

**The University of Washington  
Special Committee on Faculty Women (SCFW)**

The Special Committee on Faculty Women met at 1:30 p.m. on **Friday, June 1<sup>st</sup>, 2001** in 26 Gerberding Hall. Chair Barbara Krieger-Brockett presided.

**PRESENT:** *Faculty* Fligner, Krieger-Brockett, Frenkel *Ex officio* Redalje, Remick. **Special Guests:** Steven Olswang, Vice Provost; interested members of the University community.

**ABSENT:** *Faculty* DeWitt, Kemp, Liu, Muecke, Powell, Waaland, Wilke. *Ex officio* Basu, Sengupta.

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*Olswang was invited to the SCFW meeting to explain the UW's position in Oda v. UW. For more information on the case, see the plaintiffs' position according to their attorneys in the April SCFW minutes at <http://www.washington.edu/faculty/facsenate/councils/scfw/SCFW-minutes/00-01/01-04-06.htm>*

### **Oda v. UW – The UW's Perspective**

Olswang reviewed the past events in the case, reminding the Committee that in January 2001, the UW filed an appeal to the State trial court's ruling allowing the plaintiffs to represent all UW faculty women as a "class"<sup>1</sup> charging gender discrimination on pay and promotion. The UW's primary basis of appeal challenging the class certification is that the UW is "decentralized," meaning, as Olswang explained, that decisions on pay and promotion are made at the department level not through the central administration. The administration has the ability to overturn departmental decisions, but Olswang said the data shows that they almost never do. Olswang highlighted other "thematic" reasons for their appeal: 1.) the University does not discriminate, 2.) the University does not have an *intentional*, systematic practice and/or policy of discrimination, and 3.) the suit represents a violation of State law requiring that claims (stating harm or mistreatment) be filed before lawsuits (i.e. the persons responsible for mistreatment must be given an opportunity to correct their behavior before they can be sued in court.) Olswang said that the five plaintiffs in the case filed claims, but the University is arguing that each member of the class should have filed a claim if she felt she had been a victim of discrimination regarding pay or promotion.

The Division 1 State Court of Appeals decided that the question of law brought up in the UW's appeal was significant enough to warrant their review. In that sense, Olswang stated that the UW prevailed at the "motion-level." The plaintiffs have until June 18<sup>th</sup>, 2001 to file an "answer brief" to the appeal, and UW has 30 days after that to file a "reply brief." Oral arguments would likely be scheduled for autumn 2001, with a decision from the Appeals Court coming possibly by the end of 2001. Both Olswang and the plaintiffs' attorneys have each indicated that they would most likely file an appeal with the State Supreme Court if the ruling goes against either of them. If the case does go to the State Supreme Court, a final decision probably would not be expected until some time in 2003. The case would not go to the U.S. Supreme Court, however, because Olswang explained this is purely a question of State law.

Currently the case is "stayed" meaning the plaintiffs' attorneys cannot notify members of the "class" due to the fact that the declaration of the class is in question under appeal. If the class distinction is upheld, the

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<sup>1</sup> The "class" is defined as: all past, present, and future female faculty members (tenure and non-tenure track) employed by the University of Washington after August 18, 1994, including medical school faculty and those faculty employed at the Bothell and Tacoma campuses. Excluded from the class are Clinical, affiliate, visiting, temporary, and extension faculty who are not primarily compensated by the University but who hold faculty titles, and medical residents, teaching assistants, research assistants and librarians. Also excluded are all female faculty members who have settled and released the University from claims covered by this case for the period August 18, 1994 to the present, or who have commenced individual actions against the University prior to the date of the court Order certifying the class (November 17, 2000).

attorneys' will be required to notify everyone they will represent (every member of the class) and give them the opportunity to "opt-out" of the suit. Members of the class are, by default, considered "in" unless they specifically state that they are "out." If "in," members of the class will be bound by the outcome of the suit and could not pursue other claims within the parameters of the case. If "out," faculty women would be free to pursue any individual claims they might have against the University. Olswang reiterated that these are individual choices faculty women would need to make if the class certification is upheld under appeal.

### **Questions from SCFW Members and Guests**

Does "intentional" (in "intentional, systematic practice and/or policy of discrimination") include covert action and/or neglect or inaction? Olswang said that it could include covert action but the plaintiffs must still prove that the action was intentional. Neglect, he said, is not included in the legal definition of intention.

Has the administration considered reviewing the status of faculty women or conducting any type of preemptive action, such as a publication or salary adjustments? Olswang told the Committee that salary surveys were conducted in the 1990's showing pay and promotion disparities between male and female faculty in certain departments/units. As a result, he stated, some adjustments were made. Departments/Units are now instructed to evaluate equity in their merit review process. Olswang admitted that there is nothing stopping the administration from recommending an across-the-board adjustment for women faculty, but he said he would need to consult with the Attorney General's Office for legal counsel to determine if that would be a wise strategy. Remick suspected that if an adjustment were to be made for women faculty, a discrimination suit on behalf of male faculty would likely follow.

### **Related Discussions – Climate Issues**

The Council thanked Olswang for coming to the meeting. A discussion followed regarding methods of conflict resolution for faculty who have problems in their departments. The Committee members agreed that problems should be addressed as early as possible – that when people wait too long to discuss issues, it becomes too late to help them. However, if particular problems involve a faculty member's department's Chair, the Committee wondered where faculty could go to effectively and expeditiously address the issues. A few mentioned various avenues available to faculty, including the adjudication process through the Faculty Senate Office, the Equal Opportunity Office, the Ombudsman Office, the University Complaint Investigation and Resolution Office (UCIRO), etc. Some Committee members supposed that if they had similar problems, they would not pursue any of these means unless they knew that they could absolutely trust the people to whom they were relaying their stories. Also, they would not necessarily want their grievances to be public knowledge. Because this need for privacy, while the administration acts to deal with problems, the issues are not always known by the University community at large.

One participant asked about the recent Climate Study conducted by the College of Arts and Sciences (A&S). Julie Stein, a Divisional Dean in A&S, answered that preliminary results from the A&S advisory committee's climate study have been presented to President McCormick, and a full report would probably be available by the end of summer 2001. She added that preliminary results show that compared to a similar study of faculty women at the University of Michigan, more UW faculty women report a greater sense of dissatisfaction. She also noted that she would like to include anecdotal comments gathered from women respondents in the final report.

*The meeting adjourned at 3:05 p.m. Minutes by Katherine Wimble, Recorder.*