

CWLC and ERA advocate for the rights of victims before California Supreme Court

Firm News | July 22, 2021

The California Women’s Law Center and Equal Rights Advocates, represented by Gibson, Dunn & Crutcher LLP, earlier this month filed an amicus brief in support of the University of Southern California before the California Supreme Court in *Boermeester v. Carry*. The issue before the Court is whether schools must allow cross examination of student victims of gender-based violence by the students facing expulsion. CWLC and ERA explain that classrooms should not be turned into courtrooms and “a school disciplinary proceeding can be fair without criminal trial procedures such as cross-examination.”

As explained in the amicus brief, California law currently imposes onerous procedural requirements in university disciplinary proceedings concerning gender-based violence, including the opportunity for accused students to conduct live cross-examination. But similar procedures are not required in other types of school disciplinary proceedings. This results in a two-track system that is separate and unequal, “built upon the false stereotype that women and girls who report their harassment, assault, abuse, or rape are lying.”

Amici also explain how these onerous procedures further harm the very victims who are supposed to be protected by federal and California law. In the amicus brief, three survivors of gender-based violence who went through the Title IX process tell their powerful stories. As the survivors explain, cross-examination and a live hearing before their assailants results in retraumatization that oftentimes is worse than the attack itself.

On the other hand, as the amicus brief explains, the “lofty rhetoric about the truth-finding ability of cross-examination” is not supported by research, and Title IX procedures akin to a full criminal trial has been soundly rejected by experts. Thus, imposing cross examination in matters involving intimate partner violence, sexual harassment, sexual assault, and other gender-based abuse has a long-term, detrimental impact on survivors, with no meaningful benefit to the truth-seeking process.

CWLC, ERA, and Gibson Dunn are proud to advocate for the rights and protections of survivors of gender-based violence. The amicus brief can be accessed [here](#).