

# LEGAL ADVOCACY FUND

# Update

Speaking Out for Justice in Higher Education



## Strengthening LAF

In its 23-year history, the AAUW Legal Advocacy Fund has made its mark as the nation's largest legal fund focused solely on challenging sex discrimination in higher education. The work of LAF remains critical. With the U.S. Supreme Court's recent confirmation of the legality of affirmative action in education, the administration's affirmation of Title IX athletics policies, and colleges and universities re-examining

their programs and policies, the time is ripe to strengthen LAF's role.

The proof is in the three new cases and two important settlements highlighted in this *Update*, which illustrate that, despite the progress, sex discrimination persists. While the conclusions of the cases often come packaged in confidential agreements (see page 3), a negotiated settlement can often provide a satisfactory remedy to the plaintiff without the expense and emotional toll of protracted litigation and a trial. Each case resolved, whether by trial or settlement, helps demonstrate to campus women nationwide that with persistence, support, and the law on your side, equity can prevail.

As the new corporate director of the Legal Advocacy Fund, I am committed to this mission. I worked closely with AAUW over the years as senior counsel at the National Women's Law Center and am honored to continue to lend my voice and legal expertise as a member of the AAUW team. From my experiences inside and outside the courtroom, I know that while some progress has been made, significant challenges remain. The LAF team will work with members, donors, plaintiffs, expert network, and organizational partners to provide the vital programming, innovative initiatives, and strategic fundraising that will strengthen LAF. We know that LAF must continue as a champion for women's rights in higher education *because equity is still an issue*. I look forward to working with all of you as we move forward together.

*Leslie T. Annexstein*

Leslie T. Annexstein, Director, Legal Advocacy Fund

## In This Edition >>>

- Latest case updates
- Business prof sues James Madison U.
- Pediatric surgeon fights discrimination

## From Classroom to Courtroom

As a promising young archeologist and academic, Bonnie Pitblado has achieved high praise for her professional achievements, collegiality, and success in teaching. She never guessed, then, that after she complained about a male colleague's hostile treatment of women, she would be the person asked to leave her first tenure-track job.



Western State College of Colorado hired Pitblado in 2000 as a visiting assistant professor of anthropology. During that academic year, Pitblado says, she concluded that Mark Stiger, her senior colleague in anthropology and a tenured full professor, treated female colleagues and students differently from his male colleagues and students. For example, Pitblado claims that on more than one occasion, she asked Stiger to provide her with access to critical research, curation, and display space, which Stiger has admitted he refused to do. She later learned that he was giving male undergraduate students access to space that she, as a faculty member holding a doctorate, could not enter.

Pitblado claims that while she was a visiting professor and later a tenure-track assistant professor, she repeatedly brought Stiger's treatment of women in the department to the attention of the department chair. She says the chair remarked on many occasions that Stiger's behavior was offensive and that he agreed Pitblado was working in a hostile environment. Despite the chair's acknowledgement of the problem, the situation between Stiger and Pitblado did not improve. Mediation sessions with the college's human resources director during the fall 2001 semester also yielded little progress. Following the conclusion of mediation, now

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*From AAUW's Executive Director*

## University Reports Show Progress, Challenges

Recent reports on the status of women at two of the nation's top universities should remind us all that while women

have traveled a great distance on the road to equality, we still have a long journey ahead. The reports, issued by Duke University and Princeton University and mirrored in other campus studies, illustrate that sexual discrimination pervades higher education. These latest reports are especially significant because of the universities' academic reputations.

As both reports reveal, women have become increasingly visible on campus—in numbers as well as in prestige. Princeton's study reflects the great strides that women faculty in the science and engineering fields have made in recent years. Duke's campus has seen a steady rise of female faculty, staff, and undergraduate and graduate students in the past three decades. And

today, female presidents lead both Princeton and Duke.

Despite their accomplishments, women at these universities face continuing challenges. One obstacle is subtle but persistent gender stereotyping. According to Duke's study, for example, female students are under intense pressure to be perfect in their academic performances to prove they deserve to be in the same academic environment as their male classmates. This perfection must occur without displaying any effort because the demonstration of such effort is perceived as "unfeminine." Gender stereotypes such as this inhibit young women from learning and growing as students.

Another ongoing challenge is work-life balance, which disproportionately affects women, who are more likely than men to assume childcare responsibilities. At both Princeton and Duke, men and women agreed that institutions of higher education must accommodate the needs of working parents

with, for example, daycare. Princeton's findings show, however, that the perception remains that requesting tenure extensions or workload relief due to a birth or adoption harms one's career.

Overcoming longstanding gender stereotypes and perceptions is crucial to helping university women succeed. It also is central to overcoming the discriminatory barriers women confront everyday on campuses across the country and those that LAF helps to fight through the cases and women it supports. Duke President Nannerl Keohane notes in that report that a college can be truly "coeducational" only if it fully and intentionally fosters a more gender-equitable environment.

This is precisely the type of environment that AAUW strives to achieve every day through its work on campus and in the community.

Jacqueline E. Woods

## Surgeon Fights Discrimination, Retaliation in Court



A pediatric surgeon for more than 17 years, Roberta Sonnino has won the respect of many children, parents, and colleagues alike. Her accomplishments, however, weren't able to protect

her from the pattern of successful women breaking a glass ceiling only to hit a brick wall.

The University of Kansas Medical Center (KUMED) hired Sonnino in 1998 as a tenured professor of surgery and section chief of pediatric surgery. She was one of only a few female surgeons in the hospital and the only female section chief. Sonnino claims that following her appointment, KUMED administrators

resisted her efforts to improve the way the hospital handled pediatric patient care, denying her access to critical resources and staff. She believes that KUMED then began to retaliate against her for reporting her concerns regarding patient care.

During the course of her employment, Sonnino claims that junior male staff members mocked her authority and fellow male colleagues criticized her as "too aggressive," "domineering," and "disruptive." Those staff members, however, failed to raise any concerns about the disruptive behavior Sonnino observed in male surgeons. In addition, during one of three "correction action proceedings" initiated against Sonnino, KUMED's chief of surgery stated that Sonnino's gender made her a target for staff complaints, which would continue as long as she

remained visible at the hospital.

Sonnino later discovered that a male pediatric surgeon she helped to recruit was paid \$35,000 more than she, despite the fact that she held a higher position. When KUMED proposed reducing Sonnino's salary by \$32,000—while maintaining the salary level of the surgeon she helped recruit—Sonnino formally requested that the university reinstate her salary level.

The most glaring form of retaliation came in the fall of 2002 in response to a surgical procedure that she had performed. Although two independent medical reviewers determined that Sonnino had met the standard of care throughout the procedure, KUMED nonetheless suspended her clinical privileges pending

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LAF currently is supporting 15 lawsuits. At its October 2003 meeting, the LAF board awarded a total of \$8,000 to these ongoing cases:

**Linda Brodsky sued the State University of New York at Buffalo** in federal court in 2001 for pay inequity and retaliation. Her case is in discovery.

**Kari Lavalli sued the University of Texas-San Marcos** in Texas state court in 2002 for retaliation. Her case is in discovery.

**Carol Mandell sued the University of California-Davis** in 2000 for sex, age, and national origin discrimination. She has appealed a lower court's decision to grant the university's motion for summary judgment. Her case is with the California Court of Appeals.

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

## Updates on Other Cases

**Chichilnisky v. Columbia University**  
Chichilnisky's suit, pending in New York state court, is in the discovery stage.

**Daly v. Princeton University**  
Oral arguments in the university's motion for summary judgment took place on Dec. 5, 2003, in a New Jersey trial court.

**Glaser v. Fulton-Montgomery Community College**  
Glaser is pursuing her second suit (denial of promotion to full professor) in federal court.

**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 in Ilon's case, pending in federal court, is nearing completion.

### **Kowal-Vern v. Loyola University Medical Center**

In May 2003, the 7<sup>th</sup> U.S. Circuit Court of Appeals upheld the lower court's decision to grant summary judgment in favor of the university.

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

The 5<sup>th</sup> U.S. Circuit Court of Appeals will hear oral arguments in Miller and King-Miller's case *en banc*. A hearing date has not been determined.

### **Vuolo v. University of Massachusetts-Dartmouth**

In September 2003, a Massachusetts trial court dismissed Vuolo's suit. Vuolo has not yet reported whether she will appeal the decision. [LAF](#)

## Sonnino continued from page 2

the outcome of her internal appeal and recommended permanent revocation of her medical staff membership. The institution also reported the suspension to the National Practitioners Data Bank and the State Licensing Board. Sonnino ultimately resigned from her position at KUMED and accepted a position at another medical center, where she is surgeon-in-chief. Even after her resignation to accept her new position, which automatically cancelled her privileges at KUMED, the hospital claimed that it had "revoked her privileges" and made another false report to the data bank.

In November 2002, Sonnino filed suit in federal court against the University of Kansas Hospital Authority and others alleging, in part, sex discrimination on the basis of retaliation and pay inequity. The case is currently in discovery. In October, the LAF Board of Directors awarded Sonnino a \$5,000 grant in support of her suit. [LAF](#)

## Settlements and Decisions

### Handler Settles Suit

Former head softball coach Robyn Handler settled her three-year suit against Nova Southeastern University in October 2003. The terms of her settlement agreement are confidential. AAUW's support, Handler says, "was the boost that I needed to continue to fight the injustice that was bestowed upon me." LAF contributed \$17,521 to Handler in support of her suit.

### Weinstock's Case Concludes

"A 10-year lawsuit can be a lonely battle," says Shelley Weinstock, former assistant professor of chemistry at Barnard College, an affiliate of Columbia University, who sued for sex discrimination in the denial of tenure. The case concluded in October 2003, when the U.S. Supreme Court declined her request to review the case. Weinstock was appealing a federal district court's 1999 decision that granted summary judgment to Columbia on all claims.

"All of you have helped me feel that it was worth every minute," says Weinstock of AAUW's support. LAF adopted Weinstock's case in June 1995 and contributed \$107,133 in support. "I could never have endured the last 10 years without the emotional and financial support of AAUW and LAF. ... This organization made it possible for me to continue to fight for myself as well as others. [LAF](#)

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# A Heartfelt Thank You

The board and staff wish to extend sincere thanks to our 2003 donors for their on-going commitment to the AAUW Legal Advocacy Fund. As partners in our effort, you help courageous women battle sexual harassment, pay inequity, denial of tenure, and other forms of sex discrimination in higher education. Your gifts have helped LAF make an impact on campuses and communities throughout the country.

We look forward to celebrating your generous philanthropic spirit in 2004. Watch for some exciting changes to our donor recognition program! [LAF](#)

## Make a Lasting Gift to LAF

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](mailto:development@aauw.org).

## AAUW Legal Advocacy Fund Major Donors

The AAUW Legal Advocacy Fund thanks the following donors whose contributions were received as of Nov. 26, 2003:

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## LAF Joins Appellate Amicus Brief in *Atkinson v. Lafayette College*

WSC president Jay Helman—who entered into a self-described “social relationship” with Stiger when both arrived on campus in 1989—broke the news to Pitblado that her contract would not be renewed, citing budgetary reasons as justification for his decision.

Despite the alleged budgetary issues, Pitblado soon learned that a new, part-time lecturer position in anthropology

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*He was giving male undergraduate students access to space that she, as a faculty member holding a doctorate, could not enter.*

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would be offered in the upcoming academic year. Pitblado applied for the part-time position, but she says WSC never acknowledged her application. In early 2002, Pitblado returned from a trip to find a job announcement taped to her office door describing a full-time anthropology position with a salary nearly that of her own and a suite of courses identical to the one Pitblado had taught for two years to excellent reviews. The position’s criteria, however, were constructed to exclude someone with Pitblado’s qualifications from applying. When Pitblado approached the department chair about the job announcement, she says he admitted that her nonrenewal was a result of more than simple budget cuts. Pitblado was never offered any new position at WSC.

Pitblado filed suit against the Trustees of the State Colleges in Colorado for retaliation in May 2003. In October the LAF Board of Directors awarded Pitblado a \$5,000 grant in support of her suit. She recently reached a confidential settlement with the college. **LAF**

LAF joined a friend-of-the-court brief filed in the 3rd U.S. Circuit Court of Appeals in support of Eva Atkinson, the former director of athletics at Lafayette College. Atkinson alleges that after she submitted athletic department budget plans to ensure compliance with Title IX of the Education Amendments of 1972, she lost a significant part of her duties and was eventually terminated. She sued for unlawful employment discrimination and retaliation under Title VII of the

Civil Rights Act of 1964 as well as Title IX.

Atkinson’s Title IX claim was dismissed by the district court, which held that Title IX plaintiffs do not have a private cause of action for retaliation. The *amicus* brief urges reversal of this ruling on the grounds that Title IX does prohibit retaliation and that for the protections of Title IX to be meaningful, individuals who complain about discrimination must be protected from reprisal. **LAF**



**At the 2003 Progress in Equity Award Ceremony, from left to right: Provost Bill Destler; College of Computer, Mathematical, and Physical Sciences Dean Stephen Halperin; S.T.A.N.D. director Joelle Davis Carter; and AAUW Executive Director Jacqueline E. Woods**

This year’s Progress in Equity Award was given to the University of Maryland’s S.T.A.N.D. program, under the direction of Joelle Davis Carter. As a student years ago, Carter received an award from her local AAUW branch in support of her academic studies; the S.T.A.N.D. program now supports other minority students in their academic pursuits.

Since 1987 the AAUW Legal Advocacy Fund’s Progress in Equity Award has recognized an innovative collegiate program or initiative that has resulted in significant progress for women students, faculty, or staff on campus. Recipients receive a stipend of up to \$10,000 and public recognition throughout their communities, campus, and AAUW.

To win money for your program, send your nomination by March 15, 2004. Anyone can nominate a program.

Nomination forms are available at [www.aauw.org](http://www.aauw.org) or through the AAUW Helpline at 800/326-AAUW (2289) or [helpline@aauw.org](mailto:helpline@aauw.org). For additional information, please contact LAF.

# Business Professor Sues James Madison University

Suzanne de Janasz's chances of getting one of the two newly created faculty positions were very good—great, in fact. She was the only internal candidate invited for an interview, having worked for two years as an assistant professor in the College of Business at James Madison University (VA). In addition, the new faculty positions were nearly identical to her current job, although they—unlike her current job—were tenure-track.



De Janasz's chances increased when one of the four candidates withdrew from consideration before the interview process. Then, one of the two male candidates who were eventually offered the positions declined the offer. Despite the odds, de Janasz was never offered the remaining position. She was the only candidate interviewed who was not offered a position, even though she was ranked second by the search committee after the interview. She instead remains in the same renewable term position she has held since 1998.

How could such a favorable situation take a turn for the worse? De Janasz cites sex discrimination by the search committee as the culprit. During the

interview, the members of the search committee, most of whom were male, questioned her largely on her family life and asked her few questions about her professional experience or ability to perform the duties of the position. From colleagues who were on the committee, de Janasz learned that some members made negative comments about her

assertiveness and confidence, though these same qualities were discussed in a positive light regarding the two remaining male candidates. One such colleague, a male assistant professor in the department, eventually approached the university's administration about the situation. That year, the university declined to renew his contract.

In response to the outcome of the hiring process, de Janasz filed a complaint with the U.S. Equal Employment Opportunity Commission. Following its investigation, the agency determined that there was reason to believe that de Janasz was subjected to sex discrimination in the hiring process. In 2002 de Janasz filed suit against James Madison University in federal court. The case is in the discovery stage.

In October, the LAF Board of Directors awarded de Janasz an initial \$5,000 grant in support of her suit. **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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