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Out of the shadows

AN ANALYSIS OF SEXUAL
HARASSMENT CHARGES FILED
BY WORKING WOMEN

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By

Amanda Rossie, *Policy Analyst*,
Jasmine Tucker, *Director of Research*,
and **Kayla Patrick**, *Fellow*

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The MeToo movement has demonstrated that sexual harassment occurs in nearly every workplace and at every level of employment.

Although media reports have focused largely on Hollywood and Congress, sexual harassment also thrives in the vulnerable spaces of hotel rooms, isolated agricultural fields, and bars, restaurants, and retail stores, where workers often hold low-wage jobs and are often women of color.

Despite the fact that workplace sexual harassment is pervasive, the vast majority of workers do not report it. Large numbers of workers, including independent contractors and those working outside traditional employment relationships, are not protected by Title VII of the Civil Rights Act of 1964. Many workers, including those who are protected by Title VII, are often

unwilling to challenge or report harassment, thereby risking retaliation that can jeopardize their jobs, their careers, and their well-being. Many workers do not have the resources to secure legal advice about their rights and options, or to pursue a formal challenge to discrimination and harassment.

In order to paint a clearer picture of workplace sexual harassment, the National Women's Law Center analyzed sexual harassment charges filed with the U.S. Equal Employment Opportunity Commission (EEOC) by women in the private sector between 2012 and 2016. Although an estimated 87 to 94 percent of those who experience sexual harassment never file a formal legal complaint,¹ during fiscal year 2016 alone, nearly 7,000 sexual harassment charges were filed with the EEOC, and 82 percent of those sexual harassment charges were filed by women.²

Methodology

NWLC acquired two datasets from the Equal Employment Opportunity Commission (EEOC) in order to conduct this analysis of sexual harassment charges filed in the private sector between fiscal years 2012 and 2016. The primary dataset used throughout this analysis was an anonymized dataset of all sexual harassment charges filed with an EEOC office that included claimants' sex, race, national origin, broad industry, specific industry, date of birth, and company size.

The second dataset NWLC acquired from the EEOC provided tables that allow for analysis of sexual harassment charges by additional bases of discrimination alleged.

Claimants were asked by the EEOC to identify their national origin. "Latino/a/x" claimants throughout this report refer to those who self-identified their national origin to be Mexican, Puerto Rican, Salvadoran, Cuban, Dominican, or Other Hispanic/Latino origin. Latino/a/x claimants may be of any race. Claimants were also able to select as many race categories that applied to them: Asian, Black or African American, Native Hawaiian or Other Pacific Islander, American Indian or Alaska Native, or white. Some claimants did not provide this information. "Asian" claimants throughout this report refer to those who indicated their race was Asian alone. "Black" claimants are those who indicated their race was Black or African American alone. "Mixed race" claimants are those who indicated that their race included more than one of the options above. "White, non-Hispanic" claimants are those who indicated their race was white alone and who also indicated that their national origin was not Hispanic or Latino. Due to limited data on claimants who indicated their race to be Native Hawaiian or Other Pacific Islander or American Indian or Alaskan Native, our analysis does not include these subgroup breakdowns, though they are included in the overall analysis.

The charge data do not fully capture the scope of workplace sexual harassment in the U.S., but they clearly indicate that women of color—and Black women in particular—are disproportionately likely to experience sexual harassment at work. Out of the charges filed by women, 56 percent were filed by women of color; yet, women of color only make only 37 percent of women in the workforce.³

This report features an intersectional analysis of the charge data by race, additional bases of discrimination alleged, and age; and an analysis of the charge data by industry and size of employer.

This analysis establishes a critical baseline for evaluating the impact, if any, of the MeToo movement on filings with the EEOC in future years.

This report also highlights inconsistencies and gaps in EEOC's data collection and the body of research on workplace sexual harassment. Although sexual harassment information collected by the EEOC is not primarily intended to be used for research purposes, we suggest simple modifications to EEOC's intake process that would allow EEOC to collect data about sexual harassment that would prove useful for the EEOC and those who seek positive workplace solutions, as well as future researchers who want to better assess these trends over time.

This report concludes with recommendations for areas of future research, and for workplace and legislative changes to address and prevent sexual harassment to create workplaces with dignity, safety, and equality for all.

Despite the fact that the overwhelming majority of those who experience sexual harassment never file a formal legal complaint, during fiscal year 2016 alone, nearly 7,000 sexual harassment charges were filed with the EEOC, and 82 percent of those sexual harassment charges were filed by women.

Major findings

Between 2012 and 2016:

- Per 100,000 women workers, Black women filed sexual harassment charges with the EEOC at nearly 3 times the rate of white, non-Hispanic women.
- More than 1 in 3 (35.8 percent) women who filed charges alleging sexual harassment also alleged retaliation, and 1 in 17 (5.8 percent) also alleged discrimination based on race.
- Women in Generation X (born between 1965 and 1979) and Millennial women (born between 1980 and 1996) both filed more sexual harassment charges with the EEOC than women in the Baby Boomer generation (born between 1946 and 1964).
- Industries with the highest numbers of sexual harassment charges filed by women include accommodation and food services; retail trade; health care and social assistance; manufacturing; and administration, support and waste management & remediation services.
- In every industry, Black women are disproportionately represented among women who filed sexual harassment charges.
- Nearly 6 in 10 (58.9 percent) sexual harassment charges filed with the EEOC between 2012 and 2016 failed to list an industry, which makes it impossible to tell the industry where the alleged harassment occurred. The number of charges without an industry noted has increased dramatically over time.
- Women employed at small companies with 15-100 employees filed the largest share of sexual harassment charges (43.9 percent).

Who are the women filing sexual harassment charges?

This section reviews findings based on an analysis of the race of the women filing sexual harassment charges, the other forms of discrimination the women alleged, and the age of women who filed sexual harassment charges with the EEOC between 2012 and 2016.

Race/ethnicity of women filing sexual harassment charges

Black women filed more sexual harassment charges per 100,000 women workers than white, non-Hispanic women.

As demonstrated by the first row in Figure 1, when looking at all industries, Black women filed the highest number of sexual harassment charges (15.3) per

100,000 women workers, which is nearly 3 times higher than the rate for white, non-Hispanic women, who filed just 4.7 sexual harassment charges per 100,000 women workers.⁴ This is also higher than the rate for Latina women (who filed 5.2 charges per 100,000 women workers) and more than 7 times higher than the rate for Asian women (who filed 2.1 charges per 100,000 women workers). Figure 1 also shows that Black women filed many more charges per 100,000 women workers than white, non-Hispanic women in *every single industry*.

Figure 1.
Sexual Harassment Charges Per 100,000 Women Workers, by Industry, 2012-2016⁵

Industry	Asian Women	Black Women	Latina Women	White non-Hispanic	Total women
All Industries	2.1	15.3	5.2	4.7	6.1
Accommodation and Food Services	1.3	10.7	3	4.2	4.6
Admin, Support and Waste Management & Remediation Services	3.4	18.5	2.4	4.4	7.1
Agriculture, Forestry, Fishing and Hunting	2.8	27.1	9.2	1	4.7
Arts, Entertainment, and Recreation	0.8	9.2	2	2.2	3
Construction	0.7	14.4	2.6	3.1	3.6
Educational Services	0.7	2.6	1	0.5	0.8
Finance and Insurance	0.6	4.2	1.8	1.2	1.9
Health Care and Social Assistance	0.6	2.8	1	1.1	1.4
Information	1.2	13	3	2.5	3.8
Management of Companies and Enterprises	18.6	133	28.2	11.2	18.3
Manufacturing	1.2	16.1	3.1	3.8	4.9
Mining	0	20.8	5.4	8.5	8.6
Other Services (except Public Administration)	0.3	4.2	1.1	1.1	1.3
Professional, Scientific, and Technical Services	0.6	7.4	1.6	1.3	1.7
Public Administration	1	7.4	3.9	3.1	4
Real Estate Rental and Leasing	0.7	6.9	1.9	1.2	1.8
Retail Trade	0.9	6.7	1.7	2.6	2.9
Transportation and Warehousing	1.6	14.2	3	4.5	6.2
Utilities	5.9	6.2	1.3	1.6	2.5
Wholesale Trade	1	11.9	2.9	2.5	3.2

Additional bases of discrimination alleged

One in three women who filed sexual harassment charges also alleged retaliation, and one in seventeen also alleged racial discrimination.

When filing a charge with the EEOC, individuals are able to allege multiple bases of unlawful discrimination by their employer, including discrimination based on sex (such as sexual harassment), race, disability, or national origin. Individuals may also allege retaliation, which occurs when an employer takes an adverse action against an employee because he or she is asserting rights under the law to be free from discrimination. Retaliation can occur, for example, when an employer terminates or disciplines an employee; removes the employee from important projects; or otherwise threatens the employee's future career success, based on the employee's complaint of sexual harassment.⁶

As demonstrated by Figure 2, many of the sexual harassment charges filed by women between 2012 and 2016 also alleged retaliation or other forms of discrimination. During this five-year period, more than 1 in 3 (35.8 percent) women alleging sexual harassment also alleged retaliation, and 1 in 17 (5.8 percent) also alleged discrimination based on race.

Employees have the right to report sexual harassment without fear of negative consequences from their employer, but unfortunately retaliation remains widespread, as suggested by Figure 2. Fear of retaliation is one of the main reasons why people do not report sexual harassment in the first place; the risk of a pay cut, losing a job, damaging future career prospects, and developing a reputation within an industry as “troublemaker” is substantial. Retaliation, and the threat of retaliation, silence survivors and help hide the true extent of sexual harassment within a workplace.

The sexual harassment charge data also suggests that many women experience racialized sexual harassment, or harassment based not only on their sex but also their race.

Figure 2.
Additional bases of discrimination alleged with sexual harassment charges, 2012-2016

Additional basis of discrimination alleged	Number of EEOC sexual harassment charges filed by women including a claim of discrimination on this basis	Percent of all EEOC sexual harassment charges that include claim of discrimination on this basis
Retaliation	10,124	35.8%
Race	1,648	5.8%
National Origin	636	2.2%
Religion	249	0.9%
Color	217	0.8%
Disability	179	0.6%
Equal Pay	84	0.3%
GINA (Genetic Information Nondiscrimination Act)	11	0.0%

The sexual harassment charge data also suggest that many women experience racialized sexual harassment, or harassment based not only on their sex but also their race. Some researchers use the term “double jeopardy” to describe the ways women of color are more vulnerable to harassment than white women because of their race, and more vulnerable to harassment than men of color because of their gender.⁷ The compounding nature of

oppression (sex multiplied by race) is also amplified by the fact that women—and women of color in particular—are disproportionately employed in low-wage jobs that often leave them with little authority or power.⁸ These factors make them especially vulnerable to sexual harassment.

Age of women filing sexual harassment charges

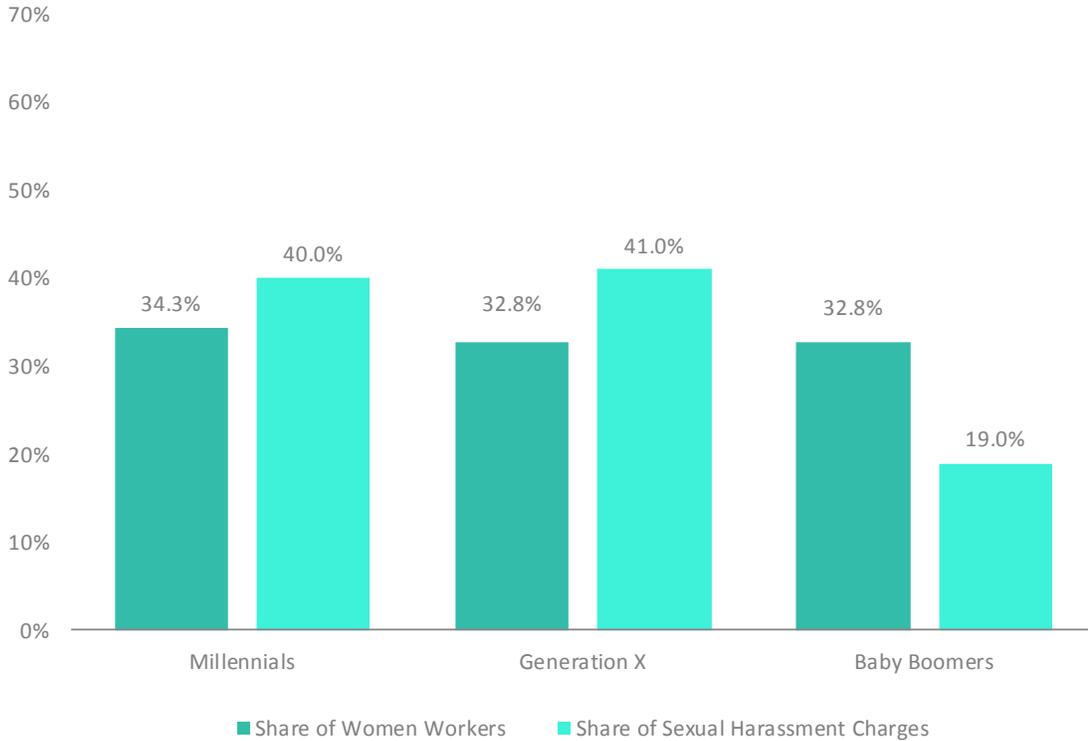
Members of the Millennial Generation and Generation X disproportionately filed sexual harassment charges with the EEOC.

The vast majority (88.4 percent) of the women who filed sexual harassment charges with the EEOC between 2012-2016 fell into one of three generational categories: Millennials (those born between 1980 and 1996), Generation X (those born between 1965 and 1979), and Baby Boomers (those born between 1946 and 1964). Approximately one percent of sexual harassment charges filed between 2012 and 2016 were filed by women who fall outside of these three generations (either the Silent Generation—those born prior to 1946—or Generation Z—those born after 1996). The EEOC charge data is missing date of birth information for 10.4 percent of women filing sexual harassment charges during this time period.

Members of Generation X (or simply Gen X) are wedged between Millennials and Baby Boomers, two generations that often take center stage in narratives about culture changes and generational shifts.⁹ However, among those who fall into one of the three generations listed above, Gen Xers make up the largest share of women who filed sexual harassment charges with the EEOC between 2012 and 2016. (See Figure 3).

Of the nearly 25,000 sexual harassment charges filed by women in these three generations between 2012 and 2016, 40.0 percent were filed by Millennials, 41.0 percent were filed by Gen Xers, and 19.0 percent were filed by Baby Boomers. A comparison of these figures to their share of the workforce between 2012 and 2016, reveals that Millennial and Gen X women filed disproportionately more sexual harassment charges compared to their share of the workforce, while Baby Boomer women filed disproportionately fewer charges than their share of the workforce.¹⁰

Figure 3.
Generational breakdown of the overall women's workforce and sexual harassment charges filed with the EEOC, 2012-2016



Source: Women's share of the workforce calculated by NWLC using 2013-2017 U.S. Census Bureau, Current Population Surveys using IPUMS. Universe includes only women born between 1946 and 1996.

Gen Xers make up the largest share of women who filed sexual harassment charges with the EEOC between 2012 and 2016.

Where do women experience sexual harassment?

The 2016 Report of the Select Task Force on the Study of Harassment in the Workplace (EEOC Harassment Task Force Report) estimated that anywhere between 25 to 85 percent of women experience workplace sexual harassment,¹¹ suggesting its pervasiveness. EEOC charge data, while imperfect, provide important insight into the distribution of sexual harassment charges across industries and employers of different sizes.

Ranking of industries by number of sexual harassment charges filed by women

The five industries with the most sexual harassment charges filed by women with the EEOC between 2012 and 2016 were accommodation and food services; retail

trade; health care and social assistance; manufacturing; and administration, support and waste management & remediation services. Figure 4 shows the share of all sexual harassment charges filed by women with an industry identified for each broad industry category.

The EEOC Harassment Task Force Report estimated that anywhere between 25 to 85 percent of women experience workplace sexual harassment.

Figure 4.
Share by industry of all sexual harassment (SH) EEOC charges filed by women with an industry listed, 2012-2016

Industry	Share of all SH charges
Accommodation and Food Services	13.8%
Retail Trade	12.7%
Health Care and Social Assistance	12.0%
Manufacturing	11.7%
Admin, Support and Waste Management & Remediation Services	10.0%
Public Administration	6.7%
Transportation and Warehousing	5.0%
Professional, Scientific, and Technical Services	4.3%
Finance and Insurance	4.2%
Educational Services	4.0%
Other Services (except Public Administration)	2.7%
Information	2.4%
Arts, Entertainment, and Recreation	2.0%
Wholesale Trade	1.9%
Construction	1.8%
Agriculture, Forestry, Fishing and Hunting	1.4%
Real Estate Rental and Leasing	1.4%
Management of Companies and Enterprises	1.1%
Mining	0.5%
Utilities	0.4%

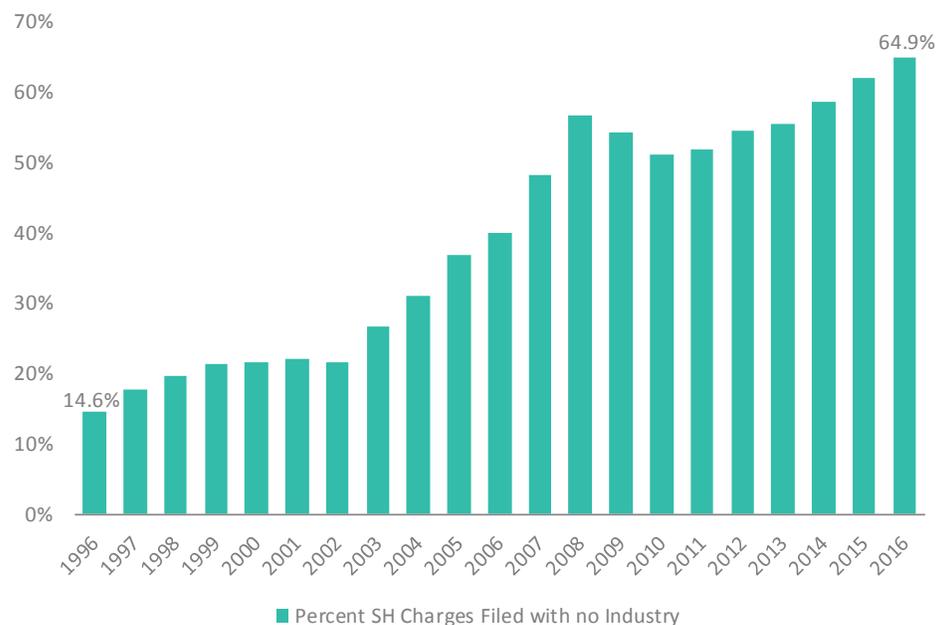
Gaps in Industry Data in EEOC Charges

Between 2012 and 2016, nearly 6 in 10 sexual harassment charges failed to identify an industry.

While EEOC sexual harassment charge data are suggestive of industry patterns, the data's usefulness is compromised by the fact that nearly 6 in 10 sexual harassment charges filed by women during this time period—58.9 percent—did not identify the industry in which the alleged harassment took place.

When an individual files a charge with the EEOC, the EEOC may collect various data including the industry in which he or she works, using 20 broad industry and several sub-industry categories. However, examination of annual data over the past 20 years reveals a dramatic increase in the number of

Figure 6.
Share by industry of all sexual harassment (SH) EEOC charges filed by women with no industry listed, 2012-2016



sexual harassment charges filed with the EEOC that do not include an associated industry. As Figure 6 illustrates, in 1996, just 14.6 percent of charges filed with an EEOC did not list an industry, but by 2016, that number increased to 64.9 percent.

Several factors may explain this surge in charges that do not include a listed industry. Over the past decade the EEOC has made changes to its data entry system, including asking the individuals filing the charges to supply the appropriate industry listing.¹² Many individuals, particularly those filing charges without legal or other assistance, may not be aware of the broad category in which their job falls. The 20 broad industry categories may not be intuitive to filers and do not seem to reflect the kinds of diverse and nuanced jobs people have in our current economy. The imprecise and hazy quality of these categories creates a barrier to entry that might cause those filing charges to skip this step altogether. The increase in charges without an industry included also suggests that the EEOC has de-prioritized collection of this data. Regardless of the reason, the dramatic increase in the “no industry” category creates a sizeable data hole that makes accurately tracking over-time trends by industry nearly impossible.

This ambiguous “no industry” category also impedes the ability to study the effects of sexual harassment on specific groups within each industry. For example, the data show

that between 2012 and 2016, Latinas were the group of women most likely to file sexual harassment charges in this “no industry” category. As a result, the inability to link sexual harassment charges filed by Latinas to a specific industry makes it difficult to identify the degree to which Latinas’ experience of harassment accords with or departs from that of other demographic groups.

Ultimately, this dramatic increase in the “no industry” category highlights the need for the EEOC to better capture this important data that will help policymakers and researchers track industry-specific sexual harassment data and create unique and tailored solutions.

The data show that between 2012 and 2016, Latinas were the group of women most likely to file sexual harassment charges in this “no industry” category.

Sub-industry analysis in top three industries where women filed sexual harassment charges

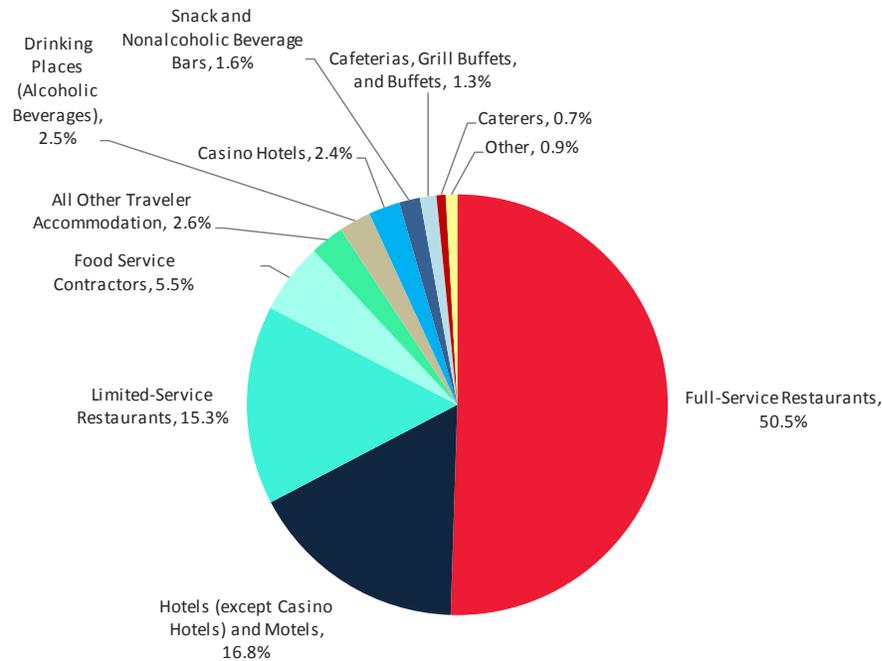
Women in food services, retail, and health care filed the most charges between 2012 and 2016

Accommodation and food services, retail trade, and health care and social assistance comprise the top three industries where women filed the highest numbers of sexual harassment charges between 2012 and 2016. They are also industries where women make up large segments of the workforce: women are 51.6 percent of accommodation and food services workers, 48.2 percent of retail trade workers, and 78.5 percent of health care and social assistance workers. These industries also commonly employ women in lower paying jobs.¹³ As these data suggest, there is a strong correlation between women's low-wage work, including tipped workers guaranteed a federal cash minimum wage of only \$2.13 per hour, and higher incidences of sexual harassment.¹⁴ A precarious economic situation, including lack of a financial cushion, may make such women more vulnerable to coercion and harassment. Indeed, the charge data may well understate the prevalence of harassment in low-wage jobs because those working in low-wage jobs may be especially unwilling to risk retaliation and job loss by reporting sexual harassment.

Figures 7 through 9 depict the distribution of sexual harassment charges by sub-industries within the top three industry categories where women filed the highest number of sexual harassment charges between 2012 and 2016 (see Figure 4). Breaking these industry categories into smaller sub-industries illustrates the kinds of jobs performed by women filing sexual harassment charges and, in turn, is suggestive of the forces shaping their experience of workplace sexual harassment. For instance, service industries, such as hotels, hospitality, restaurants, and retail, with high numbers of low-wage jobs, and where workers depend on tips or commissions to supplement their wages, are examples of sectors with a heightened risk of harassment not only from supervisors and coworkers, but also from customers.¹⁵ Employers may condone or brush aside customer or client harassment by ignoring complaints and encouraging employees to cater to customers.

For the most part, recent public discussion and media stories have not highlighted the experiences of women in these industries, particularly those in low-wage jobs, who face substantial barriers to reporting harassment and obtaining assistance. Accordingly, while this report focuses primarily on quantitative data, the anonymized stories accompanying Figures 7 through 9, drawn from requests for assistance received by the National Women's Law Center,¹⁶ provide insight into the ways women experience sexual harassment based on the kinds of work they do. While not exhaustive, these narrative accounts are meant to illustrate

Figure 7.
Percent of sexual harassment charges filed by women within sub-industries of the accommodation and food services industry, 2012-2016



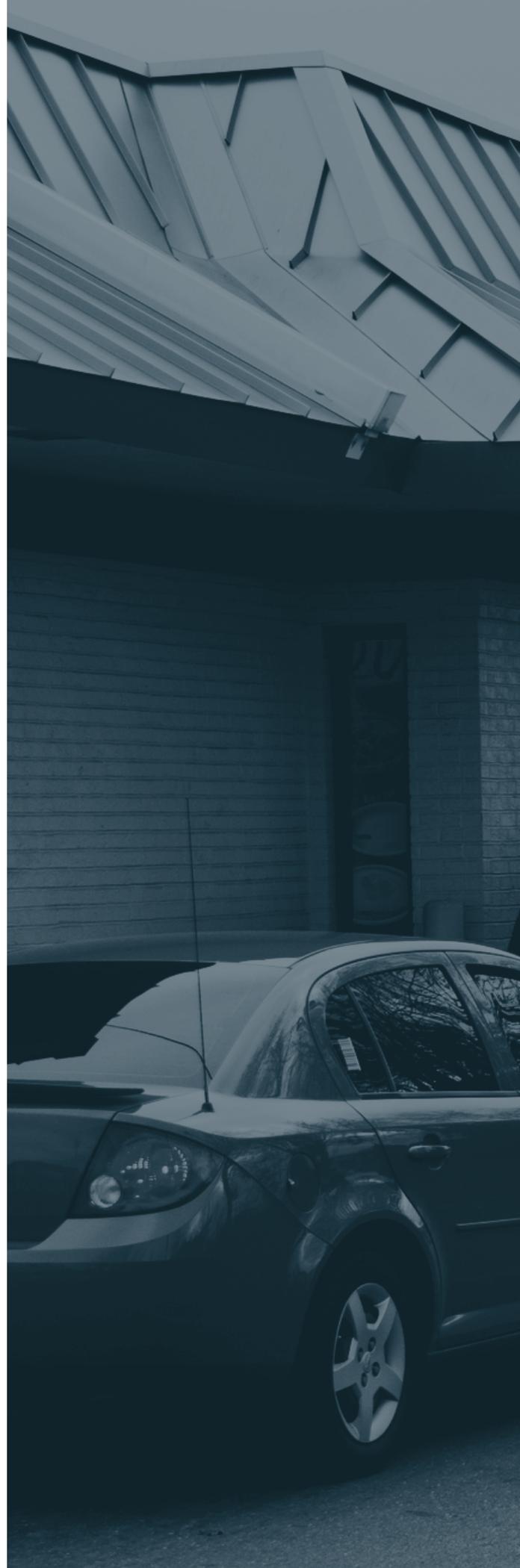
some of the ways sexual harassment can create multiple barriers for women as they strive to advance in their jobs and provide for themselves and their families with dignity and respect.

Women working in restaurants filed the largest share of sexual harassment charges within the larger accommodation and food services industry. In the food services industry, women make up 71.8 percent of tipped workers and over a third (37.3 percent) are 25 years old or younger.¹⁷ Women working as hostesses, waitresses, and bartenders are often sexualized and can be targets of crude jokes and other forms of objectification. Tipped workers

are also particularly vulnerable to sexual harassment and sexual assault at work, because of their typically limited power within the workplace. Their economic vulnerability leaves them without a financial cushion if they lose their job, and the need to please the customer in order to bring home an adequate wage is an added pressure. The reliance on customer tips as income forces tipped workers to tolerate sexual harassment and other inappropriate behavior from customers just to make a living, which in turn perpetuates a culture of harassment in tipped industries.¹⁸ But sexual harassment is not just limited to customers; supervisors and coworkers also sexually harass women working in

restaurants—for example, in busy areas like kitchens, as well as isolated areas like stock rooms and walk-in coolers where individuals can easily be cornered with no easy exit.¹⁹

The next largest share of charges in the accommodation and food services industry comes from the hotel industry. Women who work as hotel employees have reported facing sexual harassment from coworkers, supervisors, and hotel guests.²⁰ For example, when cleaning hotel rooms, housekeepers often find themselves interacting with guests in private spaces, which creates vulnerability to harassment.²¹ Many housekeepers are women of color and women of varying immigration status, some of whom speak English as a second language, who may be paid low wages, have little savings, and may not be unionized.²² These factors exacerbate the power imbalance between them and hotel guests, whose status as paying customers means management often prioritizes their needs and overlooks their behavior.²³ These same markers of vulnerability can make hotel workers a target for harassment by coworkers and supervisors.

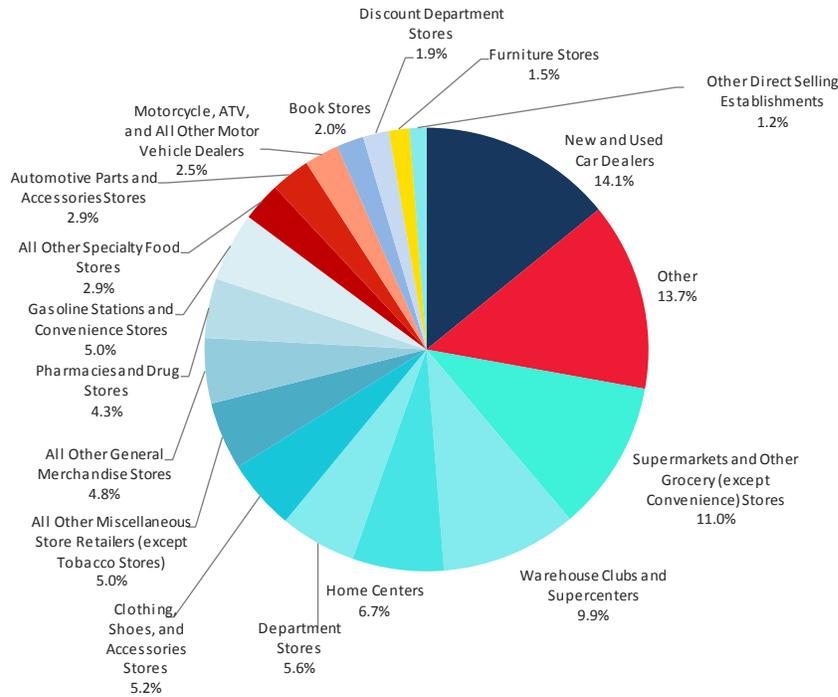




Jennifer, fast food worker

Jennifer works at a fast food restaurant. A cook at her job regularly tried to kiss and grope her. She asked him to stop, but the cook kept texting her inappropriate messages, asking her to send him pictures while he was in the shower. When Jennifer reported the sexual harassment to her employer, she was told to “shut up and to drop it.” The owner then called her a liar, and told her to stop talking about the harassment, because the “restaurant is how he feeds his family.” The owner then cut her hours and hired a different woman to replace her.

Figure 8.
Percent of sexual harassment charges filed by women within sub-industries of the retail industry, 2012-2016



Workers in the retail trade industry are exposed to sexual harassment from supervisors, coworkers, and also from customers. This workforce is made up of 49 percent women - 37 percent of whom are women of color and 27 percent of whom are under age 25.²⁴ Low wages also make retail workers targets of sexual harassment because many of these

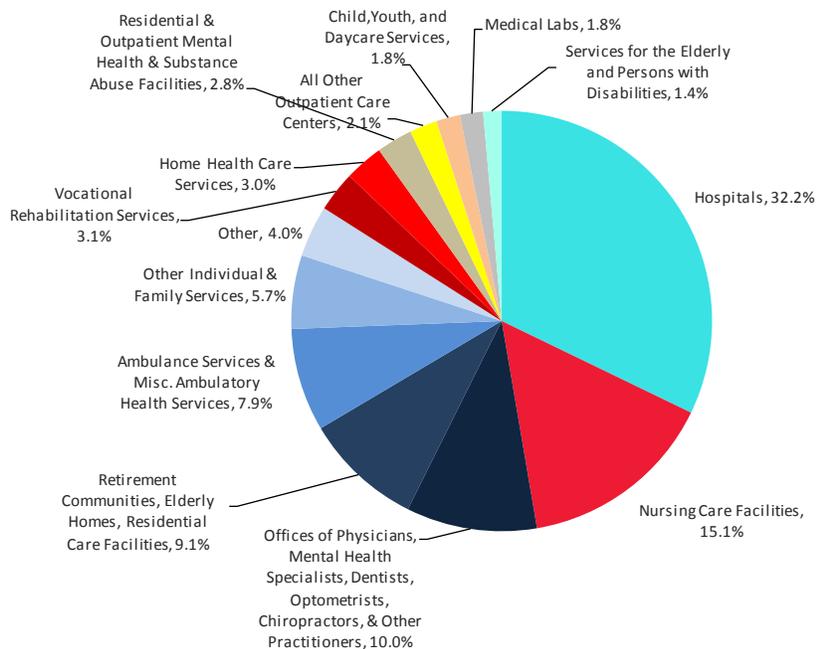
women are less likely to report if they fear retaliation and job loss. Harassers—including supervisors, who control paychecks, work schedules, and other shift assignments—may be more likely to target lower wage workers because they have power on their side.²⁵

Nishat, retail worker

Nishat works for a big box retail chain. She was regularly sexually harassed and reported it to management. When management did not respond to her complaints, she reported the harassment to her state's Department of Labor. Her employer told her that if she dropped her complaint, they would allow her to transfer to another store to avoid her harasser. Because Nishat refused to take back her report of harassment, her employer denied her request for a transfer to another store and cut her hours.

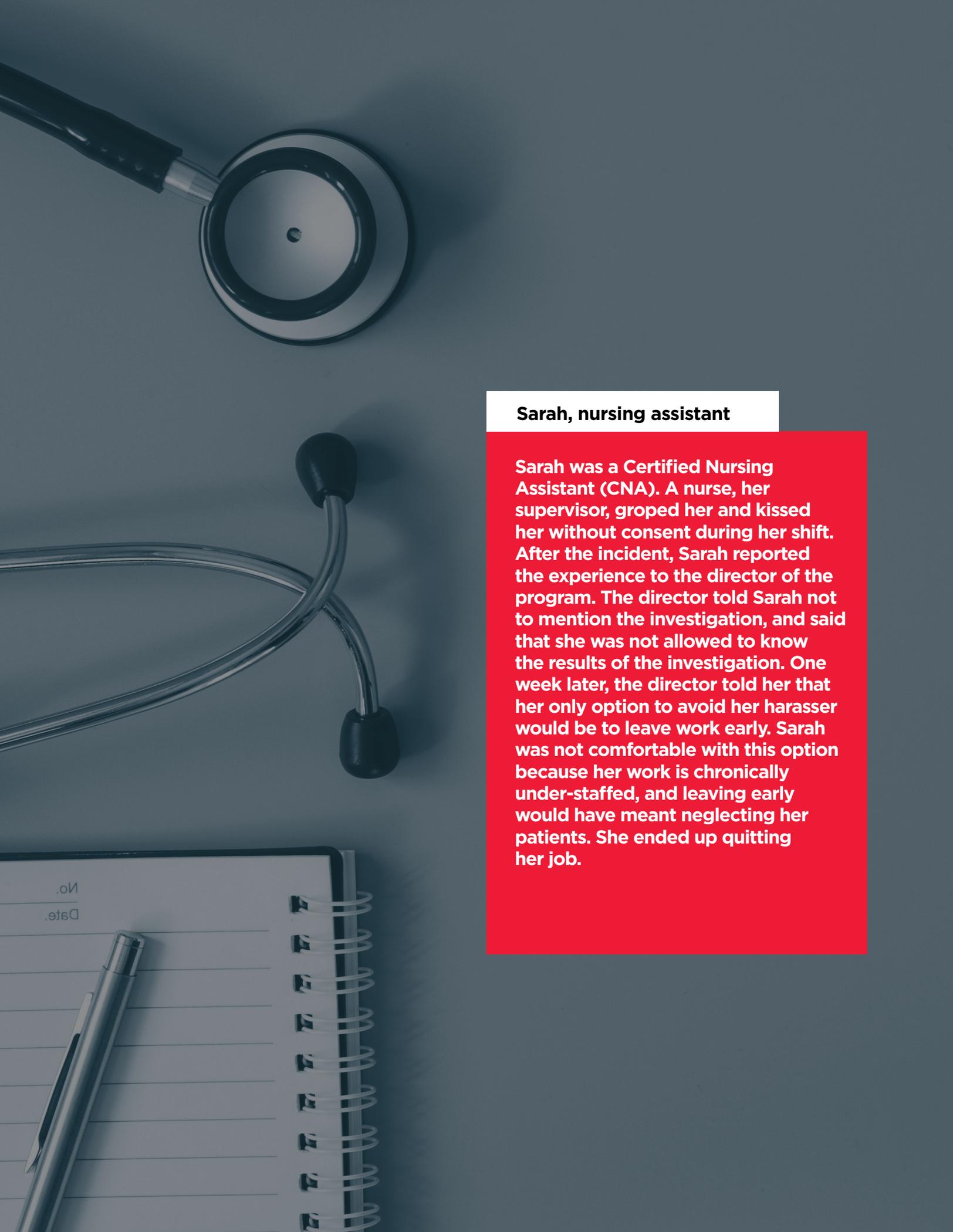


Figure 9.
Percent of sexual harassment charges filed by women within sub-industries of the health care and social assistance industry, 2012-2016



Women working in the medical profession—whether as residents, physicians, physicians’ assistants, technicians, nurses, nursing assistants, or other roles in hospitals, nursing homes, and other health care facilities—are susceptible to sexual harassment from supervisors, colleagues, and patients alike. For instance, a recent survey of academic medical faculty found nearly a third of the responding women reported having experienced workplace sexual harassment.²⁶ Nurses experience sexual harassment at the hands of supervisors as well as patients. Behaviors range from inappropriate jokes or comments to unwanted touching or assault. Media representations of “naughty nurses” who are seen as fulfilling patients’ medical and sexual needs may also play a role.²⁷

Female nurses, nursing assistants, physicians, and other health care providers may be especially susceptible to sexual harassment by patients due to the physical nature of the work. Touching and moving patients can create a false sense of intimacy, especially when patients are naked and feeling vulnerable. This environment can lead to other kinds of inappropriate behavior by patients, including exposing themselves or taking actions they would not normally take in other circumstances.²⁸ The prevalence of drugs and other substances can negatively affect patients’ mental capacities and behavior. Care providers might hesitate to report these instances, especially if the patient is elderly, on medication, or suffers from mental illness, which is a factor that can lead to escalated harassment.

A top-down view of a medical desk. In the upper left, a black stethoscope is partially visible. In the center, a clear plastic stethoscope lies horizontally. In the lower left, a silver pen rests on a spiral-bound notebook. The notebook has a white cover with a silver spiral binding on the right side. The notebook page is white with horizontal lines and has 'No.' and 'Date.' printed on it. The background is a dark, solid color.

Sarah, nursing assistant

Sarah was a Certified Nursing Assistant (CNA). A nurse, her supervisor, groped her and kissed her without consent during her shift. After the incident, Sarah reported the experience to the director of the program. The director told Sarah not to mention the investigation, and said that she was not allowed to know the results of the investigation. One week later, the director told her that her only option to avoid her harasser would be to leave work early. Sarah was not comfortable with this option because her work is chronically under-staffed, and leaving early would have meant neglecting her patients. She ended up quitting her job.

While the power dynamics and nuances of each industry might mean the harassment looks different, the reality is that there is no workplace immune from sexual harassment.

Race of women filing sexual harassment charges by industry

Black women filed a disproportionate number of sexual harassment charges in every single industry between 2012 and 2016.

White, non-Hispanic women comprise the majority of women workers in every industry and also represent the largest share of sexual harassment charges filed by women in all 20 industry categories, with only three exceptions: administration, support and waste management & remediation services; transportation and warehousing; and agriculture, forestry, fishing and hunting. In these three industries, Black women file the largest share of EEOC sexual harassment charges.

However, Black women filed a disproportionate number of sexual harassment charges in every single industry between 2012 and 2016. For example, Black women only make up 15.7 percent of women workers in administration, support and waste management & remediation services (a category that includes a wide and disparate range of occupations from janitors and groundskeeping workers to office clerks and security guards) but file 40.9 percent of sexual harassment charges filed by women in that industry. Other industries where Black women filed an

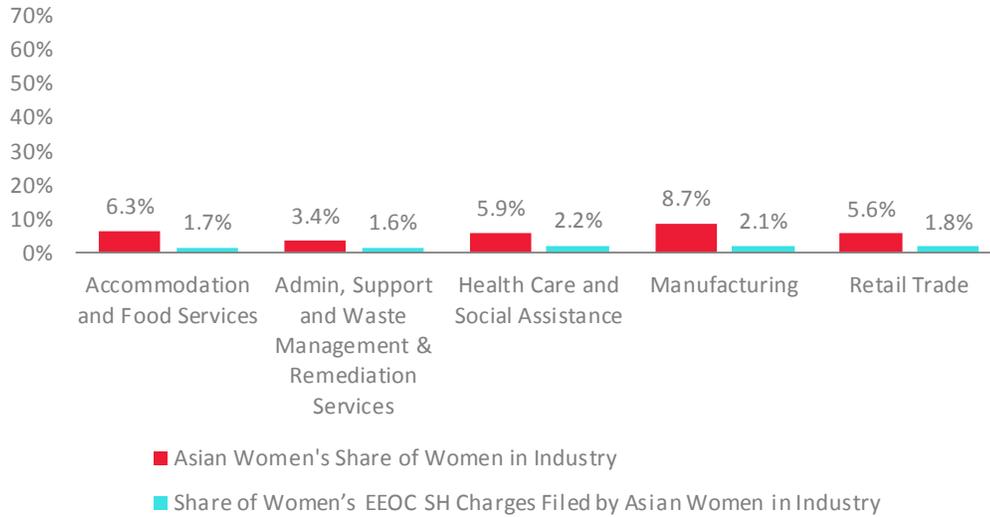
especially disproportionate number of sexual harassment charges include:

- **Accommodation and Food Services:** Black women make up 13.6 percent of women working in the industry but file 31.4 percent of charges.
- **Educational Services:** Black women make up 10.8 percent of women working in the industry but file 37.2 percent of charges.
- **Health Care and Social Assistance:** Black women make up 17.2 percent of women working in the industry but file 35.6 percent of charges.
- **Information:** Black women make up 12.2 percent of women working in the industry but file 41.7 percent of charges.
- **Manufacturing:** Black women make up 11.0 percent of women working in the industry but file 36.6 percent of charges.
- **Retail:** Black women make up 12.9 percent of women working in the industry but file 29.6 percent of charges.
- **Transportation and Warehousing:** Black women make up 21.0 percent of women working in the industry but file 48.1 percent of charges.
- **Utilities:** Black women make up 15.6 percent of women working in the industry but file 39.4 percent of charges.²⁹

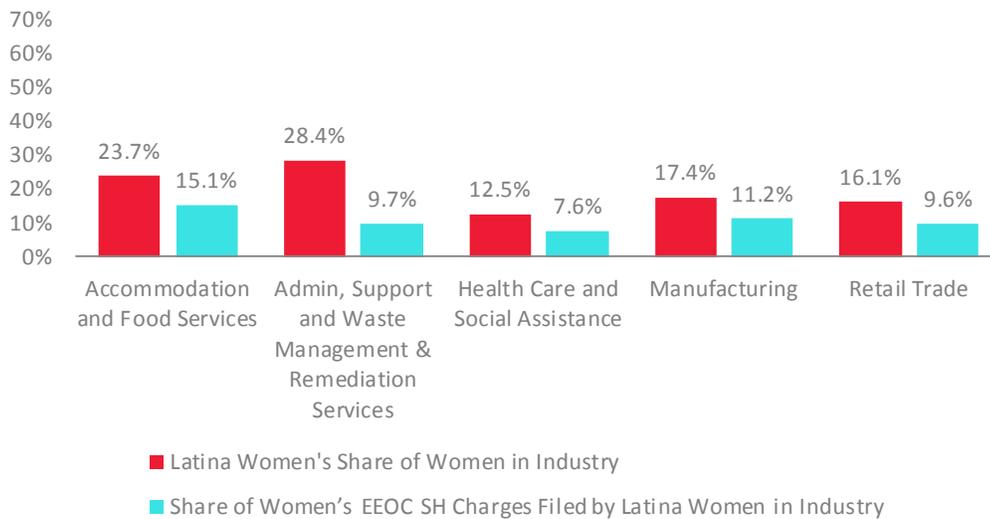
The bar charts in figure 10 show that while Black women are overrepresented among female sexual harassment charge filers in the top five industries compared to their share of the female workforce in those industries, in all of the top five industries, white, non-Hispanic women are underrepresented in their share of EEOC sexual harassment charges filed compared to their share of the workforce, as are Latinas and Asian women.

Figure 10.
Share of women’s sexual harassment charges filed by industry, by race/ethnicity, 2012-2016

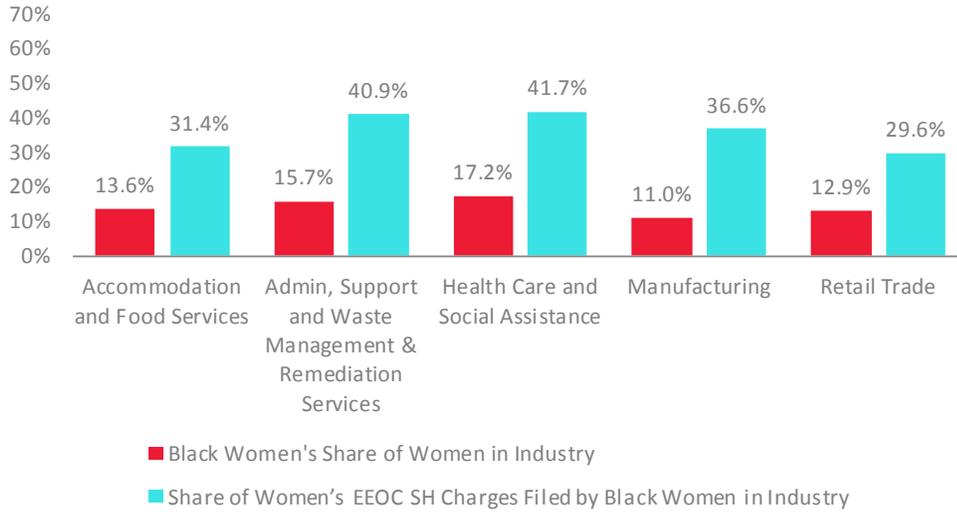
The share of Asian women in the female workforce compared to their share of EEOC sexual harassment charges filed by industry 2012-2016



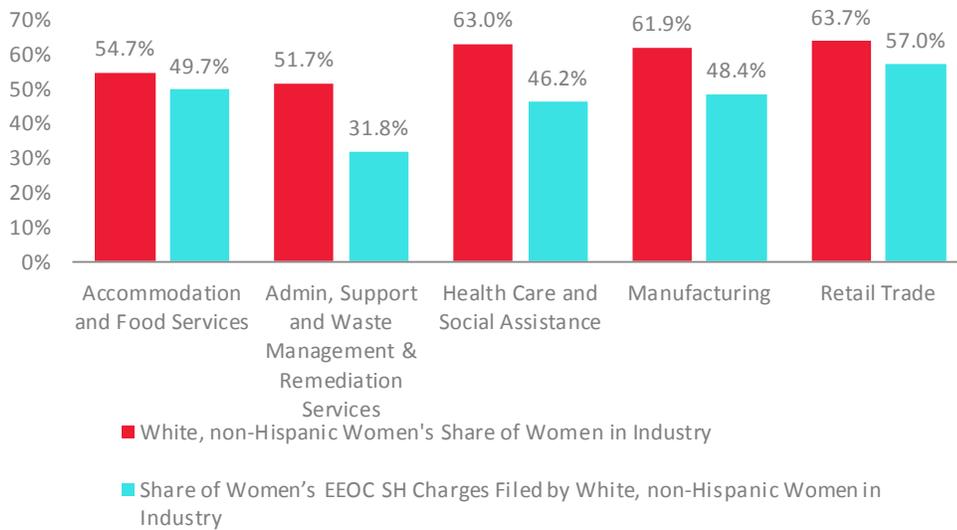
The share of Latina women in the female workforce compared to their share of EEOC sexual harassment charges filed by industry 2012-2016



The share of Black women in the female workforce compared to their share of EEOC sexual harassment charges filed by industry 2012-2016



The share of White women in the female workforce compared to their share of EEOC sexual harassment charges filed by industry 2012-2016



Sexual harassment charges filed based on size of employer

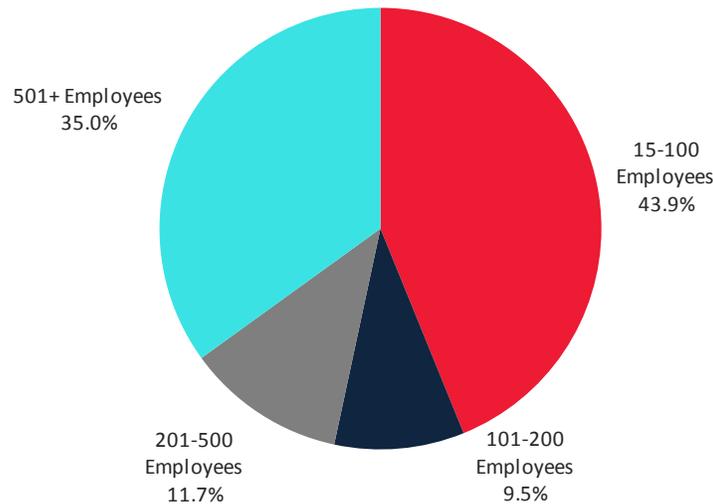
Women employed at small companies filed more sexual harassment charges.

Title VII applies to workplaces with 15 or more employees. Accordingly, the EEOC's data on sexual harassment charges by company size range from small companies with 15 employees to corporations with more than 500 employees. Of women who filed sexual harassment charges with the EEOC between 2012-2016, 43.9 percent

were employees at small companies (15-100 employees) followed by 35.0 percent of women at very large companies (500+ employees).

Human resources personnel or departments are often tasked with receiving and addressing complaints of discrimination, including sexual harassment, in a timely and appropriate manner. Small companies are more likely to lack a human resources director or department, which means that workers in these companies who are being harassed by a supervisor, co-worker, or customer may lack a clear path for seeking assistance or accountability.

Figure 11.
Size of companies against whom women filed sexual harassment charges, 2012-2016



Recommendations

As the movement ignited by MeToo shows, individuals have suffered workplace harassment in silence, with little or no accountability for harassers for too long. Now more than ever, employers, bystanders, policymakers, and advocates must step forward to implement reforms that will go beyond simply responding to harassment, to refashion systems, laws, and culture to ensure that survivors are no longer afraid to come forward, harassers are held accountable, and harassment is prevented.

Research recommendations

As previously discussed, the EEOC must improve its collection of charge industry data. The growing share of “not entered” industries creates a significant problem for policymakers, researchers, and employers who are striving to understand the prevalence of harassment by industry in order to make positive changes to American workplaces. The EEOC must not only ensure that there is a place for filers to denote their industry on all intake and charge forms but also make it easier for filers to denote which broad industry category their job fits within. For example, breaking down each larger industry into subindustries so filers can see the kinds of jobs contained in each category might help people better place their job in the appropriate industry category.

The EEOC must also make a concerted effort to create intake and charge forms that reflect America’s demographic shifts. For instance, by only tracking race and ethnicity by country of origin, the EEOC was not able to accurately account for individuals identifying as Latinx prior to 2008. To better capture data by race, the EEOC should first and foremost make sure that all intake and charge forms include a place for filers to identify their racial identities. Currently, the EEOC accounts for Hispanic origin and racial identities like Black, white, Asian, and Pacific Islander. However, adding a “mixed race” category and allowing people to select as many ethno-racial options as they see fit would make the data richer and more reflective of the realities of those reporting workplace sexual harassment. By providing a wide range of racial and ethnic categories for filers to choose from, the EEOC will be better poised to see relationships between racial/ethnic groups and sexual harassment charges.

In addition, academic research has an important role to play in clarifying our understanding of workplace harassment. To date, the body of workplace sexual harassment research has largely focused on the gendered aspects of sexual harassment for white women. Sexual harassment research must be expanded to include the unique experiences faced by

people of color, members of the LGBTQ community, low-wage workers, and people with disabilities. Future research should also take into account men's experience of sexual harassment, which is often based on the targeted individual's perceived failure to conform to traditional gender norms. For example, recent data show that homophobic or transphobic slurs are the most common forms of sexual harassment experienced by men,³⁰ suggesting the harmful effects of toxic masculinity on men who do not conform to these gender norms and stereotypes.

More research is also necessary to assess the long-term effects of sexual harassment on women's finances, careers, and health, paying special attention to women of color who have often been left out of sexual harassment research altogether. For example, if women encounter sexual harassment early in his or her careers, leaving to start a new job negatively impacts their salary growth and prevents them from establishing themselves in a role or career, especially if they lose access to vital networks in the process. Those who experience sexual harassment but choose to stay at their jobs are often less satisfied with their work, withdraw from relationships with coworkers, and even skip work altogether.³¹ A recent survey shows that women who leave their jobs because of sexual harassment continue to experience financial distress nearly two years later.³² There is a need for new research exploring the connections between the short- and long-term financial dimensions of sexual harassment to the women's wealth gap, for example, to more fully understand sexual

harassment's lasting effects on women's financial and emotional wellbeing.

Future research should also evaluate the effects of services like mental health counseling on the wellbeing of sexual harassment survivors. The physical and psychological effects of sexual harassment often go unrecognized and untreated and can manifest in harmful ways. A recent survey shows that depression or anxiety is the most common response to experiencing sexual harassment.³³ We also need more research that explores the compounded effects of the actions survivors take to avoid sexual harassment. For example, survivors of sexual harassment might have to change their route or routine to avoid the harassing behavior, even if it is inconvenient to them, which takes time and affects other scheduling obligations like child care. Other survivors might seek out a new job or assignment in order to stop the sexually harassing behavior. In all of these examples, the onus is on the survivor to change her/his behavior or workplace setting in order to feel safe, happy, and respected. We need better and more holistic research about the toll sexual harassment takes on nearly every aspect of survivors' lives.

Recommendations for employers

Prevention should be a primary goal for employers in addressing sexual harassment. Some ways employers can address and prevent sexual harassment in the workplace include: creating and maintaining a strong organizational culture of respect and dignity includes developing strong policies;

implementing effective, relevant, interactive training that educates employees and making sure they understand what behaviors are and are not acceptable for the workplace; ensuring employees know how to report through channels they trust; and consistently holding people accountable for failing to meet those standards. The EEOC Harassment Task Force Report provides several important recommendations and checklists for strengthening policies, reporting and investigation mechanisms, and training – including bystander intervention training – to support workplace culture change and prevention.³⁴

For more information about strengthening employer policies and practices to eradicate workplace sexual harassment, please see these NWLC publications at www.nwlc.org:

- **FAQ About Sexual Harassment in the Workplace**
- **Sexual Harassment Prevention Strategies for Employers**
- **10 Ways Your Company Can Help Prevent Sexual Harassment in the Workplace**
- **Sample Quarterly Harassment Check-In**

Recommendations for legislative change

Longstanding gaps in the law, and judicial decisions undermining existing protections and their enforcement, have stymied efforts to address and prevent persistent workplace sexual harassment. These gaps put certain workers — like independent contractors, employees in low-wage jobs, or in small workplaces — at increased risk of harassment and vulnerability to retaliation with little or no legal recourse. Court-imposed standards have made it difficult for survivors to hold employers and individual harassers accountable. Federal law has failed to prevent the proliferation of employer-driven agreements, which include mandatory arbitration and nondisclosure clauses, that help hide the true extent of sexual harassment and other forms of workplace harassment and discrimination, and shield serial harassers from accountability. Antidiscrimination laws also focus largely on remedying harassment after the fact, with little emphasis on preventing harassment in the first instance.

Federal and state reforms should expand legal protections to more workers, strengthen employees' ability to hold employers and individual harassers accountable, redress the harm to survivors of harassment, limit employer-imposed secrecy and restore survivors' voices, and promote prevention. And while this current moment of national reckoning has focused on sexual harassment, solutions to workplace harassment must consider harassment based on other protected characteristics.³⁵

NWLC's resource [#MeToo What's Next?: Strengthening Workplace Sexual Harassment Protections and Accountability](#) outlines specific recommendations to strengthen protections and accountability mechanisms in federal and state antidiscrimination laws, with examples from states and localities that have already implemented some of these changes.

Developing and implementing effective structural and cultural reform that reflects modern workplaces and relationships will take time, resources, and effort, but are necessary to effect real, lasting change. We owe no less to the brave survivors who have taken real risks to step out of the shadows demanding justice.

- 1 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE 16 (June 2016), https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf [EEOC HARASSMENT TASK FORCE REPORT].
- 2 The analysis in this report includes sexual harassment charges filed with an EEOC office. See methodology section for more information.
- 3 NWLC calculations based on U.S. Census Bureau, 2017 Current Population Survey using Sarah Flood, Miriam King, Steven Ruggles, and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 5.0. [dataset]. Minneapolis: University of Minnesota, 2017, available at www.ipums.org.
- 4 Workforce data are NWLC calculations based on U.S. CENSUS BUREAU, 2013-2017 *Current Population Surveys* using Sarah Flood, Miriam King, Steven Ruggles, and J. Robert Warren. *Integrated Public Use Microdata Series, Current Population Survey: Version 5.0.* [dataset]. Minneapolis: University of Minnesota (2017), available at www.ipums.org.
- 5 Overall, between 2012-2016, Native women filed 8.9 sexual harassment charges per 100,000 women workers and Native Hawaiian/Pacific Islander women filed 6.8 sexual harassment charges per 100,000 women workers. Native Women and Native Hawaiian/Pacific Islander women are excluded from this table because there are very few charges filed by these women in each individual industry.
- 6 Maya Raghu, *We Can't Stop Sexual Harassment Without Addressing Retaliation*, NAT'L WOMEN'S LAW CTR. (Jan. 23, 2018), <https://nwlc.org/blog/we-cant-stop-sexual-harassment-without-addressing-retaliation/>.
- 7 Jennifer L. Berdahl & Celia Moore, *Workplace Harassment: Double Jeopardy for Minority Women*, 91(2) J. OF APPLIED PSYCHOL. 426-436 (2006).
- 8 Jocelyn Frye, *The Pervasiveness of Sexual Harassment Across Industries Affects All Workers*, CTR. FOR AM. PROGRESS (Nov. 20, 2017), <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>; P.R. Lockhart, *Women of color in low-wage jobs are being overlooked in the #MeToo moment*, VOX (Dec. 19, 2017), <https://www.vox.com/identities/2017/12/19/16620918/sexual-harassment-low-wages-minority-women>; Jasmine Tucker & Kayla Patrick, *Women in Low-Wage Jobs May Not Be Who You Expect*, NAT'L WOMEN'S LAW CTR. (Aug. 30, 2017), <https://nwlc.org/resources/women-in-low-wage-jobs-may-not-be-who-you-expect/>.
- 9 Millennials here are defined as those whose birth years were between 1980-1996; Generation Xers are those whose birth years are between 1965-1979; Baby Boomers are those whose birth years are defined as 1946-1964.
- 10 NWLC calculations based on U.S. CENSUS BUREAU, 2013-2017 *Current Population Surveys* using Sarah Flood, Miriam King, Steven Ruggles, and J. Robert Warren. *Integrated Public Use Microdata Series, Current Population Survey: Version 5.0.* [dataset]. Minneapolis: University of Minnesota (2017), available at www.ipums.org. Universe includes only women born between 1946-1996.
- 11 To account for this 60-point disparity, the EEOC Harassment Task Force Report explains that women reported experiencing sexual harassment at higher rates once sexual harassment was defined for them. For a more detailed explanation, see EEOC HARASSMENT TASK FORCE REPORT, *supra* note 1, at 8-9.
- 12 According to an EEOC representative, the newest system asks filers to include a company code, which many people do not know at the time of completing the forms.
- 13 NWLC calculations based on U.S. CENSUS BUREAU, 2013-2017 *Current Population Surveys* using Sarah Flood, Miriam King, Steven Ruggles, and J. Robert Warren. *Integrated Public Use Microdata Series, Current Population Survey: Version 5.0.* [dataset]. Minneapolis: University of Minnesota, 2017, available at www.ipums.org.

- 14 Press Release, CTR. FOR AM. PROGRESS, *RELEASE: New Data Obtained by CAP Show Higher Rates of Sexual Harassment Charges in Industries with Large Numbers of Low-wage Jobs* (Nov. 21, 2017), <https://www.americanprogress.org/press/release/2017/11/21/443133/release-new-data-obtained-cap-show-higher-rates-sexual-harassment-charges-industries-large-numbers-low-wage-jobs/>.
- 15 Frye, *supra* note 13.
- 16 Although the facts are unchanged, the names of the women in Figures 7a, 8a, and 9a have been changed to protect the identities of those asking for assistance from the National Women's Law Center.
- 17 NWLC calculations of tipped workers are based on American Community Survey 5 year estimates, 2012-2016, using Steven Ruggles, Katie Genadek, Ronald Goeken, Josiah Grover, and Matthew Sobek. Integrated Public Use Microdata Series: Version 7.0 [dataset]. Minneapolis: University of Minnesota (2017), available at <https://usa.ipums.org/usa/>. Occupational categories for tipped workers include bartenders, waiters and waitresses, and hosts and hostesses, restaurant, lounge, and coffee shop occupations.
- 18 Catrin Einhorn & Rachel Abrams, *The Tipping Equation*, N.Y. TIMES (Mar. 12, 2018), <https://www.nytimes.com/interactive/2018/03/11/business/tipping-sexual-harassment.html>.
- 19 Maura Judkis & Emily Heil, *Rape in the storage room. Groping at the bar. Why is the restaurant industry so terrible for women?*, WASH. POST (Nov. 17, 2017), https://www.washingtonpost.com/lifestyle/food/rape-in-the-storage-room-groping-at-the-bar-why-is-the-restaurant-industry-so-terrible-for-women/2017/11/17/54a1d0f2-c993-11e7-b0cf-7689a9f2d84e_story.html?utm_term=.f66982079305; REST. OPPORTUNITIES CTRS. UNITED & FORWARD TOGETHER, *THE GLASS FLOOR: SEXUAL HARASSMENT IN THE RESTAURANT INDUSTRY 5* (2014), available at http://rocunited.org/wp-content/uploads/2014/10/REPORT_The-Glass-Floor-Sexual-Harassment-in-the-Restaurant-Industry2.pdf.
- 20 Dave Jamieson, *'He Was Masturbating... I Felt Like Crying': What Housekeepers Endure To Clean Hotel Rooms*, HUFFINGTON POST (Nov. 18, 2017), https://www.huffingtonpost.com/entry/housekeeper-hotel-sexual-harassment_us_5a0f438ce4b0e97dffed3443. Hotel workers also shared their stories in Time Magazine's 2017 Person of the Year article about "The Silence Breakers," available at <http://time.com/time-person-of-the-year-2017-silence-breakers/>.
- 21 For more about sexual harassment in the hospitality industry and stories from hospitality workers themselves, see UNITE HERE LOCAL 1, *HANDS OFF PANTS ON: SEXUAL HARASSMENT IN CHICAGO'S HOSPITALITY INDUSTRY* (JULY 2016), <https://www.handsoffpantson.org/wp-content/uploads/HandsOffReportWeb.pdf>.
- 22 Scott Simon, *Hospitality Workers And Sexual Harassment, Interview with Karen Kent*, NPR (Nov. 25, 2017), available at <https://www.npr.org/2017/11/25/566438853/hospitality-workers-and-sexual-harassment>.
- 23 Benjamin Mueller, *For Hotel Workers, Weinstein Allegations Put a Spotlight on Harassment*, N.Y. TIMES (Dec. 17, 2017), <https://www.nytimes.com/2017/12/17/us/harvey-weinstein-hotel-sexual-harassment.html>; Simon, *supra* note 21.
- 24 NWLC calculations based on U.S. CENSUS BUREAU, *2013-2017 Current Population Surveys* using Sarah Flood, Miriam King, Steven Ruggles, and J. Robert Warren. *Integrated Public Use Microdata Series, Current Population Survey: Version 5.0*. [dataset]. Minneapolis: University of Minnesota, 2017, available at www.ipums.org.
- 25 Nandita Raghuram, *What Makes Retail Workers Uniquely Vulnerable to Sexual Harassment*, RACKED (May 14, 2018), <https://www.racked.com/2018/5/14/17340622/retail-sexual-harassment-vulnerable>.
- 26 Reshma Jagsi et al., *Sexual Harassment and Discrimination Experiences of Academic Medical Faculty*, 315 J. AM. MEDICAL ASS'N 2120 (May 17, 2016), available at <http://jama.jamanetwork.com/article.aspx?articleid=2521958>.

- 27 NURSE.ORG, *Sexual Harassment In Nursing - It's More Common Than You Think.*, (Oct. 13, 2017), <https://nurse.org/articles/harvey-weinstein-and-harassment-against-nurses/>.
- 28 Elizabeth Chuck, *For nurses, sexual harassment from patients is 'par for the course'*, NBC NEWS (Feb. 21, 2018), <https://www.nbcnews.com/storyline/sexual-misconduct/nurses-sexual-harassment-patients-par-course-n848086>.
- 29 Women's share of each industry workforce based on NWLC calculations based on U.S. CENSUS BUREAU, *2013-2017 Current Population Surveys* using Sarah Flood, Miriam King, Steven Ruggles, and J. Robert Warren. *Integrated Public Use Microdata Series, Current Population Survey: Version 5.0*. [dataset]. Minneapolis: University of Minnesota (2017), available at www.ipums.org.
- 30 STOP STREET HARASSMENT, *THE FACTS BEHIND THE #METOO MOVEMENT: A NATIONAL STUDY ON SEXUAL HARASSMENT AND ASSAULT* 16 (Feb. 2018), <http://www.stopstreetharassment.org/wp-content/uploads/2018/01/Full-Report-2018-National-Study-on-Sexual-Harassment-and-Assault.pdf>.
- 31 Heather McLaughlin et al., *The Economic and Career Effects of Sexual Harassment on Working Women*, 31 GENDER & SOC'Y 335 (June 2017).
- 32 *Id.* at 333-38.
- 33 STOP STREET HARASSMENT, *supra* note 29, at 32.
- 34 EEOC HARASSMENT TASK FORCE REPORT, *supra* note 1.
- 35 For example, in FY 2017, the EEOC received 6,696 charges of sexual harassment and 9,009 charges of racial harassment. EEOC, ENFORCEMENT AND LITIGATION STATISTICS, CHARGES ALLEGING RACE AND HARASSMENT FY 1997-2017, available at <https://www.eeoc.gov/eeoc/statistics/enforcement/index.cfm>.



11 Dupont Circle, Suite 800
Washington, DC 20036
202.588.5180 | fax 202.588.5185
www.nwlc.org