



April 11, 2019

Dear Senator:

On behalf of the more than 170,000 members and supporters of the American Association of University Women (AAUW), I urge you to cosponsor the Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination (Be HEARD) in the Workplace Act (S. 1082) and the Ending Monopoly of Power Over Workplace Harassment Through Education and Reporting (EMPOWER) Act – Part 1 (S. 575) and Part 2 (S. 574). Together, this package of bills will take critical steps toward addressing workplace harassment, including sexual harassment, and ensuring workplaces are free from discrimination.

Harassment is an ongoing problem in our nation's workplaces. Recent findings underscore its prevalence. According to a recent report on harassment from the Equal Employment Opportunity Commission (EEOC), nearly one-third of the 90,000 charges received in fiscal year 2015 alleged workplace harassment.<sup>1</sup> They include charges of harassment on the basis of sex, race, disability, age, ethnicity/national origin, and religion. Forty-five percent of workplace harassment charges alleged sex-based harassment.<sup>2</sup>

Another analysis of EEOC charge data from 1995 to 2016, revealed that nearly 85 percent of workplace sexual harassment complaints were filed by women.<sup>3</sup> In particular, black women submitted a disproportionate amount of complaints filed (22 percent) when compared to their overall share of U.S. employed female population (14 percent).<sup>4</sup> Additional studies have demonstrated that between 2012 and 2016, for every 100,000 working women, black women filed the highest number of sexual harassment claims.<sup>5</sup> Finally, reports continue to demonstrate that women who identify as lesbian and bisexual and women with disabilities are more likely to report experiencing sexual harassment and/or assault.<sup>6</sup> While many workers experience harassment, a variety of risk factors make low-paid women, women of color, and immigrant women particularly vulnerable.<sup>7</sup> And while these statistics shed important light on some patterns of harassment, the available numbers likely do not represent the full prevalence of workplace harassment, given that 90 percent of people who say they have experienced harassment have not taken formal action, such as filing a complaint.<sup>8</sup>

Despite longstanding protections against workplace harassment, such as Title VII of the Civil Rights Act of 1964, additional protections and tools are needed to ensure all workers at more workplaces receive equal protection and can work free of harassment and discrimination. When workers face harassment, it impacts their success in the workplace, and ultimately, their economic security.

Congress must act to ensure all workers can go to work and do their jobs without fear of harassment. The Be HEARD Act (S. 1082) will help achieve this goal by building on existing civil rights laws to

provide new protections for workers, while also safeguarding existing discrimination laws. The bill will also, among other provisions:

- Restore workplace protections for older Americans, employees harassed by their supervisors, and workers retaliated against for bringing harassment claims.
- Prohibit pre-dispute forced arbitration.
- Expand workplace protections for employees at small businesses, independent contractors, interns, fellows, volunteers, and trainees.
- Clarify protections for LGBTQ workers.
- Eliminate the tipped minimum wage, which can make workers more susceptible to harassment.
- Strengthen current laws on workplace discrimination to clarify the standards used in court, eliminate caps on damages for successful claims, and extend the statutes of limitations for those seeking justice.
- Require workplaces to implement prevention strategies including nondiscrimination policies and trainings.
- Provide resources to assist employers in preventing and addressing harassment.
- Support research and data collection on workplace harassment.

The EMPOWER Act – Part 1 (S. 575) and Part 2 (S. 574) will take a number of steps to increase transparency and training in the workplace, making it less dangerous for employees to come forward and report inappropriate behavior. The bills will, among other provisions:

- Increase transparency by prohibiting employers from using non-disparagement and non-disclosure clauses that cover workplace harassment as a condition of employment.
- Require companies to report on harassment settlements and judgments.
- Prohibit companies from writing off costs associated with harassment litigation or settlements as tax deductions.
- Require workplace training programs to educate workers about harassment, how to prevent it, and to know their rights in the workplace.

These bills respond to the needs of working people, particularly women of color, low-paid workers, and LGBTQ individuals, and identify the steps necessary to address and prevent all forms of workplace harassment and discrimination. Together, this package of bills will close a number of loopholes, strengthen provisions, and provide new protections for workers.

The far reaching effects of harassment on an employee's pay, advancement and well-being cannot be overstated. The rise of the #MeToo movement has helped raise public attention and awareness surrounding the pervasive and persistent issue of sexual harassment and sexual violence effecting women. While survivors and advocates have long been calling for change, our laws continue to lag behind the demand for action. Everyone deserves equality, safety, and dignity at work. It is time Congress took action to update our laws and address this issue. I urge you to cosponsor the Be HEARD Act (S. 1082) and EMPOWER Act – Part 1 (S. 575) and Part 2 (S. 574) today.

Cosponsorship and votes associated with these bills may be scored in the AAUW Action Fund *Congressional Voting Record for the 116th Congress*. Please do not hesitate to contact me at 202/785-7720 or Anne Hedgepeth, Director of Federal Policy at 202/785-7724, if you have any questions.

Sincerely,



Deborah J. Vagins  
Senior Vice President, Public Policy and Research

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<sup>1</sup> Chai R. Feldblum & Victoria A. Lipnic, *Select Task Force on the Study of Harassment in the Workplace*, June 2016, [https://www.eeoc.gov/eeoc/task\\_force/harassment/report.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm).

<sup>2</sup> *Id.*

<sup>3</sup> Lam Thuy Vo, *We Got Government data on 20 Years of Workplace Sexual Harassment Claims. These Charts Break it Down*. December 2017, <https://www.buzzfeednews.com/article/lamvo/eeoc-sexual-harassment-data>.

<sup>4</sup> *Id.*

<sup>5</sup> Amanda Rossie, Jasmine Tucker, and Kayla Patrick, “Out of the Shadows: An Analysis of Sexual Harassment Charges Filed by Working Women” (National Women’s Law Center, August 2018), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/08/SexualHarassmentReport.pdf>.

<sup>6</sup> Stop Street Harassment, “The Facts Behind the #metoo Movement: A National Study on Sexual Harassment and Assault,” February 2018, <http://www.stopstreetharassment.org/wp-content/uploads/2018/01/Full-Report-2018-National-Study-on-Sexual-Harassment-and-Assault.pdf>. See also National Public Radio, “Discrimination in America: Experiences and Views of LGBTQ Americans,” November 2017, <https://www.npr.org/documents/2017/nov/npr-discrimination-lgbtq-final.pdf>; Erika Harrell, “Crime Against Persons with Disabilities, 2008-2010 - Statistical Tables” (U.S. Department of Justice: Bureau of Justice Statistics, October 2011), <https://www.bjs.gov/content/pub/pdf/capd10st.pdf>.

<sup>7</sup> A. Elaine Lewis, “Who Is at Highest Risk of Sexual Harassment?,” January 2018, <https://www.aclu.org/blog/womens-rights/womens-rights-workplace/who-highest-risk-sexual-harassment>.

<sup>8</sup> Feldblum & Lipnic, *Select Task Force on the Study of Harassment in the Workplace* (citing Lilia M. Cortina and Jennifer L. Berdahl, Sexual Harassment in Organizations: A Decade of Research in Review, 1 *The Sage Handbook of Organizational Behavior* 469, 469-96 (J. Barling & C. L. Cooper eds., 2008)).