

H.R. 5994: Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination in the Workplace (BE HEARD in the Workplace) Act

The BE HEARD in the Workplace Act will **strengthen protections against workplace harassment and discrimination** for vulnerable groups by closing gaps in existing law, extending federal laws against workplace harassment to cover adjacent groups such as contractors, and removing barriers to accessing legal recourse. These solutions will **empower employees** at all levels **to report and take action** against workplace harassment, **promote transparency** and accountability among employers, and **change the culture** to prevent workplace harassment in the future.

The Issue:

Sexual harassment in the workplace is often a manifestation of power imbalances that heavily affect women, people of color, LGBTQ women, and women with disabilities. One in three women have been the victim of some form of sexual harassment in their workplace, although women who experience harassment at work usually avoid reporting for fear of retaliation, firing, or inaction by their employer. Among women who do report harassment or discrimination, over half are dissatisfied with their employer's response.¹

Power imbalances, lack of support and reporting options, and fear of retaliation or loss of opportunities also cause workplace harassment to disproportionately impact lower-level employees, interns, and tipped workers who rely on relationships with superiors and customers or clients for income and advancement.

The Solution:

The BE HEARD Act would address these issues by...

- **Expanding legal protections** for workers currently not covered by anti-discrimination laws, such as LGBTQ+ employees, interns, fellows, part-time employees, and those working at small businesses
- **Removing obstacles to accessing legal recourse** through extending the time limit for challenging harassment, updating and expanding legal protections to reflect current interpretations of harassment, and allowing workers to obtain reasonable relief in the form of compensatory and punitive damages
- **Promote transparency and accountability** by prohibiting employers from imposing NDAs and using forced arbitration
- **Increasing access to legal services** by establishing grant programs to cover costs for individuals who cannot afford lawyers to file EEOC charges or anti-discrimination lawsuits
- **Preventing harassment and discrimination in the future** by changing workplace culture through ensuring tipped workers are entitled to the same minimum wage as other workers, requiring research and funding of anti-harassment initiatives, and establishing an Office of Education and Outreach to educate employers about their rights

Join us in ending workplace harassment and co-sponsor the BE HEARD Act!

¹ <https://www.nationalpartnership.org/our-work/resources/economic-justice/fair-pay/sexual-harassment-and-the-gender-wage-gap.pdf>

Talking Points:

- The BE HEARD in the Workplace Act would ensure dignity, safety, and equality in all workplaces
 - Workers at all levels have been fighting to be heard, and to **address disparities and exploitation** that foster and perpetuate **a culture of harassment and discrimination**
- In the wake of the #MeToo movement, we see unprecedented national attention and resources directed towards the harm caused by sexual harassment and assault
 - **Now is the time to address these issues head-on as we build off of this movement to create long-lasting legislative change**
- The BE HEARD Act would provide new protections against harassment by extending existing civil rights and anti-discrimination laws and fill in legal gaps that allow **employees of small companies, part time employees, interns, and tipped workers** to fall through the cracks
- Eliminating workplace discrimination means ensuring that **businesses have the resources and capabilities to prevent it**
 - The BE HEARD Act focuses on **changing the culture** to ensure safety by requiring employers to **adopt and maintaining harassment and nondiscrimination policies**, in addition to providing model policies, outlining best practices, and creating draft workplace climate surveys
 - The legislation also provides for **educating workers at every level** through regular trainings so employees are aware of their rights and what constitutes discrimination
- The proposed law would also **protect LGBTQ workers** and expand the definition of discrimination under the Civil Rights Act
 - The EEOC received 1,500 claims of workplace discrimination on the basis of sexual orientation in 2015, but Title VII does not explicitly include discrimination based on gender identity. The BE HEARD Act would address this by **clarifying discrimination on the basis of gender identity is unlawful**
- **Eliminating the tipped minimum wage** is one of the most critical provisions of the BE HEARD Act to reduce internal and external harassment that tipped workers experience and create a safe workplace for all
 - Reliance on tips forces service workers, an industry composed predominantly of women, to endure harassment by customers and managers to receive income. $\frac{2}{3}$ of tipped restaurant workers are women, and **90% have experienced some form of harassment** at work
 - Doing away with the tipped minimum wage would **empower service workers** to stand up against and report harassment without fear of financial retaliation or loss
- While some may argue that we already have codified similar protections against discrimination in the Civil Rights Act, BE HEARD would **expand protections against discrimination and harassment** to small businesses
 - The Civil Rights Act protects workers employed by companies with 15 or more employees from discrimination and harassment, excluding millions. Eliminating this threshold would ensure **all employees have the right to a safe workplace**
- Large businesses may claim that arbitration is not prohibitive but rather helps **avoid delay, uncertainty, and expenses**. This may be true for the employers, but **not for employees, who become more vulnerable** under these agreements.
 - **Prohibiting mandatory arbitration and nondisclosure agreements** in employee contracts combats lack of reporting and transparency in the complaint resolution process

- **One third of workers are bound by NDAs** and 54% of private employees, totaling 60 million workers, are subject to mandatory arbitration provisions—the majority are **women and those in low-wage jobs**
- NDAs and forced arbitration **deter reporting**, and prohibiting this would allow for more transparency and safety