

LEGAL ADVOCACY FUND

Update

Speaking Out for Justice in Higher Education



Amy Houghton

Women's History Month Shows Progress, Problems

Women's History Month—March—was a time to pause and thank and celebrate women who have made a difference. As the new director of the AAUW Legal Advocacy Fund, I am fortunate to be able to hear from women every day who are making a difference in our world by fighting to improve

access to and equity in education. It also gives me great pause to think that despite federal, state, and local laws prohibiting sex discrimination, egregious behavior persists.

Since July 2002, LAF staff has made more than 150 attorney referrals about sex discrimination to network members. That number does not include the referrals made to local bar associations in areas where we have no attorney network member. Most complaints relate to sexual harassment, come from four-year institutions, and originate from California and New York. Allegations range from sexual assault to homophobia.

The numbers give us a snapshot of the issues and areas on which we need to focus. The numbers also suggest that we need to have more attorneys in our network who are skilled and capable of handling cases against powerful universities in all communities. Finally, the numbers demand that we do more educating to prevent ongoing unlawful behavior.

Thanks to our mothers, daughters, sisters, and aunts who give us the courage to continue to fight for what is right!

P.S. We hope you like *LAF Update's* fresh new look, which reflects the bold direction the fund is headed.

Amy Houghton is director of the Legal Advocacy Fund.

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Former Collegiate Softball Coach Alleges Retaliation

In her eight years as the head softball coach for Nova Southeastern University in Florida, Robyn Handler led her teams to six Florida Sun Conference titles, four Southeast Region titles, and four consecutive appearances at the NAIA National Tournament. Within the conference and region, Handler herself was named coach of the year a total of nine times. These accomplishments made Handler the most successful coach in the school's history.

Despite Handler's public accolades and honors, she was paid less than her male counterparts. So she did what one might expect any person to do: addressed the situation with her supervisors. What Handler eventually received in return was not an equitable salary—it was a termination notice.

From her first performance rating in 1995 until her complaints of pay inequity in 2000, Handler's job evaluations were above average. In fact, in April 2000 her supervisor gave her an overall rating of "consistently exceeds expectations." But Handler claims that she was repeatedly paid less than similarly situated male coaches in the university's athletic department, though she had more experience and success as a collegiate head coach. She also claims that her softball team faced continued inequity in comparison to other NSU athletics. Handler cites the university's failure to purchase uniforms for the softball team or assign certified trainers to the team's practices and games, both of which were granted to the baseball team. These inequities compelled Handler to file



From AAUW's Executive Director Painting a New Landscape

As Americans, we are facing tumultuous times with war overseas, terrorist threats ever-present, and financial instability wreaking havoc on our nest eggs.

As women (and men who love women), we face even more uncertainty and threats to our livelihoods and personal freedoms. Now, more than ever before, the legal and political landscape of equality that we have been drawing for decades is facing challenges that could change the picture entirely.

In all branches of government, nationally and locally, significant decisions will be made during the next year. Congress will be considering the Higher Education Act reauthorization, welfare reauthorization, and Social Security reform. Together these new laws will determine such issues as use of affirmative action,

education and training for people moving off of welfare, and prescription drug benefits—all of which disproportionately affect women. The judicial branch will be considering cases that test the viability of Title IX, affirmative action, and reproductive rights. The executive branch will be pondering proposed regulatory changes to Title IX standards.

As these decisions are made, they will be considered in isolation and may appear to be a mere change in the color of a flower on our picture, but taken collectively these issues can change our picture from a concrete landscape to abstract art. It is incumbent upon us all to remain vigilant in our efforts to educate, inform, and speak out about the importance of protecting fundamental rights.

Jacqueline E. Woods

Plaintiffs Speak at AAUW State Meetings Around the Country

The LAF Board awarded travel grants to sponsor current and past LAF-supported plaintiffs as speakers at 13 state meetings in 2003. Mark your calendar, and hear how these women have fought sex discrimination on their campuses.

State Meeting	Date	Location	Plaintiff
Florida	April 25-27	Orlando, FL	Lucinda Miller
Louisiana	March 13-15	Ruston, LA	Areta Kowal-Vern
Maryland	October 18-19	Hagerstown, MD	Linda Brodsky
Massachusetts	April 26-27	Boston, MA	Lynn Ilon
Minnesota	April 4-6	Austin, MN	Susan Whittaker
New York	April 26-27	Islandia, NY	Graciela Chichilnisky
North Carolina	April 4-6	Raleigh, NC	Kathy Sokol
North Dakota	March 7-8	Bismarck, ND	Kathy Sokol
Oregon	April 25-27	Corvallis, OR	Barb Zylbert
Pennsylvania	April 5-6	State College, PA	Graciela Chichilnisky
Washington	April 25-27	SeaTac, WA	Carol Mandell
Wisconsin	April 26-27	Wausau, WI	Susan Whittaker

Softball continued from page 1

a complaint with the Department of Education's Office of Civil Rights (OCR) in March 2001.

Later that spring, Handler received a very poor performance rating despite having led her team to the NAIA National Tournament. Due to the low rating and weak evaluation, Handler's supervisors placed her on probation and denied her a merit increase in salary. Throughout the following school year, Handler says, her supervisors created a hostile work environment for her. She began hearing rumors of her impending termination in spring 2002, even after she led her team to conference and regional titles and another national tournament appearance. Following a second poor evaluation in which Handler was cited for exhibiting unsatisfactory performance and failing to meet "bare minimum acceptable standards of performance," she was terminated. Ironically, Handler was named conference and regional coach of the year for the 2002 season.

As further retaliation, NSU proceeded to file a cross-complaint against Handler, alleging that she removed confidential materials from the university. Handler asserts that all materials were returned prior to the filing of NSU's cross-complaint. The case, however, is pending in federal court.

Handler filed suit in Florida state court in 2001. Her trial is slated for June 2003. In February, the LAF Board of Directors awarded Handler \$5,000 plus an additional \$5,000 from a Rockefeller Family Foundation grant. [LAF](#)

LAF Online

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

To reprint articles from *LAF Update*, or for profiles of all LAF-supported cases, visit www.aauw.org.

Questions?

Call 202/785-7750 or send a message to laf@aauw.org.

Case Updates

To date, the AAUW Legal Advocacy Fund has awarded \$1,090,657 to women fighting sex discrimination in higher education. This figure includes \$88,000 in case support from the Marguerite Rawalt Legal Defense Fund (also known as the Rawalt Trust).

At its February 2003 meeting, the LAF board awarded a total of \$23,500 to the cases below, and the Rawalt Trustees gave an additional \$4,000.

Graciela Chichilnisky sued Columbia University in 2000 for breach of settlement agreement, retaliation, sex discrimination, and pay inequity. Discussions of settlement broke off in January 2003. Columbia fired its attorney and hired a new firm, and the case is now in discovery.

Carol Mandell sued the University of California-Davis for sex, age, and national origin discrimination. In October 2002, the court made a final ruling on the defendant's motion for summary judgment. The ruling granted the defendant's motion on all counts, dismissing Mandell's suit in its entirety. Mandell's subsequent motion for reconsideration proved unsuccessful,

and she is currently deciding whether to appeal the court's decision.

Shelley Weinstock sued Columbia University in 1995 for sex discrimination in the denial of tenure. The 2nd U.S. Circuit Court of Appeals recently denied Weinstock's petition for a rehearing. Weinstock will appeal the decision to the U.S. Supreme Court. Susan Whittaker sued Northern Illinois University for sexual harassment and retaliation. Discovery continues.

Updates on Other Cases

With the two new case adoptions in February 2003, LAF is currently supporting 14 lawsuits. Updates on other cases follow:

Dace v. University of Massachusetts-Dartmouth

Dace is in settlement talks with the university. Her trial is scheduled for March 24, 2003.

Daly v. Princeton University

Trial is scheduled for June 2, 2003.

Glaser v. Fulton-Montgomery Community College

The 2nd U.S. Circuit Court of Appeals handed down its decision in favor of

the college in Glaser's first suit. Her petition for a rehearing was denied. She will continue to pursue her second suit.

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

Discovery continues.

Kowal-Vern v. Loyola University Medical Center

Oral arguments before the 7th U.S. Circuit Court of Appeals are scheduled for April 22.

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

The 5th U.S. Circuit Court of Appeals heard oral arguments in December 2002. A decision is pending.

Vuolo v. University of Massachusetts-Dartmouth

Vuolo's trial has been delayed until Sept. 22, 2003. [LAF](#)

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

Women in Charge

Bold, Innovative, Collaborative

Mark your calendars!

- **2003 AAUW Pre-Convention Institutes**
Thursday, June 19, 2003
- **2003 National Conference for College Women Student Leaders**
Thursday, June 19–Saturday, June 21, 2003
- **2003 AAUW National Convention**
Friday June 20–Monday, June 23, 2003

2003 Legal Advocacy Fund Banquet
Sunday, June 22, 6:30–9:30 p.m.

To learn more about programs, special events, and lodging, and to register online, visit www.aauw.org.

A Balancing Act: The Future of Fairness

Addressing and eliminating sexual discrimination on campus was the focus of "A Balancing Act: The Future of Fairness," a three-part outreach program sponsored by the AAUW Legal Advocacy Fund and hosted by North Carolina State University on April 4.

The program included a panel discussion moderated by LAF President Sylvia Newman. The panel featured Kathy Sokol, an LAF-supported plaintiff and former faculty member at St. Louis Community College who successfully fought her own battle against sexual discrimination; Martha Reeves of Duke University; Joanne Woodard of North Carolina State University; and Leslie Eissen, a member of the AAUW Student Advisory Council. [LAF](#)

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This list represents all donors whose gifts were received between Jan. 1 and Dec. 31, 2002.

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L.A. Branch Donates \$200,000 to LAF

What better way to end the year than by receiving a \$150,000 gift? Receiving another \$50,000 just a few months later. The Legal Advocacy Fund found itself in this enviable position thanks to the Los Angeles (CA) Branch, whose generous gifts will help fund LAF's case support program. The branch has always been a strong and steadfast contributor to LAF and its programs, having made previous gifts totaling nearly \$60,000.

In October 2002 AAUW major gifts and planned giving staff Amy Falk and Gloria Benton met with several branch members, including Winifred Rhodes, Marion Maddox, Eula Dean Roby, and Wilma and Erma Schmalzried. The members renewed their commitment to supporting the Legal Advocacy Fund, and with this generous gift, they have stayed true to their word.

The LAF board and staff are grateful to the Los Angeles Branch for this generous gift, providing a positive start to the new year. **LAF**

Minority Report Reduces Threat to Title IX

A minority report defending critical components of Title IX has had a substantial impact on the future of the 30-year-old law, which was under review by the presidentially appointed Commission on Opportunity in Athletics for eight months. When the commission delivered its report to the Department of Education in February, two members—Julie Foudy, captain of the U.S. national women's soccer team, and Olympic swimming gold medalist Donna de Verona—refused to sign it. Instead, they submitted a minority report in an effort to thwart proposed changes they feared would weaken how colleges and universities nationwide comply with Title IX.

Days later, Education Secretary Rod Paige said he would consider only those recommendations with unanimous support from the commission, formed last year after a lawsuit filed by the National Wrestling Coaches Association challenged the underlying regulations of Title IX. Charged with examining the athletics aspect of the law—which provides equal opportunities in education for women and men—and its enforcement, the 15-member commission held eight months of public hearings, comment, and suggestions for change before submitting its full report.

Shortly after the two reports were released, Myles Brand, president of the National Collegiate Athletic Association (NCAA), said he did not support changing the law's implementation. "Title IX is not broken, and it does not need to be fixed," Brand said at a news conference. "Title IX needs to remain in place in its current form in order to achieve full gender equity."

Foudy and de Verona objected to at least eight of the commission's 23 recommendations, including the reduction of athletic scholarships

available to females on campus without regard to total school enrollment and the exclusion of older, nontraditional students from headcounts used to determine interest in playing sports on campus. They argued that introducing more flexibility in compliance with Title IX would only erode the program's effectiveness in the long run.

The law offers a three-prong test that offers schools flexibility by requiring compliance with only one part of the test:

1. *Substantial proportionality* focuses on the participation rates of men and women at an institution and affords that institution a "safe harbor" for establishing that it provides nondiscriminatory participation opportunities.
2. *History and continuing practice* examines an institution's good-faith expansion of athletic opportunities through its response to developing interests of the underrepresented sex at that institution.
3. *Fully and effectively accommodating interests and abilities of the underrepresented sex* centers on the inquiry of whether there are concrete and viable interests among the underrepresented sex that should be accommodated by an institution.

Supporters of Title IX credit the federal law with the tremendous increase in female participation in high school and collegiate sports—more than 800 percent since the law's inception in 1972. Detractors welcome the opportunity to weaken this law, inaccurately blaming Title IX when colleges and universities choose to eliminate or cut funding from men's athletic teams to provide equitable athletic opportunities for women.

To date, Paige has not announced a timetable for action on the commission's recommendations. **LAF**

Promote Title IX

Now is the time to run LAF's Title IX public service announcement in your local newspaper or post it in your school, workplace, and/or community.



Download the print ad from www.aauw.org or order the poster from LAF.



Acclaimed Doctor of Pediatric Medicine Sues SUNY-Buffalo



Linda Brodsky is experiencing what has become an all-too-frequent occurrence for women in academia: breaking the glass ceiling only to hit a brick wall.

Brodsky, a medical doctor and tenured full professor at the State University of New York (SUNY) at Buffalo, has been employed at the university since 1983. She has achieved high levels of research and scholarship, publishing more than 100 works in her field and receiving more than \$1 million in research grants. Despite her vast accomplishments, however, she is paid only two-thirds of the university's contractually mandated minimum salary for her position.

Brodsky, nationally and internationally known for her research in pediatric otolaryngology (the study of the ears, nose, and throat), charges that she has not received equal pay for equal work. Due to the low starting salary she received when she was first hired by SUNY, her compensation remains nominal. In addition, she has

received outstanding performance evaluations throughout her employment at SUNY but was promoted to full professor only after significant delays between promotions.

To address the salary discrepancy, Brodsky applied for discretionary salary increases six times between 1987 and 2001. She was granted increases on only two of those six occasions, the second in 1989.

Brodsky asserts that a significant number of male colleagues with similar or lesser qualifications, contributions, and achievements have received salary increases on a more frequent basis. SUNY, however, has refused to pay Brodsky at a rate comparable to that of similarly situated men.

The university began to retaliate against Brodsky following her complaints of pay inequity to the administration. In 1998, SUNY removed Brodsky's tenure, compensation, and benefits by unilaterally changing her status to a non-salaried voluntary faculty. It was only when Brodsky initiated litigation in the matter that SUNY restored her status.

Brodsky filed suit against SUNY in federal court in the fall of 2001, alleging pay inequity and retaliation. Her case is currently in the discovery stage. In February 2003, the LAF Board

of Directors awarded Brodsky \$5,000 plus an additional \$5,000 from a Rockefeller Family Foundation grant.

In March 2003, she accepted a \$200,000 award from the Commissioner of Health at the New York State Department of Health on behalf of the Center for Pediatric Quality, in recognition of her work on medication safety. **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.



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