



U.S. Equal Employment Opportunity Commission

A Reconvening of the Select Task Force on the Study of Harassment in the Workplace - June 11, 2018

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U.S. Equal Employment Opportunity Commission

PRESS RELEASE
6-8-18

EEOC Reconvenes Select Task Force on Study of Harassment in the Workplace

WASHINGTON -- The U.S. Equal Employment Opportunity Commission's (EEOC) Select Task Force on the Study of Harassment in the Workplace will reconvene on Monday, June 11, from 9:30 a.m. to 1:00 p.m. (Eastern Time), at agency headquarters, 131 M Street, N.E., Washington, D.C. The meeting, entitled "***Transforming #MeToo into Harassment-Free Workplaces: A Reconvening of the EEOC's Select Task Force on the Study of Harassment in the Workplace***," will be open to public observation.

The Select Task Force, co-chaired in 2015 and 2016 by EEOC Commissioner Chair R. Feldblum and Commissioner and now-Acting Chair Victoria A. Lipnic, consisted of representatives of academia and social science; legal practitioners on both the plaintiff and defense sides; employer and employee advocacy groups; and organized labor. Co-chairs Feldblum and Lipnic released a report based on the work of the task force on June 20, 2016. The report includes recommendations regarding leadership, accountability, policies and procedures, training, and developing a sense of collective responsibility.

Witnesses and Task Force members will address harassment in the workplace in light of the #MeToo movement, and discuss how employers can and have worked to transform themselves and prevent and stop harassment. The Task Force will hear from the following panelists during the meeting:

- **Elizabeth Tippett**, 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**, UNITE HERE
- **Erin Wade**, Homeroom Mac & Cheese
- **Jess Ladd**, Callisto
- **Lisa Gelobter**, tEquitable

Seating is limited. We encourage visitors to arrive at least 30 minutes before the meeting to be processed through security and escorted to the meeting room. Visitors should bring a government-issued photo identification card to facilitate entry into the building. The EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information is available at www.eeoc.gov. Stay connected with the latest EEOC news by subscribing to our [email updates](#).



U.S. Equal Employment Opportunity Commission

PRESS RELEASE

6-11-18

EEOC Select Task Force on Harassment Hears from Experts on How to Prevent Workplace Harassment

WASHINGTON -- The U.S. Equal Employment Opportunity Commission's (EEOC) Select Task Force on the Study of Harassment in the Workplace reconvened today to hear from expert witnesses on "***Transforming #MeToo Into Harassment-Free Workplaces***" at a meeting open to the public.

"Our co-chairs' report on harassment laid the groundwork for the launch of a renewed effort to prevent harassment," stated Acting EEOC Chair Victoria A. Lipnic. "Since last fall, the public's demand for action has coalesced with this effort. The EEOC will continue to lead the fight against workplace harassment and to promote solutions to prevent it."

EEOC Commissioner Chai R. Feldblum added, "Our challenge is to use this #MeToo moment well. We have a road map given the work we have done at the EEOC. We have the attention and commitment of the range of different actors in society that we need. Together, we can channel that energy to create significant and sustainable change."

Legal scholars and attorneys who represent workers and employers highlighted a range of issues raised in the wake of high-profile allegations of sexual harassment since October 2017 and the rise in the #MeToo and #TimesUp movements. These experts discussed non-disclosure and arbitration agreements and training mandates, and shared proposals for legal reform from state legislatures and industry groups, who have taken up action to address sexual harassment in the workplace.

Elizabeth Tippet, a professor at the University of Oregon School of Law, provided an overview of a range of legal issues and noted the importance of also addressing other forms and aspects of harassment. "It would be a mistake for employers and state legislators to limit their response exclusively to sexual harassment," Tippet said. "In doing so, they risk laying a foundation for the next crisis, whether it involves other forms of harassment, or discrimination and retaliation."

Debra Katz, a partner with Katz, Marshall and Banks, said, "#MeToo movement forces society to see the gaps between the promises of our politicians and lawmakers and the realities of individuals, face to face in the workplace." Katz outlined how Title VII and state laws have been thwarted for too long by evasions that the legal system itself has sanctioned. "#MeToo illustrates the immense cost of that failure," Katz noted.

Kathleen McKenna, a partner at Proskauer Rose, who represents employers, testified that arbitration provides a neutral and confidential process to resolve individual harassment complaints for conduct that employers "invariably prohibit and work to guard against." McKenna also explained that proposals to prohibit non-disclosure agreements are likely to be counterproductive, as that could lead to an increase in litigation rather than private resolution.

Suzanne Hultin with the National Conference of State Legislatures testified that over "125 pieces of legislation have been introduced this year in 32 states." Hultin noted that many states are looking to go beyond federal regulations to prevent workplace sexual harassment. She projected that proposals to address and prevent harassment would continue to be a priority for state legislatures this year and next.

A second panel presented innovative strategies that employers, unions, and others have developed to promote workplaces free of harassing conduct.

Jill Geisler, a fellow with the Newseum's Freedom Forum Institute, described the Power Shift Project, a solutions-based effort about what newsrooms and media organizations are doing to deal with emerging cases of sexual misconduct, and what systemic changes are needed to end harassment and promote opportunity for all. While discussing the Power Shift Summit, the kick-off event for the project, Geisler described "a sense of new urgency and serious commitment among participants to fix these problems and create meaningful, sustainable change."

Kasey Nalls, a member of the union UNITEHERE, described the "Hands Off Pants On" campaign that was spearheaded by UNITE HERE Local 1 and the Chicago Federation of Labor two years before the #MeToo movement exploded last fall. The initiative helps protect hotel workers from sexual harassment and assault by guests and an ordinance adopting it was unanimously passed by the Chicago City Council in October 2017. "Since the anti-sexual harassment policy went in to effect in January 2018, we've observed a chipping away at culture that permeates the hospitality industry that the "guest is always right," said Nalls.

Erin Wade and her staff at a restaurant called Homeroom developed a simple color-coded system for wait staff to use to signal if they confront harassing conduct from a customer, which then triggers a specific, mandated action by the manager to handle the situation. Wade emphasized that "We need to listen to the suggestions of women for how to solve the problems plaguing them, and put them in the position to change their own worlds." She reported the success of this system as customer harassment is no longer a significant problem and the system has created a safe workplace for staff.

Jess Ladd, founder and CEO of Callisto, testified about her non-profit's online documentation and reporting platforms in which the first report of a harassing incident creates a "matching escrow" that allows victims of sexual harassment to hold their identities in escrow until another victim of the same harasser comes forward. The second report triggers both victims being put in touch with the same Callisto legal advocate. "Callisto Expansion is designed to help victims understand the full range of their options, from HR to police to the press to the EEOC to confronting their perpetrator. We help victims understand which of these options they can pursue, given their case and the case of linked victims," Ladd testified.

Lisa Gelobter, CEO and co-founder of tEQuitable, has created an independent, confidential platform to address issues of bias, discrimination and harassment in the workplace. She said that tEQuitable has built a third-party, tech-enabled Ombuds program, which "is the only platform implementing solutions to proactively stop harassment, not just reactively catch harassers after the fact."

The Select Task Force, co-chaired in 2015 and 2016 by EEOC Commissioner Chai R. Feldblum and Commissioner and now-Acting Chair Victoria A. Lipnic, consisted of representatives of academia and social science; legal practitioners on both the plaintiff and defense sides; employer and employee advocacy groups; and organized labor. Co-Chairs Feldblum and Lipnic released a report based on the work of the task force on June 20, 2016. The report includes recommendations regarding leadership, accountability, policies and procedures, training, and developing a sense of collective responsibility.

As a result of the co-chairs' report, the EEOC developed an innovative training program called Respectful Workplaces that has been provided in over 200 training sessions to over 5,200 employees and supervisors in 18 states. Since June 2016, when the report was released, the EEOC has also conducted about 2,700 outreach events related to harassment, reaching approximately 300,000 individuals.

The Task Force heard from the following witnesses during the meeting:

- **Elizabeth Tippett**, 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
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- **Erin Wade**, Homeroom Mac & Cheese
- **Jess Ladd**, Callisto
- **Lisa Gelobter**, tEQuitable

The written statements of the witnesses are available at https://www.eeoc.gov/eeoc/task_force/harassment/6-11-18.cfm.

The EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information is available at www.eeoc.gov. Stay connected with the latest EEOC news by subscribing to our [email updates](#).



U.S. Equal Employment Opportunity Commission

Opening Statement of Acting Chair Victoria A. Lipnic

Good morning, and welcome. Welcome to our task force members - great to see all you again. Welcome to our witnesses - thank you for your time and effort to participate today. And thank you to everyone in the audience, and those following along elsewhere, for taking the time to be here. We have for you what will be, we trust, a productive meeting on this important and, to put it mildly, timely topic.

Two years ago, Commissioner Feldblum and I sat here, delivering our final co-chairs' report of the Select Task Force on the Study of Harassment in the Workplace. (If you haven't read it yet, you know what you have to do this afternoon.) June 20th, 2016 - the day we issued the report - it turned out, was nearly 16 months - 472 days, to be exact - before October 5th, 2017. That was the day New York Times reporters Jodi Kantor and Megan Twohey revealed the allegations against Harvey Weinstein. Similar reporting by Ronan Farrow appeared in the New Yorker a few days later. Since then, we have seen the rise of the #MeToo and similar movements, and what has become a cultural awakening. At the time we issued our report, Commissioner Feldblum and I and our staffs set as a goal that "we wanted to make sure we had a report that did not just sit on a shelf." Little did we know. . .

Of course, the nature and extent of the revelations we've seen have come as no surprise to this agency. The problem of harassment in so many of our nation's workplaces is a problem long-recognized by the EEOC. We were so concerned, at a leadership level at the EEOC about this persistent problem we wanted to find other ways to speak to the issue. It is what led to the establishment of the Select Task Force in the first place. The legal prohibition of harassment in the workplace has been the law of the land for over 30 years now. Since before even that, the EEOC has been combatting harassment of all kinds, on all bases, in all types of workplaces, everywhere. That's what this agency has been doing, day in and day out, since before many in this room were even born.

But now, nine months into this great cultural awakening, we, the EEOC, and everyone involved in this, find ourselves dealing with many "second and third generation" issues. By that I mean, legal and other issues that have emerged to the forefront of all the recent attention - critically important, often complex issues that are now demanding attention. That is what we hope to explore today.

But first, a reminder is in order. This is a point we made upfront in the introduction to our final report. While the EEOC has been, and will continue to be a leader on this topic, we are only one player. As we put it in the report, "[O]ur agency is only one piece of the solution. Everyone in society must feel a stake in this effort. That is the only way we will achieve the goal of reducing the level of harassment in our workplaces to the lowest level possible."

But I repeat: the EEOC will continue to do its part: As the agency with expertise, as the enforcer of the law, and as an educator. And that is what we have been doing. Since our final report, and in the wake of Weinstein and #MeToo, the EEOC has continued to lead the way.

But, even before the revelations in the press beginning nine months ago, we dedicated ourselves, at the EEOC, to doing much follow-up from our report and to taking our recommendations seriously. I want to detail for you much of the work that the Commission has been doing, for the past two years. We would have been busy at the EEOC even without the #MeToo movement. Part of this includes looking inward, to ensure that "our own house is in order," as they say. We did a thorough review of our own internal policies and procedures about how to deal with harassment, making updates and revisions where needed. And, this spring, our senior executives went through our new Respectful Workplaces training - more on that in a minute - and we'll be training and educating our entire staff throughout the rest of the year.

That's internally; how about external to the agency? As I mentioned, we recently launched - on October 4, 2017, to be exact, one day before the Weinstein revelations - a new training program we're calling Respectful Workplaces. In our final report of the task force we said training must change - as a tool of prevention. We said it needs to move away from being overly focused on avoiding legal liability, and move more toward preventive models like civility and bystander intervention training. The Respectful Workplace training is the EEOC's shot at that. And it appears to be catching on. We invested the resources for more than a year, from the time we

finished our report, in developing that training. Since October 2017, the EEOC has conducted over 200 sessions, training over 5,000 individuals on this new program. And, some of our offices are booked months out to meet the demand.

As you can imagine, the EEOC has been called to offer its expertise on the issue of harassment more than a few times over the past eight months. Our interactions with the press easily count in the triple digits at this point. Other organizations and institutions, among them Congress and the courts, have also come calling. I have testified in Congress twice, and have participated in numerous other meetings and discussions. Most recently, our colleague Commissioner Burrows testified in front of the House Women's Caucus on the issue. And, that doesn't come close to capturing the efforts of everyone across the agency and the outreach and assistance they've provided.

In addition, Commissioner Feldblum and I met with the Federal Judiciary Workplace Conduct Working Group, instituted by Chief Justice Roberts and made up of a number of experienced federal judges and court administrators, as they examined the state of the judicial branch. I think my colleague will have more to tell you about that.

Finally, what else, what "more" can the EEOC be doing? I actually put that question to our leadership this past spring - what "more" can and should we, as an agency, be doing? I received many thoughtful suggestions - so much so that I recently established and launched an internal Harassment Prevention Action Team to coordinate implementation of all ongoing and new, internal and external efforts on prevention of harassment throughout the agency. As I noted in announcing this new team, this is a critical time for the EEOC in this cultural moment. And so, where more can and should be done, the EEOC will be there, "striving to make our workplaces productive places where we can all go, do our jobs, and be free from harassment."

Finally, I do want to mention one other point that we have been frequently asked here at the EEOC - and that is - "have you seen an uptick in charges filed alleging harassment?" - sometimes, people ask, specifically about sexual harassment charges being filed with the agency? I want to point out one thing: the fiscal year for the EEOC runs from the beginning of October to the end of September. That happens to conveniently coincide with when this issue took off in the press and the public. So, we are cautious about talking about our statistics until we are able to have a full assessment at the end of our fiscal year. And of course, there's typically some delay in charge filings, since individuals generally have up to 300 days to file a charge. So while our workload has increased on this issue for all of our offices, including the training I mentioned, so far, we have not seen a big increase in charges filed. I suspect there are many reasons for this - some of those I expect we will explore today.

With that I'll stop and turn it over to Commissioner Feldblum. But first, let me say one more time - thank you to everyone for being here today. We certainly did not expect, two years ago, to be asking all of you to come back again on this topic. Everyone who cares about how people are treated in their workplaces everyday owes all of you a debt of gratitude for the work you did beginning three years ago, and we are very grateful for your willingness to join us, again, today. I look forward to our discussion.



U.S. Equal Employment Opportunity Commission

Opening Statement of Commissioner Chai R. Feldblum

Welcome back to the members of our Select Task Force on the Study of Harassment in the Workplace. We are gathering almost two years since Chair Lipnic and I released our Co-Chairs Report based on the Select Task Force work. I also want to extend a warm welcome to our witnesses who will help us think through some of the tough legal and policy issues that have arisen in this #MeToo moment, as well as educate us about new ways to prevent and respond to harassment.

During our work with the Select Task Force, we often reflected that one of the biggest roadblocks to stopping harassment in the workplace was convincing people that we had a serious problem of harassment. That is why we highlighted this quote from James Baldwin in our report: "Not everything that is faced can be changed. But nothing can be changed until it is faced."

We needed the country to face what was happening in our workplaces in terms of harassment. Well, the country is doing that now. People are talking about, and people are listening to, stories of harassment to an extent that has not happened before. We have the chance now to leverage this moment to create significant and sustainable change.

And the change must be to stop harassment on all bases, not just sex. The revelations about sexual harassment have been essential in raising the visibility of this issue. But shame on us if we don't use this opportunity to change the structures and cultures of our workplaces so that people do not experience harassment based on any protected characteristic - including race, national origin, disability, religion, age, sexual orientation or gender identity. The charges EEOC receives tells the real story of the breadth of harassment -- in fiscal year 2017, EEOC received 12,000 charges of sex-based harassment, 9,000 charges of race-based harassment, and 13,000 charges of harassment on other grounds. This was the broad focus of our Select Task Force work and it was the broad focus of the report Chair Lipnic and I issued in 2016.

In our work with the Select Task Force, we talked about how to nip unwelcome conduct in the bud - before such conduct rose to the level of being illegal. Based on that work, we offered a roadmap in our 2016 report. We described ways in which leaders can shape workplace culture so that the collective understanding in a workplace becomes that harassment is simply not acceptable. We offered ideas for holding people accountable - including individuals who engage in harassment, supervisors who fail to respond appropriately to reports of harassment, and workers who retaliate against those who report harassment. And we offered concrete ideas for policies, procedures and training, complete with helpful checklists.

We are now in the second stage of our work. The EEOC was ahead of the curve when we released our report two years ago. Now, we are continuing to lead so that sustainable change to stop harassment can be made.

First, we are spreading the word about the roadmap we offered in our 2016 report. People are hungry for ideas and we are providing them. No one needs to start from step one in understanding how to prevent harassment in the workplace. They can use our report and build on it. What is most important is that organizations take the report's recommendations and apply them to the unique needs of their different workplaces or industries. A good example of that is the report issued last week by the Federal Judiciary's Workplace Conduct Working Group. That working group of judges and administrators used our 2016 report as a foundation but then did the necessary research to come up with recommendations and timetables that would fit the unique aspects of the federal judiciary. This is the type of effort we need to see more of and we stand ready to provide technical assistance to those efforts.

Second, we are digging deeper into the legal and policy issues that people have been asking us about. The original goal of the Select Task Force's work was not to focus on legal issues, but rather to collect information on workplace harassment and come up with creative ideas for prevention. But we are reconvening today partly because we want your wisdom on some of the thorny legal and policy questions we are now being faced with.

However, we are not just digging deeper into legal questions. We are also digging deeper into creative ideas to prevent harassment - whether through practices focused on a particular industry, a particular workplace, or the

use of technology. We have witnesses here today to educate us on these practices and to disseminate this information to the general public.

Third, we are leading by putting ideas from our report into practice. Chair Lipnic described a number of our efforts both internal and external to the EEOC. I want to underscore one of those efforts: the development of our Respectful Workplaces training. This is a new training that adopts the recommendations of our report for effective and creative trainings and that we began to offer in October 2017. The training includes one component that describes an employer's policy regarding unacceptable behavior, explains how to report such behavior, and provides information on what the employer will do after receiving such a report. This is what we call "compliance training" in our report. But the training also includes components on creating respect in the workplace and empowering bystanders. These components are very skills-based. The respect component facilitates discussion amongst attendees about the behaviors and words that generate respect and their responsibility for contributing to respect in the workplace. It also teaches skills for giving feedback about disrespectful behavior and skills for responding to such feedback. The bystander intervention component provides concrete options and skills on how to intervene to stop harassment. This may consist of options for stopping the harassment in the moment, confronting the harasser afterwards, talking to someone else who can do something, or helping the target of the harassment bring a report. The training provides realistic options tailored to the individual workplace and the unique power dynamics that may be at play in any particular situation.

Finally, we are bringing together these efforts because we recognize that enforcement of the law is not enough to bring about the necessary culture change in our workplaces. Obviously, enforcement remains the core mission of the EEOC, not only to remedy harassment that has occurred but also to serve as a deterrent to future harassment. And we are gratified when we can help people get substantive relief, either through our confidential administrative process or our public litigation. But helping people get relief after they have suffered harassment is never as good as having them not suffer the harassment in the first place.

We stand now at a unique moment. We can feel it, we can see it, we can hear it. Our challenge is to use this moment well.

We can do that. We have a road map given the work we have done at the EEOC. We have the attention and commitment of the range of different actors in society that we need - employers, employees, unions, governmental agencies, philanthropic foundations, religious and community groups, the media and the ordinary person on the street. Together, we can challenge that energy to create significant and sustainable change.

Let's meet this challenge.