

115TH CONGRESS
2D SESSION

S. 2994

To deter, prevent, reduce, and respond to harassment in the workplace, including sexual harassment, sexual assault, and harassment based on protected categories.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2018

Ms. HARRIS (for herself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To deter, prevent, reduce, and respond to harassment in the workplace, including sexual harassment, sexual assault, and harassment based on protected categories.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending the Monopoly
5 of Power Over Workplace Harassment through Education
6 and Reporting Act-Part I” or the “EMPOWER Act-Part
7 I”.

1 **SEC. 2. PURPOSE AND AUTHORITY.**

2 It is the purpose of this Act, through the exercise by
3 Congress of its power to regulate commerce among the
4 several States, to deter, prevent, reduce, and respond to
5 harassment in the workplace, including sexual harass-
6 ment, sexual assault, and harassment based on other pro-
7 tected categories.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) **APPLICANT.**—The term “applicant” means
11 an applicant for employment as an employee, inde-
12 pendent contractor, or outside worker.

13 (2) **CHARGE OF DISCRIMINATION.**—The term
14 “Charge of Discrimination” means a charge of dis-
15 crimination filed pursuant to section 706 of the Civil
16 Rights Act of 1964 (42 U.S.C. 2000e–5).

17 (3) **COMMISSION.**—The term “Commission”
18 means the Equal Employment Opportunity Commis-
19 sion.

20 (4) **EMPLOYEE.**—The term “employee”
21 means—

22 (A) an individual employed by an employer
23 described in paragraph (5), including an outside
24 worker in such individual’s office or place of
25 employment;

1 (B) an employee to which section 703, 704
2 or 717(a) of the Civil Rights Act of 1964 (42
3 U.S.C. 2000e-2; 2000e-3; 2000e-16(a)) ap-
4 plies, including an outside worker in such an
5 employee’s office or place of employment;

6 (C) a State employee to which section
7 302(a)(1) of the Government Employee Rights
8 Act of 1991 (42 U.S.C. 2000e-16b(a)(1)) ap-
9 plies, including an outside worker in such a
10 State employee’s office or place of employment;
11 or

12 (D) a covered employee, as defined in sec-
13 tion 101 of the Congressional Accountability
14 Act of 1995 (2 U.S.C. 1301) or section 411(c)
15 of title 3, United States Code, including an out-
16 side worker in such a covered employee’s office
17 or place of employment.

18 (5) EMPLOYER.—The term “employer”
19 means—

20 (A) a person engaged in an industry affect-
21 ing commerce, and any agent of such a person;

22 (B) an entity to which section 703, 704, or
23 717(a) of the Civil Rights Act of 1964 applies;

1 (C) an employing authority to which sec-
2 tion 302(a)(1) of the Government Employee
3 Rights Act of 1991 applies; or

4 (D) an employing office, as defined in sec-
5 tion 101 of the Congressional Accountability
6 Act of 1995 or section 411(c) of title 3, United
7 States Code.

8 (6) FAIR EMPLOYMENT PRACTICES AGEN-
9 CIES.—The term “fair employment practices agen-
10 cies” means State and local agencies with the au-
11 thority to enforce laws or regulations to prohibit dis-
12 crimination in employment.

13 (7) INDEPENDENT CONTRACTOR.—The term
14 “independent contractor” means an individual who,
15 with respect to an employer, is a contractor based on
16 the common law of agency.

17 (8) LAW ENFORCEMENT AGENCY.—The term
18 “law enforcement agency” means a government
19 agency with criminal or civil law enforcement pow-
20 ers, which may include a government agency with
21 regulatory or licensing authority.

22 (9) NONDISCLOSURE CLAUSE.—The term “non-
23 disclosure clause” means a provision in a contract or
24 agreement establishing that the parties to the con-
25 tract or agreement agree not to disclose information

1 covered by the terms and conditions of the contract
2 or agreement.

3 (10) NONDISPARAGEMENT CLAUSE.—The term
4 “nondisparagement clause” means a provision in a
5 contract or agreement requiring one or more parties
6 to the contract or agreement not to make negative
7 statements about the other.

8 (11) OUTSIDE WORKER.—The term “outside
9 worker” means—

10 (A) a temporary worker hired through an
11 employment agency (as defined in section 701
12 of the Civil Rights Act of 1964 (42 U.S.C.
13 2000e)) to provide services to an employer pur-
14 suant to an agreement between the employment
15 agency and the employer;

16 (B) an independent contractor for an em-
17 ployer or a subcontractor thereof; or

18 (C) an intern or volunteer, whether paid or
19 unpaid, for an employer.

20 (12) SEXUAL ASSAULT.—The term “sexual as-
21 sault” means any nonconsensual sexual act pro-
22 scribed by Federal, tribal, or State law, including
23 such an act that occurs when the victim lacks capac-
24 ity to consent.

1 (13) SUBCONTRACTOR.—The term “subcon-
 2 tractor” means any employer having a contract with
 3 a prime contractor or another subcontractor calling
 4 for supplies or services required for the performance
 5 of a contract or a government contract.

6 (14) WORKPLACE HARASSMENT.—The term
 7 “workplace harassment” means unwelcome or offen-
 8 sive conduct based on sex (including such conduct
 9 based on sexual orientation, gender identity, and
 10 pregnancy), race, color, national origin, disability,
 11 age, or religion, whether that conduct occurs in-per-
 12 son or through an electronic medium (which may in-
 13 clude social media), in a work or work-related con-
 14 text, which affects any term, condition, or privilege
 15 of employment.

16 **SEC. 4. PROHIBITING NONDISPARAGEMENT AND NON-**
 17 **DISCLOSURE CLAUSES THAT COVER WORK-**
 18 **PLACE HARASSMENT, INCLUDING SEXUAL**
 19 **HARASSMENT.**

20 (a) UNLAWFUL PRACTICES.—

21 (1) PROHIBITION ON WORKPLACE HARASSMENT
 22 NONDISCLOSURE CLAUSE.—Subject to subsection
 23 (b)(1), it shall be an unlawful practice for an em-
 24 ployer to enter into a contract or agreement with an
 25 employee or applicant, as a condition of employment,

1 promotion, compensation, benefits, or change in em-
2 ployment status or contractual relationship, or as a
3 term, condition, or privilege of employment, if that
4 contract or agreement contains a nondisparagement
5 or nondisclosure clause that covers workplace har-
6 assment, including sexual harassment or retaliation
7 for reporting, resisting, opposing, or assisting in the
8 investigation of workplace harassment.

9 (2) PROHIBITION ON ENFORCEMENT.—Not-
10 withstanding any other provision of law, it shall be
11 an unlawful practice and otherwise unlawful for an
12 employer to enforce or attempt to enforce a non-
13 disparagement clause or nondisclosure clause de-
14 scribed in paragraph (1).

15 (b) SETTLEMENT OR SEPARATION AGREEMENTS.—

16 (1) IN GENERAL.—The provisions of subsection
17 (a) do not apply to a nondisclosure clause or non-
18 disparagement clause contained in a settlement
19 agreement or separation agreement that resolves
20 legal claims or disputes when—

21 (A) such legal claims accrued or such dis-
22 putes arose before the settlement agreement or
23 separation agreement was executed; and

1 (B) such clauses are mutually agreed upon
2 and mutually benefit both the employer and em-
3 ployee.

4 (2) UNLAWFUL PRACTICE.—It shall be an un-
5 lawful practice for an employer to unilaterally in-
6 clude a nondisclosure clause or a nondisparagement
7 clause that solely benefits the employer in a separa-
8 tion or settlement agreement.

9 (c) RIGHT TO REPORT RESERVED.—Notwithstand-
10 ing signing (before or after the effective date of this Act)
11 any nondisparagement or nondisclosure clause including
12 a clause referred to in subsection (a)(1), an employee or
13 applicant retains any right that person would otherwise
14 have had to report a concern about workplace harassment,
15 including sexual harassment or another violation of the
16 law to the Commission, another Federal agency (including
17 an office of the legislative or judicial branch), a State or
18 local fair employment practices agency or any State or
19 local agency, or a law enforcement agency, and any right
20 that person would otherwise have had to bring an action
21 in a court of the United States.

22 (d) ENFORCEMENT.—

23 (1) ENFORCEMENT POWERS.—With respect to
24 the administration and enforcement of this section

1 in the case of a claim alleged by an employee for a
2 violation of this section—

3 (A) the Commission shall have the same
4 powers as the Commission has to administer
5 and enforce—

6 (i) title VII of the Civil Rights Act of
7 1964 (42 U.S.C. 2000e et seq.); or

8 (ii) sections 302 and 304 of the Gov-
9 ernment Employee Rights Act of 1991 (42
10 U.S.C. 2000e–16b and 2000e–16c),

11 in the case of a claim alleged by such employee
12 for a violation of such title, or of section
13 302(a)(1) of the Government Employee Rights
14 Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), re-
15 spectively;

16 (B) the Librarian of Congress shall have
17 the same powers as the Librarian of Congress
18 has to administer and enforce title VII of the
19 Civil Rights Act of 1964 (42 U.S.C. 2000e et
20 seq.) in the case of a claim alleged by such em-
21 ployee for a violation of such title;

22 (C) the Board (as defined in section 101 of
23 the Congressional Accountability Act of 1995 (2
24 U.S.C. 1301)) shall have the same powers as
25 the Board has to administer and enforce the

1 Congressional Accountability Act of 1995 (2
2 U.S.C. 1301 et seq.) in the case of a claim al-
3 leged by such employee for a violation of section
4 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

5 (D) the Attorney General shall have the
6 same powers as the Attorney General has to ad-
7 minister and enforce—

8 (i) title VII of the Civil Rights Act of
9 1964 (42 U.S.C. 2000e et seq.); or

10 (ii) sections 302 and 304 of the Gov-
11 ernment Employee Rights Act of 1991 (42
12 U.S.C. 2000e–16b and 2000e–16c);

13 in the case of a claim alleged by such employee
14 for a violation of such title, or of section
15 302(a)(1) of the Government Employee Rights
16 Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), re-
17 spectively;

18 (E) the President, the Commission, and
19 the Merit Systems Protection Board shall have
20 the same powers as the President, the Commis-
21 sion, and the Board, respectively, have to ad-
22 minister and enforce chapter 5 of title 3,
23 United States Code, in the case of a claim al-
24 leged by such employee for a violation of section
25 411 of such title;

1 (F) the Commission shall have the same
2 powers as described in subparagraph (A) to ad-
3 minister and enforce a claim by any employee
4 who is not otherwise able to seek remedy for a
5 claim through an enforcement entity described
6 in subparagraph (A) through (E); and

7 (G) a court of the United States shall have
8 the same jurisdiction and powers as the court
9 has to enforce—

10 (i) title VII of the Civil Rights Act of
11 1964 (42 U.S.C. 2000e et seq.) in the case
12 of a claim alleged by such employee for a
13 violation of such title or in the case of a
14 claim described in subparagraph (F);

15 (ii) sections 302 and 304 of the Gov-
16 ernment Employee Rights Act of 1991 (42
17 U.S.C. 2000e–16b and 2000e–16c) in the
18 case of a claim alleged by such employee
19 for a violation of section 302(a)(1) of such
20 Act (42 U.S.C. 2000e–16b(a)(1));

21 (iii) the Congressional Accountability
22 Act of 1995 (2 U.S.C. 1301 et seq.) in the
23 case of a claim alleged by such employee
24 for a violation of section 201(a)(1) of such
25 Act (2 U.S.C. 1311(a)(1)); and

1 (iv) chapter 5 of title 3, United States
2 Code, in the case of a claim alleged by
3 such employee for a violation of section
4 411 of such title.

5 (2) PROCEDURES AND REMEDIES.—The proce-
6 dures and remedies applicable to a claim alleged by
7 an employee for a violation of this section are—

8 (A) the procedures and remedies applicable
9 for a violation of title VII of the Civil Rights
10 Act of 1964 (42 U.S.C. 2000e et seq.) in the
11 case of a claim alleged by such employee for a
12 violation of such title or in the case of a claim
13 described in paragraph (1)(F);

14 (B) the procedures and remedies applicable
15 for a violation of section 302(a)(1) of the Gov-
16 ernment Employee Rights Act of 1991 (42
17 U.S.C. 2000e–16b(a)(1)) in the case of a claim
18 alleged by such employee for a violation of such
19 section;

20 (C) the procedures and remedies applicable
21 for a violation of section 201(a)(1) of the Con-
22 gressional Accountability Act of 1995 (2 U.S.C.
23 1311(a)(1)) in the case of a claim alleged by
24 such employee for a violation of such section;
25 and

1 (D) the procedures and remedies applicable
2 for a violation of section 411 of title 3, United
3 States Code, in the case of a claim alleged by
4 such employee for a violation of such section.

5 (3) OTHER APPLICABLE PROVISIONS.—With re-
6 spect to a claim alleged by a covered employee (as
7 defined in section 101 of the Congressional Account-
8 ability Act of 1995 (2 U.S.C. 1301)) for a violation
9 of this section, title III of the Congressional Ac-
10 countability Act of 1995 (2 U.S.C. 1381 et seq.)
11 shall apply in the same manner as such title applies
12 with respect to a claim alleged by such a covered
13 employee for a violation of section 201(a)(1) of such
14 Act (2 U.S.C. 1311(a)(1)).

15 (e) REGULATIONS.—

16 (1) IN GENERAL.—Except as provided in para-
17 graphs (2), (3), and (4), the Commission shall have
18 authority to issue regulations to carry out this sec-
19 tion.

20 (2) LIBRARIAN OF CONGRESS.—The Librarian
21 of Congress shall have authority to issue regulations
22 to carry out this section with respect to employees
23 and applicants for employment of the Library of
24 Congress.

1 (3) BOARD.—The Board referred to in sub-
2 section (d)(1)(C) shall have authority to issue regu-
3 lations to carry out this section, in accordance with
4 section 304 of the Congressional Accountability Act
5 of 1995 (2 U.S.C. 1384), with respect to covered
6 employees, as defined in section 101 of such Act (2
7 U.S.C. 1301).

8 (4) PRESIDENT.—The President shall have au-
9 thority to issue regulations to carry out this section
10 with respect to covered employees, as defined in sec-
11 tion 411(c) of title 3, United States Code, and appli-
12 cants for employment as such employees.

13 (f) STATE AND FEDERAL IMMUNITY.—

14 (1) ABROGATION OF STATE IMMUNITY.—A
15 State shall not be immune under the 11th Amend-
16 ment to the Constitution from a suit brought in a
17 Federal court of competent jurisdiction for a viola-
18 tion of this section.

19 (2) WAIVER OF STATE IMMUNITY.—

20 (A) IN GENERAL.—

21 (i) WAIVER.—A State’s receipt or use
22 of Federal financial assistance for any pro-
23 gram or activity of a State shall constitute
24 a waiver of sovereign immunity, under the
25 11th Amendment to the Constitution or

1 otherwise, to a suit brought by an em-
2 ployee or applicant for employment of that
3 program or activity under this section for
4 a remedy authorized under subsection (d).

5 (ii) DEFINITION.—In this paragraph,
6 the term “program or activity” has the
7 meaning given the term in section 606 of
8 the Civil Rights Act of 1964 (42 U.S.C.
9 2000d–4a).

10 (B) EFFECTIVE DATE.—With respect to a
11 particular program or activity, subparagraph
12 (A) applies to conduct occurring on or after the
13 day, after the date of enactment of this Act, on
14 which a State first receives or uses Federal fi-
15 nancial assistance for that program or activity.

16 (3) REMEDIES AGAINST STATE OFFICIALS.—An
17 official of a State may be sued in the official capac-
18 ity of the official by any employee or applicant for
19 employment who has complied with the applicable
20 procedures of subsection (d), for equitable relief that
21 is authorized under this section. In such a suit the
22 court may award to the prevailing party those costs
23 authorized by section 722 of the Revised Statutes
24 (42 U.S.C. 1988).

1 (4) REMEDIES AGAINST THE UNITED STATES
 2 AND THE STATES.—Notwithstanding any other pro-
 3 vision of this Act, in an action or administrative pro-
 4 ceeding against the United States or a State for a
 5 violation of this section, remedies (including rem-
 6 edies at law and in equity, and interest) are avail-
 7 able for the violation to the same extent as the rem-
 8 edies are available for a violation of title VII of the
 9 Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)
 10 by a private entity, except that—

11 (A) punitive damages are not available;

12 and

13 (B) compensatory damages are available to
 14 the extent specified in section 1977A(b) of the
 15 Revised Statutes (42 U.S.C. 1981a(b)).

16 **SEC. 5. CONFIDENTIAL TIP-LINE ADDRESSING EMPLOYERS**
 17 **WITH WIDESPREAD AND SYSTEMIC WORK-**
 18 **PLACE HARASSMENT.**

19 (a) CONFIDENTIAL TIP-LINE ESTABLISHED.—

20 (1) IN GENERAL.—Not later than 1 year after
 21 the date of enactment of this Act, the Commission
 22 shall establish a confidential tip-line that supple-
 23 ments the Commission’s existing process for submit-
 24 ting a Charge of Discrimination, and that has the
 25 characteristics described in paragraph (2), to—

1 (A) receive, log, and acknowledge the re-
2 ceipt of reports by employees, applicants, by-
3 standers, or other individuals who attest that
4 they have experienced or witnessed workplace
5 harassment, including sexual assault and other
6 forms of sexual harassment;

7 (B) provide informational materials to re-
8 porting individuals described in subparagraph
9 (A); and

10 (C) make available reports described in
11 subparagraph (A) to—

12 (i) the Commission; and

13 (ii) Commission-approved fair employ-
14 ment practices agencies for potential inves-
15 tigation.

16 (2) OPERATION OF THE TIP-LINE.—The Com-
17 mission shall ensure that the tip-line established
18 under this section will—

19 (A) explicitly notify reporting individuals
20 that the tip-line does not allow anonymous re-
21 porting, but does allow the submission of con-
22 fidential reports, independent of a Charge of
23 Discrimination or a Federal or State adminis-
24 trative complaint, by those employees or appli-
25 cants who have experienced workplace harass-

1 ment, including sexual assault and other forms
2 of sexual harassment, and by those employees,
3 applicants, bystanders, or other individuals who
4 have witnessed such conduct;

5 (B) provide an option for reporting individ-
6 uals to make a report that would not identify
7 individual employees, but would identify the en-
8 tity, employer, division, or subdivision respon-
9 sible for the workplace harassment, including
10 sexual assault and other forms of sexual harass-
11 ment;

12 (C) educate reporting individuals about
13 how to preserve the right to make any reports,
14 complaints, or charges that the individuals
15 would otherwise have been eligible to make,
16 independent of any report to the tip-line, in-
17 cluding—

18 (i) the right of the reporting indi-
19 vidual to file a Charge of Discrimination
20 that will result in the Commission or a
21 Commission-approved fair employment
22 practices agency taking action (and the
23 risk of losing that right if the reporting in-
24 dividual fails to file a timely Charge of
25 Discrimination); and

1 (ii) a clear explanation of any dead-
2 lines or limitations periods;

3 (D) instruct reporting individuals about
4 how to file a Charge of Discrimination with the
5 Commission and encourage reporting individ-
6 uals to file a Charge of Discrimination in order
7 to allow the Commission to more effectively in-
8 vestigate the workplace harassment;

9 (E) emphasize that reports to the confiden-
10 tial tip-line—

11 (i) will not prompt individualized in-
12 vestigations, except in the limited cir-
13 cumstances described in clause (ii), sub-
14 paragraph (I), and subsection (b), and
15 such investigations will fully comport with
16 applicable due process requirements;

17 (ii) will be monitored by the Commis-
18 sion and Commission-approved fair em-
19 ployment practices agencies to identify
20 trends and determine whether investiga-
21 tions should be undertaken, for instance,
22 when the Commission has received multiple
23 complaints regarding a particular employer
24 or there is evidence of a broader pattern or
25 practice of workplace harassment;

1 (iii) shall not be discoverable in civil
2 cases, unless the reporting individual
3 waives the confidentiality of the submitted
4 reports; and

5 (iv) shall not be shared with other
6 Federal agencies;

7 (F) engage fair employment practices
8 agencies at the State and local level to apply
9 and be thoroughly vetted and reviewed for ap-
10 proved access to the confidential tip-line;

11 (G) share information from the tip-line, in-
12 cluding information on opened investigations,
13 only between and among participating approved
14 fair employment practices agencies and the
15 Commission to facilitate coordination and avoid
16 conflicts in investigations and resolutions;

17 (H) offer an option to each reporting indi-
18 vidual, at the time of reporting, to elect to be
19 informed, to the extent practicable, if the indi-
20 vidual's report leads to an investigation, so that
21 the reporting individual may choose to provide
22 further information or participate in any result-
23 ing investigation; and

24 (I) protect the identity of individuals mak-
25 ing reports and employers by making such re-

1 ports confidential within the tip-line and only
2 available to the Commission and Commission-
3 approved fair employment practices agencies,
4 and require that information obtained can be
5 used only for the purpose of investigation re-
6 lated to the submitted complaint or complaints,
7 in full compliance with applicable due process
8 requirements.

9 (b) CHARGE OF DISCRIMINATION.—In the event that
10 a member of the Commission determines that information
11 received from the tip-line warrants an investigation, the
12 member may initiate an investigation by filing a Charge
13 of Discrimination in accordance with section 706 of the
14 Civil Rights Act of 1964 (42 U.S.C. 2000e–5).

15 (c) EDUCATION ABOUT THE TIP-LINE.—The Com-
16 mission shall disseminate information and educate the
17 public about the tip-line established under this section.

18 (d) UNLAWFUL PRACTICES WITH RESPECT TO THE
19 TIP LINE.—

20 (1) OTHER UNLAWFUL PRACTICE.—It shall be
21 unlawful to engage in any unlawful employment
22 practice described in section 704 of the Civil Rights
23 Act of 1964 (42 U.S.C. 2000e–3) with respect to the
24 tip line under this section, including contacting or
25 making threats to contact law enforcement authori-

1 ties, such as the police, immigration officials, or
2 other officials, with respect to an employee or appli-
3 cant because that employee or applicant has made a
4 charge, testified, assisted, or participated in any
5 manner in an investigation, proceeding or hearing
6 under this section.

7 (2) CONFIDENTIALITY.—It shall be unlawful
8 for any officer or employee of the Commission, or
9 any Commission-approved fair employment practices
10 agencies, to make public in any manner whatever
11 any information obtained by the Commission pursu-
12 ant to its authority under this section, prior to insti-
13 tution of any proceeding under section 706 of the
14 Civil Rights Act of 1964 (42 U.S.C. 2000e–5), ex-
15 cept that the Commission, or any Commission-ap-
16 proved fair employment practices agency, shall offer
17 information to reporting individuals in accordance
18 with this section.

19 (3) ENFORCEMENT.—The enforcement provi-
20 sions described in section 4(d) shall apply in the
21 same manner to the enforcement of a violation de-
22 scribed in paragraph (1) or (2).

23 (e) EFFECTIVE DATE.—This section shall first take
24 effect on the first day of the first fiscal year for which
25 \$1,500,000 is appropriated to carry out this section.

1 (f) ANNUAL MINIMUM.—The Commission shall not
2 be required to implement this section in any fiscal year
3 for which less than \$1,000,000 is appropriated to carry
4 out this section.

5 **SEC. 6. SEC FILINGS AND MATERIAL DISCLOSURES AT PUB-**
6 **LIC COMPANIES.**

7 (a) DEFINITIONS.—In this section—

8 (1) the term “Form 10–K” means the form de-
9 scribed in section 249.310 of title 17, Code of Fed-
10 eral Regulations, or any successor regulation; and

11 (2) the term “issuer” has the meaning given
12 the term in section 3(a) of the Securities Exchange
13 Act of 1934 (15 U.S.C. 78c(a)).

14 (b) FINDINGS.—Congress finds that—

15 (1) shareholders and the public should know
16 whether corporations—

17 (A) are expending company funds to re-
18 solve, settle, or litigate claims of workplace har-
19 assment, including sexual harassment; and

20 (B) along with the executives and man-
21 agers of those corporations—

22 (i) are complying with prohibitions
23 against workplace harassment, including
24 sexual harassment; and

1 (ii) facilitate a culture of silence, dis-
2 respect, intimidation, and abuse that nega-
3 tively impacts the health and safety of the
4 workers of those corporations and the
5 value of those corporations; and

6 (2) the requirements of this section will—

7 (A) establish necessary transparency and
8 accountability; and

9 (B) provide an incentive for corporations
10 to—

11 (i) promptly address workplace har-
12 assment, including sexual harassment, as
13 that misconduct occurs; and

14 (ii) foster a culture in which work-
15 place harassment is not protected and does
16 not occur.

17 (c) INFORMATION REQUIRED.—Not later than 1 year
18 after the date of enactment of this Act, the Securities and
19 Exchange Commission shall promulgate a regulation that
20 requires any issuer that is required to submit an annual
21 report using Form 10-K to include in any such submis-
22 sion—

23 (1) during the period covered by the submis-
24 sion—

1 (A) with respect to workplace harassment,
2 including sexual harassment, and retaliation for
3 reporting, resisting, opposing, or assisting in
4 the investigation of workplace harassment—

5 (i) the number of settlements reached
6 by the issuer as a signatory or when the
7 issuer is a beneficiary of a release of
8 claims; and

9 (ii) whether any judgments or awards
10 (including awards through arbitration or
11 administrative proceedings) were entered
12 against the issuer in part or in whole, or
13 any payments made in connection with a
14 release of claims; and

15 (B) the total amount paid by the issuer or
16 another party as a result of—

17 (i) the settlements described in sub-
18 paragraph (A)(i); and

19 (ii) the judgments described in sub-
20 paragraph (A)(ii); and

21 (2) information regarding whether, in the ag-
22 gregate, including the period covered by the submis-
23 sion, there have been three or more settlements
24 reached by, or judgments against, the issuer with re-
25 spect to workplace harassment, including sexual har-

1 sion employees that develop and administer any edu-
2 cation, technical assistance, or training programs of-
3 fered by the Commission.

4 (b) WORKPLACE TRAINING.—

5 (1) IN GENERAL.—The Commission shall pro-
6 vide for the development and dissemination of work-
7 place training programs and information regarding
8 workplace harassment, including sexual harassment.

9 (2) CONTENTS OF TRAINING.—The training
10 provided by the Commission under this subsection to
11 managers and nonmanagers shall be consistent with
12 the findings of the Commission, on matters includ-
13 ing—

14 (A) what constitutes workplace harass-
15 ment, including sexual harassment;

16 (B) the rights of individuals with respect
17 to workplace harassment and how to report
18 workplace harassment;

19 (C) how individuals, including bystanders,
20 who encounter workplace harassment can inter-
21 vene or report the harassment; and

22 (D) how employers and managers can pre-
23 vent workplace harassment, including sexual
24 harassment, from occurring in the workplace.

1 (3) CONTENTS OF INFORMATION.—In providing
2 information under this subsection, the Commission
3 shall—

4 (A) prepare and distribute information
5 that is consistent with the findings of the Com-
6 mission;

7 (B) develop and disseminate a public serv-
8 ice advertisement campaign that—

9 (i) distributes information with re-
10 spect to the matters described in para-
11 graph (2); and

12 (ii) advertises the confidential com-
13 plaint database established under section
14 5.

15 (c) EFFECTIVE DATE.—This section shall not take
16 effect in any fiscal year for which less than \$1,500,000
17 is appropriated to carry out this section.

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