

Beyond the ‘Chilly Climate’: Eliminating Bias Against Women and Fathers in Academe

by Joan C. Williams, Tamina Alon, and Stephanie Bornstein

Patricia Moran waited to have her second child until after she received tenure. She gave birth, at age 39, to a baby boy with congenital deformities but was back in the classroom two weeks later. Because her husband is a corporate lawyer, Ms. Moran often must deal with family emergencies alone. She once brought her son to school with her when he was sick, stationing him in the back of the classroom with a trashcan to throw up in. “The students thought I was a good instructor but a terrible mother,” she laments. Amidst her own worry, her colleagues complained about her bringing her son to work. Given the chance to do it all again, Ms. Moran says she would have never chosen a career in higher education.¹

It’s no secret that academe is a challenging place to work, but those challenges are exacerbated when the academic also has family responsibilities. The scholarly world, so focused on achievement, advancement, and endless competition to break new ground, continues to advance at a glacial pace when it comes to the support and retention of women. The traditional model for addressing this issue calls for eliminating the chilly climate in academia by creating a culture of support.² While the chilly climate metaphor has played a useful role, it has its limitations. How does one go about changing a climate? Is it useful or appropriate to refer to experiences that could amount to discrimination as merely a cool atmosphere?

There is little doubt that academe is in need of climate change. Simply providing policies has not proven sufficient to enable people to actually use them. In 2003, a survey of Ohio State University assistant professors reported that one in

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three women and one in five men were interested in reducing their working hours to “have more time for family and personal needs.” Yet only 23 faculty members out of 3,000 had ever taken advantage of the part-time policy, on the books since 1996. Only two professors had worked part time before tenure, suggesting that the policy was not viewed as a “viable option.”³ Academic families continued to lack support, even with new policies in place that were designed to make the academic workplace more family-friendly.

Attempts to mitigate the climate problem in higher education have failed to reach the root of the practices that create a work environment hostile to women,

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especially those with families: unexamined bias (which social psychologists often call “implicit bias”⁴ or “cognitive bias”⁵) and gender stereotyping. This article presents a new model for providing support for faculty who have family responsibilities by identifying and eliminating gender bias. The model, developed by the Center for WorkLife Law at the University of California, Hastings College of the Law, is based on an extensive review of approximately 200 articles on gender bias and stereotyping. It seeks to accomplish two goals. First, it describes the patterns of gender stereotyping that are freezing women, and men with family responsibilities, out of academe. Second, it highlights recent trends in federal employment law of particular significance to academic employers and their employees. This new model is designed to help universities spot and eliminate potentially illegal patterns of gender bias that drive many women and fathers away from the academy—and may push them toward the courtroom.

Since 1966, women have enjoyed an upward trend in attainment of college degrees. By 1998, women made up more than 60 percent of associate degree recipients,⁶ yet without a corresponding percentage continuing on to attain higher degrees. Women graduate from bachelor’s and master’s programs at slightly over 50 percent and professional and doctorate programs at slightly over 40 percent.⁷ According to the Higher Education Research Institute, women make up 38 percent of faculty members at all institutions, but only 28 percent at research institutions.⁸ In addition, male assistant professors are 23 percent more likely to earn tenure than females and, for each year after tenure, male professors are 35 percent more likely to be named full professors.⁹ While the increasing numbers of women in academe appears promising, it’s hard to ignore the considerable numbers of women seeping out from every point along the academic pipeline.

Studies on the glass ceiling cite many reasons why women do not advance at the same rate as their male counterparts. Chief among them is the Catch-22 that women in academe (as in many workplaces) face about their competence: Not only do academic women often find it harder to establish their competence, but they also may be penalized for being “too” competent¹⁰ if they upset the stereotype of how women “ought to” behave.¹¹

According to a survey of academics in the field of history, women felt they were held to a higher standard than men or “had to prove themselves in order to be accepted by scholars,” while men in their departments were assumed to be com-

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petent until proven otherwise.¹² Another common form of gender stereotyping is when men are judged on their potential, whereas women are judged strictly on their accomplishments. He’s a “nascent scholar...soon to blossom”; she lacks publications.¹³

Gender-biased performance evaluations play a role in the difficulty women have proving their competence. Departmental chairs tend to give their male students higher recommendations and to overlook women. As a Massachusetts Institute of Technology professor explained, “chairmen tend to ask male colleagues at other universities whether they have any great candidates and the response will be to name several men; not until you ask, ‘Do you have any women?’ will they say ‘Oh, yes. There’s Mary.’”¹⁴ Letters of recommendation written for males often describe them as “brilliant and original” while similarly situated women are described as reliable, responsible, and meticulous.¹⁵ In addition, women tend to receive “polarized evaluations”—female superstars may actually receive better evaluations than their male counterparts, but women who are merely excellent tend to receive much lower evaluations than similarly performing men.¹⁶

Likewise, whether and how credit for accomplishments is given is affected by “attribution bias”: Where a male colleague’s successes are attributed to his skill, a female colleague’s may well be seen as “just getting lucky.”¹⁷ Academic women also experience “recall bias,” in which women’s mistakes are often remembered long after men’s are forgotten.¹⁸ When one female professor observed a newly hired male colleague from her own graduate program transition into her department much more easily than she had, she wrote, “[M]y achievements have been underplayed and my faults exaggerated greatly in comparison to my male colleagues.”¹⁹

Female academics may also experience “role incongruity”: the bias that often

arises in male-dominated work environments in which jobs are defined in masculine terms. A recent example of role incongruity is the statement of former Harvard President Larry Summers who cited a “different availability of aptitude at the high end” to explain why women were under-represented in tenured positions in science and engineering.²⁰

To survive in some sexist departments, women are forced to play accepted feminine supporting roles: the “mother” who is non-threatening and nurturing; the “princess” who aligns with a stronger man; or the “pet” who is perky and deferential.²¹ In these situations, women who play stereotypically feminine roles are taken into the in-group, while other women are marginalized.²²

Women also are penalized for being too competent. In physics, commented a prominent physicist, we “select for assertiveness and single-mindedness”²³ But there’s a dilemma. The same assertive, outspoken behaviors that are seen as admirable in men may be seen as pushy and unfeminine in women. In a culture in which men are expected to be assertive and powerful and women are expected to be sociable and reassuring, a forceful woman who exercises authority may be viewed in a negative light, as a “b-tch” with a personality problem²⁴ or as uncollegial, someone who “just doesn’t fit in.”²⁵

Confidence itself is often coded as masculine, as are brilliance and assertiveness.²⁶ Gendered norms of self-promotion are driven by similar stereotypes: A woman may be faulted as a “shameless self-promoter” in a context in which a man would be admired for “knowing his own worth.”²⁷

Women academics in some departments are expected to be “restrained and endlessly supportive” of colleagues while picking up extra secretarial work and to be “softer” and more available to students than male colleagues.²⁸ When women do not act according to these stereotypes, they may well trigger negative perceptions.



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Social isolation is a final pattern that can make it harder for women to “know the ropes” so that they can do what they need to do to be seen as competent, and, in other situations, can lead highly competent women to think of leaving academe. “Social isolation is one reason [many] single women without children...in the bench sciences...were considering leaving academia,” according to a University of California study.³⁰

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In addition to glass ceiling biases, many women also encounter “maternal wall” biases that penalize them for being mothers. A Cornell University study found that, when presented with two identical job applicant resumés (one of a woman without children and the other of a woman with children), 84 percent of participants said they would hire the woman without children, but only 47 percent would hire the mother.³¹

The motherhood penalty in academe has been well documented. In “Do Babies Matter?,” Mary Ann Mason and Marc Goulden of the University of California at Berkeley note that women who have children within the first five years of professorship are more likely than others to become part of the “non-tenured academic second tier” of lecturers and adjuncts.³²

Maternal wall bias not only affects mothers; research shows that many academics, including men who are or might become fathers, engage in bias avoidance to avoid hitting the maternal wall. Common bias avoidance behavior is to defer having children, decide not to have them, or hide the fact one already has children.³³ Underlying this bias avoidance is the sense that employers do not want to “hire a woman who would get pregnant and quit.”³⁴ Bias avoidance strategies are taught to graduate students explicitly, when students applying for academic positions are counseled against disclosing that they have children. In addition, women are advised to delay or hide their pregnancies when interviewing. One student reports, “We were told when we were getting ready to go on the job market, you can’t be pregnant. You just can’t.”³⁵ The result is that only one in three women who begins the tenure track without children ever has them.³⁶ When she asked for a part-time tenure track appointment, assistant professor Ingrid Holbrooke’s department chair told her, “No, you don’t want to do that.”³⁷ Women professors internalize this message. Said another, “It is extremely difficult to take this time

off and still maintain a competitive edge for grants at the national level....[F]or hard science faculty...I'm not so sure that taking time off for childbearing is necessarily a good long-term strategy since once behind, you may always be behind the curve."³⁸

"Such 'discrimination' can also explain why even very progressive work/family policies might be unsuccessful," reports a Pennsylvania State University study. "Those who utilize the policies may be viewed as uncommitted and, at worst, experience the ultimate failure for an academic in the denial of tenure."³⁹ Between 1992 and 1999, more than 500 faculty members at Penn State became new par-

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A second kind of role incongruity arises when female academics hit the academic wall: women cannot be both good mothers and good professors. "Good" mothers are home with their children, so female professors with children must be bad mothers; and "good" professors focus solely on their work, so professors with children must be bad professors. Regardless of how capable and successful a female academic is, if she is a mother she is often assumed to be lacking, usually as both a mother and as a professor. Maria Manta Conroy was up for tenure when she noticed, "The perception of me having a child is that my profession is not the priority anymore, that it's now kind of second to the family."⁴¹ Similarly, a female department chair wrote of a female professor that the chair "knew as a mother of two infants, she had responsibilities that were incompatible with those of a full-time academician."⁴² Another professor put it more bluntly: Upon learning she was pregnant, she remarked, "I'm committing career suicide."⁴³

"I am constantly struggling against a perception that I'm not doing enough," says a University of California at Davis professor, "But I'm madly juggling in a way a lot of men can't even imagine."⁴⁴ One recent study found that mothers are held to higher performance standards than are other adults. When it comes to promotions, awards, or raises, "[w]omen who give evidence of being a mother [are] held to a harsher standards and suffer decreased workplace evaluations" when compared to women without children and men *with* children.⁴⁵

Much of the bias driving the maternal wall has to do with perceived notions of mothers' competence. In a study on gender bias and competence, psychology researchers found that "businesswomen" were perceived to be of similar competence to "businessmen" and "millionaires," while "housewives" were perceived to be

akin to the “elderly,” “blind,” “retarded,” and “disabled.”⁴⁶ When women in academia have children or become pregnant, their status may drop from “business-woman” to “housewife” even if they continue working. And as their status drops, their perceived level of competence drops with it. Debbie Moore was an admissions staff assistant at Alabama State University. When she was eight months pregnant, a top administrator denied her a promotion, saying, “I was going to put you in charge of the office, but look at you now.”⁴⁷ Noted one professor wistfully, “If you...have your child on campus, colleagues who recognize you when you are by yourself now only see you as a walking uterus and ignore you.”⁴⁸ Not only pro-

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fessors, but also graduate students, may encounter negative competence assumptions. A post-doctoral researcher’s fellowship was terminated when she became pregnant because, as the chief of her division told her, “he thought she would ‘not be productive after having a baby.’”⁴⁹

While on leave from a large research university, a female faculty member got married and pregnant. When she requested a second year of leave, the university gave her a choice: return in January or resign. Faced with difficult family circumstances, she resigned and earned the scorn of her peers. Older female professors thought less of her, saying, “I’ve fought on the front lines so you wouldn’t have to do this. You’re screwing your career over.”⁵⁰

Academic careers are so time intensive, and so often require moves to out-of-the-way places, that a much higher proportion of women end up regretfully missing the opportunity to have children than is true in the population in general. “Overall,” Mason and Goulden point out, “the majority of women who achieve tenure have no children in the household at any point in time after the Ph.D.”⁵¹ These women may look at mothers and think: I couldn’t have it all, why should she? In addition, many female academics are not childless but childfree: cultural entrepreneurs seeking to invent a full female life without children. Childfree women may feel that mothers are reinforcing stereotypes that women need special treatment.

For these reasons, the backlash against mothers in academe is perhaps more bitter than in any other workplace environment. A look at the relevant blogs reveals ample evidence of hurt feelings translated into anger. One female lecturer in humanities from Rice University posted on a *Chronicle of Higher Education* message board that she is “tired of children and breeders getting all the consideration all the time.” “Short of being abused and chained, people do what they want to do;

the rest is just excuses,” she wrote, commenting that parenthood is a choice and, ultimately, parents *will act* upon their priorities: “If you want to write, you’ll write and you’ll find a way to do it.”⁵²

Other postings reveal similar complaints. An assistant dean at Ferris State University equated stopping the tenure clock with unfairness to childless faculty: “Giving people more time to prepare for their tenure review is essentially saying to childless people that they must not have anything else to do in their lives that is important.”⁵³ An assistant professor of English at Jefferson College wrote

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of her resentment about teaching schedule assignments. “How often do departments plan teaching schedules around professor so-and-so’s need to pick up Bucky at Kinder Care?” she writes. “Did I resent doing the evening shift, particularly when I might have had more seniority than the parent in question? You bet I did.”⁵⁴

The sensationalized depiction of the “mommy wars” neglects to recognize that these are fights among women over what are proper roles for women. These “gender wars” are evidence of gender discrimination, not proof that “even the women don’t agree, so this can’t be about gender.”

Fathers in academia who seek active parenting roles often face challenges similar to those faced by mothers. Jerry A. Jacobs, a sociologist at the University of Pennsylvania, notes, “If you’ve been an associate professor for more than six or seven years, the question is, Why aren’t you moving quicker? What’s your problem?” he says. A commitment to raising children typically isn’t considered a very good answer.⁵⁵

Ricardo Padron was coming up on his third-year review at the University of Virginia when his wife gave birth at 25 weeks. Professor Padron’s son fought for life in the intensive care unit of the hospital. While he usually spent 70 to 80 percent of his time on research, during this period Professor Padron was often at the hospital with his wife. The chair of Padron’s department helped work out an arrangement for the professor that would stop the tenure clock. This made all the difference. “I was thinking of leaving UVa,” Padron said, “and their response to my crisis was one of the things that made me want to stay.”⁵⁶

Unfortunately, not all fathers seeking greater involvement in their families get the same support. The dominant gender stereotype for men is a breadwinner, totally focused on his career, dedicated to his family but wholly unencumbered by family responsibilities like childcare. Fathers who wish to take time off to play a larger role in child care are often viewed negatively as uncommitted to their jobs,

and their requests are viewed skeptically, as if the mother should be the one to take care of the kids. Because of these stereotypes, men seeking an active role in care giving and family life may face an even chillier climate in academia than women, who at least have pregnancy and birth to justify any time off.⁵⁷ A male faculty member requesting paternity leave received a “sneering denial by my chair, who said that while another male colleague at Berkeley may have enjoyed that ‘vacation’ our department couldn’t spare my teaching services.”⁵⁸ When men face stereotypical notions of fathers’ roles at home and at work, they, too, experience gender bias.

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Unexamined bias at academic institutions can now include a large price tag in the form of legal liability. Several emerging legal trends in employment discrimination law—including the growing importance of stereotyping evidence in proving gender discrimination—cast the “chilly climate” in a new, riskier light for academic employers.

First, recent federal court rulings signal the important role that evidence of gender stereotyping plays in proving gender discrimination at work. One federal appellate case has even opened the door for employees to prove discrimination on the basis of gender stereotyping evidence itself, without having to compare themselves to similarly-situated coworkers—a legal requirement that has been a common roadblock for academic women alleging gender discrimination.⁵⁹

The second trend is the growing phenomenon of family responsibilities discrimination (FRD) lawsuits—cases brought by employees who experienced discrimination on the basis of their responsibilities as mothers, fathers, or caregivers for elderly parents or ill relatives. Employees are bringing—and winning—FRD cases using a variety of legal theories under existing state and federal laws.⁶⁰

Third, a new Supreme Court case has clarified what actions by an employer constitute retaliation under federal antidiscrimination law in a way that breathes new life into employee retaliation claims. Under the new standard, many of the things that make up the chilly climate could, themselves, constitute illegal retaliation if they begin after an employee complained (or supported another’s complaint) of discrimination.⁶¹

Within this legal context, the stereotyping and bias that women and parents in academe experience has become more than just a “chilly climate” that hinders academic institutions’ diversity efforts: It has become a risk management issue for those institutions.

More than 15 years ago, in *Price Waterhouse v. Hopkins*, the U.S. Supreme Court ruled that basing employment decisions on gender stereotypes constituted sex discrimination. In *Price Waterhouse*, the outspoken, hard-driving Ann Hopkins was denied a promotion to partner and told that she needed to “walk more femininely, talk more femininely, dress more femininely, wear makeup, have her hair styled, and wear jewelry.”⁶² Hopkins was criticized for being too aggressive and “macho” and told she should “take a course at charm school.”⁶³ The Supreme Court held that Hopkins’ employer violated Title VII by denying her a promotion based on the negative perception that she lacked stereotypical feminine traits. The impli-

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cation of *Price Waterhouse* is that gender stereotyping based on assumptions of how women will act (descriptive stereotyping) or should act (prescriptive stereotyping) may be unlawful.⁶⁴

Recent federal court decisions have reaffirmed the importance of gender stereotyping evidence in lawsuits alleging gender discrimination. In a 2003 case brought under the Family and Medical Leave Act, *Nevada Department of Human Resources v. Hibbs*, the Supreme Court again articulated that gender stereotypes in the workplace can constitute discrimination, noting explicitly that “[t]he fault line between work and family [is] precisely where sex-based generalization has been and remains strongest.”⁶⁵ As the Court explained, “[s]tereotypes about women’s domestic roles are reinforced by parallel stereotypes presuming a lack of domestic responsibilities for men,” and “[t]hese mutually reinforcing stereotypes create a self-fulfilling cycle of discrimination.”⁶⁶

In *Lust v. Sealy Inc.*, Tracey Lust’s supervisor engaged in “attribution bias” when denying her a promotion—and the court found that there was gender discrimination. Lust worked as a sales representative for eight years, during which she repeatedly expressed her interest in being promoted, knowing that she might have to relocate to do so. When a management position opened up, her supervisor did not recommend her, explaining that he didn’t consider her for the position “because she had children and he didn’t think she’d want to relocate her family.”⁶⁷ He did not, however, make the same assumption about the man he recommended who received the promotion. The jury that heard the case awarded Lust over \$1 million in damages (later reduced because of a statutory cap on damages). In upholding the decision in favor of Lust, the appellate court held that Lust’s supervisor unlawfully acted on gender stereotypes, stating that antidiscrimination laws

“entitle individuals to be evaluated as individuals rather than as members of groups having certain average characteristics.”⁶⁸

Another federal case went even further in its assessment of the importance of stereotyping evidence. In *Back v. Hastings on Hudson Union Free School District*, the Second Circuit—one of the most important federal courts in the country—held that gender stereotyping is not only evidence of discrimination but may, in some circumstances, preclude the need for an employment discrimination plaintiff to point to a similarly situated male “comparator” to prove her case.

Elana Back worked as a school psychologist for two years, during which she

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received positive performance reviews and assurances that she would receive tenure. After she had a child and as her tenure decision approached, her supervisors changed their tune, repeatedly expressing concerns that it was “not possible for [Back] to be a good mother and have this job” and questioning whether Back’s commitment to the job would drop after receiving tenure “because [she] had little ones at home.”⁶⁹ When Back was denied tenure, she sued for gender discrimination. Even though she couldn’t point to a similarly situated male employee (or female employee without children) who was treated better than her (typically a requirement for proving a gender discrimination case), the Second Circuit held that stereotypes about mothers as not being committed to work or about motherhood as incompatible with work were “themselves, gender-based.” This was enough, the court held, to support a gender discrimination claim even without comparator evidence.

This ruling holds important implications for academics who, in the past, faced a major impediment to pursuing gender discrimination claims: the requirement that any plaintiff had to compare herself to a similarly situated male. Gender discrimination cases in academia have been hard to litigate, not only because of the subjectivity of tenure decisions, but because of the difficulty plaintiffs have finding proper comparators, given that academic training is specialized and few professors are hired in any given year. With its ruling in *Back*, however, the Second Circuit has opened the door to allow female academics to prove gender discrimination using evidence of gender stereotyping and bias alone.

In addition to developments in the use of stereotyping evidence, another legal trend has the potential to increase the risk of legal liability for academic institutions: the increase in the number of lawsuits filed alleging discrimination based on

family responsibilities. FRD occurs most commonly when women hit the maternal wall at work. But fathers who seek to participate in childcare or anyone who cares for an elderly, ill, or disabled parent, child, or partner may also experience FRD at work. As of 2005, the number of FRD cases filed in the past decade had increased by nearly 400 percent over those filed in the previous decade.⁷⁰

The Center for WorkLife Law has documented hundreds of cases in which courts across the country have ruled that taking negative employment actions because of a worker's family responsibilities is unlawful under nearly 20 different

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legal theories under existing state and federal laws.⁷¹ The most common legal theory under which employees allege FRD is disparate treatment gender discrimination under the main federal antidiscrimination statute, Title VII of the Civil Rights Act of 1964. Yet employees are bringing FRD claims under a wide array of theories and laws, including: disparate impact of a seemingly neutral policy that affects one gender disproportionately under Title VII (such as a no stop-the-clock tenure policy); retaliation for complaining of discrimination under Title VII; violation of, interference with, or retaliation for taking leave under the Family and Medical Leave Act (FMLA); violation of the Americans with Disabilities Act's (ADA) prohibition of discrimination based on association with a disabled person (such as having a disabled child); and numerous theories under state fair employment and other laws.⁷²

It is clear that many of these FRD fact patterns and legal theories have arisen, and will continue to arise, in academic settings. For example, academic women may experience disparate treatment gender discrimination under federal Title VII and the Pregnancy Discrimination Act (PDA) when they are denied a promotion, harassed, or otherwise treated negatively at work based on their gender, pregnancy, or status as a mother. FRD arises in academia around maternity and paternity leave. When associate professor Lynn Johnson asked about maternity leave, her department head did not have an answer for her. Not only was he "shocked that I was asking that question," she recalls, but "he was at a loss" for an answer. When another female faculty member asked about parental leave a few months later, the department head still did not have any information.⁷³ A faculty member at a different institution reports, "I was told by my department chair, as untenured faculty, actually using the stopped tenure clock or leave would be held against me. I was back teaching a day after getting out of the hospital."⁷⁴ In cases outside of academ-

ics, some plaintiffs have sued when employers held against them their decisions to use family friendly benefits, arguing that the employers had broken a legally binding promise. Some academic departments go as far as systematically discouraging or penalizing those who wish to take FMLA leave. “All of the maternity benefits were lumped under the same heading by the chair as ‘unfair advantage,’” comments another untenured faculty member. “I saw two other women with young children get punished on reviews for not getting enough published even though they ‘had time off and had more time to write.’ I wasn’t going to risk it.” Penalizing someone for taking FMLA leave is illegal.⁷⁵

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The growth in the number of FRD cases filed is all the more noteworthy in light of the hefty price tag that employment discrimination lawsuits and settlements carry for academic institutions. In one of the largest FRD verdicts, a jury awarded a male plaintiff \$11.65 million in damages when his employer retaliated against him in violation of the FMLA for taking leave to care for his aging parents.⁷⁶ Settlements, too, can be very costly. Lisa Arkin was an assistant professor at the University of Oregon who took maternity leave and delayed her tenure review according to university policies. Despite unanimous recommendation from her tenure committee and endorsement from the dean, she was refused tenure upon her return. Arkin’s suit yielded a reported tentative settlement of \$495,000.⁷⁷

A third legal development is a U.S. Supreme Court case that, for the first time, defines what type of activity constitutes retaliation under Title VII. Lower courts had disagreed upon whether, in order to file a retaliation claim under Title VII, the retaliation the person experienced had to be some concrete or ultimate employment action—like demotion or termination—or, instead, could be any retaliatory act that would deter a reasonable person from complaining (or supporting another’s complaint) of discrimination under Title VII.

In *Burlington Northern & Santa Fe Railway v. White*, the Supreme Court resolved the issue holding that, when determining whether something constitutes retaliation, “[c]ontext matters.”⁷⁸ For example, the Court wrote, “[a] schedule change in an employee’s work schedule may make little difference to many workers, but may matter enormously to a young mother with school age children.”⁷⁹ The Court adopted a broad, yet objective standard, defining retaliation as what “a reasonable employee would have found...materially adverse,” meaning it “might well have ‘dissuaded a reasonable worker from making or supporting a charge of discrimination.’”⁸⁰

The key to warming up the chilly climate for women and family caregivers in academe is to identify and eliminate the source of the chill: unexamined bias and stereotyping. Gender stereotyping occurs in recognizable patterns, whether glass ceiling patterns for all women, or maternal wall patterns for mothers and other family caregivers. Knowing these patterns makes it possible to spot and correct the bias. Academic employers need to get serious about correcting unexamined bias. Federal courts are continuing to recognize the value of gender stereotyping evidence in proving gender discrimination cases, now even allowing plaintiffs to prove their discrimination claims on the basis of such evidence without having to point to a similarly situated comparator. Family responsibilities discrimination claims are growing in number and a new standard for retaliation recognizes the detrimental effect that many actions can have on employees' willingness to complain about discrimination. Academic institutions can no longer get by on talk about supporting families; if they don't address unexamined bias, they now risk serious legal liability. 

ENDNOTES

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- ³⁰ Mary Ann Mason and Marc Goulden, *op cit.*
- ³¹ See Creating a Family Friendly Department, Chairs and Deans Toolkit, 1-22, 5
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