

Why do faculty get sued?

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Reasons:

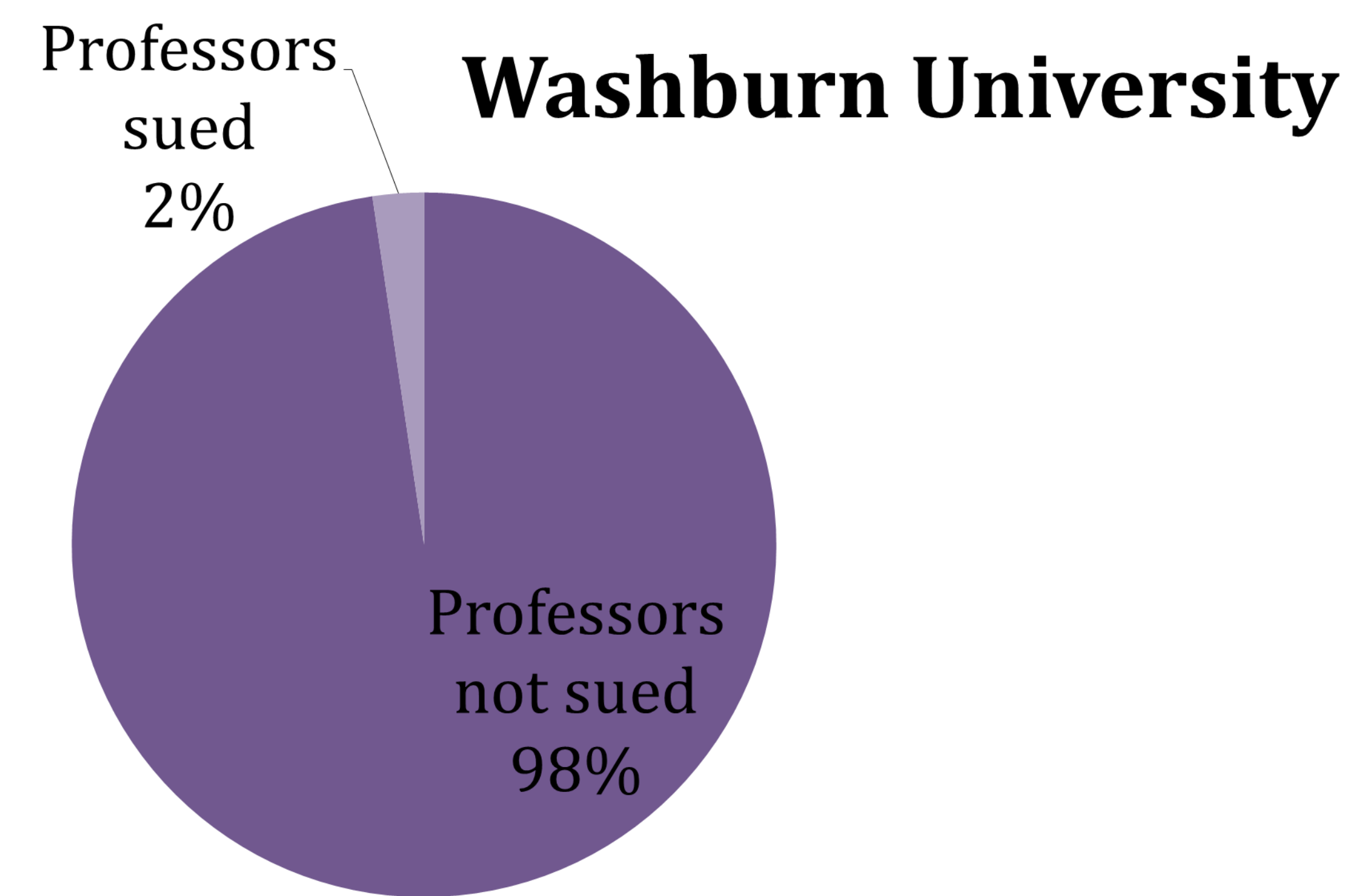
- ❖ Faculty Tenure/Promotion
- ❖ Discriminatory Remarks
- ❖ Faculty Writings
- ❖ Sexual Harassment
- ❖ Faculty Misconduct
- ❖ Gross Negligence
- ❖ Educational Malpractice

Abstract:

Most faculty don't anticipate being individually sued for work-related acts. Even fewer would envision having to mount a defense in small claims court, or possibly an appellate court. What role does email play as an evidentiary tool? Must the faculty member arbitrate? How can cases of this kind be avoided? There are a multitude of reasons for faculty to be sued. The range begins with neglect, moving to supervision of students and educational malpractice. This project seeks to determine what factors play into this decision. We will investigate relationships between those suing, what the arguments were, what the institutions were, and the outcome of the cases.

Ray v. Bowers (2009)

Ray graduated from the College of Charleston in May 2007. Ray attended a Halloween party at Bowers apartment, and the two developed a sexual relationship. Ray claims she felt powerless to stop the relationship because it would put her grade in the course at risk. She continued to pretend she liked Bowers until the semester was over. Ray reported to the college she was being sexually harassed in the classroom, over text messages, and was forced into an unwanted sexual relationship. The college immediately discharged Bowers, and the college was not liable under any circumstances. They were not deemed liable due to the fact that Thiel College had no knowledge or evidence at time of the harassment that it was occurring because the student purposely withheld the information.



“The Provost’s letter stated that he understood Chasin’s position, but that as state employees they had an obligation to obey the laws enacted by the Legislature. Chasin still refused to give Lloyd a grade.”

Fay v. Thiel College (2001)

Amy Fay, a student at Thiel College, was on a study abroad trip to Peru when she injured herself on one of the excursions. The professors in charge of the trip admitted Amy to the closest hospital. The surgeons assigned to Amy’s case instructed her that having surgery to remove her appendix was necessary. Amy was unsuccessful in being able to contact her parents or being transferred to another hospital. She reluctantly agreed to have the surgery. Post surgery, Amy realized while under anesthesia she was sexually assaulted by the two surgeons. The three professors in charge left the hospital after she was admitted for surgery in order to conduct the trip for the rest of the students. The defendant argued that the Waiver and Liability Form Amy signed prior to attending the trip would cover a situation like this one. Amy sued Thiel College for gross negligence, and the defendants request for a summary judgment was denied and the case went to trial.

Though Amy was suing the college instead of the individual professors, she may have had even better chances in court if she sued the individual people for gross negligence.

Chasin v. Montclair State University (1999)

Barbara Chasin, a professor at Montclair State University was sued for the acts of faculty misconduct. Lloyd, a student of Ms. Chasin was deployed on Operation Desert Storm mid semester while taking Ms. Chasin’s class. Lloyd had an “A” in the class prior to leaving and offered to write a paper, or take an exam to make up for the class time he would miss. After Lloyd departed the clause that stating there would be academic relief for those students called into active duty was applied.

The law stated that a student in attendance for a course for a minimum of 8 weeks would receive a grade based on the students work thus far. Upon Lloyd’s return requested an “A” but instead received an “Incomplete”. Lloyd turned to the Provost for assistance, but was unsuccessful. Chasin understood the law, but simply disagreed with it and refused to give a grade. Lloyd filed suit against Chasin for “malicious failure to abide by the Law”. The court found that Professor Chasin did not have discretionary to withhold a grade.

In this case, Chasin had little to no argument to defend herself. The law was clear, and she was in violation of it. Disagreeing with a law does not make it just to not abide by it.

“...defendants breached that duty by abandoning her in a Peruvian medical clinic.”

Reflections/Results:

It is important for those in society to understand their rights in our judicial system. As seen through research of previous cases, it is clear that every case is different, and different logic must be applied to come to a conclusion. University policies, and procedures etc. are some of the many factors that play into a decision.