

# 40 GENDER JUSTICE 2010-2020

## 2020 ANNIVERSARY NEWSLETTER



Erin Maye Quade | she/her



Stephanie Shea (she/her)



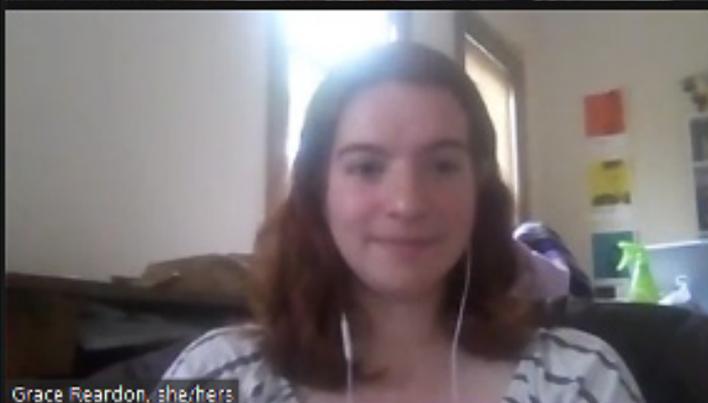
Adrian Elaine, they/them



Claudia she/her



Medan Peterson, she/her



Grace Reardon, she/hers



Lea Braverman | she/her, Gender Justice



Christy Hall she/her



Christy Hall she/her

The GenderJustice team catching up on Zoom

# Hello Friends,



All of us here at Gender Justice are sending you health, safety, and solidarity as we work to navigate these unprecedented times. Since our last newsletter, we've done our best to adjust to socially distanced life in a pandemic, joined in the solidarity of an uprising and global reckoning with racism and anti-Blackness, and survived another season of Supreme Court decisions.

**Very little is certain right now, but we know one thing for sure: nothing will ever be the same, and that is both a difficult truth and a radically hopeful call to action.**

We've been confronted with the gaping holes in our health care system and our economic safety net as COVID-19 disproportionately affects communities of color. We took to the streets in outrage as yet another Black man was murdered by the police, sparking a global conversation about the structural change necessary to ensure everyone lives in a safe community where they can thrive. It is clear that the systems we had in place before cannot continue going forward.

We know that the world we seek to build at Gender Justice - a world where everyone, of every gender identity and sexual orientation, can thrive - is not possible without dismantling the intertwined systems of racial, gender, and economic injustice.

Accordingly, we remain rooted in our commitment to follow the leadership of Black women in realizing a vision of reproductive justice - the ability to live, raise a family, and

choose not to raise a family in safe and supportive communities. This country has a long history of denying that vision for Black people - through slavery, lynching, voter suppression, eugenics, policing, mass incarceration, and much more. We want to know what it would look like if we redirected those resources to mental health access, harm reduction practices, restorative justice, good schools and solid jobs for everyone. What would it mean to organize our societies around community care, so that we lived in communities where people weren't forced to risk their safety at work to make ends meet during a global pandemic, or live in constant fear of police violence?

**This is the world we are seeking to build with your support as we seek to root out the gender inequities that are so deeply entwined with existing systems of power.**

It's long past time for us all to join in and fight for a better, safer, more just world for everyone to thrive. With your support and solidarity, Gender Justice will continue to fight alongside you for the world we all deserve.

With Gratitude,

Megan J. Peterson

*P.S. Like many of you, the Gender Justice staff has adjusted to working together from our homes, often over Zoom. Hope you enjoy our new "staff photo" on the cover!*

# Looking Back with Co-Founder Jill Gaulding

For 10 years, Gender Justice has worked to dismantle barriers and advance gender equity. We've fought to push the law forward through our work in the courts, the legislature, and the community. We were so excited to celebrate our 10 year anniversary with you in June, and were heartbroken to cancel our first-ever gala celebration due to the pandemic. Once we are able to share inside air with our friends, allies, and supporters, we can't wait to shake your hand, give a hug, laugh, and dance together in person.

As we wait eagerly for that time we want to share this special message from Gender Justice Co-Founder, Jill Gaulding:

*Gender Justice started out as a question. What would happen if we created an organization that didn't put gender equality issues into separate silos? What would happen if we created an organization that fought gender stereotypes and gender barriers wherever and however they arose? What would happen if we created an organization that could fight for the right of employees to pump breastmilk at work, or for women to become firefighters or pipe fitters, or for men to get equal parental leave, and for non-binary and trans and all queer people to have full human rights?*

*What if we said all of these things are connected?*

*Ten years later, we know the answer. What would happen? Amazing things. Together, over the past 10 years, we have helped to pass sweeping legislation and we have brought critical cases that set new legal standards that protect millions of people in Minnesota and beyond.*

*As a very proud co-founder of Gender Justice, I want to say thank you, thank you, thank you.*



Co-Founders Lisa Stratton (left) and Jill Gaulding (right)

We're thankful to Co-Founders Jill Gaulding and Lisa Stratton for their vision of our organization. As part of this 10th anniversary they have committed to a generous \$5,000 match! [We invite you to join them in commemorating this milestone by making an anniversary gift. Visit \[www.genderjustice.us/donate\]\(http://www.genderjustice.us/donate\) to make yours today!](#)

Then, learn more about some of our biggest moments over the past decade by visiting [www.GenderJustice.us/Timeline](http://www.GenderJustice.us/Timeline) page on our (brand new!) website! Read about our biggest legal wins, policy fights, and advocacy initiatives that we've taken on in the pursuit of a more equitable, just world for everyone.

As the effects of the COVID-19 pandemic continue to reveal the deeply entrenched racial, gender, and economic inequalities in our society, we need to be as prepared as possible to fight for law and policy that reimagines a world where everyone is given the chance to thrive.

**Thank you for all you have done to get us this far -  
let's keep building a better world together.**

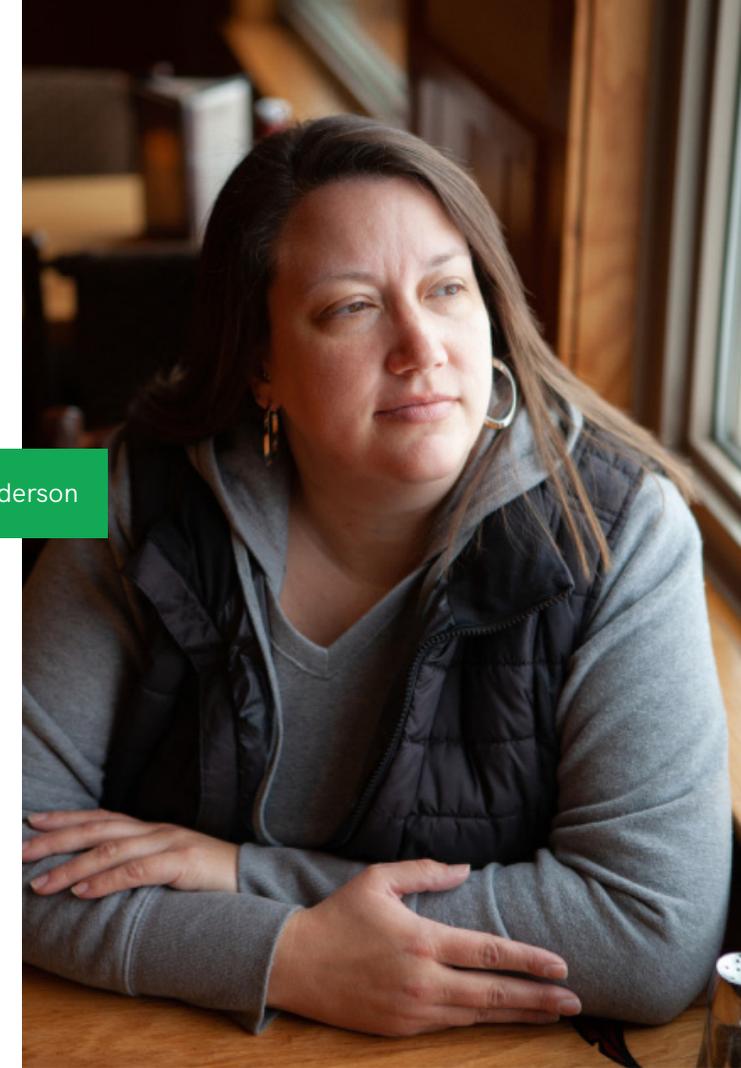




# *Anderson v. Thrifty White*

In December of last year, Gender Justice filed a lawsuit on behalf of Andrea Anderson, who was denied service by pharmacists at two pharmacies when she sought to fill a prescription for emergency contraception in January 2019. We argue that Anderson's experience constitutes illegal discrimination based on sex, and that denying her service based on her pregnancy-related health care needs violates the Minnesota Human Rights Act.

Client, Andrea Anderson



Imagine going to your local pharmacy to fill a prescription for emergency contraception - the same pharmacy you go to for all your prescription medication. When you get to the counter, your pharmacist refuses to fill your prescription because he says doing so goes against his religious beliefs. When you head to the next pharmacy - a local CVS - they tell you they don't carry the brand of emergency contraception your doctor prescribed. The CVS pharmacist calls the Walgreens in the next town over and reports back that they don't carry it either, but when you call the Walgreens yourself, you find out that the CVS lied to you, and now you have to drive 100 miles in a white-out blizzard to get to the pharmacy that will give you your prescription.

This is what Andrea experienced, and we brought a lawsuit to ensure it doesn't happen to anyone else in Minnesota.

**We're fighting to make sure that you can access the health care you need regardless of the religious beliefs of your pharmacist or medical provider.**

Your support of Gender Justice and our client, Andrea, helped us propel this case to national headlines - and garner nation wide support for Andrea's case.

# Continuing our legal challenge to Minnesota's abortion restrictions

*In January 2020, a state district court judge denied a request by two organizations - Pro-Life Action Ministries and Association for Government Accountability - to intervene in Doe v. Minnesota and join the defense of Minnesota's unconstitutional abortion restrictions.*

## **Intervenors**

These anti-abortion activists wanted the Court to dismiss the case against the restrictions entirely. These anti-abortion organizations wanted the Court to dismiss the case against the restrictions entirely. These organizations not only wanted the court to dismiss our lawsuit

challenging unconstitutional barriers to abortions, they wanted to close the courtroom doors to all Minnesotans harmed by unconstitutional laws. The judge in our case denied the anti-abortion activists' motion to intervene, a decision that those activists are appealing.

## **Motion to Dismiss**

In the summer of 2020, we celebrated a big win in this case: a state district court judge issued a ruling allowing our legal challenge to Minnesota's harmful and unconstitutional abortion restrictions to proceed, and denied the state's motion to dismiss. This was a huge win, and it's a critical step in our fight for safe, legal abortion access for every Minnesotan. It means our plaintiffs will have their day in court to argue why every Minnesotan should have the freedom to decide when or how to start and grow their families.

Though we're celebrating our win with the motion to dismiss, the Minnesota Senate's latest attempt to intervene in our case underscores the fight we're up against. Anti-abortion advocates are determined to defend and expand restrictions on abortion access and deny Minnesotans the basic right to make their own health care decisions. We're ready to fight for our right to bodily autonomy at every step of the way, and we hope you'll be there alongside us in this historic effort to ensure safe, legal abortion access for every Minnesotan.



## **ABORTION ACCESS IN THE TIME OF COVID-19**

In April, the same attorney representing the proposed intervenors in our *Doe v. Minnesota* case filed a lawsuit suit on behalf of several anti-abortion groups, naming every abortion clinic in Minnesota as well as Governor Walz as the defendants. They brought a meritless lawsuit to stop the provision of essential abortion care during the pandemic.

This was a transparent attempt to deny Minnesotans our right to make decisions about our own bodies. Gender Justice, along with our friends the Lawyering Project, defended three clinics in this lawsuit before the opposing attorney dropped the case.

**Even during a global pandemic, anti-abortion advocates will take any chance they get to restrict abortion access, but we are prepared to fight for everyone's right to bodily autonomy and safe, legal abortion access.**



Advocates at the Reproductive Freedom Lobby Day Rally on February 19, 2020.

# At the Capitol

This 2020 legislative session looked a little different than most. The combination of a global pandemic and a global uprising significantly shifted the legislative agendas of both the House and Senate late in the session, but we still found ways to fight for policies that advance gender equity across the state. With our amazing supporters beside us, we helped introduce bills to repeal laws that restrict access to abortion care, held a wildly successful Reproductive Freedom Lobby Day in February, and fought alongside our allies to pass bills out of the state House, including a ban on conversion “therapy” and paid family medical leave.

Here are some of the highlights:

## Repealing laws that restrict access to abortion care.

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## MAKE GENDER JUSTICE PART OF YOUR MONTHLY GIVING

Be with us as we work with our community partners and lawmakers to push for change and advance gender equity.

Just \$10 a month helps ensure our team has the resources we need to take on these fights and continue to be a vital resource for policymakers.

[GENDERJUSTICE.US/DONATE](https://genderjustice.us/donate)

## Fighting for Paid Family Medical Leave

The COVID-19 pandemic has made it clear that every Minnesotan deserves paid leave so they can take care of themselves and their families. Because women are most likely to be caregivers, a strong paid family and medical leave program will help promote gender equity in the workplace and in our homes. We are proud to be leaders in the coalition fighting to level the playing field for all Minnesotans through a strong paid family medical leave program. In early March, we were thrilled when H.F. 5 passed in the Minnesota House. Recently, when Senate lawmakers attempted to pass a version of paid leave that would have created a new profit stream for insurance companies rather than actually give Minnesotans paid leave, our advocacy director testified against the bill and showed why the robust paid leave plan that already passed the House should be the priority for our lawmakers.



## AT THE CAPITOL

### **Rallying for Reproductive Freedom**

On February 19, hundreds of Minnesotans came from all across the state to lobby their Representatives and Senators to support abortion access and sign onto bills to remove abortion restrictions for Minnesotans. UnRestrict Minnesota and our community partners rallied folks at the Capitol, set up meetings with legislators, and brought on over 20 new signatures to the Protect Physician's Integrity Act. Thank you to everyone who came out in support of abortion access for every Minnesotan!

### **#AbolishSlaveryMN**

Did you know the Minnesota Constitution still allows slavery? Do you think it should have been stricken from the constitution centuries ago? We do too. Our Advocacy Director, Erin Maye Quade, worked with legislators to introduce a bill that would call for a ballot measure to amend the state constitution and permanently strike the language allowing slavery.

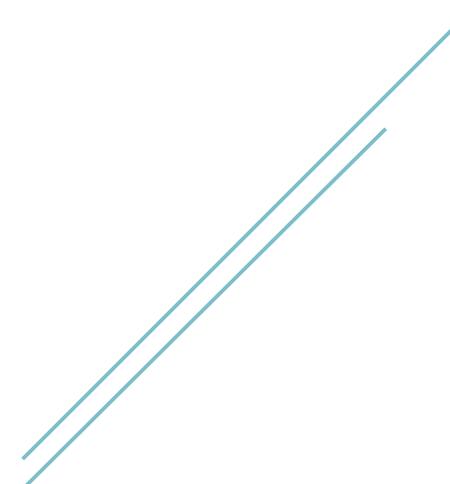
### **Police Accountability**

This summer, the Minnesota Legislature passed the Minnesota Police Accountability Act, a substantive set of police reforms that takes a crucial first step in addressing the structural racism and violence endemic to the police system. Gender Justice joined community partners and progressive organizations across the state to call for the passage of the Minnesota Police Accountability Act - not because we think this bill is perfect, but because we recognize the need for immediate changes to the police system. Ending police violence and the systemic racism that it's built on are issues of Reproductive Justice. Minnesotans cannot raise their families in safe and supportive communities if we continue to live in a reality where every police interaction could be a death sentence.

As we look toward the 2021 legislative session,

**we are developing our policy agenda to address the intertwined systems of gender, racial, and economic injustice.**

That means continuing our efforts to eradicate sexual harassment from the workplace, push for a statewide conversion therapy ban with our friends at OutFront Minnesota, and fight for the safe, legal abortion access for every Minnesotan. It also means we'll be looking for new policies and joining community leaders in the fight for a radically different world, both in terms of our continued response to the COVID-19 pandemic and our work to reimagine public safety and community care through an anti-racist lens.



# Amicus Briefs

WHAT ARE THEY?

Amicus briefs come from the Latin phrase *amicus curiae*, which translates to friend of the court. Amicus briefs are legal documents filed in the court by non-litigants with a strong interest in a given case. The briefs include additional information and compelling stories that the court might consider when making a decision, and it helps demonstrate broader community support for either side.

**At Gender Justice, our lawyers often offer their own legal expertise and write amicus briefs for other cases where our gender lens is relevant to the issue at hand.**

Additionally, we take on high-profile impact litigation that highlights gender inequities in law and policy that we seek to change. Having community support for the cases we take on helps us make our case and shows people who may not necessarily be involved in court cases why the issue is important.

Amicus briefs help us build solidarity across organizations and community members for the work that we do to apply a gender lens to Minnesota law and policy. We can't do our work without the advice and collaboration of supporters who believe in closing the gaps in the law that push out marginalized people. Stay up to date with our legal work to be informed on the amicus briefs we write, sign onto, and receive for our high-profile cases.

## HERE'S A FEW EXAMPLES OF OUR AMICUS WORK IN ACTION:

In spring of 2020, we had **14 individuals and organizations file amicus briefs in support of our client, N.H.**, a trans student who experienced harassment and discrimination in his school. National civil rights groups, local LGBTQ organizations, even teachers unions and the Department of Education all wrote in support of our client's claim that his rights were violated under the Minnesota Human Rights Act.

In January 2020, we filed an amicus brief in support of plaintiff Megan Abel in *Abel v. Abbott. Megan Abel*, a doctoral student and woman of color, obtained a practicum placement with Allina Health System to complete her degree. At Allina, Ms. Abel repeatedly endured sexual harassment and racism from her supervisor. Our brief urged the court to ensure *all* workers are protected from discrimination by the law, and to acknowledge that institutions, not just individuals, are responsible for hostile environments. **For the first time, the Minnesota Supreme Court ruled that unpaid interns are protected from employment discrimination under the Minnesota Human Rights Act**, and acknowledged that individual instances of bad behavior can be part of a larger pattern of misconduct that the court should consider when deciding whether or not the time for filing a lawsuit has passed.

The decision in *Abel v. Abbott* cited another case we filed an amicus brief in - *Kenneh v. Homeward Bound*. Assata Kenneh endured repeated harassment at work, and was fired when she asked for a flexible work schedule so she would no longer have to work with her harasser. In our amicus brief, we cited social science research that showed victims of harassment leave their jobs at rates almost 50% higher than those who are not harassed. Experiencing harassment has an impact on victims' lifetime pay, career trajectories, and seriously affects their psychological well-being. We wrote, **"[i]t is time to take [sexual harassment] seriously, unlike some court decisions that characterize horrific and harmful behavior as 'boorishness' or merely 'incivility' that one must put up with in the workplace..."** A lower court dismissed Ms. Kenneh's case because the behavior wasn't bad enough to meet the "severe or pervasive" standard - but the Minnesota Supreme Court found that Kenneh did in fact experience harassment that met the "severe or pervasive" standard, and recognized that this standard has to evolve to reflect changes in workplace norms and behavior that we categorize as harassment.



# A Decade of Change

AS CO-FOUNDER JILL GAULDING PUT IT - GENDER JUSTICE HAS ACCOMPLISHED SOME AMAZING THINGS OVER THESE PAST 10 YEARS! HERE ARE JUST SOME OF THE HIGHLIGHTS...

## 2009-2012: Our First Case

By the time we launched in 2010, our co-founders were already hard at work fighting on behalf of Letitia Zuniga (*Zuniga v. SMS Holdings*). We brought national attention to the problem of sexual assault and exploitation of undocumented workers in custodial services. In 2012, we reached a positive settlement with SMS Holdings, in which the company agreed to make major changes to their sexual harassment trainings, reporting and enforcement policies, and in 2013, Leticia was honored with the "Courageous Plaintiff's Award" by the National Employment Lawyers Association.

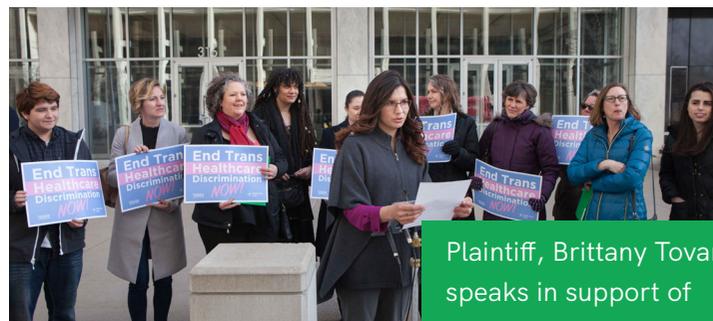


Client, Leticia Zuniga. We worked with the Immigration Law Center to help Leticia obtain her U-Visa.

## 2014: When Women Thrive, So Do Communities

In 2014 Gender Justice pushed the law forward with the bold - and successful! - initiative to shape and pass the *Women's Economic Security Act*, which included bills to:

- Extend pay equity law to cover state contractors
- Expand access to high-quality, affordable childcare
- Require employers to accommodate pregnant and nursing workers
- Expand family and sick leave for working families
- And more!



Plaintiff, Brittany Tovar speaks in support of health insurance coverage for gender-affirming care.

## 2018: Justice for

*"He seemed to confess to the crime, twice to his ex-girlfriend, once to police. But prosecutors never charged him. The reasons why show how rape myths continue to influence how justice is meted out in America."*

Our client, Rae Florek's, story was featured on the podcast *Revealed*, created in partnership with ProPublica.

READ MORE: [WWW.GENDERJUSTICE.US/TIMELINE](http://WWW.GENDERJUSTICE.US/TIMELINE)

## 2019: A New Chapter for Abortion Access

In May 2019, Gender Justice announced our case, in partnership with co-counsel The Lawyering Project - to remove Minnesota's little-known abortion restrictions. We represent two medical providers, the First Unitarian Society of Minneapolis, and abortion fund Our Justice.

In tandem with the lawsuit, we kicked off UnRestrict Minnesota - an unprecedented coalition of over 25 cross-movement community organizations, health providers, and advocates to educate and motivate Minnesotans about the need to protect access in our state.



Gender Justice and The Lawyering Project alongside plaintiffs at the *Doe v. Minnesota* lawsuit announcement in May 2019



# SCOTUS Debrief:

## Unpacking the 2020 Supreme Court Decisions

*It was a busy SCOTUS season this year with plenty of important cases for gender equity and reproductive rights.*

### ***June v. Russo***

The question before the court in *June v. Russo* was whether a Louisiana law that would require all abortion providers in the state to have admitting privileges at hospitals within a 30-mile radius of the abortion clinic they provide care in was constitutional. This Louisiana law is identical to a Texas law that was struck down in a 2016 Supreme Court Case, *Whole Woman's Health v. Hellerstedt*. Requiring abortion care providers to have hospital admitting privileges is nothing more than a transparent attempt by anti-abortion advocates to close down abortion clinics, and to perpetuate the false narrative that abortion is unsafe. In June, a 5-4 majority found that this Louisiana law was unconstitutional, affirming our right to safe, legal abortion access.



Rally at the *June v. Russo* oral arguments in March 2020.

### **Title VII**

This session, the Supreme Court handed down decisions on three cases concerning Title VII of the Civil Rights Act, which bans discrimination against employees based on sex, race, color, national origin, and religion. In *R.G. & G.R. Harris Funeral Homes Inc. v. E.E.O.C.*, Aimee Stephens argued that her boss violated Title VII's ban on sex discrimination by firing her because she is transgender. In *Altitude Express Inc. v. Zarda* and *Bostock v. Clayton County*, Don Zarda and Gerald Bostock argued their bosses violated Title VII's ban on sex discrimination by firing them for being gay.

**The Supreme Court ruled in favor of Aimee Stephens, Don Zarda, and Gerald Bostock by saying once and for all: you cannot fire someone for being LG-BTQ.**

Thanks to the support of our community, Gender Justice has been able to fight for LGBTQ protections at the state level for years, and we're fortunate enough to live in a state where the Minnesota Human Rights Act already protects LGBTQ folks from discrimination.

### ***Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania***

This case concerned the Affordable Care Act's requirement that employer-sponsored health care plans cover birth control. The Trump administration expanded the religious exemption, which permits employers to prevent their employees from having birth control included in their health care coverage. One plaintiff argued that an accommodation allowing them to opt out of such coverage, while also ensuring their employees who needed contraception could get it by other means, was not good enough. The Court let the Trump administration rule stand. As Justices Ginsburg and Sotomayor noted in their dissent, between 70,500 and 126,400 women will lose access to no-cost contraceptive services as a result of this ruling.

Here at Gender Justice, we believe one's religious beliefs never give the right to discriminate against someone or deny them the care they need. We plan to keep fighting for birth control access for everyone who needs it, and for a world where one person's religious beliefs do not preclude someone else's bodily autonomy.

# Mythbusting the New Title IX Regulations

*Earlier in May, the Department of Education released long-awaited changes to regulations in Title IX, a statute that protects students from sex discrimination, sexual assault and harassment. The new regulations take direct aim at the rights of victims and survivors and significantly weaken the Department of Education's ability to enforce Title IX. Our lawyers saw a lot of inaccuracies and confusion when these changes were announced - we talked to them and got their expert legal opinion to debunk some of the myths surrounding these rules changes.*

**MYTH: The new rules focus on making the process more fair and don't change anything else**

**FACT:** The real focus of these new regulations has nothing to do with due process. The most sweeping change in the rules is to completely redefine sexual harassment so that in most cases, schools don't have to respond at all. Betsy DeVos's primary goal in leading the Department of Education has always been on eliminating liability for schools that violate their students' rights and this is no different.

Federal civil rights laws like Title IX require schools to address harassment based on sex, race, national origin, and disability, yet these new heightened standards only apply to sexual harassment on campus. Schools only have to respond if the complaint is about behavior that is severe, pervasive, AND objectively offensive. This means that under Title IX, schools can ignore harassment that is...

severe but not pervasive, or that is pervasive but not severe. Not only that, but the school does not have to address sexual harassment that takes place off campus, even if it takes place between two students.

The new rules will also only hold a college or university liable if they have "actual knowledge" of the sexual harassment allegation. "Actual knowledge" is defined as notice to a particular and small handful of school officials. This means that schools do not have an obligation under Title IX to respond to sexual harassment on campus, even if the harassment is generally well-known, even if that harassment is actually reported to numerous school officials, so long as the designated school official has not been told of the problem.

The new rules also require that a school be so negligent that it act with "deliberate indifference" before it can be held liable for failing to respond to sexual harassment on campus. A school is deliberately indifferent if its response is "clearly unreasonable in light of the known circumstances." This lenient standard will let schools off the hook for unreasonable responses to sexual harassment on campus.

**MYTH: These rule changes make the process more fair for both the accused and the accuser.**

**FACT:** Under these new rules, accused assailants will have the right to have an advocate cross-examine their accusers during the investigation's proceedings. This advocate for the accused could be anyone - a classmate, a parent, a friend - and the cross examination itself would take place outside of a formal legal context where there are rules of evidence and limitations on what kinds of questions may be asked. That means that if someone experiences the trauma of sexual assault and/or harassment and decides to shoulder the additional burden of starting an investigation, they may have to endure a live, hostile cross examination as a part of seeking justice.

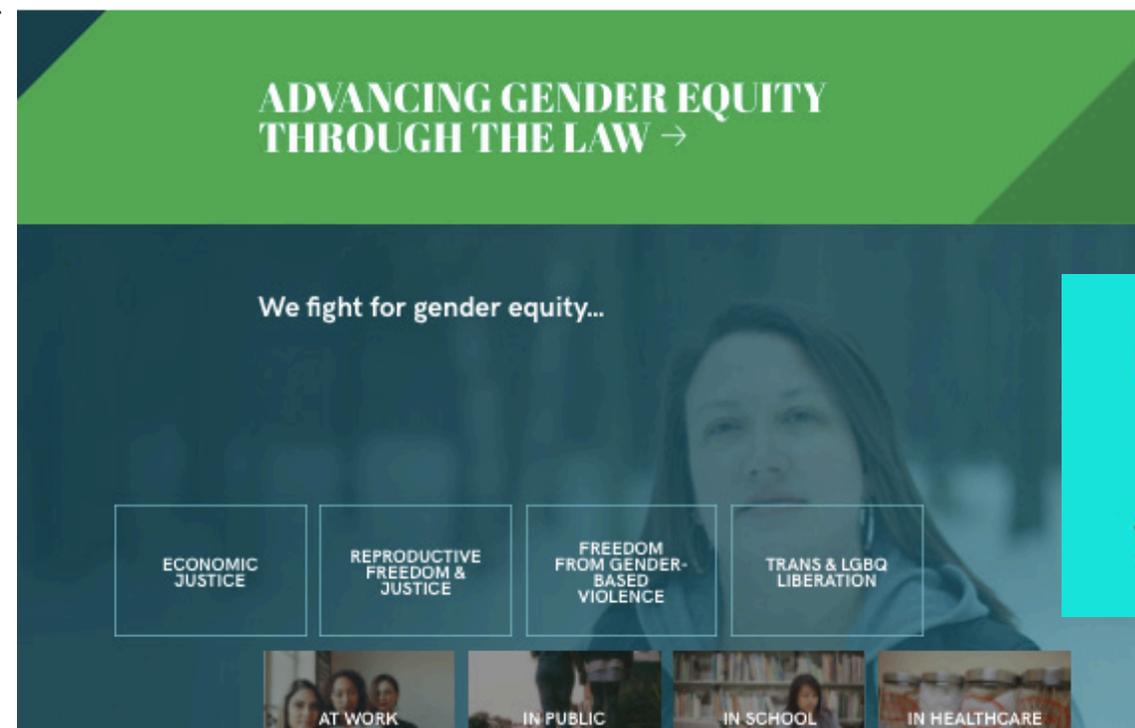
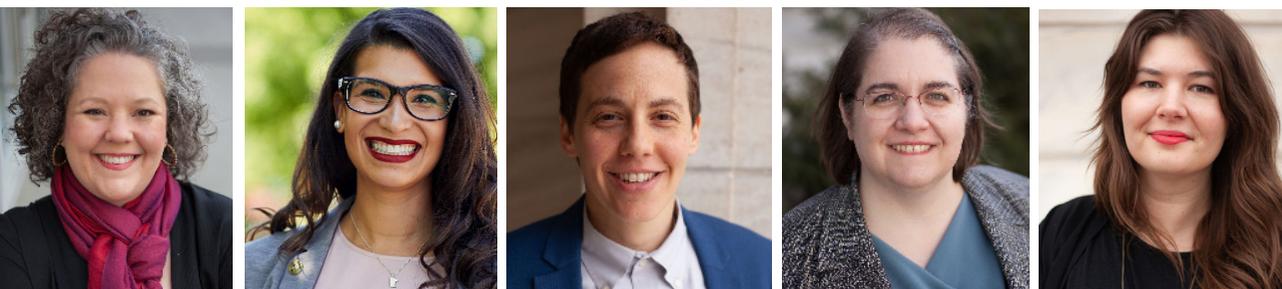
The new Title IX regulations emphasize that when a complainant makes a formal complaint of sexual assault to their school, the school should hold live hearings and allow cross-examination. But that kind of process is only fair if both sides have equal access to qualified attorneys. In our experience from representing complainants, if one side has a lawyer it is usually only the respondent. Before finding us, our clients often had no idea they would need a lawyer to help them navigate through the process of making a formal sexual assault complaint to their school. In some cases, their schools actively discouraged them from getting a lawyer, telling them that it would slow down the process.

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*INTRODUCING THE NEW***GENDERJUSTICE.US**

At Gender Justice, our mission is to advance gender equity through the law. This means fighting oppression in the courts, advocating for change in the Capitol, educating communities about their rights, and flexing some serious legal muscle.

Our goal was to create a website that better communicates our theory of change, our values, and the connections between all areas of our work. We hope you'll spend a little time exploring the dynamic filters in the ["Our Work"](#) sections - that provide engaging ways to explore what your support and partnership has made possible over the past 10 years.

We created a website that reflects the experiences and stories of our brave clients as well as the vision that underscores everything we do - a vision where everyone can thrive regardless of their gender, gender identity or expression, or sexual orientation.

We are so grateful for the uber talented folks at Teal Media and the generosity of their [Teal Gives Back](#) program. They made this new website possible. We started working with Teal back in 2019 on our brand refresh and are so thankful for the creativity, skill, and insight they brought to this transformative project.

# GENDER JUSTICE

ADVANCING GENDER EQUITY THROUGH THE LAW

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## In This Issue...