



National Women's Law Center
Project Status Update for Barbara McDowell Foundation – ERA v. DeVos
1st Quarter 2020 (1/1/2020 – 3/31/2020)

The Barbara McDowell Foundation is supporting the National Women's Law Center's litigation challenging the Title IX sexual harassment guidance issued by the Department of Education in 2017, *SurvJustice v. DeVos*. We sought an extension for the due date for our opening appellate brief, which is now due in the second quarter of 2020. In addition, the Foundation is supporting the litigation that the National Women's Law Center is preparing to undertake challenging the Department's final Title IX rules on sexual harassment. The Title IX rules were issued on May 6, 2020, with an effective date of August 14, 2020, and they threaten enormous harm to students who experience sexual assault or other forms of sexual harassment. During the first quarter of 2020, as we prepared for the rules to drop, we worked with our co-counsel to prepare a draft complaint framing out claims that the Department of Education's interpretation of Title IX violates the Administrative Procedures Act because it is arbitrary, capricious, and contrary to law (basing our analysis on the 2018 Notice of Proposed Rulemaking). We also did research to identify the federal circuit where our claims were most likely to succeed. We entered into retainer agreements with three organizations who will serve as plaintiffs in our lawsuit challenging the final rules and engaged in outreach to identify individual students who would likely have standing to also serve as plaintiffs in the matter. Lastly, we continued to coordinate and share information with other organizations and advocates planning parallel legal challenges and to reach out to educational institutions and other stakeholders to explore their willingness in participating in litigation as a party or a friend of the court.