

# LAF Update

## FROM THE LAF DIRECTOR



### Celebrate 30 Years

You are applying to college. Despite excellent academic credentials, you may not be able to attend the college of your choice, because many do not accept females and others have quotas for female students. You must score higher on standardized tests than males, because admission requirements demand higher scores for females. And, if you think you can live at home or receive a scholarship or play intercollegiate sports, think again! Sound maddening? Unfortunately, that was the climate women faced entering higher education prior to Title IX, the 1972 federal law prohibiting sex discrimination in federally funded educational programs.

As we celebrate Title IX's 30th birthday, we are thankful for the strides women have made in higher education. Women now outnumber men on college campuses, the number of female professors has nearly doubled, 43 percent of college varsity athletes are women, and women have a system to seek redress for sex discrimination.

Although we'd like to relax and sit back to revisit these great accomplishments, the Bush administration prohibits us from doing so. More than ever, opponents of Title IX are gathering support to dismantle its safeguards. From lawsuits (see the lead article) to new legislation (see From the Director, p. 2), Title IX is being scrutinized as never before. We must remain vigilant!

*Patricia J. McCabe*

Patricia J. McCabe

## Wrestling With Title IX

The American Association of University Women Legal Advocacy Fund Board of Directors voted in February 2002 to grant \$5,000 to fight the recent judicial attack on Title IX: *National Wrestling Coaches Association et al v. United States Department of Education*. The financial contribution accompanies LAF's decision to support AAUW's involvement as a defendant organization represented by the National Women's Law Center (NWLC).

This case adds to the growing concern that some or all of the protections guaranteed by Title IX may be eliminated. It was filed shortly after President Bush signed a Title IX clarification that school districts may promote and seek funding for single-sex public education programs (see From the AAUW Director, p. 2). Thus the danger to Title IX has never been greater.

The National Wrestling Coaches Association, College Gymnastics Association, U.S. Track Coaches Association, and several other groups filed the case in February 2002. The plaintiffs allege that Title IX regulations and policies are unconstitutional and are responsible for instituting quotas and causing many universities and colleges to drop wrestling and other men's sports from their athletic programs. In particular, the wrestlers claim that Title IX's participation test requires schools to cut or cap men's and boys' teams and, therefore, discriminates against men and boys.

In May the U.S. Department of Justice filed a motion to dismiss the complaint on narrow procedural grounds. In response NWLC filed a friend-of-the-court brief urging the court to dismiss the case on its merits, not on purely procedural grounds. The women's organizations are disappointed that the motion does not defend the legality and validity of Title IX.

The Title IX participation test, as applied to sports, does not require quotas. The three-pronged analysis determines whether educational programs receiving federal funds provide equal opportunity for men and women to play sports, treat male and female athletes fairly, and provide fair shares of scholarship money to both men's and women's sports programs. (See sidebar on p. 3). To comply with Title IX, an institution need not show exactly

**Title IX**, continued on page 3

## From AAUW's Executive Director



In January, President Bush signed into law the "No Child Left Behind Act," which states that single-sex public education is legal and school districts may compete for \$450 million in federal funds to support such programming. Proponents believe the act's clarification creates an opportunity to expand public school choice and reject the criticism that it will reverse years of work to improve fair access to educational opportunities for girls and women.

Advocates for single-sex education suggest children are better behaved and higher achievers in a gender-specific setting. To find a study that is both scientifically grounded and applicable to creating *public* single-sex programs, however, is difficult. In fact, no significant quantitative studies have yet been done that control for factors that will influence a child's academic success despite being enrolled in a single-sex program, namely socioeconomic status, ability, ethnicity, and parental

involvement in education. The inability to draw definitive conclusions about the efficacy of single-sex programs seems to be common across all studies.

AAUW and other organizations opposing the new law fear the slow chipping away of Title IX. It would be nice to think we no longer need the protections guaranteed by Title IX, but that's not the case. If the Bush administration and advocates of the new law want to ensure that no child is left behind, strategies need to focus on proven methods of academic achievement, such as parental involvement, smaller class size, and increased salaries for teachers.

Thirty years of scrutiny brought about by the passage of Title IX show us that educational institutions are taking steps to offer equal opportunities to girls and boys. Before tampering with progress, let's see some scientific research.



Jacqueline E. Woods

## Vocational Schools Discriminate Against Women

In June 2002 the National Women's Law Center requested that the U.S. Department of Education's Office for Civil Rights investigate potential discrimination in high school vocational schools in all 12 Department of Education regions. The petitions for compliance review were filed after the center published a report outlining disparate treatment and effects of girls attending vocational programs.

Most notably, the report reveals wage differentials between men and women pursuing careers in technology and the trades. A survey conducted for the report suggests that females engaged in trade careers average nearly \$22 less per hour than do males. One explanation for the wage discrepancy is that the vocational choices made by females tend to be low-paying jobs such as childcare and cosmetology, while males typically take high-paying jobs in trades such as carpentry or plumbing.

The report found that discrimination issues were noted in all states surveyed. For more information, visit [www.nwlc.org](http://www.nwlc.org). ■

## LAF Receives \$25,000 Rockefeller Grant

In April, LAF received a grant of \$25,000 from the Rockefeller Family Fund for the LAF Case Support program. The grant will help LAF increase case awards to newly adopted plaintiffs during the upcoming year. Increasing initial case awards is a priority for LAF to help meet the needs of plaintiffs. By the time a plaintiff has submitted an application, she has incurred significant costs associated

with legal counsel and filing fees. Greater financial assistance from LAF is particularly important to those plaintiffs who have lost employment or are underemployed as a result of filing the lawsuit. A larger initial award from LAF will help secure the plaintiff's litigation, boost her morale, and remind her institution that AAUW members are a powerful force behind the plaintiff. ■

### View LAF Update Online

To read *LAF Update* online or print it from your computer (saves paper and postage), send an e-mail message with your name, city, state, e-mail address, and AAUW branch (if you are a member) to [lafupdate@aauw.org](mailto:lafupdate@aauw.org).

To reprint articles from *LAF Update*, visit [www.aauw.org/7000/laf/updates](http://www.aauw.org/7000/laf/updates).

#### Questions?

Call 202/785-7750 or send a message to [laf@aauw.org](mailto:laf@aauw.org).

**Title IX**, continued from page 1

equal participation, but sports scholarship monies must be awarded based on relative participation levels.

The wrestlers' argument—that men's sports suffer because of increased funding for women's sports—is not a new concept. The fact remains that schools need to look at the inequitable distribution of monies made available to men's "minor sports." In June 2002, NWLC published *Title IX and Men's Minor Sports: A False Conflict*. The report addresses many issues raised in the wrestlers' complaint. Specifically, the report highlights some facts reported by the National Collegiate Athletic Association with respect to funding men's sports:

- Of the \$3.57 million average increase in expenditures for men's Division I-A sports programs from 1998 to 2002, 69 percent—\$2.46 million—went to football. This increase in Division I-A football spending exceeds the entire average operating budget for all women's sports in 2000 by more than \$1.69 million.
- Football and men's basketball represent 72 percent of the total men's athletic operating budget at NCAA Division I-A institutions.
- A 1999 study shows that 58 percent of Division I-A and I-AA football programs do not generate enough money to pay for themselves, let alone for other sports.

Opponents of Title IX have voiced concern that women's athletic participation has increased at the expense of men's opportunities, yet statistics show that men's participation rates in collegiate sports and the amount of money spent for men's athletic teams continue to rise. In fact, despite the gains women have made under Title IX, resources for women's sports have never caught up to resources for men's sports. According

## Assessing Athletic Program Compliance With Title IX

### Prong 1: Equal opportunity to play sports

#### The Test

Is the percentage of male and female athletes roughly the same as the percentage of male and female students enrolled?

OR

Does the school have a history and continuing practice of expanding athletic opportunities to female students?

OR

Is the school meeting the interests and abilities of female athletes?

### Prong 2: Fair treatment of male and female athletes

#### The Test

Does the school provide comparable quality and quantity of equipment?

Are games and practices scheduled fairly?

Do athletes receive comparable support for travel and expenses?

Are quality coaches assigned and paid fairly?

Do male and female athletes have access to comparable facilities?

### Prong 3: Fair shares of scholarship money

#### The Test:

Are the shares of scholarships awarded to male and female athletes within 1 percent of their respective participation rates? (For example, if 40 percent of the school's athletes are women, women should receive between 39 and 41 percent of scholarship money.)

If there is more than a 1 percent difference in the scholarship rate, can the school demonstrate that the bigger gap is not a result of discriminatory practices?

to the NWLC report, women in Division I colleges represent more than half the student body, yet receive only 41 percent of athletic scholarship dollars, 30 percent of recruiting dollars, and 33 percent of overall athletic budgets.

While the wrestling case specifically challenges the proportionality prong, it also asks for all of Title IX's regulations and interpretations to be declared invalid. AAUW strongly supports Title IX and opposes any efforts to weaken its effectiveness, including undermining the three-pronged test used to determine athletic compliance. AAUW believes that this test is reasonable and fair. In fact, eight federal circuit courts have upheld it as constitutional. ■

## LAF Awards \$52,500 To Ongoing Cases

In June 2002 the American Association of University Women Legal Advocacy Fund Board of Directors awarded \$47,500 to four ongoing sex discrimination cases (see p. 4).

Also in June, the Marguerite Rawalt Legal Defense Fund Trustees awarded \$5,000 to *Whittaker v. Northern Illinois University*. This \$250,000 trust fund supports cases adopted by the Legal Advocacy Fund.

Case support awarded from July 2001 through June 2002 by LAF and the Rawalt Fund totaled \$137,800. ■

## Case Updates

### New Funds for Ongoing Cases

#### Mandell v. Regents of the University of California, Davis



Carol Mandell, who was employed for 15 years at the University of California, Davis as a veterinary resident, instructor, research pathologist, and non-tenure-track lecturer,

sued the university for failure to hire and promote based on sex, age, and national origin discrimination in June 2000.

Since the last issue of *LAF Update* (Spring 2002, p. 4), a trial date has been set for Sept. 17, 2002. In March 2002 Mandell testified before the California Senate Committee on Government Oversight, which is investigating gender discrimination within the University of California system. Female faculty members from the system provided statistical and demographic evidence that corroborates Mandell's claims of gender discrimination. During the hearing, University of California, Davis Provost and Executive Vice Chancellor Virginia Hinshaw acknowledged the university's failure to increase the number of female faculty in certain fields. She stated, "[In] the physical sciences and math, the life sciences, and the professional

schools, the rate of hiring of women faculty at UC decreased in 2001 and continues to fall short of the estimated availability of women in national pools."

*In June 2002 the LAF Board of Directors awarded an additional \$15,000 to Carol Mandell. Since adopting the case in June 2001, the LAF board has awarded \$30,000 and the Rawalt Trustees have awarded \$2,500 for a total of \$32,500 to Mandell.*

#### Miller et al. v. Texas Tech University School of Health Sciences



Lucinda Miller, professor of pharmaceutical sciences, and Elaine King-Miller (no relation), former associate dean for outcome assessment,

filed a joint suit against the Texas Tech University Health Sciences Center for sex discrimination in the denial of tenure in November 2000.

In February 2002, the judge denied the university's motion for summary judgment, allowing the suit to proceed to trial. A trial date has not been set.

*In June 2002 the LAF Board of Directors awarded an additional \$10,000 to Lucinda Miller. Since adopting the case in June 2001, the LAF board has awarded \$22,500 and the Rawalt*

*Trustees have awarded \$2,500 for a total of \$25,000 to Miller.*

#### Sokol v. St. Louis Community College (MO)



Kathy Sokol, former chair of the department of hospitality studies/tourism, sued St. Louis Community College for sexual harassment and

retaliation in March 2001.

During a recent deposition, the college investigator testified that critical information was withheld from the college sexual harassment committee that initially investigated Sokol's complaint against a former colleague.

*In June 2002 the LAF Board of Directors awarded an additional \$15,000 to Kathy Sokol. Since adopting the case in February 2002, the board has awarded \$25,000 and the Rawalt Trustees have awarded \$2,500 for a total of \$27,500 to Sokol.*

#### Whittaker v. Northern Illinois University



Susan Whittaker, a former janitor at Northern Illinois University, sued the university for a hostile work environment and sexual harassment

in 2000. She lost her job when she took a leave of absence. Discovery continues in Whittaker's case.

*In June 2002 the LAF Board of Directors awarded an additional \$7,500 and the Rawalt Trustees awarded \$5,000 to Susan Whittaker. Since adopting the case in February 2001, the LAF board has awarded \$21,000 and the Rawalt Trustees have awarded \$7,500 for a total of \$28,500 to Whittaker.*

### Mark Your Calendar

Don't miss these important dates:

- Aug. 15** Case support applications due
- Oct. 15** Plaintiff travel grant applications due
- March 15** 2003 Progress in Equity award nominations due

**Questions?** Call 202/785-7750 or send an e-mail to [laf@aauw.org](mailto:laf@aauw.org).

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## Decisions and Settlements

### Lerner v. Northeastern University (MA)

Adopted February 2002



Former physics instructor Cathy Lerner sued the Northeastern University for sex discrimination, sexual harassment, and disability

discrimination. She recently settled her suit. Terms of the settlement are confidential.

### Stepien v. Case Western Reserve University (OH)

Adopted June 2001



Carol Stepien, former assistant professor of biology at Case Western Reserve University, sued for sex discrimination in the denial of tenure.

Stepien settled her suit in May 2002.

Though the terms of the settlement are confidential, Stepien greatly appreciates AAUW's support of her case. "I am happy to put this part of my life behind me and to concentrate on my scientific research and teaching," said Stepien.

### Zylbert v. Stanford University, Santa Clara Valley Medical Center (CA)

Adopted September 2001



Barbara Zylbert, a former medical student at Stanford University School of Medicine, sued the university and Santa Clara Valley Medical Center for retaliation and breach of contract.

In January 2002 the trial court judge granted Stanford University's motion for summary judgment, dismissing Zylbert's claims against the university. Zylbert appealed the judge's ruling, and in March 2002 the judge reversed his decision, requiring the university to go to trial with Santa Clara Valley Medical Center.

In May 2002 Zylbert settled her claims with Stanford under confidential terms and also settled with Santa Clara Valley Medical Center for \$50,000. Zylbert is pleased with the outcome of the case and eager to proceed with her medical career. Zylbert credits AAUW support with the positive outcome of her case. ■

## Updates on Other LAF Cases

### Dace v. University of Massachusetts, Dartmouth

Adopted September 1997

Trial set for Oct. 21, 2002.

### Glaser v. Fulton-Montgomery Community College (MI)

Adopted September 2001

Glaser is appealing her first suit (denial of promotion to associate professor). She continues to pursue her second suit (denial of promotion to full professor).

### Grudzinski v. Regents of University California, Irvine Medical Center

Adopted March 1996

Grudzinski is petitioning the California Supreme Court after the California Court of Appeals affirmed the lower court's judgment in favor of the university.

### Kowal-Vern v. Loyola University (IL)

Adopted October 1999

Pre-trial conference set for July 19, 2002.

### Liroy v. Union County College (NJ)

Adopted September 2001

Settlement negotiations are under way.

### Vuolo v. University of Massachusetts, Dartmouth

Adopted June 2000

Trial set for Oct. 7, 2002.

### Weinstock v. Columbia University (NY)

Adopted June 1995

Awaiting a decision from the U.S. Court of Appeals regarding her petition for a rehearing.

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*The following cases are in discovery (the fact-finding phase of litigation).*

### Daly v. Princeton University (NJ)

Adopted October 1999

### Ilon v. The State University of New York at Buffalo

Adopted June 2001

Profiles of all LAF-supported cases are available at  
[www.aauw.org/3000/caselist.html](http://www.aauw.org/3000/caselist.html).

## Special Thank You to LAF Donors

Thank you to the following donors who generously supported the important work of LAF. Your contributions are making a difference in the lives of our plaintiffs and for all women on campus. The list includes all gifts of \$250 or more received between Jan. 1 and June 7, 2002. LAF apologizes for any errors or omissions.

### Defender (\$1,000-\$4,999)

Anonymous (1)  
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Carlyne McDonnell (CA)  
Sylvia Newman (TX)

### Advocate (\$500-\$999)

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### Corporations and Foundations

Rockefeller Family Fund

## Gender Equity in Education? We're Not There Yet.

The National Coalition for Women and Girls in Education—AAUW and about 50 other organizations—published *Title IX at 30: Report Card on Gender Equity* in June 2002. The report card assesses progress made in eliminating sex discrimination in education. Visit [www.ncwge.org](http://www.ncwge.org) to read the report online or order a print copy. The grades are summarized below.

**B Access to Higher Education.** Sex discrimination, most notably in admissions standards, has been reduced, but other barriers to higher education persist.

**C+ Athletics.** Compared to males, females today enjoy 30 percent fewer opportunities to participate in high school and college sports.

**D Career Education.** Sex segregation persists in vocational education.

Male students predominate in high-wage career tracks; female students are clustered in low-wage tracks.

**C- Employment (in educational institutions).** Women's numbers tend to decrease as the rank in the career ladder or the prestige of the educational institution increases.

**C- Learning Environment.** Before Title IX, education and textbooks reinforced stereotypes about male and female students and people of color. Today, although some text selection committees analyze books for bias, subtle biases persist.

**B- Math and Science.** Boys outperform girls on standardized tests and participate in math and science classes at higher rates in secondary school. In postsecondary schools, more men major in math and the sciences than do women.

**C Sexual Harassment.** Sexual harassment continues to plague schools and students.

**C Standardized Testing.** Most standardized tests used in K-12 classrooms and for university admissions continue to show gender gaps and underpredict the abilities of females.

**D+ Technology.** Less than 33 percent of participants in computer courses and related activities are girls. Girls take half of all advanced placement exams but only 17 percent of AP computer science exams; women receive only 34 percent of math and computer science degrees.

**C+ Treatment of Pregnant and Parenting Students.** Anecdotal evidence suggests that schools have far to go to ensure that these students are afforded every opportunity to succeed in school. ■

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# What Do Schoolgirls Know About Title IX? They Know Plenty!

To commemorate the 30th anniversary of Title IX, equity advocates and professional female athletes are singing its praises, crediting the law with their educational and athletic successes, self-confidence, and personal growth. Meanwhile, does the current generation of schoolgirls know how Title IX protects them every day in school and on the playing field? LAF interviewed Elizabeth Davis, age 12; Eugenia Davis, age 13; and Maggie Wetternek, age 12; students at the Faith Christian Academy in Cheraw, South Carolina, to find out.

**LAF:** How did you first learn about Title IX? What interested you most about the law?

**Girls:** We first learned about Title IX when we saw it on the National History Day [an academic enrichment program designed for elementary and secondary schools] project list. What interested us most was that it made a dramatic change in women's sports.

**LAF:** Tell us more about your project.

**Girls:** Our project is called Title IX: Gender Equality in Sports. It starts with two girls and a female coach on a basketball court in 2002. The coach tells the girls to be glad that they can even play sports. One girl goes back in time. She sees that on June 23, 1972, Title IX has been signed by President Nixon. Then she sees many characters who were affected by Title IX.

**LAF:** After learning about Title IX, what do you value most about the law?

**Girls:** We see how Title IX affects our everyday lives. We value our time playing sports much more. This year Maggie's sister was on a high school coed soccer team, and she and the

other girl on the team were given old uniforms while the boys received new ones. She knew about Title IX, thanks to us, and stood her ground. Because of this, both girls received new uniforms.

**LAF:** What did your teachers, family, and friends know about the law?

**Girls:** We knew nothing about Title IX, and neither did some of our friends, family, and teachers.

**LAF:** Do you plan to continue following Title IX's progress and educating others about the law after the your project is finished?

**Girls:** Yes! Now if we see someone treated unfairly in the classroom or in sports, we will inform that person about Title IX.

Congratulations to Elizabeth, Eugenia, and Maggie, who recently competed in the National History Day contest—the oldest and most highly regarded humanities contest for students in grades six through 12. The girls made it to the state finals and just completed the national competition in June. For more information on National History Day, visit [www.nationalhistoryday.org](http://www.nationalhistoryday.org). ■

## Leave a Legacy for Women

Make a gift to LAF through your will and leave a lasting legacy for women. Because LAF is a 501(c)(3) charitable organization under U.S. Internal Revenue Service regulations, you may receive a significant tax advantage.

The simplest form of a legacy gift is the bequest—a gift left to a charity in your will. Bequests often allow donors to make sizable gifts that they cannot make during their lifetime. In a simple bequest, the donor gives a stated amount with no conditions. A bequest gift is excluded from an estate for estate tax purposes, often giving donors a tax advantage. Simple bequest language typically reads as follows:

I give and bequeath to the AAUW Legal Advocacy Fund (Federal Tax ID #52-1232075), a charitable organization duly existing under the laws of the District of Columbia and located at 1111 Sixteenth St. N.W., Washington, DC 20036, \_\_\_\_\_ [insert dollar amount or gift, percentage of estate, or description of securities or real property] to be used as the AAUW Legal Advocacy Fund Board of Directors may direct.

Help LAF put an end to gender bias in higher education. Make a gift through your will or name LAF as the death beneficiary of your life insurance policy, bank account, stock account, or retirement plan.

**For more information on legacy gifts,  
contact LAF at 202/728-3303 or [laf@aauw.org](mailto:laf@aauw.org).**

# Virginia Women's Center Wins 2002 PIE Award

Every year, the AAUW Legal Advocacy Fund awards its Progress in Equity Award to a college or university program that demonstrates significant progress for women on campus. To qualify, programs must show progress toward equity for women on campus, be innovative, address the needs of diverse groups of women, and be replicable at other institutions.

LAF recognizes the Women's Center at the University of Virginia as its 2002 Progress in Equity award winner. The Women's Center will receive a \$10,000 stipend in recognition of its commitment to gender equity. Honorable mention is awarded to Pitzer College for its Primary Child Caretaker Leave Policy.

## Women's Center Changes Campus Climate

A 1988 study on the climate for women on the University of Virginia campus revealed inequities. How did faculty, staff, and administrators address the problem? They created a women's center to serve the community's needs.

Since 1988, the Women's Center has experienced tremendous popularity and success. University students,

faculty, and staff mentor female middle school students and university undergraduates, provide assistance at the Free Legal Clinic for women in the community, and educate their peers about sexual assault. To inspire women and girls in the Charlottesville area, the center has hosted celebrities such as Gloria Steinem and feminist scholar bell hooks. Center programs have attracted more than 25,000 women and men from the university and the local community. To learn more about the Women's Center, visit [www.womenscenter.virginia.edu](http://www.womenscenter.virginia.edu).

## Family Friendly Leave Policy Benefits All

When the federal Family and Medical Leave Act of 1993 was enacted, Pitzer College developed a socially responsible leave policy for full-time employees. Unlike the federal law, which allows an employee up to 12 weeks of *unpaid* leave for caretaking duties, the college's Primary Child Caretaker Leave Policy provides *paid* leave to staff at 75 percent of an employee's salary for up to 18 weeks. Faculty members receive a semester of compensated leave at 75 percent of salary, and nontenured faculty are

able to "stop the tenure clock" while on leave. Thus, faculty and staff maintain seniority and continue to receive medical and retirement contributions. This leave arrangement is open to men and women and domestic partners and spouses. ■

The American Association of University Women Legal Advocacy Fund provides funding and a support system for women seeking judicial redress for sex discrimination. In principle and in practice, the AAUW Legal Advocacy Fund values and seeks the support of a diverse AAUW membership. There shall be no barriers to full participation in this organization on the basis of gender, race, creed, age, sexual orientation, national origin, disability, or class.



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