



# Briefing Paper

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## **Sexual Harassment and Assault at Work: Understanding the Costs**

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In recent months, the #MeToo movement has raised the visibility of sexual harassment and assault at work and the personal toll it takes on women's lives to unprecedented levels. Workplace sexual harassment is widespread, with studies estimating that anywhere from almost a quarter to more than eight in ten women experience it in their lifetimes (Feldblum and Lipnic 2016). Sexual harassment and assault at work have serious implications for women and for their employers. Women who are targets may experience a range of negative consequences, including physical and mental health problems, career interruptions, and lower earnings. In addition, sexual harassment may limit or discourage women from advancing into higher paid careers and may contribute to the persistent gender wage gap. It may also intersect with other forms of discrimination and harassment on the basis of race or ethnicity, sexual orientation, age, or disability.

Through a review of the current literature on sexual harassment and assault, this briefing paper highlights how workplace sexual harassment and assault affect women's economic advancement and security, and the costs of these harms to employers (including estimates of financial losses where available). It also provides recommendations for preventing sexual harassment and reducing the negative effects of harassment for individuals and workplaces.

### **Defining and Reporting Workplace Sexual Harassment and Assault**

The U.S. Department of Justice, Office on Violence Against Women (OVW) defines sexual assault as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent" (U.S. DOJ, OVW 2018). While sexual assault is a criminal offense, the law also recognizes sexual harassment as a form of employment discrimination. The U.S. Equal Employment Opportunities Commission (EEOC) states that "unwelcome sexual advances, request for sexual favors, and other verbal or physical harassment of a sexual nature constitutes sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment" (U.S. EEOC 2018a). Such harassment may include unwelcome verbal, visual, nonverbal, or physical conduct that is of a sexual nature or based on someone's sex. Case law has established that to meet the legal standards for action, workplace harassment must be "severe or pervasive" and affect working conditions (U.S. EEOC 2018b).

Sexual harassment constitutes illegal sex discrimination under Title VII of the Civil Rights Act of 1964, which is enforced by the EEOC; anyone who wants to bring a legal claim of sexual

harassment under Title VII has to bring a charge to the EEOC or a cooperating state agency first.<sup>1</sup> In 2017 the EEOC received 26,978 claims of workplace harassment, of which a little more than half (12,428) were about sex-based harassment<sup>2</sup> and a quarter (6,696) specifically about sexual harassment (U.S. EEOC 2018). Between 2005 and 2015, women made eight in ten sexual harassment charges to the EEOC; 20 percent were made by men (Frye 2017). Among women, Black women were the most likely of all racial and ethnic groups to have filed a sexual harassment charge (15.3 charges per 100,000 workers), and 1 in 17 sexual harassment charges filed with the EEOC also alleged racial discrimination (Rossie, Tucker, and Patrick 2018). Research suggests that only a small number of those who experience harassment (one in ten) ever formally report incidents of harassment—let alone make a charge to the EEOC—because of lack of accessible complaints processes, simple embarrassment, or fear of retaliation (Cortina and Berdahl 2008). This fear is justified: according to an analysis of EEOC data, 71 percent of charges in FY 2017 included a charge of retaliation (Frye 2017).

In 2015 the EEOC convened a [Select Task Force on the Study of Harassment in the Workplace](#) to better understand why harassment persists in so many workplaces and what can help prevent it. The Select Task Force looked not only at harassment that met the legal definition, but also at conduct and behavior that “may set the stage for unlawful harassment.”<sup>3</sup>

### **Employment Situations Associated with High Rates of Harassment**

Identifying work-related factors associated with increased risk of sexual harassment and assault in the workplace may help target efforts to eliminate sexual harassment in particular occupations and situations. Some key risk factors include:

- **Working for tips.** Workers in “accommodation and food services”—which includes wait staff and hotel housekeepers who are typically classified as “tipped”—account for 14 percent of harassment charges to the EEOC, which is substantially higher than the sector’s share of total employment (Frye 2017). A survey by the Restaurant Opportunities Center finds that women restaurant workers who rely on tips for their main source of income in states where the sub-minimum wage is \$2.13 are twice as likely to experience sexual harassment—from managers, co-workers, and customers—as women servers in states that pay the same minimum wage to all workers. The survey also found that many women employees continue to work in tipped jobs in spite of harassment because tips are an important part of their income (Rodriguez and Reyes 2014).

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<sup>1</sup> See the TIME’S UP Legal Defense Fund (<https://nwlc.org/times-up-legal-defense-fund/>) or the EEOC ([https://www.eeoc.gov/federal/fed\\_employees/filing\\_complaint.cfm](https://www.eeoc.gov/federal/fed_employees/filing_complaint.cfm)) for information on how to file a sexual harassment or assault complaint.

<sup>2</sup> Sex-based harassment is harassment that makes it clear that a woman is not welcome in a job, but is not sexual in nature.

<sup>3</sup> The Select Task Force was comprised of 16 members from around the country from various backgrounds tasked with collecting and reviewing witness testimony and public comments to gain insight on workplace harassment in order to identify ways to prevent it. The work culminated with a report released in June 2016 (see Feldblum and Lipnic 2016).

- **Working in an isolated context.** Many workers—such as female janitors, domestic care workers, hotel workers, and agricultural workers, who often work in isolated spaces—report higher than average rates of sexual harassment and assault (Fernández Campbell 2018; Yeung and Rubenstein 2013; Yeung 2015). Isolation leaves women vulnerable to abusers who may feel emboldened by a lack of witnesses (Feldblum and Lipnic 2016). *Frontline* reported in 2015 that ABM (described as the largest employer of janitors) had 42 lawsuits brought against it in the previous two decades for allegations of workplace sexual harassment, assault, or rape (Yeung 2015). A National Domestic Workers Alliance and University of Chicago report found that 36 percent of live-in workers surveyed reported having been harassed, threatened, insulted or verbally abused in the previous 12 months (Burnham and Theodore 2012).
  
- **Lacking legal immigration status or having only a temporary work visa.** Undocumented workers or those on temporary work visas can be at particular risk of harassment and assault. Agriculture, food processing and garment factories, and domestic work and janitorial services are fields where many undocumented and immigrant women work (Bauer and Ramirez 2010; Hegewisch, Deitch, and Murphy 2011; Yeung and Rubenstein 2013; Yeung 2015). In principle, victims of sexual violence at work who bring charges have the same protection against deportation as survivors of domestic violence through U-visas (Hyunhye Cho 2014). Yet, many fear that reporting harassment or assault will put their immigration status at risk. Others may not know their rights or may find it difficult to access legal supports without knowing English. Retaliation against women who speak up against workplace sexual assault may involve threats to call Immigration and Customs Enforcement or to revoke temporary work visas (Bauer and Ramirez 2010; Smith, Avendaño, and Ortega 2009).
  
- **Working in a male-dominated job.** Women working in occupations where they are a small minority, particularly in very physical environments (Willness, Steel, and Lee 2007) or environments focused on traditionally male-oriented tasks (Fitzgerald et al. 1997), may also be especially vulnerable to harassment and assault. In a survey from the early 1990s, close to six in ten women working in construction report being touched or asked for sex (LeBreton and Loevy 1992). In another study from 2013, three in ten women construction workers report experiencing sexual harassment daily or frequently, with similar numbers reporting harassment based on sexual orientation, race, or age (Hegewisch and O’Farrell 2015). A 2014 RAND study of sexual assault and harassment in the military estimated that 26 percent of active duty women had experienced sexual harassment or gender discrimination in the past year, including almost five percent who had experienced one or more sexual assaults (compared with seven and one percent of active duty men, respectively; National Defense Research Institute 2014). A recent National Academy of Sciences study documented high levels of harassment of women faculty and staff in academia in science, engineering, and medicine, with women in academic medicine reporting more frequent gender harassment than their female colleagues in science and engineering (National Academy of Sciences 2018).

- **Working in a setting with significant power differentials and “rainmakers.”** Many workplaces have significant power disparities between workers. These power imbalances, particularly given women’s lower likelihood of being in the senior positions, are a risk factor for sexual harassment and assault.<sup>4</sup> Workers in more junior positions may be especially concerned with retaliation, the handling of internal complaints, and continued vulnerability within their job. “Rainmakers”—such as a well-known professor, well-recognized or high-earning partner, or grant-winning researcher—may feel they do not need to comply with the rules that govern other employees (Sepler 2015) and may not be disciplined if accused of sexual harassment or assault (Feldblum and Lipnic 2016).

These structural risk factors often intersect and are exacerbated by racism, discrimination, and harassment on the basis of age, disability, or national origin.<sup>5</sup> In addition, working in low-wage jobs itself can entail a higher risk of harassment (Sepler 2015). Low-wage work is more likely to take place in smaller, less formalized workplaces without official complaints mechanisms. Earning low wages may also make it more difficult for a worker to leave a job, or to risk losing it by making a complaint.

### **Sexual Harassment Costs to Individuals**

Sexual harassment and assault can affect individuals in a number of ways, including their mental and physical health, finances, and opportunities to advance in their careers.

- **Negative effects on mental and physical health.** A number of studies indicate that sexual harassment has negative mental health effects.<sup>6</sup> Exploratory research on the intersection of racial and sexual harassment suggests that harassment can lead to depression; one study reported that one in ten women who experienced harassment had such severe symptoms that they met the definition of PTSD (Dansky and Kilpatrick 1997). These effects can last for many years after the harassment (Dansky and Kilpatrick 1997; Houle et al. 2011). Even when relatively infrequent and less severe, harassment can have significant negative effects on psychological well-being and work behaviors (Schneider, Swan, and Fitzgerald 1997). In addition to negative mental health effects, researchers have found higher risks of long-term physical health problems in response to repeated, long-term gender-based harassment (Schneider, Tomaka, and Palacios 2001). Harassment can also lead to increased risks of workplace accidents by leaving workers distracted while working in a dangerous job (Sugerman 2018). These negative effects can often lead to significant costs for both mental and physical health services.
- **Reduced opportunities for on-the-job learning and advancement.** In many occupations, becoming a skilled worker and advancing in one’s profession depends on on-the-job instruction and mentorship of more experienced workers. Harassment can restrict women’s access to such learning opportunities (Hegewisch, Deitch, and Murphy 2011;

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<sup>4</sup> For a review of the research, see Durana et al. 2018; Feldblum and Lipnic 2016; and Khubchandani, and Price 2015.

<sup>5</sup> See also Durana et al. 2018.

<sup>6</sup> For reviews, see Fitzgerald and Cortina 2017 and Schneider, Swan, and Fitzgerald 1997.

Sugerman 2018). For women in the academic sciences, engineering, and medicine, a recent study found that harassment affects their career advancement by leading them to give up tenure opportunities, drop out of major research projects, or step down from leadership opportunities to avoid the perpetrator (National Academy of Sciences 2018).

- **Forced job change, unemployment, and abandonment of well-paying careers.** Unemployment is a concern for some women who feel they must leave a job due to sexual harassment before finding another job opportunity (*The Nation* 2018). A recent study finds a high correlation between harassment and job change: eight in ten women who experienced sexual harassment began a new job within two years after experiencing harassment (compared with just over half of other working women). The study found considerable financial stress as a result of such job change, highlighting likely long-term consequences of harassment for earnings and career attainment. Harassment contributed to financial strain even when women were able to find work soon after leaving their previous employment (McLaughlin, Uggen, and Blackstone 2017). As a result of harassment, some women may leave their field entirely (National Academy of Sciences 2018).

Individual financial costs of sexual harassment vary depending on the targets' occupations and career trajectories—those in higher-paying occupations will lose more in wages than those in lower-paying occupations. The impact of sexual harassment, however, is significant no matter the amount of the wages lost: both those with high and low incomes may rely on this money to meet basic needs and achieve economic security.

### **Sexual Harassment Costs to Companies**

Workplace harassment can result in substantial costs to companies, including legal costs if there are formal charges of harassment, costs related to employee turnover, and costs related to lower productivity from increased absences, lower motivation and commitment, and team disruption. While there are no recent estimates of the business costs of sexual harassment, earlier studies suggest these costs are substantial. Some of the economic burden of sexual harassment comes out of taxpayers' pockets. An estimate based on a 1988 study of the costs of sexual harassment in the U.S. Army reported annual costs of \$250 million, which would be much higher in 2018 dollars (Faley et al. 1999). A U.S. Merit Systems Protection Board study from the early 1990s estimated the economic costs of sexual harassment to federal government workplaces over a two-year period at \$327 million (U.S. Merit Systems Protection Board 1995).

- **Legal costs.** High profile sexual harassment cases highlight the potential legal costs of tolerating harassment for employers (*Fortune* 2017). Typically, the amount of financial payouts in settlements is kept confidential, making it difficult to reliably estimate total legal costs related to harassment. The EEOC, which publishes all financial settlements it reaches on behalf of employees, in FY 2017 gained \$46.3 million in monetary benefits for employees in relation to sexual harassment charges (U.S. EEOC 2018). These costs likely substantially underestimate the actual payouts made by employers in response to

sexual harassment charges because the EEOC litigates only a small number of all charges it receives (Rutherglen 2015).

- **Employee turnover.** Research shows that sexual harassment in the workplace can increase employee turnover (Chan et al. 2008; Fitzgerald et al. 1997; Sims, Drasgow, and Fitzgerald 2005; and Purl, Hall, and Griffeth 2016). In their study of the relationship between sexual harassment and women’s career attainment, McLaughlin, Uggen, and Blackstone (2017) found that targets of harassment were 6.5 times as likely as non-targets to change jobs. Costs related to employee turnover constitute the largest economic cost of sexual harassment, considerably higher than costs related to litigation (Merken and Shah 2014). Replacing an employee can be very expensive; a meta-analysis of case studies of the cost of employee turnover estimated average costs of 16 to 20 percent of an employee’s annual salary, rising to up to 213 percent of salary for experienced managerial and professional staff (Boushey and Glynn 2012).
- **Increased Absences.** An analysis The 2010 National Health Interview Survey found that those who reported having been harassed or bullied at work in the previous year were 1.7 times more likely to have had at least two weeks off work than those who had not (Khubchandani, and Price 2015). A 2016 U.S. Merit Systems Protection Board study (2018) found that close to one in six employees who experienced sexual harassment took sick or annual leave following their harassment.
- **Reduced productivity.** There is substantial research to show that workplace sexual harassment is associated with reduced motivation and commitment, as well as lower job satisfaction and withdrawal.<sup>7</sup> The negative effects of sexual harassment are not limited to the targets and can also affect those who witness or hear about harassment, and reduce both individual and team performance. One study of 27 teams at a food services organization found that sexual hostility—a form of sexual harassment that consists of explicitly sexual verbal and nonverbal behaviors that are insulting—is damaging for team processes and performance (Raver and Gelfand 2005). Based on their meta-analysis of research on the antecedents and consequences of sexual harassment, Willness et al. estimate an average cost through lost productivity of \$22,500<sup>8</sup> per person working in a team affected by harassment (Willness et al. 2007).

## **Recommendations for Addressing Workplace Sexual Harassment**

Providing resources and training and the development of new tools to prevent and address workplace sexual harassment and assault are critical to making workplaces safer for all workers and capture resulting productivity gains.

The EEOC recommends the following interventions to help address sexual harassment and assault in the workplace:

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<sup>7</sup> For literature reviews see Willness et al. 2007 and Sojo, Wood, and Genat 2016.

<sup>8</sup> Assuming this was calculated using 2007 dollars, this would now be \$27,345 per person in 2018 dollars.

- ❖ Employers should conduct assessments for the risk factors associated with sexual harassment and assault and conduct climate surveys to assess the extent to which harassment is a problem within their organization;
- ❖ Employers should adopt and maintain comprehensive anti-harassment policies, communicate the policies to employees frequently, offer multi-faceted reporting procedures, and “test” their reporting systems to determine their functionality;
- ❖ Employers should ensure that discipline for perpetrators of workplace harassment is prompt, consistent, and proportionate to the severity of the circumstance;
- ❖ Employers should train middle-management and supervisors on how to respond effectively to observed instances of sexual harassment;
- ❖ Employers should include workplace civility training and bystander intervention training;
- ❖ Labor unions should ensure that their own policies and reporting systems meet the same standards as employer systems;
- ❖ Researchers should assess the impact of workplace trainings on reducing the level of sexual harassment in the workplace;
- ❖ The federal government should conduct additional research, including developing and fielding new polls and/or adding questions to existing surveys on sexual harassment and assault, through agencies such as the U.S. Bureau of Labor Statistics, the U.S. Census Bureau, the U.S. Merit Systems Protection Board, and the Office of Personnel Management.

Many resources and trainings are available to those who wish to prevent sexual harassment and assault at work. Promising examples include bystander intervention trainings such as “Green Dot” (Alteristic 2018), and the new EEOC Respectful Workplaces training (U.S. EEOC 2017). In addition, worker-led efforts like the “Hands Off, Pants On” initiative by union hotel workers (United Here Local 1 2018) or practices implemented by the Coalition of Immokalee Workers (2018), are showing how stakeholders can work together to prevent harassment.

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