



PART D.

SPEAKING

OUT

AS A

WORKER

IF YOU ARE A WORKER, you should also keep in mind the following factors:

- The value of naming your abuser and warning your co-workers to keep them safe
- The potential of using your story to demand policy changes in your workplace
- The benefit of your workplace addressing the harassment (**Q16**)
- The risk to your job or job opportunities (**Q16**)
- The risk of your employer opening an investigation into your report if you don't want one (**Q17**)
- The risk that your employer could try to prevent you from speaking out publicly about the harassment (**Q18**)
- The risk of being punished by your employer for being a "troublemaker" (**Q19**)

Q16. CAN SPEAKING OUT AFFECT MY JOB?

Speaking out at work can lead to your employer taking steps to end the harassment and otherwise making positive changes. For example, your employer could make changes to help you feel safe at work. **Many states** require employers to give accommodations and/or time off to victims of **sexual assault, domestic violence, dating violence, or stalking** so they can address the violence. In addition, if you report **sex-based harassment** to your employer, you can ask for a human resources (HR) investigation. If your employer's investigation concludes that you were harassed, your employer may decide to discipline your abuser or remove them from your work environment. See **Q17** for more about HR investigations.

Unfortunately, speaking out at work may negatively affect your job opportunities—both now and in the future. For example, survivors who share their stories publicly have sometimes been demoted, not hired by other employers in the industry, treated worse by bosses and co-workers, evaluated unfairly, or faced other workplace discrimination. Among workers who asked the National Women's Law Center Fund for legal help with sex-based harassment, 70% said they faced some form of **retaliation** when they reported the harassment.

It is important to know that it is illegal under **Title VII** for employers to retaliate against employees because they have made good-faith reports of **sex-based harassment** experienced on the job. **Some states** also have laws that prohibit workplace discrimination, including retaliation, against people because of their status as a victim of **sexual assault, domestic violence, dating violence, or stalking**. See **Q1** for more info on how to **file a complaint** of retaliation against your employer with a federal or state agency.

Helpful Tip: If you are thinking about how to speak out and want to reduce the chances that your abuser will claim you are bullying or **defaming** them, it is probably less risky to file a complaint with your employer or a charge with the EEOC (see **Q1** for how to do this) than, say, naming your abuser on social media.

Q17. IF I SPEAK OUT ABOUT WORKPLACE HARASSMENT, CAN MY EMPLOYER INVESTIGATE THE HARASSMENT EVEN IF I DON'T WANT THEM TO?

Yes, in some cases. In general, your employer will not investigate the harassment unless you make a **complaint** about it to your employer (but there are exceptions). You can make a **complaint** by reporting the harassment, orally or in writing, to your boss or your employer's human resources (HR) department. Look to see what process, if any, your employer says you should use for harassment complaints. If you tell your boss or HR about **sex-based harassment** that might violate **Title VII** or a state law, then your employer has a legal obligation to address it, even if you don't want them to. Similarly, if you tell a co-worker about harassment that might violate the law, and the co-worker then tells your boss or HR, then your employer will be required to investigate or take other action, even if you don't want them to.

Q18. CAN MY EMPLOYER PREVENT ME FROM SPEAKING OUT PUBLICLY ABOUT THE HARASSMENT?

It depends. Some employers require their employees to sign broad agreements when they are first hired promising not to share certain types of information publicly. When an employee makes an HR complaint, some employers have had employees sign a **nondisclosure agreement** that prohibits employees from publicly sharing certain information, like information about harassment or HR investigations of harassment. Some employers also have had employees sign a **nondisparagement agreement** that prohibits employees from saying anything bad about the employer.

- If you signed a **nondisclosure** or **nondisparagement agreement** before reporting **sex-based harassment**, then those agreements cannot be enforced against you. This is because Congress passed the Speak Out Act in December 2022, which bans nondisclosure and nondisparagement agreements that prevent someone from speaking out about sexual harassment or assault if they were signed before a dispute related to sexual harassment or sexual assault arose.
- If your employer wants you to sign a **nondisclosure** or **nondisparagement agreement** after you report **sex-based harassment**, keep in mind that **Title VII** does not require victims to keep quiet during an HR investigation.

If you are being laid off for any reason, your employer may offer you severance (money and/or other benefits). Depending on your employment status, it is likely illegal for your employer to force you to include a **nondisparagement clause** or a **nondisclosure clause** about what's in the severance agreement in order for you to receive severance.

Keep in mind your employer may still ask you to keep quiet, even if it's illegal to require you to keep quiet in your situation. It is a good idea to talk with a **lawyer** if your employer wants you to keep quiet and you want to speak out, to get a clearer sense of your legal rights in your particular situation. (And a **nondisclosure agreement** can never legally prevent you from talking with a lawyer or filing a charge with the EEOC.)

Q19. CAN MY EMPLOYER PUNISH ME FOR BEING A "TROUBLEMAKER" IN THE WORKPLACE BECAUSE I HAVE SPOKEN OUT ABOUT WORKPLACE HARASSMENT?

It's illegal, but it does happen. **Title VII** prohibits **retaliation** by your employer based on your **complaints** of **sex-based harassment** or other sex discrimination. This means your employer can't punish you for reporting sex-

based harassment. For example, it's illegal for your employer to fire or demote you; cut your pay; change your shifts, hours, benefits, or duties; ask you to take time off; or do anything else that has a negative effect on you because you reported the harassment. But these things still sometimes happen to workers who report sex-based harassment.

Your abuser may also try to get your employer to punish you. For example:

- Your abuser might argue to your employer that by publicly naming them as your abuser, you are the one who is "bullying" or "defaming" them in violation of workplace policy or state law.
- Your abuser might **file** an HR **complaint** against you, claiming that you are the one who "harassed," "assaulted," or "abused" them. If so, your employer may be required to investigate.

If your employer investigates or disciplines you because your abuser **filed** a bad faith **complaint** against you, then you may have a **retaliation claim** against your employer. It is a good idea to talk with a **lawyer** about your legal options (see **Q1** for more info).