

Sexual harassment claims jump while EEOC charges go down

The #MeToo movement reached the EEOC in a big way last year. Even as total EEOC charges declined dramatically in fiscal year 2018, sexual harassment claims soared. The EEOC received 7,609 sexual harassment charges in FY 2018, a 13.6% increase over 2017.

Annual statistics released April 10 showed that overall, EEOC charges fell almost 10% last year. The total of 76,418 was 7,836 fewer than in 2017.

Credit a strong economy.

Typically, when the unemployment rate drops, so do EEOC complaints. The last time so few EEOC charges were filed: 2006, the year before the Great Recession cratered the job market. The all-time high came in FY 2011, when 99,947 charges were filed.

In good times and bad, some EEOC statistics remain reliably constant. As in years past, retaliation was by far the most common EEOC charge, included in 51.6% of all complaints filed with the commission. That means more than half of discrimination and harassment charges the EEOC handled also claimed the employer retaliated against the employee for complaining.

But change lurked in the EEOC data, too. FY 2018 marked a historic shift in the prevalence of specific kinds of discrimination claims. For the first time in modern history, sex discrimination surpassed race discrimination as the most common EEOC bias claim. However, the difference was statistically small.

In fact, both sex discrimination (24,655 charges) and disability discrimination (24,605 charges) barely beat out race discrimination (24,600 charges) in FY 2018, which ran from October 2017 to September 2018.

The 2018 fiscal year coincided with the rise of the #MeToo social media movement. Initial sexual harassment allegations against movie mogul Harvey Weinstein appeared in the *New York Times* on Oct. 5, 2017, just days into the fiscal year. A cascade of harassment allegations against entertainment executives, media figures and celebrities followed throughout 2018.

The #MeToo movement encouraged women to tell their own stories of being harmed by workplace harassment—and emboldened many to file official complaints with the EEOC. In fact, 2018's 7,609 sexual harassment charges were the most since 2011, when the EEOC fielded 7,809 complaints.

It cost employers plenty, too. The EEOC obtained \$56.6 million in monetary benefits for victims of sexual harassment.

What does that mean for employers?

"That #MeToo has had a huge impact on your employees," said employment lawyer Jon Hyman of Meyers, Roman, Friedberg & Lewis in Cleveland. "Victims are less likely to stay quiet and are more likely to report. If

you're not doing everything you can to ferret out and stop sexual harassment, you are putting your company at risk."

Sexual harassment charges increased 13.6% last year

- **2014: 6,862**
- **2015: 6,822**
- **2016: 6,758**
- **2017: 6,696**
- **2018: 7,609**

EEOC's harassment reporting systems checklist

According to the EEOC, a responsive sexual harassment complaint reporting system is one of the best tools employers have for addressing harassment at work.

"An effective harassment complaint system welcomes questions, concerns, and complaints," says the EEOC's "Promising Practices for Preventing Harassment" report, published in early FY 2018. It says the best reporting systems encourage employees to report potential misconduct early and treat alleged victims, witnesses and alleged harassers with respect.

According to the EEOC, the best harassment reporting systems:

- ✓ Provide multiple avenues to complain, especially about allegations involving senior leaders
- ✓ Accept complaints from concerned co-workers, not just alleged harassment victims
- ✓ Promise prompt, thorough and neutral investigations
- ✓ Protect the privacy of all parties involved in the complaint
- ✓ Promise all parties they will not experience retaliation for participating in the harassment complaint reporting process
- ✓ Seek to identify the alleged harasser and alleged victim, any witnesses, the date and locations of the alleged harassment and a description of the alleged harassment
- ✓ Assure alleged harassers they will not be presumed guilty or prematurely disciplined.