

LEGAL EDUCATION

“Personally I’ve found the way the law thinks: the cases; the issue spotting stuff; ‘don’t look at the context’, just ‘look at this,’ ‘get the blinders ever narrower.’ I kept having these male professors — my whole first year was male professors — saying, ‘No, no think like a lawyer, think like a lawyer.’ I finally figured out at the end of my second year — ‘Think like a guy, think like a guy.’ And that is so counter to the way that I normally think.”¹

A. INTRODUCTION AND OVERVIEW

The work group on Legal Education examined gender issues in legal education in Oregon. The group studied how gender bias, if any, and gender affect law students, law faculty, staff, and the law school environment. We found that, in many areas, the three Oregon law schools (Northwestern School of Law at Lewis and Clark College, in Portland; University of Oregon School of Law, in Eugene; and Willamette University College of Law, in Salem) achieve gender fairness. These areas include the existence of formal non-discrimination policies, students’ academic performance and participation in extracurricular activities, assistance from career services offices, classroom participation, and interactions between co-workers at the law schools. However, the information that we obtained through our surveys and focus groups suggests that the law schools need to take action in four specific areas: (1) teaching styles; (2) sexual harassment of women; (3) professional recognition of female faculty; and (4) treatment of gay and lesbian students, students with disabilities, and students of color.

The current structure of the study of law, as well as of the traditional practice of law, rewards behaviors and thought patterns that men, more often than women, use comfortably. In surveys and focus groups, many female students reported that they were not comfortable with teaching styles that rely heavily on the Socratic method of questioning students to elicit legal principles. This response was especially strong for first-year female students. They reported that their own styles of problem-solving and communication did not seem to fit into the law school environment. Although their classroom experiences do not appear to affect women’s success in law school, we recommend that law faculties incorporate a mixture of styles into their teaching so that students of both sexes can participate more fully in class discussions.

Our survey of faculty members revealed similar views of the classroom and the law school environment. Female faculty members observed differences in the behavior of female students in class. They reported that

female students participate less often in class discussions than do male students. They also reported that their gender encourages female students to participate in class (both male and female students concurred).

We also found that a substantial number of female students had experienced adverse treatment because of their sex or, more seriously, sexual harassment in law school. In both instances, the source of the adverse treatment was predominantly other students. A few faculty members, administrators, and job recruiters also treated women negatively because of their sex, although sexual harassment complaints involved other students almost exclusively. Such behavior should be discouraged actively, and condemned swiftly when it occurs.

We found that lingering gender stereotypes affect female faculty members. Over half the female faculty members who responded to our survey reported being treated less respectfully by male students than by female students. Female faculty also reported that family planning is an issue in their professional advancement.

The findings of greatest concern were those related to the treatment of students of color, students with disabilities, and gay and lesbian students. Although the number of Oregon law students in those groups is very small (reflecting the population of Oregon generally), those students’ experiences in law school suggest that adverse treatment based on race, ethnicity, disability, or sexual orientation is not being addressed fully in all Oregon law schools. As with the reports of gender bias and sexual harassment, incidents of racial and ethnic bias and bias based on a student’s disability or sexual orientation were largely attributable to other students. Law schools are the gateway to the legal profession. They must take steps to eliminate these unacceptable behaviors.

B. ISSUES STUDIED

We addressed the following questions:

(1) Does a student’s gender affect his or her expectations, experiences, or treatment in Oregon law schools? If so, how?

¹ Female law student describing her law school experience in a focus group.

(2) Are female and male law students treated differently in Oregon law school career services offices or in the law career recruitment process? If so, how?

(3) Does gender affect the way in which staff² in the Oregon law schools are treated by others in the law school community? If so, how?

(4) Does gender affect the experiences of Oregon law school faculty members? If so, how?

(5) What influence, if any, do other personal characteristics, such as race, ethnicity, sexual orientation, or disability, in combination with gender, have on the experiences or treatment of members of the law school community?

C. METHODS OF STUDY

The work group consisted of law professors, law school administrators, law students, and recent law school graduates. A professor of sociology and members of the Intersectionality work group also assisted us. Eighteen members of the work group were women, and four were men. Two members of the work group were Hispanic; one was Asian-American. One member was disabled.

We studied gender issues in legal education at all three Oregon law schools. In order to ensure the full cooperation of the three schools, we consolidated the results of our research and chose not to report separately on each institution. Although the three schools are different in many ways, similar issues of concern arose at all three schools to varying degrees.

To explore students' expectations and experiences in the law school environment and in career services offices, we prepared and administered an extensive multiple-choice survey. The survey was administered in selected classes during class time in April 1997,³ to a total of 570 male and female law students. First-, second-, and third-year students participated. Our survey respondents represented 36.5% of the total student population at all three schools.⁴ Students also had an opportunity to provide written narratives as part of the survey. We received 94 narrative responses. We also obtained qualitative information concerning students' expectations, experiences, and treatment in law school and in career services programs from six focus groups, which were conducted by students in the Social

Research Design class at Willamette University. One focus group of men and one of women was conducted at each of the three law schools. Students were invited to participate through a random selection process.

To examine the treatment of staff in the law schools, the Social Research Design class students prepared and administered a written survey to all 72 staff at the three Oregon law schools. Forty-two (60%) of the staff responded. All were white women.

To capture the experiences of law school faculty, we prepared and administered a written survey to faculty members at the three Oregon law schools. The survey examined faculty members' personal experiences and their perceptions of the law school environment. The survey was distributed to all full-time and permanent part-time (at least half-time) faculty members (a total of 116).⁵ Thirty-eight (33%) of the surveys were returned. Seventeen of 40 female faculty (42.5 %) responded. Twenty-one of 76 male faculty (27.6%) responded. We received responses from approximately equal numbers of faculty members from each of the three law schools. No respondents identified themselves as belonging to a specific minority group, although two respondents indicated that they were of mixed race or ethnicity.

To understand the effects of other personal characteristics on the experiences of women in Oregon's law schools, we included specific questions in the student and faculty surveys, and the Intersectionality work group conducted focus groups of students of color and gay and lesbian students (a total of 12 participants) from the three Oregon law schools.

D. FINDINGS

1. Law Students

a. Demographics

Of the students responding to our survey, 54% were women. In the 1996-97 academic year, 47% of all Oregon law students were female.

Although we did not ask survey respondents where they were from, the law schools report that most law students in Oregon come from Western states; on average, 70% come from Oregon, Washington, and California.

² In this chapter, the term "staff" refers to employees of the law school who are not students, faculty, or administrators.

³ The survey was modeled in part after surveys developed by Professor Lani Guinier at the University of Pennsylvania Law School in 1990 and by the Law School Admission Council in 1991-92. See Lani Guinier, et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U PA L REV 1 (1994); LINDA F. WIGHTMAN, LAW SCH ADMISSION COUNCIL, *WOMEN IN LEGAL EDUCATION: A COMPARISON OF THE LAW SCHOOL PERFORMANCE AND LAW SCHOOL EXPERIENCES OF WOMEN AND MEN* (1996).

⁴ The three Oregon law schools had the following enrollments at the time the survey was administered: Total men - 831 (white men - 705; men of color - 126); total women - 731 (white women - 607; women of color - 124).

⁵ Adjunct instructors were not included in the survey.

Eighty-three percent of those surveyed were between 20 and 30 years of age, 82% were white, 8% were Asian or Asian-American, 3% were African-American, and 8% were of mixed race or ethnicity or of another minority. Those numbers reflect the demographics of the law student population at the three Oregon law schools.

Ninety-five percent of those surveyed identified themselves as heterosexual. Five percent identified themselves as gay, lesbian, bisexual, or other. Of the students surveyed, 4.6% identified themselves as having a disability. Fewer than a third of those students said that their disability was visible to others.

In the survey, we asked students to report their class standing. There were no significant gender-specific patterns associated with those self-reports. Nor did the students' reports of class standing vary significantly with year in school, age, or disability. However, fewer ethnic minority students reported being in the top 10% to 25% of their class than their numbers in the student population. A disproportionate percentage of ethnic minorities reported being in the bottom 25% of their class than their numbers in the student population. Second- and third-year students' participation on law review boards or in moot court societies also did not appear to be affected by gender.

Almost two-thirds of the students surveyed were single. Fifty-five percent of the single respondents were women. Of the students who were married or partnered, men and women were equally represented. Eight percent of the surveyed students had minor children living at home; 24 of those students said that they were the primary caretaker of their children. Of those primary caretakers, 75% were women.

Men and women had similar educational debt loads. Sixty-five percent of those students surveyed expect to owe at least \$50,000 upon graduation.

b. Overview

The survey, narrative comments, and focus group analyses all indicated that most law students, male and female, do not perceive gender bias at Oregon law schools. In fact, two female law students wrote that their experiences with gender fairness were far better at the Oregon law schools they attended than at the law schools in other states from which they had transferred. The majority of men and women surveyed reported that neither a student's nor a professor's gender affects the level or nature of student class participation, that male and female students are equally tolerant of comments by other students in class, and that male and female professors elicit similar levels of classroom participation. Furthermore, as self-reported, academic performance of

male and female law students is comparable, and male and female students are represented similarly on law review and on moot court teams.

Although these findings are very gratifying, all is not entirely well at Oregon law schools. The survey results and focus groups revealed that women are significantly less confident about their academic and public speaking abilities than are male students. Female students participate less in class and are much less comfortable with the Socratic method. In addition, women reported significant gender bias and sexual harassment.

c. Self-perceptions

We asked students to rate themselves on five personal traits: academic ability, cooperativeness, competitiveness, public speaking, and self-confidence.⁶ Students could rate themselves as "above average," "average," or "below average" with respect to each. We then examined these ratings for gender disparities.

Men and women viewed themselves differently with respect to each personal trait. Except for cooperativeness, males rated themselves more generously than did females. The students' self-ratings on cooperativeness and competitiveness reflect generally held views of differences between men and women: men (61% of those who rated themselves "above average") reported being more competitive, and women (57% of those who rated themselves "above average") reported being more cooperative. These self-views appear to bear some relationship to students' comfort with classroom participation and the Socratic method (see discussion below).

Focus group reactions also reflected this perceived gender difference regarding competitiveness and cooperativeness. Both men and women saw law school as inherently competitive. One male student commented, "After first year grades, you'll find an intellectual caste system immediately imposed." Another, referring to the grading system, commented that "the system creates that ultra-competitive environment." Most respondents viewed competitiveness as necessary in order to prepare them adequately for law practice. Men generally viewed competition positively, while women had mixed views. Some women gained confidence and felt more prepared for different situations through competition; for other women, however, competition created self-doubt about their ability to succeed and lowered their self-confidence. One student commented, "It's mental anorexia ... it's like the old physical anorexia where you can never be too skinny. This is you can never be too smart."

Among the 40% of students who rated themselves "above average" in self-confidence, 57% were men.

⁶ These traits typically are associated with success in law school and in law practice.

Conversely, of the 13% of students who rated themselves “below average,” 67% were women. Half the male students rated themselves “above average” with respect to self-confidence, while less than one-third of women rated themselves “above average.” Of particular interest was the contrast between the confidence levels of women and men in the first and in the third years of law school. In the first- and second-year classes, women had less self-confidence than men; in the third-year class, however, the gender difference disappeared. Indeed, self-confidence ratings were higher for third-year women than for third-year men.⁷

The focus groups painted a somewhat different picture. The majority of men expressed self-confidence upon entering law school, while women were more apprehensive and prepared more than men before entering law school. Once in law school, students’ feelings changed. Men described an initial jolt to their self-confidence after first semester grades; after that initial jolt, the men said that they experienced a steady increase in confidence. By contrast, women reported that their self-confidence either fluctuated or diminished during law school.

Men and women also differed significantly in their views of their public speaking skills. Forty-seven percent of the men rated their public speaking ability above average, in contrast to only 32% of the women. Only 11% of the men rated their public speaking skills as below average, compared to 21% of the women. Women’s more negative self-perception of their speaking ability may correlate to lower levels of self-confidence, as well as of class participation.

Based on our survey, we found that male and female law students in Oregon perform similarly academically, regardless of differences in their perception of their skills and differences in their confidence in their abilities when they enter law school.

d. Participation in Law and Non-law Activities

Male and female students reported substantial differences in how they spent their time. The only activity to which men and women devoted equal time was studying. Women spent significantly more hours than men attending class and participating in law-related extracurricular activities. By the third year, 40% of the men, in contrast to just 18% of the women, reported spending no time on law-related extracurricular activities. Also, third-year men, unlike women, dramatically increased the time spent each week working for pay. One-third of third-year men reported working for pay between 13 and 20 hours per week. Half the third-year women and most first-year students reported that they spent no time working for pay. Thus, the data suggest

that, in their third year, men — but not women — shift their time away from law-related extracurricular activities and toward outside employment.

The survey revealed modest gender differences in preferences for certain teaching styles. Most students liked mixtures of the Socratic method and lecture (63% of all students; 61% of women; 65% of men) and lecture and question (63% of all students; 71% of women; 53% of men), as compared to pure Socratic method (11% of women; 19% of men) or straight lecture (20% of women; 15% of men). When asked to identify their preferred teaching style, 56% of men and 49% of women identified mixed Socratic/lecture, and 34% of men and 45% of women identified mixed lecture/question. Although we cannot draw significant conclusions about the attractiveness of any particular style from our survey, it is interesting that twice as many women preferred the straight lecture method to the pure Socratic method.

In the focus groups, however, gender differences *vis-a-vis* the Socratic method were more pronounced. The majority of men were indifferent or viewed this method as a positive teaching style. They described the Socratic method as a game and were more comfortable just telling the teacher, “I can’t answer that question.” By contrast, fear and apprehension were the prevalent feelings that women expressed about the Socratic method. They did not think that it was a good learning style for them, but did believe that it was good preparation for becoming lawyers. The women in the focus group reported that they tend to take the experience more personally than do the men; the women reported internalizing the fear and apprehension that they associated with the Socratic method, which resulted in diminished self-esteem.

At all class levels, women were less likely than men to ask questions or to volunteer in class. Fifty-four percent of the students reported that they “never” or “rarely” ask questions in class (58% of women and 47% of men). Among the 77 students who never ask questions in class, 68% were women. By contrast, among the 63 students who frequently ask questions in class, 59% were men. The results were similar for volunteering comments in class. Fifty-two percent of students (54% of women and 50% of men) reported “never” or “rarely” volunteering to speak in class. The data indicate, however, that women over 30 participated actively in class. One student commented that “the most aggressive personalities seem to be the females who are over 30 years old; [they] dominate class discussions.” Another student noted that “women students who are smart and aggressive are more likely to be disliked and similar men are just seen as annoying.”

⁷ The survey was administered to all three law classes simultaneously. The work group did not perform any longitudinal studies to determine whether there is a *change* in self-confidence levels as students move from their first year to their last.

Women in the 20- to 25-year-old age group participated the least of any group.

Significant differences also emerged for students of different ages and ethnic backgrounds, regardless of gender. Compared to white students, African-American students were three times more likely, and Asian students twice as likely, never to volunteer in class. Younger students were less likely than older students to ask questions or volunteer.

Despite significant differences in actual class participation, men and women were equally comfortable with their level of participation in the classroom. Fifty-three percent of women and 57 % of men were “comfortable” or “very comfortable” with their level of participation. The percentage of women who were “very uncomfortable” with their participation decreased significantly from the first to the third year, despite women’s reported decreasing level of participation during law school.

The focus groups highlighted one area in particular in which both men and women felt uncomfortable and silenced, but for different reasons: gender-related issues. Men felt silenced on issues such as rape and sexual harassment, because they feared being misinterpreted and criticized by female students and female professors. Women were less inclined to discuss the same issues for fear of being labeled “radical” or “feminist.”

e. Students’ Perceptions of the Effect of Gender in the Classroom

Male and female students had significantly different perceptions of the effect of a student’s gender on classroom participation. One-quarter (26%) of the men and nearly half (47%) the women believed that a student’s gender correlates to rates of student participation. Of those students who said that gender does matter, both men and women overwhelmingly reported that male students participate more in class than do female students. Those views support the self-perceptions of men and women as to their individual participation; that is, more men than women reported that they participate actively in class. In the focus groups, women stated that men dominate the classroom. Women thought that men are more comfortable jumping to an answer and working out their thoughts as they speak, whereas women said that they tend to think about the answer before volunteering and, thus, are called on less often. A number of written comments similarly suggested that men participate more in class.

We also probed tolerance of male and female class participation. More than 79% of students said that male and female students’ comments are tolerated equally by male and female students. Among those who did perceive a difference in the reactions of male and female students to classroom comments, men and women held different views. Eighty-six students (16% of the survey respondents) said that female students are more tolerant

of classroom comments made by one gender or the other. Male respondents (72% of those who perceived different reactions based on gender) predominantly thought that women are more tolerant of women’s comments, whereas female students (80% of those who perceived different reactions based on gender) thought that women are more tolerant of men’s comments. Similarly, of the 114 students (26% of the survey respondents) who thought that male students reacted differently to student comments based on the gender of the speaker, most of the men (78% of those who perceived difference based on gender) thought that men are more tolerant of women’s comments, whereas most women (73% of respondents who perceived difference based on gender) thought that men are more tolerant of men’s comments.

Most students (79%) believed that the gender of the professor does not affect overall classroom participation. However, among those who said that the professor’s gender does matter, 67% were women. Of those who believed that the professor’s gender makes a difference, both men (71%) and women (73%) believed that female professors are more effective than male professors at promoting classroom participation. A positive view of female professors’ ability to encourage classroom participation also was reflected in four narrative comments. For example, one student noted that “female teachers tend to ... encourage class participation by asking questions. Female students seem more comfortable volunteering information in this environment.”

Female students of color who participated in the focus group described difficulty developing relationships with faculty members. Although they acknowledged that a few faculty members tried to interact with them in a positive way, most faculty were difficult for them to approach. In general, focus group participants agreed that they were not likely to approach a professor unless it was absolutely necessary.

f. Students’ Experiences of Bias or Adverse Treatment

A series of questions addressed whether professors treat male and female students differently. Approximately 80% of the respondents said that neither male nor female professors treat students differently because of their sex. However, of those who said that professors treated students of one sex preferentially, most women said that professors treat men preferentially, while most men said that professors treat women preferentially. Whether the professor was male or female did not affect those responses. Women who said that there was a difference in treatment of male students saw that behavior in both male and female professors. Male students who said that there was a difference in the treatment of female students saw that behavior in both male and female professors.

Nearly one-quarter of the students (31% of the women, 17% of the men) reported that they had experienced gender-related bias or adverse treatment.⁸ Fewer than 7% of those surveyed (10% of the women, 2% of the men) reported sexual harassment. It is noteworthy that, of the seven disabled women surveyed, four (57%) reported gender-bias. In addition, the narrative reports indicated that some men have felt victimized by gender bias: six men complained of favoritism toward women, five complained of discrimination against men, and seven expressed the view that our survey was either biased or a waste of time, or both.

Among women, the primary source of both gender-related bias and sexual harassment was other students. Two female students at different law schools provided narrative reports about male students viewing pornography on the Internet in the law school computer rooms. In addition, written and focus group comments by women described incidents of gender bias or sexual harassment by male professors: for instance, telling sexist jokes in class, ogling female students' bodies, and calling women "feminist" or "radical" during class. Among men, the primary source of sexual harassment was other students, but the primary source of gender-related bias was faculty.

Students reported substantially greater degrees of discrimination on the basis of characteristics other than their gender. High percentages of Asian-American students (61%) and African-American students (64%) reported that they had experienced racial bias or adverse treatment, predominantly from other students. A female African-American law student recounted how, in a trial practice course, a juror had told her "that she should take English language classes." The focus group moderator noted that "[t]his student speaks flawless English. English is her first and native language. . . ."⁹ Another female African-American student described how her professor called on her in class only when they were discussing civil rights, discrimination, or similar topics.¹⁰ In one focus group of women of color, *every* participant reported some instance of sexual harassment by either male students or male faculty members, such as unwanted touching.

In addition, 55% of gay and lesbian students reported discrimination based on their sexual orientation. In a focus group, one gay male student described the reluctance of his law school dean to deal with homophobic cartoons that were posted on a law school bulletin board. Another gay male student in the same focus group noted that "seeing 'fag' didn't really phase

me. . . [but] postings on campus began to make me feel threatened."

Overall, the data indicate that women, students of color, gays and lesbians, the disabled, and those over 30 are most likely to experience bias or adverse treatment during law school and that adverse treatment is most likely to come from other students. Significantly, focus group participants reported that the law school administration's attitude of tolerance or intolerance of harassment and discrimination set the tone for the students. According to focus group participants, students reported few problems at those schools where the administration had a zero-tolerance policy and made that policy well-known through actions.

g. Career Interests and Career Services

Nearly half of all students reported that they came to law school because it was the best career option. Twenty-nine percent of the students reported they came to law school to help others; 39% of those students were women, and 21% were men. The focus group discussions revealed that female students were more interested in small firms and public sector jobs than were male students.

Students found that career services offices do not distinguish between male and female students in giving access to services, sponsoring activities, or counseling on career choices. Although male and female law students reported no significant differences in the behavior of career services staff toward students, women responded differently to some experiences. For example, women expressed concern that career services offices cater to large law firms and to the top students in the class and encourage students to fit into the "mold" that would appeal to those employers — such as in their manner of dress. Some female students also expressed the belief that large firms consider men to be more serious candidates for employment and that career services offices reflect that attitude. As noted, more female students than male students were interested in small firms or public sector jobs; those female students expressed a desire to see career services offices place more emphasis on those employment options.

Students observed that career services offices generally treat male and female students similarly in the interview preparation process. However, in the interview process itself, female students sometimes found it hard to make connections with interviewers, particularly if the interviewer was an older male lawyer.

All three law schools' non-discrimination policies bar on-campus recruitment by employers who discriminate

⁸ For more information, see Attachment A to this chapter.

⁹ Comment at focus group with law students of color, Apr 13, 1997.

¹⁰ Comment to a Task Force member at focus group with law students of color, Apr 13, 1997.

on the basis of sex, race, ethnicity, or sexual orientation. In part, those non-discrimination policies conflict with current military policy toward gay men and lesbians in the armed forces. A federal law (commonly known as the “Solomon amendment”) requires educational institutions to give the United States military access to on-campus recruitment of students and withholds federal funds from any institution that does not comply.¹¹ The three Oregon law schools’ responses to the possible withholding of federal funds have varied.

2. Faculty

The goal of the faculty survey was to determine whether there are differences between male and female professors’ perceptions of their experiences in the law school environment. The survey included four sections: (1) classroom environment, (2) job satisfaction, (3) professional relationships, and (4) fairness issues. We mailed the survey to 116 full- and part-time faculty members (76 men; 40 women).

Of the survey respondents (21 men and 17 women), men tended to be older, longer-tenured, and more highly paid than women. Fifty-seven percent of the men were at least 51 years of age. The largest group of female faculty members (64.7%) fell into the 41-50 age bracket. Eighty-one percent of the men were tenured; 11 of the men had been tenured for at least 16 years. By contrast, 59% of the women were tenured, all but one for 15 years or less. More than half the males in the sample reported base salaries in excess of \$80,000 per year, whereas fewer than 30% of the females reported such income. In addition, four men and one woman also received supplemental compensation for endowed faculty chair positions.

a. Classroom Environment

The responses obtained from questions concerning the classroom environment revealed differences between men’s and women’s perceptions of the effect of gender on the character and quality of classroom interaction. When asked whether “the nature or content of classroom interactions between you and the students [is] affected by the gender of the student,” 35% of the women reported that gender is a factor, but only one man responded affirmatively. Forty-one percent of the female professors, compared to just 30% of the male professors, believed that male students volunteer in the classroom more often than female students. Those responses are similar to responses from the student survey, where 49% of female students and 26% of male students believed that one gender (men) dominates in classroom

participation. Fifty-one percent of the female faculty, but only 35% of their male colleagues, perceived male students as taking up more class time than female students.

Eighty percent of the female faculty believed that female instructors elicit greater classroom participation from female students than do male instructors. By contrast, most male faculty (61.5%) did not believe that their gender has an effect on classroom participation by either male or female students. By contrast, only 26% of female students and 15% of male students believed that the professor’s gender makes a difference in classroom participation. Of those who did, 76% said that female professors encourage more participation.

Nearly two-thirds of the female professors stated that male students treat them with less respect than do female students. In sharp contrast, not one male professor said that he is accorded less respect, from female or male students, because of his gender. Those findings are consistent with findings of other studies in the field¹² and suggest that female faculty bear a heavier burden than their male counterparts in proving their competence to students.

With regard to mentoring of students, female professors reported both higher numbers of students whom they “mentor” and more time spent on mentoring activities than their male counterparts reported. Women, in particular, commented on the importance of mentoring, its time-consuming nature, and the need for compensation or other recognition for mentoring students.

Although both male and female faculty said that gender-neutral language is important, female professors (76%) believed it to be more important than did their male colleagues (60%). Fifty-five percent of faculty reported using gender-neutral classroom materials (70% of female faculty, 45% of male faculty).

b. Balance Between Professional and Personal Life

Our study revealed that female professors have a much higher involvement in child care and household responsibilities than do male professors. Female professors with families spent more than twice as much time providing child care and 50% more time on other “household” affairs than did male professors with families. Conversely, male faculty reported spending 50% more time on academic research (a key component for securing professional advancement, recognized by faculty at all three law schools) than did female faculty

¹¹ The amendment is codified at Omnibus Consolidated Appropriations Act of 1997, Pub L No 104-208, § 514(b), 1996 USCCAN (110 Stat) 3009-270 to -271.

¹² See generally ANNE STATHAM ET AL, GENDER AND UNIVERSITY TEACHING: A NEGOTIATED DIFFERENCE (1991); Kathleen S. Bean, *The Gender Gap in the Law School Classroom—Beyond Survival*, 14 VT L REV 23 (1989).

(15.5 hours per week for men versus 10.6 hours per week for women).

Family responsibilities, as they relate to one's professional life, are perceived by female faculty to be a factor of much greater consequence than they are to male faculty. Nearly half the female respondents reported that family planning had had a significant effect on their career advancement. No men indicated that this was a matter of importance. In a related question, "Are the needs of faculty with families adequately addressed by your law school (and the parent institution)?" 88% of male respondents answered "yes," while a sizeable minority of female respondents (41%) believed that such family responsibilities are not adequately acknowledged by their institutions. Comments critical to administrative policies or practices focused on a lack of flexibility in work schedules, a lack of day care services, and an absence of part-time options.

c. Professional Environment

Forty-seven percent of the female faculty who responded to our survey believed that male faculty hold leadership positions in numbers disproportionate to their actual population. Only 10% of male respondents held that view. Although both male and female faculty were supportive of official policy goals in place to promote gender fairness in the law-school setting, female faculty were less convinced of the actual commitment of administrators to carry out such policies than were their male colleagues. That divergence of viewpoint is illustrated in responses to the question: "How hard do you think that the administration of your school has worked to develop an atmosphere of gender equality?" Sixty-two percent of the male respondents believed that administrators work "very hard" to promote gender equality, as compared to just 12% of female respondents. Indeed, more than one-third of the female faculty members believed that law school administrators work "not very hard" or "not hard at all" toward such ends, while fewer than 10% of the male respondents concurred with that view.

d. Fairness

Eighty-two percent of all faculty respondents reported that they had not been the objects of discriminatory treatment by administrators with regard to pay or career advancement. However, 23.5% of the women surveyed answered "yes" in response to the question: "Do you believe that you receive (have received) a lower salary than other faculty members because of your gender?"¹³ The faculty survey showed that women outnumber men in salary ranges below

\$70,000 and that men outnumber women in salary ranges above that level.¹⁴ Most faculty members (85%) reported that they believe that it is equally difficult for men and women to gain tenure at their institutions.

A significant minority of female respondents reported having been treated inappropriately by administrators and students because of their gender. Thirty-five percent of the responding female faculty stated — in response to the question: "Have administrators at your law school, in any context, treated you inappropriately based on your gender?" — that they believed that they had been subject to inappropriate treatment. Only 14.2% of male respondents answered the same question affirmatively. In addition, two women said that they had observed such inappropriate treatment directed at others. Similarly, nearly half the female professors believed that they had been treated inappropriately by students because of their gender; only 14.2% of their male colleagues answered likewise.

Another indication that female faculty observe gender discrimination to be a greater problem in Oregon's law schools than do their male colleagues is reflected in responses to the question, "Have you ever helped a student (counseled, aided in other ways) deal with a gender discrimination issue that occurred at your school?" Thirty-three percent of the male respondents reported that they had aided a student with a gender discrimination problem; 80% percent of the female respondents answered that they had done so.

3. Staff

In a separate survey, we asked staff at the three law schools about their experiences in their jobs and about their observations of interactions between other groups in the law school environment. All the respondents to our survey were female. Half the respondents added written comments at the end of the surveys. In those comments, many respondents stated that the combination of their job status and their gender adversely affects their ability to contribute to decision-making in their law schools. Many also reported that they were expected to perform menial tasks that were not part of their jobs, and some reported that they had been treated inappropriately because of their gender by faculty members or administrators. Examples given included: inappropriate comments about a staff member's children, rude or demeaning behavior toward staff, ignoring staff, and verbal abuse.

Between 51% and 71% of respondents indicated that they are treated the same by male and female faculty

¹³ This figure does not include the responses of two female faculty members who expressed dissatisfaction with their salary levels, but who could not definitely ascribe their perceived low salaries to gender discrimination.

¹⁴ As noted elsewhere, male faculty who responded to our survey tended to be older and longer-tenured than female respondents.

members. When staff members reported a difference in behavior by others, they noted that male faculty and students are less considerate of staff members than are female faculty and students. In response to the statement, “I deserve more consideration from,” 11% of the respondents replied “male students” but none replied “female students.” In response to statements about working relationships with male and female faculty, 23% of respondents said that they work best with female faculty members; 13% said male faculty members.

Staff observed that, for the most part, faculty members treated each other with respect and work well together regardless of gender. In those cases in which staff observed gender-based differences, they see male faculty members as having more respect for and working better with other male faculty, and female faculty members as having more respect for and working better with female faculty. Staff reported that some male faculty are sensitive to the needs of female colleagues and some are not. The same observations were made concerning the relationships between faculty and students, and between students and other students.

E. CONCLUSIONS

1. Students

The student survey, written comments, and focus group results all indicate that, objectively, women are doing quite well in Oregon law schools. Women match men in self-reports of academic performance and participation on law review and moot court. Women are as satisfied as men that law school is preparing them for a legal career, even when they do not feel comfortable with some aspects of the preparation, such as the Socratic method, public speaking requirements, and the competitive environment.

In focus groups and narrative comments, several men and women discussed their perceptions that law, law school, and the legal profession are “male” in character. As one woman noted:

“Personally I’ve found the way the law thinks: the cases; the issue spotting stuff; ‘don’t look at the context,’ just ‘look at this,’ ‘get the blinders ever narrower.’ I kept having these male professors, my whole first year was male professors, saying, ‘No, no think like a lawyer, think like a lawyer.’ I finally figured out at the end of my second year — ‘Think like a guy, think like a guy.’ And that is so counter to the way that I normally think.”¹⁵

Even though law school and law practice are viewed as “male,” female law students are coping fairly well. Female respondents to the survey did not report that the “culture” of Oregon law schools has produced extensive negative effects on either their psyches or their academic

standing. Although women participate in class less frequently than men, they are comfortable with their level of class participation.

However, this level of comfort should not be interpreted to mean that there is no cause for concern. Class participation is a way of gaining the professor’s attention and learning to think on one’s feet. The fact that fewer women participate in class and that men are perceived as dominant in the classroom is of concern. Law schools should look for ways to encourage more class participation by women. Cooperative learning should be incorporated as a teaching method, and efforts should be made to make the classroom less intimidating. Professors need to be aware of the differences in class participation between their male and female students and, when they notice significant differences, look for ways to incorporate women’s voices. One way to do this is to use classroom materials in which the gender of the “characters” (authors, judges, lawyers, parties, experts, etc.) is balanced. Until recently, there were not many textbooks that reflected the true makeup of the American population, but that situation is changing and law school teachers in Oregon should continue to take advantage of those changes.

A promising finding is that, even though first-year female students reported lower self-confidence than first-year male students, they still reported performing at the same levels academically as men, and second- and third-year women (who presumably have adjusted to the law school environment and the law itself) reported self-confidence levels comparable to those of men in the same class years. This difference in women’s self-confidence suggests that women feel more competent to practice law by their final year of law school.

Women continue to be involved in law school life in their third year, while men tend to separate themselves from law school life by that time. It is unclear whether these different behaviors have any significant effect on students’ preparation for law practice. Law schools should reflect on the different strategies that men and women follow by the time they are third-year students. The schools should determine whether women are benefiting sufficiently from their continued involvement with law school and whether men are being affected detrimentally by their lack of involvement with law school.

As to gender fairness, Oregon law schools in general, and their faculties in particular, appear to be doing an adequate job. Most male and female students have not experienced gender bias and do not perceive faculty to be gender biased in their treatment of students. In fact, most students concur with the observation that

¹⁵ Comment at focus group of female law students.

their law school “goes out of its way to provide a relatively gender-neutral environment for its students.” Nonetheless, nearly one-third of the women surveyed reported that they had experienced gender bias while attending law school, and 10% of women and 3% of men reported that they had been sexually harassed. With this in mind, accusations of gender bias and sexual harassment against students, faculty members, or administration need to be taken seriously.

Regarding student perceptions of career services offices, the focus group results indicate that, although career services offices in the three Oregon law schools treat male and female students equally, three underlying differences exist. First, there is a substantial emphasis on large-firm hiring. Female students want more variety in the type of employers who interview on campus. As a group they are less interested than male students in working for large firms. Second, the advice from career services staff concerning women’s dress stresses uniformity. Many female students perceive this as sacrificing their individuality to fit a “mold.” Finally, in the interview process itself, female students do not believe that they are adequately prepared for on-campus interviews with large firms. More emphasis is needed concerning appropriate and inappropriate interview questions, “ice breaking,” and the like.

Of grave concern are reports of bias, based on their intersectional characteristics, from people of color (especially women), gays and lesbians, and disabled students. More than half the respondents of color reported racial bias. This is a significantly greater percentage than the overall percentage of women who reported gender bias. One explanation for this phenomenon is that the numbers of people of color, gays and lesbians, and disabled students in the law school population are much smaller. They are, therefore, likely to be more vulnerable.

Ironically, law schools’ attempts to be sensitive to gender occasionally may be viewed as going too far, resulting in resentment and perceived unfairness by men. The number of narrative comments complaining of reverse discrimination — as well as of bias within the survey — are indicative of this resentment. A few women also observed that a number of men refused to complete the survey, and other men intentionally were not completing the survey seriously. Care must be taken not to give in to backlash and unjustified resentment while, at the same time, care must be taken not to replace unfairness to women with unfairness to men.

Overall, the law schools appear to be making progress on gender fairness. However, they should be alert to the remaining problems and should create opportunities to educate students and faculty about gender fairness.

2. Faculty

The aggregate results of the faculty survey assign relatively high marks to both administrators and professors for establishing and maintaining an environment within Oregon’s law schools that promotes gender fairness and equality principles for faculty, support staff, and students alike. This general assessment is shaped, however, by observable differences in the makeup and responses of the survey population drawn along gender lines. By and large, survey responses by male professors tend to support the view that gender equality concerns are a major priority in their respective institutions and that policies already in place to deal with issues of gender fairness are adequate and effective. In short, to male faculty members, gender discrimination is not a significant problem in Oregon’s law schools, yet a sizeable portion of female professors report gender-based differences in their experiences in the law school administrative and classroom environments.

Female faculty members believe that, as compared to their male colleagues, they:

- receive less respect from students;
- are forced to make more choices between career and family; and
- have less access to leadership positions.

Drawing conclusions on intersectional issues for law faculty is difficult because of the very small sample of minority faculty members who responded to the surveys. However, two narrative comments may be worth consideration: “Sexual orientation makes more of a difference than gender,” and “Women and minorities get extra work piled on for the same pay as white males.”

3. Staff

Generally, staff members are treated fairly by others in the law school community. Staff also observe that interactions among faculty colleagues and between students and faculty do not appear to be affected by gender bias.

However, some staff reported adverse treatment. The law schools are the first place where students experience a “law office” environment. Poor treatment of staff members by faculty and administrators, even if not frequent and even if not motivated by gender, sets a bad example. Because most staff are female, poor treatment by those of higher rank may communicate to students that such behavior toward women is acceptable in the work environment.

We could draw no conclusions concerning intersectional issues among staff, because all respondents were white women, none of whom identified themselves as having other characteristics that were the subject of our research.

F. RECOMMENDATIONS

1. Oregon law schools should:

- a. continue to recruit law students and faculty to increase the number of persons from diverse backgrounds, including women and people of color;
- b. disseminate existing written policies prohibiting discrimination and harassment on the basis of gender, race, disability, and sexual orientation, and the procedures for filing complaints, at the beginning of each academic year. Those policies should be enforced promptly and consistently when complaints are made;
- c. continue to address issues of fair treatment as a part of their orientation of law students and faculty and in publications such as catalogues. By the academic year 2000-01, gender and intersectionality issues should be included in students' training in professionalism;
- d. by the academic year 2000-01, conduct orientation programs for faculty members on fair treatment of staff members;
- e. by the academic year 2000-01, examine administrative policies and practices, and modify them where needed, to accommodate more fully the family responsibilities of professors;
- f. by the academic year 2000-01, create a variety of opportunities for dialogue among all members of the law school community regarding gender-based perceptions of the law school experience, as well as the effects of race, ethnicity, disability, sexual orientation, age, and economic class on students' experiences;
- g. by the academic year 1998-99, publicize the pertinent parts of this report to faculty, students, staff, and alumni;
- h. by the academic year 1998-99, review the Task Force survey results for their own campuses to determine which issues are most significant to them; and
- i. beginning in the current academic year, recognize the importance of faculty members' mentoring and counseling activities outside class, and factor this important work into salary, tenure, and promotion decisions.

2. Oregon law schools' career services offices should:

- a. by the academic year 1998-99, solicit interviews by a wider range of prospective employers, particularly small firms and those working in the public's interest and in the public sector; and
- b. by the academic year 1998-99, provide more complete preparation of students, especially female students, for interviews with recruiters.

3. Oregon law schools' faculty should:

- a. by the academic year 1999-2000, incorporate alternative teaching methods, as well as the Socratic method, in all years of law school to provide for different learning styles and preferences;
- b. by the academic year 1999-2000, include gender and intersectionality issues in their class discussions, and as regular parts of the curriculum;
- c. beginning in the current academic year, make every effort to create a classroom environment hospitable to different ideas and to different learning styles; and
- d. by the academic year 1999-2000, engage in collective self-assessment to determine whether the curriculum, teaching methods, and other law school practices and policies hamper the ability of faculty to be accessible to law students, in particular female students of color.

4. Administrators and faculty at Oregon law schools should:

- a. recognize that misperceptions concerning women's competence may adversely affect decisions concerning the promotion and tenure of female faculty; and
- b. by the academic year 1998-99, take appropriate steps to ensure that promotion and tenure decisions are not based on such misperceptions.

5. Oregon law schools and the Oregon State Bar should:

- a. by January 1, 2001, begin to examine how well Oregon law schools actually prepare men and women for law practice. That examination should address questions such as these:
 - Upon graduation, do men and women seek similar forms of employment? Are they hired for the jobs that they want, in the same proportions, within a similar amount of time, and for similar compensation? Are they perceived by employers and potential employers as equally suited and well-prepared for law practice?

The answers to those questions will assist both law schools and the legal profession in assessing gender fairness; and

- b. by January 1, 2001, determine whether there are gender-based differences in male and female faculty salaries in Oregon's law schools and, if so, implement the changes necessary to ensure fairness.

ATTACHMENT A

Gender Bias Experiences of Different Groups of Students

Sex	White		People of Color		Disabled		Gay/Lesbian		Bisexual	
	M	F	M	F	M	F	M	F	M	F
Number in Sample	211	241	48	54	4	7	4	5	0	8
Number/% Experiencing Gender Bias	35 17%	74 31%	7 14%	16 30%	1 25%	4 57%	0	2 40%	—	3 38%
a. By Other Students	13 37%	52 70%	4 57%	12 75%	1 100%	2 50%	0	2 100%	—	3 100%
b. By Faculty	15 43%	40 54%	4 57%	9 56%	0	3 75%	0	1 50%	—	1 33%
c. By Administrators	7 20%	13 17%	4 57%	1 6%	0	1 25%	0	0	—	0
d. By Recruiters	12 34%	26 35%	4 57%	5 31%	0	2 50%	0	1 50%	—	0
e. In Class Materials and Curriculum	4 11%	16 21%	1 14%	4 25%	0	1 25%	0	0	—	1 33%
Number/% Experiencing Sexual Harassment	4 2%	25 10%	3 6%	4 7%	1 25%	0	0	0	—	1 13%
a. By Other Students	2 50%	19 76%	3 100%	3 75%	0	0	0	0	—	1 100%
b. By Faculty	0	11 44%	1 33%	0	0	0	0	0	—	0
c. By Administrators	1 25%	1 4%	1 33%	0	0	0	0	0	—	0
d. By Recruiters	0	0	1 33%	1 25%	0	0	0	0	—	0
e. In Class Materials and Curriculum	1 25%	2 8%	0	0	0	0	0	0	—	0