In my parents’ Cuba, the rules of courtship were as colorful as they were formal and clear. The young man paid enthusiastically for everything while the young woman feigned indifference, offering now and then a rare but encouraging glance or brush. The man’s generosity—convention held—also extended to the older female chaperone, who kept a watchful eye over them and spoke by word or gesture only when the man’s hands strayed too far up the arm or when the chatting took too familiar a turn. She sat at the table with them and followed a few steps behind on slow garden walks. As the young couple’s affection grew, so did their longing for privacy. Losing the chaperone—long enough for a steep and probing kiss, or for planning a more discrete evening after the public one had ended—was also part, a fun part, of this noble code. One advantage it offered the players was the infallibility of their assigned roles. If everyone played them well, this ritual would end in a wedding feast.

That amiable tradition no longer exists. But just as I began to lament its passing, the U.S. Supreme Court instituted a Federal Dating Code, one that has the force of federal law, when it recently decided *Davis v. Monroe County Board of Education*. Unlike the code imposed by old world custom, this new one is not rooted in high romance but rather in the dry world of work and discrimination law, by name: Title VII of the 1964 Civil Rights Act which prohibits sex discrimination in the determination of wages, job classification, assignment, and promotion and training. Enforced by the Equal Employment Opportunity Commission (the EEOC), the Act
was later amended to include guidelines prohibiting sexual harassment. The guidelines issued by the EEOC recognized two forms of sexual harassment, *quid pro quo* and *hostile environment* (two terms that despite their cold statutory roots have since become household words, as deeply ingrained in the contemporary American psyche as "you have mail" and "where's the beef"). A year later, in *Meritor Savings Bank v. Vinson*, the Supreme Court set those terms in constitutional stone, finding they were forms of actionable sex discrimination. Hence sexual harassment case law has evolved primarily from workplace disputes. But romantic relationships follow a different logic and a different set of rules than do employee manuals and bargaining agreements. It is unwise to make one conform to the other's rules and expectations. Yet that is precisely what the *Davis* case calls for.

LaShonda Davis was a fifth grader who was allegedly sexually harassed over several months by another fifth grader, a boy furtively referred to as G. F., at Hubbard Elementary School, a public school in Monroe County, Georgia. This is what G. F. allegedly did: he tried to feel LaShonda's breasts and genital area and told her he'd like to take her to bed. At another time during a physical education class, he slipped a door stop in his pants and made sexual gestures toward her. Finally, he rubbed against her sexually in the school hallway. After their various complaints to several teachers and the school principal were allegedly ignored, LaShonda and her mother went to the police and charged G. F. with sexual battery. He pleaded guilty.

To be sure, G. F.'s alleged behavior was precociously obscene, but as a dissenting Justice Kennedy points out:

> Unlike adults in the workplace, juveniles have limited life experiences or familial influences upon which to establish an understanding of appropriate behavior. The real world of school discipline is a rough-and-tumble place where students practice newly learned vulgarities, erupt with anger, tease and embarrass each other, share offensive notes, flirt, push and shove in the halls, grab and offend.

Kennedy highlights the uncomfortable fit of square employment law in round educational settings:

> In reality, there is no established body of federal or state law on which courts may draw in defining the student conduct that qualifies as Title IX