

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

[https://www.washingtonpost.com/lifestyle/magazine/are-au-pairs-cultural-ambassadors-or-low-wage-nannies-a-lawsuit-enters-the-fray/2016/11/01/09e8a1ee-8f2e-11e6-9c85-ac42097b8cc0\\_story.html?hpid=hp\\_hp-top-table-main\\_aupair-1p%3Ahomepage%2Fstory](https://www.washingtonpost.com/lifestyle/magazine/are-au-pairs-cultural-ambassadors-or-low-wage-nannies-a-lawsuit-enters-the-fray/2016/11/01/09e8a1ee-8f2e-11e6-9c85-ac42097b8cc0_story.html?hpid=hp_hp-top-table-main_aupair-1p%3Ahomepage%2Fstory)

**It was the stuffed sheep's fault.** Fuzzy, faded, beloved by Andrea Villa's 4-year-old charge, remarkable to others only for its talent for disappearing. The toy known as Sheepy would go missing at least once a week, inspiring fits of crying from the little girl and a frantic search by her parents and Villa, their Colombian au pair. Desperate to break the cycle, Villa turned to a tactic she'd learned from watching "Supernanny": The little girl would put Sheepy in a special spot by the window each time she was done playing with it.

The strategy worked, until one day it didn't, exacerbating simmering tensions that resulted in Villa's expulsion from the house in Northern Virginia where the 28-year-old had worked for three months.

## ADVERTISING

Villa, now 32, chuckles ruefully at the memory. Petite, with bright green eyes and a penchant for equally bright clothing, she's sitting in her tidy Alexandria, Va., apartment. It's sparsely furnished but for a few mementos: a framed certificate from Georgetown University, a purple vase of fabric flowers. Since that incident in 2012, Villa has graduated from business school and, under her student visa, is learning about payroll, invoices and estimates at a painting company. By all measures, she's come a long way from the time she lost her job, her residence and, potentially, her visa status in one swoop. But the memory still stings.

"I felt awful," she recalls. "Scared. I was thinking, 'Where will I stay? Maybe I have to go back to Colombia.'"

Thousands of 18- to 26-year-old foreigners become au pairs annually under a 12-month [State Department cultural-exchange program](#). In 2015, 17,588 au pairs worked in the United States, according to State Department data, with 3,062 of them in the District, Maryland and Virginia. (The top five participating states are New York, California, New Jersey, Virginia and Massachusetts.) Drawn by promises of American adventure, educational opportunity and the warm embrace of a host family, the au pairs provide up to 45 hours of child care a week in exchange for room, board and a weekly stipend of \$195.75, about \$10,000 a year. At 45 hours, that would work out to \$4.35 an hour. The federal minimum wage is \$7.25; many state minimum wages are higher.

That stipend amounts to systematic wage theft, according to a 2014 [lawsuit](#) filed in Colorado on behalf of five au pairs against 15 sponsor agencies that then administered the program. The origin of the weekly compensation is a major element of the suit: The plaintiffs allege that the agencies set the stipend based on incorrectly interpreted federal regulations; the agencies respond that they set the stipend based on State Department guidelines. Twelve of the now 16 sponsor agencies failed to return calls or declined to answer questions for this article; of the four that responded, none commented on

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

pending litigation or the setting of stipends. The State Department also declined to comment directly on pay issues, citing the pending legal action.

The plaintiffs plan to seek class-action status for the suit, which had nine named plaintiffs as of press time and which they believe could cover as many as 50,000 current or former au pairs. In March, U.S. District Judge Christine Arguello affirmed the magistrate judge's ruling that the case can go forward.

Many au pairs have wonderful, formative experiences, seeing much of the States and building lifelong relationships. But others say they have been subjected to mistreatment by host families or agencies. One Arlington, Va., au pair — who worked up to 75 hours a week, plus nights, caring for a colicky baby — became the subject of American University law professor Janie Chuang's critique of the au pair program, published in the *Harvard Journal of Law and Gender* in 2013. Another local au pair, Edna Valenzuela, was featured in news accounts after her agency initially refused to extend her visa so she could receive free, potentially life-saving treatment following a cancer diagnosis — despite the support of her host family, the fact that she could not receive the care at home and the assurances of the American doctor who was treating her that she'd be able to continue working. (She is now cancer-free as a result of the treatment she was able to receive in the States.)

Critics of the au pair program — including current and former participants, advocates for migrant and domestic workers, private attorneys and legal scholars — say au pairs are vulnerable to sexual harassment and assault, though few are willing to press charges and only a handful have gone to court. Two au pairs have wound up as victims of human trafficking, according to a 2012 decision on a federal human-trafficking case in Chicago.

"These are the people who care for our children," says Chuang. "How much do they have to suffer for us to care about them?"

This story, however, focuses on experiences such as Andrea Villa's, which illustrate the more common disputes involving wages, hours and clashing assumptions — and the tenuous positions of au pairs who speak up about them.

**It is important to note** that not all au pairs are responsible, loving caregivers. And there have been at least four court cases filed since the mid-1990s that allege that au pairs have physically or sexually abused the children in their care, in addition to the widely reported 1997 case against English au pair Louise Woodward, who was convicted of shaking her small charge to death.

Yet the very nature of the au pair program, critics argue, makes it most susceptible to misuse by agencies and host parents. "The agency, they are making money with our work," says Villa. "But the families are their customers, so the agencies aren't on our side if we have a problem."

As the reporting for this story demonstrates, dozens of au pairs claim they have been mistreated. It's not clear how common their experiences are; language barriers and au pairs' concerns about being sent home can make it difficult to quantify the problem. But what is clear is that the way the program is structured makes it tough for au pairs who believe they are being mistreated to find recourse.

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

Part of the problem is categorization. The program, launched with a pilot in 1986 under the U.S. Information Agency, is officially classified as an “exchange visitor program” and is housed at the Department of State. Yet in practice, critics say, it functions more like a guest-worker program. Government agencies have questioned the setup almost since its inception. In 1987, an interagency panel of representatives from the State Department, Labor Department, Immigration and Naturalization Service and USIA determined that full-time child-care work programs did not qualify as cultural-exchange programs. The au pair agencies fought efforts to reclassify the program, however, and Congress declined to move it out of USIA or reduce its participants’ hours. The same debates have continued: As recently as 2012, the State Department’s own Office of Inspector General questioned “the appropriateness of allowing what are essentially work programs to masquerade as cultural exchange activities.”

Parents who think they are obtaining “one of the most affordable childcare options available, especially if you have a gaggle of kids,” in the words of one agency, GreatAuPair, are hiring au pairs being told by the same agency that they will have the opportunity to visit “great cities, improve your English, and learn more about American culture.” This can lead to clashing expectations and disputes.

***“I wasn’t a citizen ambassador.”***

***-Andrea Villa***

The State Department declares the Exchange Visitor Program, under which the au pair program falls, “first and foremost an educational and cultural exchange. The primary goal is to allow participants the opportunity to engage broadly with Americans” and, if there is a work component, “learn new skills or build skills that will help them in future careers.” The 16 designated U.S. au pair agencies, most of them for-profit businesses, recruit, select and train au pairs, connect them with host families and oversee their visa status. Although the department’s au pair program brochure concludes with a disclaimer — “Please Note: No guarantee of performance or competency is made by the designation of sponsor organizations” — it instructs au pairs who have concerns to turn first to their sponsoring agency.

Critics such as Chuang say oversight of the program is inadequate. The approximately 100-employee Office of Private Sector Exchange is tasked with monitoring all 15 of the J-1 Visa Exchange Visitor Programs, which include more than 300,000 participants coming to the United States annually to work, study or teach.

The State Department initiated a routine internal review of the au pair program in January 2014 and completed it a year later but has not released any results. Officials said they were unable to comment on the content or timing of any new rules. In the interim, the department has made changes to its oversight of the au pair program. The offices that monitor and sanction non-compliant agencies no longer rely on sponsor fees for their funding, which had presented a potential conflict of interest noted by the department’s inspector general. The department also implemented a system of “meet and greets,” wherein au pairs meet with department staffers, without the presence of agency

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

representatives, to discuss their experiences. It has conducted more than 90 such meetings so far this year.

Andrea Villa laughs when she is read a State Department letter sent to new au pairs. “[Y]ou are among many young adult exchange visitors serving as your country’s citizen ambassador in the United States.”

“I wasn’t a citizen ambassador,” she says.

What was she?

“I was a Cinderella.”

To learn more about the experience of au pairs, listen to the most recent episode of Reveal, a radio program from The Center for Investigative Reporting and PRX.

**Villa’s first au pair experience** involved a family she had stayed with in 2009 as an exchange student taking English at the International Center for Language Studies in Washington. The Clarks lived in Arlington, had twin girls she adored and were warm and genuinely interested in her life. When they asked her in 2011 to return as their au pair, she leaped at the chance. The Clarks turned to Au Pair International, based in Boulder, Colo., to handle the process; in Bogota, Villa says, she completed the process through Cultural Travel Colombia.

Villa went through a barrage of tests and certifications: English-language interview, CPR- and first-aid certification, a psychological-assessment test, swimming test, even a pregnancy test. But the most startling requirement was the \$1,600 fee that Villa says she was asked to pay to begin the application process — more than twice the average monthly salary in Colombia. Villa emailed the Clarks, who were just as surprised. It didn’t make sense to them that she should have to pay to get a job when they were already paying a U.S. agency thousands of dollars. Nevertheless, the Clarks told Villa they would cover the expense.

“I was so lucky,” says Villa. “All the other au pairs have to pay because they don’t have someone to fight for them.”

The high cost of participating in the program can be a significant hurdle for prospective au pairs, who are required by agencies to pay for a range of incidentals, which may include “processing fees,” embassy-interview fees, visa-application fees and even airfare supplements. Some, such as Villa, also report paying overseas recruitment fees. Three of the top five sending countries are Brazil, Colombia and Mexico; recruitment fees there can place a large financial burden on economically vulnerable participants.

Legislative efforts to do away with recruitment fees have run into opposition from the agencies, which have encouraged host families to join them in lobbying against bills that the agencies argue would increase costs. Using an au pair for child care is a good deal, especially in high-cost areas such as Washington. Factoring in agency fees of up to \$8,500, the fixed au pair stipend and \$500 toward the au pair’s required course work at a post-secondary institution, families pay roughly \$19,000 a year. Even

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

considering the expense of supplying room and board, that's a considerable savings over the average cost for a full-time nanny in Washington, which, according to the New America think tank, is \$33,366 — the highest in the nation.

In addition to unexpected recruitment fees, au pairs are often startled by the predominance work takes after they arrive. "They do say you have to work 45 hours a week, help the family," says Caroline Nascimento da Silva, a Brazilian who worked as an au pair in Arlington. "But they don't emphasize it." Au pairs also can experience difficulties obtaining the cultural and educational experiences they've been promised. Families who live in the suburbs do not always make transportation available, for example, and the \$500 host parents pay toward educational expenses doesn't stretch far beyond basic English-as-a-second-language classes in the Washington region.

Villa says she felt awful when her dispute with a host family led to her losing her job and potentially having to leave the country. (Linda Davidson/The Washington Post)

**When their year-long experience** comes to a close, au pairs have the option to extend for up to 12 more months. Villa was eager to stay in the States to continue her course work, she says, but the Clarks no longer had enough hours for her. So, at the suggestion of Au Pair International, she put up a profile on Care.com, a website that connects caregivers and families, to find another match. When a new family got in touch, Villa was relieved. The husband, wife and two daughters, 4 and 6, also lived in Northern Virginia and seemed kind. Eager to nail down her visa, she did not wait to see if anyone else would contact her.

The new family, who declined through an intermediary to be interviewed for this story, timed Villa's arrival to coincide with the last week of their exiting au pair, Yuka Yamada, who is from Japan. Villa got her first inkling of trouble on Yamada's last day, when the children's computer broke and, Yamada says, the host mother accused Yamada of allowing the children to do the damage, or doing it herself.

"They didn't ask me to pay, but I felt terrible to be accused of doing that," Yamada says via Skype from China, where she's now studying Chinese. "I didn't touch the computer." Although she remains in touch with the family and characterizes her relationship with them as good, she regrets that fraught exit. "It was my last day of my year there, and I cried that it was ending that way."

Yamada says that she occasionally worked over the mandated maximum number of hours, for which she was paid, and that she willingly agreed to sometimes walk and feed the family's dog. Having been bitten by a dog as a child, Villa did not want to care for the large Saint Bernard, however, and the family acquiesced. She also balked at the extra hours. Her first hosts, the Clarks, suggested she ask for an additional \$12 to \$21 an hour for the overtime. Villa says the second host father agreed to \$6, which disappointed her.

The days with the second family could stretch to 12 hours, and those days into 60-hour weeks, Villa alleges. She says she would wake up at 6:30, feed the girls breakfast, drop the older girl off at school, bathe, care for and feed lunch to the younger one, pick up the older one at school, feed the girls snacks,

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

and manage their activities and homework until their parents came home around 7 and made dinner. In between, she says, she would clean the kitchen and vacuum the whole house — chores she believed went beyond the au pair responsibilities to do light housework related to the children.

After her long workdays, Villa would collapse in her basement room. She had little energy to study, she says, and had the gnawing sense that the parents saw her less as a member of their family and more as someone who could be squeezed for more work.

Villa's state concerned her first host mother, Eva Clark. "It just seemed they were really taking advantage of her," says Clark. "I could see her getting very down, and Andrea's a very upbeat, positive, super-helpful, super-friendly person."

Interviews with au pairs suggest that working over the maximum is commonplace, even though agencies can in theory be sanctioned under State Department rules if they fail to ensure host families' compliance with the 45-hour ceiling. It is also a potential violation of the Fair Labor Standards Act, which applies to au pairs and requires that employers keep time records of employees' hours.

Au pairs have an opportunity during monthly check-ins with local agency representatives to report any problems regarding hours or cultural or educational opportunities. But it can be difficult for the au pairs to speak up. According to interviews and the class-action lawsuit, they often feel isolated, reliant on host families for food and transportation (even to those monthly check-in meetings), and uncertain how and when to draw the line. Others have taken out loans for recruitment fees, making them even more reluctant to risk being sent home in debt if they anger their host families or agencies.

Some worry that they will face long-term consequences if they come forward. When an agency marks an au pair's status as "terminated" (indicating a program violation instead of the routine "completed" designation), it could affect her ability to return to the States in the future, a fear that has kept au pairs from speaking out, according to Julia Beebe of domestic-workers' rights group MataHari. "The immigration lawyers and other advocates we've spoken with don't feel confident that a protesting au pair won't be deported," she says. "We don't feel like we can offer them a guarantee that they can speak out publicly without fear of retaliation."

Villa is learning bookkeeping at a painting company in Alexandria. (Linda Davidson/The Washington Post)

**Three months into** Villa's stay with the second family, Sheepy went missing. The little girl, wailing, went upstairs to her mother. Her big sister followed. Not wanting to intrude, Villa says, she went to her room, where she began to receive texts from the girls' mother, questioning her tactic with the stuffed toy and telling her it wasn't her job to help raise the girls. The next morning, Villa alleges, the girls' father reprimanded her for going to her room rather than remaining upstairs to fold laundry or do other housework.

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

Villa felt overworked, underappreciated and undermined in her authority to care for the girls. She called her agency, which contacted the host family, then called her back and told her she'd have to leave by the end of the week. But when she got home, her host father told her to leave the next day.

Although her local agency representative offered Villa a place to stay at her house, Villa declined. She stayed with friends while she scrambled to find a new family through the rematch process, a high-stakes undertaking in which she had to find a new job within a "reasonable period" (as stated in her contract) or fly home at her own expense. Permission to rematch is a matter of agency "discretion," her contract says, as is agency assistance in finding a new family or temporary housing.

Villa says that in her case, the local agency representative told her to put her profile back up on Care.com and did not offer any further assistance in finding a new family. Au Pair International, Villa's agency, did not respond to multiple calls and requests for comment.

"I felt awful," she says now. "Awful." Her former host mother was alarmed as well. Clark says she called Villa's agency twice but received no response. She says she looked for a way to contact the State Department but couldn't find the proper channel. "I thought, 'Who can I possibly call to get help? There's got to be some sort of monitoring of this program that we can report them to or at least get them to look into the situation.' And I couldn't find any help."

Since that time, the State Department [website for the program](#) has added a hotline and an email address for reporting abuse. Au pair advocates would also like to see a central list of host families who have been accused of violating program rules and a system for collecting confidential feedback from all au pairs.

In 2011, the Office of Private Sector Exchange, which oversees the au pair program, began to keep a record of complaints — logging 237 so far, though spokesman Nathan Arnold says, "Not every incident will be reported to the department." The complaints were mostly centered on "expectation management," involving issues such as hours and pay, according to Deputy Assistant Secretary Keri Lowry, who declined to speak on specifics.

Records from the class-action lawsuit and incidents that resulted in official complaints to the State Department reveal a wide range of allegations. One au pair said she was told to cook for the family while not being allowed to eat with them. Another said she was barred from eating the family's food and left behind to care for the children while the parents went away for days. Another said she was exposed to racist jokes, and another said she was forced to start work at 4 a.m. MataHari's Beebe says her organization has received 35 complaints since August 2015 for issues that include working far over the maximum 45 hours a week and sexual harassment.

Villa did find a rematch, via an au pair friend who was heading home and recommended Villa to take her place. Her next family was gracious and inviting, and Villa "felt so blessed to be moving into that house. It was like coming back to life." She took care of one 7-year-old boy and had time to study in between her work hours. But even today, visiting the old neighborhood can leave her shaken.

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

**In November 2014**, Colorado nonprofit Towards Justice filed suit against the au pair agencies after Colombian au pair Johana Paola Beltran told them she had paid \$2,500 in recruitment fees and had been asked to cook her host family's dinner every night and feed their eight chickens, but had not been allowed to eat with the family. Her lawyers, unfamiliar with the au pair program, were shocked at her paltry stipend. "How and why is that happening in a functional capitalist society?" asked Nina DiSalvo, Towards Justice executive director. In 2015, Boies, Schiller & Flexner came on as co-counsel for the suit.

The plaintiffs allege that the agencies violated anti-trust laws by colluding to set au pair wages; misled families and au pairs into thinking that the stipend was set by the State Department rather than the agencies themselves; and fixed the wage to a sum that violates federal, state and local minimum wage laws. It seeks damages including back pay for its potential class of 50,000 current and former au pairs.

***"Sometimes I think America has a double face. ..."***

***Andrea Villa***

Meanwhile, MataHari has been actively working to organize nannies and au pairs since 2015. "Once [au pairs] start understanding the program, they start wondering why they're getting paid so minimally," says Beebe. "They're meeting other ladies — nannies — in the park getting paid four times as much with fewer kids, and then they become very interested in learning their rights."

Advocates have called for moving oversight of the au pair program to the Department of Labor, or for reducing the number of required work hours to 30. When asked about moving the program under Labor, State Department spokesman Arnold responds that State believes it belongs under cultural exchange. "Our discussions with au pairs indicate that they are motivated to come to the United States mainly in order to practice their English, learn about the country through living with a host family for a year, and through travel," he says.

"Sometimes I think America has a double face, especially the immigration system," Villa says, reflecting on her experience. "They say this program is for you to come and learn English and travel while you take care of kids. But ... no one will make sure you have a good family and a good schedule. The au pair doesn't have protections."

Villa, who is considering joining the class-action lawsuit, is thinking through her own solutions. "Maybe this is crazy, but I think about opening an au pair agency," she says. "Instead of paying the agency \$6,000, the family pays \$3,000. And then pays \$3,000 for the au pairs' education. The au pairs work 30 hours a week and are paid more. I don't know if it is possible, but it would be good."

*Noy Thrupkaew is a freelance writer based in Los Angeles.*

***Editor's note:*** For this story, reported in cooperation with the Investigative Fund at the Nation Institute, writer Noy Thrupkaew drew on thousands of pages of legal documents and court transcripts, news articles, academic studies, a survey of 150 former and current au pairs, and interviews with au pairs, host families, workers' rights advocates, government officials and au pair agency staff.

# Are au pairs cultural ambassadors or low-wage nannies? A lawsuit enters the fray.

By Noy Thrupkaew  
November 3, 2016

*To learn more about the experience of au pairs, tune in to “Reveal,” an investigative public radio program and podcast from the Center for Investigative Reporting and PRX. You can find this episode at [revealnews.org/podcast](http://revealnews.org/podcast) starting Nov. 5.*

*E-mail us at [wpmagazine@washpost.com](mailto:wpmagazine@washpost.com).*

*For more articles, as well as features such as Date Lab, Gene Weingarten and more, visit [The Washington Post Magazine](#).*

*Follow the Magazine on [Twitter](#).*

*Like us on [Facebook](#).*