The Special Committee on Faculty Women met Friday, April 6, 2001 in the Forestry Club Room, Anderson Hall. Chair Barbara Krieger-Brockett presided.

**PRESENT:** Faculty Krieger-Brockett, Muecke, Waaland, Wilke. *Ex officio* Redalje, Remick. **Special Guests:** Andrew Volk and Nancy Pacharzina, Attorneys at Law, Hagens Berman LLP and approximately 20 interested members of the University community.

**ABSENT:** Faculty DeWitt, Fligner, Frenkel, Kemp, Liu, Powell *Ex officio* Basu, Sengupta.

The SCFW held an information meeting about Oda v. The University of Washington, the class action law suit brought on behalf of five female Dental School professors alleging that the University intentionally discriminated against female faculty regarding pay and promotion. Attorneys Volk and Pacharzina fielded questions and update information on the status of the law suit. The SCFW members stated their desire to conduct a second informational meeting at which the University administration could have an opportunity to provide information on the case from their perspective.

**Status of the Case:**
The group of UW faculty women were designated a 'class' at the trial court level. The University subsequently appealed the decision and the WA State Court of Appeals agreed to consider the appeal. All briefs on the appeal will be completed by the end of May. A decision on the case could come anytime between early next autumn or as far in the future as 1–2 years from now. The case will mostly likely end up in the WA State Supreme Court owing to its being regarded as a precedent-setting case for whether class-actions can be taken against WA State. For now, all proceedings are 'stayed,' which means the attorneys cannot send notice until all appeals are resolved.

**Who is in the Class?**
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.

**Who is excluded from the Class?**
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).

**The University's Argument:**
According to the Hagens-Berman representatives, the University's appeal is based on two points: 1.) Can class action be brought against the State in general? WA State law is unclear on this issue; therefore this case may be the vehicle for resolution of this matter. 2.) Should five women faculty be allowed to represent a whole class of University women? The University claims that pay and promotion decisions are made at the department level and therefore can not represent a centralized practice of discrimination.

**Explanation of the Process:**
Volk and Pacharzina explained that the suit could be broken down into two phases. In the first phase, occurring now, they must prove that there exists a practice and pattern of discrimination University-wide. They will present expert testimony and evidence of two salary surveys conducted by the University and issued in 1996 and 1998 reports and will claim that ultimate pay and promotion decisions are made centrally by the administration. No action on the part of members of the class is likely to be necessary during this phase of the suit. If and when the class has been finally certified, then the attorneys would be able to send out an “information letter” to explain what options members of the class would have regarding participation in the suit. Currently, because of the “stay” this letter cannot be sent.

The second phase, if the case succeeds for the faculty women, is to seek recovery and relief. This could take many forms. The possibilities could include: monetary compensation and/or damages, injunctive relief (meaning that the University would be ordered to stop such a practice), and/or creation of an Equity Panel to evaluate future cases of possible inequity. During this phase departmental differences in gender-based inequities would be taken into account.

Clarifications:
According to Hagens-Berman, individual faculty women, regardless of their inclusion in the class, are not prohibited from bringing other suits against the University at any point during the trial. Anyone may disseminate information about the case (i.e. information about the case is part of the public record, it is not privileged information, there is no gag order).

Questions:
What about the issue of remedial actions that the University could be taking now, such as distributing the Recruitment and Retention pool to balance out gender-based pay and promotion inequities? Volk noted that some departmental administrators apparently believe that this type of action would constitute an admission of guilt on the part of the University. He stated that such actions would not affect the outcome of the case and were perfectly permissible. He noted, however, that the University might regard this as poor legal strategy, and therefore might not do it.

Does it make a difference to the case where salary funds originate, if they are State v. Federal funds or from some outside granting agency? Volk answered that he believes that it does not make a difference where salary funds originate because of the fact that the central administration is ultimately responsible for determining salaries of faculty. Therefore, they should be distributed without evidence of discrimination.

Does the suit address the issue of the lack of mentors for faculty women? The case addresses pay and promotion specifically. Many factors go into decisions to promote, effective mentoring being one of them. If the suit is successful for the faculty women, Pacharzina said that a court-ordered mentoring program would be an unlikely result; however, the University would then be in the position of needing to fix a problem that may require instituting programs such as mentoring for faculty women.

Who pays the attorneys’ fees? The attorneys said that their fees are paid on a contingency basis, meaning they will only be paid if the suit is successful. The exact amount would be determined by the court, to be paid by the University if it loses the case, based on the amount of time the attorneys spent on the case, their fees, and the amount of risk that they assumed in taking on the case according to the court.

Are there similar cases being heard around the country and if so how would the outcomes of those cases affect this case? Volk stated that the issue of gender-based pay and promotion inequity is currently being brought forth on campuses nation-wide. There are specific cases that he cited, but he stated that the
evidence in those cases is not as strong as the evidence in this one (the salary surveys). In any case, the suit will not be directly affected by the outcomes of other suits.

Pacharzina emphasized that personal stories from people involved in issues related to this case are extremely valuable, and that if anyone should like to relate her/his story, s/he should feel free to contact Hagens-Berman at (206) 623-7292.

_The meeting adjourned at 1:15 p.m. Minutes by Katherine Wimble, Recorder._