

AAUP

Voice

September 2007

"Academic freedom for a free society"

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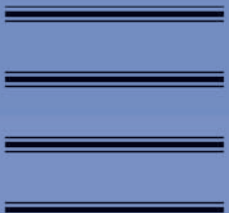
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Contract Negotiations This Year

During this academic year, the AAUP will be representing faculty in negotiating a new contract that will determine future salaries, benefits, and working conditions. In past years, the AAUP has succeeded in negotiating solid contracts that have improved faculty conditions of employment, enhanced faculty morale, and served to realize a central purpose of collective bargaining as stated in the Collective Bargaining Agreement, "to improve the quality of education and to maintain the high standards of excellence at the University of Delaware."

In recent contracts, the AAUP has won UD faculty salary levels that are above average for comparable institutions in our region. We have maintained health care benefits for faculty during a time when they have eroded at other institutions. Family medical leave policies and leave for childcare and adoption have been strengthened and expanded. Procedural supports for academic freedom and tenure have been strengthened through provisions that empower the AAUP to represent faculty members facing termination.

There are several reasons for AAUP success in contract negotiations. First, the AAUP has presented well-reasoned and well-formulated proposals. Our proposals are based on best practices at other universities, relevant data, responses to surveys of UD faculty, and discussions with faculty members across the University. Second, before proposals have been made to the Administration, they have been thoroughly discussed and approved by the AAUP Steering Committee that represents faculty across the University's colleges. Third, proposals are disseminated through the newsletter and at meetings with faculty. We seek faculty involvement and participation throughout the negotiation process. Finally, the AAUP has established professional and collegial relationships with the Administration. Our negotiations have been characterized by deliberation and respectful exchanges of ideas and information and problem solving rather than blaming and grandstanding.

Over the course of this year, much of this newsletter will be devoted to reviewing the procedures for collective bargaining, presenting the rationales and substance of proposals, and reports on how things are proceeding. We look forward to participation of the faculty in this process as we think through and make the case for improvements in our conditions of employment to secure academic freedom, enhance the faculty's economic status, and fulfill the educational and research missions of the university.

Membership and Participation: Keys to Bargaining Power

Strong AAUP membership and the active involvement are the faculty's greatest strengths in contract negotiations. Unfortunately, over the past two years, membership in the AAUP has declined to below 50%. This decline is the result of a combination of factors: retirement of members, rapid faculty turnover, and low membership among long-time faculty members and faculty who have recently come to the University. This decline must be reversed.

Membership is especially important during this year of contract negotiations. AAUP members are the ultimate decision makers where it comes to the contract proposals the AAUP leadership makes to the Administration. Through their votes, AAUP members determine who serves on the Steering Committee. When a contract agreement is reached between the AAUP leadership and the Administration, it must first be approved by the Steering Committee and then ratified by a vote of AAUP members. Only AAUP members can decide whether to accept or reject the agreement approved by the Steering Committee.

Faculty members who do not join the AAUP weaken the faculty's bargaining strength and severely limit their individual power in the bargaining process. The first act by faculty members who are not AAUP members and who want to improve salaries and conditions of employment is to join the AAUP by filling out a dues deduction card. For AAUP members, stay informed and active as we enter into this year of contract negotiations.

Welcoming Events for President Harker

The AAUP leadership has planned two events for welcoming and meeting President Harker. A luncheon with President Harker and the Executive Committee has been scheduled for September 5. A "meet and greet" reception for President Harker and AAUP members is planned for later in the fall semester.

The AAUP has been representing the faculty at the University of Delaware for

almost thirty-five years. As part of the campus culture and of shared governance, it is important that the AAUP and President Harker and his new administration continue the collegial relations that have been established over the years. The AAUP leadership looks forward to these events and the beginning of a good working relationship with President Harker and our colleagues in his Administration.

University Forum on October 25 at Noon

In recent years, the AAUP and the Provost's Office have jointly sponsored The University Forum to focus on a particular shaping academic life. This semester will feature Dr. David Breneman, Professor of Economics and Director of the Master's Program in Public Policy at the University of Virginia. Dr. Breneman is the author of

Earnings from Learning: The Rise of For-Profit Universities. He will speak on select, and often controversial issues from his recent publication.

The University Forum is scheduled for Thursday, October 25 from noon to 1:30 PM in Trabant. Lunch will be served.

Respected Scholar Denied Entry into U.S.

Adam Habib, Director of South Africa's Human Science Research Council Program on Democracy and Government, was denied entry into the United States in August. Dr. Habib, who earned his Ph.D. at the Graduate Center of the City University of New York and is a professor at the School of Development Studies at the University of Kwazulu-Natal, was scheduled to give a talk at the annual meeting of the American Sociological Association meeting in New York. Habib was denied entry because U.S. government officials refused to act on his visa application. Although Habib held a visa in October 2006, he was denied entry into the U.S. at that time. No reasons were given for his denial of entry into the U.S. when he held a visa last October or for the refusal to act on his recent visa application.

The denial of entry in the U.S. and refusal to process visas is not unique to Habib. Other scholars, including Tariq Ramadan who was denied entry into the U.S. to accept a position at Notre Dame University and, later, to give a talk at the annual meeting of the AAUP in June 2005, have faced similar treatment. Habib, like Ramadan, is a Muslim who has criticized U.S. foreign policies, most notably toward Iraq.

A fundamental feature of academic freedom is the right of scholars to travel, to present their scholarly work and ideas, and to work with scholars from other countries. For the U.S. government to deny entry to scholars who pose no danger but solely because their ideas are contrary to that of the U.S. government is a violation not only of academic freedom, but of fundamental values of democracy. In this light, the statement issued by the American Sociological Association should be taken to heart by all faculty, administrators and government officials:

The American Sociological Association expresses its deepest disappointment and profound concern about the Department of State's de facto denial of a visa, which barred Professor Adam Habib from participating in the association's annual meeting. Such actions undermine the willingness of numerous scientists and academics from many nations to visit the United States and collaborate with their American colleagues. The American Sociological Association believes this limitation on scholarly exchange erodes our nation's reputation as a defender of the free and open search for knowledge.

AAUP Voice

Gerry Turkel, Editor

The AAUP Voice is the official newsletter of the University of Delaware Chapter of the American Association of University Professors.

The Voice is published monthly, September through June of each academic year.

The Executive Council acts as editorial board. During contract negotiations or when otherwise warranted, Bargaining Team members also participate on the board.

AAUP Executive Council:

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Patricia Barber, At-Large
Gerry Turkel, Past President*

*Leon Campbell
Contract Officer
831-6767*

*David Smith
Grievance Officer
831-2275*

*Rita Girardi
AAUP Office Manager
301 McDowell
Phone: 831-2292
Fax: 831-4119
Website:*

<http://www.udel.edu/aaup/>

Hours: M-TH (9 a.m.-2 p.m.)

Pay Discrimination: Legislative Remedy Needed

A recent Supreme Court case has severe negative implications for faculty members claiming pay discrimination. In what follows, we review some of the major features of the case and legislative initiatives that have been introduced to remedy it. All faculty are urged to contact their Senators and Representatives urging them to support legislative remedies to the Supreme Court decision.

The Supreme Court of the United States severely restricted the time frame in which an employee wishing to bring a lawsuit alleging pay discrimination by an employer under Title VII of the 1964 Civil Rights Act. In *Ledbetter v. Goodyear Tire & Rubber*, a 5 to 4 majority of the Supreme Court ruled that an individual must first file a charge with the Equal Employment Opportunity Commission within 180 days “after the alleged unlawful act occurs.” The Supreme Court ruling requires that the individual must file a charge within this time period after each act of alleged pay discrimination. This decision effectively prohibits suits that are based on small incremental disparities in pay that may be unknown to the employee.

In delivering the opinion of the Court, Justice Samuel Alito stated that employment discrimination, whether it is a failure to promote, a denial of transfer, or a refusal to hire, must apply to a “discrete act.” In a similar vein, a “pay-setting decision” is a discrete act that “occurs at a particular point in time.” In this light, pay discrimination that builds over time cannot be the basis for a legal claim. Each act of discrimination must be the occasion for a filing a claim within the proscribed time constraints.

In reading her dissent from the bench, Justice Ruth Bader Ginsburg summarized the facts of the case:

Lilly Ledbetter was a supervisor at the Goodyear Tire and Rubber’s plant in Gadsden, Alabama, from 1979 until her retirement in 1998. For most of those years, she worked as an area manager, a position largely occupied by men. Initially, Ledbetter’s salary was in line with the salaries of men performing substantially the same work. Over time, however, her pay slipped in comparison to the pay of male area managers with equal or less seniority. By the end of 1997, Ledbetter was the only woman working as an area manager and the pay discrepancy between Ledbetter and her 15 male counterparts was stark: Ledbetter was paid \$3,737 per month; the lowest paid male area manager received \$4,286 per month and the highest, \$5,236.

Justice Ginsburg argues that by insisting that an individual claiming discrimination must take immediate action after each discrete act of discrimination, the Court overlooks the reality that pay discrimination occurs incrementally over time and that comparative pay information is often “hidden from the employee’s view.” “Small initial discrepancies may not be seen as meat for a federal case, particularly when the employee, trying to succeed in a nontraditional environment, is averse to making waves.” Pay discrimination, moreover, is distinct from other single acts of discrimination and is often more like a hostile work environment.

The implications of the Ledbetter decision for pay discrimination in academic employment are clear. Discrimination in compensation often emerges in academia over long periods of time rather than through one act of payment. Typically, faculty members do not know one another’s salaries, especially as they have developed over years of employment. It would be extremely difficult for faculty members who believe they suffer from pay discrimination to file suit under the criteria established by this decision.

In keeping with Justice Ginsburg’s statement that it is up to the Congress to rectify the Supreme Court’s decision, Congresswoman Rosa L. DeLauro of Connecticut introduced legislation to clarify Congressional intent on federal employment discrimination law. Known as the Ledbetter Fair Pay Act, the House of Representatives passed the bill by a vote of 225-199 shortly after it was introduced in June. Specifically, the legislation will clarify Congress’s intent that the statute of limitations for wage discrimination under Title VII of the Civil Rights Act “runs from the date a discriminatory wage is actually paid – each paycheck – rather than some earliest possible date.” It would allow discrimination claims to be filed within 180 days of when an employee is subject to or injured by a discriminatory decision. Therefore, each time a woman receives a discriminatory paycheck, the clock starts running for 180 days. The bill would be retroactive to the day before the Ledbetter decision and would apply to all claims of discrimination in compensation.

The Senate will be considering the Ledbetter Fair Pay Act after its August recess. It is important to keep the pressure on Congress to support this legislation if there is to be any meaningful avenue in federal law to make pay discrimination claims.

Formation of State-Wide Committee on Academic Freedom

The AAUP Conference for Delaware is forming a state-wide Committee on Academic Freedom. Professor Jane Buck, Immediate Past President of the national AAUP and Professor at Delaware State University, is chairing the committee. The goal is to have AAUP members representing all of the campuses of higher education in Delaware serving on the committee. If you have an interest in working with this newly formed committee, you may contact Dr. Jane Buck at buck@count.com

The decision to form a state-wide committee is the result of an initiative by Steve Aby from the Ohio AAUP Conference and Greg Schlotz from the Iowa Conference. The goal is to establish a listserv of state conference Committees on Academic Freedom so that they can share best practices and provide assistance to one another. While national AAUP's Committee on Academic Freedom and Tenure does vital work in defining academic freedom and in dealing with cases in which academic freedom is violated, there is a need for establishing of relationships across institutions within states and among AAUP activists at the state level to build a stronger faculty community to support academic freedom.

Many of the threats to academic freedom occur on campuses that are isolated from one another and have come from state legislators seeking to impose political tests and ideological criteria on the hiring of faculty and curricula. By forming a network of state committees focused on academic freedom, Delaware faculty in higher education will be enhancing the protection of academic freedom in Delaware and across the country.

AAUP

UNIVERSITY OF
DELAWARE



Rm. 301 McDowell
Newark DE 19716
Voice 831-2292
Fax 831-4119
aaup-mail@UDel.Edu

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