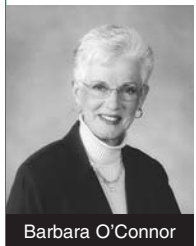


LAF/UPDATE



Fall 2006

From the Board President



Barbara O'Connor

Fall is a time of transition. We welcome cooler evenings, trade sunscreen for a corduroy jacket, and watch our children or grandchildren head back to school. At AAUW, branches are gearing up for another exciting year of activities. New and returning officers are looking for fresh ideas, and this is a perfect time to consider incorporating Legal Advocacy Fund programming into the coming year.

States can take advantage of the plaintiff travel grant program to bring the compelling stories of our plaintiffs to their conventions. LAF's video lending library helps branches introduce their members to LAF plaintiffs and Speaking Out for Justice Award winners. For branches located near a college, LAF also offers a campus outreach program to proactively and collaboratively address the many issues of sex discrimination.

Most importantly, I want to ensure that branches and states have appointed LAF liaisons at all levels. If your branch or state cannot accommodate an LAF liaison, be sure your EF chair is aware of LAF resources and activities and have her include some LAF efforts as part of her duties.

This year also brings two important milestones: AAUW is celebrating its 125th anniversary, and LAF is celebrating its 25th anniversary. Throughout the past 25 years, LAF has assisted more than 100 plaintiffs and provided \$1.3 million in support to cases affecting equity in education for women and girls. The Educational Foundation is committed to continuing the LAF legacy as the nation's largest legal fund focused solely on sex discrimination in higher education and, as always, this will be a team effort. LAF depends on the leadership and generosity of AAUW members.

Welcome to our new member leaders and happy birthday to AAUW and the Legal Advocacy Fund. I hope we can use these important milestones to recommit to the critical mission of the AAUW Educational Foundation, because equity is still an issue and LAF must remain in the thick of the fight.

A handwritten signature in blue ink that reads "Barbara L. O'Connor".

Barbara L. O'Connor
President, AAUW Educational Foundation

Also in This Edition

- Latest case updates
- Q&A on the history of LAF
- Plaintiff Travel Grants

Chemistry Professor's Long Battle for Equality Continues

When Charlene McMahon and her husband moved their family to Wisconsin in 2000, they anticipated many years of working side-by-side at Carroll College. Both spouses obtained identical tenure-track positions as assistant professors in the department of chemistry. According to McMahon, the first few years at Carroll were ideal, but once the process to review candidates for tenure was underway, she faced discrimination from the college because of her sex, marital status, and pregnancy.

McMahon, her husband, and another colleague in the department were vying for tenure at the same time. The college president said that it was likely that just two of the three would gain tenured positions. Although all three candidates were recommended by the pretenure promotion committee, McMahon and her husband were informed that both were highly likely to continue in the process.

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Associate Professor Challenges School's Equality Promise in Pay Equity Lawsuit

Every year, Berea College sends all employees a list of new faculty and their ranks. When associate professor Claire Schuster read the list in fall 2002 and saw that the department of nursing had recently hired a male colleague at the associate professor rank with no prior teaching experience, she thought there had been an error. Once she learned that this new faculty member possessed a job title superior to his qualifications and was being paid a salary that exceeded her own, she expressed her concerns to the college administration. Since the administration did not adequately address these matters, Schuster took the

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institution to court. The judge ruled that Schuster had enough evidence to present a case of sex discrimination and ordered the parties to enter into mediation. Though a trial is scheduled for November 2006, the parties may settle before that date.

After working as a registered nurse in the private sector for more than 20 years, Schuster accepted a temporary teaching position at Berea College in spring 1995 and then began a tenure-track, associate professor position in fall 1995. In spring 2001 she was awarded tenure, and a year later she was promoted to associate professor.

Schuster contends that it is rare for a professor with no prior teaching experience to be hired at an associate professor rank. Unless a faculty member is truly exceptional or distinguished, had tenure in a prior position, or held the associate professor rank at a previous institution, she or he usually begins at an instructor or assistant rank. The college made clear to Schuster that she had to be at the college for six years to apply for tenure and after earning tenure she could apply for a promotion to associate professor. Consequently, Schuster was surprised when a man without the appropriate qualifications or experience was hired directly into an associate professor position and at a greater salary than she was receiving. Although this individual had prior work experience including four years as a

nurse, he had no teaching experience. Furthermore, as both Schuster and the new professor had the same job description and were teaching a course together, she acted as a mentor to him.

Because the faculty at the college was provided with salary distribution charts revealing the pay ranges for each academic rank, Schuster knew that despite his experience, this new faculty member was making much more than a typical entering professor. To make matters worse, her own salary was significantly less than the mean for the associate level positions, and she was an associate professor at that time. The chart included data from other schools and indicated that Berea's pay scale and job structures were similar to comparable institutions.

When Schuster questioned the department's irregular conduct, she was told that the male professor was assigned the associate professor rank because his salary was beyond the college's assistant professor range. If the male faculty member had been assigned an assistant professor rank, his salary would have skewed the mean for that entire rank. The dean of faculty told Schuster they could do nothing to remedy the situation. Schuster notes, "The real issue is not just salary but the fact that [the male professor] has the associate rank without first having to earn tenure and [the college] was not able to justify or demonstrate what qualified him for that rank." This was "demoralizing, like a slap in the face" to her and many of her colleagues who had been at the department for many more years than he. Many had not yet attained tenure or the associate rank although they had more experience than the new male employee.

Although the department eventually agreed to raise Schuster's salary to match her male colleague's, they would not provide her retroactive compensation for his first year nor justify his associate professor designation. The college argued that it is common for professors to be brought in at an associate rank, but when Schuster searched Berea's records back to the 1960s, she found that this had happened only once before in the department of nursing. In

that case, the professor hired had held a tenured associate professor position elsewhere prior to being hired as chair of the department.

Despite her efforts to maintain a low profile on campus and continue her teaching and professional commitments, Schuster says that that college has tried to portray her as "a whiner, difficult, attention seeking, and a gossip on campus." She has also faced a tense and uncomfortable work environment because the collegial relationship she once had with the male colleague has deteriorated. AAUW's involvement and financial assistance have made her case somewhat more public, and Schuster's colleagues who know about her struggle have expressed support for her. She does not want to draw a lot of attention to herself but says that knowing what people are thinking is better than the silence she previously felt.

Having AAUW support has given Schuster the confidence to continue her fight for justice. While financial assistance has been helpful, she has benefited most from the emotional support. She was relieved to find that she "was not the only one who felt like this was worth fighting for" and that "a national organization recognizes that what happened was very wrong." [LAF](#)

MAKE A LASTING GIFT TO LAF

LAF is pleased to announce that its supporters can now join the Legacy Circle, a planned giving program.

You can name LAF as the death beneficiary of your life insurance, bank account, stock account, or retirement plan, in addition to other options.

For more information, contact Gloria Benton in the AAUW Development Office at 202/728-7627 or development@aauw.org.

The AAUW Legal Advocacy Fund currently supports 16 lawsuits. In June 2006 the AAUW Educational Foundation Board awarded \$11,000 in support of ongoing cases.

Brodsky v. Kaleida Health and State University of New York at Buffalo

Brodsky's case continues in discovery, and she has completed a four-day deposition. Trial is tentatively scheduled for 2007.

Burch v. Regents of the University of California

Burch's case has survived summary judgment and will be heard by a jury in October 2006.

Chichilnisky v. Columbia University

Chichilnisky filed a new complaint with the EEOC on Dec. 23, 2005, alleging further retaliation by the university. The judge from the case was reassigned to another court, and the assignment of a new judge is likely to result in a delay for setting the trial date.

Conney v. Regents of the University of California

The university filed its appeal brief contesting the original verdict, and Conney's attorney filed a response. Oral arguments are expected to be scheduled for late 2006.

Doe v. Berry College

Discovery ended in April. Multiple motions are pending to dismiss the various claims and compel discovery.

Ilon v. The State University of New York at Buffalo

Final deadlines have been set for discovery, and Ilon's attorney awaits documents from the university. Ilon's attorney and the university are discussing a settlement negotiation.

Mansourian, et al. v. Regents of the University of California

The case is still in discovery with both the plaintiffs' attorney and the university's attorney filing motions to compel. The class certification hearing is scheduled for fall 2006.

McMahon v. Carroll College

McMahon is awaiting a decision from the judge on the university's motion for summary judgment.

Miller, et al. v. Texas Tech University Health Sciences Center

A jury found for Miller on her Pay Equity Act claims and awarded her \$15,000. Miller is awaiting the university's decision on whether it will appeal.

Nash v. Ray L. Belton and the Southern University System

Nash presented oral arguments on her appeal in July. She awaits a decision from the court.

L.R. v. Trustees of Princeton University

Discovery has neared completion. Russell's attorney anticipates summary judgments will be filed. Trial is scheduled for October 2006.

Schuster v. Berea College

A judge ruled that Schuster may take the depositions of three women faculty members whose testimony the college had sought to exclude. A trial date has been assigned for November 2006.

Simpson, et al. v. University of Colorado

The motion to compel and for sanctions filed on behalf of Simpson has survived the summary judgment. Simpson's attorney is preparing to file a brief with the 10th Circuit appealing the district court's grant of summary judgment.

Violand v. George Washington University

The U.S. Court of Appeals for the District of Columbia heard oral arguments Jan. 19, 2006. Violand awaits a decision.

Vuolo v. Board of Trustees, University of the Commonwealth of Massachusetts

Vuolo appealed the lower court's dismissal of her case to the Appeals Court of Massachusetts in October 2003. A date for oral arguments has not been scheduled.

Whittaker v. Northern Illinois University

Whittaker petitioned the U.S. Supreme Court for a writ of certiorari. She is awaiting its decision.

Settlements and Decisions

deMartin v. New Mexico Highlands University

DeMartin filed a suit against the university for sex discrimination in pay inequity among other claims. A settlement negotiation had been arranged the day she received word that she would be receiving LAF support. She presented that fact at the negotiation, and the university made their first real settlement offer. The university quickly settled for a undisclosed sum that deMartin considered to be fair. LAF awarded deMartin \$5,000 in support of her case.

Maggio v. Kent State University

Maggio sued the university for sex discrimination and retaliation. She was treated differently from her male colleagues and then terminated when she complained of the discriminatory treatment. The jury ruled in favor of the defendant on both counts on May 24, 2006. Maggio decided not to pursue an appeal. LAF awarded Maggio \$9,000 in support of her case.

Washington v. Trustees of the California State University and Colleges

Washington filed a case against the university for sex discrimination in denial of tenure. In April 2005, the trial court granted the defendants' motion for summary judgment, dismissing Washington's case in its entirety. Washington appealed to the appellate court and the California Supreme Court. Both courts denied her appeal. LAF awarded Washington \$23,629 in support of her case. [LAF](#)

For comprehensive up-to-date information on all LAF supported cases, visit the web site at www.aauw.org/laf/cases

AAUW Legal Advocacy Fund Major Donors

We extend sincere thanks to the donors whose contributions to LAF, a program of the AAUW Educational Foundation, were received between Jan. 1, 2006, and July 20, 2006:

Guardian (\$5,000 and higher)

Lilo and Gerard Leeds (NY)
Virginia Palmer (AZ)

Defender (\$1,000–\$4,999)

Vicki DeMasi (CA)
Peggyann Hutchinson (OR)
Jewish Federation of Metropolitan
Chicago
Marcia Lynn McKenzie (AK)
Nancy Mion (NY)
Roxanna Schlimm (PA)
Gloria Weston (CA)

Advocate (\$500–\$999)

Florence Baturin (MA)
The Caughey Foundation
Lotyann M. Eis (IL)
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Ruth R. Jurenko (AL)
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Michele Wetherald (OH)
Janet M. Wettergren (MN)

LAF apologizes for any errors or omissions. Kindly bring them to our attention so we may correct them promptly.

Chemistry continued from page 1



McMahon's promising situation changed when she told the college provost that she was pregnant. On the spot, the provost offered her a nontenured position, but McMahon

elected to continue the review process. Two months later, her husband was awarded a tenured position, but McMahon was denied. The college also denied three other women who were up for tenure.

McMahon believes that the fact that no women were granted tenure made her situation unusual, since "sometimes women do feel isolated on campus when facing discrimination alone." She also feels that the college presumed that men "needed" tenure more than women did and since it was giving her husband tenure, it could ignore her merit and deny her the position she deserved. Because McMahon was working as a chemist in a predominantly male field, it was easy for the college to try to "get a two-for [one]" and keep her in a lesser

position despite her qualifications, knowing it would be difficult for her to go elsewhere in an area that lacked colleges.

After learning that she did not receive tenure, McMahon immediately sent a message to the provost asking that she would like to be considered for the nontenured position offered previously, but the provost stated that she could not decide that matter at the moment because of the disarray on campus resulting from the hiring decisions. It was not until after McMahon filed an internal grievance alleging that her contract was breached that she was told that she would not be considered for the nontenured position. The U.S. Equal Employment Opportunity Commission determined that there was reasonable cause to believe that McMahon was deliberately retaliated against for complaining.

McMahon filed suit in Wisconsin federal court in December 2003. She is waiting for the court to decide whether she can bring her case before a jury. She has been teaching at Milwaukee Technical College for more than a year and a half,

and though she would welcome the opportunity to return to Carroll, she would accept a position there only "under the right circumstances and with an iron-clad contract."

Although McMahon did not know that her case would spark such a media debate, she says that the attention paid to her case has been great. "I am so pleased," she remarked, "because it makes me feel like I have a support system and it is not just one person against the college. Also, the college has been made aware that they're not just fighting me but a bigger issue." The response on campus has been positive for her as well. Many faculty members have stood behind McMahon and donated money to cover legal fees.

McMahon praises LAF's unwavering support for her and says that the opportunities she has had to share her story with AAUW members and friends have been incredible, "especially since it is difficult to get the mainstream media interested." [LAF](#)

LAF Celebrates 25 Years of Fighting for Women in Higher Education



In the late 1970s a group of women professors and coaches at Cornell University became fed up with the sex discrimination they were facing at the university. AAUW's Ithaca (NY) Branch rallied around the women, providing them with financial support and volunteers as five of them began

a law suit against the university, *Zaborik v. Cornell University*. The branch sought fundraising assistance from the national AAUW organization. As a result, in the summer of 1981, the AAUW board voted to establish the Legal Advocacy Fund.

Elva Volbrecht was the past president of the Ithaca Branch at the time and active in strategizing how the branch could work with the national AAUW organization in supporting the so-called Cornell 11. Today she is EF co-vice president of the Carlsbad-Oceanside-Vista (CA) Branch and serves on the LAF committee of AAUW of California. She spoke with the LAF staff about her memories and hopes for LAF.

Q: It's been 25 years since the AAUW Board of Directors voted to fund the Cornell 11 and establish the AAUW Legal Advocacy Fund. At that time you were a member of the AAUW Ithaca (NY) Branch, which played an integral part in this role. How does this make you feel?

A: When the Ithaca Branch asked AAUW about serving as a flow-through for funds for the Cornell 11, we had no idea that an ongoing corporation would be formed and would still exist 25 years later. We were just a small branch in a university community, but we knew we had to help these women who had decided to fight rather than accept the decisions that had so dramatically affected their lives. Now 25 years later, I am proud, pleased, and sad that our action has led to help for more than 100 litigants—sad because the fight continues over the very same issues.

Q: What were your feelings about *Zaborik v. Cornell University* when you first heard the details?

A. We understood that litigation would likely continue over an extended period and that our 11 sisters would need emotional and financial support. Hearing their stories made it impossible to ignore their request to provide a tax deductible way to raise funds. Donna Zahorik showed great courage in serving as lead plaintiff, thereby giving her name to the case. As we came to know the plaintiffs as individuals, we developed great admiration and concern for them. Once you know someone who has decided to take on an institution, you quickly understand the emotional toll that is exacted.

Q: Since the Cornell 11 case, how have things changed in the area of women's tenure?

A: It is hard to believe that in the 22 years since Cornell settled with our 11 litigants we are still fighting the same issues: tenure denial, Title IX, sexual harassment, you name it. Institutions that should be leading the way on equity still have not learned to treat all staff members with dignity and respect.

Q: Since 1981, LAF has contributed more than \$1.3 million in case support to over 100 cases. More than 80 of these cases involve tenure. What can AAUW members do to bring attention to this alarming trend?

A: Those of us who live in university communities need to make contact with female faculty and staff. Inviting them to present branch programs is an excellent vehicle. As we work with them, we will better understand their issues and can then tell their stories. For most of us, storytelling is the best path to understanding and spreading the word.

Q: What LAF cases do you remember most?

A: Perhaps the case we all remember best is *Kay Austen v. University of Hawaii*, which took 10 years to settle. *Susan Whittaker v. Northern Illinois University* offered support to a building service worker, a first for LAF. *Cynthia Fisher v. Vassar College* resonated with those of us who interrupted careers to raise families. *Kathleen Melez v. University of California* became personal for those of us in southern California. And now we have two wrestling cases: *Burch v. Regents of the University of California* and *Mansourian, et al. v. Regents of the University of California*. Michael Burch's case (yep, a man) will be heard in October, and the Mansourian case is in discovery. These two cases have tremendous implications for Title IX.

Q: How have the branches' view of LAF cases changed throughout the years?

A: As we learn more about LAF-supported cases, we better understand the scope of the problems. Unfortunately, some AAUW members don't see the need for LAF, but once you have known a plaintiff or heard a story, the need becomes all too clear. LAF and the Educational Foundation work hand-in-hand in providing opportunities for women.

Q: What inspires you to continue supporting AAUW and LAF?

A: In the 25 years since the members of the Ithaca Branch heard the stories of the Cornell 11, I continue to hear the stories of the brave individuals who take on institutions with their corporate counsels and apparently unlimited funds. As a California taxpayer, I am offended by the use of my taxpayer dollars to fight cases in which the University of California system is clearly wrong. It is only when our hearts are touched that we are willing to support LAF and AAUW. Can I—can we—do anything but offer that support? **LAF**

Plaintiff Travel Grants Raise More Than \$17,800

The 2006 AAUW Legal Advocacy Fund Plaintiff Travel Grant program proved to be a great success! Eleven AAUW states and regions were the beneficiaries of this program and raised more than \$17,800 in funds for LAF. Take a look at a sample of the positive feedback from some of the conventions:

“One of the added benefits ... is that Pat [Washington] got to see how strongly AAUW supports LAF and its plaintiffs. ... She bonded with many of our members, and ... got some valuable advice from some of our lawyer members. ... I didn't expect it to be such a strong two-way street. I want to thank you again for sending Pat. You could not have sent a better person, and it was a huge enhancement to the whole convention.”

—Sue Welsch, Nevada LAF Liaison

“Michael [Burch]'s presentation was one of the best presentations I have ever heard. Recognizing how little the women really knew about the long history of discrimination against women in sports, he presented the history in a clear way. He also recognized that many women are prejudiced about what sports women should involve themselves [in].

... His heartfelt belief in creating equity in athletic opportunities is so strong that he is waging this battle without any remorse [about] the personal cost. AAUW could not have a stronger advocate than Michael Burch.”

—Cheryl B. Papa, New York LAF Liaison

Consider applying for a plaintiff travel grant for your 2007 state or regional convention. Applications are due Oct. 15, 2006. Download an application at www.aauw.org/laf/travelgrant.cfm. Be sure to fill out each section completely. For more information, call 202/785-7750 or e-mail laf@aauw.org. [LAF](#)



From left, Veronica Johnson, AAUW Texas LAF liaison; Michele Wetherald, AAUW executive director; Beverly Nash, LAF plaintiff; and Lynn Smith, AAUW of Texas mission support vice president meet the band at the 2007 AAUW of Texas Convention.

About LAF

The AAUW Legal Advocacy Fund, a program of the AAUW Educational Foundation, provides funding, support, and technical assistance to individuals challenging sex discrimination in higher education and is the nation's largest legal fund focused solely on this issue. Through its recognition of campus programs and individuals and its public education efforts, LAF educates campuses and communities about continuing barriers faced by women and the legal rights, policies, and strategies that can help eradicate sex discrimination in higher education.

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