

LEGAL ADVOCACY FUND

Update

Speaking Out for Justice in Higher Education



Michele Warholic Wetherald

Welcome From New LAF President!

The Legal Advocacy Fund enters the next biennium with excitement. We anticipate new ideas and initiatives and increased visibility as a leader promoting equity in higher education. I am pleased and honored to be the new president of the Legal Advocacy Fund. I hope my professional background and AAUW experience will

help propel the organization to new heights.

The start of my term, however, means saying goodbye to Sylvia Newman, who stepped down as LAF board president after four years. Having worked with Sylvia for the past four years as an LAF board secretary, I will miss her grace and courage but look forward to her continued enthusiasm for and support of LAF.

I come to the Legal Advocacy Fund with a long history with AAUW: Aside from the Legal Advocacy Fund board, I have participated on corporate teams, as a state board leader, and in branch positions. I am a proud member of both the Moorefield (WV) and Warren-Trumbull County (OH) AAUW branches.

I am currently the executive dean for policy and human resources for Eastern West Virginia Community and Technical College. This position provides me with an avenue to pursue my lifetime passion of promoting equity for women through education. In fact, my greatest source of pride comes from mentoring women who are returning to higher education and overcoming personal obstacles.

Looking ahead, I plan to further support systematic change in higher education as well as strengthening LAF's integration with the Association and Educational Foundation to increase the effectiveness and efficiency of all AAUW resources. I hope my leadership experience, creativity, and above all, devotion to LAF's mission will further strengthen the organization's position as one of the nation's leaders in the fight against sex discrimination in higher education.

Michele Warholic Wetherald, President, Legal Advocacy Fund

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Convention Showcases From LAF's Commitment to Equity

The 2003 AAUW National Convention truly lived up to its name—Women in Charge: Bold, Innovative, Collaborative. From June 19 to 23, Providence, Rhode Island, got a picture of the power, dedication, and enthusiasm women bring when working on issues related to equity and education.

The highlight for the Legal Advocacy Fund was the Speaking Out for Justice Awards Dinner, where Bari-Ellen Roberts was honored with the award. Roberts was the lead plaintiff in a race discrimination lawsuit against Texaco that resulted in a record award of \$176 million shared by 1,400 employees.

The Speaking Out for Justice Award is given biennially to a person who demonstrates courage and leadership in fighting for equity for all people.

Like women in cases supported by LAF against institutions of higher education, Roberts described the loneliness of standing up for justice by explaining how she was treated "like a pariah." "It felt good when the case settled," she said, "... but nobody wanted to talk about how it felt to go to work every day and be devalued."

Since the lawsuit, Roberts has written a book detailing her experience with Texaco and started a company devoted to diversity training. "Being willing and able to be inclusive or tolerant—or whatever we're calling it this week—is really a learned skill," she said. "This world is getting so small that you can't move far enough to get away from people who are different from you."

In addition to Roberts, attendees of the LAF dinner heard from Graciela Chichilnisky, who is suing Columbia University for breach of a settlement agreement. Chichilnisky related

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From AAUW's Executive Director Vigilance in Victory

This summer may well be remembered as one that brought both legal victories and new challenges significant to equity and higher education advocates.

First, battling legal and administrative challenges, Title IX stood strong and remains authoritative with respect to educational programming and activities. To quote Gerald Reynolds, assistant secretary for civil rights in the Department of Education: "After eight months of discussion and an extensive and inclusive fact-finding process, the Commission [on Opportunity in Athletics] found very broad support throughout the country for the goals and spirit of Title IX."

Then, a few weeks later, the U.S. Supreme Court ruled in favor of affirmative action in limited circumstances—the first case of this kind heard by the Supreme Court in 25 years.

But these decisions, though significant for the individuals litigating the issues, may prove to be less influential than we would hope. The Supreme Court ruling was a split

decision and gave very murky guidelines for using racial preferences in the admissions process, leaving open the question as to whether any university will feel truly safe in promoting diversity as a compelling interest. And Title IX opponents continue to post articles and raise issues about the legality of the law.

It is only a matter of time before we will be called upon to revisit the same issues under a different cover. We must remain vigilant in promoting equity on all levels of education and continue to foster new relationships and partners who see the value in promoting a diverse and equitable society.

Advocates for equity in education have long relied on the "preaching to the choir" method of advocacy—that is, we tend to partner with those people and organizations that are likely to have similar philosophies and strategies. It is time to reach beyond our comfort zone to find new champions who share our philosophies but might use different strategies for accomplishing similar goals.

Jacqueline E. Woods

highlights of her battle of more than 10 years with Columbia over pay inequity and retaliation issues. She urged attendees to take action against discrimination.

During the convention, the Legal Advocacy Fund also sponsored three workshops: one for the National Conference for College Women Student Leaders and two for the general convention. The student leaders workshop, Communicating Confidence, provided students with strategies for communicating effectively without succumbing to pitfalls of gender-stereotyped behaviors.

A second workshop, Sex Discrimination in Debate, brought two attorneys together to argue a fictitious case's motion for summary judgment. Envisioned as an informative session, it turned out to be illustrative of how LAF is uniquely situated to make a difference in fighting against sex discrimination. In the mock trial, the attorneys—both members of the LAF attorney network—demonstrated their skill and knowledge of the issues and, perhaps more importantly, their passion for equity.

Through the debate, attendees learned how the law is not always clear and can be misapplied, misinterpreted, and disregarded without education and awareness. The workshop presenters noted that LAF attempts to raise awareness by offering programming and alerting media to blatant illegal behavior by universities. Furthermore, anyone involved in these cases—plaintiffs, defendants, university boards of trustees, legislators, judges, and others—needs to be educated about the unique circumstances that often surround these lawsuits. Individual efforts such as voting or writing letters to university presidents or community efforts such as forums or fundraising campaigns are all key to ending sex discrimination on campus, participants learned.

A third workshop, Legal Case Support From A to Z, provided a "nuts and bolts" description of the Legal Advocacy Fund's case support program. A plaintiff, an attorney, and outgoing LAF president Sylvia Newman led the discussion.

All of the programming can be replicated for campus or AAUW branch purposes. [LAF](#)

LAF is Pleased to Welcome the 2003-05 Board of Directors

Michele Warholic Wetherald, *President—West Virginia*

Gwen Wong, *Vice President—California*

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Ex Officio

AAUW **President** Nancy Rustad

AAUW **Executive Director** Jacqueline E. Woods

Parliamentarian Eleanor "Coco" Siewert

Case Updates

At its June 2003 meeting, the LAF board awarded a total of \$34,350 to six of the 14 ongoing cases currently supported by LAF. The Marguerite Rawalt Legal Defense Fund gave an additional \$4,000.

Ruth Daly sued Princeton University in 1998 for sex discrimination in the denial of tenure. Oral arguments in the university's motion for summary judgment will take place on Nov. 21, 2003, in Mercer County (NJ) Superior Court.

Graciela Chichilnisky sued Columbia University in 2000 for breach of settlement agreement, retaliation, sex discrimination, and pay inequity. Her case, pending in New York state court, is in the discovery stage.

Robyn Handler sued Nova Southeastern University for pay inequity and retaliation in Florida state court. Discovery is nearing completion. Handler's trial is anticipated to be in September 2003.

Carol Mandell sued the University of California—Davis in 2000 for sex, age, and national origin discrimination, and the university was granted summary judgment in October 2002. Mandell is appealing the decision to the California Court of Appeals.

Shelley Weinstock sued Columbia University in 1995 for sex discrimination in the denial of tenure. Weinstock has petitioned the U.S. Supreme Court to hear her case.

Susan Whittaker sued Northern Illinois University in federal court for sexual harassment and retaliation. Discovery is nearing completion.

Updates on Other Cases

Brodsky v. State University of New York at Buffalo

Brodsky's case, pending in federal court, is in the discovery stage.

Glaser v. Fulton-Montgomery Community College

Glaser is pursuing her second suit (denial of promotion to full professor) in federal court.

The generosity of individual and corporate donors enabled LAF to award more than \$140,000 in fiscal year 2003 to plaintiffs fighting sex discrimination in higher education.

Grudzinski v. University of California-Irvine Medical Center

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

Ilon v. State University of New York at Buffalo

Ilon's case, pending in federal court, is in the discovery stage.

Kowal-Vern v. Loyola University Medical Center

In May 2003, the 7th U.S. Circuit Court of Appeals upheld the lower court's decision to grant summary judgment in Kowal-Vern's case.

Miller et al. v. Texas Tech University Health Sciences Center

In June 2003, the 5th U.S. Circuit Court of Appeals reversed the lower court's decision and granted summary judgment to King-Miller's claims of disability discrimination. Miller and King-Miller have petitioned the court for a rehearing.

Vuolo v. University of Massachusetts-Dartmouth

Trial is set to commence on Sept. 22, 2003, in Massachusetts state court.

Settlements

Dace v. University of Massachusetts-Dartmouth

Dace and UMass-Dartmouth entered into a settlement prior to the commencement of her trial, which was scheduled for March 2003. Though the terms of the agreement are confidential, Dace reports that the case was settled to the satisfaction of the parties involved. She also writes, "I will always be so grateful to AAUW and the LAF for adopting my case, which helped a lot of others at UMD besides myself. Thanks so much!" [LAF](#)

New Book Highlights LAF



An essay highlighting the Legal Advocacy Fund and written by its former director, Patricia McCabe, appears in a new book published by the South Carolina Press. The book, *Partial Truths and the Politics of Community: Feminist Approaches to Social Movements, Community, and Power*, edited by Mary Ann Tetreault and Robin L. Teske, presents 17 essays by women scholars that explore feminist concerns, practical politics, and women's progress in the tumultuous process of global social change.

McCabe's essay focuses on the increasing rates of sex discrimination among institutions of higher education, personal accounts of women who decide to take on these universities, and the support the Legal Advocacy Fund offers.

To request a copy of the essay, please e-mail the LAF office at laf@aauw.org or call 202/785-7750. [LAF](#)

Visit LAF Online
www.aauw.org/laf



Become a Member of the Network!

LAF's attorney network is vital to the work we do. In conjunction with our referral program, the volunteer members of our network assist us in handling the large number of calls, e-mails, and letters we receive weekly from people seeking information and legal advice on sex discrimination in higher education.

LAF receives inquiries from women and men with a variety of concerns. Below is a breakdown of the inquiries we receive:

Circumstances

- Sexual harassment: **26%**
- Tenure denial: **12%**
- Wrongful termination from employment: **12%**
- Disparate treatment/hostile work environment: **9%**
- Retaliation: **7%**
- Wrongful termination from a professional or doctoral program: **4%**
- Pay inequity: **4%**

Types of Institutions

- Four-year institutions: **60%**
- Secondary schools (junior high/high school): **15%**
- Medical schools: **13%**
- Community colleges and two-year institutions: **9%**

Location of Institutions

- California: **10%**
- Texas: **9%**
- New York: **8%**
- Illinois: **7%**

Since July 2002, LAF staff has made more than 300 referrals to members of our attorney network. If you or an attorney you know is interested in learning more about the network, please call 202/785-7719 or e-mail laf@aauw.org.

MAKE A LASTING GIFT TO THE LEGAL ADVOCACY FUND

LAF is pleased to announce that its supporters can now join the Legacy Circle, a planned giving program. You can name LAF as the death beneficiary of your life insurance, bank account, stock account, or retirement plan, in addition to other options. For more information, contact Gloria Benton in the AAUW Development Office at 202/728-7627 or development@aauw.org.

AAUW Legal Advocacy Fund Major Donors

This list represents all donors whose gifts were received between Jan. 1 and June 30, 2003.

Defender \$1,000 - \$4,999

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And the 2003 PIE Award Winner Is...

The AAUW Legal Advocacy Fund is pleased to name the S.T.A.N.D. program at the University of Maryland at College Park as its 2003 Progress in Equity Award winner. The award recognizes a college or university program that promotes equity on campus for women and comes with a \$10,000 stipend.

S.T.A.N.D.—Science and Technology Addressing the Need for Diversity—within the College of Computer, Mathematical, and Physical Sciences addresses the long-standing national need to increase the number of underrepresented groups, including African Americans, Latinos, Native Americans, and women, both undergraduate and graduate, in science. S.T.A.N.D. supports students by providing a strong community, scholarships and fellowships, recruitment and outreach activities, mentoring, and career guidance.

Program director Joelle Carter said the stipend will help fund discussion panels and scholarships, among other endeavors.

An honorable mention was awarded to the University of Tennessee Health Science Center College of Medicine for its progressive Committee on the Status of Women.

Since 1987, LAF has recognized more than 35 programs throughout the United States for their progressive and innovative advancements on behalf of women faculty, staff, or students. For more information on the award, visit LAF's website at www.aauw.org or call 202/785-7750.

LAF Update Contributors

Amy Barry Houghton, Director

Marika Dunn, Program Associate
Michelle Moye, Program Assistant
Ansonne Leblanc, Admin. Assistant
Joseph Nasrawy, Senior Accountant

Kate Herman, Senior Editor
J. Clint La Follette, Art Director

by Michelle Moye

Ineffective Sexual Assault Policies Overhauled Amid Scrutiny

Safety on college campuses is a growing concern for most students. With sexual assaults, harassment, rape, and other forms of violence against women students increasing at an alarming rate on college and university campuses nationwide, students and parents question what their college or university is doing to make safety a priority. Most schools rely heavily on sexual assault policies, in addition to other measures, to thwart sexual misconduct. But when the U.S. Air Force Academy, one of the country's premier military institutions, came under fire for its ineffective sexual assault policies and procedures, inadequacies were also recognized at many colleges and universities.

Problems in the U.S. Air Force Academy's policies and procedures were made public when more than 50 female cadets charged that they were disciplined and ostracized after reporting sexual misconduct. Instead of receiving support after reporting assaults, female victims were penalized and blamed for "drinking or engaging in sexual activity." Alleged offenders often received a "slap on the wrist" for their actions; their behavior was viewed as misconduct, not a crime.

A 13-member panel appointed by Congress to investigate the claims did in fact find flaws in the sexual assault policies and procedures at the academy. In June, the panel produced a new-and-improved sexual assault policy that outlined 40 directives to correct policy flaws and make women feel safer when reporting and addressing issues of sexual assault on campus. Yet in late July—after the new policies were implemented and four top-ranking officials at the academy were reassigned—new allegations of sexual assaults surfaced. Still, the directives established amnesty for cadets who report being assaulted, provided all-female dormitories, and created a task force to address all future sexual assault reports. The panel, headed by Air Force Inspector General Mary Walker, prompted the subsequent investigation of current policies at West Point and the U. S. Naval Academy in Annapolis, Maryland.

The problem is not unique to military institutions. At Yale University, a former female student won the right to take the academic giant to court for inadequately protecting her against harassment. She alleges that the university did little when she was raped. The Yale Women's Center has taken the lead on advocating change in the policy. Yale argues that changes to the current policy are unnecessary since very few incidents of sexual assault are reported on the campus.

The U.S. Department of Education's Office of Civil Rights has launched its own investigation into the legalities of Harvard University's new sexual harassment policy, which forces victims to produce "corroborating evidence" before an investigation into any sexual misconduct can ensue. Such evidence may include contacting campus security, a visit to the campus health clinic or hospital, or a conversation with a friend, according to Harvard officials. Critics argue this new policy violates current Title IX legislation and places an undue burden on victims to "prove" misconduct before the university even responds. Harvard disagrees and offers that instead the policy only attempts to protect the parties involved: both the victim and the accused.

Ensuring a safe and secure campus for all students through a clear and effective sexual assault policy is an obligation that all academic institutions must meet. To do so, policies must detail what sexual assault entails, establish appropriate consequences, and foster a supportive campus environment in which coeds are comfortable lodging sexual assault complaints. There is still much work to be done to eradicate sexual assaults and harassment, but the first step is for institutions of learning to establish effective and adequate sexual assault policies and procedures. [LAF](#)

Toll-Free, 24-Hour Hot lines:
National Victims of Crime: 800/211-7996
Rape, Abuse, and Incest National Network (RAINN): 800/656-HOPE

by Marika Dunn

Professor Fired for Trying to Balance Scales of Equity

The hard sciences continue to be an academic area where women faculty are vastly underrepresented. At Texas State University—San Marcos (formerly Southwest Texas State University), Kari Lavalli understood this fact all too well.

A few months after raising the issue with her department chairperson, however, the promising biology professor was terminated. In the span of less than three years, Lavalli says she went from a tenure-track professor esteemed by her colleagues and students to one given a terminal contract for exercising her right to free speech.

Lavalli began a tenure-track position in the university's biology department in the fall of 1998 and was placed in charge of the department's marine biology program. At her first review, the voting faculty in the department unanimously approved her for a contract renewal. In her second year, the faculty voted 15 to 1 to renew her contract, and the tenure and promotions committee cited that she was a valuable asset to the department.

But Lavalli was concerned about the lack of diversity considered in the department's hiring decisions. She noticed that interviewees for a director-

ship position were exclusively male, whereas those for a lower-grade position coordinating laboratories were exclusively female. When the department chairperson, Francis Rose, proposed that applicants for a non-advertised position be drawn from the same pool used for a different position, Lavalli asked whether the action would comply with state labor laws and the university's affirmative action policy. The following day, at Lavalli's third review, the faculty narrowly approved her contract renewal by a 9 to 7 vote, despite her continued display of outstanding service, teaching, and scholarship.

Over the next year, she continued to speak out about discriminatory hiring

practices. In March 2001, Lavalli met with the tenure and promotions committee for her fourth review, and the committee determined that she was undeniably exceeding the department's performance expectations. Still, the biology department faculty voted 10 to 4 to terminate Lavalli's contract.

The university has cited "noncollegiality" as the reason for her termination, using a vague term that can be—and often has been—used to dismiss critics of an institution's inequitable practices.

Lavalli says the university ultimately terminated her for questioning discriminatory hiring practices and is using noncollegiality as the sole ground for termination.

Lavalli filed suit in Texas state court in November 2002. Her case is now in the discovery stage. In June 2003, the LAF board awarded Lavalli \$10,000, made possible through a grant from the Rockefeller Family Foundation. **LAF**



About LAF

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.



1111 Sixteenth St. N.W.
Washington, DC 20036
Phone: 202/785-7750
800/326-2289 ext. 145
Fax: 202/785-8754
TDD: 202/785-7777
laf@aauw.org
www.aauw.org

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1111 Sixteenth St. N.W.
Washington, DC 20036

because **equity** is still an **issue**