



# Changing Legal and Policy Structures Affecting Mental Health and Postsecondary Education

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# “Special Relationships”

- *Dzung Duy Nguyen v. Massachusetts Institute of Technology*, 96 N.E.3d 128 (Mass. Supreme Judicial Court. 2018) (Nguyen, a graduate student with past suicide attempts sought university help with “test-taking problems” over a two-year period and subsequently died by suicide.)
  - “Reasonable measures by the university to satisfy a triggered duty will include initiating its suicide prevention protocol if the university has developed such a protocol.” *Nguyen v. MIT* at 24.
- *Regents of University of California v. Superior Court*, 413 P.3d. 656 (Cal. Supreme Court 2018) (Rosen, a state university student was attacked and severely injured (stabbed) in a chemistry laboratory by a fellow student who had been treated by the university for serious mental health issues.)

# The Impact of Prevention Science and Its Entrance into Litigation

- Impact of The Jed Foundation (JED)
- “One resource that provides universities with guidance for drafting is Jed Foundation's Framework for Developing Institutional Protocols for the Acutely Distressed or Suicidal College Student.” *Nguyen v. MIT* at 24 n.18.

# Law and Policy Vectoring

- Absence of clear universal, national standards on legal responsibility
  - Lake, P. (2008, April). Still Waiting: The Slow Evolution of the Law in Light of the Ongoing Student Suicide Crisis. *Journal of College and University Law*, Vol. 34, No. 2.
- Bias Response Teams responses running into privacy and 1<sup>st</sup> Amendment issues...implications for Care Teams?
- Stuck in a “blame culture”
- Law focuses on responses to serious risks of violence and disabilities, but populations want broader opportunities to improve mental health and wellness
  - Ableism....
- Business of higher education, recession, “angst of 2020”—Edu-pocalypse?
- FERPA ?
- Zero Tolerance/Reactionism and ***Prevention***

# Conclusion

- Create national legal responsibility metrics.
- Emphasize prevention.
- Restructure dialogue beyond ableism.
- Thrive, not just survive.
- Remember: Higher education's commitment to student health and wellness has created increased access to postsecondary educational opportunities, retention and achievement!

*In remembrance of my friend, Dr. Greg Eells.*