

# 2019 ANNUAL CONFERENCE



Glory Gervacio Saure,  
Director, EEOC Honolulu Local Office



# RESPECTFUL WORKPLACES

EEOC PERSPECTIVES ON HARASSMENT,  
#METOO  
& WORKPLACE CULTURE CHANGE



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# **OUR VISION RESPECTFUL AND INCLUSIVE WORKPLACES WITH EQUAL EMPLOYMENT OPPORTUNITY FOR ALL**

- **OUR MISSION**
- **Prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace.**





# EEOC STRATEGIC ENFORCEMENT PLAN





- Eliminating barriers in recruitment & hiring
- Protecting immigrant, migrant & vulnerable workers
- Addressing emerging & developing employment discrimination issues
- Enforcing equal pay laws
- Preserving access to the legal system
- Preventing harassment through systemic enforcement & targeted outreach
- Cases with Strategic Impact

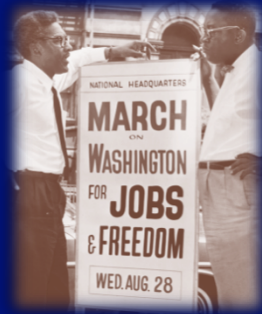


# **2017-2021 STRATEGIC ENFORCEMENT PLAN**



# CURRENT STATE OF THE COMMISSION





## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

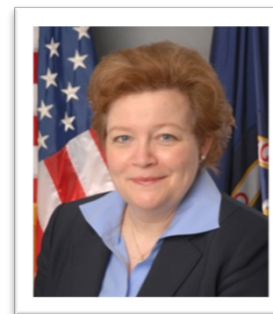


*Commissioner  
(vacant)*

*Commissioner  
Charlotte Burrows*



*Chair  
Janet  
Dhillon*



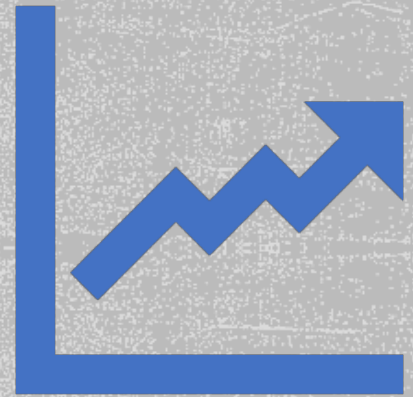
*Commissioner  
Victoria Lipnic*

*Commissioner  
(vacant)*

*General Counsel  
(vacant)*

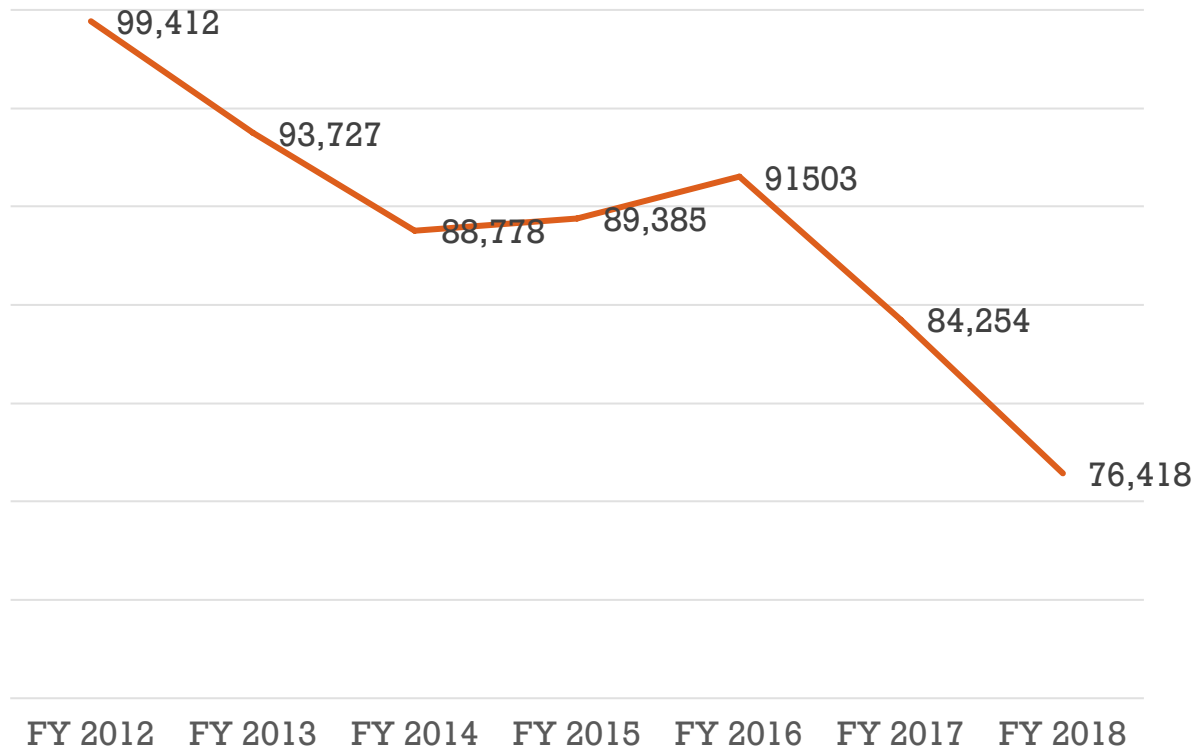


# EEOC TRENDS





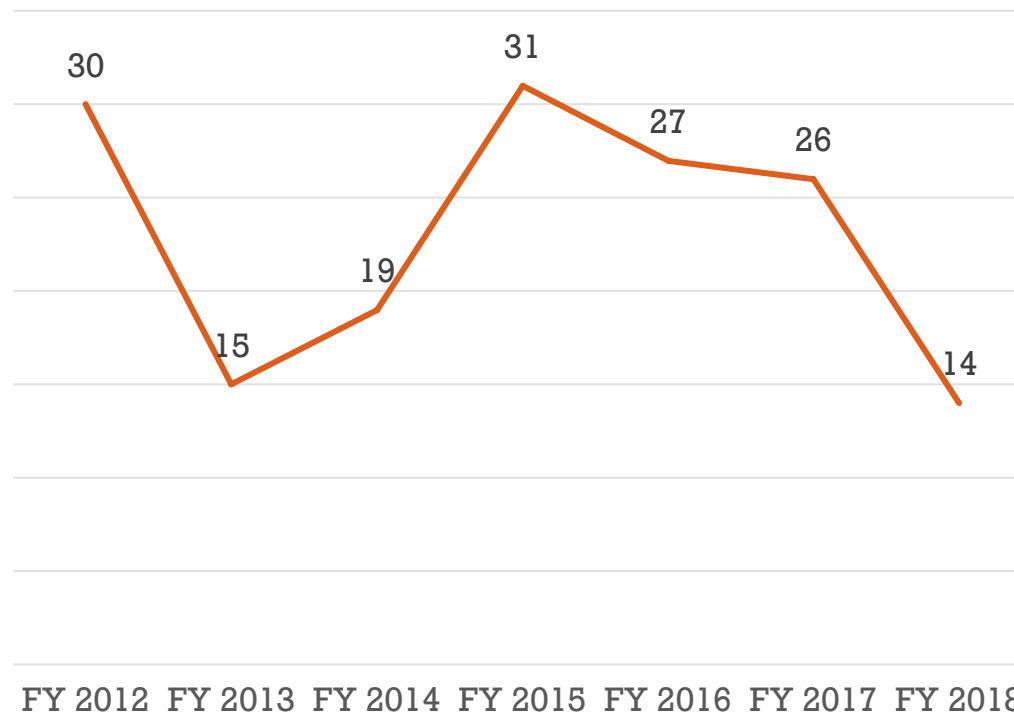
# National EEOC Charge Receipts FY 2012 – FY 2018





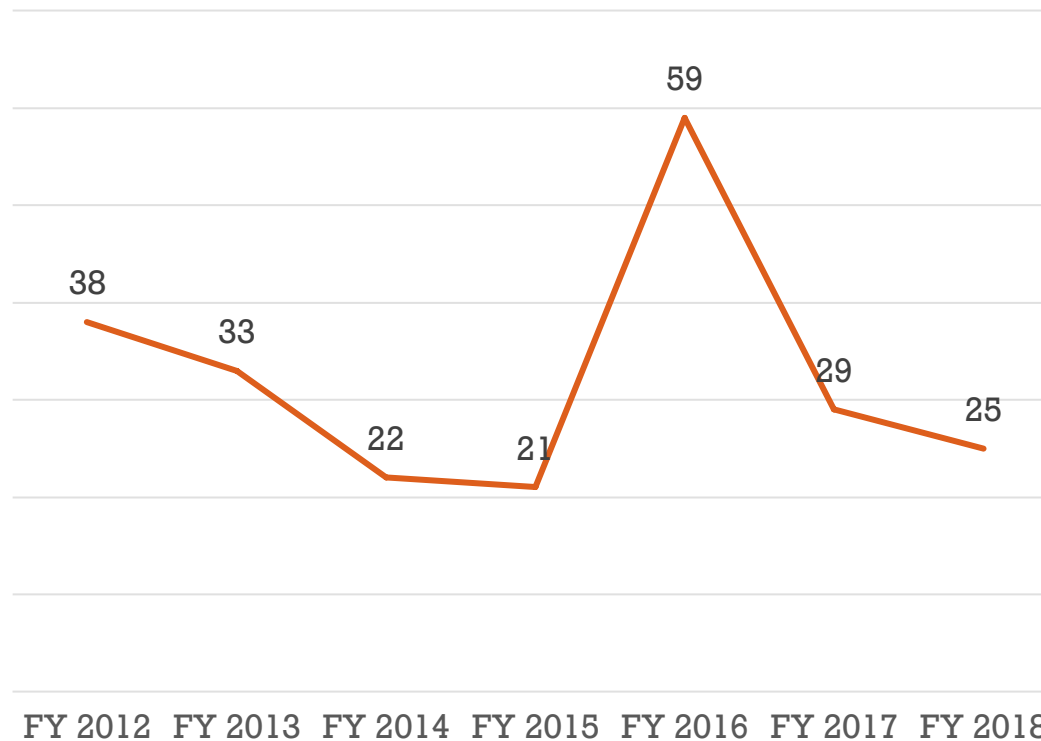


# GUAM EEOC CHARGE RECEIPTS FY 2012 – FY 2018

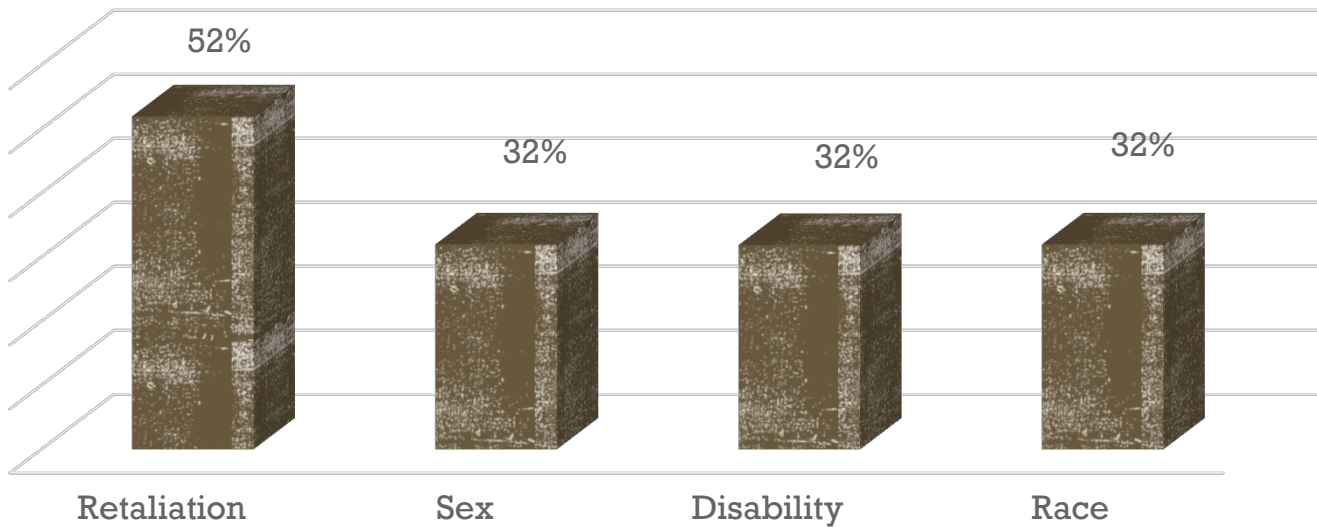




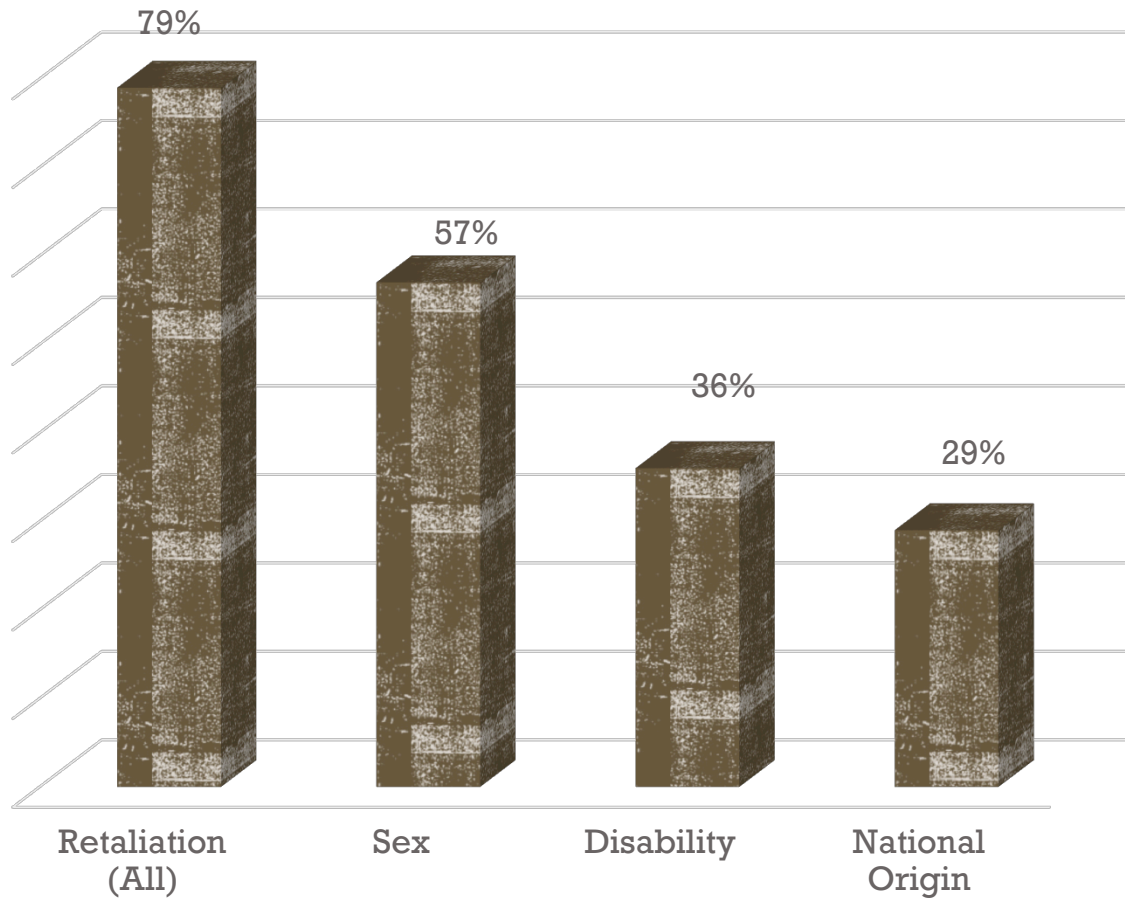
# CNMI EEOC CHARGE RECEIPTS FY 2012 – FY 2018



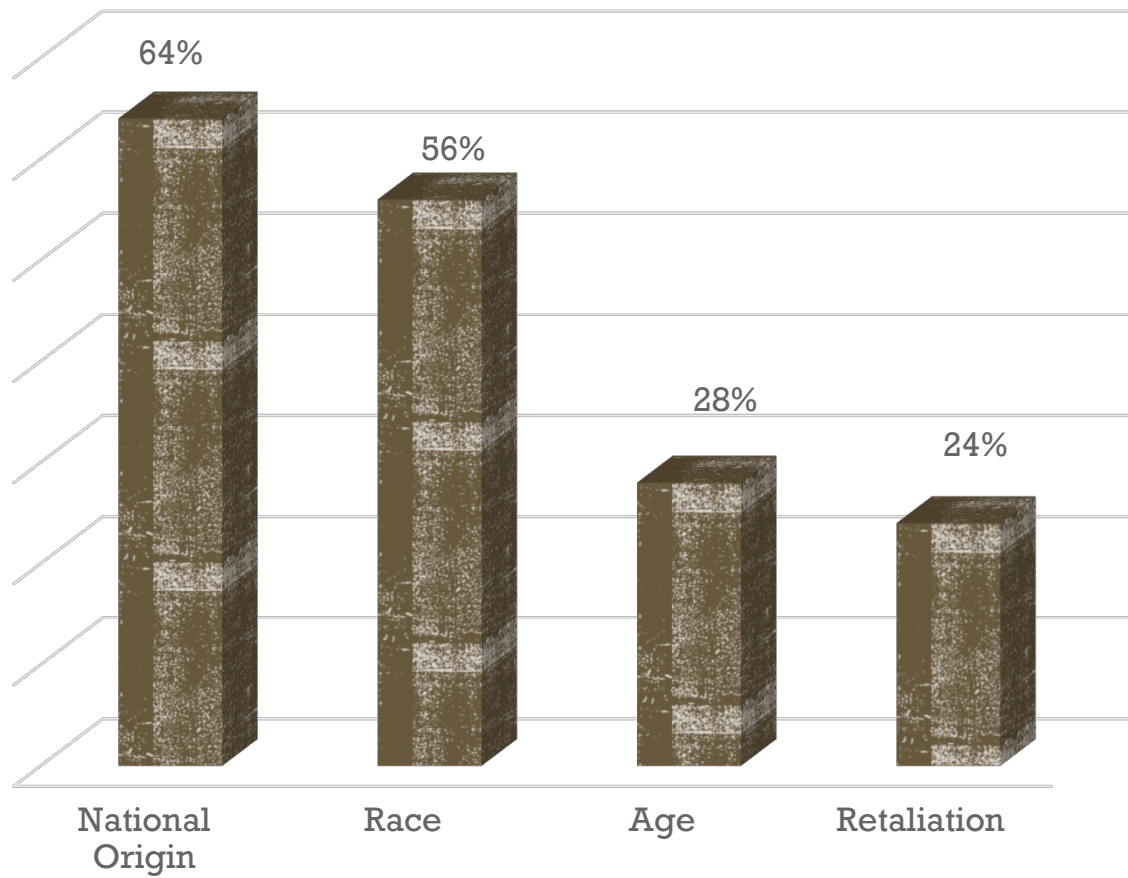
# National EEOC Charge Receipts by Type FY 2018



# GUAM EEOC CHARGE STATISTICS FY 2018



# CNMI EEOC CHARGE STATISTICS FY 2018





# STATISTICS



# FY 2018 PRELIMINARY STATISTICS

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EEOC secured \$505 million and other relief for over 67,860 victims of discrimination in the workplace

Filed 199 lawsuits

Resolved 141 merit lawsuits

Filed 29 amicus curiae briefs



# PRELIMINARY STATISTICS (CONTINUED)

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Reduced private sector backlog by 19.5%; federal employee appeals by 19.4%; federal employee hearings reduction by 8.5%, and a 7.6% reduction in backlog from FIOA requests

EEOC outreach programs reached 398,650 individuals and conducted more than 300 Respectful Workplaces trainings for more than 9,800 employees & supervisors in public and federal sectors



# HARASSMENT STATISTICS FY 2018

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66 of the 199 lawsuit filed  
allege harassment; 41 of  
those allege sexual  
harassment

Sexual harassment  
allegations brought to  
the EEOC increased by  
12% from FY 2017

EEOC recovered nearly  
\$70 million for victims of  
sexual harassment  
through litigation and  
administrative  
enforcement—up from  
\$47.5 million in FY 2017



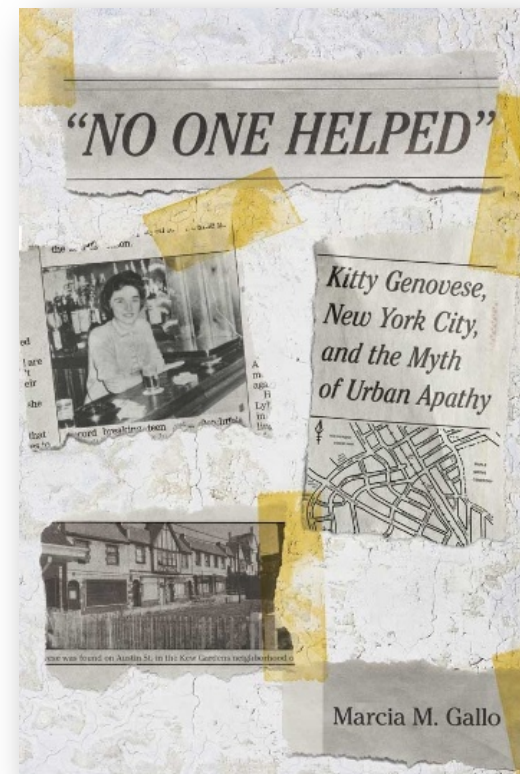
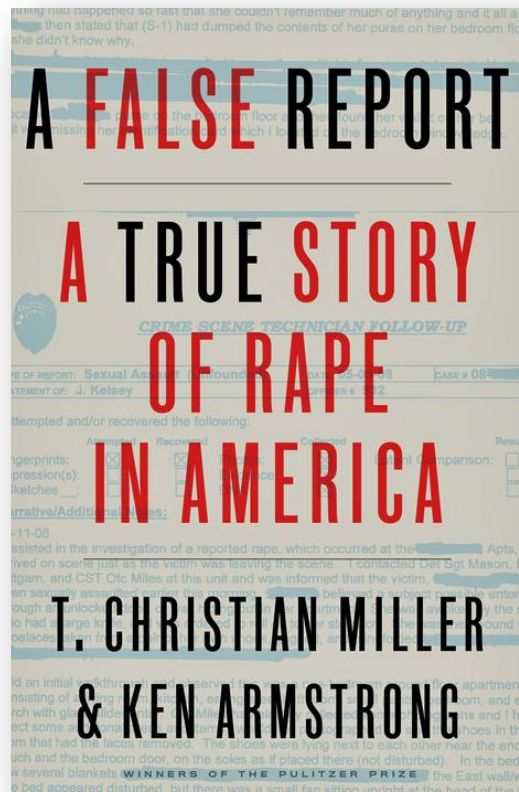


- What are people doing and saying to demonstrate respect?





Will the person reporting be believed or blamed?  
Will the people around them listen, and take action?  
Will the harasser be stopped... or given permission?





Famous Faces . . .





Trevor Edwards, Former  
President NIKE



Wayne Pacelle, Former CEO  
US HUMANE SOCIETY



David Meltzer, Former General  
Counsel  
AMERICAN RED CROSS

**Less Famous Faces . . .**



# **What do these faces have in common?**

- Harassers who were fired, forced to retire, resign or step out of the public eye
- Multiple allegations of sexual harassment by numerous people – often for many years
- Complaints of sexual harassment that were never effectively addressed by HR Departments or management
- Serious financial consequences for their employers and companies







**“WARNING:** A TSUNAMI OF  
SEXUAL HARASSMENT  
COMPLAINTS ARE ON THE WAY ....”

-MARK A. HANLEY, RECENT ARTICLE  
IN “LEXOLOGY”







# #ME TOO & THE EEOC

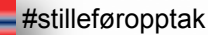


Click or tap on the hashtags to see how the campaign spread globally

#MeToo

#YoTambien

01 ڀوڻا ڪمڻ



#memyös



#私も  
#WatashiMo

#СегаКажувам



من۔ ہم۔ ہمیں طور :



#NiEre



Source: Crimson Hexagon, Facebook, Instagram, and Twitter data: October 14–November 6, 2017

We write on behalf of over 300 women who work in film, television and theater. A little more than two months ago, courageous individuals revealed the dark truth of ongoing sexual harassment and assault by powerful people in the entertainment industry. At one of our most difficult and vulnerable moments, Alianza Nacional de Campesinas (the National Farmworker Women's Alliance) sent us a powerful and compassionate message of solidarity for which we are deeply grateful.

To the members of Alianza and farmworker women across the country, we see you, we thank you, and we acknowledge the heavy weight of our common experience of being preyed upon, harassed, and exploited by those who abuse their power and threaten our physical and economic security. We have similarly expressed the violence and disrespecting harassment for fear that we will be attacked and ruined in the process of speaking out. We share your feelings of anger and shame. We harbor fear that no one will believe us, that we will look weak or that we will be dismissed, and we are terrified that we will be fired or never hired again in retaliation.

# Dear Sisters,

We also recognize our privilege and the fact that we have access to enormous platforms to amplify our voices. Both of which have drawn and driven widespread attention to the existence of this problem in our industry that farmworker women and countless individuals employed in other industries have not been afforded.

To every woman employed in agriculture who has had to fend off unwanted sexual advances from her boss, every housekeeper who has tried to escape an abusive guest, every janitor tripped right in a hallway with a predatory supervisor, every waitress grabbed by a customer and expected to take it with a smile, every garment and factory worker forced to trade sexual acts for more shifts, every domestic worker or home health aide forcibly touched by a client, every immigrant woman silenced by the threat of her undocumented status being reported in retaliation for speaking up and to women in every industry who are subjected to indignities and offensive behavior that they are expected to tolerate in order to make a living. We stand with you. We support you.

Now, unlike ever before, our access to the media and to important decision makers has the potential of leading to real accountability and consequences. We want all survivors of sexual harassment, everywhere, to be heard, to be believed, and to know that accountability is possible.

We also want all victims and survivors to be able to access justice and support for the wrongdoing that have endured. We particularly want to lift up the voices, power, and strength of women working in low-wage industries where the lack of financial stability makes them vulnerable to high rates of gender-based violence and exploitation.

Unfortunately, too many centers of power – from legislatures to boardrooms to executive suites and management to academics – lack gender parity and women do not have equal decision-making authority. This systemic gender inequality and imbalance of power fosters an environment that is ripe for abuse and harassment against women. Therefore, we call for a significant increase of women in positions of leadership and power across industries. In addition, we seek equal representation, opportunities, benefits, and pay for all women workers, not to mention greater representation of women of color, immigrant women, disabled women, and lesbian, bisexual, and transgender women, whose experiences in the workforce are often significantly worse than their white, cisgender, straight peers. The struggle for women to break in, to rise up the ranks and to simply be heard and acknowledged in male-dominated workplaces must end, and times up on this insupportable monopoly.

We are grateful to the many individuals – survivors and allies – who are speaking out and forcing the conversation about sexual harassment, sexual assault, and gender bias out of the shadows and into the spotlight. We fervently urge the media covering the

disclosure by people in Hollywood to spend equal time on the myriad experiences of individuals working in less glamorized and valorized trades.

Harassment has often persists because perpetrators and employers never face any consequences. This is often because survivors, particularly those working in low-wage industries, don't have the resources to fight back. As a first step towards helping women and men across the country seek justice, the signatories of this letter will be sending a legal fund to help survivors of sexual assault and harassment across all industries challenge those responsible for the harm against them and give voice to their experiences.

We remain committed to holding our own workplaces accountable, pushing for swift and effective change to make the entertainment industry a safe and equitable place for everyone, and telling women's stories through our eyes and voices with the goal of silencing our society's perception and treatment of women.

In Solidarity

<https://www.timesupnow.com>



## Why Oprah paid tribute to women farmworkers



Alianza Nacional de Campesinas

Golden Globes  
2018

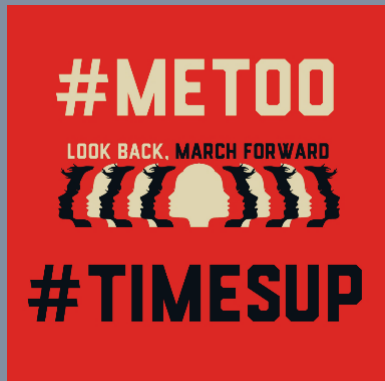


<http://time.com/5018813/farmworkers-solidarity-hollywood-sexual-assault/>





Have Things  
Changed in  
2019?



# SEXUAL HARASSMENT IS SEX DISCRIMINATION



EEOC adopts MacKinnon's framework defining sexual harassment as

- 1) quid pro quo
- 2) hostile work environment



June 19, 1986  
Meritor Savings Bank v. Vinson  
Supreme Court for the first time recognizes that sexual harassment is a violation of Title VII



October 1991  
Anita Hill testifies before Congress in televised hearings that Supreme Court nominee Clarence Thomas had sexually harassed her while he was her supervisor at the Department of Education and the EEOC.



# JUNE 2016: COMMISSION ISSUES SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



## SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE

REPORT OF CO-CHAIRS  
CHAI R. FELDBLUM & VICTORIA A. LIPNIC

*A Bipartisan Effort*

JUNE 2016

Harassment continues to be one of the most frequently raised complaint—

- over 32% of all private sector cases
- 43% of Federal sector cases

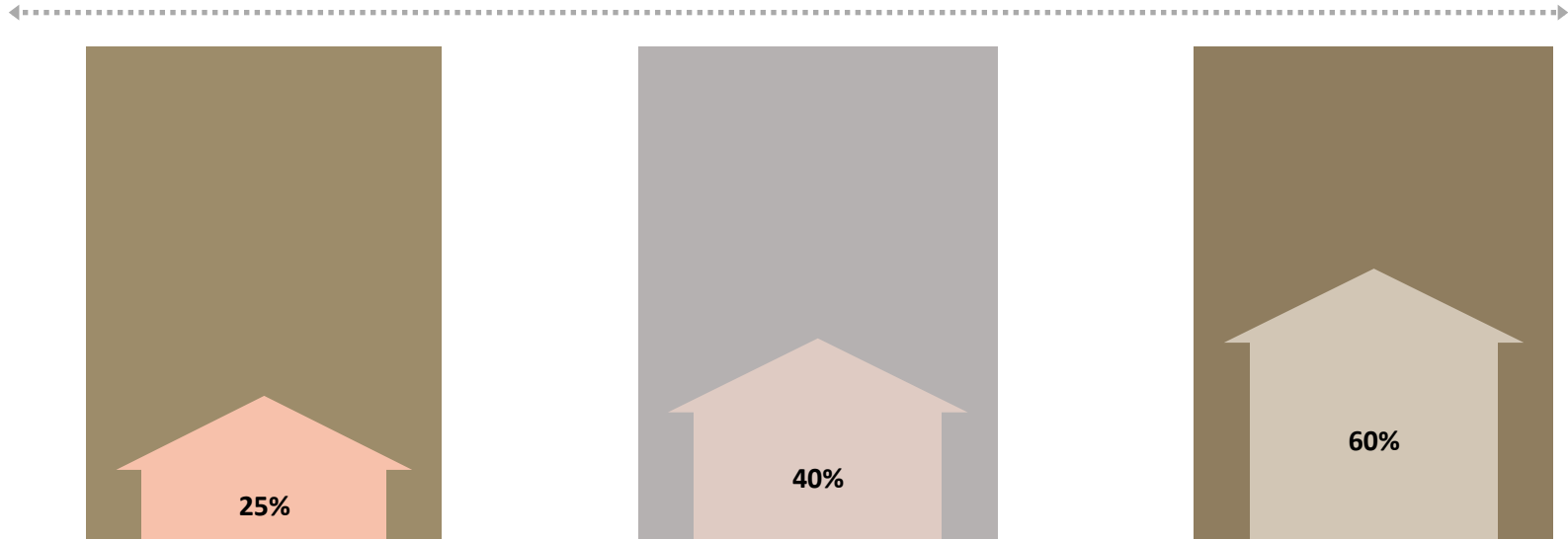
Report available at:

[www.eeoc.gov/task\\_force/harassment/report.cfm](http://www.eeoc.gov/task_force/harassment/report.cfm)





## Prevalence of Sex-Based Harassment: Varying Definitions



### **Most Conservative Estimate**

25% of women experience  
"sexual harassment,"  
if not defined in the survey.

### **More Accurate Estimate**

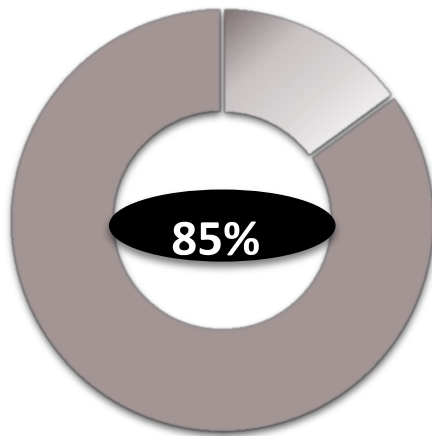
40% of women experience  
unwanted sexual attention  
or sexual coercion,  
even if they don't label it as  
"sexual harassment."

### **Most Accurate Estimate**

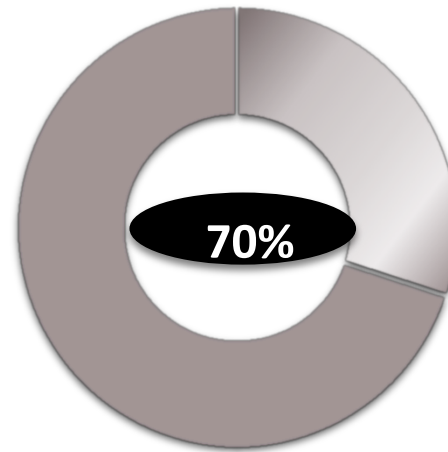
60% of women experience  
unwanted sexual attention  
or sexual coercion,  
OR sexually crude conduct  
or sexist comments  
in the workplace.



## Harassment is **HUGELY UNDER-REPORTED**



Upwards of 85% of people never file a formal legal charge.



Approximately 70% of employees never even complain internally.



# WHY the Under-Reporting?



# WHAT gets in the way?



- “Over-reacting”  
“did not have time for such nonsense”
- Analysis Paralysis



- Boys will be boys. Just joking around.
- Active shooter / active harasser
- Separate rules for the Star
- Leaky pipe – call the plumber now!



- Hazing/ Bonding



## Indirect Financial Costs



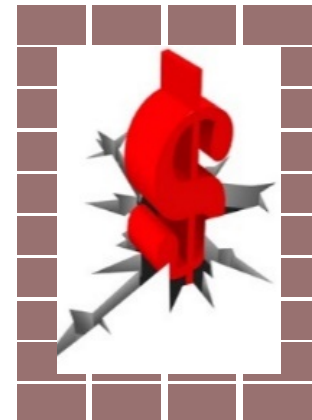
Health and workplace  
productivity of the  
target of harassment



Health and workplace  
productivity of  
coworkers who witness  
harassment



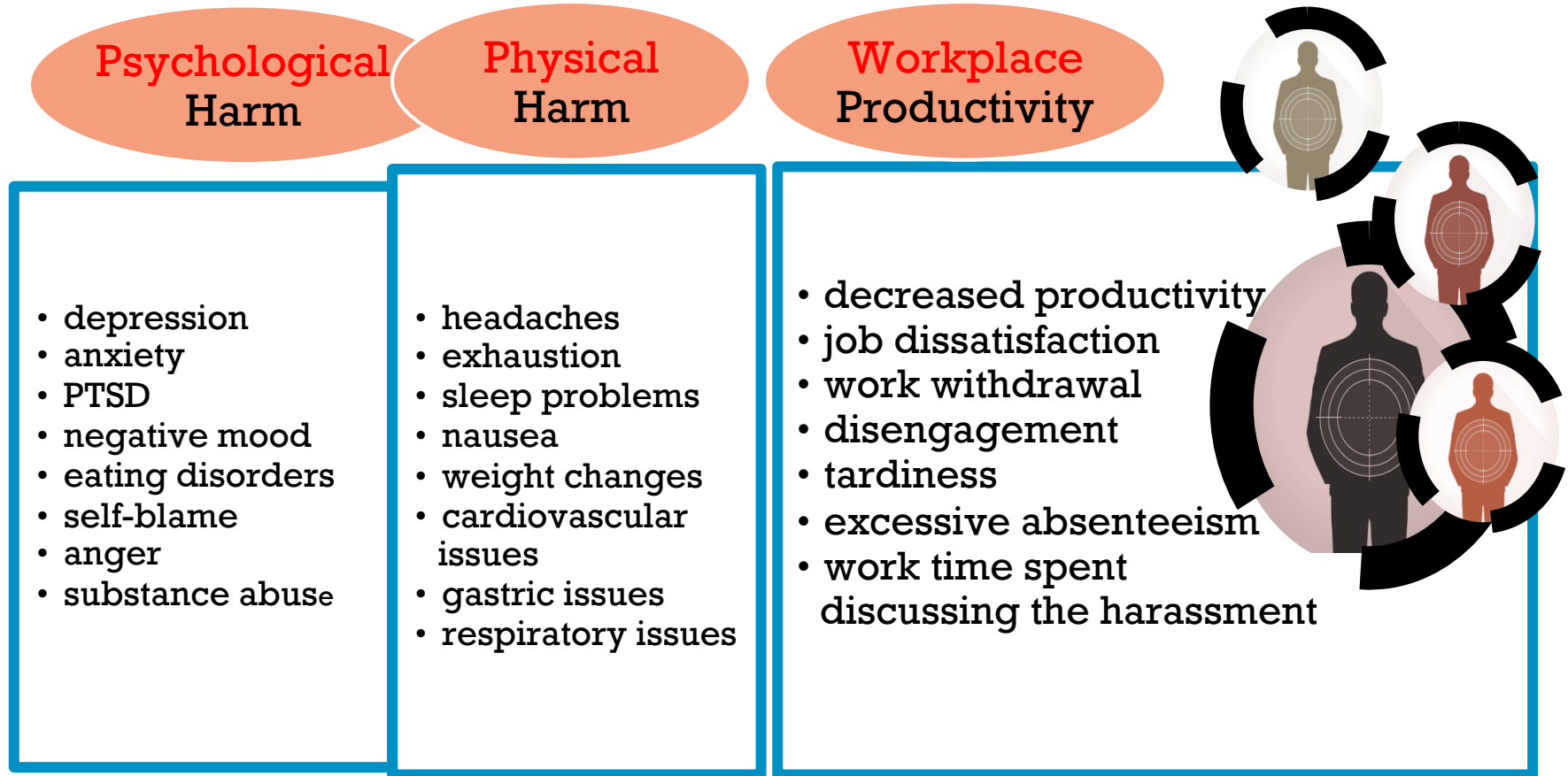
Job turnover



Reputational harm

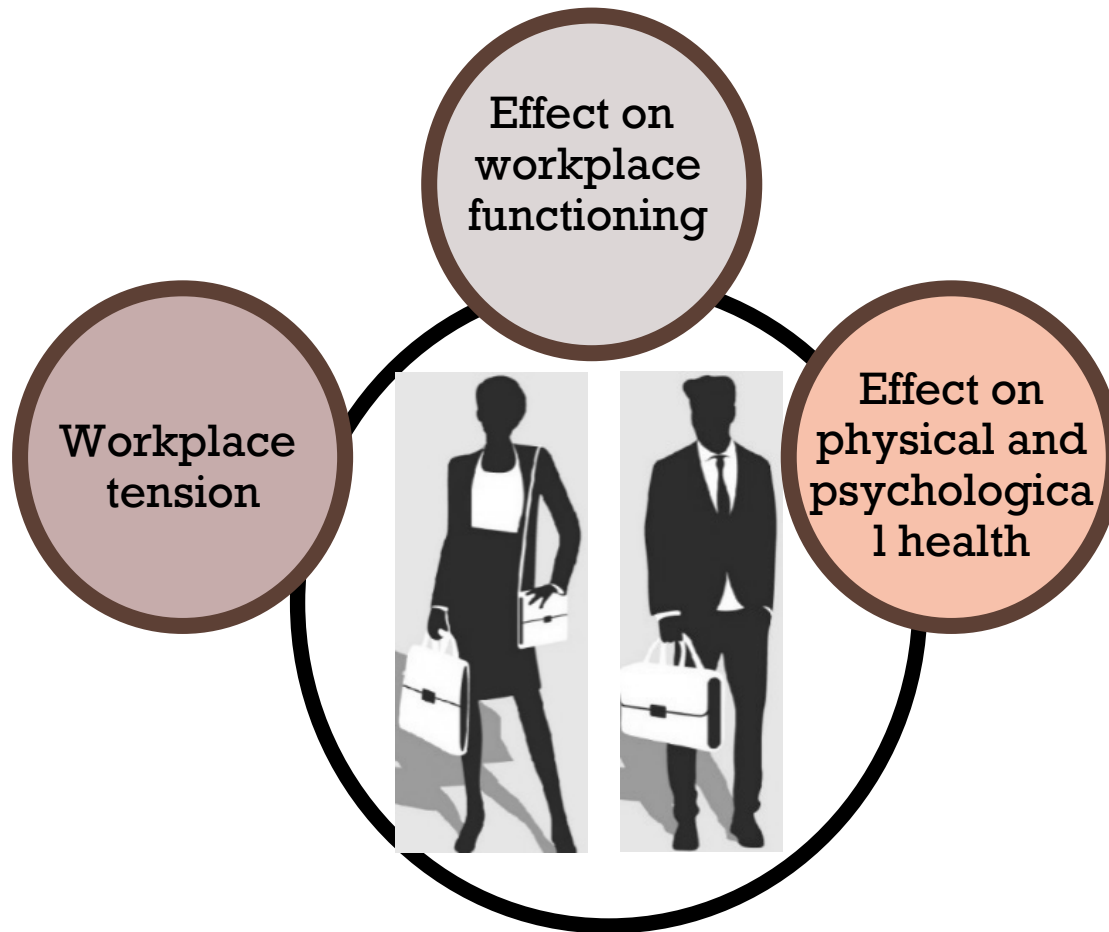


# Health **Impact** & Workplace **Productivity** of the **Target** of Harassment





# Health **Impact** & Workplace **Productivity** of **Coworkers**



# Job Turnover

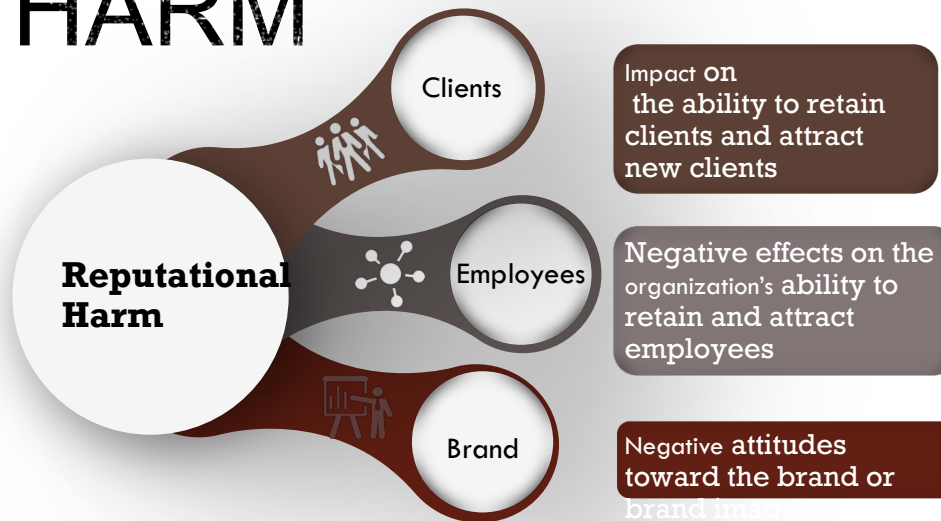
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Job turnover is **potentially** the largest single component of the overall cost of harassment.



# REPUTATIONAL HARM



# The Perils of the **Superstar** Harasser



Employers often make a wrong cost-benefit analysis when faced with allegations of harassment

against a highly valued employee.

Employers are often tempted to ignore misconduct for **fear of cost** to the **organization**.

In reality, the cost of allowing harassment to go unchecked is higher than the cost of losing a highly valued employee.



Google Microsoft Best of the Web Certain Planner's View Coursera Admin Login Keanu Reeves Technology 3P Transit Benefits


**The Inquirer**  
DAILY NEWS philly.com

Wednesday, June 13, 2018 | Today's Paper [Subscribe](#) [Log In](#)

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## How a Philly firm fired a toxic star performer and sales went up

Updated: SEPTEMBER 7, 2016 — 10:39 AM EDT



POST  
TWEET  
SUBMIT  
EMAIL  
SHARE

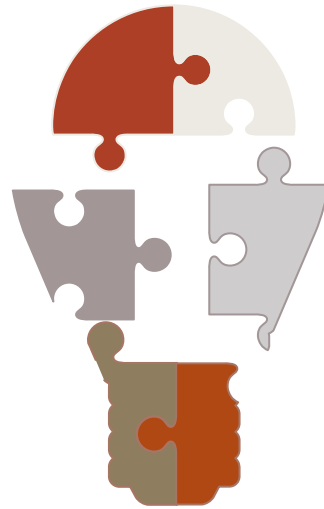
John Shegda, owner and founder of a precision metal working shop, saw **productivity go up by more than a third** after firing a productive but toxic worker/supervisor and part of his team.

**"To me, it's an indicator of how important culture is."**

- **Hired worker mid 2000s.**  
"There was always an issue with his level of respect. He had a bullyish attitude. He'd tell an edgy joke that you weren't sure was a joke, just to get under someone's skin."
- **2011: Owner focuses on company values – pamphlet + weekly meetings**  
Shegda tries to coach him, to no avail.
- **2014 In October, owner gave the man a generous severance and let him go (+ two others on team)**
- **Productivity : \$85 to \$90 an hour**  
In November, sales per hour rose to \$123 - without three of the factory's most productive workers.  
Dec & Jan – more modest, but still 13% higher

[http://www.philly.com/philly/business/20160907\\_How\\_a\\_Philly\\_firm\\_fired\\_a\\_toxic\\_star\\_performer\\_and\\_sales\\_went\\_up.html](http://www.philly.com/philly/business/20160907_How_a_Philly_firm_fired_a_toxic_star_performer_and_sales_went_up.html)

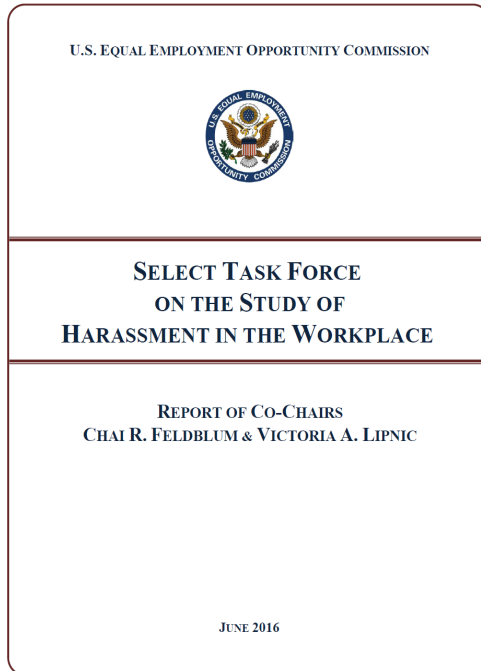




WHAT CAN  
**WE** DO?



# PREVENTIVE ACTION



## Five Core Principles

1. Committed and engaged **leadership**
2. Consistent and demonstrated **accountability**
3. Strong and comprehensive harassment **policies**
4. Trusted and accessible complaint **procedures**
5. Regular interactive **training** tailored to the audience and organization



# REPORT CHECKLIST

Appendix B: Checklists for Employers

1. Leadership & Accountability p. 79
2. Anti-Harassment Policy p. 80
3. Reporting Procedures & Investigations  
p. 81
4. Compliance Training p. 82

[https://www.eeoc.gov/eeoc/task\\_force/harassment/  
checklists.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/checklists.cfm)



# HOW does your workplace compare?

Check out Appendix C: **Risk Factors & Responses** for strategies to reduce harassment



# TRANSFORMING #METOO INTO HARASSMENT-FREE WORKPLACES:

## EEOC reconvenes Select Task Force on the Study of Harassment in the Workplace

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



### SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE

REPORT OF CO-CHAIRS  
CHAI R. FELDBLUM & VICTORIA A. LIPNIC

JUNE 2016

- Elizabeth Tippet, University of Oregon School of Law
- Debra Katz, Katz, Marshall, & Banks
- Kathleen McKenna, Proskauer Rose
- Suzanne Hultin, National Conference of State Legislatures
- Jill Geisler, Power Shift Project, Freedom Forum Institute
- Kasey Nalls, UNITEHERE
- Erin Wade, Homeroom Mac & Cheese
- Jess Ladd, Callisto
- Lisa Gelobter, tEQuitable



# HARASSMENT ROUNDTABLE



- March 20, 2019- EEOC holds roundtable discussion for industry leaders on harassment prevention
- EEOC continues to work with workers and employers to understand their needs and to develop new and innovative ideas to prevent workplace harassment.
- General Counsel of the Society for Human Resources Management provided: “the #MeToo movement has been a call to action for organizational leaders to assess their workplaces to ensure they have a healthy culture and live that culture in all they do.”





# EEOC & DOJ PARTNER ON HARASSMENT

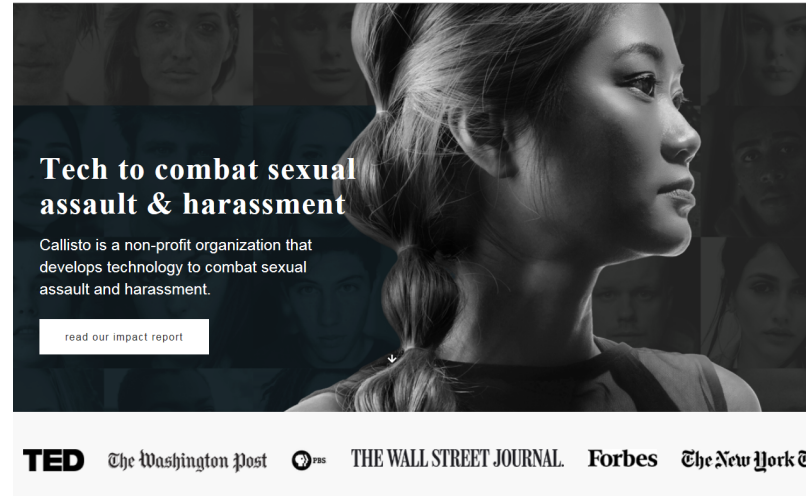
EEOC & DOJ updated  
their Memorandum of  
Understanding

Allows both agencies to  
move quickly in cases of  
shared authority with  
state and local  
governments particularly  
in harassment cases



# Information Escrow

Some colleges and companies are turning to "*Information Escrows*" such as Callisto.



## Silicon Valley Version

- **MATCH:** Victims submit a timestamped report of the incident confidentially. If a match of victims with the same perpetrator is found, a Callisto counselor will reach out to each victim individually
- **COUNSELING:** Callisto Options Counselor will guide victims through the reporting process, their choices, and offer to connect them with others who have named the same assailant.



## Opinions

# I'm a female chef. Here's how my restaurant dealt with harassment from customers.



by Erin Wade March 29

Erin Wade is a chef, restaurateur and co-author of "[The Mac + Cheese Cookbook](#)."

## Removing bias from the reporting process

"...when [women] tried to report it to male managers, they were often ignored because the incidents seemed unthreatening through a male lens."

**YELLOW:** creepy vibe or unsavory look.

- Manager must take over the table if the staff member chooses

**ORANGE:** comments with sexual undertones, such as certain compliments on a worker's appearance.

- Manager takes over the table

**RED:** overtly sexual comments or touching, or repeated incidents in the orange category after being told the comments were unwelcome.

- Customer is ejected from the restaurant



# October 2017 - Chicago City Council unanimously passed "Hands Off Pants On" Ordinance



- **49% of housekeepers: guests exposed themselves, flashed them, or answered the door naked.**
- **65% of casino cocktail servers: guests groped, pinched, grabbed or tried to touch them in an unwelcome way.**

Only **1/3 of workers** told manager or supervisor when a guest harassed them.

- **43% of hotel workers said they knew someone who reported sexual harassment and nothing changed**
- **24% of casino workers said they thought there was nothing they or anyone else could do about it**

- **Panic button** by July 1, 2018 for all hotel workers who work alone in guest rooms and restrooms
- **Written policy** that specifically addresses sexual harassment by guests.
- **Prohibits retaliation**



# WHAT WOULD THIS LOOK LIKE AT WORK?

## Unacceptable Behavior



Workers would know what behavior is unacceptable. (Check out Compliance Training)

## Collective Responsibility



Workers would feel collectively responsible for having a harassment-free workplace

## Tools and Training



Workers would be given tools and training for intervention, specific to that workplace.

## Rewards, not Retaliation



Workers who stop harassment would be rewarded, not retaliated against.



# EEOC'S RESPECTFUL WORKPLACES TRAINING (INSPIRED BY TASK FORCE FINDINGS)



**TRAINING DEVELOPER:**  
Fran Sepler, Sepler & Associates  
30 years as an investigator, consultant  
and trainer

- ✓ **Interactive, skills-based training**
- ✓ **Separate modules for supervisors and employees**
- ✓ **Reviews acceptable conduct in the workplace**
- ✓ **Teaches how to create respectful workplaces**
- ✓ **Provides tools for responding to harassing conduct**
- ✓ **Teaches bystanders when and how to intervene**





# TRAIN SERIOUSLY AND OFTEN

The most **effective** training, researchers say, is at least four hours, **in person, interactive** and **tailored** for the particular workplace — a restaurant's training would differ from a law firm's. It's best if done by the employees' supervisor or an external expert (not an H.R. official with no direct oversight).

Claire Cain Miller, "Sexual Harassment Training Doesn't Work. But Some Things Do." ***New York Times***

**Dec. 11, 2017**  
<https://www.nytimes.com/2017/12/11/upshot/sexual-harassment-workplace-prevention-effective.html>



## Training



**CHANGING  
KNOWLEDGE &  
BEHAVIORS**

- CAN increase **knowledge**, i.e. what conduct is considered harassment & unacceptable in the workplace.
- less likely to change **attitudes**, and may sometimes have the opposite effect.



**changing  
attitudes**



# BENEFITS OF STARTING WITH RESPECT

**harasser** **powerful**  
**victim** **vulnerable**

- Meet people where they are
- All want respect; everyone is protected
  - Anyone could be a target, bad actor, ally -
- Create a culture that resists harassment





**IT'S NOT THE WHO**

(SUPERSTAR, HIGH IQ,  
RAINMAKER)

**BUT THE HOW**

(PSYCHOLOGICAL SAFETY)

...what really mattered  
was less about **who** is on  
the team, and more about  
**how** the team worked  
together.

Project Aristotle – Google's project on

**what makes teams  
succeed**



# EEOC RESPECTFUL WORKPLACES TRAINING

## HOW IT WORKS



Paying **attention** to  
**culture**  
“the water you swim in”



Cohort training  
Setting Group  
Norm



Insert a better script,  
then practice to build  
muscle memory

Listening | Eye Contact | Sharing information people need | Being mindful of time and space | Offering Help | Letting people participate in decisions that affect them





# SUPERVISOR EPIPHANIES

- **Knew or Should Have Known**
- **Prompt, Appropriate, Effective**
- **Request to Report Confidentiality**





# ACTIVE BYSTANDER

WHENEVER ONE PERSON STANDS UP AND SAYS,  
"WAIT A MINUTE, THIS IS WRONG," IT HELPS OTHER  
PEOPLE DO THE SAME.  
— GLORIA STEINEM

- 1) Observes a conflict or unacceptable behavior (Serious or minor, one-time or repeated --You recognize that it is destructive or likely to make a bad situation worse)
- 2) Takes steps that can make a difference.

## Why does a bystander's response matter?

- It indicates to both the offending person and the potentially offended person **where the larger community stands.**

<http://web.mit.edu/bystanders/definition/index.html>





# PRACTICE | COACHES | SAFE SPACE



Will  
things  
**CHANGE**  
in 2018?



What actions will YOU take?



# RESOURCES



## **EEOC Select Task Force on the Study of Harassment in the Workplace**

[https://www.eeoc.gov/eeoc/task\\_force/harassment/index.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/index.cfm)

## **Checklists and Chart of Risk Factors for Employers**

[https://www.eeoc.gov/eeoc/task\\_force/harassment/checklists.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/checklists.cfm)

## **Workplaces Respond to Domestic and Sexual Violence**

[https://  
www.workplacesrespond.org/  
page/harassment-employers/](https://www.workplacesrespond.org/page/harassment-employers/)

## **National Women's Law Center Sexual Harassment in the Workplace**

[https://nwlc.org/resources/  
thats-harassment/](https://nwlc.org/resources/thats-harassment/)

