

Rise in Sexual Harassment Claims Has EEOC Looking for Answers

By Jaclyn Diaz

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- Civil rights agency working with employers to find solutions
- EEOC saw 13.6 percent increase in harassment reporting

Sexual harassment complaints are on the rise, and the Equal Employment Opportunity Commission is turning to industry leaders to help eradicate it, Commissioner Charlotte A. Burrows told attorneys Feb. 21.

"I do not think the fact that Harvey Weinstein was front page news for over a year made more harassment occur. It made people realize they can talk about it and report it and that something would change," Burrows said.

The EEOC saw a 13.6 percent increase in workers alleging sexual harassment from fiscal year 2017 to fiscal year 2018, Burrows reported at the American Bar Association's conference in Mexico. The commission also had twice the number of lawsuits regarding harassment with respect to sexual misconduct in fiscal 2018 than in FY 2017.

"Overall charges went down, but sexual harassment charges and suits went up," Burrows said.

'Cultural Change'

The agency has found that the solutions to harassment are industry-specific, Burrows said. In light of this, the EEOC has connected with employers across various industries, like technology and construction, finding that the experience women in each of these sectors is different and therefore so too would be the solutions.

"That's what we are doing next. We are bringing in industry leaders to see what works and what doesn't" in rectifying harassment, she said.

Employers across various industries increasingly also are turning to the civil rights agency to discuss ways to rid the workplace of harassment, Burrows said.

"We are going to see a real cultural change in this country in a way that will change the way we do business," Burrows said of the attention now paid to harassment issues.

Commission Not at Full Strength

While the commission is seeing improvements on one of its major strategic priorities, it's still without a quorum, which ties its hands when it comes to handling major new litigation, Burrows said.

The EEOC at full strength has five commissioners and needs three for a quorum. It lost its quorum after GOP Sens. Mike Lee (Utah) and Marco Rubio (Fla.) blocked Democratic nominee and then Commissioner Chai Feldblum. By delaying her confirmation, the senators also delayed the confirmation of two Republican nominees, Janet Dhillon and Daniel Gade. Feldblum and Gade have since removed their names from consideration for another nomination. In light of this development, the commission delegated decision-making authority to heads of offices within the agency.

The EEOC also is wading through work not done during the government shutdown, which ran from Dec. 22 to Jan. 25. That includes handling lingering complaints, litigation, and rescheduled mediations, among other things, Burrows said.

LGBTQ Discrimination Stance

Burrows didn't go into much detail on the EEOC's position that gender identity bias and sexual orientation discrimination are forbidden employment practices under Title VII of the 1964 Civil Rights Act's ban on discrimination "because of sex."

She simply reiterated the commission's statements that the agency has taken that position "repeatedly."

In light of the fact the Justice Department has taken the opposite position, the commission is closely watching how this topic plays out in the courts, Burrows said.

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