



# EQUAL RIGHTS

A D V O C A T E

F A L L 2 0 0 2

## CELEBRATING 30 YEARS OF TITLE IX

June 23, 2002 marked the 30th year anniversary of Title IX, a law that gave women the right to receive equal educational opportunities. Title IX, part of the Education Amendments of 1972, states that "No person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving federal financial assistance." While much of the focus on Title IX's 30th birthday has been on its impact on women's athletics, its scope and implications reaches far beyond. Providing women with equal educational opportunity also includes protecting female students and staff from sex discrimination, sexual harassment, retaliation, and pregnancy discrimination.

### THE NEED FOR TITLE IX

Prior to the passage of Title IX, gender disparities in the educational system were glaring. Many colleges and universities had quotas - typically a small percentage - for the number of women who could attend and some even excluded women completely. Of the small number of women admitted to institutions of higher education, women were rarely the recipients of scholarships, fellowships, or financial aid. Athletic scholarships for women were practically nonexistent and only 2% of college athletic budgets went towards women's sports.<sup>1</sup> Pregnancy discrimination was also prevalent; schoolteachers and teenage girls were forced to leave

their jobs or school, respectively, if they became pregnant. Women were severely underrepresented in professional graduate programs. Only 6% of law school stu-



dents, 8% of medical students, and 1% of dental students were women.<sup>ii</sup> Title IX was created to dismantle and prevent all these forms of discrimination that hindered female students from receiving equal educational opportunities.

### EDUCATIONAL OPPORTUNITIES

Thirty years later, the landscape of women's education is vastly different from that of the early 1970's when Title IX was enacted. Today, 89% of young women complete high school and 56% of all college students are women. Women have represented the majority of college students since 1979. Women comprise over half of the recipients of bachelor's and master's degrees and almost 50% of PhDs.<sup>iii</sup> The number of women earning professional degrees has also dramatically risen; women now earn close to 50% of law and medical degrees, and over half of the veterinarian degrees.<sup>iv</sup> These impressive statistics did not come easily - for 30 years women's rights advocates have been defining, enforcing, and defending the rights enshrined in Title IX.

### ATHLETIC OPPORTUNITIES

It is undisputable that Title IX has expanded opportunities for women on the playing fields and courts across America. Female high school athletic participation has increased by 847% since 1972.<sup>v</sup> Today over 150,000 women participate in college sports - a jump of five

*Continued on next page*

from the  
Executive Director



Dear Friends,

In reflecting on the enormous educational and athletic opportunities won for women and girls during Title IX's thirty-year history, the importance of legal advocacy in advancing women's rights was reinforced in my mind. Women's rights advocates have always been and continue to be on the forefront of defining and enforcing civil rights laws in order to ensure that women are guaranteed their full rights.

I am extremely proud of Equal Rights Advocates leadership role in the legal fight for women's equality. ERA aggressively defends women rights under Title IX and other state and federal laws that guarantee women equal opportunity. We pursue enforcement actions to ensure compliance with existing laws and we work to expand the laws where further protections are warranted. As reported on page three of this newsletter, ERA has been actively advocating for the passage of SB 1661, a state law that would establish paid family and medical leave. If enacted, this bill would allow the working families of California to maintain economic security while caring for ill family members.

As we approach Fall, we bid goodbye to our four talented summer law clerks and our 2001-2002 Ruth Chance Law Fellow Jennifer Wedel. May the training provided to you at ERA serve in your future work in fighting for justice and equality across the country.

Very truly yours,

*Irma D. Herrera*  
Irma D. Herrera



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times from the 30,000 female participants during the pre-Title IX era. While these advances are remarkable, many disparities still exist. Women in Division I colleges represent 54% of the student body, yet only receive 30% of recruiting dollars, and 33% of overall athletic budgets. Female students receive 41% of athletic scholarship dollars, which is \$133 million less in athletic scholarships than male athletes receive.<sup>vi</sup>

If such disparities still exist, why is there so much controversy that surrounds Title IX in relation to

*Many worry that the panel is an attempt by the Administration to weaken Title IX after repeated court challenges over the past 30 years have failed.*

sports? Much of the confusion over the law's impact on athletics relates to its compliance requirements. Title IX regulations, passed in 1979 and 1996, require compliance on one of the three following prongs: 1) The percentage of female athletes must be roughly proportional to the percentage of female students at the school or 2) schools must demonstrate a history of improving gender equity or 3) schools must accommodate the athletic interest and needs of its students. The first prong is at the crux of the debate. Some argue that this requirement is a "quota system" and that it has resulted in the cutting of men's sports. The truth is that two-thirds of schools that have added women's sports to comply with Title IX did not eliminate any men's sports. Moreover, many of the "minor" male sports, such as wrestling, have been eliminated primarily because of male athletic departments overfunding high-profile sports, such as football and basketball.<sup>vii</sup>

## THE FIGHT CONTINUES

A few days after Title IX's 30th anniversary, the Bush Administration appointed a 15-member Commission on Opportunity in Athletics to evaluate Title IX, stating they had concerns that enforcement of the law has expanded athletic opportunities for women at the expense of some men's teams. Many worry that the panel is an attempt by the Administration to weaken Title IX after repeated court challenges over the past 30 years have failed. Even though several of the Commission members are Title IX supporters - such as Donna De Varona, a two-time Olympic gold medalist in swimming, chair of the U.S. Olympic Committee's Government Relations Committee, and co-founder of the Women's Sports Foundation - the Committee's decision-making power is unknown. Ultimately, enforcement of Title IX is the responsibility of the Office for Civil Rights at the Education Department, which is headed by Bush-appointee Gerald Reynolds, a public opponent of affirmative action.

Because Title IX continues to be a powerful tool in efforts to expand educational and athletic opportunities for women and girls, ERA will fight to make sure that Title IX remains intact.

i National Coalition for Women and Girls in Education. "Title IX at 30: Report Card on Gender Equity," June 13, 2002. p. 14

ii Riley, Richard (U.S. Department of Education) & Cantú, Norma (Office for Civil Rights). "Title IX: 25 Years of Progress," June 1997. [www.ed.gov/pubs/TitleIX/part2.html](http://www.ed.gov/pubs/TitleIX/part2.html)

iii *ibid.* p. 10

iv U.S. Census Bureau. "Census Bureau Facts for Feature : Women's History Month," March 15, 2001. [www.census.gov/Press-Release/www/2001/cb01ff03.html](http://www.census.gov/Press-Release/www/2001/cb01ff03.html)

v National Coalition for Women and Girls in Education. "Title IX at 30: Report Card on Gender Equity," June 13, 2002. p. 15

vi Women's Sports Foundation. "Quick Reference: Title IX Factoids," June 3, 2002. p.1. [www.womenssportsfoundation.org/cgi-bin/iowa/issues/rights/article.html?record=898](http://www.womenssportsfoundation.org/cgi-bin/iowa/issues/rights/article.html?record=898)

vii *ibid.* p. 2

# PAID FAMILY LEAVE: HELPING CALIFORNIA FAMILIES BALANCE WORK AND FAMILY

Each year, Equal Rights Advocates receives dozens of calls to our Advice & Counseling Line from low-income workers struggling to balance the competing demands of work and family care. While we are able to provide callers with information about their rights under state and federal family and medical leave laws, many callers are distressed to learn that all leave provided by law is unpaid, often forcing them to choose between taking needed leave or being able to pay their bills.

While the federal Family and Medical Leave Act (FMLA) and its state equivalent, the California Family Rights Act (CFRA), provide certain employees with the right to take up to 12 weeks of job-protected leave for their own serious health condition or to care for a seriously ill family member or new child, this leave is unpaid. Approximately 62% of California's workforce is covered by these laws<sup>i</sup>, allowing them to take unpaid leave without putting their job or health insurance at risk, yet too many workers cannot afford to exercise their rights. A 2000 survey by the U.S. Department of Labor reported that 78% of workers who were eligible for and needed to take leave did not do so because they could not afford to take unpaid leave.<sup>ii</sup>

California stands poised to relieve this significant burden on low-income workers by being the first state in the nation to pass legislation that would provide partial income replacement to workers for unpaid family and medical leave. Senate Bill 1661, authored by Senator Sheila Kuehl, would expand the state's existing State Disability Insurance system to provide partial wage replacement to employees who take time off to care for a new child or a seriously ill family member. Equal Rights Advocates strongly supports SB 1661 and has been instrumental in the bill's progress.

At present, California's State Disability Insurance system provides partial wage replacement to workers who take unpaid leave from work for their own illnesses or disabilities, including pregnancy-related disabilities. SB 1661 would expand the existing SDI system to provide six weeks of similar partial wage replacement to employees

who take unpaid leave to care for a seriously ill child, parent, spouse, domestic partner or to care for a newborn, newly adopted, or new foster child. Consistent with the current SDI program, eligible employees could receive benefits of 55-60% of their wages up to a maximum benefit amount (\$490 per week in 2002). The program would be funded through employee contributions in the same manner as the current SDI program.

Studies show the cost of providing such a program will be mere dollars per month per employee. In addition, under SB 1661, California employers could save \$89 million due to increased employee retention and decreased turnover, and the state could save over \$23 million annually due to families' decreased reliance on assistance programs like TANF and food stamps.<sup>iii</sup>

SB 1661 has widespread support from organizations such as the California Medical Association, California Congress of Seniors, and California Labor Federation. The bill has been approved by the full Senate and the full Assembly. The bill now goes to Governor Davis' desk for his signature or veto. Should this important bill be enacted, SB 1661 would help ensure that California's working families do not have to give up their paychecks in order to care for an ill family member.

*California stands poised to relieve this significant burden on low-income workers by being the first state in the nation to pass legislation that would provide partial income replacement to workers for unpaid family and medical leave.*

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i Commission of Family and Medical Leave, "A Workplace Balance: Report to Congress on Family and Medical Leave Policies," Washington D.C., April 1996

ii U.S. Department of Labor, "Balancing the Needs of Families and Employers: The Family and Medical Leave Surveys", 2000 Update

iii Arindrajit Dube, Ph.D (University of Chicago, Department of Economics) & Ethan Kaplan (University of California at Berkeley, Department of Economics), Paid Family Leave in California, 2002, p. 31, 35

# LUNCHEON 2002: BARBARA EHRENREICH SPEAKS ABOUT THE ECONOMICS OF INEQUALITY



**Barbara Ehrenreich addresses the luncheon audience.**

At an intimate reception on the evening of June 12, 2002, special friends and supporters of ERA welcomed luncheon keynote speaker Barbara Ehrenreich, feminist author and journalist. The evening was sponsored and hosted by Levi Strauss & Co., and was held at their beautiful Executive Dining Room overlooking the San Francisco Bay.

The next day, over 800 guests poured into the Westin St. Francis for ERA's annual luncheon. The event began with a reception where guests mingled, bid on the myriad of silent auction items, including a vacation in New Zealand, dinner at Chez Panisse, and a Dianne Feinstein painting. Attendees were also able to purchase Barbara Ehrenreich's most recent book *Nickel and Dimed: On (Not) Getting By in America* and if they were at the right place at the right time, they had Barbara sign their copy.

At noon, ERA's Board Chair, Marci Rubin, took center stage to welcome the guests. After lunch, Sheila Thomas, ERA's Director of Litigation, reported on ERA's litigation efforts in the following five areas: Retail, Nontraditional Occupations, Higher Education, High-Tech Sweatshops and the Restaurant Industry. Sheila described the discrimination women face within these industries, which hinder their ability to achieve economic stability. ERA also honored two outstanding nonprofits that work towards advancing women's econom-

ic status: Women's Initiative for Self Employment and The Women's Technology Cluster.

Keynote speaker Barbara Ehrenreich then discussed her experiences in the low-wage workforce as documented in her work of participatory journalism *Nickel and Dimed: On (Not) Getting By in America*. During her months undercover, Barbara worked as a waitress, hotel maid, house cleaner, nursing home aide, and Wal-Mart sales associate. She focused her keynote speech on her experiences as a Wal-Mart sales associate, which she found demeaning and not economically viable. Barbara said the labor was physically grueling and difficult; she pointed out that the notion of "unskilled" work is a fallacy. Additionally, she discussed the degrading practices Wal-Mart employs, such as the mandatory "personality test" and drug test, no-talking policies amongst staff, and overall poor employee treatment. She also explained how as a full-time employee, she struggled to make ends meet, and like other Wal-Mart employees, had to utilize the services of food banks. It was shocking to learn that full-time employees of the number one Fortune 500 Company are paid so poorly that they are unable to feed themselves and their families! Barbara eventually packed



**Julie Abrams, Executive Director of Women's Initiative for Self-Employment and Benay Lisa Todza, Executive Director of The Women's Technology Cluster accept honoree awards on behalf of their organizations.**

up at the end of this experiment and went home – an option not available to women she met along the way.

Barbara concluded by asserting that workers need to unionize. At Wal-Mart, they continually purported rhetoric about being one big happy family, but instituted a no-talking policy in order to stave off efforts to unionize. In fact “union” was a bad word at Wal-Mart and the mere mention of it could have adverse effects on employees’ employment status. Barbara’s work as a low-wage worker exposed many of the ills in our society, and poignantly illustrated how poverty afflicts women in the United States. Her investigation has brought much needed attention to the struggle for economic equality.



**ERA Executive Director Irma D. Herrera, Keynote Speaker Barbara Ehrenreich, and ERA Board Chair Marci Rubin.**

*ERA's Board and staff would like to thank the following sponsors for making our luncheon a success:*

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## POLITICAL GURU AND ERA BOARD MEMBER MARY HUGHES

### *How and when did you become involved with ERA?*

I first learned about ERA in 1990 when Staton & Hughes – my political consulting firm – ran Donna Hitchen’s campaign for a San Francisco Superior Court judgeship. Donna’s partner is Nancy Davis, ERA’s co-founder and then Executive Director. Several years later, I became even further acquainted with ERA when we worked together to develop a strategy, publications, and press materials for a campaign that was focused on educating the public about how affirmative action has benefited women. In 1999, I joined ERA’s Board.

### *As an organization founded almost thirty years ago, what do you think is ERA’s relevance and unique contribution to the women’s movement today?*

It is hard to imagine a time when ERA was more relevant than it is today. In the conservative climate we are in today, cultural, governmental, and educational institutions are taking the opportunity to gently break away from diversity and equal opportunity. The causes of action that are more subtle require the commitment to figure out complicated questions, such as why are most Wal-Mart employees female, yet so few are managers. Why are women the majority of students in law school, yet not firm partners. And why are women receiving 49% of PhDs, but are underrepresented in faculty positions, especially tenured positions. ERA is investigating these questions and bringing actions to remedy these inequities.

### *As the new ERA Vice-Board Chair, what issues and efforts are among your priorities?*

Two of ERA’s priority areas are particularly dear to me: the tradeswomen and higher education project. With regard to the tradeswomen project, I believe it is essential to dismantle barriers that hinder women’s ability to learn a marketable skill. The collaboration between ERA, academics, and tradeswomen bodes well for solving this problem. I am also fascinated by the challenges facing female

scholars. Universities are places of great opportunity and mystery. ERA’s project will demystify the process of academic advancement so that more women academics can rise to positions of leadership.

### *Tell us about your professional life.*

I am the President of Staton & Hughes, a political strategy communications firm. We develop and manage political campaigns. I like the rhythm of the work. We work hard for months on a particular campaign, and then one day, citizens vote and we know how we’ve done. It is very clear. Then we analyze our techniques in an effort to learn what was effective and what was not, and then we do it again. It is rewarding to see good people win public office and shape public policy.

### *As a political consultant, what do you see as the interrelationship between your firm’s work and mission and that of ERA?*

Staton & Hughes helped to elect terrific women – women who have the desire and ability to advance equal opportunity: House Democratic Whip Nancy Pelosi, Congresswoman Anna Eshoo, Ellen Tauscher and Susan Davis, San Francisco’s Treasurer Susan Leal and former City Attorney Louise Renne, California Superintendent of Public Instruction Delaine Eastin, and Superior Court Judge Donna Hitchens, Carol Yaggy, and most recently Nancy Davis.

### *Tell us a little about your personal life.*

I am blessed to be married to a man who shares my enthusiasm for civic adventures – California Assembly Member Joe Simitian. I love the theater and am currently a technical resource for two works-in-progress. But I find the greatest recreation in watercolors. I am not that good, but wildly enthusiastic!

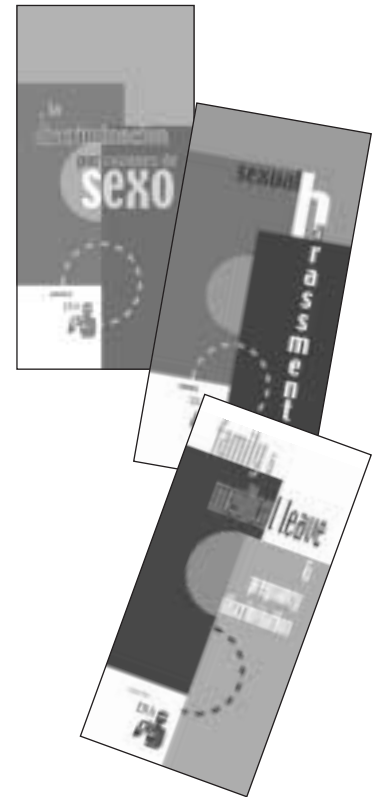
# KNOW YOUR RIGHTS

**E**qual Rights Advocates' has recently produced new Know Your Rights brochures on Sexual Harassment, Sex Discrimination, and Family and Medical Leave/Pregnancy Discrimination. These informative brochures contain concrete examples of discrimination, rights under the relevant laws, suggestions on steps to take if rights have been violated, options for redress, and resources for further assistance.

Our Know Your Rights bilingual brochures are one vehicle through which ERA educates women about their legal rights. ERA also operates an Advice and Counseling multilingual hotline (1-800-839-4372), where callers receive legal advice on ERA's areas of expertise - sex discrimination in employment

and education, sexual harassment, family and medical leave issues, and pregnancy discrimination. ERA also provides each caller with the individualized assistance to enforce those legal rights. Through AT&T's translation service, we have the ability to assist callers in 156 languages.

Our new Know Your Rights brochures on Sexual Harassment, Sex Discrimination, and Family and Medical Leave/Pregnancy Discrimination are available in Spanish and English. Per your request, we will provide 10 copies of each brochure for free. For additional copies we request a \$.25/per brochure donation from nonprofits and \$.75/per brochure from others. Please call ERA at 415-621-0672 to place an order today.



# SUMMER TIME ADVOCATES

**T**his past summer ERA hosted four full-time law clerks: Rocio Avila (Golden Gate University), Sayareh Dehzad (University of San Francisco), Claire Kennedy-Wilkins (UC Hastings), and AnneMarie McDowell (Santa Clara University). Thank you for dedicating your summer to ERA.

The law clerks spent their summer educating women about their legal rights and assisting them in enforcing those rights. They fielded and responded to inquiries on ERA's Advice and Counseling Line. Upon consulting with ERA staff attorneys, the clerks provided callers with legal information and advice, referrals to private attorneys, other legal service organizations, and/or government agencies with which to file complaints of discrimination. In many cases, the clerks worked with staff attorneys to research the issue further, write letters to employers outlining the callers' legal rights, or help the caller pursue administrative remedies. The law clerks also educated community members on their legal rights by conducting Know Your Rights trainings. For example, two clerks did a training for city employee maintenance workers on sexual harassment, and another group of clerks did a training on pregnancy discrimination in schools.

The ERA law clerks also assisted the staff attorneys with litigation-related tasks, such as conducting case research, preparing memos, and reviewing documents produced during litigation. This provided the clerks with an opportunity to learn more about the legal issues women face in academe, the trades, and at Wal-Mart Stores. Thank you again for all your hard work and commitment.



**ERA Summer Law Clerks Rocio Avila, Claire Kennedy-Wilkins, AnneMarie McDowell, and Sayareh Dehzad.**

# REAL STORIES: SEXUAL HARASSMENT UNDER TITLE IX

As noted in our front-page story, “Celebrating 30 years of Title IX,” this landmark law makes it illegal for any educational institution that receives federal funding to discriminate against students on the basis of gender. One such form of discrimination is sexual harassment by teachers or by other students. Every school must have a written sexual harassment policy as well as a Title IX officer, whose job is to receive discrimination complaints and monitor the school’s Title IX compliance. A 2001 study by American Association of University Women Legal Advocacy Fund entitled *A License for Bias: Sex Discrimination, Schools, and Title IX* found that sexual harassment was the most common Title IX complaint, accounting for 63% of the cases they analyzed.

Below are summaries of two A&C calls about sexual harassment at school and how ERA assisted the callers:

## SEXUAL HARASSMENT BY TEACHER

A 21-year-old college student called ERA after her professor hugged and kissed her in an off-campus parking lot, where he had taken her to show off his antique car. Upset about the college professor’s actions and afraid to

complain in fear that the professor would lower her grade, the student called ERA seeking advice. An ERA representative discussed the incident with the student, advised her of her rights, including the fact that retaliation is illegal under Title IX, and provided her with written materials on sexual harassment at school.

## SEXUAL HARASSMENT BY FELLOW STUDENTS

The mother of a 14-year-old girl called ERA after her daughter told her that four boys in her unsupervised study hall were aggressively sexually harassing her. The boys taunted her continuously, and on one occasion, locked the door to the room and masturbated while telling her to touch them. The girl was subject to this treatment for several months before telling her mother, who immediately filed a complaint with the school and police department. The school investigated the incidents, and suspended one of the four boys. The school also suspended the girl, claiming that she was a willing participant. An ERA law clerk advised the mother regarding the Title IX complaint process, and provided referrals to attorneys who specialize in Title IX practice.

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