Shakeshaft, 2004). Studies that relied on public opinion were not focused on state laws which enhanced or mitigated imposition of sentences in criminal trials, resulting in false perceptions of bias.

Studies which used students as mock jurors in their studies were the third mistake (Anderson et al., 2015; Mackelprang & Becker, 2015). Criminal justice studies using student populations as mock juries were unable to generalize findings to nonstudent juries (Field & Barnett, 1978). A full understanding of ESM in terms of its offenders, victims, characteristics, and prosecution was necessary to develop policy holistically.

### **Current Scholarly Trends**

Psychology and educational professionals have conducted the most research on ESM, but criminal justice professionals have conducted very few studies on ESM. Key word searches in Google and Google Scholar for Educator Sexual Misconduct and passing the trash returned studies submitted to journals for educational or clinical psychological content. Furthermore, no datasets were located on websites for criminal justice statistical reporting (Bureau of Justice Statistics, National Institute for Justice), but were found on state education oversight body websites and university websites (Iowa Board of Educational Examiners, 2022; ICPSR, 2021). This trend in the literature contributed to the assumption that school administrators handled ESM internally as opposed to reporting it to law enforcement agencies for formal investigation and prosecution. This trend also implied prosecuted cases of ESM were reported under child sexual abuse, and many forms of ESM were not criminalized, but merely considered unethical.

In fact, evidence was present in the literature indicating school districts had a cover-up culture surrounding ESM. Seidule and Pollack (2018) studied the impact of administrative sanctions in public high schools and concluded district leaders had a zero tolerance for bullying, drugs, and weapons on school grounds. The review of the literature for this study showed that 100% of public-school incidents related to bullying, drugs, and weapons were reported to law enforcement for investigation but did not follow policy by reporting instances of ESM to law enforcement. One conclusion drawn from this study was a willful indifference to protect the safety of students from sexual harassment.

Another trend found in the literature was the concept of victimization. Study findings suggested that students failed to report ESM because they did not identify themselves as victims (Anderson et al., 2015; Kinyaduka & Kiwara, 2014; Mackelprang & Becker, 2015; Ratliff & Watson, 2014; Zack et al., 2018) or they felt no one would believe them despite current child abuse laws and policies which required mandated reports and investigators to take every allegation of abuse seriously (Iowa Board of Educational Examiners, 2022; Ratliff & Watson, 2014). Anderson et al. (2015), Mackelprang and Becker (2015), and Zack et al. (2018) argued this perception stemmed from rape myth attitudes, where students did not see themselves as victims because the intercourse was not forced rape or unwanted sexual contact. These findings also indicated that the public perceived male victimhood as less harmful than female victimhood as evidenced in lighter sentences for female teachers convicted of sexual crimes (Anderson et al., 2015; Mackelprang & Becker, 2015; Zack et al., 2018).

The conclusions from these studies supported the assumption that ESM remains underreported because students reported being in love with their teacher (Kinyaduka &

Kiwara, 2014), they liked the extra attention of the teacher (Walter, 2018), and the relationship was not rape because they were willing participants (Ratliff & Watson, 2014). These concepts aligned with the victim precipitation theory and rape myth attitudes. This trend also supported the need for educating students on grooming, statutory laws governing sexual behavior, and reporting procedures.

School administrators and teachers contributed to views of non-victimhood. School administrators did so by failing to hold teachers accountable. Passing the trash and nondisclosure statements were the primary reason ESM perpetrators retired or continued their employment after substantiated allegations of ESM (Iowa Board of Educational Examiners, 2022; Jaffe et al., 2013; Walter, 2018). Perpetrators who were not held accountable by educational administrative staff were denied sex offender specific treatment and services to redirect their behaviors. Also, these educational administrators allowed known sex offenders to be unsupervised in the community.

Teachers who used a pedagogic approach to instruction (coaches and music teachers) concealed grooming techniques as routine touching more than general educators to the point students were unaware of what was happening to them (Walter, 2018). Grant et al. (2017) and Simpson (2010) contradicted this finding. Grant et al. and Simpson concluded that general educators offend at a more frequent rate than coaches and teachers (68%). Furthermore, perpetrator lack of violence during grooming perpetuated the rape myth of force or an unwilling participant (Anderson et al., 2015; Kinyaduka & Kiwara, 2014; Durso, 2017; Zack et al., 2018). This trend in the literature suggested students could not tell the difference between tactile instruction and grooming.



## **Psychological Impact**

The impact ESM had on perpetrators, victims, and the abuse environment was underscored by a lack of empirical studies specific to this type of child sexual abuse. Through concentric research this section focuses on how the psychological effects of ESM were identical to those associated with ISA and the need to address the abuse environment through realistic and measurable policies (Zack et al., 2018).

### ***Perpetrators***

Traditionally, sexual offending was an especially heinous act. However, adults in positions of authority over youth rarely used violence when engaging in youth sexual abuse (Ratliff & Watson, 2014; S.E.S.A.M.E., 2016; Shakeshaft, 2013; Spakowski & Crespi, 2017; Zack et al., 2018). Like violent sex offenders, ISA perpetrators had cognitive distortions supportive of committing sex crimes but had psychosocial controls and a social environment conducive for using less aggressive means to achieve sexual gratification.

### ***Victims***

Sexual misconduct, in all its forms, had a devastating effect on victims. These effects included educational performance, school attendance, and lowered interest in extracurricular activities (Grant, Wilkerson et al., 2019; Irvin & Tanner, 2007; Knoll, 2010; Pittenger et al., 2016). Pittenger and colleagues developed the traumagenic dynamics model (TDM) to understand why victims of ISA experienced traumatic sexualization, betrayal, stigmatization, and powerlessness. Shakeshaft (2004) directly related these four psychological characteristics of ISA to the experiences of victims of ESM.

Adolescents and children who were sexually victimized mature at an early age. Grant, Wilkerson, and Henschel (2018) found a prevalence of sexual dysfunction among ISA

victims. This finding was consistent with the studies conducted by Knoll (2010), Walter and Krienert (2021), and Varela (2019) indicating ISA victims rarely developed healthy sexual relationships as adults and suffered from poor social efficacy. When analyzed together, these findings suggested that ISA has significant psychological and cognitive impacts on victims.

Psychological and cognitive disturbances in ISA victims were similar to those found among ESM victims. Depression, fear, anxiety, low self-esteem, and impaired trust were factors common among ISA victims (Harris & Terry, 2019; Durso, 2017). Grant et al. (2018) reported these same factors were common among ESM victims. Knoll (2010) included how ESM victims suffered higher rates of suicidality, and Varela and colleagues (2019) found a long-term connection between ESM victims and suicidal ideations into adulthood.

Victims of ISA reported two extremes of self-esteem, indicating unwanted sexual advances resulted in lowered self-esteem, and desirable sexual advances caused self-esteem to hit manic highs (Pogorelc, 2020). Victims of Catholic priests who were convicted of sexual abuse reported a lifetime of embarrassment, low confidence, and unstable romantic relationships (Allroggen et al., 2017). Blakemore et al. (2017) added that victims frequently suffered depression, post-traumatic stress disorder, substance abuse, anxiety, suicidal ideations, and self-harm due to the betrayal of the adult as well as by the adults who failed to protect them.

Physical, behavioral, betrayal, and stigmatization manifestations were consistent between ISA and ESM victims. Many victims suffered from chronic headaches, fatigue, sleep disturbances, decreased appetites, recurrent nausea, and eating disorders (Grant, Wilkerson et al., 2019; Knoll, 2010; Pittenger et al., 2019; Varela et al., 2019). Behaviorally,

victims of both ISA and ESM suffered substance experimentation, use, and abuse (Knoll, 2010; Varela et al., 2019). These psychological, cognitive, physical, and behavioral manifestations of victimization were factors that impacted how victims perceived adulthood.

Betrayal and stigmatization were associated with victims of ISA and ESM. Frequently victims were called hurtful names or blamed for their role in the abuse by adults and peers (Knoll, 2010). They suffered impaired trust of adults and isolation from peers (Grant, Wilkerson et al., 2019). The fear of ostracization by peers was one of the more profound reasons victims engaged in self-harm and low self-esteem (Mulligan, 2001).

The literature concerning ISA victimization was evident that victims suffered harm from sexual encounters regardless of consent. The secretive nature of sexual victimization was one reason many victims were unable to form close personal relationships as they matured, and a higher likelihood they would engage in unhealthy, abusive relationships throughout adulthood (Pittenger et al., 2016). A seminal study on sexual misconduct within school settings returned results suggesting students were impacted in four domains: educational, emotional, behavioral, and physical (Bryant, 1993), very similar to the ISA victimization of the TDM.

Smith and Freyd (2013) studied whether an institution's failure to prevent sexual abuse or respond supportively when abuse was reported were related to the victim's sense of betrayal. Smith and Freyd found over 40% of victims were unlikely to report another incident of sexual abuse based on the way administrators responded to their initial allegations. Smith and Freyd's findings also suggested that the institutional abuse environment played a crucial role in revictimization and harm to the victims. Such findings

were profound for many reasons, the greatest of which was creating environments less conducive to sexual abuse for ESM victims.

### **Victim Precipitation Theory**

Scholars who supported multi-factor theories of sexual offending identified how the various offender factors interacted with the social and situational environment, which included the victims' role in their sexual assault. Theorists who supported the victim precipitation theory (VPT) gave explanatory weight to the victim-offender relationship (Karmen, 2016). However, the VPT was an invalid basis for understanding sexual offending because these theorists assumed the victim escalated the situation leading up to the sexual assault but did support policies for mandatory reporting of ESM allegations (Walsh & Krienert, 2021). Regardless of the victim's actions, the offender's cognitive distortions, errors in perception, social norms supportive of violence against the opposite sex, behavioral, and psychobiological factors defined how they will respond to the victim.

The VPT was a valid theory for understanding why ESM was underreported. Study findings have suggested that the VPT was one explanation as to why people vilified the victim and confound the definitions for rape. When people viewed the victim as facilitating their rape, many medical professionals believed the act was not a real rape in the same sense as a stranger-based rape (violent with injuries; McMillian & White, 2015).

These theorists also supported the underreporting of rape and other sexual assaults. McMillian and White (2015) found women who were vilified for their assumed role in the sexual assault developed a culture of mistrust and failed to seek services and support from medical and mental health professionals. This finding indicated the VPT was a mechanism for furthering victimization and, by extension, the abuse environment.

Lastly, VPT theorists have undermined the offender's role in taking responsibility for their actions. In other words, these theorists have provided an element of justification for the offender's actions, specifically males had uncontrollable sexual desires. This assumption was akin to other mental health offenders who could not control their basal nature and were not considered culpable for their crimes. Unfortunately, VPT theorists contributed to administrative handling of ESM and passing the trash.

The conceptual framework for this study was the above discussed theories. The VPT, PDT, and TDM were supports for policy requirements for initial and on-going training to identify and report ESM. The integrated theory of sexual offending and the four-factor model were mechanisms for policy requirements that closely guard access to students and a more robust background check inclusive of a pre-hire, self-report questionnaire with an integrated risk assessment specifically validated against known sex offenders.

### **Abuse Environment**

Two actors played roles in perpetuating an abuse environment, the adults who commit the sexual abuse and the adult bystanders who do nothing about it. Finkelhor and Araji (1984) concluded that four preconditions were present when sexual abuse was occurring in an institution. These preconditions included (a) motivation to offend, (b) overcoming the inhibitions to stop the abuse, (c) opportunity, and (d) overcoming the potential victim's resistance. Interestingly, these factors were present in ESM offenses (Jaffee et al., 2013; Shakeshaft, 2013).

Institutional environments with lax background checks and where adults had unsupervised, private access to children and teenagers were indicative of environments conducive to sexual abuse. Many school hiring officials relied on background checks

through federal databases, which only reported felony offenses instead of using local background checks for misdemeanor sex crimes such as forcible touching and contributing to the delinquency of a minor (Abboud et al., 2018; Grant et al., 2018). Administrators unknowingly participated in passing the trash due to the lack of a centralized database that included offense details. The need to fill essential positions was one reason youth-serving institutional administrators accepted less-than-thorough background checks.

Institutional administrators failed to create environments less conducive to sexual abuse. Administrators unsuccessfully investigated allegations of sexual abuse or failed to follow their policies on reporting when victims made disclosures (Seidule & Pollack, 2018). When allegations were investigated, administrative processes were time consuming (Knoll, 2010). One conclusion drawn from these studies was administrators failed to report ISA and ESM to law enforcement to minimize the likelihood of an investigation and community embarrassment.

Institutional programs designed to stop ISA were victim oriented. Creators of these programs designed them to prepare the victim to do what adult bystanders failed to do, report the abuse. In fact, when educators were accused of ESM, faculty and community members have been known to rally around the alleged perpetrator and shun the victim (Shakeshaft, 2013). Shakeshaft reported that only 11% of educators would report a coworker to administrators or law enforcement if they suspected their colleague of ESM.

Other social and cultural factors contributed to an environment conducive to ESM. Abuse environments were the results of institutional administrators' failures (a) to properly train personnel on personal boundaries with children, (b) to practice appropriate workplace

safety, and (c) to lessen opportunities for adults to groom children (Anderson et al., 2015; Blakemore et al., 2017; U.S. Government Accountability Office, 2010; Grant et al., 2017).

Institutions which promoted one-on-one time between employees and minors without appropriate chaperones were environments conducive for grooming (Spakowski & Crespi, 2017). Parents acted as enablers by trusting the adult, which heightened the child's sense of betrayal (Brand et al., 2018). Unchanged abuse environments were perpetrators of psychological stressors on victims. Blakemore et al. (2017) found ISA victims shared psychological, physical, social, and educational traumas with survivors of familial sexual abuse. These traumas were exacerbated by the culture in which the abuse occurred (Pittenger et al., 2016) and the enabling indifference of other adults within the institution (Guiora, 2020). Additionally, the institutional atmosphere was the foundation for informal norms, values, and rules children and teenagers followed, which Varela and colleagues (2019) argued contributed to all forms of undesirable school-related issues.

### **Traumagenic Dynamics Model**

The previously explained theories and models were the theoretical impetus for sexual offending whereas the traumagenic dynamics model (TDM) is a basis for policies designed to mitigate psychological stressors for victims and a foundation for changing the abuse environment within public schools. Designers of the TDM accounted for the variety of effects on child-victims resulting from traumatic sexualization, betrayal, stigmatization, and powerlessness (Finkelhor & Browne, 1988). Finkelhor and Browne developed the TDM to explain victim trauma resulting from sexual abuse.

Findings from Finkelhor and Browne's (1988) study implied a child's emotional and cognitive development was distressed due to the sexual abuse and suggested the younger a

child was when sexually abused, exposed to sexual behaviors of others, or shown pornography, the greater the emotional and cognitive disturbance. Finkelhor and Browne concluded that these emotional and cognitive disturbances were traumatic sexualization.

Traumatic sexualization are the psychological damages, antisocial behaviors, and risk for revictimization that victims suffer (Pittenger et al., 2016). Weinstein (2017) explained that the psychological damages of traumatic sexualization included depression, social anxiety, confusion about healthy sexual expressions, impulse control, and suicidal ideations. Weinstein stated that addiction, pre-mature sex with peers, risk-taking, placing oneself in unsafe situations, sexting, isolation from peers, aggression, and self-injury were behaviors associated with traumatic sexualization. Victimized youths experienced more grooming by adults and unwanted sexual encounters than minors who did not suffer traumatic sexualization (Weinstein, 2017). The relationship between the psychological and behavioral damages and revictimization was unknown (Pittenger et al., 2016). In other words, no studies had been conducted to determine if the psychological and behavioral damages were contributing factors to revictimization or if revictimization was a result of traumatic sexualization.

Victims reported feelings of betrayal accompanied traumatic sexualization. Finkelhor and Browne (1988) concluded that sexually abused children felt betrayed not only by their perpetrator but also by the adults who were supposed to provide protection. One study's findings indicated youths feel an enhanced sense of betrayal when the child disclosed victimization, but no actions were taken to hold the perpetrator accountable (Brand et al., 2018). In another study, Guyon et al. (2019) indicated victim betrayal escalated when the child felt blame for the sexual abuse. Finkelhor and Browne (1988) stated the greatest sense



of betrayal occurred when adults not only failed to believe the child about the abuse but also failed to protect the child from further abuse. Victims reported that betrayal resulted in psychological damage (depression, anger), reduced trust, and vulnerability to revictimization (Brand et al., 2018; Finkelhor & Browne, 1988; Guyon et al., 2019). Ultimately, unchanged abuse environments were the most reported reasons for these psychological perceptions (Brand et al., 2018; Finkelhor & Browne, 1988; Guyon et al., 2019).

The TDM concept of powerlessness is when the child was unable to control the threat of abuse and the resultant situation (Finkelhor & Browne, 1988). Finkelhor and Browne stated that powerlessness increased with violence, force, and any violation of the child's personal space. Traumatic effects resulting from the loss of power over one's life were somatic troubles (lack of sleep, nightmares), antisocial behaviors (running away, delinquency, aggression), and psychological damages (depression, lack of trust). Bravelin et al. (2019) studied the effects of powerlessness on adolescents and found prior sexual victimization had a negative relationship with college matriculation. Bravelin et al. indicated the psychological, behavioral, and somatic damages of powerlessness was a factor in a child's ability to plan for the future.

Stigmatization was the final element in the TDM. Finkelhor and Browne (1988) argued children of sexual abuse perceived themselves as bad, guilty, and responsible for the abuse while the perpetrator, adult bystanders, and peers reinforced those feelings with shaming and blaming. Hlavka (2016) explored male sexual victimization and found views of victimhood was congruent with reduced masculinity, feelings of embarrassment, and emasculation. Hlavka indicated males disclosed the victimization less frequently than

females, which signified stigmatization was a barrier to abuse disclosure and a valid reason for the underreporting of sexual abuse.

### **Relevant Laws**

Sexual abuse is not part of a public education. Historically, no federal legislation explicitly addressed public school administrator requirements to have policies, practices, and training to prevent such abuse. This section focuses on the federal educational laws relied upon in this research to develop ESM policies and procedures as well as discuss the related sex offender laws developed through the United States Department of Justice (DOJ) to protect communities.

Of note was the history of sex offender supervision and treatment, which was necessary to review to appreciate the DOJ laws surrounding sexual offending. The supervision and treatment of sex offenders were a product of the correctional risk and needs principles. The risk principle indicates that the existence of certain offender factors increases the likelihood of reoffending more than the severity of the committed offense. To lower the risk of reoffending, criminal justice professionals (CJP) rely on the needs principle, which suggests that evidence-based interventions for criminal risk factors are effective at lowering an offender's overall risk to reoffend. These principles are the foundation for the supervision and treatment of sex offenders both in institutions and in the community. Additionally, the risk and needs principles suggest that too much supervision and treatment are just as bad as too little supervision and treatment.

Duwe (2017) concluded that violating the risk principle increased a sex offender's risk to re-offend. Duwe stated the risk principle was violated when supervision and treatment of offenders were outside the offenders' risk profiles. When sex offenders were

supervised outside their risk profile, the dynamic risk factors contributing to lowered or elevated risk to re-offend were upset. One conclusion that can be drawn from Duwe's study is that treating ESM offenders like violent, sexually deviant sex offenders might increase the risk for this sex offender subset. Additionally, treating ESM behaviors as merely unethical without criminalization might increase the risk for continued sexual misconduct with students. A separate risk profile for ESM perpetrators is an evidentiary gap in current research.

### **Educational Acts and Laws**

Title IX of the Education Amendments of 1972 (Title IX) are federal laws that prohibit sexual discrimination in public schools which receive federal funding (U.S. Department of Education Office of Civil Rights, 2011). The key elements of Title IX are (a) comprehensive policies and procedures addressing ESM; (b) prevention efforts; (c) staff, student, and parental training; (d) timely reporting; (e) thorough investigations in coordination with appropriate law enforcement or child protective services; and (f) effective responses to allegations (Grant et al., 2017). Unfortunately, these requirements are applicable to student-on-student incidents only.

State school district administrators, by and large, complied with Title IX requirements on sexual discrimination in efforts to receive federal funding for public education (Shakeshaft, 2004). However, between 1972 and 1992, the flux of sexual harassment cases was brought before the United States Supreme Court (USSC). In 1992, the USSC ruled that Title IX is a protection for students from sexual discrimination and sexual harassment from adults within the school system as well as provided a method for monetary recourse for victims (Shakeshaft, 2004).

The U.S. Department of Education Office for Civil Rights (OCR) published a pamphlet to clarify Title IX requirements for policy and procedures regarding sexual harassment and sexual violence of public-school campuses (2011). This pamphlet was an attempt to entice public schools receiving public funds for their educational program to develop and implement policies addressing all forms of sexual harassment, including ESM. Although this pamphlet was circulated to SDOEs in 2011, only four SDOEs complied with developing policies that addressing ESM (Grant et al., 2018).

However, the problem with Title IX was twofold. First, the OCR, did not maintain a nationwide database of reported ESM cases (Grant et al., 2017; Shakeshaft, 2004; Simpson, 2010; Walsh & Krienert, 2021; Walter, 2018). Second, individual SDOEs were responsible for implementing Title IX requirements and defining how instances of ESM were reported and investigated, which was largely dependent on state statutory rape and sexual abuse laws (Chaffin et al., 2016). Students were subject to sexual abuse in public schools, in large part, because of the differences among state laws and the lack of federal oversight.

The ineffectiveness of the OCR to facilitate Title IX policies against ESM was readdressed in the Obama administration's revitalization of the Elementary and Secondary Education Act (ESEA) of 1965, called the Every Student Succeeds Act (ESSA) of 2015. Specifically, Section 8546 of the ESSA outlined prohibitions against educational leadership aiding and abetting sexual abuse within public schools. ESSA lawmakers stated:

A State, state educational agency, or local educational agency in the case the local educational agency receives Federal funds...shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent

engaged in sexual misconduct regarding a minor or student in violation of a law. (Every Student Succeeds Act, Section 8546, 2015)

In other words, school administrators who engaged in passing the trash may be charged with aiding and abetting known sex offenders. Those administrators found in violation of Section 8546 were subjected to the criminal laws of the state.

Section 8546 is a federal requirement for states to form an educational oversight body to monitor instances of ESM and passing the trash as well as a state reporting database which is accessible to the public. Despite these requirements, developers of the ESSA failed to identify a federal oversight body to ensure Section 8546 requirements were implemented in every state throughout the United States. To date, educational administrators in four SDOEs have adopted these policy requirements. Grant, Wilkerson, and Henschel (2018) explored the progress of states in their implementation of Title IX and ESSA policy requirements and found four states had complied, seven states were in the process of implementing the requirements or a state version of them, and 39 states had no intention of adopting the requirements. Law makers in these 39 states justified their decision by stating their existing laws were adequate or because they were unaware of Section 8546 (Grant et al., 2018).

Little is known about the efficacy of Title IX and Section 8546 policy requirements in the four target states. Despite the threat of criminal charges for school administrators who pass the trash and the state policies, no federal oversight body exists to ensure SDOEs were meeting reporting mandates or administratively handling cases which should be reported to law enforcement officials (Brady & Tajalli, 2018; Grant et al., 2017; Henschel & Grant, 2019). Grant et al. (2019) examined scholarly ESM literature and found no evidence the U.S. DOE tracked teacher license revocations on the grounds of sexual misconduct nor the frequency by which students were sexually harassed by school personnel. This finding

suggested the lack of a publicly available, nationwide database for reporting ESM and how the lack of such a database undermined any attempt at determining offense frequency, patterns of abuse, and the scope of the problem.

### **Sex Offender Acts and Laws**

A series of USSC cases were influential in sex offender legislation over the last few decades. Many of these cases were a challenge to the constitutionality of restricting sex offenders within the community, but all designed to protect victims and the public. The USSC had ruled that laws restricting sex offenders who were released to the community did not violate the due process, double jeopardy, and Ex Post Facto clauses to the Constitution (*Kansas v. Hendrickson*, 1997). The USSC had found prison-based and community-based treatment was a vital part of the rehabilitation and mandatory participation in such treatment did not violate the offender's Constitutional rights (*McKune v. Lile*, 2002). The USSC rulings from these cases indicated the U.S. legal system recognized the scientific literature on the impact of registration and treatment of sex offenders in protecting victims and minimizing the opportunity to create more victims.

These key legal cases were instrumental in the passing and implementation of statutes such as Megan's law (1996) as well as the extension of Megan's law with Jessica's law (2005). Megan's law required sex offenders to register their residence with local law enforcement agencies (Worrall, 2015). This law further required sex offenders to notify the public of their whereabouts. Despite residential registration requirements, between 1996 and 2005, sex offender recidivism rates continued to rise.

As a result, legislators passed Jessica's Law (2005). Worrall (2015) reported that Jessica's law requires convicted sex offenders to undergo lifetime community-based

supervision and GPS monitoring in an effort to track their movements within the community. The passage of these laws were indicators that lawmakers had distinct ideas regarding the nature of sex offending and the need to monitor sex offender activities to protect victims and the community.

Convicted offenders challenged sex offender registry laws and laws which restricted the movement of sex offenders within the community, which were heard in the USSC. *Carr v. United States* (2010) and *Kennedy v. Louisiana* (2008) were cases where sex offenders challenged the constitutionality of the laws. The USSC justices upheld the laws in the interest of public safety stating the retroactive application of registry laws did not violate the *Ex Post Facto* laws to the constitution.

The Adam Walsh Child Protection and Safety Act of 2006 was another law which imposed restriction on sex offenders. Makers of this act not only required sex offenders to register and follow GPS monitoring restrictions but also placed time limits on registration and penalized those offenders who failed to comply (Mancini & Mears, 2013). Additionally, the Sex Offender Registry and Notification Act (SORNA) was part of the Adam Walsh Child Protection and Safety Act. SORNA was meant to close the loopholes in individual state registry laws and establish a nationwide network of sex offender registries. At first glance, Title IX and ESSA Section 8546 was an attempt to align with federal laws governing the supervision of sex offenders within the community. However, without state adoption of those policies, state legislators and public-school administrators violated these federal sex offender laws.

## **Relevant State Laws**

The SDOEs that had adopted federal reporting requirements showed sexual misconduct to be the most frequently occurring reason teachers were disciplined (Pennsylvania Professional Standards and Practices Commission, 2021; Simpson, 2010; Walter, 2018). Between 2007 and 2010, 26% of all educator-disciplinary proceedings in Florida were for sexual misconduct with a student (Simpson, 2010), and 60% of educators were disciplined for teacher-student sexual misconduct in North Carolina between 1967 and 2016 (Walter, 2018). Cases of non-criminal sexual misconduct of teachers were difficult to study because SDOEs had handled these cases internally through administrative hearings, passing the trash, or nondisclosure statements. This section covers the relevant state laws within the Connecticut, Oregon, Pennsylvania, and Texas.

### ***Connecticut***

Connecticut General Statute Section 17 contains all Connecticut ESM laws. Section 17 was a multidisciplinary project authored by individuals from the Department of Children and Families, Department of Education, and the Connecticut Sexual Assault Crisis Services (Connecticut Official State Website, 2021b). Noticeably absent from the list of contributors were members from law enforcement and state prosecuting attorney offices. Section 17, Appendix A, established the K-12 Sexual Assault & Abuse Prevention & Awareness Program of 2016. This program was a mandate for each school district within the state to implement a child sexual abuse and assault response policy as it pertained to the different demographics and child-contact within individual communities.

Teachers were required to train on several instructional modules. The law required teachers to undergo prevention and identification of and response to ESM training annually



(Connecticut Official State Website, 2021b). This training was intended to serve two purposes. First, it was meant to further the student, teacher, and parental awareness of ESM and how to prevent it. Second, it was intended to ensure the teacher articulated how to identify and report ESM observations to school administrators. Grant, Wilkerson, et al. (2019), Knoshe and Russell (2019), Shakeshaft (2013), and Abboud et al. (2018) have outlined such recommendations throughout the literature to prevent ESM.

The Connecticut State Department of Education (CDOE) deploys an annual survey throughout the districts to identify environments conducive to sexual abuse. School administrators use the Youth Risk Behavior Survey to develop an arsenal of student risk behaviors based on school's policies on institutional culture and programs. The CDOE uses the data from this survey to prioritize policies and practices which address the physical and mental health of students (Connecticut Official State Website, 2021b). Varela et al. (2019) found that such a practice aligned with the promotion of a positive school climate and enabled school administrators to intervene when the school environment was more conducive to sexual abuse.

Despite the advances Connecticut lawmakers have made to address ESM, passing the law, student and teacher training, and creating environments less conducive to sexual abuse, these lawmakers fell short in key areas. While teachers were trained in conjunction with students on identifying and reporting ESM, other school staff members were not included in the law's requirements. Additionally, criminalizing administrative failures to report ESM to the CDOE was absent from the law. Offending school administrators underwent administrative disciplinary actions through the Connecticut educational oversight body.

Chang (2018) reported how harmful the failure to criminalize administrators was to the perpetrator, victim, and community when they failed to report ESM for criminal prosecution.

Also in 2016, Connecticut lawmakers adopted House Bill 5400 for the Public Act No. 16-67. This act was a part of the public disclosure of ESM records for public school personnel and had criminal penalties for violating school health policies (House Bill [HB] 5400, 2016). Lawmakers replaced an existing bill on sharing information between school districts with requiring local and regional board of education members, governing councils of charter schools and magnet school operators to report every investigation, finding, and disciplinary action to the state educational oversight body. The state oversight body was responsible for granting public access to the ESM information.

### ***Oregon***

Senate Bill 155 (SB155) was signed into law in 2019 to ensure the safety of students in Oregon public schools (Teachers Standards and Practices Commission, 2021). Under SB155, school administrators were required to investigate all allegations of suspected ESM, provide verification information to other districts during the hiring process, and notify the Oregon Department of Education (ODOE) when an employee was the subject of a report of abuse (Teachers Standards and Professional Commission, 2021).

ESM requirements for school administrators is found in Oregon Statute 339.388. Under 339.388, Subsection 1, all licensed administrators were required to report suspected ESM to the ODOE. All educators were required to report ESM to their licensed administrators under 339.388. Lawmakers also task ODOE with the development and maintenance of an online Sexual Misconduct Verification System (SMVS). This system is a tool for hiring authorities to verify ODOE investigation statuses during the employee

candidacy and hiring processes (Teachers Standards and Practices Commission, 2021).

Access to the SMVS was controlled by the ODOE. Users had to apply for access through local school districts or directly through the ODOE.

### ***Pennsylvania***

Pennsylvania lawmakers were more progressive with addressing ESM than the surrounding states. Two acts were influential for adopting Title IX and ESSA Section 8546 policy requirements, Pennsylvania Act 168 ([PA168; 2014]; see S.E.S.A.M.E., 2016) and Pennsylvania Act 126 ([PA126; 2012]; see S.E.S.A.M.E., 2016). Pennsylvania statute, PA168, requires comprehensive background checks for all public-school employees at the state and federal level for both felony and misdemeanor abuse allegations, arrests, and convictions. Knoll (2010) and Robert and Thompson (2018) noted that PA168 aligned with the ESM literature on the need for more thorough background checks. Educator training and reporting mandates were outlined in PA126, which required employees to be proactive bystanders, a concept underscored by Knoche and Russell (2019). As a result of this law, educators had to train on how to identify the signs of sexual misconduct and reporting requirements of suspect ESM to school administrators.

All educators with knowledge of any action, inaction, or conduct perceived to exploit sexually, abuse, or entice students had to report to the Chief School Administrator and immediate supervisor under PA126. No timeframes for reporting the ESM were outlined within the law except for the Chief School Administrator. The Chief School Administrator was required to report the ESM to the PA Department of Education within 15 days of receiving the allegations.

These requirements were in place since 2012, but no empirical evidence existed on their efficacy. No studies that challenged these state laws emerged during this literature review. The Pennsylvania Professional Standards and Practices Commission (2021) website provided instructions to the public on ESM reporting mandates to the Pennsylvania Department of Education (PDOE) only. The duty to report ESM to law enforcement or child protective services were not requirements governed by PA126.

### *Texas*

More empirical evidence on ESM was found in Texas than the other three target states. Texas lawmakers had considered ESM a crime against a person under Texas Penal Code (TPC) Title 5, Section 21, since 2015. Based on this section, Texas legislators prosecuted ESM under four primary definitions of sexual offenses: (a) deviant sexual intercourse, §21.01, (b) continuous sexual abuse of a child or children, §21.02, (c) indecency with a child, §21.03, or (d) improper relationship between educator and student, §21.12. Violations of TPC §21.12 were classified as second-degree felonies and subjected to incarceration between 2 and 20 years (TPC §21.33).

Texas legislators enacted §21.12 in 2003 and had faced little litigation challenging the constitutionality of the penal code. Texas law makers also required public school or charter school superintendents to notify the State Board of Educator Certification (SBEC) of serious misconduct (Roberts & Thompson, 2019). This requirement was an accountability mechanism for superintendents to report any certificate holder or applicant who engaged in, was terminated for, or resigned due to evidence supporting sexual misconduct with a student, or, in other words, passing the trash.

### **Intended Outcomes**

The ESM phenomenon has been the focus of this chapter. This review of the literature addressed the background information on the bio-psycho-social motivation of ESM perpetrators, characteristics of an institutional abuse environment, and the federal and state laws currently in place to prevent and to respond to ESM within the nation's public schools. The intended outcome for this literature review was to establish a conceptual and factual foundation for addressing ESM in robust policies and practices. Information from this literature review could be beneficial to SDOEs and lawmakers as the presence of a relationship between policy and ESM and passing the trash cases emerge.

### **Gaps in the Literature**

Many gaps in the ESM literature existed. Of particular importance to this research was the gap between federal educational laws and federal sex offender laws. Sex offender laws such as SORNA, Megan's law, Jessica's law, and the Adam Welsh law focused on the need to know where known sex offenders reside and spend their time. Despite these restrictions, educational acts were loopholes for educational administrators to handle ESM cases without involving the criminal justice system. Such administrative actions were reasons that known sex offenders remain employed in public schools without the registration and supervision protections meant to safeguard the public. Findings from this research suggested that Title IX and ESSA Section 8546 policy requirements were effective at holding those administrators accountable who do not report ESM for prosecution.

Shakeshaft (2004, 2013) studied ESM to learn which intrinsic and extrinsic factors were present among fixated and opportunistic ESM perpetrators. Findings from very few scholarly studies have contributed to the literature on opportunistic perpetrators, although

Shakeshaft (2013) indicated fixated perpetrators and opportunistic perpetrators were different sex offender typologies. Grant et al. (2019), Grant and Heinecke (2019), Henschel and Grant (2019), Kimbrill (2016), Knoche and Russell (2019), McPhail et al. (2018), and Skarbek and Parrish (2009) established the presence of psychological, cognitive, social, and biological factors consistent among opportunistic perpetrators outside a school environment, but neglected to explore how these perpetrators associated their psychological, biological, social, and cognitive factors with their decision to engage students in sexual relationships.

Qualitative methods were used in copious ESM studies to understand the prosecution and supervision of ESM perpetrators, but more scholarly inquiry was needed for understanding the dynamics of victimization. Mulligan (2015) studied offender characteristics but knew little about the biological factors which motivated ESM, how these educators' perceived situations, and motivating forces behind making professional and ethical breaches.

Findings and conclusions of previous studies were focused on descriptive profiles of the perpetrator, victim, and crime. Few ESM research topics were on specific situational factors, such as the use of technology, in cases of opportunistic ESM (Krimbill, 2016). Because opportunistic perpetrators presented a dynamic risk to offend not obvious in other sex offender typologies, psychology and correctional professionals could benefit from study findings on opportunistic perpetrators. The results of this study contributed to a critical gap in the literature while providing a framework for future studies to examine the relationship among educational policies and continued victimization of the nation's public-school children.

## Previous Methodologies

Most ESM scholars employed qualitative designs in their studies. These studies were exploratory in nature and designed to describe the characteristics associated with perpetrators, victims, offenses, school environments, public perceptions, prosecution, and sentencing. The seminal work by Shakeshaft (2004) was an exploratory literature review. Through her literature review, Shakeshaft identified two types of ESM perpetrators, opportunistic and fixated, and delineated the social, biological, cultural, and psychological factors associated with each offender typology.

Other scholars used qualitative designs to understand patterns and trends to develop a descriptive profile of ESM offenders. In a later study, Shakeshaft (2013) extrapolated data from another qualitative study where she assigned psychological and motivating factors to both opportunistic and fixated offenders. Despite the value of qualitative studies furthering the knowledge of ESM, scholars admitted prevention and prosecution were hindered by a lack of studies measuring policy and practices (Mayer & Furlong, 2010).

Phenomenological studies were used to describe administrative perspectives on ESM and passing the trash (Kimbrill, 2016). Findings from this study were essential to determine if state educational administrators were ready to implement preventative policies. Grant et al. (2018) used a qualitative design to explore state progress in adopting ESSA Section 8546 policies, and Abboud et al. (2018) employed a qualitative design to explore state EMS laws. The results of these studies were significant because their findings were a foundation for the current study to determine if a relationship existed between ESSA Section 8546 and ESM-related cases.

Qualitative methodologies were the primary mechanism for researching ISA as well. Systematic literature reviews were the primary contributors to understand the conditions favorable to lessening circumstances that create an abuse environment (Kaufman & Erooga, 2016). These types of methodologies were instrumental in aggregating risk and protective factors so administrators could implement policy and practices to create environments less conducive to sexual abuse. One limitation of qualitative studies was that they cannot be used to predict sexual offending or victimization. Despite this limitation, the data gleaned from qualitative studies contributed to the inventory of risk factors that other scholars used to determine the likelihood for sexual offending, victimization, and environments conducive to sexual abuse.

Quantitative designs on ESM were few. Of those studies which did employ quantitative measures, Simpson (2010) used a descriptive statistic design to associate teacher certification area with ESM, and Walter (2018) used quantitative methods to determine the likelihood of teacher certification area resulting in ESM. Anderson et al. (2015) adopted a Likert-type scale to survey mock jurors and measure bias in sentencing. Anderson et al. concluded that a higher likelihood existed for female ESM offenders to receive a more lenient sentence than males if convicted. Mackelprang and Becker (2015) expanded on Anderson and colleague's results with a quantitative study and found attractiveness was related to bias in sentencing ESM offenders. No applicable studies were found in the literature that used quantitative methods for examining ESM in relation to preventative policies. In fact, much of what was known of ESM derived from studies outside the realm of peer-reviewed empirical scholarship such as investigative journalistic reports (Irvine & Tanner, 2007; O'Grady, 2020; Reilly, 2016; Tate, 2020; Walsh and Krienert, 2021).



This study focused on concentric research concepts to find applicable studies on other forms of ISA and school safety issues to justify the use of the logistic regression design for data analysis. Smith and Freyd (2013) used correlation analysis to determine the association between institutional response to ISA reports and the victim's sense of betrayal. This study provided context to this study because Smith and Freyd examined institutional policy and practices as they related to the abuse environment. Harris and Terry (2019) used a correlation method to determine a hierarchy of factors related to higher instances of ISA. Harris and Terry's study design contributed to the current project because they found that the institutional environment had a significant relationship to a higher number of ISA reports.

The purpose of this study was to journey into the uncharted territory of ESM policy effectiveness using a quantitative regression design. Best practices such as thorough background checks and environmental monitoring were found in explorational studies using qualitative designs, but quantified measures for effectiveness at reducing ESM were absent from the literature. Consequently, the study design for this research was new to the ESM literature.

### **Summary**

Chapter II focused on the literature reviewed for this study. This review addressed: (a) a history of the ESM phenomenon; (b) the current trends in ESM research; (c) the psychological impact of ESM on victims and abuse environments; and (d) relevant federal and state laws. A holistic exploration of the ESM literature was necessary for effective policy development. The theoretical underpinnings provided an explanation for the external motivation for sexual offending (power differential theory) as well as the intrinsic impetus for sex offenses (four factor model and the etiology of sexual offending theory). Other

theories were useful in understanding the victim and institutional factors which perpetuated ESM. All these theories were addressed within the literature to provide evidence for effective policy development.

The current laws in Pennsylvania, Connecticut, Oregon, and Texas were provided within this review of the literature as well as the underlying federal laws. Texas ESM policies were more robust than laws in Connecticut, Oregon, and Pennsylvania. Connecticut laws were the most informative for accessing information on ESM perpetrators. These laws were designed to prevent ESM cases, but little information was identified in the literature to indicate this relationship was examined among state authorities. Connecticut's youth survey was the only indication of any SDOE using empirical evidence to inform policy development as it pertained to creating environments less conducive to sexual abuse (Teachers Standards and Practices Commission, 2021). Pittenger et al. (2016) found evidence-based policies were effective at mitigating the abuse environment and creating a healthy institutional culture. Pittenger and colleagues' findings indicated that robust policies, when applied to ESM, have the potential to reduce ESM in public schools throughout the United States.

The literature review of this chapter suggested additional opportunities to further investigate ESM in states which have not adopted federal policy requirements. As this report was written, New Hampshire's Department of Education adopted legislation criminalizing ESM. Governor Sununu closed the loophole previously allowing New Hampshire educators to engage in consensual sexual relationships with students. New Hampshire lawmakers expanded the definition of sexual assault to include any sexual contact between educators and students up to 10 months after graduation (O'Grady, 2020). Based on the review of the

literature for this study, this definition might need revisited to include those students who do not graduate but leave the school for other reasons.

Other state lawmakers adopted legislation to end ESM. Nevada, New Jersey, and Maryland educational administrators added new requirements for hiring all positions within a public school. These requirements were meant to help hiring personnel identify if any potential employee was the subject of abuse allegations, investigations, or convictions regardless of misdemeanor or felony status (S.E.S.A.M.E., 2016). The efforts of these states were commendable but routine inquiries into existing employees might be necessary to prevent ESM, create environments less conducive to sexual abuse, and reduce the amount of student victimization.

Repeated throughout the literature were recommendations for consistent ESM policies among the states. Irvin and Tanner (2007), Knoll (2010), and Mayer and Furlong (2010) explained how standardized policies allowed for more quantitative studies on ESM with the hopes of developing an inventory of best practices associated with the identification and reporting of ESM. Standardized policies for victims were associated with a reduced likelihood of revictimization, a finding consistent across victim demographics (Grant, Wilkerson et al., 2019; Varela et al., 2019; Knoche & Russell, 2019). Finally, Shakeshaft (2004, 2013) recommended standardized policies addressing ESM at the federal level.

This study was the first step in standardized policy recommendations rooted in what worked in Texas, Oregon, Connecticut, and Pennsylvania to reduce ESM. Federal and State DOEs could aggregate these policies into an ESM policy handbook. Creager et al. (2020) determined that handbooks are effective ways to fill the gaps in education and training on specific concepts. The need to measure the efficacy of Title IX and ESSA Section 8546

policy requirements was important to determine if their implementation had curtailed ESM (Grant et al., 2018). Abboud et al. (2018), Allroggen et al. (2017), Grant and Heinecke (2019), Grant et al. (2019), Grant, Wilkerson, et al. (2019), Phillips et al. (2019), Shakeshaft (2004), Surface et al. (2014), and Wurtele (2015) underscored this gap in the literature. Unaddressed ESM situations were factors in creating a school environment (a) more conducive to sexual abuse (Blakemore et al., 2017; Varela et al., 2019), (b) where victimized students were revictimized (Pollack & Reiser, 2020; Wurtele, 2019), and (c) where school administrators aided and abetted sex offenders (Seidule & Pollack, 2018).

Chapter III focuses on the methodology used to complete this study. This study was a new quantitative method for measuring the effectiveness of federal ESM policy requirements on ESM cases. Bloomfield and Fisher (2019) supported the use of quantitative methods for policy analysis.

### CHAPTER III: PROJECT APPROACH

Consistently, research findings have indicated that 1 in 10 students are subjected to ESM daily (Brady & Tajalli, 2018; Grant, Wilkerson et al., 2019; Henschel & Grant 2019; Shakeshaft, 2004). Grant et al. (2018) and Shakeshaft (2004) stated that few studies on ESM have been attempted due to the lack of a nationwide database, so actual counts of ESM are unknown. Although some qualitative studies on the effects of non-disclosure statements between public school administrators and ESM perpetrators as well as the states which have adopted preventative policies outlined in Title IX were present in the literature (Abboud et al., 2018; Shakeshaft & Levy, 2014; Surface et al., 2014), no studies were found attempting to measure the efficacy of those policies on ESM and passing the trash cases.

The initial intent for this study was to describe, examine, and analyze ESM-related and passing the trash-related cases in Oregon, Pennsylvania, Texas, and Connecticut and how ESM-specific policy elements required by Title IX and ESSA Section 8546 impact these cases. Two issues of note were discovered upon the initiation of data collection. First, the Connecticut Department of Education (CDOE) removed public access to the educator disciplinary database from their website in March 2022. The CDOE failed to respond to a request for information using the on-line Freedom of Information Act webform, although the stated policy printed on the website required the CDOE to respond within six business days. After 5 weeks, a phone call to the CDOE indicated that the database was under repair with an anticipated launch date of January 2023. As a result, the Connecticut ESM-related and passing the trash-related cases were excluded from this project.

Second, the Departments of Education in Oregon (ODOE), Texas (TDOE), and Pennsylvania (PDOE) included all educator disciplinary cases, reinstatements, and licensure

revocations dating back to January 1993. The addition of this archival data prior to the creation of the publicly accessible databases provided the number of cases before adopting the federal policy elements. The pre-policy data was an opportunity to test data reliability.

This study was a first-of-its kind because no published study findings were measures of federal policy element effectiveness in addressing ESM and passing the trash in public schools. The purpose of the research was to identify the nature of the relationship among the Title IX and ESSA policy elements and instances of ESM and passing the trash in Oregon, Pennsylvania, and Texas. Additionally, part of the research protocol was to determine if the adoption of the policy elements were predictors of ESM-related and passing the trash-related cases. As articulated in this study's purpose statement, the overarching research question was to determine whether state Departments of Education (SDOE) should adopt federal policy requirements as a method of reducing ESM and passing the trash in public schools.

### **Rationale for the Study Approach**

The approach of this project was a quantitative nonexperimental archival design. A nonexperimental design is limited because such a design cannot determine causation between the variables (Bleske-Recheck et al., 2015). Notably, the purpose of this project was not to find causation, but to determine whether instances of ESM were related to adopting Title IX and ESSA Section 8546 policy requirements in Oregon, Texas, Connecticut, and Pennsylvania. Nonexperimental designs are observational and appropriate in projects considering an association between variables (Leedy & Ormond, 2015). In nonexperimental designs, the predictor variable is not manipulated, nor the sample randomly assigned to groups (Jhangiani et al., 2020). Thus, a nonexperimental design was the most suitable methodology for this project.

The variables in this study were one predictor variable and two dependent variables. The predictor variable was the combined number of Title IX and ESSA policy elements adopted in Texas, Oregon, and Pennsylvania. The dependent variables were the cases related to ESM and passing the trash which have been recorded in each states' archival databases between (a) January 1, 1993, and December 31, 2015, and (b) January 1, 2016, and December 31, 2021. These variables are discussed in the following paragraphs.

### **Federal Policy Elements**

The predictor variable was created by calculating the number of the Title IX and ESSA Section 8546 policy elements adopted by each state department of education (SDOE). These policy elements included (a) definition of ESM, (b) definition of passing the trash, (c) limit access to students, (d) report ESM, (e) report passing the trash, (f) handling false reports, (g) disciplining perpetrators, (h) disciplining false reporters, and (i) prohibition on confidentiality agreements. The SDOEs adoption of specific policy elements was not considered part of the predictor variable. Instead, this variable was the total number of elements adopted by each SDOE.

### **ESM-Related Cases**

This first dependent variable was the total number of cases in the SDOE databases where students were subjected to sexually related behaviors from an adult within the states' public school system as defined in Chapter II. ESM-related cases were those with substantiated allegations *and* disciplinary actions. The cases which were not related to ESM represented those cases where the adults were disciplined for any other legal, ethical, or professional violation.

## Passing the Trash-Related Cases

The second dependent variable was the total number of cases where the educator, namely school administrators, failed to report allegations of ESM to the SDOE, child protective service, law enforcement, or entered into a non-disclosure or confidentiality agreement with the offending adult. In Pennsylvania and Oregon, these cases were designated explicitly as pertaining to aiding and abetting a sex offender as required by the ESSA Section 8546. Cases not related to passing the trash were all other cases involving a disciplinary action for any adults working in the states' public school system. The Texas Department of Education (TDOE) did not identify clearly when an administrator was guilty of passing the trash, so cases from Texas were excluded in the analysis.

Descriptive statistics were used to report the analytic samples. This study presented the general distribution and central tendency of the predictor variable, and since the dependent variables were measured on the nominal scale, these variables were reported using frequencies and proportions. The predictor variable was a ratio-level, continuous variable, so the mean ( $\bar{x}$ ) and standard deviation ( $\pm SD$ ) were the general distribution and central tendency of this variable.

A binary logistic regression analytical design was used to analyze the contribution of the predictor variable on the outcome variables. Using binary logistic regression was strategic because such analyses can indicate relationship, the strength of the relationship, and the predictability in the independent variable (Ernst et al., 2017). Prior to running the binary logistic regression analyses, this study addressed relationship between the predictor and outcome variables with a correlation test. Salkind (2010) stated that chi square test for independence is an appropriate test for determining relationship when running logistic



regression models. To further support the use of binary logistic regression to analyze the data, this study addressed the appropriate tests for assumptions which were (a) no outliers in the data, (b) categorical variables, and (c) no multicollinearity. Goodness of fit tests (analyses of classification tables and Hosmer-Lemeshow test) were conducted to determine the prediction model fit. Assumption tests and goodness of fit tests are detailed in Chapter IV.

Binary logistic regression analyses were used to meet three objectives. First, the analysis suggested a data-driven basis for adopting ESM policies which result in environments less conducive to sexual abuse. Second, the results indicated ESM and passing the trash in states not included in this study hold the potential to decrease through the adoption of the federal policy requirements. Finally, binary logistic regression analyses were the appropriate statistical tests to examine this study's research question and hypotheses based on the nature and characteristics of the data.

This study presented two dependent variables ( $Y1$  = ESM-related cases,  $Y2$  = passing the trash-related cases) and one independent variable ( $X$  = combined number of adopted federal policy elements). The overall analysis of the variables provided validity of the hypotheses. Validity was achieved first by determining the strength and direction of the relationship between the number of adopted policy elements and ESM-related and passing the trash-related cases, and second, by testing for the likelihood of  $X$  predicting  $Y1$  and  $Y2$ .

### **Instrumentation**

Few instruments were used to collect and analyze the data. Google Chrome was the instrument used to access the SDOE's databases in Oregon, Pennsylvania, and Texas. A Freedom of Information Act (FOIA) webform was completed on the Connecticut Department

of Education's (CDOE) website (see Appendix A) and submitted on April 1, 2022, requesting access to the educator disciplinary database. Data were recorded on an excel spreadsheet. Once collected, the data were analyzed using IBM SPSS Statistics software Version 27.

### **Research Question**

The overarching question for this research was to what extent and in what manner does Title IX and ESSA Section 8546 policy requirements explain variation in ESM and passing the trash cases in public schools in Oregon, Texas, Connecticut, and Pennsylvania from January 1, 2016, to December 31, 2021.

### **Research Question**

Were ESM and passing the trash influenced by the adoption of Title IX and ESSA Section 8546 policy requirements in Oregon, Texas, Connecticut, and Pennsylvania from January 1, 2016, to December 31, 2021?

### **Hypotheses**

$H_0$  1: The number of ESM cases was not influenced by the number of federal requirements in the policies.

$H_{a(1)}$  1: The number of ESM cases decreased with an increase in the number of requirements included in the policies.

$H_{a(2)}$  1: The number of ESM cases increased with an increase in the number of requirements included in the policies.

$H_0$  2: The number of passing the trash cases was not influenced by the number of federal requirements in the policies.

$H_{a(1)2}$ : The number of passing the trash cases decreased with an increase in the number of requirements included in the policies.

$H_{a(2)2}$ : The number of passing the trash cases increased with an increase in the number of requirements included in the policies.

No information was identified in the literature to develop hypotheses on the direction of the relationship between cases and policy. Therefore, this research question required a non-directional set of hypotheses (Ernst, 2017).

### **Sample, Data Collection and Coding**

The Institutional Review Board (IRB) approved the request to conduct this study on March 30, 2022. Later that same day, the FOIA request was completed and submitted on the CDOE website. The Oregon Department of Education (ODOE), Pennsylvania Department of Education (PDOE), and TDOE databases were accessed using Google Chrome on April 1, 2022. The CDOE did not grant access to the Connecticut educator disciplinary database, the details of which are outlined below.

### **Population**

Every case within each state's educator disciplinary database was collected for inclusion and review in the study, resulting in a census sample. Census samples are the result of using all cases in a population (Leedy & Ormrod, 2013). A census sample is instrumental in reducing the likelihood for sampling errors and increasing the validity and reliability of the findings (Savage & Windsor, 2018). Since each case fell into one of three categories, (a) ESM-related, (b) passing the trash-related, or (c) not related to ESM or passing the trash, the results were a heterogeneous population. Savage and Windsor (2018) stated census is appropriate when the population is heterogeneous.

One non-statistical assumption for this study was that the scope of the ESM and passing the trash cases in Oregon, Texas, and Pennsylvania were similar to the scope of cases reported in the other 47 states. Reilly's (2016) findings that ESM has been reported in every state bolstered this assumption. Unfortunately, passing the trash cases have not gained media attention with which to support this assumption. Nevertheless, the use of census samples increased the generalizability of the results (Savage & Windsor, 2018).

### **Data Collection**

Data collection for this project was conducted using Google Chrome to access each state's publicly accessible educator disciplinary database. These databases were easy to use and navigate. No identifying information such as names, dates of birth, gender, locations, school districts, teaching specialties, job titles, or disciplinary facts were collected or documented to protect the participants rights.

The data were collected onto a Microsoft Excel spreadsheet. The spreadsheet contained 13 columns: (a) state, (b) case type, (c) date of disciplinary action, (d) total number of adopted policy elements, and (e-m) one column for each of the nine different policy elements. Each case from the database were recorded on a separate row on the spreadsheet. This method was necessary to track the number of cases used in the study. The spreadsheet was instrumental in loading into SPSS for data analysis and the identification of duplicates and trends.

All cases were coded into categorical variables. Also, cases were coded to indicate the total number of adopted Title IX and ESSA policy elements during which the case occurred. The nature of the case was coded 1 for ESM-related, 2 for passing the trash-related, and 3 for cases not related to ESM or passing the trash. Collected dates of the

**Table 1***Variable Levels and Coding*

Variables	Data level	Attribute coding
Cases related to ESM	Categorical	
ESM-related		1
Passing the trash-related		2
Not ESM-related		3
Date range	Categorical	
1/1/2016 to 12/31/2021		1
Prior to 1/1/2016		2
Individual policy elements	Categorical	
Adopted		1
Not adopted		2
Before adoption		3
Number of adopted elements	Scale	#

disciplinary actions were coded 1 for January 1, 2016, to December 31, 2021, and 2 for January 1, 1993, and December 31, 2015. A scale variable was created from the nine federal policy elements. This variable was coded 1 for adopted, 2 for not adopted, and 3 for before policy adoption. The total number of adopted policy elements variable contained the sum of the existing policy elements adopted by the state. Coding text data into numerals was necessary to analyze the ESM and passing the trash phenomenon in new, innovative ways (Leedy & Ormrod, 2013). Table 1 illustrates the research variables and coding.

Table 2 displays policy element adoption by state. The ODOE adopted the most Title IX and ESSA policy requirements to include defining ESM and passing the trash, restricting access to students after allegation disclosure, mandated reporting requirements for ESM and

**Table 2***Policy Element Adoption by State*

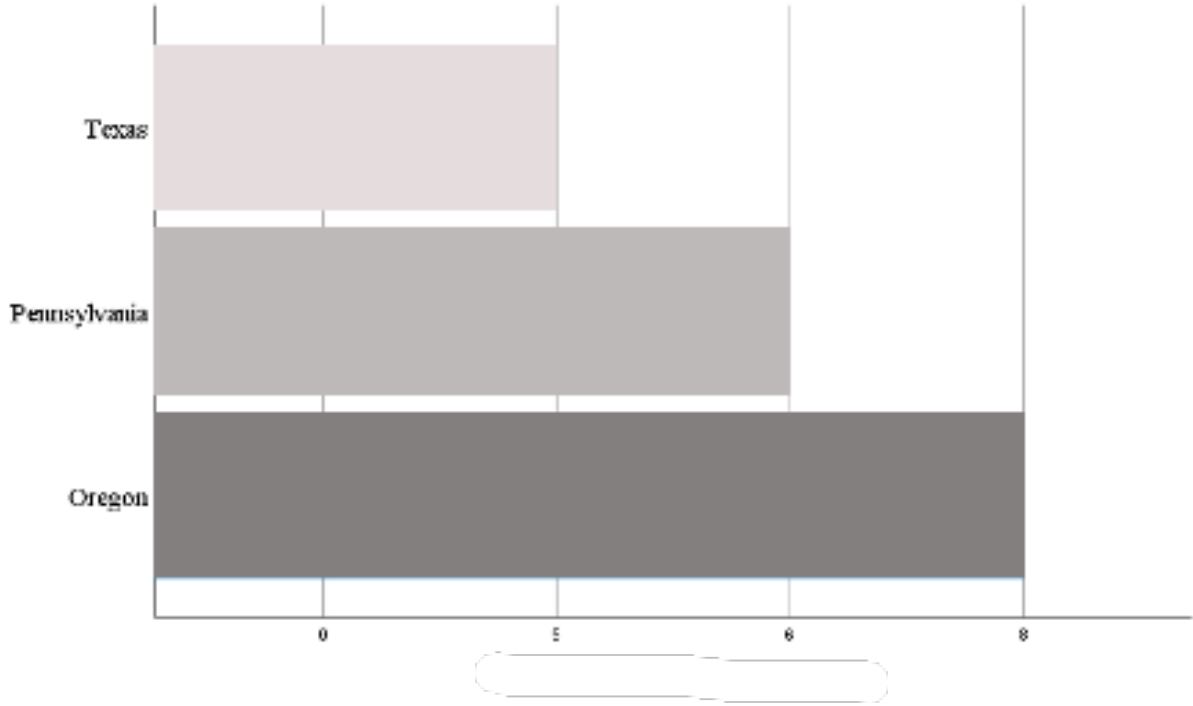
Policy element	Adopting state
Defines ESM	OR, PA, TX
Defines passing the trash	OR, PA
Limits access to students	OR, PA, TX
Requires reporting ESM	OR, PA, TX
Requires reporting passing the trash	OR, PA
Includes how to handle false reports	OR
Disciplining educators for founded cases	OR, PA, TX
Disciplining false reporters	OR
Prohibits confidentiality agreements	TX

passing the trash, rules for handling and disciplining false reports of ESM, and disciplining educators when allegations are substantiated. The PDOE followed ODOE in the number of adopted policy elements. The PDOE adopted definitions and mandatory reporting requirements for ESM and passing the trash, restricting access to student, and disciplining educator-perpetrators. The TDOE adopted the fewest number of federal policy requirements, which included defining and reporting ESM, limiting access to students, disciplining educators for founded allegations, and prohibiting non-disclosure statements (confidentiality agreements). This information is clarified in Figure 1.

The Oregon educator disciplinary database was examined first. This database included links to the ODOEs policies on ESM and passing the trash as well as portable data files (PDF) of the substantiated allegations, investigation, and rulings for each case (Teachers Standards and Practices Commission, 2020). Also included in the PDFs were educator first

**Figure 1**

*Number of Adopted Title IX and ESSA Policy Requirements by State*



and last names, position held, date-of-birth, and school district. The quality of detail in the PDFs attached to each case provided sufficient information for each case to be coded appropriately without additional research to clarify the disciplined behavior. Disciplinary cases explicitly indicted when the nature of the allegations was related to ESM and passing the trash as defined by the working definitions outlined in Chapter II of this report. Figure 1 displays the total number of Title IX and ESSA policy requirements adopted by state.

Steps were taken to ensure the accuracy of the data extracted from the Oregon database. The database was sorted alphabetically using the educators' last names. Sorting ensured no duplicate cases were collected. Alphabetical sorting also resulted in the identification of licensure reinstatement for some educators, position reinstatement for

employees of the school district, and denial of employment based on previous ESM-related allegations.

Additional research to verify the nature of allegations or disciplinary actions was needed for both the Texas and Pennsylvania databases. In Texas, the database included the educators' full name, date of birth, the nature of the disciplinary action, and the date in which the action was taken. To determine if the disciplinary actions taken were related to ESM or passing the trash, educator names were cross-referenced with the Texas Do Not Hire Registry (Texas Educational Agency, 2022).

The Do Not Hire Registry (Texas Education Agency, 2022) is a state-sponsored database available to the public to find educators who are not eligible to be hired in any capacity within the state's public school system. Only educators who were disciplined for inappropriate sexual relationships or sexual abuse of students are added in the Do Not Hire Registry (Texas Education Agency, 2022). These educators are added to the Do Not Hire Registry even if no criminal charges had been filed or the educator was not prosecuted. Cases were coded as ESM-related if the educator's name appeared on the Do Not Hire Registry. No cases were identified as passing the trash-related in Texas. The cases were exported from the Texas database by academic year. The exported list of educators were alphabetical by name. Duplicate cases were excluded from data collection, and the remaining cases were cross referenced with the Do Not Hire Registry.

The Pennsylvania database required the most verification for coding the cases. This database included the identifying information for the educators (name and date of birth), the disciplinary actions taken, the date of the disciplinary actions, the last known school district,



and the criminal law or ethical codes for each case (PSPC, 2021). Each criminal law and ethical code were researched to determine the behavior behind the disciplinary actions.

Overall, the criminal and ethical codes indicated when a disciplinary case was related to ESM or passing the trash. However, some of the educators were charged with more ambiguous crimes such as *Contributing to the Delinquency of a Minor*. The indistinctness of this charge was problematic because additional searches using open-source internet sites were needed to determine if the case was ESM or passing the trash related. If information was found indicating ESM or passing the trash, the case was coded accordingly. If no information could be identified, the case was coded as not related to ESM or passing the trash. The database was exported to Microsoft Excel for inclusion on the data extraction spreadsheet. The spreadsheet was sorted by educator last name and duplicate cases were removed.

Different numbers of cases were extracted from each database. All cases were collected from January 1, 1993, to December 31, 2021 ( $n_T$ ). Date range coding was needed for different combinations of data for analysis, including breaking down total case numbers into two subsamples: before policy adoption ( $n_1$ ) and after policy adoption ( $n_2$ ). Excluded from the data were cases where the educator was reinstated to his or her position after the conclusion of an investigation, cases pending investigation, and denials of employment due to previous ESM allegation in a different school district or state.

The disciplinary databases yielded a large analytical sample and subsamples. The Oregon database yielded the fewest cases,  $n_T = 2,289$  cases ( $n_1 = 1,771$ ,  $n_2 = 518$ ). From the Pennsylvania database,  $n_T = 3,093$  ( $n_1 = 1,269$ ,  $n_2 = 1,824$ ) cases were collected, and  $n_T = 14,082$  ( $n_1 = 7,793$ ,  $n_2 = 6,389$ ) cases were collected from the Texas database and cross-

**Table 3***Analytical Sample by State and Date Range*

State	$n_1$	$n_2$	$n_T$	$N$
Oregon	1,771	518	2,289	
Pennsylvania	1,824	1,269	3,093	
Texas	7,793	6,289	14,082	
$n_T$	11,388	8,076		
$N$				19,464

referenced with the Do Not Hire Registry. The total population for this study was  $N = 19,464$  ( $n_1 = 11,388$ ,  $n_2 = 8,076$ ). Table 3 displays the cases by state and by date range.

The date range in which the cases occurred was of profound importance for this study, as one of the goals of this study was to determine if adoption of the policy elements had an impact on the number of ESM and passing the trash cases. Two analytic samples were created based on the date range in which the case occurred. These samples were analyzed separately then compared. Details for this comparison are provided in Chapter IV.

### **Data Analysis Approach**

Leedy and Ormrod (2015) explained that quantitative data are useful in scholarly research due to the ability to measure and report findings numerically. The research question was answered using binary logistic regression and was displayed using tables of the collected data. The general null hypothesis ( $H_0$ ) for logistic regression states that the model without the variable is sufficient, and the alternate hypothesis ( $H_a$ ) states that the model with the variable provides more explanatory power (Salkind, 2010). Also, logistic regression was used to predict the probability of classification into the binary categorical dependent variable given the known values of the predictor variable using the equation:

$$P(y) = \frac{1}{1 + e^{(b_0 + b_1X_1 + b_2X_2 \dots b_nX_n)}}$$

Salkind (2010) reported that regression models are widespread in policy analysis to estimate the effect of group level policies on individual outcomes. Wolfenden et al. (2016) stated variance analysis works well when assessing differences in policy and outcomes and citing statistical results. Thus, this study presented the results by odds ratio outputs and predicted scores of the variables.

By nature, however, logistic regression is nonlinear. To make better judgments about the effect of the predictor variable, the effect size measures were linearized. Linearization was obtained by measuring the predicted values for the predictor variable, finding the logit (and the standard deviation of the logit) of the predicted values, and determining the correlation between the observed case and predicted case classifications (Wolfenden et al., 2016). These calculations were performed using SPSS and then entered on an Excel spread sheet which was formatted with the following formula to obtain the partially standardized odds ratio:

$$\exp (b_k * (s_k))$$

The analysis of this linearization and the predictability of the predictor variable are presented in Chapter IV.

### **Reliability, Validity, and Bias**

Valid and reliable data analyses are necessary elements in successful research studies. Because this project's research question sought to predict the odds of policy adoption predicting cases related to both ESM and passing the trash, coefficients of classification

agreement were used as the validity coefficient. Salkind (2010) stated that evidence of high predictive validity is achieved when the classifications based on the new measure tend to agree with classification based on the criterion measure. For this research project, the new measure was the classification of cases after policy adoption which was compared to the criterion variable of the classifications of cases prior to policy adoption.

To establish predictive ability, the measurements were analyzed for quality requirements. The measures were relevant to the desired decisions, free from bias, and reliable (Salkind, 2010). No previous study findings were a measure of the effects of policy on ESM or passing the trash. Therefore, this study was the first to measure ESM-related policy to cases of ESM and passing the trash. The sampling method selected for this study, census population, was one method for ensuring the study's relevance to the desired decisions. Another method for measurement quality was systematic classification of the cases into the appropriate category and date range. The classification of the cases was not influenced by bias but were coded solely on the definitions articulated in this report. Reliability of the measures were stable and replicable.

The use of SPSS, Version 27, was the source for validity and reliability of the statistical analyses. The software was instrumental in generating the differences in the distribution of the ESM-related and passing the trash-related cases with the number of policy elements adopted within Oregon, Pennsylvania, and Texas then determining if the results were significant. The characteristics of the data was approximated using the SPSS software. This use of SPSS increased the odds of producing reliable and valid data for this research project while establishing a data-driven approach to addressing ESM and passing the trash in public school districts throughout the United States.

Bias in data collection results in biased models (Wolfenden et al., 2016). This study focused on controlling for selection bias using census population. Selection bias was also controlled by creating explicit definitions and inclusion criteria for coding ESM and passing the trash cases. Applying the definitions and inclusion criteria for each case in each state reduced the likelihood for confirmation bias in data collection. Bias in data processing were eliminated because no outliers existed in the data. Bias in data analysis will be discussed in Chapter IV. Minimizing bias in data collection and analyses increased validity and reliability of the outcomes.

### **Summary**

This archival, quantitative study was conducted using binary logistic regression to examine the relationship between Title IX and ESSA policy requirements on cases related to ESM and passing the trash in Oregon, Pennsylvania, and Texas. This chapter presented the research instruments employed for data collection, the descriptive statistics of the study sample, the research question, and analytical approach to answering the research question.

The research question for this study was whether the number of policy elements adopted by SDOEs in Oregon, Texas, Connecticut, and Pennsylvania had an impact on educators being disciplined for ESM and passing the trash. The outcomes of this study showed the efficacy of adopting Title IX and ESSA policy requirements on ESM and passing the trash cases. The results and evaluation of the results are discussed in Chapter IV.

This study was the first of its kind because few study authors have attempted to quantify policy as it pertains to ESM. The bulk of the literature on ESM have been explorations into the phenomenon for crime and perpetrator characteristics. The invaluable information gleaned from previous qualitative studies have become the foundations for

analysis in this study. The analytical model provided in this study provides a mechanism for SDOEs who have not adopted Title IX and ESSA policy requirements to measure the efficacy of their current ESM policies.

Chapter IV presents the data analysis and findings for this study as well as resultant recommendations supported by the findings. The chapter presents an overview of the need to conduct this study first, followed by the purpose of the research and the over-arching study question. The analyses are presented, and the results are interpreted in the final sections of the chapter.

## CHAPTER IV: FINDINGS, EVALUATION OF FINDINGS, AND RECOMMENDATIONS

The purpose of this project was to identify the relationship between ESM and passing the trash in Oregon, Texas, Connecticut, and Pennsylvania and federal ESM and passing the trash policy requirements. An evaluation of the findings and recommendations are presented after a discussion on the sample, data collection, data analysis, and results. The chapter concludes with a presentation of the limitations and implications of the study. Educator sexual misconduct is difficult to measure (Shakeshaft, 2004), and no scholarly examination of the relationship between policies which require changes to the abuse environment in school settings and ESM exists (Grant, Wilkerson et al., 2019; Phillips et al., 2019).

The focus and approach of this study was to conduct a quantitative archival study using binary logistic regression analyses to identify, analyze, and understand the relationship between and the predictability of the adoption of Title IX and ESSA Section 8546 policy requirements on cases of ESM and passing the trash in Oregon, Texas, Connecticut, and Pennsylvania. The advantage of using binary logistic regression analysis was it highlighted the significant relationship between ESM cases, passing the trash, and federal policy requirements (Ernst & Albers, 2017). The benefit of an archival study design was public access to the digital abundance of existing primary data on educator disciplinary actions from state-created repositories providing insight to ESM (Guiney, 2020).

### **Sample, Data Collection and Data Analyses Review**

The approach of this study was an archival design. Data were systematically collected from the state departments of educations' (SDOE) educator disciplinary databases in Oregon, Texas, and Pennsylvania as discussed in Chapter III. The resultant sample was a

census population of all educator disciplinary cases between January 1, 1993, and December 31, 2021. Data were coded onto an Excel Spreadsheet into binary, categorical variables. The ESM policies were reviewed on the SDOE websites in Oregon (ODOE), Pennsylvania (PDOE), and Texas (TDOE) websites for adoption of the nine policy elements required by Title IX and ESSA Section 8546. Chapter III outlined each states' ESM policies in detail. For every policy element identified, the data were coded into a binary, categorical variable representing each policy element. A scale variable was created from the total number of policy element in existence for each ESM-related and passing the trash-related case.

Binary logistic regression analysis was completed in SPSS to determine if a relationship existed between the number of federal ESM policy elements adopted Oregon, Texas, and Pennsylvania and the instances of ESM and passing the trash cases between January 1, 2016, and December 31, 2021. The SPSS output also included the odds that adopting these policy elements would predict the classification of an educator disciplinary action occurring due to ESM and passing the trash or for reasons other than ESM or passing the trash.

A couple of unexpected issues were identified during data collection. As mentioned in Chapter III, the Connecticut Department of Education (CDOE) had disabled the publicly accessible educator disciplinary database in March 2022. A relaunch date was planned for January 2023. Accordingly, data were unavailable for inclusion in the study. Next, the TDOE database did not include passing the trash-related cases. Texas had a very large ESM sample ( $n_T = 14,082$ ) and subsamples ( $n_1 = 7,793$ ,  $n_2 = 6,289$ ), with  $n_1$  representing ESM cases after policy requirements adoption and  $n_2$  representing ESM cases prior to policy requirements adoption. This discovery was no surprise because TDOE did not adopt policy



elements pertaining to passing the trash or the prohibition on entering into non-disclosure or confidentiality agreements. Resultantly, the TX sample was excluded from the passing the trash-related case sample analyses.

### **Sample Description**

The first step in this project was to collect, code, and analyze the data before answering the research question. As outlined earlier, the data for the criterion variable were identified as categorical with a maximum of two classifications, so binary logistic regression was selected to determine if a statistically significant relationship existed between  $Y_1$  and  $X$  and  $Y_2$  and  $X$ . This section presents the research questions and hypotheses for this research. This section concludes with presenting the results of the hypotheses testing.

Cases related to ESM and passing the trash were analyzed separately in SPSS. The total ESM-related cases before Title IX and ESSA policy element adoption represented 17.1% of all educator-disciplinary cases in Texas, Oregon, and Pennsylvania combined. After policy element adoption, the percentage of ESM-related cases in the three states fell to 16.7%, suggesting policy element adoption had a relationship with ESM-related cases in some way. These figures are displayed on Table 4.

Also, Table 4 shows the total number of cases and the ESM-related and passing the trash-related case observed frequencies ( $f_o$ ) in each state before ( $n_1$ ) and after ( $n_2$ ) policy adoption along with the percentages of those frequencies. Oregon had the fewest number of ESM cases before ( $n_1 = 1,771, f_o = 363$  or 20.5%) and after ( $n_2 = 518, f_o = 112$ , or 21.6%) policy adoption but the highest number of passing the trash cases during both time frames,  $n_1 = 1,771, f_o = 14$  (0.8%),  $n_2 = 518, f_o = 4$  (0.8%). Before policy adoption, the frequency of ESM-related cases in Pennsylvania was 27.1% ( $n_1 = 1,824, f_o = 495$ ) and 23.1% ( $n_2 = 1,269,$

**Table 4***Description of ESM-Related and Passing the Trash-Related Cases*

Statistic	ESM				Passing the trash		
	OR	PA	TX	Total	OR	PA	Total
$n_1$	1,771	1,824	7,793	11,388	1,771	1,824	3,595
$f_o$	363	495	1,094	1,952	14	7	21
%	20.5%	27.1%	14.0%	17.1%	0.8%	0.4%	0.6%
$n_2$	518	1,269	6,289	8,076	518	1,269	1,787
$f_o$	112	293	940	1,345	4	3	7
%	21.6%	23.1%	14.9%	16.9%	0.8%	0.2%	0.4%

$f_o = 293$ ) afterwards. Passing the trash-related cases was similar in the reduction of cases as ESM frequencies as OR, with a frequency of 0.4% ( $n_2 = 1,824, f_o = 7$ ) before policy element adoption and 0.2% after adoption ( $n_2 = 1,824, f_o = 14$ ). Texas ESM-related cases had a frequency of 14% ( $n_1 = 7,793, f_o = 1,094$ ) before policy element adoption which increased to 14.9% ( $n_2 = 6,289, f_o = 940$ ) after January 1, 2016. Table 5 shows the minimum number of Title IX and ESSA policy elements adopted was 5 and the maximum number adopted was 8. The mean number of adopted policy elements was 2.2 with a standard deviation of 2.7 ( $\bar{x} = 2.2, SD, \pm 2.7$ ). Figures 2 and 3 presents the proportion of ESM and passing the trash-related cases of the total cases for before and after policy element adoption, respectively. Figure 4 is a duplication of Figure 1 from Chapter III. This figure illustrates the number of policy elements adopted by each state. The ODOE adopted a total of 8 Title IX and ESSA policy requirements. The PDOE and TDOE adopted 6 and 5 elements, respectively.

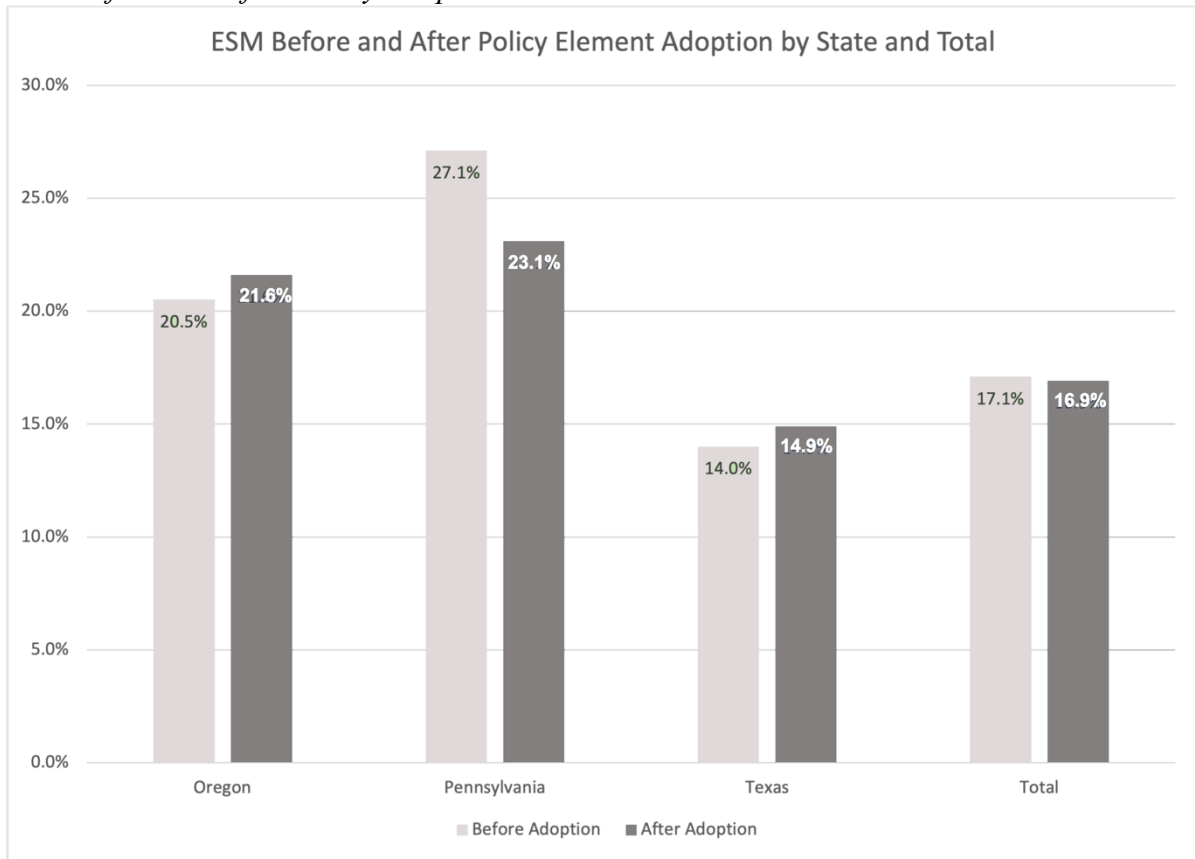
**Table 5**

*Description of the Predictor Variable*

Variable	<i>N</i>	Min	Max	$\bar{x}$	<i>SD</i>
Adopted policy elements	19,464	0	8	2.22	$\pm 2.684$

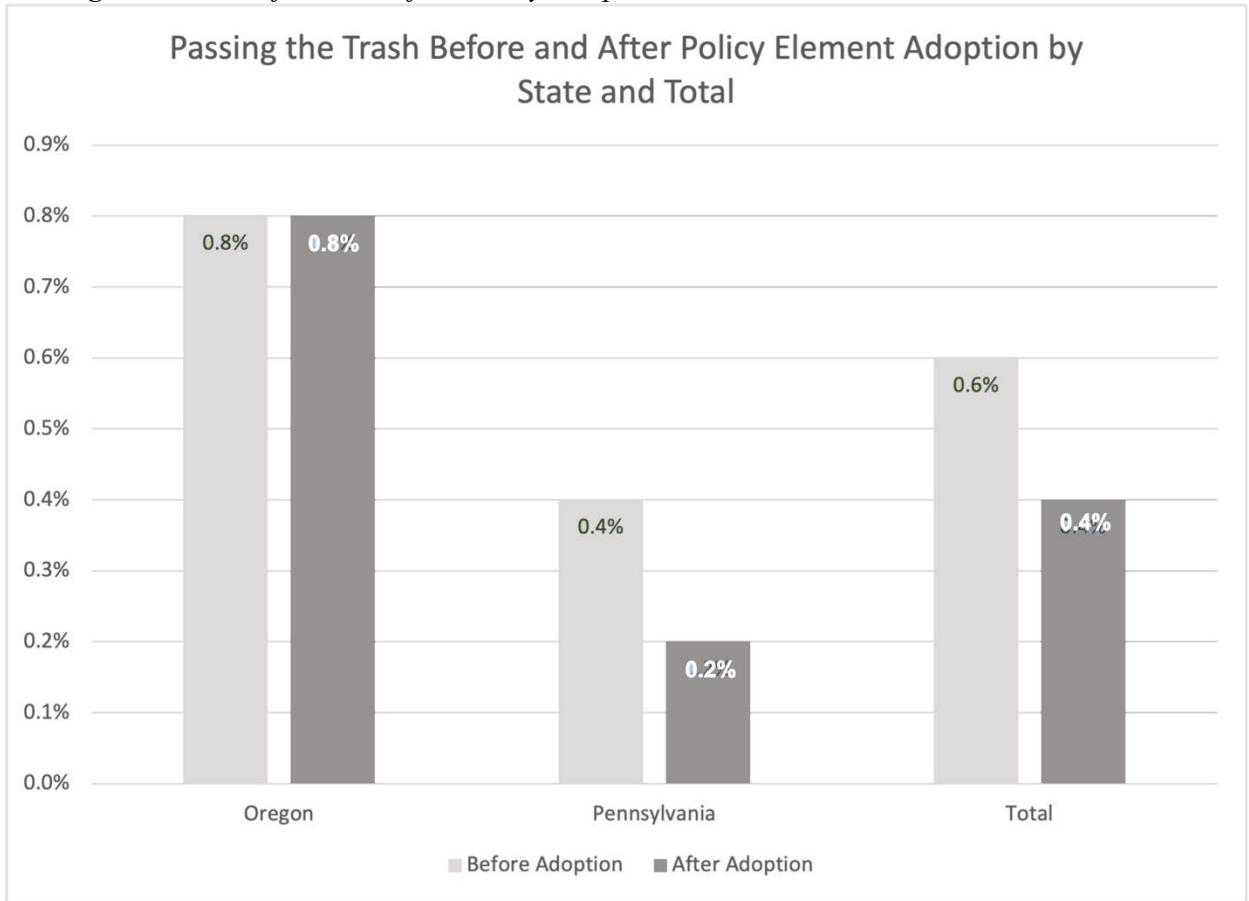
**Figure 2**

*ESM Before and After Policy Adoption*



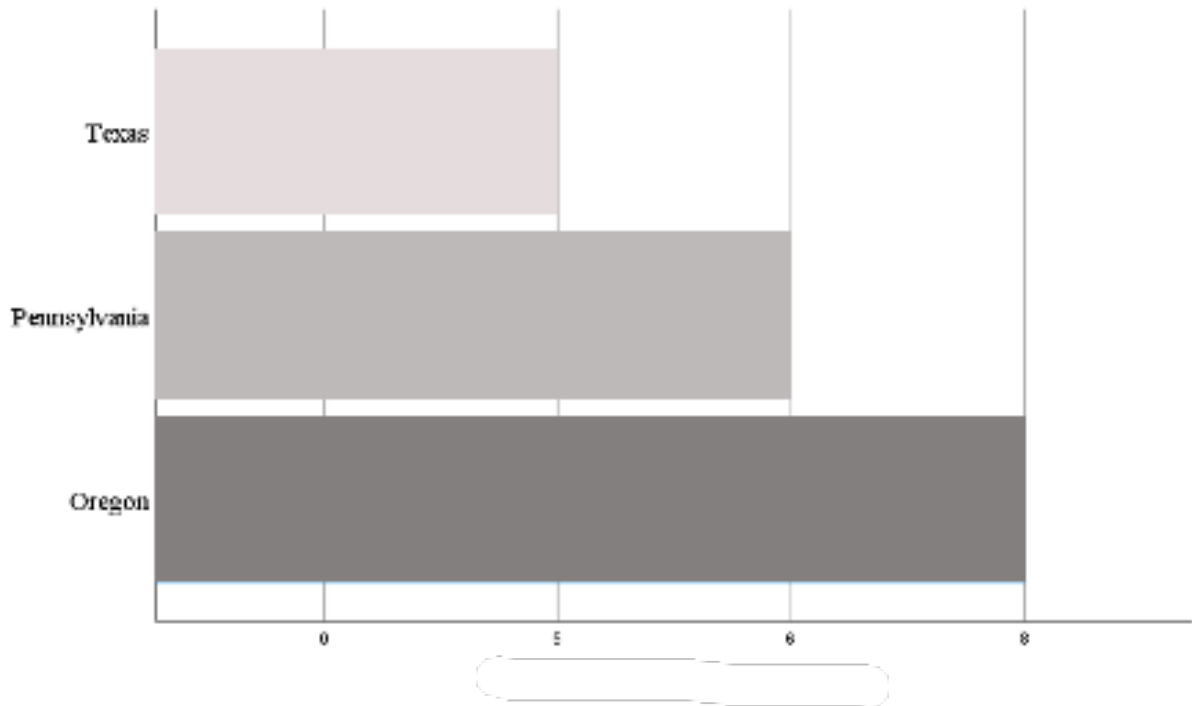
**Figure 3**

*Passing the Trash Before and After Policy Adoption*



**Figure 4 (duplicate)**

*Number of Adopted Title IX and ESSA Policy Requirements by State*



### **Hypothesis Testing**

Binary logistic regression was an appropriate statistical analysis to test hypotheses of relationship when the dependent variable is dichotomous, categorical, discrete, and measured on the nominal scale (Salkind, 2010). Binary logistic regression *is useful to* determine the amount of variance in  $Y_1$  and  $Y_2$  with only one predictor variable,  $X$ . To test for binary logistic regression, several major assumptions had to be satisfied. These assumptions were (a) a dichotomous dependent variable, (b) no outliers in the data, and (c) no multicollinearity.

This study addressed the assumptions for the variables prior to conducting any data analysis. Linearity, normality, homoscedasticity, error term, and equal variance were not assumed for binary logistic regression, nor was the error term (Salkind, 2010). However, to

bolster validity and reliability, variance was calculated and analyzed. The null hypothesis was tested using binary logistic regression to determine whether the relationship between ESM and passing the trash and the number of adopted policies existed as predicted.

### **Test of Assumptions**

The data analyses were conducted separately for ESM and passing the trash. Assumption tests for binary logistic regression were tested and mostly met. These assumptions were (a) a dichotomous dependent variable, (b) no outliers in the data, and (c) no multicollinearity. To address the first assumption,  $Y_1$  (ESM-related cases) and  $Y_2$  (passing the trash-related cases) were examined and determined to be dichotomous, discrete, and categorical. Thus, the first assumption was met.

Second, no outliers were in the data. The number of policies adopted by each state were converted to z-scores and examined for outliers. Table 6 shows the predictor variable met the assumption for no outliers because the standardized score for individual Title IX and ESSA policy requirements fell within the acceptable range,  $z = -3.29$  to  $3.29$  (Salkind, 2010). The second logistic assumption was met.

Lastly, multicollinearity was tested among the nine policy elements contributing to the predictor variable to determine the interactive effect of these policies using a linear regression test. Tests to see if the data met the assumption of collinearity indicated multicollinearity was present among three variables (Mandatory Reporting Passing the Trash, *Tolerance* = 0.13, *VIF* = 7.99; Disciplining False Allegations, *Tolerance* = 0.06, *VIF* = 15.86; Mandatory Reporting ESM, *Tolerance* = 0.08, *VIF* = 12.54). Significant levels of collinearity were assumed among Mandatory Reporting ESM and Disciplining False

**Table 6***Assumption Test for Predictor Variable Outliers*

Title IX and ESSA policy requirements	z score
Define ESM	- 0.842
Define passing the trash	- 0.318
Restrict access to students	- 0.382
Mandatory report ESM	- 0.842
Mandatory reporting for passing the trash	- 0.318
Procedures for handling false allegations	- 0.165
Discipline educators for founded allegations	- 0.842
Discipline false reporters	- 0.165
Prohibit confidentiality agreements	- 0.691

**Table 7***Multicollinearity Assumption Test for Policy Elements*

Policy element	Tolerance	VIF
Reporting passing the trash	0.125	7.992
Disciplining false allegations	0.063	15.864
Reporting ESM	0.080	12.542

Allegations because *Tolerance* scores for both policy elements were  $< 0.1$  and *VIF* scores were  $> 10$  (see Table 7). However, this analysis focused on only one predictor variable (number of policy elements adopted) in the analyses. Resultantly, even though multicollinearity assumptions were not met, impacts were circumvented because analyses relied on the presence and absence of policy rather than on the individual policy elements.

## Findings

Were the number of ESM-related and passing the trash-related cases influenced by the adoption of Title IX and ESSA Section 8546 policy requirements in Oregon, Texas, and Pennsylvania from January 1, 2016, to December 31, 2021?

$H_0$  1: The number of ESM cases was not influenced by the number of federal requirements in the policies.

$H_{a(1)}$  1: The number of ESM cases decreased with an increase in the number of requirements included in the policies.

$H_{a(2)}$  1: The number of ESM cases increased with an increase in the number of requirements included in the policies.

$H_0$  2: The number of passing the trash cases was not influenced by the number of federal requirements in the policies.

$H_{a(1)}$  2: The number of passing the trash cases decreased with an increase in the number of requirements included in the policies.

$H_{a(2)}$  2: The number of passing the trash cases increased with an increase in the number of requirements included in the policies.

## Test of Hypotheses

Relationship between ESM-related and passing the trash-related cases and adoption of policy elements was determined by running chi square test of independence. Measures of association were run when statistically significant relationships were obtained. Salkind (2010) stated chi square test for independence is an appropriate test for determining



**Table 8***Chi Squared Test for Independence: ESM and Passing the Trash*

Date range	Case type	Statistic	Value	df	p-value	Phi
1/1/2016 to 12/31/2021	ESM	$\chi^2$	33.73	1	< .001	.086
	N of valid cases		8046			
	PTT	$\chi^2$	5.025	1	.025	.031
	N of valid cases		5382			

*Note: p = .05*

relationship when running logistic regression models. The null hypothesis ( $H_0$ ) for chi square test for independence stated no relationship existed between the number of ESM-related cases and the adoption of policy elements. The alternative hypotheses ( $H_a$ ) stated no relationship existed between the number of passing the trash-related cases and the adoption of policy elements.

As seen in Table 8, a correlation test was run to determine that ESM-related and passing the trash-related cases were related to the number of adopted Title IX and ESSA policy requirements  $\chi^2 (1, n_T = 8,046) = 33.73, p < .001, Phi = .086$  and  $\chi^2 (1, n_T = 5,382) = 5.025, p = .025, Phi = .031$ , respectively. The  $\chi^2$  null hypotheses for ESM-related and passing the trash-related cases were rejected because the calculated  $\chi^2$  values were greater than the critical value for chi square ( $\chi^2 = 3.84$ ) with 1 *df* at the .05  $\alpha$  level. While the chi-square test suggested a statistically significant relationship existed between adopted policy elements and ESM-related and passing the trash-related cases, the *Phi* statistic indicated the relationship was weak in both samples (see Table 8).

**Table 9***Binary Logistic Regression Model Summary: ESM and Passing the Trash*

Case type	-2 Log likelihood	Cox & Snell $R^2$	Nagelkerke $R^2$
ESM	7,240.516	.004	.007
Passing the trash	89.156	.001	.027

Also, binary logistic regression was run separately for ESM and passing the trash. These tests were run to determine whether the adoption of more policy elements addressing ESM and passing the trash for public schools in Oregon, Pennsylvania, and Texas had a statistically significant relationship with the number of ESM-related cases which occurred within each state’s public schools. The results in Table 9 show the model predicted the number of cases not related to ESM and passing the trash at a rate higher than ESM and passing the trash related cases. The model explained 0.7% (Nagelkerke  $R^2$ ) of the variance in ESM-related cases and 2.7% (Nagelkerke  $R^2$ ) of the variance in passing the trash-related cases. The analyses correctly classified 83.3% of ESM-related cases and 99.6% of passing the trash-related cases as displayed on Table 10.

A negative relationship existed between the number of policy elements adopted and the number of ESM-related ( $B = - 0.205$ ) and passing the trash-related ( $B = - 0.019$ ) cases. Therefore, the likelihood for a case to be classified as not related to ESM was 81.5% more likely with a higher number of adopted Title IX and ESSA policy elements. Disciplinary cases were 98.1% more likely to be unrelated to passing the trash with a higher number of adopted Title IX and ESSA policy elements (see Table 11). The results strongly imply support for  $H_{a(1)}$  (ESM-related cases) and  $H_{a(1)}$  (passing the trash-related cases). Thus, null hypotheses for ESM and passing the trash were rejected.

**Table 10***Classification Table for ESM and Passing the Trash*

Observed		Predicted		
		ESM and PTT		% Correct
		Related	Not related	
ESM	Related to ESM	0	3,297	0.0%
	Not related to ESM	0	16,167	100%
	Overall %			<b>83.1%</b>
PTT	Related to PTT	0	21	0.0%
	Not related to PTT	0	5,361	100%
	Overall %			<b>99.6%</b>

These initial analyses were tests for the likelihood of the non-standardized dependent variable predicting ESM and passing the trash-related disciplinary cases. The high odds ratio for ESM-related cases was 81.5% ( $OR = 0.815$ , 95%CI [0.072, 0.872]), which suggested the disciplinary cases related to ESM were highly likely to decrease as the number of policy elements adopted by SDOEs increased. Therefore,  $H_{a(2)}$  was supported with the ESM-related data. The odds ratio for passing the trash-related cases was 98.1% ( $OR = 0.981$ , 95%CI[0.858, 1.121]) and showed that as the number of policy elements adopted by SDOEs increased, the likelihood disciplinary cases would be related to passing the trash substantially decreased. Thus, the  $H_{a(2)}$  was supported with the passing the trash-related data. The null hypotheses for ESM and passing the trash were rejected.

Partially standardized odds ratios were calculated to determine a more reliable effect size of the impact the number of adopted policy elements had on ESM-related and passing

**Table 11***Binary Logistic Regression Results: ESM and Passing the Trash*

Case		<i>B</i>	<i>SE</i>	<i>Wald</i>	<i>df</i>	Sig.	Exp(B)	95% C.I.	
								Upper	Lower
ESM	Adopted elements	- 0.205	0.034	36.113	1	< 0.001	0.815	0.762	0.871
	Constant	2.713	0.187	209.644	1	< 0.001	15.077		
PTT	Adopted elements	- 0.019	0.068	0.082	1	0.774	0.981	0.858	1.121
	Constant	5.587	0.272	421.743	1	< 0.001	266.89		

*Note.* Date range January 1, 2016, to December 31, 2021

the trash-related cases in Oregon, Pennsylvania, and Texas. Among the ESM-related cases between January 1, 2016, and December 31, 2021 ( $n_1 = 8,076$ ), 85.1% of the predictability in the number of policy elements adopted by SDOEs was explained by the model ( $OR = 0.851$ ), an 18.5% increase in predictability over the non-standardized odds ratio ( $OR = 0.815$ ).

Conversely, the partially standardized effect size decayed for the predictability of the number of policy elements adopted on passing the trash-related cases ( $n_1 = 1,787$ ),  $OR = 0.583$ , which was a 44.8% reduction in predictive effect (- 44.8%) from non-standardized odds ratio ( $OR = .981$ ). Nonetheless, sufficient odds existed to assume as the number of policy elements adopted by SDOEs increased, the likelihood a disciplinary case was classified as either ESM-related or passing the trash-related decreased. The null hypotheses were rejected with more reliability for ESM-related cases and less for passing the trash-related cases. Table 12 displays the partially standardized  $OR$  for ESM-related and passing the trash-related cases in the analytical sample.

**Table 12***Linearization Transformation of Predictor Variable on ESM and Passing the Trash*

Case type	<i>N</i>	<i>bk</i>	$R^2_{(Pred:Exp)}$	<i>sk</i>	$SD_{OR}$
ESM	8,076	-0.205	.064**	0.782	0.851
Passing the trash	1,878	-0.595	.039	0.539	0.583

*Note.* \*\* $R^2$  was significant at the .01 level (2-tailed).

**Assessment of Classification Accuracy**

Two methods for determining the goodness of fit of the model to the datasets were used. First, analyses of the classification tables were performed to provide a method to assess logistic regression model validity and suitability (Shallcross & Ahner, 2019). Educator sexual misconduct-related and passing the trash-related case analyses fixed the classification cut value at 0.50, which classified the number of policy elements as contributors to the number of ESM-related and passing the trash-related cases between January 1, 2016, and December 31, 2021. The model accuracy presented in Table 10 shows the predictor variable exceeding an overall percentage of 83% classification accuracy for ESM-related cases and an overall percentage of 99.6% for passing the trash-related cases. This test suggested the analytic model was a good fit to the data.

Second, Hosmer-Lemeshow test (HLT) was run in SPSS to explain the proportion of variance in the number of cases related to ESM due to the number of policy elements adopted by the SDOEs as well as for cases related to passing the trash in Oregon and Pennsylvania. The results suggested the number of policy elements adopted by states were significant predictors of ESM-related and passing the trash-related cases with a variance of 12.2% ( $R^2 = 2.392, p = .112$ ) for ESM and 0.1% ( $R^2 = 59.317, p < .001$ ) for passing the trash. The HLT for ESM-related cases returned a significant amount of variance but passing the trash-related

data did not return a statistically significant amount of variance. However, according to Salkind (2010), using HLT can result in a low  $R^2$  and still have a correctly specified model and vice-versa.

### **Evaluation of Findings**

The purpose of this study was to determine if federal policy requirements on ESM and passing the trash have an impact on the number of ESM-related and passing the trash-related cases experienced in Oregon, Pennsylvania, Connecticut, and Texas. Data were collected over a two-week period from publicly accessible databases hosted by the ODOE, PDOE, and TDOE. The results of the binary logistic regression showed a relationship between these policy requirements and ESM experienced in three states (Oregon, Pennsylvania, and Texas) and policy requirements and passing the trash in two states (Oregon, Pennsylvania). Overall, the greater the number of federal policy requirements adopted was predictive of educator disciplinary cases occurring due to behaviors other than ESM or passing the trash. The data supported (a)  $H_{a(1) 1}$ , a decrease in ESM as the number of adopted policy elements increased, in the case of one state; (b)  $H_{a(1) 2}$ , a decrease in passing the trash cases as the number of adopted policy elements increased, in the case of two states; and (c)  $H_{a(2) 1}$ , an increase in ESM cases as the number of adopted policy elements increased, in the case of two states. Thus, the null hypotheses were rejected for both ESM and passing the trash. This section presents a discussion of the findings with respect to the reviewed literature from Chapter II along with any significant findings.

A thorough review of the literature showed that no studies had been conducted to determine the efficacy of federal policy requirements on reducing instances of ESM-related and passing the trash-related educator disciplinary cases. Previous research on ESM and

passing the trash by leading experts Shakeshaft (2004, 2013); Grant et al. (2017); Grant et al. (2019); Grant, Wilkerson, et al. (2019); and Henschel and Grant (2019) was focused on the social, cultural, cognitive, and psychological impetus behind educator perpetration and perpetrator demographics. This study presented inconsistencies in conviction charges during data collection for ESM perpetrators, which was consistent with findings by Abboud et al. (2018) and Shakeshaft and Levy (2014). Shakeshaft teamed up with Grant and Henschel in 2019 to explore which states had adopted Title IX and ESSA federal policy requirements, reporting Oregon, Texas, Pennsylvania, and Connecticut had put these policy requirements into practice. However, the authors of these studies stopped short of determining the efficacy of the policy elements and failed to report that Texas lacked passing the trash-related Title IX and ESSA policy requirements.

Despite being the only study focused on measuring the effects of ESM and passing the trash-related federal policy requirements, the results supported many assumptions from previous studies. The results supported assumptions by Grant et al. (2019) and Grant, Wilkerson, et al. (2019) who stated schools which adopt policy guidelines at the district level as opposed to the state level was an effective starting point to reduce ESM. The results supported several estimations concerning the underreported nature of ESM (Abboud et al., 2018; Grant, Wilkerson et al., 2019; Shakeshaft, 2004), which was evidenced in the higher frequency of ESM cases in Oregon and Texas after adopting Title IX and ESSA policy requirements for mandated reporting. The results supported earlier assumptions that adults within the school system would be more likely to report ESM if the school district protected the anonymity of the reporter through guarantees in policy (Wurtele et al., 2019). Support for these assumptions was a valuable addition to the ESM literature.

The literature reviewed for this study indicated that passing the trash was an important factor in student victimization. The data collected for this study included a copious number of educators who attempted to find employment within a new school district during and immediately following investigations for ESM allegations. The fact these educators received a formal disciplinary action with the SDOE and denial of employment was consistent with this study's finding that adopting policies directly related to passing the trash reduces the likelihood educators will find employment in other districts (decreased disciplinary actions for attempting to find new employment after a founded ESM allegation).

A few significant findings were made during this study. The first significant finding was made during data collection. Creation of a state-wide, publicly accessible database of ESM offenders provided valuable information for communities and potential employers, but the general public could misunderstand the information in the database. A concern existed for the average public inquiry which may not realize the difference between founded allegations and mere allegations as reported in the databases. Although data collection from the Texas database took several days to cross-reference the > 16,000 names with the Do Not Hire Registry (Texas Education Agency, 2022), this method maintained the most confidentiality for disciplined educators while informing the public on which educators were no longer eligible for employment within a public school system in Texas. Accordingly, state-wide repositories for ESM and passing the trash perpetrators would provide scholars a more thorough method for studying the motivation behind this phenomenon while ensuring ethical boundaries for a very sensitive topic.

In line with Abboud et al. (2018), 29 states, including Pennsylvania, have ESM-specific state laws which guide punishment and registration requirements since 2017.



However, during data collection, cases were not clearly demarcated. Additional research was needed to verify the circumstances of an abundance of disciplinary cases coded as ESM-related due to the reduction of conviction charges to Contributing to the Delinquency of a Minor. The use of this ambiguous, catch-all conviction charge indicated a need to continue pushing for mandated prosecution of ESM offenders under consistent legal codes specifically related to ESM (Abboud et al., 2018; Grant, Wilkerson et al., 2019; Shakeshaft & Levy, 2014). Reducing conviction charges may have a profound implication on communities because the ESM offender can avoid sex offender registry if the charge was reduced to a non-registerable offense, such as contributing to the delinquency of a minor. Abboud et al. (2018) explained how moral panic drove states to adopt ESM-specific laws, but the lack of application oversight and consistent intrastate prosecutions are a gap in the ESM literature for future study.

Title IX funding is available to SDOEs to ensure students are successful in public school. However, creators of Section 8546 of the ESSA deny funding to SDOEs which fail to prohibit the aiding and abetting of sex offenders by passing ESM perpetrators to other school districts instead of reporting ESM to appropriate authorities (S. Res. 1177, 114th Cong, 2015). This study's passing the trash model showed a weak relationship between the number of policies adopted within each state but predicted a reduction in passing the trash with the adoption of Title IX and ESSA policy requirements.

Adoption of Title IX and ESSA policy requirements can be a financial burden on states. The results of this study strongly implied that the greater the number of policy elements adopted decreased the likelihood educators would be disciplined for ESM-related offenses. The statistically significant level of predictability in the independent variable

indicated federal policy requirement adoption would be a data-driven method to reduce ESM and passing the trash in public schools, making the SDOE good stewards of public funds.

As described by Abboud et al. (2018) and Grant et al. (2019), this study was a contribution to filling the gaps in the literature by measuring the efficacy of the number of Title IX and ESSA policy requirements associated with ESM and passing the trash. The results showed that all the of the policy requirements together were stronger at predicting the likelihood of ESM and passing the trash occurring. The statistical findings have recommendations for further ESM studies.

### **Recommendations**

This final section presents an evaluation of the data analysis. It is organized in the following order, limitations, implications, and conclusion. Throughout this section, recommendations are provided for further ESM research using different methodologies.

Overall, this study supported the adoption of Title IX and ESSA Section 8546 policy elements into state-level department of education policies as a means of reducing ESM and passing the trash. The ODOE appeared to have more instances of ESM after adopting federal policy elements, but more inquiry into the effects of individual policy elements could reveal why cases increased. For example, the requirement to report all instances of ESM could result in a spike in ESM-related cases initially which would decay as these policies reform public schools into environments less conducive to sexual abuse.

The PDOE appeared to implement the right number (and potentially, the right combination) of policy elements to affect a reduction in both ESM-related and passing the trash-related cases. However, nuances in the data set which were not obvious or outside the scope of this study could have impacted this finding. Changes in population size,

neighborhood demographics, teacher training, and superintendent leadership could impact reporting ESM and passing the trash. Again, a review of the effects of individual policy elements to identify which elements are more impactful on ESM-related and passing the trash-related cases is an area for further inquiry.

### **Limitations**

Few limitations emerged during this project. First, actual counts of ESM were unknown because of underreporting (Grant et al., 2019; Shakeshaft, 2004). The census samples in this study increased generalization of the findings. Nonetheless, reports of student victimization due to ESM are increasing annually (Grant, Wilkerson et al., 2019). Thus, this study may represent the low range of actual ESM and passing the trash cases. Further, passing the trash may be more difficult to detect, as seen in the inability to determine if a case was passing the trash-related in Texas.

Second, the ESSA stated school administrators were guilty of passing the trash in violation of a law in their current state. Only 29 states have laws addressing ESM and passing the trash (Abboud et al., 2018). In the remaining 21 states, administrative handling of cases was not in violation of the law due to the age of student, the state's legal age of sexual consent, or the non-existence of statutory rape laws. This limitation within the law indicated school administrators were never guilty of passing the trash in those states.

Third, this study did not provide a "big picture" view of ESM or passing the trash. This project was limited to the cases occurring in Oregon, Pennsylvania, and Texas. This study focused on the findings from Reilly (2016) who found the rate of ESM cases was consistent throughout the United States. Yet, differences in demographics, population-size, and cultural and social norms, may have an impact on the rate of ESM-related cases within

public schools. Until state legislators create and implement a nationally accepted definition of ESM and enforce consistent ESM-specific criminal codes, true detection of ESM will remain elusive.

Fourth, this study was limited to public schools in Oregon, Texas, and Pennsylvania. Private schools were omitted deliberately from the data collection due to different rules governing private education. Examples of these rules were no requirements on background checks for teachers, no requirements for professional certifications for teachers or administrators, and no requirements to adopted Title IX or ESSA. Inclusion of private schools in the data count may produce some interesting findings and is a topic for further inquiry.

Finally, the sexuality which appears to be part of the public education system in recent years was beyond the scope of this study. The current gender-affirming revolution occurring across the country has an unknown impact on the ESM abuse environment. Policies requiring mandatory investigations and prosecution of any adult in the school system engaging students in sexually implicit or explicit behaviors appears to be in contradiction with sex education curricula. Additional studies in this area are warranted.

Again, the unknown impact that sexual curricula has had on the abuse environment was not accounted for in this study. The psychological effects of gender-fluid bathrooms, pronoun confusion, and gender-assignment taught in the classroom are unknown on victims of sexual assault. The relationship between this explosion in gender fluidity and an environment which promotes ESM might be a topic for more qualitative research.

## **Implications**

Based on the nature of the data collected, binary logistic regression was the best statistical process for explaining how policies rooted in theory and based on statistical significance were effective at reducing ESM in Oregon, Texas, and Pennsylvania as well as passing the trash in Oregon and Pennsylvania. The relationship between the number of policies adopted from Title IX and ESSA and put into practice within public schools were shown to decrease ESM-related disciplinary cases as SDOEs adopted more of those policies. The predictive nature of this study's model underscored Grant's et al. (2019) concern for ESM numbers in states not adopting Title IX and ESSA policies.

Grant, Wilkerson, et al.'s (2019) concern for SDOE existing policies on ESM had one of the most important implications for the current state of ESM research. Specifically, they found only four SDOEs had adopted Title IX and ESSA policy requirements, which meant 46 SDOEs relied on existing policies. Since ESM continued to occur in those states (Abboud et al., 2018) the efficacy of those policies was questionable. This study provided empirical evidence in support of adopting additional policies on ESM and passing the trash to reduce the sexual victimization of students in public schools.

The ESSA's requirement for a public database of educator disciplinary actions provided a sufficient data sample for this study. Studies dating back to the early 2000s have suggested the lack of ESM research resulting from no centralized repositories for educator disciplinary actions (Grant et al., 2018; Grant et al., 2019; Grant, Wilkerson et al., 2019; Henschel & Grant, 2019; Knoll, 2010; Shakeshaft, 2004). This study addressed the generalization of findings based on the quantity of data collected from the three states using the central disciplinary repositories in Oregon, Texas, and Pennsylvania. Hence, the

precedent for additional ESM studies using centralized educator disciplinary databases has been set.

The individual policy elements used in this study were based in theories of sexual offending, victimization, and the abuse environment. Studies conducted on sexual offending implied policies must be robust enough to include all perpetrator typologies and their unique momentum behind offending. Shakeshaft (2013) reported approximately 66% of ESM cases were committed by individuals without a psychopathology such as pedophilia, hebephilia, and ephebophilia. This study's findings on the interactive effect of the individual policy elements suggested the more of these ESM policy elements were adopted by the SDOE, the less opportunity existed for sexual perpetration.

This study's finding on the interactive effects of mandated reporting and disciplinary policy requirements contradicted previous studies on the impact of the victim precipitation theory on the proliferation of ISA. Smith and Freyd (2013) and Terry (2011) found that the more rape myth attitudes were allowed to foster within an institution, the less believable the victim and less likely the incident would be reported. Conversely, this study showed strong support for mandated reporting and disciplinary clauses in ESM policies by presenting how these policy elements interacted to reduce the likelihood educators would engage in ESM-related behaviors despite beliefs in rape myths (Gravelin et al., 2019). The spike in ESM cases found in Oregon was evidence of the impact mandated reporting requirements had on ESM. The decrease of Pennsylvania's ESM-related cases demonstrated how certain and predictable discipline acted as a deterrent to ESM after policy adoption. This study supported the need outlined by Guiora (2020) to ensure adult bystanders were not ESM enablers any longer.

This study's finding on the adoption of a policy prohibiting confidentiality agreements supported the findings of studies on passing the trash. Surface et al. (2014) argued for legislation outlawing nondisclosure statements between ESM offenders and school administrators as a means of public safety in Missouri. Although Missouri declined to pass such legislation, this study produced empirical evidence to support the efficacy of prohibiting such agreements. Reduction in passing the trash cases were related to implementing policies prohibiting confidentiality agreements and reporting ESM.

This study found that Title IX and ESSA policy requirements were predictive of disciplining educators for ESM-related and passing the trash-related offenses and creating environments less conducive to sexual abuse for victims. This study suggested that the more SDOEs adopt ESM and passing the trash specific policies, the less likely educators will engage in ESM behaviors. Despite these findings, a need exists to study the implications of training on Title IX and ESSA policy requirements. Even though SDOEs implement ESM and passing the trash policies and employees acknowledge the receipt of those policies, measuring the true efficacy of the policies on ESM would be more profound by comparing policy training scores with ESM-related cases.

The findings of this study have implications in the fields of education, psychology and criminal justice. The review of the literature for this study focused on the federal policy elements in light of realistic theories on sexual offending (Finkelhor & Araji, 1984; Grady et al. 2017; Mulligan, 2001; Ward, 2014), victimization (Guyon et al., 2019; Harris & Terry, 2019) and the abuse environment (Bryant, 1993; Varela et al., 2019). As SDOEs adopted greater numbers of the nine federal ESM policy requirements, the greater the likelihood of reducing ESM and passing the trash. Thus, the findings indicted the development of these

adopted elements into district policies should include professionals experienced in addressing sexual offending, victimization, and abuse environments, such as school psychologists (Spakowski & Crespi, 2017; Walsh & Krienert, 2021) and the school resource officers (Wurtele et al., 2019).

Further research is warranted on the non-federal ESM policies currently within practice in Oregon, Pennsylvania, and Texas. This study was limited to the Title IX and ESSA policy requirements of defining and reporting ESM and passing the trash, handling and disciplining false accusations, limiting access to students, disciplining for founded allegations even when the misconduct does not amount to a crime, and prohibitions against confidentiality agreements or non-disclosure statements. Each SDOE adopted other policies addressing ESM in different ways. Examination of those policies in relation to ESM and passing the trash is a subject for further inquiry. Based on the findings in this study, ESM and passing the trash policies rooted in theory and found to be statistically predictive at reducing cases of ESM and passing the trash can be compiled into a model SDOE policy handbook.

### **Conclusion**

The results of this project suggested Title IX and ESSA Section 8546 policy requirements were effective at reducing ESM in public schools in Oregon, Texas, and Pennsylvania. A binary logistic regression analysis of the data showed educator disciplinary actions were 81.5% more likely to be classified as not related to ESM when the number of Title IX and ESSA policy requirements adopted by public school administrators increased. Educator disciplinary cases were 98.1% less likely to be related to passing the trash with the adoption of ESM and passing the trash policy requirements. These findings indicated well-



developed and realistic policy, when grounded in the etiological theories of sexual offending, victimization, and factors which prevent an abuse environment, reduced ESM-related cases and protected public school children from the people who should be trusted most.

This study contributed to the ESM body of knowledge in two profound ways. This study addressed the relationship between theory-based policy on well-defined and enforceable prohibitions against ESM and passing the trash. Such policies are needed due to the abundance of inconsistencies among the states in defining ESM, reporting suspicions or knowledge of ESM, and creating prosecutorial codes specifically for ESM perpetrators.

Second, this study's findings suggested that as SDOEs adopt Title IX and ESSA policy requirements against ESM and passing the trash, an increase in ESM-related cases may occur for a brief duration but decay as passing the trash reduces. This brief increase in ESM-related disciplinary cases may be due to an increase in ESM reports, more allegations taken seriously, more investigations occurring, and more perpetrators being caught. Creating safe environments free of sexual abuse takes a willingness to adopt, implement, and enforce the ESM concepts of Title IX and ESSA.

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## APPENDIX A: Freedom of Information Act Request: CT

5/10/22, 6:06 PM

Online Survey Software | Qualtrics Survey Solutions

### Data Request Form Connecticut State Department of Education (CSDE)

The Connecticut State Department of Education (CSDE) collects data from public school districts and other education providers to meet reporting requirements, distribute funding, guide policy, inform accountability, facilitate data use, and report to the public with the ultimate goal of improving educational outcomes for all students. Customized requests for data that are submitted through this form will be accommodated within available resources.

Please note that the CSDE disseminates a wide array of its data through its public portal [EdSight](#). Legacy assessment data is also available on [CT Reports](#). Before submitting this data request, please check these sources to ensure that the data being requested are not already available through these sources.

To submit a request, please complete the form below (all fields are required) and click "Submit". Please use this e-mail address: [SDEDataRequests@ct.gov](mailto:SDEDataRequests@ct.gov) for any questions you may have.

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