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**“WHAT IS” AND “WHAT SHOULD BE”
AN EMPIRICAL STUDY OF GENDER ISSUES
AT GONZAGA UNIVERSITY SCHOOL OF LAW**

“In pursuit of our goal to educate the whole person, we focus on our students’ ethical and moral development. We strive to instill in our students problem-solving abilities and critical thinking as well as a desire to cultivate their imagination, intelligence, and conscience. In doing this, *we encourage our students to learn to seek answers not only to “what is” but “what should be.”*”

CARA L. NORD**

* GONZAGA UNIVERSITY SCHOOL OF LAW CATALOGUE 44 (2002-03) (emphasis added).

** Juris Doctorate, Gonzaga University School of Law, May 2003. Clerk for Washington Supreme Court Justice Mary Fairhurst, September 2003-September 2004. My sincerest thanks to: Professor Lynn Daggett, faculty advisor for this project, for her brilliant insight and guidance; Professor Helen Donigan, for helping me share the message of this work with others; Justice Mary Fairhurst and Justice Barbara Madsen of the Washington State Supreme Court, for being such inspirational and supportive role models; Tera Krista Andrews Ames, for her superb 2001 gender study of Gonzaga University School of Law; Sharon Day, for her tireless research; my parents, for giving me roots and wings; and last, but definitely not least, my husband and best friend, Kevin, for his unwavering love and support.

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I. INTRODUCTION: THE PREVALENCE AND EXPERIENCES OF FEMALE LAW STUDENTS

In 1869, the University of Iowa took a bold step and became the first law school to open its doors to female students.¹ The University of Michigan immediately followed, while Boston University admitted women in 1872.² As a result of these and other innovative admission practices, the 1870s marked the first major generation of American female law students.³ Various narratives describe the experiences of those pioneering women. Clara Shortidge Foltz, admitted to Hasting's Law School in 1879,⁴ recalled that on the:

The first day I had a bad cold and was forced to cough. To my astonishment every young man in the class was seized with a violent fit of coughing . . . If I turned a leaf over in my notebook every student in the class did likewise. If I moved my chair – hitch went every chair in the room.⁵

By the 1920s, most American law schools were open to women.⁶ Regardless, by the 1950s, only *four percent* of American law students were female.⁷

Of course, admission was not the only challenge facing this minority group. Until 1960, Harvard Law School required its female applicants to explain their legal interests in front of the entire faculty.⁸ Discriminatory teaching tools and methods also presented challenges.⁹ A popular casebook printed in 1968, for example, noted, "land, like woman, was meant to be possessed."¹⁰ In addition, some professors rarely called on females in class.¹¹ Others "designated a 'Ladies Day,' when [they] called exclusively on female students."¹² At Brooklyn Law School, female students were required to sit

¹ See ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* 82 (University of North Carolina Press 1983).

² See *id.*

³ See VIRGINIA G. DRACHMAN, *SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY* 37 (Harvard University Press 1998).

⁴ See *id.* at 47.

⁵ *Id.* at 52.

⁶ DRACHMAN, *supra* note 3, at 149. Columbia admitted women in 1926. See *id.* at 145. Harvard admitted women in 1950. See James R.P. Olgoff et al., *More Than "Learning to Think Like a Lawyer": The Empirical Research on Legal Education*, 34 CREIGHTON L. REV. 1209, 1209 (1988). Notre Dame admitted women in 1966. See STEVENS, *supra* note 1, at 248 n.12.

⁷ MYRA & DAVID SADKER, *FAILING AT FAIRNESS: HOW AMERICA'S SCHOOLS CHEAT GIRLS* 186 (Charles Scribner's Sons 1983).

⁸ See Janet Taber et al., *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209, 1210 (1988).

⁹ See *id.*

¹⁰ STEVENS, *supra* note 1, at 369.

¹¹ See Taber et al., *supra* note 8, at 1210.

¹² *Id.*

apart from their male counterparts.¹³

A. The Increasing National Prevalence of Female Law Students and Studies of Their Experiences

In 1972, twelve percent of American law students were female.¹⁴ That year, the first law school gender study was published.¹⁵ It "reported that women exhibited 'low self-esteem and self-hatred' and 'consistently interact[ed] less frequently than men in the classroom.'"¹⁶ Numerous gender studies have been performed since this groundbreaking report.¹⁷

1. *The 1970s and 1980s: Female Law Student Population Surpasses One-Third Nationally; Two Gender Studies Published in Stanford Law Review*

By 1974, 20% of American law students were female.¹⁸ In 1980, those numbers grew to one-third.¹⁹ Eight years later, women comprised 41% percent of America's law school student populations.²⁰ An initial study that year found female students less likely to participate in class and more likely

¹³ See *id.*

¹⁴ See AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, DON'T JUST HEAR IT THROUGH THE GRAPEVINE: STUDYING GENDER QUESTIONS AT YOUR LAW SCHOOL 4 (1998) [hereinafter GRAPEVINE].

¹⁵ Judith D. Fischer, *Portia Unbound: The Effects of a Supportive Law School Environment in Women and Minority Students*, 7 UCLA WOMEN'S L.J. 81, 90 (1996) (quoting Alice D. Jacobs, *Women in Law School: Structural Constraint Personal Choice in the Formation of Professional Identity*, 24 J. LEGAL EDUC. 462 (1972)).

¹⁶ *Id.*

¹⁷ Numerous sources provide summaries of previous studies as well as additional analysis. See GRAPEVINE, *supra* note 14, at 21-34 (summarizing twelve gender studies); Fischer, *supra* note 15, at 84-94 (summarizing critiques and suggestions of previous gender studies) and 95-115 (analyzing the experiences of female law students of Chapman University); Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League School*, 143 U. PA. L. REV. 1 (1994), 12-21 (summarizing previous studies) and 21-100 (analyzing the experiences of female students at the University of Pennsylvania); Jean C. Love, *Twenty Questions on the Status of Women Students in Your Law School*, 11 WIS. WOMEN'S L.J. 405, 408-11 (1997) (summarizing a gender study at the University of Iowa College of Law); Jennifer L. Rosato, *The Socratic Method and Women Law Students: Humanize, Don't Feminize*, 7 S. CAL. REV. L. & WOMEN'S STUD. 37 (1997), 44-53 (summarizing previous gender studies) and 53-61 (advocating for the modification, rather than elimination, of the Socratic Method); Taber et al., *supra* note 8, at 1218-21 (summarizing previous gender studies) and 1238-59 (analyzing the experiences of female law students and graduates of Stanford University); Brian Tomko & Ivan Yip, *Succeeding in Law School: A Comparison of Women's Experiences at Brooklyn Law School and the University of Pennsylvania*, 3 MICH. J. GENDER & L. 515 (1996) (comparing a gender study at Brooklyn Law School to that of the University of Pennsylvania); Morrison Torrey et al., *What Every First-Year Female Law Student Should Know*, 7 COLUM. J. GENDER & L. 267, 270-93 (1998) (summarizing previous gender studies); Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299 (1988) (presenting the law school experiences of twenty female Yale law students).

¹⁸ See LOOKING AT LAW SCHOOL: A STUDENT GUIDE FROM THE SOCIETY OF AMERICAN LAW TEACHERS 185 (Stephen Gillers ed., Taplinger Pub. Co. 1977) (printing Carole E. Goldberg, *Issues of Special Concern to Women*).

¹⁹ LEGAL EDUCATION 369 (Martin Lyon Levine ed., New York University Press 1993) (reprinting Ruth Bader Ginsburg, *Women's Work: The Place of Women in Law Schools*).

²⁰ See Taber et al., *supra* note 8, at 1209.

to find legal education alienating and hostile.²¹

The Stanford Law Review published two gender studies in 1988. The first analyzed the experiences of female law students at Yale,²² while the second considered those at Stanford.²³ The former dubbed the experiences of the Yale females "[the] four faces of alienation: from ourselves, from the law school community, from the classroom, and from the content of legal education."²⁴ In terms of the third element, the study found women law students, "distracted by fear,"²⁵ and "too stunned by the prevailing classroom tone to open their mouths."²⁶ Because they felt unwelcome in the classroom they learned silence.²⁷ In addition, the female Yale students felt both disappointed and disconnected as a result of the lack of female professors.²⁸

Consistent with the Yale study, the Stanford analysis discovered that female students participated much less often in class.²⁹ It also found that female law students had a greater likelihood of experiencing stress.³⁰

2. *The 1990s and Early 2000: Females Law Student Population Near One-Half Nationally; Five Gender-Related Publications Released*

Five gender-related studies were published in the 1990s. The first was written in 1994, when 44.3% of American law students were female.³¹ That same year, the University of Pennsylvania published Lani Guinier's study entitled, *Becoming Gentlemen: Women's Experiences at One Ivy League School*.³² *Becoming Gentlemen* had three specific findings.³³ First, it discovered that male law students academically outperformed females.³⁴ Second, it found that attitudes of women and men varied greatly in the first and second years of law school, but more or less coalesced by year three.³⁵ These attitude shifts exemplified a change in aspirations.³⁶ Of the first year students interviewed, 25% of the females and 7% of the males reported that they had entered law school with public interest law ambitions.³⁷ However, of the third year

²¹ See Fisher, *supra* note 15, at 90 (citing Tanya Lovel Banks, *Gender Bias in the Classroom*, 38 J. LEGAL EDUC. 137, 140-41 (1988)).

²² See Weiss & Melling, *supra* note 17.

²³ See Taber et al., *supra* note 8.

²⁴ Weiss & Melling, *supra* note 17, at 1299.

²⁵ *Id.* at 1333.

²⁶ *Id.*

²⁷ See *id.*

²⁸ See *id.* at 1356.

²⁹ See Taber et al., *supra* note 8, at 1256.

³⁰ See *id.*

³¹ See GRAPEVINE, *supra* note 14, at 4.

³² Guinier et al., *supra* note 17.

³³ See *id.* at 2-4.

³⁴ See *id.* at 3.

³⁵ See *id.*

³⁶ See *id.*

³⁷ Lani Guinier et al., *supra* note 17, at n.103.

students answering the same question, 8% of the women and 7% of the men expressed those same aspirations.³⁸ Thus, whereas many more female first year students expressed public interest law goals, the number of female third years expressing such interest roughly equaled that of male third years. Guinier dubbed this phenomenon female law students' "becoming gentlemen."³⁹ Finally, Guinier found that women participated in class much less often than their male counterparts.⁴⁰

The percent of female law students rose to 44% in 1995.⁴¹ The following year, Judith D. Fischer, a professor at Chapman University School of Law, wrote the second major study of the nineties.⁴² She reported that the female law students at her law school were both satisfied with, and actively participating in, their legal education.⁴³ She attributed the law school's success to many factors, six of which will be mentioned here. First was the law school's philosophy.⁴⁴ Fischer described Chapman as a new law school founded with the vision of educating humane lawyers in a supportive environment.⁴⁵ The second and third factors contributing to Chapman's success were its diverse faculty and administration.⁴⁶ In terms of the former, the law school's full time faculty was 44.4% female and 33.3% racial minority, while its general faculty was 50% female and 21% racial minority.⁴⁷ In terms of the latter, its administration was 60% female.⁴⁸ A fourth factor in the school's success was its replacement of the typical rigorous first year legal research and writing class with a pass-fail class version.⁴⁹ Fifth was Chapman's establishment of a faculty mentor and tutoring system.⁵⁰ A sixth and final contributor to Chapman's gender-related success was the fact that the law school maintained an eighteen to one faculty to student ratio.⁵¹

The third study to be published in the nineties was entitled, *Elusive Equality: The Experiences of Women in Legal Education*.⁵² Published by the American Bar Association Commission on Women in the Profession, this

³⁸ See *id.*

³⁹ See *id.* at 2.

⁴⁰ See *id.* at 9.

⁴¹ See *id.* at 4.

⁴² See Fischer, *supra* note 15.

⁴³ See *id.* at 95.

⁴⁴ See *id.*

⁴⁵ *Id.* at 83.

⁴⁶ See *id.*

⁴⁷ See *id.* at 95.

⁴⁸ See Fischer, *supra* note 15, at 95.

⁴⁹ See *id.*

⁵⁰ See *id.*

⁵¹ See *id.*

⁵² AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, *ELUSIVE EQUALITY: THE EXPERIENCES OF WOMEN IN LEGAL EDUCATION* (1996) [hereinafter *ELUSIVE EQUALITY*].

study documented the results of hearings conducted from 1994-95.⁵³ It found female representation in both faculty and student populations on the rise.⁵⁴ However, it also discovered that, "women continue[d] to encounter significant barriers which prohibit their full and equal participation in law school [such as] gender bias and discrimination in various forms."⁵⁵ More specifically, the study noted:

Some forms of bias are readily apparent, such as gender stereotyping, sexual harassment and hostile, degrading and disrespectful behavior toward female students. Other forms can be most easily detected by their consequences rather than their source, like the Invisible Man's footprints in the snow: the relative silence of women in the classroom, the lack of female role models and mentors, the markedly low percentages of female tenured faculty, the disproportionately high numbers of women in non-tenure track positions, and the pay disparities between male and female professors with the same credentials. In some cases, barriers to full and equal participation stem from outdated education processes, and anachronistic teaching materials, methods and resources.⁵⁶

The fourth study done in the 1990s analyzed the students of Brooklyn Law School according to the suggestions made in *Becoming Gentleman*.⁵⁷ The authors deemed Brooklyn "an ideal setting for a test of the Penn research because it . . . adopted most of the reforms that the Penn researchers believe[d] would reduce women's alienation from the learning environment and thus improve their academic performance."⁵⁸ More specifically, with 37% of its tenured and tenure-track faculty and 45% of its overall faculty being female, the school demonstrated impressive numbers.⁵⁹ Moreover, Brooklyn enacted the curriculum changes suggested by the Penn study.⁶⁰ For example, each first year student had a medium-sized seminar and a small legal research and writing class.⁶¹ The final Penn-incited change concerned teaching and exam methodologies.⁶² The small seminar courses involved non-exam grading methods and innovative teaching methods such as cooperative learning.⁶³ In larger classes, the Socratic method was supplemented with "problems, simulations, 'gaming' techniques, and

⁵³ See *id.* at 1.

⁵⁴ See *id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See Tomko & Yip, *supra* note 17.

⁵⁸ *Id.*

⁵⁹ See *id.*

⁶⁰ See *id.*

⁶¹ See Tomko & Yip, *supra* note 17, at 518.

⁶² See *id.* at 518-19.

⁶³ See *id.* at 518.

negotiation.”⁶⁴

The study found the female students of Brooklyn achieving well academically.⁶⁵ However, its females reported less class participation and higher stress.⁶⁶ The authors concluded that these findings “neither prove nor disprove [Penn’s] claim of a causal link between classroom experience and academic achievement.”⁶⁷ In other words, although women were participating less, their grades were just as good as their male counterparts.⁶⁸

In 1997, the number of female law students almost equaled that of males.⁶⁹ In that year, the American Bar Association Commission on Women in the Profession published the fifth and final gender-related publication of the nineties, *Don’t Just Hear it Through the Grapevine: Studying Gender Questions at Your Law School*.⁷⁰ In its efforts to encourage gender studies at every American law school, *Grapevine* listed the benefits of such studies,⁷¹ summarized the results of many previous gender studies,⁷² and even provided six questionnaires utilized in prior studies.⁷³ By 2000-01, women accounted for 49.4% of American law students.⁷⁴

B. The Increasing Prevalence of Female Students at Gonzaga University School of Law and Analyses of Their Experiences

Gonzaga University School of Law was founded in 1912.⁷⁵ Camille Pessimer was the first female to graduate from the school.⁷⁶ She achieved this groundbreaking success in 1923.⁷⁷

From 1992-97, less than 40% of the school’s student body was female.⁷⁸ These low numbers led a commercial source to rank Gonzaga 167th of 170 law schools based on its female student population in 1995.⁷⁹

⁶⁴ *Id.* at 519.

⁶⁵ *See id.* at 520.

⁶⁶ *See* Tomko & Yip, *supra* note 17, at 520.

⁶⁷ *Id.*

⁶⁸ *See id.*

⁶⁹ *See* GRAPEVINE, *supra* note 14, at 1.

⁷⁰ *Id.*

⁷¹ *See id.* at 3-4.

⁷² *See id.* at 4-8, 21-34.

⁷³ *See id.* at 35-92.

⁷⁴ *See* Charles W. Wolfram, *Toward a History of the Legalization of American Ethics II – The Modern Era*, 15 GEO. J. LEGAL ETHICS 205, 223 (2002).

⁷⁵ *See* THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 174 (Law School Admissions Council, Inc. 2001).

⁷⁶ *See* GONZAGA UNIVERSITY SCHOOL OF LAW ALUMNI DIRECTORY: 85TH ANNIVERSARY EDITION 97 (Bernard C. Harris Pub. Co. 1997).

⁷⁷ *See id.*

⁷⁸ This point is noted by an informal study performed by Gonzaga University School of Law faculty. The report is on file with the author.

⁷⁹ *See* 1995 PRINCETON REVIEW: BEST LAW SCHOOLS 100 (Villard Books 1996).

1. *The Late 1990s: Gonzaga University School of Law Female Student Population Well Below the National Average; Female Faculty and Students Express Concerns*

In 1998, 39% of the student population at Gonzaga University School of Law was female.⁸⁰ In that year, the five female tenured classroom faculty members compiled a report regarding the gender-related concerns of female faculty and students.⁸¹

The faculty section addressed four issues. First was the unsatisfactory number of female faculty mentors. The overall faculty was 39% female in 1992, but only 27% so in 1997. This 12% decline was a stark contrast to the male faculty, which experienced a 42% increase between those years. The report attributed this shift to the fact that many women left the faculty during this five-year period. Although the male faculty significantly outnumbered the female, eight women compared to seven men left the faculty from 1992-97. In addition, males were hired at a greater rate from 1992-97. Fifteen (71%) of the twenty-one professors hired, including *all* tenure track hires, were male.

The second faculty concern presented in the report was the rarity of female committee chairs. Of the one hundred faculty committees from 1992-95, only three were chaired by female tenured or tenure-track faculty.⁸² The third faculty issue concerned the low salaries of female faculty compared to their male counterparts. The final faculty concern regarded the heightened standards to which female faculty were held to by both students and peers. In terms of the former, student evaluations referred to the appearance of female faculty. They contained sexualized comments.⁸³ They also expressed disappointment in the fact that female professors - not male - "failed" to be maternal and nurturing.

The student portion of the analysis also discussed four issues. First was the low percentage of female students. From 1992-97, the female proportion of the student population of Gonzaga University School of Law was well below the national average. In addition, some data indicated that women were leaving the school at disproportionate rates. At one point in the summer of 1997, for example, eight (62%) of the thirteen known transfers were women. More generally, from 1992-97, women comprised 37% of the

⁸⁰ See THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 176 (Broadway Books 1999).

⁸¹ This report is on file with the author.

⁸² Since the lack of female committee chairs was challenged, two female professors have been chairs of the academic affairs committee. In addition, the associate dean of academic affairs has been the committee chair of admissions. However, there has yet to be a female chair of the important budget committee.

⁸³ In response to the question, "what can the professor do to better the course?" student responses included, "stand on her head without any underwear," and "private tutorials - I'll bring the wine."

law students, but 44% of the transfers.

Second was an occurrence of numerous gender-offensive incidents to which the administration took no action. A student yelled "dyke dinner" when the Women's Law Caucus announced its annual potluck dinner (a dinner open to all students) to a first year class. No action was taken by the attending professor or the administration. Female students received sexual and harassing telephone calls. No action was taken by the administration. Female students reported sexist comments made during the Linden Cup (the school's appellate advocacy competition). Again, no action was taken by the administration.

The third student concern was the lack of female professors. Female professors taught eleven (37%) of thirty first year credits in 1991. In the following year, only 6.1, or 20% of the first year credits were taught by females. This decrease prompted a female professor to express her concerns in writing to the Dean. Regardless, the numbers sank to 4.1 (14%) of thirty credits in 1996. These numbers meant that some first year students were taught exclusively by males, and few had more than one female teacher. Fortunately, the numbers increased in 1996-97. In that year, women taught ten (30%) of the thirty first year credits. Unfortunately, this increase was eradicated in 1997-8, when only 2.7 (9%) of the first year credits were taught by women.

Finally, the student portion of the analysis focused on the law school orientation and its materials. Academic years 1996-97 and 1997-98 began with a week-long orientation program. The orientation materials included a transcript reinforcing gender and racial stereotypes.⁸⁴ After the first year of their use, a female faculty member expressed her concern in writing. Not only were the materials used again the following year, but also the orientation diversity workshop was cut drastically, and the academic exercise dealing with diversity was eliminated.

In 1998, the report was presented to the Dean of the Law School. Thereafter, seven female students met with the female tenured faculty who compiled the report and then with the Dean to discuss gender-related concerns. The women expressed frustration with the lack of female teachers, particularly in the first year, the low proportion of female students, the rarity in which female students are called upon in class, and the lack of courses of interest to women.

In addition, the students shared many offensive gender-related incidences, some of which pertained to male faculty. One student reported that a male professor told his first year class that it was human nature for

⁸⁴ The attorneys were men. The secretary was a woman who was asked to get coffee for the men. The clients were a Hispanic couple who spoke broken English and had immigration problems. The wife was very emotional. In response to his wife, the husband said, "You see how she is," and spoke for both of them.

men to beat their wives. Compounding the comment's offensiveness was the fact that a student in the class was a domestic violence survivor. Another student expressed concern about her male faculty advisor, who stated that women should be "barefoot and pregnant." Still another noted that a male professor referred to female faculty as "feminazis" during class. Another student explained that a male adjunct professor informed her that she should expect to have an affair with at least one of her male professors. A final reference to a faculty incident surrounded a male teacher who was filling in for an evidence class. He was supposed to cover the federal rape shield, a law rendering inadmissible the sexual history of a rape victim.⁸⁵ Instead of focusing on the law, however, the faculty member distributed a biography of a saint who fought to her death rather than lose her virginity to a rapist. The message the women students reported receiving was that a woman's value lies in chastity, and that a woman's value is diminished if she "allows" herself to be raped.

Other concerns surrounded sexist and discriminatory statements made by students. In the computer lab, pornography was repeatedly in view. Students also often printed and left hateful misogynist jokes on the school printers. One example read, "What's the difference between a woman and a coffin? You come in one and you go in the other." In other environments, a male student made comments to two female minority students concerning their suitability as mail order brides. Another student referred to a woman who spoke in class as "dumb bitch" to his peers.

After hearing these and other stories, the Dean presented them to the faculty. He concluded that the women students had made "a very strong case that this law school is very inhospitable to its female students." He expressed a strong no-tolerance message, and stated that the gender problems would be addressed. Meanwhile, the percent of female law students at Gonzaga University School of Law grew to 43% in 1999.⁸⁶

2. *2000 and Beyond: Gonzaga University School of Law Female Student Population Near One-Half; Two Female Students Perform Gender Studies*

Females comprised 47% of the student population of Gonzaga University School of Law in 2000-01.⁸⁷ In that year, Tera Krista Andrews Ames, a third year law student, performed a gender study at the school.⁸⁸ Andrews Ames interviewed thirteen female law students of various academic

⁸⁵ See FED R. EVID. 412.

⁸⁶ See THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 178 (Times Books 2000).

⁸⁷ See THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 174 (Law School Admissions Council, Inc. 2001).

⁸⁸ See Tera Krista Andrews Ames, *Toward a More Tolerant Future: A Closer Look at Women's Alienation at Gonzaga Law School* 18, available at <http://www.law.gonzaga.edu/ilst/CarnegieSeminar/ames.pdf> (last visited Jan. 31, 2003).

years, ages, races, religions and financial backgrounds.⁸⁹ Her findings confirmed that like the Weiss and Melling study, those students represented the "four faces of alienation."⁹⁰ In fact, Andrews Ames adopted the Weiss and Melling verbiage as subheadings for the interview answers.⁹¹

Five hundred and six students were enrolled in Gonzaga University School of Law for the 2001-02 academic year.⁹² Of that number, 242 (48%) were female. In the 2002-03 academic year, Gonzaga University School of Law had 573 students, 46% of whom were female.

This study considers the experiences of female students of Gonzaga University School of Law. It specifically considers the experiences of such women from 2001-03. It does so in accordance with the aforementioned analyses and narratives. Moreover, it does so in conjunction with the anecdotal evidence provided by the Andrews Ames study. Finally, it does so in furtherance of the mission statement of Gonzaga University School of Law. The statement provides:

In pursuit of our goal to educate the whole person, we focus on our students' ethical and moral development. We strive to instill in our students problem-solving abilities and critical thinking as well as a desire to cultivate their imagination, intelligence, and conscience. In doing this, *we encourage our students to learn to seek answers not only to "what is" but "what should be."*⁹³

This study considers "what is" and "what should be" regarding the experiences of female students at Gonzaga University School of Law.

C. The Purpose and Format of This Analysis

The intent of this work is twofold. First, it aims to increase awareness of the gender-related issues facing Gonzaga University School of Law. Increasing awareness can be a frightening endeavor. Drafts of this paper were shared with the professors of the studied classes, the Dean of the Law School, and the members of the Washington Commission on Gender and Justice Equity. Each was surprised by the statistics and narratives cited below. However, such facts and experiences must be known. Whether they occur once a day or once a semester, whether they are the acts of many students and professors or only a handful, the point is that they *do occur*. These occurrences impact the people as well as the environment at the School of Law. Thus, they must be known and they must be acknowledged.

⁸⁹ See *id.* at 9.

⁹⁰ Weiss & Melling, *supra* note 17, at 1299.

⁹¹ See Andrews Ames, *supra* note 88, at 5.

⁹² Information obtained through Gonzaga University School of Law Registrar. Data on file with author.

⁹³ GONZAGA UNIVERSITY SCHOOL OF LAW CATALOGUE 44 (2002-03) (emphasis added).

The second aim of this study is to initiate efforts to improve the Gonzaga University School of Law experience. As a means to achieving this end, this project takes four specific paths. Part II analyzes "What Is" at Gonzaga University School of Law. This endeavor is approached through numerous sections, which include the consideration of the faculty composition of the school; an analysis of classroom experiences; the aesthetics of the school, school competitions, as well as school clubs and extracurricular activities. Part III analyzes "What Should Be" in terms of why the school should remedy its gender-related deficiencies. Reasons include Title IX, the advertised atmosphere and goals of Gonzaga University School of Law, and the manner in which gender-related improvements will benefit the school. Part IV discusses "What Should Be" by offering numerous suggestions for improvement.

II. "WHAT IS" - THE GONZAGA UNIVERSITY SCHOOL OF LAW EXPERIENCE: A SERIES OF HIGHS AND LOWS

Of the sources that have analyzed the experiences of female law students, several confirm that women law students and law schools have come a long way; however, they also demonstrate that numerous improvements remain to be made.⁹⁴ In terms of the latter, a typical female law student expresses the following sentiment:

How male the place was made me leap . . . It's not the individual people, it has to do with how classes were conducted, the look, the ties, the jackets, the pictures . . . I used to read *he* as *she* in all of my casebooks. It made a tremendous difference. It was the only way I felt engaged and included.⁹⁵

The same maxim is true for Gonzaga University School of Law. The women of the school have made incredible strides. Such advances must not be discredited. However, there is much more ground to be covered. In the spirit of growth and change, below is a consideration of the Gonzaga University School of Law experience. Sections consider the school's look, population, catalogues, classroom experiences, student organizations, electronic mail messages and student performance.

A. The "Look" of Gonzaga University School of Law: Male Depictions Abound While Female Depictions are Virtually Non-Present

This section considers the physical presence of the School of Law by focusing on the school's artwork and its Chastek Library.

⁹⁴ See *supra* I.A.-B (discussing the historical representation of female students in American law schools, generally, Gonzaga University School of Law, specifically, and the experiences of such female law students).

⁹⁵ SADKER, *supra* note 7, at 187.

1. *The Facility of Gonzaga University School of Law: Male Portrayals Abound*⁹⁶

The artwork around the School of Law is overwhelmingly male-dominated. Of the ninety-seven depictions of human beings within the School of Law, only eighteen (19%) are of females. Additionally problematic is the *location and size* of the female depictions. A floor-by-floor analysis demonstrates this point. Three females are portrayed on the first floor. However, all three are in one nine-and-a-half by eleven photograph. Moreover, because the picture is in the career services showcase, it is virtually unnoticeable amongst numerous job postings.

The second floor displays female depictions four through twelve. Four through nine are rather difficult to discern on a large university banner. Ten is a magazine cover featuring Mary Fairhurst, a Washington Supreme Court Justice and alumna. This cover is housed in a full showcase located beneath large portraits of the school's twelve previous male deans. Females eleven and twelve are also found on a magazine cover displayed in that same showcase. On that cover, the current male president of the Washington Bar Association is portrayed with his wife and young daughter.

Female portrayals thirteen through fifteen are housed on the third floor. Number thirteen is a large and prominently-placed photograph of Holly Caudill, a physically handicapped alumna who is shown in her commencement regalia. Fourteen and fifteen are two female depictions hanging between the Student Bar Association Office and the Student Bar Association storage room.

The final three depictions are found on the fourth floor. Sixteen and seventeen are part of a picture of the United States Supreme Court. This photograph hangs in the conference room of the faculty suite. Students rarely utilize this space. Number eighteen is a female in a four by six photograph of eighteen people. This photograph is found in a full showcase leading to the Dean's suite.

The portrayals of women that are displayed in Gonzaga University School of Law are all too important in light of the severe lack of female illustrations, as well as the obscure placement and small size of nearly all of the female portrayals that are present in the building. Regardless, the hanging of such depictions has been the subject of great controversy. The most interesting tale of the sort surrounded a group of domestic violence pictures hanging on the second floor. The Washington State Gender and Justice Commission, a body founded by the Washington State Supreme Court, donated the domestic violence pictures to the school. The current

⁹⁶ The only pictures that were not counted in this study were those of the school's graduating classes hanging in the small hallway leading to the moot courtroom. The number of pictures and their lack of clarity proved too daunting a task.

Chair of the Commission, Washington State Supreme Court Justice Barbara Madsen, is an alumna of Gonzaga University School of Law. Although two of the five hangings specifically contain depictions of women, all five contain messages pertaining to domestic violence. The middle poster features a large black and white photograph. Above the photographs is a "thought bubble" surrounding the words, "domestic violence." Below the pictures is a public service announcement urging viewers to contact 1.800.799.SAFE. In different locations in each hanging is a stamp reading "Domestic Violence is a Crime."

The hangings were initially housed in the dean's conference room on the fourth floor. Students rarely – if ever – access that area. Because certain female faculty members were "offended by them," the pictures were moved to the kitchenette area of the dean's suite where student access is even more limited. At the suggestion of the Student Bar Association, the pictures were moved to a more prominent location on the second floor. However, their discredit did not end with this relocation. A male third year student ridiculed them in an electronic mail message sent to the entire school.

The message read:

An analysis of the five most often used Women's Studies textbooks reveals more "propaganda than scholarship." Entire study available for download. http://www.iwf.org/news/020320_a.shtml.

Statistics indicate women assault their domestic partners at rates comp[a]rable to men. No word yet on whether there will be any changes in art work surrounding the SBA office. http://www.nlm.nih.gov/medlineplus/news/fullstory_6980.html.

More statistics and studies on the female on male domestic violence. No word yet on whether there will be any changes in artwork surrounding the SBA office. http://www.glennjsacks.com/domestic_violence_a_2.htm.

An entire bibliography (I stopped counting at 70) of works showing comp[a]rable rates of male-female/female-male domestic violence. No word yet on whether there will be any changes in artwork surrounding the SBA office. <http://fact.on.ca/Info/dom/martinfi.htm>.

Mothers are more likely than fathers to murder their children. This and some dated commentary on Andrea Yates. No word yet on whether there will be any changes in the artwork surrounding the SBA office. <http://www.ifeminists.com/introduction/editorials/2001/0703.html>.

An interesting overview on the history of infanticide. Note the reference under "Statistical Analysis – America" subheading. While

men are responsible for higher rates of overall homicide, women engage in greater rates of infanticide. No word on whether there will be changes in the artwork surrounding the SBA office <http://www.infanticide.org/history.htm>.⁹⁷

2. *The Chastek Library at Gonzaga University School of Law: More Male Portrayals*

The percentage of female depictions in the library is *even lower* than that of the school at large. More specifically, of the seventy-six images of humans in the library, only seven (9%) are of females.

3. *Conclusion: Negative Messages Sent by the Overwhelming Frequency of Male Depictions*

Although the student population of the school is currently 46% female, only 14% of the people depicted in the artwork of Gonzaga University School of Law are female. Such disparities have a serious impact on female students. One study noted that, "[t]he message that women are not welcome can be obvious, such as when a professor only calls on men, or more subtle, such as classroom walls covered with portraits of distinguished alumni or jurists, all of whom are white and male."⁹⁸ A final message sent by such male-dominated artwork is one of ownership. When bombarded with illustrations of males, females may feel that the building is the property of men. Thus, men are insiders and women – trespassers on male-only territory – are outsiders.

B. The Population of Gonzaga University School of Law: Both Presence and Absence of Females

This section considers the population of Gonzaga University School of Law. Subsections consider its students, administration and faculty.

1. *The Students of Gonzaga University School of Law: After Periods of Female Student Populations Falling Well Below the National Average, Female Student Populations Fluctuating Around One-Half*

As an introduction to this section, two facts bear repeating. From 1992-97, the female student population of the Gonzaga University School of Law was well below the national average.⁹⁹ In fact, it was so low in 1995 that a commercial source ranked Gonzaga 167th of 170 schools based on its female

⁹⁷ E-mail on file with the author.

⁹⁸ Torrey et al., *supra* note 17, at 275.

⁹⁹ See *supra* notes 79-80 and accompanying text (noting the low proportion of female students at Gonzaga University School of Law in 1995).

population.¹⁰⁰

More recently, females comprise almost one-half of the population of the Gonzaga University School of Law. This ratio is in accordance with the national trend. In 2000-01, for example, women accounted for 49.4% of all American law students.¹⁰¹

Problematic however, is the fluctuation of the Gonzaga numbers. While 47% of the school's population was female in 2000-01, the number rose to 48% in 2001-02, only to fall to 46% in 2002-03. Thus, the 2002-03 school year actually has a female population *lower* than that of two years ago. Contributing to this decline is a major decrease in the female proportion of the first year class. Whereas 51% of the 2001-02 entering class was female, only 41.5% of the 2002-03 first year class is female. This difference is nearly 10%. The number of female students is anticipated to be even lower in academic year 2003-04, as *only* 38% of the applicants for that year are female.

2. *The Administration of Gonzaga University School of Law: Four Female Deans But Only One With Professor Status*

Below is a consideration of the School of Law's administration. Emphasis is placed upon the deans, associate deans with professorships, associate deans with professor emeritus, associate deans and assistant deans without professorships.

a. **Dean of the School of Law: Uncharted Territory for Females at Gonzaga University School of Law**

From 1995-2001, the national percentage of female deans underwent a period of decrease followed by a period of increase.¹⁰² In 1995-96, 8.4% of deans were female, with that figure falling to 8.3% in 1996-97, and to 7.8% in 1997-98.¹⁰³ In contrast, 10.4% of deans were female in 1997-98, with that figure rising to 10.9% in 1998-99 and 12.5% in 2000-2001.¹⁰⁴

Gonzaga University School of Law automatically grants its deans professor status. In accordance with the aforementioned statistics, Gonzaga University currently has a male dean and has *never* had a female School of Law dean.¹⁰⁵

¹⁰⁰ See *id.*

¹⁰¹ See Wolfram, *supra* note 74, at 205.

¹⁰² See Richard A. White, *Association of American Law Schools Statistical Report on Law School Faculty and Candidates for Law Faculty Positions 2000-01*, at <http://www.aals.org/statistics/index.html> (Sept. 26, 2002).

¹⁰³ See *id.*

¹⁰⁴ See *id.*

¹⁰⁵ The pictures of the deans prominently displayed on the second floor serve as a constant reminder of this fact.

b. Associate Deans With Professorships: One Associate Dean at Gonzaga University School of Law is Female

The percent of female associate deans with professorships nationally ranged from 24.6% in 1995-96 to 29.2% in 2000-01.¹⁰⁶

Gonzaga University School of Law has one associate dean with a professorship, the Associate Dean of Academic Affairs. As such, she enjoys faculty status and a faculty vote. This Associate Dean has the honor of being the school's first female academic dean.

c. Associate Deans With Professor Emeritus Status: One Associate Dean With Professor Emeritus Status at Gonzaga University School of Law is Male

Gonzaga University School of Law has one associate dean/professor emeritus. He is male.

d. Associate Deans Without Professorships: The Only Associate Dean Without a Professorship at Gonzaga University School of Law is Female

While 49.6% of American associate deans without professorships were female in 1995-96, that number grew to 55.1% in 2000-01.¹⁰⁷ The position of Associate Dean of Student Affairs of Gonzaga University School of Law was created in the early 1990s. It was a position first held by a woman. The current part-time Associate Dean of Student Affairs is also a woman. As a female legal research and writing instructor, she is the school's only associate dean without professor rank and job security. Due to her instructor status, however, she possesses faculty rank and the ability to participate in faculty votes.

e. Assistant Deans Without Professorships: Both Assistant Deans Without Professorships at Gonzaga University School of Law Are Female

From 1995-2001, the majority of assistant deans without professorships in American law schools were overwhelmingly female.¹⁰⁸ The exact percent ranged from 71.6 in 1995-96 to 69.4 in 2000-01.¹⁰⁹ In accord with these statistics, of the two assistant deans without professorships (Assistant Dean for Admissions and Recruiting and Assistant Dean for Alumni Development and

¹⁰⁶ See White, *supra* note 102.

¹⁰⁷ See *id.*

¹⁰⁸ See *id.*

¹⁰⁹ See *id.*

Career Services) at Gonzaga University School of Law, both are female. These deans do not teach and they do not have Juris Doctorate degrees. Thus, these deans do not enjoy faculty rank. Nor do they exercise a faculty vote.

f. Conclusion: Gonzaga University School of Law Has Significant Female Administrative Presence With Little Tenure and Voting Power

Gonzaga University School of Law has six deans/associate deans. Of those six, four (67%) are female. However, of those four, only one (17%) is protected by tenure status. Further, only two (33%) of the four have faculty status and the ability to vote in faculty decisions. Thus, although female deans have a strong presence in the administration of Gonzaga University School of Law, the staying power and voting power of such women is extremely limited.

3. *The Faculty of Gonzaga University School of Law: Overall Female Faculty Without Professor Rank and Tenure Shield, Female Faculty of First Year Students Wavering*

This consideration of the Gonzaga University School of Law faculty is broken down into general faculty members and those faculty members teaching first year students.

a. Faculty in General: Majority of Female Faculty at Bottom of Both Rank and Tenure

One law school gender study found that males were more likely to speak in classes taught by male professors and females were more likely to speak in medium-sized classes of lesser-known schools that are taught by women.¹¹⁰ Another study noted that, "[a]s long as women . . . do not appear on the faculty, we will infer the faculty who do appear consider us inferior as present or future scholars and teachers, and we will be angry."¹¹¹

Similar sentiments resulted from the 2001 Andrews Ames gender study of Gonzaga University School of Law. The female students quoted therein "indicated feeling more at ease and more willing to participate in law classes taught by female professors."¹¹² More specifically, they stated:

¹¹⁰ See GRAPEVINE, *supra* note 14, at 7.

¹¹¹ Weiss & Melling, *supra* note 17, at 1357.

¹¹² Andrews Ames, *supra* note 88, at 17.

It seems like with the female teachers it is easier to talk, but it is because they talk more and they ask for participation more, like Prof. ***. Everybody talks in her class all the time. 2L¹¹³

Other professors I have known on a friendship basis like Prof. *** and I adore her. She is a great role model for women students because she doesn't have to act . . . you know that she values a women's place in the law without overvaluing it. As if it has to be on a soapbox every day. She does her job, and she does it well. She is highly intelligent, sarcastic, and I've been really glad that she is at the law school. 3L¹¹⁴

Like I said, I'd like to see more female teachers. We've seen Prof. *** all year. And I know Prof. *** is wonderful, but I haven't had a lot of interaction with her. So I think that would be really helpful. 1L¹¹⁵

In 1996, 28% of the faculty of Gonzaga University School of Law was female.¹¹⁶ In 1997, that number dropped to 27%.¹¹⁷ Academic years 1998-99,¹¹⁸ 1999-2000,¹¹⁹ and 2000-01¹²⁰ all presented another drop to 25%. Most recently, there was a significant increase in female faculty. The 2002-03 Student Handbook of Gonzaga University School of Law lists thirty-eight full-time faculty members.¹²¹ Of those, fifteen (39%) are female.¹²² Of the listed females, one is adjunct and another has left the law school. When these two women are removed from consideration, thirteen (36%) of the thirty-six current full-time faculty are female. Apart from these general numbers, the most meaningful way in which to consider the faculty is according to their (i) rank and (ii) tenure status.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 18-19.

¹¹⁶ See LAW SCHOOL ADMISSIONS COUNCIL, THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 180 (Bantam Doubleday Dell 1997).

¹¹⁷ See THE PRINCETON REVIEW, THE BEST LAW SCHOOLS 250 (Bantam Doubleday Dell 1998).

¹¹⁸ See LAW SCHOOL ADMISSIONS COUNCIL, THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 176 (Broadway Books 1999).

¹¹⁹ See LAW SCHOOL ADMISSIONS COUNCIL, THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 178 (Times Books 2000).

¹²⁰ See LAW SCHOOL ADMISSIONS COUNCIL, THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 174 (Law Schools Admission Council, Inc. 2001).

¹²¹ See GONZAGA SCHOOL OF LAW STUDENT HANDBOOK 4-6 (2002-03).

¹²² See *id.*

i. Faculty Rank: The Majority of Female Faculty of Gonzaga University School of Law Rank at the Bottom

The faculty of Gonzaga University School of Law is of several ranks. Below is a consideration of professors, associate professors, assistant professors, lecturers and instructors and professors emeriti.

(I) Professors: Female Presence at Gonzaga University School of Law Well Below the National Average

The number of female professors in American law schools has steadily increased since 1995.¹²³ It rose from 18.1% to 22.9% in 2000-01.¹²⁴ Of the eighteen current full professors at Gonzaga University School of Law, only three (17%) are female. In fact, Gonzaga University School of Law has awarded only these three women full professor status since its founding ninety-one years ago. On the other hand, fifteen male members of the current faculty hold such status, and many more males have been full professors over the years.

(II) Associate Professors: Female Presence at Gonzaga University School of Law Well Above the National Average

The percent of female associate professors in American law schools experienced a steady increase since 1995.¹²⁵ Whereas 41.8% of associate professors were female in 1995-96, 46.5% were female in 2000-01.¹²⁶ Of the current nine associate professors of Gonzaga University School of Law, six (67%) are female.

(III) Assistant Professors: One Assistant Professor at Gonzaga University School of Law is Female

National female representation in assistant professorships has experienced a number of rises and falls since 1995.¹²⁷ The lowest point was 48.0% in 1999-2000.¹²⁸ The highest point was 52.8% in 1995-96.¹²⁹ One faculty member of Gonzaga University School of Law is currently considered an "assistant professor." That faculty member is female.

¹²³ See White, *supra* note 103.

¹²⁴ See *id.*

¹²⁵ See *id.*

¹²⁶ See *id.*

¹²⁷ See *id.*

¹²⁸ See White, *supra* note 102.

¹²⁹ See *id.*

(IV) Visiting Professors/Instructors: One Visiting Professor at Gonzaga University School of Law is Female, the Other is Male

Visiting faculty members have year-to-year employment status. The percentage of females holding visiting professorships varied from 44.1% in 1995-96, to 41.6% in 1996-97, 40% in 1997-98, to 39% in 1998-99 and 1999-2000, and finally to 42.1% in 2000-01.¹³⁰

The one "visiting instructor" at Gonzaga University School of Law is female, while the sole "visiting professor" is male.

(V) Instructors: Forty-Three Percent Female at Gonzaga University School of Law

Instructors typically work on year-to-year employment contracts. National proportions of female instructors show periods of increase and decrease from 1995-2001.¹³¹ While the lowest percent was 66.1% in 2000-01, the highest was 70.8% in 1995-96.¹³² A common national finding is the "pink ghetto," referring to accumulations of female faculty in non-tenured positions as clinic and/or legal writing and research instructors.¹³³

Legal research and writing teachers of Gonzaga University School of Law have instructor status and work on year-to-year contracts. The School of Law cannot be said to have a pink ghetto. Of the seven current legal research and writing instructors, three (43%) are female.

(VI) Professor Emeriti: The Only Professor Emeritus at Gonzaga University School of Law is Male

The percent of deans and professors emeriti nationally has been overwhelmingly male.¹³⁴ The percent of females in this category was as low as 5.5% in 1996, and as high as 6.6% in 2000-01.¹³⁵

Gonzaga University School of Law has never had a female faculty member retire and seek emeritus status. Thus, the sole professor emeritus faculty member is male.

ii. Faculty at Gonzaga University School of Law According to Tenure Status: The Majority of Females Lack Such Status

An analysis of the tenure status of the School of Law faculty follows. More specifically, the focuses are: tenured faculty, tenure-track faculty and non-tenure/non-tenure-track faculty.

¹³⁰ See *id.*

¹³¹ See *id.*

¹³² See *id.*

¹³³ ELUSIVE EQUALITY, *supra* note 52, at 32-33.

¹³⁴ See White, *supra* note 102.

¹³⁵ See *id.*

(I) Tenured Faculty of Gonzaga University School of Law: Continuing Tradition of Few Tenured Females

Gonzaga University School of Law has a "six year up or out" system for tenure-track positions. At the faculty member's sixth year, she must both apply for, and gain, tenure status, or leave. All full professors at Gonzaga University School of Law are tenured. Thus, the fifteen male professors and three female full professors have tenure. Three additional women (an associate professor, the Director of the Law Library and a library staff member responsible for collections and information access) and one additional male (Director of the Clinical Law Program) also enjoy tenure status. Thus, six (27%) of the twenty-two tenured faculty are female. When library personnel are excluded, only four (18%) of the twenty-two tenured teaching faculty members are female.

A historical point worth mentioning is that Gonzaga University School of Law has awarded tenure to only nine women faculty members since it was founded in 1912. Three (33%) of the nine were library faculty and the remaining six were classroom teachers. Of the nine, three (33%) have left Gonzaga, with two (22%) of them teaching at other law schools.

(II) Tenure-Track Faculty of Gonzaga University School of Law: 75 % Female

Gonzaga University School of Law currently has four tenure-track professors. Of those, three (75%) are female.

(III) Non-Tenure and Non-Tenure-Track Faculty of Gonzaga University School of Law: 33% Female

The non-tenure and non-tenure track faculty of Gonzaga University School of Law are of two varieties. First are the legal research and writing professors. The School of Law currently has seven such instructors, three (43%) of which are female. The second variety of non-tenure and non-tenure track faculty are clinic personnel. One member of the clinic faculty, a male, has a long-term contract. The remaining clinic faculty – one male and one female – are eligible for long-term contracts. Thus, three (33%) of the nine non-tenure/non-tenure track faculty are female.

iii. Conclusion: Female Faculty of Gonzaga University School of Law Facing Glass Ceiling Are Non-Professors and Non-Tenured

When the aforementioned faculty positions are considered as a whole, the school's current full-time faculty is 36% female (thirteen females of thirty-six total full-time faculty). At first glance, this percentage appears sufficient. However, the school's "glass ceiling" is very real. Again, of the eighteen current full professors, only three (17%) are female. Moreover, few women have reached tenure status. Only six (27%) of the current twenty-two

tenured faculty are female. This number is even lower when library staff is removed, leaving only four female (18%) out of the current twenty-two, tenured professors.

**b. Professors of a Typical First Year Student at Gonzaga
University School of Law: Female Faculty Teaching First Year
Students on the Rise, Yet Lower Than Twelve Years Ago**

This section considers the teachers of a "typical" first year student at Gonzaga University School of Law. "Typical" describes a full-time student who takes six courses each semester. Such a student takes Civil Procedure, Contracts, Legal Research and Writing, Property and Torts in both semesters. She also takes Criminal Law in the first semester and Constitutional Law I in the second semester. An example of an "atypical" first year student is one who starts law school in the summer before her first year. Males *always* teach the many Gonzaga students who take this alternative path, as *none* of the summer teachers of first year classes have ever been female.

The chance of a typical first year student to have a female professor in a particular class depends largely on the course. Taken as a whole, the first year curriculum involves thirty credits. From 1991 to 1992, eleven (37%) out of thirty first-year credits were taught by females. In 1994-95, that number fell to 6.1 (20%). In 1995, it fell even further to 4.1 (14%). In 1996, it climbed to ten (33%), only to fall to 2.7 (9%) in 1997. By 2000, the number rose to 8.4 (28%). In 2001, it receded to 7.9 (26%), only to rise to 10.7 (36%) in 2002. This most recent increase was due to the fact that three of the five hires for academic year 2002-03 were female. Fortunately, this pattern will continue in 2003-04. Two female faculty who will teach first year classes have already been hired.

While the numbers for recent years illustrate a slight dip followed by a significant climb, two points illustrate their deficiencies. First, the final results from 2002, representing a climb, actually represent numbers lower (10.7/36%) than those twelve years ago (11/37%). Moreover, they remain incompatible with the first year class, which is currently 42% female.

**4. Conclusion: Lack of Female Faculty and Female Faculty Rank Sends
Negative Messages to Female Students of Gonzaga University School of
Law**

Although 65% of its current administration is female, Gonzaga University School of Law has yet to have a female dean.¹³⁶ Further, only

¹³⁶ See *supra* Part II.B.2.a-f (discussing the female proportion of administrative officers at Gonzaga University School of Law).

thirteen of the thirty-six (36%) full time faculty members are female.¹³⁷ Additionally, of the seventeen full professors, *only three* (17%) are female.¹³⁸ At a time when female law student populations as well as the numbers of females practicing law are on the rise, these numbers, as well as the messages they send to female students regarding the place of women in the legal profession, are inexcusable.

C. Catalogues of Gonzaga University School of Law: Female Depictions and Articles About

A logical step following a description of the building and the makeup of the Gonzaga University School of Law population is an analysis of its advertisements and catalogues. This section analyzes five catalogues from 1999-2000, 2000-01, 2001-02, 2002-03, and 2003-04. Careful attention is paid to the gender of the catalogues' photographs and subject matter.¹³⁹

1. *Gender of Photographs: Numerous Depictions of Females at Gonzaga University School of Law*

The recent catalogues of Gonzaga University School of Law adequately represent (if not over-represent) the female population of the school. Whereas only 30% of the primary depictions were of females in the 1999 catalogue, such illustrations ranged from 48% in 2001 to 60% in 2003. Similarly, whereas 33% of the primary depictions were of females in 1999, that number steadily rose to 54% in 2003. Similarly, overall female representation steadily rose from 35% in 1999 to 53% in 2003.

2. *Gender of Article Subject Matter: Numerous Articles on Females at Gonzaga University School of Law*

Because "feature articles" were not used in the earlier editions, the catalogues of 1999-2001 are excluded from this consideration. In both of the more recent catalogues, however, women are over-represented: females outnumbered males in subject matter five to three.

¹³⁷ See GONZAGA SCHOOL OF LAW STUDENT HANDBOOK 4-6 (2002-03) (listing the faculty members of Gonzaga University School of Law).

¹³⁸ See *id.*

¹³⁹ Two distinctions will be used to describe the visual subject matter analyzed. First is the distinction between "primary" and "secondary." "Primary" is defined as "first in importance." NEW WEBSTER'S DICTIONARY AND THESAURUS OF THE ENGLISH LANGUAGE 794 (Lexicon Publications, Inc. 1992). "Secondary" is characterized as "second in succession, rank, importance." *Id.* at 902. Thus, "primary" is used in this consideration to connote the individual most facing the camera or a solitary individual in a photograph. "Secondary" connotes an individual who forms the minor aspects of the picture. A second precursor is that catalogue pages without pictures of people are omitted from this consideration.

3. *Conclusion: Females Over-represented in Catalogues of Gonzaga University School of Law*

As the above subsections indicate, females are over-represented in both subject matter and illustrations in most of the recent School of Law catalogues.

D. The Classroom Experiences at Gonzaga University School of Law: Female Students Speaking and Receiving Positive Recognition Less Frequently

This section considers the classroom environment of the School of Law. Subsections analyze volunteer student participation, unsolicited student comments, professor comments and reactions to student comments, miscellaneous professor comments and gender-related events and peer intolerance.

The research for this section occurred during the Spring 2002 semester. It began as an extra credit project for Education Law, a course taught by Professor Lynn Daggett. The four analyzed classes were not randomly selected. They were three classes in which the author was voluntarily enrolled, along with a first year class for which the author was the Student Bar Association tutor. From February to mid April, the author took careful notation regarding the aforementioned five elements. Barring classmates who sat in close proximity,¹⁴⁰ few students were aware of the study. In order to avoid tainted results, the professors were unaware of the study.¹⁴¹

1. *Class Participation and Gender: Female Participation Less Likely at Gonzaga University School of Law*

Classroom participation is heralded as a key component to legal education and "[m]ost legal academics agree that what happens in the classroom is important to the total law school experience, and that a diminution in one's ability to partake in and benefit from classroom discussions limits one's ability to benefit from law school instruction."¹⁴²

The most common finding of previous gender studies was that male law students voluntarily spoke more often than females.¹⁴³ A University of

¹⁴⁰ In the author's opinion/observation, even the behavior of those students did not change nor adversely affect the results of this study.

¹⁴¹ Even Professor Lynn Daggett, the Education Law professor who sponsored the author's early research, was unaware of the author's data collection efforts until the research was near completion.

¹⁴² Taber et al., *supra* note 8, at 1256. *But see supra* notes 57-68 (discussing a Brooklyn study concluding that class participation did not impact academic performance).

¹⁴³ See GRAPEVINE, *supra* note 14, at 7; Torrey et al., *supra* note 17, at 275-76; Jennifer Rosato, *supra* note 17, at 45-46; Fischer, *supra* note 15, at 90-95; *see also* Guinier et al., *supra* note 17, at 3

Chicago study, for example, reported that, "women volunteered 0.74 times for every one time a man volunteered."¹⁴⁴ Similar sentiments are echoed in the following statements made by female students of Gonzaga University School of Law:

I was very, very quiet, very reserved, and felt even more pressure in the small group than I did in large classes because of the lack of anonymity. I basically felt inadequate in all classroom settings, unable to make comments or to project myself into the conversation, often unable to think as quickly as others did, or to come up with insightful or relevant things to say.

I remember the second small group meeting. It was the first time I was ever called on. I hadn't spoken. It was an easy question, and I just couldn't answer it. I couldn't think to do it, and that became a pattern . . . I felt as though I were missing some gene or protein. Everyone else could spew forth arguments, which I couldn't do.¹⁴⁵

When I got there, I decided I was going to knock 'em dead. I felt I'd been let in for suspicious reasons, so I was extra conscientious. I took class notes on white paper and reading notes on yellow. I raised my hand in [class]. I felt I was working hard to get to this point. Others seemed to do it naturally . . . [Now] I definitely speak a lot less . . . I wasn't made to feel that what I was saying was necessarily worthwhile. Very often I felt like – I don't know why I was feeling this way – but like I was wasting the class's time.¹⁴⁶

The 2001 Andrews Ames study of Gonzaga School of Law reported similar findings. Female students made the following comments:

I haven't participated that often. Usually, I will participate more in the smaller classes than I will in the larger class setting. In the first year I wouldn't participate at all. I was very uncomfortable participating . . . I didn't want to get backed into a corner with professors. 3L¹⁴⁷

I don't participate unless I am called on . . . unless I am in a smaller class with twenty people or less. 3L¹⁴⁸

(noting the disparate participation of male & female students at University of Pennsylvania School of Law); Taber et al., *supra* note 8, at 1255 (noting the disparate participation of male and female students at Stanford Law School); Weiss & Melling, *supra* note 17, at 1333 (noting the disparate participation of male & female students at Yale Law School).

¹⁴⁴ GRAPEVINE, *supra* note 14, at 30.

¹⁴⁵ SADKER, *supra* note 7, at 185-86 (citing Weiss & Melling, *supra* note 17, at 1344).

¹⁴⁶ *Id.* at 188.

¹⁴⁷ Andrews Ames, *supra* note 88, at 16.

¹⁴⁸ *Id.*

It is interesting because I have always been a person who has always participated . . . I have always had an opinion and been fairly confident in myself to vocalize that opinion, but in law school that has really escaped me. I mean in the smaller classes I am able to talk sometimes . . . I am not as passionate about my beliefs and I don't think that my opinion is as important as much as I thought earlier in life. 3L¹⁴⁹

a. Class One: Insufficient Female Participation

Class One was a medium-size required first year class instructed by a male professor. During the nine-week observation period, the students were in their second semester of the class with the same professor. Thirty-seven (59%) of the students in the class were female, and twenty-six (41%) were male. Of the four analyzed courses, the students of Class One provided the second highest number of comments. More specifically, the students provided a total of 327 volunteer comments or answers. This meant that, on the average, each student provided approximately five comments during the observation period.

It is important to note that Class One was the only analyzed class taught by a male professor. However, that male professor made *a number of efforts* to ensure a positive classroom environment. He gave a number of favorable gender-related comments throughout the semester,¹⁵⁰ and also instituted methods of pre-selecting speakers that caused increased female participation.¹⁵¹

Regardless, only 143 (44%) of the volunteer comments and answers were provided by female students (who constituted 59% of the class), while 184 (56%) were provided by males (who constituted 41% of the class). Thus, female participation was 16% lower than the percentage of women in the class, while male participation exceeded its class representation by 15%. Alternatively, only four comments were made by an average female in Class One, while the average male made seven comments. Thus, the volunteer student participation of Class One was overwhelmingly male.

b. Class Two: Sufficient Female Participation (with a Caveat)

Class Two, a small elective course instructed by a female professor, was comprised of thirteen (59%) female students and nine (41%) males. With 524 comments, Class Two was the most participatory class with the average

¹⁴⁹ *Id.*

¹⁵⁰ See *infra* Part II.D.4 (detailing the positive gender-related comments of Professor One).

¹⁵¹ See *infra* Part IV.C.3 (describing the speaker pre-selection methods utilized by Professor One and his positive impact on the gender of student speakers).

student providing approximately twenty-four comments during the nine-week observation period. These comments were roughly proportionate to the class makeup. Females contributed 336 (64%) of the total comments and males contributed 188 (36%). Thus, the average woman provided approximately twenty-six comments, while the average man provided twenty-one.

As a side note, contributing in large part to this 5% over-representation of participation by women students was a particularly outspoken female. The female frequently spoke out without raising her hand. Such comments ranged between four and fifteen times a class, totaling ninety-four over the semester. The exclusion of her participation results in 242 female comments and 188 male bringing the numbers into better proportion (56% female and 44% male) to the actual class population (59% female and 41% male).

c. Class Three: Insufficient Female Participation

Class Three, an elective course, had a female professor. Of the eighty-four students in the class, forty (48%) were female and forty-four (52%) were male. Class Three had 227 total volunteer comments during the nine-week observation period. Thus, it had the lowest voluntary student participation.¹⁵² The average student provided nearly three comments. The volunteer class participation of Class Three was quite disproportionate to its class population. Females accounted for ninety (40%) of the total comments, while males accounted for one hundred and thirty-seven (60%). In other words, for every three comments made by male students, there were only two made by female students.

d. Class Four: Insufficient Female Participation

A female professor taught Class Four, an elective course, which was comprised of fifteen (36%) male students and twenty-nine (64%) female students. These forty-four students made 307 volunteer comments, the average student making seven comments during the nine-week observation period. Thus, Class Four placed third as to the total volunteer participation. The in-class participation of Class Four females was inconsistent with their general population. Although the class was 64% female, males made over half of the comments. More specifically, males made 52% of the volunteer comments, while females made 48%. In other words, the typical male made almost eleven comments during the observation period, while the average female made ten.

¹⁵² This was due in large part to the fact that Professor Three pre-assigned via inverse alphabetical order two student speakers a day. See *infra* Part IV.C.3 (describing this "pre-selection" method).

**e. Conclusion and Summary: Female Students at Gonzaga
University School of Law Volunteering to Speak Much Less
Often in the Four Classes Analyzed**

The results of this study were consistent with those of prior gender studies.¹⁵³ The female students of the analyzed Gonzaga University School of Law classes generally spoke less often than their male counterparts. In three of the four courses, females accounted for less than half of the volunteer comments. More specifically, in those three courses, females consumed 40%, 43% and 48% of the class time dedicated to volunteer comments. Moreover, in three of the four courses, the percent of female participation was significantly less than the percent of females in the class. In Class Four, a class that was 64% female, the female students provided only 48% of the volunteer comments, a deficit of 16%. In Class One, a class that was 59% female, only 44% of the comments came from women, a 15% deficit.

In Class Three, a class that was 48% female, only 40% of the comments were female, a 4% deficit.

The one exception to these general rules was Class Two, a class that was 59% female.¹⁵⁴ Therein, 64% of the volunteer comments were provided by women. However, one talkative female student significantly contributed to this result. When her numbers are eliminated from the calculation, the class participation was proportionate to that of its population.

These results should not go unnoticed. As a female first year student noted in a gender study of Gonzaga University School of Law completed in 2001:

Primarily something that I think is a little problematic in terms of women's issues is that I think guys basically dominate a lot of the class conversation. I think very rarely do the girls raise their hand, which is a shame because I guess our class is almost 50% female. So that is kind of frustrating because it tends to be a little male dominated.
1L¹⁵⁵

*2. Unsolicited Student Comments and Gender: Female Students More Likely
to Call Out Than Males*

This section considers "unsolicited comments." This term is used to indicate comments randomly made by students who were not acknowledged to speak. Class One, a first year course that was 59% female and taught by a male professor, was the only course in which the majority of the unsolicited

¹⁵³ See *supra* note 143 and accompanying text listing the studies, which have found lower rates of female participation than male.

¹⁵⁴ See *supra* Part II.D.1.b (discussing the participation rates for Class Two).

¹⁵⁵ Andrews Ames, *supra* note 88, at 16.

comments (54%) came from males. In the three remaining courses (all of which were taught by women), female students made the vast majority of call-outs. More specifically, females accounted for 84% of such comments in Class Two, 76% in Class Three, and 88% in Class Four.

Also noteworthy is the point that specific females in each of these classes routinely made such comments. For example, one female student made ninety-four (56%) of the 169 female call-outs in Class Two. Six of the thirty (20%) Class Three unsolicited comments were made by "repeat offenders." Finally, of the forty-nine call-outs made in Class Four, 35%, were from female students.

3. *Professor Comments/Reactions and Gender of Receiving Students: Female Students Receiving Either More or Less than Their Share of Positive Comments*

Female students interviewed in a 1988 Yale study noted that professors "treat women with hostility or pretend that women don't exist in law classes."¹⁵⁶ Another study found "47% of the female respondents said their professors had used offensive 'humor' in the classroom."¹⁵⁷ As an illustration of such occurrences and statistics, a student stated:

In two classes, I felt like the professors kind of ignore my points because I'm a woman. In one course, they [. . .] kind of went like "uh-huh" and go on, and then somebody else would say the same thing and we'd get into a discussion about it, and it was always when a man said the same thing.¹⁵⁸

The following Gonzaga experience is noted in the Andrews Ames study:

I do remember a time in class – it made me really angry. I was unprepared for class that day . . . So my professor asked me, "what do you have to say about such and such a case?" And he asked us at the beginning of the year to tell him when you are unprepared . . . and I did it. And he proceeded to go on a rant. It felt like a rant to me. And he proceeded to say, "well I guess your partner over there, your friend Mr. *** will have to pick up your slack. *And I give you permission to hit her after class. You can go beat her up after class for putting you in that position.* Well I wasn't going to let him get away with that comment so I said, "hey!"

I mean I didn't know what more to say because you can't really confront someone in class and I am already embarrassed. So, I said "hey" and he backed off and that was that. Later that day, he e-

¹⁵⁶ Weiss & Melling, *supra* note 17, at 1335.

¹⁵⁷ Torrey et al., *supra* note 17, at 274 (referring to Lovell Banks, *supra* note 21, at 140); see also Rosato, *supra* note 17, at 49 (noting the use of sexist jokes by male professors).

¹⁵⁸ Sadker, *supra* note 7, at 188 (1994) (citing Weiss & Melling, *supra* note 17).

mailed and apologized for the comment but I kept it in the back of my head . . . I am still concerned that people are perceiving me as unintelligent. He was dismissive with women students in our class. I do recall that. And it is hard to pinpoint because it is not overt. It is just a feeling that you start to get that they assess you and judge you. 3L¹⁵⁹

Another third year student noted:

I would say there are two professors that I feel bothered by. They are both men and I think they respond to me differently because I am a woman. One professor is very aggressively affectionate, touchy – makes me feel very uncomfortable. It's very obvious to many women at our school that he adores women. And you know [he] gives special deference to women in his classes and exceptions . . . and I think that sets up a discrimination between the men and women. If you were a man you would feel bothered that these women are always getting special treatment, but also as a woman, I don't like to get that special treatment. 3L¹⁶⁰

Finally, a first year noted:

It's kind of interesting. 'Cause I think some teachers . . . and I think they don't do this equally with men and women . . . they interrupt a bit faster or I have noticed patterns sometimes where it seems like teachers will ask simple questions like give me the facts to a woman, but when it comes to the actual analysis they will ask a man. Like in [professor name]'s class, I think that happens a lot and this is kind of frustrating. I was kind of keeping a tally on that for a while and it really was [frustrating] me that it seems like we can only answer the medium questions sometimes.¹⁶¹

a. Class One: Female Students Receiving Less Than Their Fair Share of Positive Comments

To review, Class One was a first year course instructed by a male professor. While 59% of the students were female, 41% were male. The males accounted for 56% of the volunteer comments, while the females accounted for 41%.

Of the seventeen positive comments made by Professor One, seven (41%) went to females, while ten (59%) were directed at males. Thus, these numbers represent an opposite correlation to the class population; females, representing 59% of the course, received 41% of the positive comments, while males, representing 41%, received 59% of the positive comments.

¹⁵⁹ Andrews Ames, *supra* note 88, at 17-18.

¹⁶⁰ *Id.* at 17.

¹⁶¹ *Id.*

b. Class Two: Females Students Receiving More Than Their Fair Share of Positive Comments

Class Two was instructed by a female professor and was comprised of thirteen (59%) female students and nine males (41%). Females accounted for 64% of the volunteer comments.

Of the eight positive professor remarks, five (63%) were directed at female students while three (37%) were in reaction to males. The professor even dubbed a female student "an expert on Washington truancy laws." Additionally, on the four occasions in which the professor referred to particular students for assistance based on their experience, three (75%) were female. Finally, while the professor solicited nine (69%) female comments based on things such as facial expressions or nodding, she solicited four (31%) such comments from male students.

c. Class Three: Female Students Receiving Slightly Less Than Their Fair Share of Positive Comments

Class Three was 48% female and had a female professor. Those females made 40% of the volunteer comments. Interestingly, with forty-one positive comments, Professor Three was, by far, the most encouraging professor.¹⁶² Eighteen (44%) of those comments were directed at females, while twenty-three (56%) were directed at males. One comment made by Professor Three was most notable. In reaction to a female student answering the majority of sample exam questions, the professor kindly stated, "we cannot have [name] answering all the questions."

d. Class Four: Females Receiving More Than Their Fair Share of Positive Comments

Class Four was 34% female and was taught by a female professor. Class Four female students contributed 48% of the volunteer comments. Because the course was primarily lecture-based, the professor provided only eleven favorable comments. Six (55%) went to females, while five (45%) to males.¹⁶³ Noteworthy comments included, "you are saying good things; speak up" to a female, and "I'm looking at the clock" while cutting a male student short.

¹⁶² Comments included, "excellent answer," "good," "exactly," "excellent," and "it's a really good question."

¹⁶³ Professor Four's comments included, "good point," "good question" and "I'm really glad you asked that."

**e. Conclusion: Female Students at Gonzaga University School
of Law Receiving Either More or Less Than Their Fair
Share of Positive Comments**

The overall percentage of professor positive comments directed at female students either exceeded or failed to meet the percentage of female students in a given course. In terms of the former, the positive comments given to females in Class Two exceeded (63%) that of its population (59%). Similar results occurred in Class Four, where females accounted for 34% of the population and 55% of the positive comments corresponded. In terms of the latter, an 8% deficit between the population (59%) and comments (51%) occurred in Class One, while a 4% deficit (48% female population and 44% of the positive comments) resulted in Class Three.

*4. General Professor Comments and Gender: Both Positive and Offensive
Gender-Related Comments Made*

In addition to direct statements, professors can use sexist and/or degrading humor. In fact, "47% of the female respondents [in a prior gender study] said 'their professors had used offensive 'humor' in the classroom.'"¹⁶⁴ Such incidents were reported in the 2001 Andrews-Ames study of Gonzaga University School of Law. Therein, a third year noted:

Another professor is just mean . . . I've never actually taken a class from him, but from a program I'm involved with he's the faculty advisor and he has definitely been harsh to certain women in our program and I think it is definitely gender related. One time he said to me, "Oh, there's the bad girl" when I couldn't attend one of his requirements. That still has stuck with me because I don't think he would ever say – "oh there's the bad boy."

So those two in particular . . . but other than that I think ou[r] school does strive to bring all different kinds of people up and respect all people. 3L¹⁶⁵

Still another Gonzaga first year student noted:

In a class he made a joke that came off just very sexist . . . the gist of it was there was a man and a woman and she was a prostitute and they were debating the price of how expensive it would be and it started out expensive and got cheaper and cheaper and she said ["]What kind of woman do you think I am?[" and he replied, "Well, we've already established that[,] now I am just trying to figure out what

¹⁶⁴ Torrey et al., *supra* note 17, at 274 (referring to Lovell Banks, *supra* note 21, at 140); see also Rosato, *supra* note 17, at 49 (noting the use of sexist jokes by male professors).

¹⁶⁵ Andrews Ames, *supra* note 88, at 17.

your cost is." And I think that . . . it made us shift in our seats and look at each other just feeling really uncomfortable. So I think that is one class where we don't need to raise our hand as much.

My teacher said something at the beginning of the year about how the law used to be logical because it was filled with men . . . In fact just this week he said Erin Brokovich is about more than Julia Roberts['] breasts. Little comments like that I think really throw things off. You know he really discourages us from writing he/she 'cause he thinks it is cumbersome, and I understand that, but at the same time [. . .] it seems like we need to be inclusive.

So[,] it is little things like that that discourage people from talking and even in class they were talking about this "Blow Machine." I guess there is this lube shop in town that blows out the engine of your car and they kept saying "blow machine," "blow machine," "blow machine," until finally one guy said, "boy, I need to get me one of those." And everybody kind of chuckled[,] you know, and there [are . . .] four females in the class. And . . . it is just strange to me sometimes the things that come out. Because I don't think the school in general fosters that kind of an environment, but sometimes I think the teachers almost feel too comfortable . . . sometimes I think the teacher thinks that we are all just hanging out and he can just say whatever he wants. But . . . I think there needs to be some lines drawn. 1L¹⁶⁶

As far as this study is concerned, it is very important to note that not every professor comment was - nor were even the majority of professor comments - negative. In Class One, for example, the professor noted that he implemented a "great" idea of a female student to initiate study groups, and he told the story of his daughter asking a boy to the prom, stating that he was "glad for this dating development."

Five negative issues were brought up by Class Three. In the initial event, the female professor announced one test question would be harder than others so as to "separate the men from the boys." In the second, the professor created a hypothetical situation in which a male student called the female professor "a slut." In the third, the professor distributed a hypothetical with two witnesses - the female was not credible, while the male was. The fourth involved a videotape played in class, depicting sixteen male students, only seven female students and an all male hypothetical. The fifth and final event involved a hypothetical situation in which a male student was accused of raping the professor after the professor had sexual fantasies about the student. After a few minutes of the professor's explanation, the male student finally interjected with "I raped you?" To which the professor

¹⁶⁶ *Id.* at 16-17.

laughed and responded, "Yes – is that so hard to imagine?"

These illustrations demonstrate two points. First, it is important that females be involved in teaching methodologies such as hypothetical situations – whether presented on videos or created by the professors themselves. Such involvement makes females feel welcome as a pivotal part of the legal realm. Secondly, mere involvement in such teaching tools is insufficient. Women cannot repeatedly be depicted as unbelievable witnesses, victims, and sluts. Rather, women must be depicted in the same light as their male counterparts, as competent lawyers, judges, and plaintiffs.

5. *Peer Reaction/Intolerance and Gender: Female Students at Gonzaga University School of Law Face Gender-Offensive Ridicule*

Just as professor comments impact the likelihood of a law student speaking in class, so too do peer reactions. The label "asshole" is commonplace in law school. This description is quickly given to the student who speaks too often in class. First year students are warned by the second and third years, "watch out, if you can't identify who the asshole is in the class, then it might be you." Further, law students commonly develop games of "law school bingo," wherein a square is crossed out when certain "assholes" speak¹⁶⁷ or certain commonplace events occur in a class.

Amidst these titles and games, males reportedly "enjoy greater peer tolerance of their remarks."¹⁶⁸ All too often, "women 'assholes' are somehow transformed into man-hating lesbians,"¹⁶⁹ or "bitches and femi-Nazis."¹⁷⁰ In reference to such, a University of Pennsylvania law student stated that she was subjected to "a group of frat boys who call you a man-hating lesbian, or a feminist – as though those are bad – if you are too outspoken."¹⁷¹ Another noted, "[a]fter I discovered that I was being called a feminazi dyke, I never spoke in class again."¹⁷² There is a vast and important chasm between these two titles; while asshole "is a 'neutral' slur describing behavior; the latter imputes membership in a despised, and often invisible, minority group or suggests an abhorrent belief system associated with members of such a group."¹⁷³

It may seem impossible that such peer reactions occur at Gonzaga University School of Law yet that is not the case. One intelligent and outspoken female who served as president of the Women's Law Caucus, has been dubbed by certain peers as a "man-hater." Her ridicule has not ended

¹⁶⁷ Guinier et al., *supra* note 17, at 82.

¹⁶⁸ *Id.* at 33.

¹⁶⁹ *Id.* at 82.

¹⁷⁰ Rosato, *supra* note 17, at 45-46.

¹⁷¹ Guinier et al., *supra* note 17, at 43.

¹⁷² *Id.* at 52.

¹⁷³ *Id.* at 82.

there. She has received numerous inappropriate and demeaning e-mail messages from fellow students. For example, in response to her solicitation of signatures for a letter encouraging the hiring of diverse staff members, she received numerous offensive electronic mail messages. One message stated the following:

I hate to tell you, but your left-wing ([Berkeley]-esque) radical views don't represent the school. Please quit littering the email system with your liberal sewage and have some respects for your fellow students. There is this thing called tact. You can have your soapbox in the WLC, please do not try to take over the rest of the school. I have strong political views but I don't persist, offend, attack, intrude, and act that I have a license to offend anyone at any time.¹⁷⁴

Or again:

For the last year or so I have done my best to hold my tongue and respect your beliefs and ideology. However, you have just defined "diversity" as that which is NOT "WHITE HETEROSEXUAL and MALE." Not only is this misguided and wrong, it is not what you normally rely on, politically correct. As I have believed for some time, now you have publicly stated your contempt for white, straight males . . . Please, stop the divisive rantings, you are personally causing significant rifts in this community . . . I do believe that you are far more d[e]structive than productive. No one I know is more sensitive to women or minorities for anything you have done.¹⁷⁵

Such comments are vicious and hurtful. They can, and do, silence female students.

6. *Conclusion: Female Students at Gonzaga University School of Law Speaking Less Often, and Possibly to Less Praise and More Ridicule*

The above data illustrates that female law students of Gonzaga University School of Law speak less often than their male counterparts, and experience fewer positive reactions from their professors and peers. In terms of the former, male students voluntarily spoke more often than females in three (75%) of the four analyzed courses.¹⁷⁶ Thus, certain female students, struggling to be heard, consistently spoke out and provided unsolicited comments.¹⁷⁷ In terms of the latter recognition component, in half of the classes, female students received less positive comments than males.¹⁷⁸ Many hypotheticals used by the professors painted females in a

¹⁷⁴ E-mail on file with the author.

¹⁷⁵ E-mail on file with the author (spelling and grammar errors reproduced as in original).

¹⁷⁶ See *supra* Part II.D.1.e (summarizing the prevalence of male volunteer comments over female).

¹⁷⁷ See *supra* Part II.D.2 (discussing the prevalence of female call-outs).

¹⁷⁸ See *supra* Part II.D.3.e (summarizing the likelihood of positive professor comments).

negative light.¹⁷⁹ Finally, peers expressing intolerance for outspoken women sent insulting and demeaning emails to those women.¹⁸⁰

E. Gonzaga University School of Law Student Organizations: Female Participation and Leadership Abound

One survey reported that female law students place greater emphasis on extracurricular activities than males.¹⁸¹ However, that same study found that females are less likely to consider themselves leaders in such groups.¹⁸²

Below is a consideration of the extracurricular organizations of Gonzaga University School of Law. The following subsections consider female participation and leadership on debate teams, journals, the Student Bar Association and other student organizations/clubs.

1. *Moot Court Teams at Gonzaga University School of Law: Strong Female Presence*

Gonzaga University School of Law has five major moot court teams: Jessup Cup, National Appellate Advocacy, National Moot Court, National Trial Team and Saul Leftkowitz Intellectual Property. In academic year 2001-02, fourteen (47%) of the thirty team members were female. In the current year, fifteen (50%) are female. Thus, females are present at rates equal to or exceeding the school's female population.

2. *Journals at Gonzaga University School of Law: Female Representation Low on Law Review, High on Across Borders*

Two journals are considered below: The *Gonzaga Law Review*, and *Across Borders*.

a. **The Gonzaga Law Review: Diminished Female Presence**

Prior studies show predominantly male law review membership. At the University of Pennsylvania, membership is determined by a writing competition and first year grades.¹⁸³ *Becoming Gentlemen*, reported that from 1990-92, an average of 29% of the *University of Pennsylvania Law Review* members and 22% of its board were female.¹⁸⁴ Meanwhile, the average female student population in that timeframe was 42%.¹⁸⁵ The study

¹⁷⁹ See *supra* Part II.D.4 (considering miscellaneous events and comments in Classes One through Four).

¹⁸⁰ See *supra* Part II.D.5 (considering student intolerance).

¹⁸¹ See Guinier et al., *supra* note 17, at 52.

¹⁸² See *id.* at 73.

¹⁸³ See *id.* at 78.

¹⁸⁴ See *id.* at 27.

¹⁸⁵ See *id.* at 78.

attributed this disparity to two factors. First was the fact that law review membership was partly contingent on first year grades, "and thus women, despite applying at rates proportionate to their numbers in the Law School . . . [were] less likely to be selected than men."¹⁸⁶ Another factor was male-dominated law review selection committees and boards.¹⁸⁷

In 1996, Linda F. Wrightman performed a study of 29,000 law students who attended 163 law schools.¹⁸⁸ Wrightman noted that male law review members outnumbered females in most top law schools.¹⁸⁹ In terms of examples, she noted that:

[A]t the 15th-ranked University of Southern California, where 41% of the student population was female, only 26% of the members of the law review were women; at the fourth-ranked University of Chicago, where 44% of the student population was female, only 30% of the members of law review were women."¹⁹⁰

Although she did not specifically describe the selection criteria used by the law reviews she mentioned, Wrightman attributed the low female memberships to the low academic performance of female students.¹⁹¹

Membership in *Gonzaga Law Review* is contingent upon academics and a notes competition. Any first year student with a grade point average of 2.7 or higher may participate in the notes competition. Once this academic threshold is met, membership rests on the submitted note.

In accordance with the aforementioned statistics, the gender of *Gonzaga Law Review* membership is disproportionate to the student body. In academic year 2001-02, the student body of the law school was 48% female. However, *Gonzaga Law Review* had sixteen (39%) female members and twenty-five (61%) male. In the 2002-03 academic year, 46% of the law students are female. Regardless, only twenty (40%) of the 50 law review members are female.

Additionally noteworthy is the Law Review board. In both years, a female was elected to the highest position of Editor-In-Chief. However, while the 2001-02 board was 63% female, the 2002-03 board is only 25% so.

b. Across Borders: Strong Female Presence

Across Borders is an on-line international law journal sponsored by Gonzaga University School of Law. This journal has a larger female membership than Law Review. In 2001-02 academic year, fourteen (47%) of

¹⁸⁶ Guinier et al., *supra* note 17, at 28.

¹⁸⁷ *See id.* at 30.

¹⁸⁸ *See* Torrey et al., *supra* note 17, at 104.

¹⁸⁹ *See id.* at 287.

¹⁹⁰ *Id.*

¹⁹¹ *See id.* at 286-91.

its member were female. Thus, *Across Borders* missed the school's 48% female population by only 1%. Its 2002-03 membership surpassed this milestone and the school's 46% female population with twenty-six (63%) of its forty-one members being female. This female representation, however, is not reflected in the board of *Across Borders*. Its 2001-02 leadership was 38% female.

3. *Student Bar Association of Gonzaga University School of Law: Strong Female Presence*

The Student Bar Association of Gonzaga University School of Law was 50% female in academic year 2001-02. In 2002-03 it was 38% female. In terms of specific offices, both school years had females elected to the role of president. In addition, both had female vice presidents.¹⁹² However, elected male class representatives outnumbered females two to one in 2001-02 and seven to one in 2002-03.

4. *Student Organizations/Clubs of Gonzaga University School of Law: Female Leadership Strong, Though Sometimes at a Cost*

The leadership of the extracurricular organizations of Gonzaga University School of Law is overwhelmingly female. This finding is common in many law schools. In a 1996 report performed by the American Bar Association Commission on Women in the Profession, a dean of a midsize northeastern law school reported that, "our women students are the leaders of many of the law school's most active student groups. They have formed a women's law caucus, which regularly sponsors panels and events of particular interest to students and faculty members."¹⁹³

Similarly, the leadership of the organizations at Gonzaga University School of Law is overwhelmingly female. In academic year 2001-02, 60% of the club leadership was female. In 2002-03, that number rose to 67%.

An office-specific analysis sheds beneficial light on this change. Recent increases occurred in three areas. Female presidents rose from 47% to 71%. Treasurers increased from 50% to 63%. Finally, other offices grew from 60% female to 62%. The treasurer/secretary position was the only one that remained constant at 100% male both years. Decreases occurred in vice presidents (from 71% female in 2001 to 68% in 2002) and secretary (from 92% female in 2001 to 69% female in the 2002-03 year).

A further point concerns the leadership of clubs focused on diversity and/or service. This includes groups such as, the Asian-Pacific Islander Law Caucus, the Black Students Law Caucus, the Canadian Law Caucus, the

¹⁹² While the 2001-02 female vice president was elected, a female president appointed the 2002-03 female vice president.

¹⁹³ GRAPEVINE, *supra* note 14, at 8.

Hispanic Law Caucus, the Multi-Cultural Law Caucus, and the Sexual Diversity Alliance. Leadership of such clubs was 78% female in 2001-02 and 67% female in 2002-03. The Child Advocacy Association, Gonzaga Public Interest Law Project, Gonzaga Student Animal Defense Fund, Street Law Society, and Student Organization for Victim's Advocacy are included in the "public interest" category. In 2001, the leadership of these organizations was 70% female. In 2002-03 it had grown to 85%.

Behind such numbers is everyday reality. Female law students must be careful in their selection of extracurricular organizations. Often, "there is no safe place; even when women [seek] the support and community of women's groups, they [may be] subjected to degrading comments about both themselves and the organization."¹⁹⁴ In referring to such comments, a student of a small Midwestern law school noted:

Our organization is a growing group but has encountered opposition. Male students make comments about the femi-Nazi group. One man said, 'why should I support a bunch of bitches who sit around and bash men? . . . Students still hesitate to join our group. I have been repeatedly told by potential members that their career would be jeopardized if they joined this group.'¹⁹⁵

Such negativity unfortunately surrounds the Women's Law Caucus of Gonzaga University School of Law. Demeaning epithets applied to this group include, "Femi-Nazis" and "men haters." The aforementioned excerpts of electronic mail messages sent to the President of the Caucus illustrate this point.¹⁹⁶ Additional demeaning messages are conveyed by the destruction or the defacing of Women's Law Caucus flyers and advertisements. In academic year 2001-02, a Women's Law Caucus member hung two professionally-made posters advertising the "Vagina Monologues" on school cork boards. She was later disheartened to find them *both* torn in two and thrown in the garbage. More recently, a Women's Law Caucus flyer hanging in the stairwell leading to the third floor of the school's library, read "Feminism is the radical notion that women are people." It was defaced by handwriting, which read "yeah right."

Due to the success of its semi-annual book sales, the Women's Law Caucus is the wealthiest extracurricular organization at the School of Law. The funds it reaps through the book sales enables the Caucus to engage in numerous activities and services. In recognition of these efforts, Gonzaga's Student Bar Association has awarded the Caucus the "best large club" award for two years running. In further recognition of these efforts, the female

¹⁹⁴ Torrey et al., *supra* note 17, at 275 (alteration in original).

¹⁹⁵ GRAPEVINE, *supra* note 14, at 9.

¹⁹⁶ See *infra* Part II.F (reprinting offensive electronic mail messages sent to the President of the Women's Law Caucus of Gonzaga University School of Law).

president of the 2000-01

Student Bar Association wrote the following electronic mail message to the members of the club:

I wanted to congratulate you on your Best Large Club of the Year Award and thank you for all you do for the law school and its students. You have amazing leadership and have been a joy to work with. I am constantly amazed by how much you do and the people you help. You are all shining stars and you should be very proud of yourselves.¹⁹⁷

Unfortunately, the awarding of "best large club of the year" lasts but a few seconds at the school's annual Heidelberg ceremony, and the above email was sent only to the members of the Women's Law Caucus.

5. *Conclusion: Strong Female Membership and Leadership in Extra-Curricular Activities of Gonzaga University School of Law, Though Sometimes at a Cost*

In academic year 2001-02, the student population of Gonzaga University School of Law was 48% female. Of the four areas considered in the previous sections, only two – that of the leadership of the Student Bar Association (50% female) and that of club leadership (60%) - either completely met or surpassed the percentage of the female student population.

In 2002-03, the school's female population fell to 46%. Even with this decrease, again, only two of the four areas previously considered, the Moot Court teams (50%) and club leadership (67%), met or surpassed the percent of the female student population.

F. *Electronic Mail Messages Sent at Gonzaga University School of Law: Degrading Commentary Flourishes*

The most gender-offensive incidents occur over the electronic mail system of Gonzaga University School of Law. Referenced below are but a few examples.¹⁹⁸ The samples are organized according to those messages regarding, female faculty and staff, those containing sexual innuendo and/or content, those referring to female appearance, and those pertaining to issues sensitive to females.

¹⁹⁷ E-mail on file with the author.

¹⁹⁸ All e-mails discussed in this section are on file with the author. Three points merit preliminary consideration. First, the names of the writers are not included. The intent of this study is not to indict a Gonzaga law student or a group thereof. Much to the contrary, its aim is to increase awareness as to "what is" in the hopes of inciting remedies leading to "what should be." See *supra* Part I.C (discussing the intent and format of this analysis). Second, the words below are true to the original form; the mistakes in grammar and spelling mistakes are those of their author.

1. *Electronic Mail Messages Regarding Female Faculty and/or Staff*

The following messages were sent by second year male students to a select list of students via the server of Gonzaga University School of Law. Each contains a number of degrading references to faculty and staff members. One generic e-mail stated, "I want to streak by [two female administrative assistants] any time I FEEL LIKE IT!! SO WHAT ARE YOU GOING TO DO WHEN [male student] COMES RUNNING OVER YOU?!!?" Others were more direct attacks on the appearance of female faculty and staff. One such message read, "Take that, [female staff member]!! We'll have a hair competition!! Your lip against my back!! I'd still give her 5-2 odds. Shit. I never win." Another message stated, "[I]nstead of getting a tan, because she is the whitest woman this side of Camryn Manheim [. . .], [female staff member] concerns herself with [an issue]. Hey [female staff member], get some SPF 10,000 and head down to Riverfront Park for heavens sakes!"

2. *Electronic Mail Messages Referring to General Female Appearance*

The appearances of female students and females in general are also privy to attack. A first year male sent a message to his female Student Bar Association Tutor entitled, "Are you in mo[u]rning?" Therein, he stated, "You seem to wear a lot of black. I am also a fan of black clothing as it is very fashionable, however, here in law school our spirits can be uplifted by wearing cheerier colors. Try some light blue. Dark hair goes well with that. It works for me. Just a friendly fashion tip from a friend."

A male Student Bar Association member has sent additional affronts. The messages he sent to the entire school make numerous references to female appearances. One such message purported to be a movie review. It stated:

Legally Blonde: chick flick with a couple of laughs, lots of pink, the Taco Bell dog (now that he's unemployed), and the *ridiculously beautiful Reese Witherspoon*. This one is Ok if you're with a lady and a bottle of wine (but then again, what isn't?), but ain't no good if you're hanging with a bunch of guys trying to pretend you know what a pedicure is

National Lampoon's Van Wilder . . . *God love National Lampoons for making a movie with a woman called Suk Mi*, a happy bulldog, *hot girls*, and a thousand other movie clichés that dare not to be PC but just plain, blow-your-choice-of-beverage-through-your-nose funny.

3. *Electronic Mail Messages Containing Sexual Innuendo and/or Sexual Content*

A third electronic mail topic is sex and sexual references. Many sexual references were made in the e-mails listed above. In a message advertising a Student Bar Association event, for example, a male officer wrote, "TONIGHT IN THE PIT: *EVERYONE GETS LAID!!!* (Kidding actually, that's from the movie PCU, which I highly recommend)." In response to a graduation party invitation, a male third year student sent a message to the third year class which read, "This is [name's] RSVP – Yo man, I be there with one of my hoes!!!!"¹⁹⁹ In reply, another third year male responded, "You diggin' some holes, or just gardening with those hoes?"²⁰⁰ Another male replied, "I am going shopping for new S-hoes for Heidelberg tomorrow if you want to come along."²⁰¹

Another series of messages began when a female law student sent a message to all students requesting a recording of "Sex in the City." In response, a male second year wrote a message to a select list of students which read, "Does anyone have the Playboy channel that would be willing to tape the upcoming season of 'Dallas Cowboy Cheerleaders: The Locker Room Scenes'?" In response, another male second year wrote, "I wholeheartedly concur with [male student] on this one. If you want us to quit watching wrestling, well this will get it done. YAY! . . . *Cheerleaders* . . . YAY!! [Name of female student] . . . BOOO!!!" In reply, another male second year wrote:

I would like to go on the record to defend sex & the city. What is not to like about that show? It is about horny women who have promiscuous pornographic sex and then sit around talking and bragging about it like men (in other words funny not like real women who just talk about their feelings and shit).

Sex = good!

Pornography = good!

Hot women naked = good!

Funny sex talk = good!

[Male student] naked = bad!

[Male student] + [female student] = match! [. . .]

Still another series of sexual messages were sent by male students to a

¹⁹⁹ Andrews Ames, *supra* note 88, at 12.

²⁰⁰ *Id.*

²⁰¹ *Id.*

group of party invitees. One contained offensive lines. It read, "You a vegetarian? 'Cause I was thinking about tossing your salad!" "You eat beans tonight? 'Cause I want to pump your gas!" Another was sent by a male student in regards to the summer activities of his female friends. It read, "I would advise the ladies . . . to make sure they build up not only their tolerances, but their chair dancing skills in the coming weeks. I will ask Joan Henning for a full refund of my tuition if you ladies aren't in prime 'wild' form when I arrive in Spokane."

The final series of messages pertained to female breasts. The initial message stated, "FYI (females only): If [male law student] gets really drunk and asks you to take your shirt off, don't take it personally. Past two beers we can't control him." A second message reiterated the point. It read, "This is just an ALERT – If [male student] comes to your front door and says he is conducting a survey and he asks you to take your shirt off . . . DO NOT TAKE YOUR SHIRT OFF!!! This is a scam, and he is only trying to see your chest. I wish I had heard about this yesterday . . . I feel so stupid" After the male student accused of the above "shirt-lifting ploy" wrote a response, another male second year wrote:

[Male name], you are a puss for wimping out like this. I thought that you were a god for almost doing one of the coolest, most spontaneous things I can imagine. Now you cheapen the experience by injecting your strong sense of morality and fear of losing public stature.

It take more guts and cool to admit that you want to get off on baked goods and be cool having others know (see American Pie, and you'll know why they made a fortune addressing the erotic-pastry fetish)

Today I have not only lost the beautiful mystique that was [male name], I have lost my child-like wonder at the compulsion of males everywhere to whip out their cock in the presence of women while in a party setting. ([Male name]'s nipples come a close second in terms of amazement)

I rue the day I worshipped your disregard for conventionalism, and fie the tragic retraction of one of the most memorable events to ever pass through the annals of Gonzaga Law.

Severely disappointed, and now-lacking of this child-like innocence

[male name]

4. *Electronic Mail Message Regarding Gender-Related Issues*

The final electronic mail message to be mentioned concerned the case of *Roe v. Wade*. During academic year 2001-02, the Women's Law Caucus of

Gonzaga University School of Law held a commemoration of the decision. To counteract a male first professor who traditionally wears a black armband on the anniversary of *Roe*, the Caucus distributed white armbands. At noon, the group played a video followed by a discussion.

In reaction to this "celebration," a third year male sent a message to all students. It read, "Today marks the landmark *Roe v. Wade* decision. Show your support by picking up one of the nifty coat hanger arm bands* available in the box by Career Services. Supplies are limited so hurry."²⁰²

5. *Conclusion: Gender-Offensive Electronic Mail Messages Have Damaging Effects*

Standing alone, these email messages may appear insignificant. However, their combined effect is extremely damaging. They send the message that the value of women lies in their physical beauty and their sexual availability to men. They create an environment that is hostile to women.

Fortunately, not every email message sent by male law students resounds with such negative themes. A positive message, written by a first year male student to the entire law school community, read:

[B]efore I begin, lets get something straight Not one other male (besides myself) and only a few females from GU Law went to the Take Back the Night rally and march. *If we are going to be advocates lets be advocates for the real and not email advocates. Show up, support others, make change happen.* I can't think of any other single issue that affects us all so personally as MENS VIOLENCE AGAINST WOMEN.

G. Female Performance at Gonzaga University School of Law: Female Presence Established

The sections above considered the Gonzaga University School of Law experience for female students. Still left to be considered is student performance. This section considers female student performance both academically and in oral advocacy competitions.

1. *Academic Performance at Gonzaga University School of Law: Female Academic Success Slightly Less in First Year, But Commonplace in Third Year*

Many law school studies found that female success academically was disproportionate to the female student population as a whole.²⁰³ The authors in *Becoming Gentlemen*, found that, "[d]espite identical entry-level

²⁰² The asterisk cross-reference near "arm bands" led to "can also be used to unlock your car if you lose or misplace your keys."

²⁰³ See Torrey et al., *supra* note 17, at 285.

credentials, the performance differential between men and women is created in the first year of law school and maintained over the first three years."²⁰⁴ More specifically, the study found that, "by the end of their first year in law school, men were three times more likely than women to be in the top ten percent of their law school class."²⁰⁵ The Brooklyn Law School study, on the other hand, discovered academic success was just as likely for its female students as for its male.²⁰⁶

As is the practice at most law schools, grading at Gonzaga University School of Law is anonymous. Students are identified on their exams only by number. Many female students at Gonzaga University School of Law achieve academically, despite the unfavorable narratives and statistics described in the previous sections. This phenomenon is explored below in a survey of the top percentage of first year classes, and the top percent of graduating classes.

**a. Top Percentages of First Year Classes: Slight Disparity
Between the Number of Females in First Year Classes and
the Number of Females at the Top of Such Classes**

Year	Percent of Females in the Class as a Whole	#1	Percent of Females in the Top 10% of the Class	Percent of Females in the Top 25% of the Class
1998-99	43%	Female	50%	42%
1999-2000	47%	Female	57%	47%
2000-01	46%	Female	27%	32%
2001-02	50%	Male	35%	45%
Average	47%	N/A	42%	42%

This table demonstrates that a female was ranked first in the first year class in three of the last four years. In addition, the female representation in the top 10% percent of the class was greater than the female student population in both 1998-99 and 1999-2000. In academic years 2000-01 and 2001-02, however, the proportion of women in the top 10% of the class was lower than the percentage of women in the class.

The top 25% percent of the class is the next category considered. In three of the four years, the proportion of women in the top 25% of their

²⁰⁴ Guinier et al., *supra* note 17, at 1.

²⁰⁵ *Id.*

²⁰⁶ See GRAPEVINE, *supra* note 14, at 28; see also *supra* notes 57-68 and accompanying text (describing the academic success of female students at Brooklyn Law School).

class was less than the percent of females in the class. Academic year 1999-2000 was the only exception. In that year, 47% of the top 25% was female and 47% of the class was female. Looking at 1998-2002 as a whole, females typically represented 47% of the student body of Gonzaga University School of Law. However, females earned only 42% of the top placements in the first year class.

**b. Top Percentages of Graduating Classes: Female Students
Outperforming Their Class Representation**

Year	Percent of Females in the Class as a Whole	Valedictorian	Percent of Females in the Top 10% of the Class	Percent of Females in the Top 25% of the Class
1998-99	38%	Female	39%	31%
1999-2000	46%	Female	36%	50%
2000-01	48%	Female	53%	50%
2001-02	47%	Female	79%	54%
Average	45%	N/A	52%	46%

This table demonstrates that females of the graduating class are generally performing very well. The last four valedictorians were female. In only one year (1999-2000), the percent of females in the top 10% of the class was less than that of the class population. Moreover, in only one year (1998-99), the percent of females in the top 25% of the class was less than that of the class population.

The averages over these four years are similarly favorable. The average percent of female students was 45%. The average percent of females in the top 10% of graduating classes exceeds that 45% by 7%, reaching 52%. Similarly, the average percent of females in the top 25% of such classes exceeds the female student population by 1%. Therefore, the deficit in performance indicated by the first year results is more than eradicated by the time of graduation.

*2. Female Performance in Gonzaga University School of Law Competitions:
Varying Female Presence, and Sometimes at a Cost*

Competitions are analyzed below according to female representation in competition winners, and gender-related comments during such competitions.

a. Varying Female Representation in Competition Winners

Gonzaga's female law students perform very well in the school's intramural oral advocacy competitions. The school holds four competitions a year including, the Client Counseling Competition, the Linden Cup (appellate advocacy), the Gillespie Trial Competition, and the Negotiation Settlement Competition. In 2001-02, eight (57%) of the twelve first and second place winners were female. More specifically, half (50%) of the first place winners were female, and six (75%) of the eight second place teams were female.

b. Gender-Related Comments During Competitions Demean and Offend

Amidst such success in competition performance is negative peer commentary. Competitions increase the ambitious nature of the law school atmosphere and attitudes and experiences during the 2001-02 Linden Cup illustrate this point. During a class discussion regarding the ban on sharing information and ideas in the competition, a female student stated:

We are breaking out in a flop sweat because we are approaching the problem. If we were truly committed to developing as lawyers, we should be able to share with one another. We could still have a viable competition and have discussion.

A male classmate responded, "I have to disagree. The real world is adversarial. If you don't like it, then maybe you picked the wrong section."²⁰⁷

In another incident, a male student stated that Linden was biased towards females because females won for the last three years. In reaction, a female student and competitor asked whether it was possible that females were smarter or more hard-working. Not even a week later, another group of males noted the supposed gender-bias of Linden. They commented on how "presentation counts," how male judges would much rather see a female in front of them than a male, and how a female's softer demeanor is so much more becoming. Again, a female competitor refused to accept that her success in the competition was due to anything but her merits. She noted that she deserved her high scores based on what the judges called her "*authoritative*," not soft, voice.

The above events and sentiments are not solitary. In the Andrews Ames study, a female second year student commented:

I think that girls are respectful of the girls and boys but I think some of the boys have problems with the girls in our class. I think that a lot of them . . . quite a few of them are very insecure and it bothers

²⁰⁷ Coincidentally, the female speaker won second place in the competition, while the male won second best oralist.

them, especially those women who actually do better than them . . . It's just something that I get the feeling and that I have just recently experienced in Linden Cup. These men, prior to my partner and I going up for oral argument, the team that we went up against who basically . . . I don't think they respect women law students, and they said, "Oh we don't care about winning . . . And we went up there and my partner and I beat them and they were stunned. The next day . . . they sent out e-mails about how something was unfair and blah, blah, blah and my partner and I felt that was their way of undermining . . . And there are actually more women winning Linden cup competition this year . . . and maybe it was just a way for those boys to undermine women moving on and beating the boy teams.

How do you know? In class, they'll make little smirks and jokes and they are very condescending. They don't talk to women. They talk down to women, when they talk to you they don't look at you. 2L²⁰⁸

**c. Conclusion: Female Performance in Gonzaga University
School of Law Competitions Varies, Success Sometimes
Comes at a Cost**

Women outperformed men (winning 71% of first and second place awards) in the 2001-02 oral advocacy competitions of Gonzaga University School of Law. However, the results of the current year show women earning such placements in numbers less than half (42%) and less than their portion of the student population (46%). In terms of the experiences of these competitions, women often have the additional burden of bearing the criticism and demeaning remarks of their peers.

**III. "WHAT SHOULD BE" - WHY GONZAGA UNIVERSITY SCHOOL OF LAW MUST
MAKE GENDER-RELATED CHANGES**

The data considered in this study demonstrates that females of Gonzaga University School of Law have achieved considerable success. However, this data also indicate that much needs to be done to improve the law school experience of female students. These problems must be addressed for several reasons. First, to avoid liability, the school must fully comply with Title IX.²⁰⁹ Second, the deficiencies illuminated in this report must be rectified if Gonzaga University School of Law is to provide the learning environment it professes to offer its students.²¹⁰ Third, the school should make gender-related changes because an improved environment will not only help current students, but will facilitate improved alumni relations,

²⁰⁸ Andrews Ames, *supra* note 88, at 12-13.

²⁰⁹ See *infra* Part III.A (delineating the mandates of Title IX).

²¹⁰ See *infra* Part III.B.1.5 (discussing the mission statements and professed atmosphere of Gonzaga University School of Law).

higher commercial ratings, and increased enrollment.

A. Gonzaga University School of Law Should Make Gender-Related
Changes to Comply With Title IX²¹¹

Title IX prohibits gender discrimination in schools receiving federal funds.²¹² Many schools - both public and private, kindergarten through twelfth grade, as well as higher levels of education - are subject to Title IX's mandates.²¹³ The title specifically states, "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."²¹⁴ The United States Department of Education, which distributes the federal funds, also enforces this law.²¹⁵ One possible course of action that the Department of Education can take against violators of Title IX is to withdraw federal funding.²¹⁶ The Act also creates a private cause of action, entitling individuals to sue institutions that violate its mandates.²¹⁷

Recipients of federal funding are liable for their own actions, not for the actions of third parties.²¹⁸ Thus, theories of agency and *respondeat superior* - typically used to impute liability to an employer - are not applied to Title IX violations.²¹⁹ However, recipients may be liable for their actions *in regard* to those of third parties.²²⁰ In *Gebser v. Lago Vista Independent School District*,²²¹ for example, a school was found liable for its deliberate indifference to instances of a teacher's acts of sexual harassment.²²² While such instances require "that funding recipients have notice of their potential liability,"²²³ such notice is not required where the recipient "engages in intentional conduct that violates the clear terms of the statute."²²⁴

Just as a funding recipient can be liable for deliberate indifference to the acts of its teachers, so too can it be liable for the actions of its students.²²⁵ However, there are a number of limitations to this general rule. First, the

²¹¹ Education Amendments of 1972, 20 U.S.C. §1681 (1982) [hereinafter "Title IX"].

²¹² See §1681(a).

²¹³ See *id.*

²¹⁴ *Id.*

²¹⁵ See *Davis v. Monroe County Sch. Dist.*, 526 U.S. 629, 639 (1999).

²¹⁶ See *id.* at 639-40.

²¹⁷ See *Cannon v. Univ. of Chicago*, 441 U.S. 677, 693-94 (1979).

²¹⁸ See *Davis*, 526 U.S. at 640.

²¹⁹ *Id.* at 642.

²²⁰ *Id.* at 641.

²²¹ 524 U.S. 274, 283 (1998).

²²² See *Davis*, 526 U.S. at 641.

²²³ *Id.*

²²⁴ *Id.* at 642.

²²⁵ See *id.* at 651.

existence of harassment is highly fact-dependent.²²⁶ Because elementary-aged students are still learning social interaction acts such as "insults, banter, teasing, shoving, pushing, and gender-specific conduct upsetting to students subjected to it" may be more permissible.²²⁷ Second, the institution must have had actual notice of the harassment.²²⁸ Third, the recipient is only liable for harassment performed in contexts that they can control and by persons whom the recipient can control.²²⁹ Classroom conduct of young students is one such area.²³⁰ Finally, the harassing acts must be "so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school."²³¹

These mandates are a compelling force. The Puyallup School District in Seattle, recently came face to face with Title VI, the racial counterpart of Title IX.²³² Of the 20,000 students enrolled in the Puyallup School District, less than four percent are African-American.²³³ Beginning in January 2000, that small minority began to speak out. Fifty-nine African-American students and parents filed Title VI claims against the district.²³⁴ Their complaints alleged:

[A] racist atmosphere pervaded Puyallup schools, creating a hostile environment where black students were harmed by racial slurs and graffiti, nasty jokes, caricatures, threats and actual violence. Black students underwent racial stereotyping and unfair treatment by faculty and administrators, plaintiffs claimed. Furthermore, the plaintiffs complained that the school officials discriminated against black faculty and staff, that the district's curriculum was racially offensive and that black students were discouraged from participation in extracurricular activities.²³⁵

The cases were settled September 17, 2002, just weeks before the scheduled October 15 trial date.²³⁶ The district agreed to pay seven and a half million dollars in monetary damages.²³⁷ While insurance covered these damages, the district agreed to bear the additional burdens of: establishing a diversity office "to field discrimination complaints and monitor racial equity

²²⁶ See *id.* at 639.

²²⁷ *Davis*, 526 U.S. at 639.

²²⁸ See *id.* at 650.

²²⁹ See *id.* at 644.

²³⁰ See *id.* at 646.

²³¹ *Id.* at 650.

²³² See Susan Gordan, *Puyallup Settles Racial Lawsuits: School District to Pay \$7.5 Million, Alter Curriculum, Educate Staff, Hire More Blacks*, NEWS TRIB., Sept. 18, 2002.

²³³ See *id.*

²³⁴ See *id.*

²³⁵ *Id.*

²³⁶ See *id.*

²³⁷ See Gordan, *supra* note 232.

in achievement, discipline and athletics,”²³⁸ creating a multicultural curriculum, recruiting a more diverse administration and faculty, providing diversity training to its staff and developing a complaint procedure.²³⁹

In order to avoid the stringent remedial measures of Title IX, Gonzaga University School of Law must enact gender-related changes such as those below in suggested in Section IV.

B. Gonzaga University School of Law Must Make Gender-Related
Changes to Comply With its Own Mission Statements and Professed
Atmosphere

The goals and purported atmosphere of Gonzaga University School of Law forms the second impetus for gender-related changes. The school advertises its goals and self-perception in a number of publications. Three that will be referenced include: the law school student handbook, the introduction to the mission statement of the law school, and the actual mission statement of the law school. Below is a consideration of Gonzaga University School of Law’s, atmosphere, goals and beliefs about equality and non-discrimination policies as found in the three sources listed above.²⁴⁰

1. *Gonzaga University School of Law Must Provide the Friendly Atmosphere
It Purports and Intends to Provide*

Gonzaga University School of Law purports to have an amicable atmosphere. The introduction to the most recent student handbook states:

Our campus is, we are told, almost unique in the degree to which we have attained a friendly and hospitable environment. We take great pride in this reputation and hope that it is well deserved. We certainly do our best to make the reputation a reality. We also take great pride in the diverse student body we have attracted which includes students from many cultural, racial, and ethnic backgrounds. We celebrate this diversity and the richness it brings to Gonzaga. Moreover, we expect all our students to treat all other students just as they themselves would like to be treated – with respect, with friendliness, and with full recognition of the dignity they have been endowed with by the Creator of us all.

The pursuit of a legal education can be competitive and stressful at its best. Here we emphasize that all students should extend to others a helping hand to the maximum extent permitted by academic

²³⁸ *Id.*

²³⁹ *See id.*

²⁴⁰ A preliminary point warrants consideration. Members of the administration wrote the introduction to the law school mission statement as well as the student handbook. However, the law school’s mission statement was drafted and approved by a majority of the law faculty.

integrity and professional ethics. Everyone benefits in such an atmosphere.²⁴¹

This description does not stand alone. The initial sentence of the introduction to the law school mission statement describes the school's environment as "a supportive and professional community of professors, students, and administrators."²⁴² The actual mission statement characterizes the school as "a healthy and respectful environment of free intellectual inquiry and exchange characteristic of a university community."²⁴³ More specifically, in reference to professors, the introduction states that, "[o]ur professors put teaching first. They are dedicated to developing to the fullest your abilities through classroom and personal instruction."²⁴⁴ In reference to students, it adds that, "you will find yourself among other students supportive of your goals. Yes, this is a competitive environment, but it is also a sustaining one."²⁴⁵

2. *Gonzaga University School of Law Must Provide the Equal Opportunity it Aims to Provide*

The first sentence of the mission statement boldly asserts the goals of Gonzaga University School of Law. It states:

The objectives of the Law School incorporate those of the University, which are based on the Catholic, Jesuit, and humanistic traditions of the Gonzaga University mission. *We seek to provide an equal opportunity for all of our students to participate in the evolution of Western legal culture, to communicate and enhance their wisdom, and to educate the whole person so that Gonzaga graduates may take their place in society with the capabilities of advancing human development through enriched contribution to society.*²⁴⁶

3. *Gonzaga University School of Law Must Provide the Equality it Advertises*

The mission statement also asserts the school's beliefs in equality. It states:

Gonzaga Law School believes that laws and legal institutions are subject to a moral order that transcends human whim and caprice. *A central premise of this moral order is that all human beings are created equal and endowed by their Creator with certain natural rights and obligations. These inalienable natural rights and obligations are the cornerstone of true*

²⁴¹ GONZAGA UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK 1 (2002-03).

²⁴² GONZAGA UNIVERSITY SCHOOL OF LAW CATALOGUE 44 (2002-03).

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.* (emphasis added).

*human dignity to which every person, from every corner of life, is entitled. The political state in which laws are made, interpreted, and enforced does not grant these rights; nor has the state any right to take them away.*²⁴⁷

2. *Gonzaga University School of Law Must Provide the Non-Discriminatory Environment it Boasts*

Prior to a considering Gonzaga University School of Law's goals of non-discrimination, one must consider the process that lead to it. The mission statement was revised in 1996. The revision involved intense discussion (described by one faculty member as "a fierce battle") over the following language, which was eventually included:

Since every person enjoys equal dignity under the law, we are committed to a full and vigorous policy of nondiscrimination without regard to race, color, national origin, heritage, sex, age, sexual orientation, marital or veteran status, a physical or mental impairment that limits a major life activity, any other nonmerit factor, or religion, both within the Law School as well as throughout society at large.²⁴⁸

3. *Conclusion: Gonzaga University School of Law Must Make Gender-Related Changes in Order to Comply With its Advertised Statements*

Gonzaga University School of Law must comply with its own advertising and provide the educational environment its recruiting materials promise to prospective students. Students of private schools have a contractual relationship with the institutions they attend.²⁴⁹ "Since a formal contract is rarely prepared, the general nature and terms of the agreement are usually implied, with specific terms to be found in the university bulletin and other publications."²⁵⁰ Thus, the promises made in the Gonzaga University School of Law brochures, catalogues and handbooks may be said to contractually bind the school to provide, that which is promised.

²⁴⁷ GONZAGA UNIVERSITY SCHOOL OF LAW CATALOGUE 44 (2002-03) (emphasis added).

²⁴⁸ *Id.*

²⁴⁹ See *Lyons v. Salve Regina Coll.*, 565 F.2d 200, 201 (1st Cir. 1977); *Marquez v. Univ. of Wash.*, 648 P.2d 94, 96 (Wash. Ct. App. 1982); *Mass. v. Corp. of Gonzaga Univ.*, 618 P.2d 106, 108 (Wash. Ct. App. 1980).

²⁵⁰ *Marquez*, 648 P.2d at 96 (quoting *Peretti v. Mont.*, 464 F. Supp 784, 786 (D. Mont. 1979), *rev'd on other grounds*, 661 F.2d 756, 757 (CA Mont. 1982)).

C. Gonzaga University School of Law Should Make Gender-Related Improvements Because Such Improvements Will Benefit the School

Positive changes will improve Gonzaga's reputation. Publications such as *Glamour*, *National Jurist*, and *The Princeton Review: The Best Law Schools*²⁵¹ advertise the gender-friendliness of law schools.²⁵² As noted above, one such source rated Gonzaga "very poorly" as recently as 1995.²⁵³ Positive changes will obviously improve these reports and rankings.

IV. "WHAT SHOULD BE" - GENDER-RELATED SUGGESTIONS FOR GONZAGA UNIVERSITY SCHOOL OF LAW

Individuals and reports that list concerns without offering solutions are most troubling. The author is not such an individual. Nor is this study such a study. Below are five suggestions for Gonzaga University School of Law. The first concerns the building. The second addresses the law school's population. The third pertains to the classrooms of Gonzaga University School of Law. The fourth suggests rigorous enforcement of law school rules. The fifth and final suggestion proposes an annual gender study in order to map the school's progress.

A. Gonzaga University School of Law Must Display Additional Depictions of Females Engaged in the Legal Profession

Gonzaga University School of Law must acquire and post artwork portraying professional women engaged in those professions. Only 14% of the depictions of people hanging around in the School of Law are of females.²⁵⁴ In order to send the message that female law students are welcome as members of the Gonzaga legal community, and as members of the legal profession as a whole, Gonzaga must bridge this vast gap by posting additional positive images of women in the legal profession.

Such pictures will not be difficult to locate. The Women's Law Caucus distributes a Myra Bradwell Award each year. Thus, a picture of Ms. Bradwell would be a logical addition. Since this study was presented to the Dean of the Law School, he mentioned a "Wall of Distinguished Jurists," in which the

²⁵¹ THE PRINCETON REVIEW, THE BEST LAW SCHOOLS 134 (1999) (ranking the top and bottom ten law schools according to proportion of female law students); see also *id.* at 135 (ranking the top and bottom ten law schools according to proportion of female faculty), 252-53 (describing the positive and negative aspects of the school).

²⁵² See GRAPEVINE, *supra* note 14, at 3 (mentioning the rankings done by publications such as *Glamour*, *The National Jurist*, *Princeton Review's Guide to Law Schools*, and *The Woman's Guide to Law Schools*).

²⁵³ See *supra* notes 79-80, and accompanying text (explaining that Gonzaga University School of Law was ranked 167th of 170 law schools in 1995 due to its low female population).

²⁵⁴ See *supra* Part II.A.3 (noting the rarity of female portrayals in Gonzaga University School of Law and the messages sent thereby).

portraits of female alumnae could be displayed. This is also an excellent idea. An even more logical addition would be a picture of the current Washington State Supreme Court. Our court is only the second in United States history to have a female majority. Moreover, two of the courts' five justices are Gonzaga University School of Law alumnae. Prominently displaying a picture of these female judges will send the important message that women are not only welcome and “at home” in the practice of law, but they are also succeeding in it.

B. Gonzaga University School of Law Must Increase the Female Presence in the Building

Females must be added to the student population and faculty of Gonzaga University School of Law.

1. *Female Students Must Be Actively Recruited*

Efforts must be made to ensure greater female student enrollment. Whereas 51% of the 2001-02 first year class was female, only 41.5% of the current class is female. These numbers dropped nearly 10% in just one year. Unfortunately, they are expected to be even lower next year. Only 38% of the prospective 2003-04 applicants were female.

As discussed above, the School of Law does an excellent job in including women in its catalogues.²⁵⁵ However, additional efforts must be pursued to counteract the recent trend of declining female first year populations. Female students must be actively recruited to attend Gonzaga University School of Law. Such goals can be achieved through a number of means. First, admissions could hire a female work-study law student dedicated solely to recruiting female students. This student could contact prospective female applicants via telephone calls, letters, and electronic mail messages. Second, the assistance of the Women's Law Caucus must be summoned to perform these tasks. Third, the School of Law must request the help of the female faculty. Fourth, the School of Law must focus its recruiting efforts in areas and schools with greater female populations. Through these and other similar efforts, the school can beat the recent trend of a diminishing female presence.

2. *Female Faculty Presence Must Be Increased*

Two faculty changes are imperative. First, additional female faculty must be hired. Second, current female faculty must be tenured.

²⁵⁵ See *supra* Part II.C.1-2 (detailing the prevalence of pictures of females as well as feature stories focusing on females in the Gonzaga University School of Law Catalogues).

a. Hire Additional Female Faculty

Gonzaga University School of Law must continue its efforts to recruit and hire qualified female faculty members. The 2002-03 academic year was an excellent start since three new female faculty members were hired. However, even with these additional faculty members, a typical first year student entering Gonzaga University School of Law in 2002 actually had fewer credits (10.7 or 36%) taught by a female professor than did a first year student entering in 1991 (11 or 37%). Moreover, such percentages are largely incompatible with the first year class, which is currently 42% female.

There are numerous benefits to the presence of female professors.²⁵⁶ The presence of female professors leads to increased female student participation, and conveys a message that women are integral parts of the study and practice of law. This message must be conveyed to the female students of Gonzaga University School of Law. The school can accomplish this by increased hiring of female faculty.

b. Tenure Additional Female Faculty Members

The "glass ceiling" of Gonzaga University School of Law must be shattered. Once again, of the eighteen current full professors employed by the school, only three, or 17% are female.²⁵⁷ Further, in its ninety-one years Gonzaga University School of Law has tenured only nine women, one-third of who worked in the library, and two of whom have left Gonzaga to teach at other law schools. At a time when the female population in law schools as well as the legal profession is on the rise nation-wide, women must be placed on equal footing with their male counterparts on the faculty of the Gonzaga University School of Law.

C. Enact Changes in the Classrooms of Gonzaga School of Law to Encourage Greater Female Participation

Similar to findings of previous gender studies,²⁵⁸ this study found that the female students of the analyzed Gonzaga University School of Law classes generally spoke less often than their male counterparts.²⁵⁹ A number of classroom changes will address and remedy the lack of female participation. Below is a discussion of three suggestions: (a) change in diction, (b) change in class size and structure and (c) the utilization of various speaker-selection methods.

²⁵⁶ See *supra* Part II.B.3.a (discussing the importance of female professors).

²⁵⁷ See GONZAGA SCHOOL OF LAW STUDENT HANDBOOK 4-6 (2002-03).

²⁵⁸ See *supra* note 144 and accompanying text (listing the studies which have found that male law students participate more than female students do).

²⁵⁹ When viewed in terms of class composition, the numbers indicate that female comments were 8%, 13%, and 15% less than their total class population.

1. *Neutralize Classroom Diction*

A simple yet important change must occur in the teaching examples and terminology used by professors. Professors must avoid the use of purely male pronouns and characters, "unless the case involves a rape victim, a battered wife, or a mother fighting for custody."²⁶⁰ Further, when professors do use female pronouns, they must avoid the use of gender-specific hypothetical situations or analogies. For example, one female Yale law student stated that, "men presume that everyone understands a sports analogy. I would never presume to use a knitting analogy."²⁶¹ Moreover, professors must be mindful of the female students' need to receive positive messages that women are law practitioners and not merely the victims or plaintiffs of suits. Professors can send this message through the careful use of pronouns and fact scenarios.

2. *Change Class Size and Structure*

The Andrews Ames study found that female law students are affected by both the size and configuration of classes.²⁶² In terms of class size, one student stated:

I think that the overall experience in the larger classes, which is your first year . . . for me were very intimidating. I had come from an undergrad that was a little smaller . . . I never had a class over maybe 32. And so sitting in this huge room full of people with the professor being antagonistic and scaring you – you know being grilled your first day of school just put me on edge. And a lot of times I was more scared about being called on in class and reading the cases ahead to review the facts than to listen to what the teacher was saying or what we were supposed to be extracting from the class. I remember I used to throw up before class. I never wanted to go to class – my first year especially when you don't know anybody and you just want to do well. So I don't think I clicked with the atmosphere very well, but [in] smaller classes I have been able to feel more comfortable speaking and volunteering in class. I'm not as threatened by what other people think as much . . . But the big classes do not foster self-esteem or cooperative learning and it is very counter to what I was taught as a teacher and that was very hard. 3L²⁶³

Another third year student added that she only speaks in large classes when she is called on.²⁶⁴ Ten of the thirteen women interviewed in the

²⁶⁰ Weiss & Melling, *supra* note 17, at 1337.

²⁶¹ *Id.*

²⁶² See Andrews Ames, *supra* note 88, at 14.

²⁶³ *Id.*

²⁶⁴ See *id.* at 16.

Andrews Ames study expressed preferences for small classes.²⁶⁵ One specifically stated a preference for classes of "up to thirty people tops."²⁶⁶ In terms of class configuration, a student suggested "a circle – a big circle. It's kind of like an unbroken chain and it is comforting, it's like a family."²⁶⁷

These statements indicate that both smaller classes and circular seating configurations put female students at ease. Such environments are already in place in a number of Gonzaga University School of Law classes and classrooms. Seminar courses such as Civil Rights and Justice and Society have small enrollments (twelve and seven, respectively) and circular seating. Moreover, room 314 is constructed in a circular fashion. Thus, both room 314 and the seminar classes create the "community" atmosphere for which many female students yearn.

3. *Encourage Greater Female Student Participation*

Similar to the results of previous gender studies,²⁶⁸ the female students of the analyzed Gonzaga University School of Law classes generally spoke less often than their male counterparts.²⁶⁹ Something must be done to actively engage female students and to encourage them to speak in class. Various methods may achieve this end. One way in which professors can encourage female participation is through pre-selection of speakers. Classes One and Three utilized this method.

The professor of Class One utilized the pre-selection method on three occasions. The speakers were selected at the will of the professor. On each occasion, the professor either announced the speakers at the commencement of the class, or wrote the name of the pre-selected speaker on the board next to a question that they were to later answer. While six (60%) of the pre-elected speakers were female, four (40%) were male. Thus, whereas females made only 43% of the volunteer comments in Class One,²⁷⁰ females made the majority of the pre-selected comments. In this way, the professor ensured that female students were heard from on a regular basis.

The professor of Class Three used pre-selection every day. Student speakers were selected according to reverse alphabetical order. In the end, nineteen (54%) of the pre-selected speakers were female, while sixteen (46%) were male. In this scenario, whereas only 40% of the *volunteer* student

²⁶⁵ See *id.* at 24.

²⁶⁶ See *id.*

²⁶⁷ See Andrews Ames, *supra* note 88, at 14.

²⁶⁸ See *supra* note 144 and accompanying text (listing the studies which have found female student participation to be less than that of males).

²⁶⁹ See *supra* Part II.D.1.e (summarizing the disproportionate rate of female class participation in the analyzed courses of Gonzaga University School of Law).

²⁷⁰ See *supra* Part II.D.1.a (describing the gender of the volunteer student participation of Class One).

comments were those of females,²⁷¹ the majority of the pre-selected comments came from females.

Such classroom teaching methods enable students to know ahead of time that they will be called upon. Such knowledge was preferred by a third year student in the Andrews Ames study.²⁷² She noted, "assign things ahead of time to the students because students have so much to do and so much to remember that they don't just remember things right on the spot what things are about."²⁷³

Professors preferring a more impromptu method of speaker selection may utilize numerous methods. One first year professor requires students to write their names on cards during the first day of class, then, throughout the semester, he shuffles the cards and selects a speaker. Each time a student speaks, the professor puts a hash mark on the student's card, so as to monitor and limit frequent speakers. A further option was observed in the classroom of Professor One. Using a "rolling method," he called on the first speaker. After they spoke, they personally chose the next speaker, who would then choose the third.

Whether or not students are aware in advance of their day or time to speak, the aforementioned methods will ensure that female voices – the voices of tomorrow's legal profession– are heard today.

D. Increase the Efficiency and Enforcement of the Codes of Gonzaga University School of Law

Gonzaga University and its School of Law have excellent rules outlining computer use, student discipline, and harassment. However, these policies must be better advertised and enforced. Each code is discussed below.

1. *Better Publish and Publicize Purposes of, and Sanctions for the Misuse of, the School's Electronic Mail System*

In 2000, Gonzaga University School of Law opened its doors to a brand new state of the art facility. In an effort to maintain the building's grandeur, the posting of announcements requires prior approval and is limited to a few designated areas. Because of this limitation, many of the school's announcements are made via the electronic mail system. Thus, the system's use is quite extensive. Unfortunately, the system's misuse is also extensive.²⁷⁴

²⁷¹ See *supra* Part II.D.1.c (describing the gender of the volunteer student participation of Class Three).

²⁷² See Andrews Ames, *supra* note 88, at 15.

²⁷³ *Id.*

²⁷⁴ See *supra* Part II.F.

The University's Acceptable Use Policy states its purposes as follows:

b. This policy is established to maximize the value of [computing] resources to the university community while permitting maximum freedom of use consistent with law, the University's mission statement, the Student Handbook, the Personnel Policies and Procedures Manual, the Faculty Handbook, and a productive environment. Any use of Gonzaga University computing resources which violates policies contained in these manuals and handbooks also violates this policy; nothing in this policy shall contradict existing policies. University Policy.

c. Violation of this policy can result in reprimand, reduction or loss of computing privileges, and/or referral to University authorities for disciplinary action. Violation of any law may result in referral to appropriate authorities.²⁷⁵

Under "General Usage Statement," the policy reads:

a. Network and computing resources at the University are provided primarily to support the mission of the University

e. The use of University resources for political gain or exclusive personal gain shall not be permitted.

f. The University may restrict the use of computing and network resources.²⁷⁶

In addition to the above, a "School of Law Addendum" adds:

The Gonzaga University School of Law provides computing equipment and access to networks for the expressed purpose of supporting the academic, research, education, and administrative activities of the Law School. The use of Law School computer facilities in a manner that harasses, offends, threatens, or otherwise creates an intimidating, hostile or offensive educational environment is a violation of the Gonzaga University School of Law Code of Student Conduct. These activities may include, but are not limited to:

Sending, downloading, storing, displaying, printing, or otherwise disseminating material, which is obscene, lewd, or sexually harassing, whether in text, image, sound, or other digitized format.

Sending, downloading, storing, displaying, printing, or otherwise disseminating material, which is disrespectful of the rights of another law student or others, or which would constitute harassment or

²⁷⁵ GONZAGA UNIVERSITY, NETWORK AND COMPUTER RESOURCE ACCEPTABLE USE POLICY WITH LAW SCHOOL ADDENDUM (1998).

²⁷⁶ *Id.*

discrimination as set out in the rules of the Law School, whether in text, image, sound, or other digitized format.²⁷⁷

These policies are quite clear. However, as demonstrated by the numerous offensive electronic mail messages previously cited in this study, the system is being utilized as a forum for sexist and degrading commentary. Such messages are a clear violation of these policies. These misuses have been noted by the Associate Dean for Academic Affairs. In reaction, she sent two very in-depth electronic messages to the entire school.²⁷⁸ Therein, she explained the school's policies as to computer use and student conduct. The need for this message, coupled with its offensive student-sent predecessors and antecedents, demonstrate major confusion as to the purpose of the school's electronic mail system. Better promulgation and better enforcement may rectify this problem.

a. Better Advertise the Purposes of the Electronic Mail System

The Gonzaga University Network and Computer Resource Acceptable Use Policy with Law School Addendum is signed by every first year student when they register for computing services during orientation. However, students do not actually receive a copy of the policy unless they ask for it. Thus, enhanced notice may rectify the problems posed by the offensive electronic mail messages. Students must be required to resign the policy every year as part of registration. In addition, students must either receive a copy of the policy, or it must be published as part of the student handbook. Further, the policies must be posted and/or displayed in the computer laboratories. A final suggestion was provided by Mary Fairhurst, a Washington Supreme Court Justice, and Gonzaga University alumna. Justice Fairhurst made the suggestion during the January 8, 2003 meeting of the Washington Supreme Court Commission on Gender and Justice. She recommended that the University utilize the model of the Washington State Attorney General's Office, where each electronic mail message is imprinted with the purpose of the system. This action could easily be adopted by Gonzaga University School of Law. Further, it should be enacted because it will constantly remind students of the purpose of the school's electronic mail system.

²⁷⁷ *Id.*

²⁷⁸ *See id.*

b. Better Enforce the Computer Resources User Policy

Once again, the University's User Policy prohibits any use of computer resources contrary to the Student Handbook²⁷⁹ or which involve the dissemination of material, "which is obscene, lewd, or sexually harassing[or] disrespectful of the rights of another law student or others, or which would constitute harassment or discrimination as set out in the rules of the Law School."²⁸⁰ The School of Law must ensure that these prohibitions are followed. Again, Justice Mary Fairhurst suggested that a "general folder" be established where students could send messages they received and found offensive. The messages could then be reviewed and the senders disciplined by a school official such as the Dean of Students.

Further, the school must take a stronger stand against such messages. Although the School of Law may be reluctant to restrict speech, it has not hesitated to do so in regard to both political and commercial speech. In an electronic mail message sent to students, the Computer Services Coordinator of Gonzaga University School of Law Library wrote:

Hi Gang!

Recently, there have been more mass e-mail messages that violate one part or another of the Gonzaga Network Acceptable Use Policy. As a reminder, it's against our policy to send messages to any law school or university list to sell (or give away) items of any type, or to promote political causes of any type.

I know it's tempting to send such messages to everyone to be sure they're in everyone's face, but please refrain from doing so. We don't want to have to place restrictions on lists, but we're being deluged with complaints about all the junk e-mail and need to try to control it as much as we can.²⁸¹

Again, a similar stand must be taken in references to electronic messages with obscene, harassing, and otherwise inappropriate content. A slap on the wrist is not enough. Violations of the school's policies must be prosecuted and punished so as to put an end to the numerous harassing and gender-offensive electronic mail messages that are being sent via the school's server.

²⁷⁹ See *supra* Part IV.D.1 (reprinting the University's acceptable use policy along with the "School of Law Addendum").

²⁸⁰ *Id.*

²⁸¹ E-mail on file with author.

2. *Better Enforce the Gonzaga University School of Law Discipline Code and the Gonzaga University Harassment Policy*

The Gonzaga University School of Law 2002-03 Student Handbook contains two codes pertinent to sexual harassment. Both are quite clear and eloquent. First are the Student Disciplinary Rules. The most pertinent section states:

2. Gonzaga University School of law recognizes that the rights of students to freely express themselves and have access to divergent viewpoints are fundamental to an academic community and our society. However, the Law School is also firmly committed to the principle that all members of the University Community are entitled to work and learn in an atmosphere which respects each individual and is free from harassment and discrimination. Therefore, the Law School policy (and in some cases state and federal law) strictly prohibits any statements or actions by a law student which are disrespectful of the rights of another law student or others, or which constitute harassment or discrimination. The Law School shall take strong measures against any violators of this policy (or of the law). Such measures may include the institution of criminal charges or the imposition of appropriate sanctions under the Law School or University's procedures, up to and including suspension or dismissal from the Law School.

Violations of this policy include, but are not necessarily limited to, the following:

a. Making discriminatory, demeaning, harassing, threatening, or derogatory statements about, or gestures toward, another student, person or group, or taking any action against such student, person or group because of race, religion, sex, national origin, age, marital or veteran status, sexual orientation, a physical or mental impairment; and

Vandalizing, defacing, or willfully destroying the property, including posted announcements, of another student, person, or group.

3. Professional decorum is expected of all students, staff, faculty, and administration both in class and in the library.²⁸²

The second section of the Student Handbook that references gender-related matters is the Gonzaga University Harassment Policy Statement. This expansive policy spans almost six pages.²⁸³ Its foundation is as follows:

a. Policy Statement on Human Dignity

²⁸² GONZAGA UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK 25 (2002-03).

²⁸³ See *id.* at 44-49.

Gonzaga University recognizes the inherent dignity of all individuals and promotes respect for all people in its activities and programs and in the relationships it shares with students, faculty, staff, and the public. Further, the University expects all community members to promote dignity and respect in their daily interactions with each other.²⁸⁴

Flowing from this foundation is the prohibition of discriminatory and harassing conduct because, "the University is committed to providing a positive working environment and therefore will not tolerate harassment and discrimination which violates University policy and or state/federal law."²⁸⁵ Harassment is defined very broadly.²⁸⁶ Included are items such as "slurs, comments, rumors, jokes, innuendos, unwelcome compliments or touching, cartoons, pranks . . . and other verbal or physical conduct."²⁸⁷ Other examples of harassment include, "demeaning sexist statements, off-color jokes, crude sexual remarks, offensive stories, remarks of a sexual nature about a person's clothing or body, remarks about sexual activity or experiences."²⁸⁸

Regardless of these eloquent policy statements, electronic mail messages such as those listed above are being sent via the school's mail system.²⁸⁹ Moreover, incidents prohibited by the above-quoted policy continue to occur in law school classrooms.²⁹⁰ Thus, Gonzaga University School of Law must increase its enforcement of these rules. Integral to such enforcement is enhanced notice. The School of Law must clearly promulgate the intent and goals of these procedures.

The rules addressing the procedures are as clear as those defining and prohibiting discrimination and harassment. The handbook explains that allegations concerning violations of the student discipline code must be made to the Associate Dean of Academic Affairs or any faculty member.²⁹¹ If the latter avenue is pursued, then the faculty member must notify the Associate Dean.²⁹² Allegations of harassment may be made "to faculty, supervisors, department heads, vice presidents, the Human Resources Department, or the University's EEO Compliance Officer. In addition, students may bring complaints to their advisors, chairs, deans, Student Life

²⁸⁴ *Id.* at 45.

²⁸⁵ *Id.* at 44.

²⁸⁶ *See id.* at 45.

²⁸⁷ GONZAGA UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK 45 (2002-03).

²⁸⁸ *Id.*

²⁸⁹ *See supra* Part III.F.1-5 (listing numerous inappropriate electronic mail messages sent at Gonzaga University School of Law).

²⁹⁰ *See supra* Part II.D.3-4 (describing offensive gender-related classroom events).

²⁹¹ *See* GONZAGA UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK 28 (2002-03).

²⁹² *See id.*

personnel, or to the Academic Vice President's office."²⁹³

As clear as these policies may seem, they are buried on pages twenty-eight and forty-eight of an eighty-four page handbook. Thus, questions as to their content and application have repeatedly arisen. One such question was brought up during the 2001-02 academic year. During a lunchtime forum held by the Women's Law Caucus of Gonzaga University School of Law, female faculty and deans shared their stories and advice with the law student attendees. The majority of the audience was female. At the close of the session, the faculty members opened the floor to student questions. A female student raised her hand and shared two instances of sexist comments previously made by male professors. The student then asked the deans what students should do when such comments are made. The female student mentioned that the Women's Law Caucus was considering establishing a Political Action Committee, which would present such concerns to the faculty, then asked for reactions to such a committee.

Quite a stir was created by the comments. Within twenty-four hours, the female student received a flurry of electronic mail messages via the school's server. The first was sent by Gonzaga's female Dean of Students, whose responsibility is the handling of sexual harassment concerns. In an attempt to challenge the female student to be bold and present her concerns directly to the professors who made the offensive comments, the Associate Dean wrote, "[y]ou will never make it as an attorney," and "[i]f the women who paved the way had your attitude about not doing what is right for fear that they might be negatively impacted in some way, we would not be having this conversation." The reaction of the female student was a two-page-single spaced electronic mail message. After exchanging a number of additional messages, the Associate Dean and the female student eventually spoke and came to terms with the events. Twenty-four hours after this incident, the Academic Dean sent an electronic message to the entire school. In addition to expounding upon her personal views on the subject, the message contained the following official announcement:

Speech can go beyond annoying, gross and tasteless to the point of becoming harassment. In an educational setting, this can include not only direct, targeted harassment of individuals, but the creation of a hostile learning environment. There are laws and an official university policy that address these situations. The University Harassment Policy is pretty comprehensive, and is found in the student handbooks that have been issued to all of you. Please read it. It has a lot to say that is responsive to the question "What might a student do"? It also has a lot to say about what Gonzaga University, consistent with its Catholic, Jesuit and humanistic traditions, will not

²⁹³ *Id.* at 48.

tolerate.

There are also, as I mentioned, laws. Various of our course offerings cover some of those laws (e.g. Con Law II. Civil Rights, First Amendment, Employment Law). Of course one can debate the merits of attempts to regulate speech, the concept of academic freedom, etc. I relish those discussions. This part of the email (the official announcement part), however, addresses the reality. These policies and laws exist, and we should all be aware of that.²⁹⁴

These events demonstrate that greater means of promulgation must be utilized. Students must be informed of the procedural steps for reporting sexism and harassment. Faculty and deans must not just be informed but must also actively participate in combating this type of behavior.

A number of means could achieve these ends. An initial option concerns an alteration in the current affidavit process. According to the current system, students are required to sign an affidavit stating that they received the handbook while going through the registration process. Instead of standing as testament to the receipt of the handbook, the affidavit should testify as to the reading of its contents. In order to make this idea work, the affidavit could be distributed with the text, then turned in on a later date. Alternatively, the affidavit could be changed to impress the importance of the text and the consequences of the failure to read the text, rather than its mere receipt.

The second possibility is a change in the distribution of student handbooks. Students are currently provided a copy of the handbook during registration, which is often a hectic multi-line process. Instead of distributing handbooks as part of this process, the school should distribute them during a mandatory seminar. During that seminar, portions of the book, specifically those containing the student disciplinary and harassment codes, should be reviewed with the attendees. Students who fail to attend the seminar should be prevented from enrolling or attending classes until they have done so.

A third option concerns a change in the diversity training provided at orientation. Rather than a presentation by a philosophical speaker, the school's policies on harassment and the reporting procedures should be reviewed at orientation. A number of schools already include such messages as part of their orientation programs. A dean of a large northeastern law school reported that, "[w]e need to impress upon our entering students . . . that law school is a community of professionals and that sexual harassment and gender discrimination is fundamentally inconsistent with professionalism . . . addressing these issues should become part of law school

²⁹⁴ E-mail on file with the author.

culture."²⁹⁵ A dean of another such school added that, "you never get a second opportunity to make a first impression and orientation is a student's real and lasting first impression of a school . . . we try to make a strong statement of our values – tolerance, respect and inclusion – in a three day orientation program."²⁹⁶

E. Establish, Perform, and Implement an Annual Gender Study of
Gonzaga University School of Law

A gender study of the Gonzaga University School of Law must be performed on an annual basis. A study will "provide valuable information about problem areas, correct harmful misperceptions that might otherwise damage [Gonzaga's] [. . .] reputation and help [. . .] [Gonzaga] improve its competitive position."²⁹⁷ In addition, a gender study will provide an accurate depiction of gender issues for prospective and current students, professors, staff members, alumnae, and donors.²⁹⁸

Obviously, a necessary prerequisite to the performance of such a study is the creation or adoption of standard rubrics and criteria. This task is not as daunting as it may seem. Many American law schools have already performed such studies and their testing mechanisms are available in numerous sources. The 1996 American Bar Association report, *Elusive Equality*, for example, contains six previously used questionnaires.²⁹⁹ The most obvious and efficient manner for the performance of such studies, as suggested in *Grapevine*, is through a committee.³⁰⁰ Diverse members of the administration, student population, faculty, and staff must be included in this body.³⁰¹ Students could be reimbursed for their time and efforts through directed research credits and/or institutional work-study. The committee goals, as suggested by the ABA commission report, should be to:

[P]rovide an institutional mechanism for focused and sustained consideration of gender-related concerns, including regular assessments of the effectiveness of the law school in educating women students; of women's satisfaction with their educational experiences; and of what changes might make the educational experience better for all students.³⁰²

²⁹⁵ ELUSIVE EQUALITY, *supra* note 52, at 8.

²⁹⁶ *Id.*

²⁹⁷ GRAPEVINE, *supra* note 14, at 43.

²⁹⁸ *See id.*

²⁹⁹ *See id.* at 35-92 (containing gender studies performed at University of Pennsylvania Law School, Brooklyn Law School, Chapman University School of Law, University of California at Berkeley, University of Chicago Law School and Stanford Law School); *see also* Love, *supra* note 17, (containing twenty gender-related questions).

³⁰⁰ *See* GRAPEVINE, *supra* note 14, at 1.

³⁰¹ *See id.* at 8.

³⁰² *Id.* at 1 (citing ELUSIVE EQUALITY, *supra* note 52, at 9).

V. CONCLUSION

What is the current situation of women at Gonzaga University School of Law? There is no doubt that female law students have made great strides. Women currently comprise 46% of the school's student population and account for 67% of the leadership of student organizations. Furthermore, a woman has been the top student of the first year class in three of the last four years.³⁰³ Moreover, a female student has been valedictorian of the graduating class of 1999, 2000, 2001, and 2002.³⁰⁴ In addition, the deans and administration of the school are 65% female, including two associate female deans.³⁰⁵ Closing the list, the current full-time faculty is 36% female.³⁰⁶

However, certain changes must be made in order to ensure the equality of women in the Gonzaga University School of Law community. Of the 173 images of artwork at the School of Law, only twenty-five (14%) are of females. The University has yet to have a female dean. In its ninety-one years, the School of Law has tenured only nine females, three of whom were library personnel, and two of whom have left the university to teach at other schools. Of the eighteen current full professors, only three (17%) are female.³⁰⁷ Even after the recent hiring of three female faculty members to teach first year students, a first year student entering the school in 2002 and 2003 actually has less opportunity to have a female professor (10.7 first year credits are taught by females, corresponding to 36%) than did a student who entered the school twelve years ago (11/37%). Females typically under-participate in class³⁰⁸ and those who do participate or take leadership roles are often insulted or harassed by their male counterparts.³⁰⁹

Most problematic are the least quantifiable events. Detailed above are numerous statements of current and past female students of Gonzaga University School of Law. They tell stories of degrading professor "humor."³¹⁰ They recount whispers during school competitions stating that women are not welcome.³¹¹ They decry the mockery of the Women's Law Caucus and the women associated with it.³¹² Exacerbating these events are

³⁰³ See *supra* Part II.G.1.a (tabling female student performance in first year classes).

³⁰⁴ See *supra* Part II.G.1.b (tabling female student performance in graduating classes).

³⁰⁵ See GONZAGA UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK 4 (2002-03).

³⁰⁶ See *id.* at 4-6.

³⁰⁷ See *id.*

³⁰⁸ See *supra* Part II.D.1.e (noting that male students dominated the majority of class participation in the analyzed courses of Gonzaga University School of Law).

³⁰⁹ See *supra* Parts II.D.5 and II.E.4 (discussing the negativity with which female student speakers and leaders are faced).

³¹⁰ See *supra* Parts II.D.3-D.4 (delineating inappropriate professor comments made at Gonzaga University School of Law).

³¹¹ See *supra* Part II.G.2.b (discussing comments made during Linden Cup, the appellate advocacy competition of Gonzaga University School of Law).

³¹² See *supra* Part II.E.4 (describing the ridicule of the Women's Law Caucus of Gonzaga University School of Law and its members).

electronic mail messages that degrade, objectify and sexualize women.³¹³

Such statistics and events indicate that Gonzaga University School of Law must take bold steps in order to achieve an environment that is, "friendly and hospitable,"³¹⁴ "healthy and respectful [. . .] of free intellectual inquiry and exchange characteristic of a university community."³¹⁵ Moreover, such changes must be made not only to avoid Title IX liability but to improve the school's reputation, ranking, and student populations.

Such changes must occur in the School of Law as a whole,³¹⁶ as well as in its classrooms.³¹⁷ The school must display additional portrayals of professional women. It must hire additional female faculty, and tenure existing female faculty. Professors of Gonzaga University School of Law must change their diction so as to present women in the same light as men. They must also encourage and develop greater female class participation.

Gonzaga University School of Law must also advertise and enforce its disciplinary code and its policies governing appropriate student conduct. The school must improve the means through which the code and policies are disseminated to the students. Then, they must take a firm position as to gender-offensive conduct that is prohibited by such policies as well as follow through by enforcing these policies. Finally, the school must establish a gender study format, perform the study annually, and implement the feasible suggestions of such studies.

It is only through the implementation of these and similar methods that Gonzaga University School of Law will accomplish "What Should Be." Only then will the School of Law truly possess that of which it boasts, "[a] friendly and hospitable environment,"³¹⁸ that is, "healthy and respectful [. . .] of free intellectual inquiry and exchange characteristic of a university community."³¹⁹ Finally, and most importantly, only then will Gonzaga University School of Law actually provide the "equal opportunity for all [. . .] students"³²⁰ which it now merely aspires to provide.

³¹³ See *supra* Part II.F (reprinting a number of inappropriate electronic mail messages sent at Gonzaga University School of Law).

³¹⁴ GONZAGA UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK 1 (2002-03).

³¹⁵ GONZAGA UNIVERSITY SCHOOL OF LAW CATALOGUE 45 (2002-03).

³¹⁶ See *supra* Parts IV.A, B, D and E (discussing suggestions for the school as a whole).

³¹⁷ See *supra* Part III.C (discussing suggestions for the classroom).

³¹⁸ GONZAGA UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK 1 (2002-03).

³¹⁹ GONZAGA UNIVERSITY SCHOOL OF LAW CATALOGUE 45 (2002-03).

³²⁰ *Id.*