LIMITING OUR LIVELIHOODS

THE CUMULATIVE IMPACT OF SEXUAL HARASSMENT ON WOMEN'S CAREERS

NOVEMBER 2019

AAUW

ACKNOWLEDGEMENTS

Limiting our Livelihoods was written by AAUW Senior Vice President of Public Policy and Research Deborah J. Vagins, J.D. and AAUW Consultant Mary Gatta, Ph.D. Former AAUW researchers Kevin Miller, Ph.D., and Raina Nelson designed the survey, analyzed the data from the U.S. Equal Employment Opportunity Commission and helped to draft the report. Former and current AAUW Public Policy and Research staff also contributed to the report, including Susannah Cohen, Claire Saba, Anne Hedgepeth, Kate Nielson, J.D., Cary Marshall and Lauren Haumesser, Ph.D.

AAUW thanks Gillian Thomas, J.D., Senior Staff Attorney at the ACLU Women's Rights Project, and Emily Martin, J.D., Vice President for Education and Workplace Justice at the National Women's Law Center, for their legal review and feedback.

AAUW also expresses gratitude to members and supporters for making this report possible. We are particularly grateful to an AAUW member in Nevada and members of the Mooneen Lecce Giving Circle for their generous support.

Published by AAUW

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Printed in the United States of America

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EXECUTIVE SUMMARY

Sexual harassment has long been a significant problem for women workers. But with the emergence of the #MeToo movement, there has been a renewed public, cultural and academic focus on workplace harassment. *Limiting our Livelihoods: The Cumulative Impact of Sexual Harassment on Women's Careers* investigates the compounding impact of sexual harassment on women's economic security across their lifespan and career trajectories. This Executive Summary details some of our key findings and conclusions drawn from our original research and literature review as detailed in the body of the report.

KEY FINDINGS

The new findings in this report are drawn from AAUW's analysis of publicly available anonymized data of sexual harassment charges filed with the U.S. Equal Employment Opportunity Commission (EEOC) from 1995 to 2016 and obtained by *BuzzFeed News* through a Freedom of Information Act request. In addition, in 2018 AAUW surveyed our members and their networks about their experiences with workplace sexual harassment and compiled the responses.

EEOC Sexual Harassment Charges: Women's Experiences of Workplace Sexual Harassment Across Age and Race

Our report explores the cumulative impact of workplace sexual harassment as women age. To begin, AAUW's original analysis of EEOC charge data from 1995 to 2016 finds that women report sexual harassment across all categories of age and race. When they are in the early and middle stages of their careers, women are especially at risk of experiencing sexual harassment. But women in the workforce continue to experience sexual harassment as they age: 16 percent of all women who submitted charges of sexual harassment to the EEOC were 45 to 55 years old. And almost four percent of women who submitted charges were over age 55.

When looking across age and race, we found the mean age of those submitting charges during the data period was approximately 35 years old for Hispanic women, 37 for Hispanic men, 35 for Black women, 38 for Black men, 36 for white women, and 39 for white men. Aging in the labor market did not eliminate sexual harassment risk, as older women across race and ethnicity file sexual harassment complaints.

AAUW Survey: Negative Outcomes of Workplace Sexual Harassment and Long-Term Impacts for Women's Economic Security

Using original survey data collected by AAUW, as described in the Methodology Section, we highlight the cumulative effects of sexual harassment on women's economic security, along with the intersection of sexual harassment with other forms of gender discrimination. We found that a significant proportion of respondents experienced some form of sexual harassment during their careers. Eighty-six percent of respondents reported at least one form of sexual harassment: 12 percent reported experiences of sexual coercion, 61 percent reported unwanted sexual attention and 65 percent reported sex-based harassment. The prevalence of experiences with sexual harassment is striking. Since the median age of our survey respondents was 64, we are in the unique position of asking older

respondents to reflect on the impact of these experiences on their lives, careers and economic security.

Mental and Physical Health Effects

Review of research shows that women who have experienced sexual harassment report severe and long-lasting negative mental health consequences, such as depression and post-traumatic stress. Sexual harassment has also been linked to a higher risk of long-term negative physical health effects, as both direct and indirect consequences of negative mental health effects. The destructive impact sexual harassment has on health and well-being can last for years after the incidents. In addition, sexual harassment can create a distracted and dangerous work environment where workplace accidents are more likely to occur, putting the employee, the harasser and bystanders at increased risk for physical injury. The negative mental and physical health effects can diminish job performance and morale. The lost time out of work or the need to change jobs prematurely can result in less income and, consequently, lower contributions to Social Security and/or retirement savings programs, thereby compromising women's long-term economic prospects.

Risking Retaliation for Reporting

According to the AAUW survey, over half (59 percent) of the respondents who experienced sexual harassment did not report their experiences to their employers, the EEOC, the police or the media. Women do not report for a variety of reasons: Some of the older women in our survey who experienced harassment earlier in their careers said they felt that the cultural climate at that time was not conducive to anyone taking their experiences seriously. In addition, the reluctance to report is, in part, fueled by women's fear of retaliation, which can result in lost wages, promotional opportunities, networks and jobs. Living with the consequences of harassment then only amplifies the negative economic and professional impact on women's careers as they age in the workforce. Other women felt that even if they did report, there would be no resolution or punishment for the harasser.

Economic Security and the Long-Term Impacts of Sexual Harassment

Sexual harassment and its negative effects, such as retaliation and health problems, can contribute to individuals reducing their time at work, engaging less in the workplace, leaving a job prematurely or leaving an entire field. In our own survey, 38 percent of respondents who reported harassment said that the experience contributed to their decision to leave their position or job before they would have otherwise. In addition, 37 percent of the respondents reported that the patterns of sexual harassment they experienced disrupted their career advancement.

Gender Pay Gap and Sexual Harassment

The negative consequences of sexual harassment can have a ripple effect, impacting women's economic security well past the time of the initial incident. Given its prevalence, sexual harassment cannot be ignored as a possible contributor to the pay gap: Women may reduce their hours or leave a job entirely to avoid harassing behavior. When women leave a job due to sexual harassment, research indicates that they often move to a job of lower quality or with lower pay. This impacts women's short- and long-term economic security as they earn less and ultimately retire with less income.

Sexual harassment can drive women away from their work and compound women's economic insecurity by impacting career trajectories and labor market rewards. According to recent Census Bureau data, a typical woman ages 20 to 24 working full-time is being paid 11 cents less on the dollar than a man of the same age. By the time a woman is 55 years old, that number jumps to 25 cents less on the dollar than a man of the same age. And when looking at poverty, women over 65 are 37 percent more likely than men to be living below the poverty line. Disaggregating these numbers by race reveals even starker inequities: Hispanic women over 65 experience the highest rates of poverty (22.4 percent), followed by Black women (19.7 percent), white women (8.4 percent) and Asian women (12.8 percent). The groups all experience higher rates of poverty than men within their own

race, men overall (8.1 percent), and especially white men (6 percent). And all of the unemployment, underemployment and subsequent lost wages caused by sexual harassment not only contribute to the gender pay gap, but also shrink the overall economy.

Career Advancement: The Leadership Gap and Occupational Segregation

Sexual harassment can make it difficult for women to get the training, mentorships and apprenticeships necessary to further their careers. In many professions, career advancement depends on receiving on-the-job training and mentorship from more senior workers. If a workplace mentor is also a harasser, targets of harassment may have to choose between their safety and well-being or their careers. Sexual harassment can also impede women's careers by perpetuating "occupational segregation," which is the tendency for women and men to be concentrated in different fields or professions, with more women in lower-paying fields or subspecialties. In many high-paid, male-dominated fields, women experience hostile or harassing environments. If they are pushed out, this can further compound this segregation.

Retirement Security

Time away from work, losing a job and subsequent wage loss can have devastating effects on retirement security. During the pre-retirement ages of 50 to 64, men have one-and-a-half times the wealth of age-comparable women—which means women have less of a financial cushion to start retirement. Once women retire, AAUW research shows that they have less retirement income, such as from Social Security and pensions, than men do. Yet women are more likely to rely on such income to meet living costs and more likely to be living in poverty than retired men.

Conclusion and Recommendations

Our current legal framework is not effectively preventing and remedying sexual harassment. Employees subjected to harassment often find themselves unable to get justice. Although there are laws in place to address harassment, an employee must deal with cumbersome processes, possible retaliation and the legal system's ever-narrowing definitions of what constitutes harassment and who can be held liable for it. These limitations mean that few women bring legal challenges, and even fewer win their cases.

To truly root out workplace sexual harassment and harassment in general, we must update employment practices, pass stronger federal and state laws and work to change cultural norms and societal attitudes. In this report, AAUW offers recommendations to help individuals, employers and policymakers reduce the incidence of and improve responses to sexual harassment. ♦

INTRODUCTION

Sexual harassment has long been a significant problem for women workers, and the recent #MeToo movement has prompted a renewed cultural and academic focus on the issue. Importantly, much of this attention explores how sexual harassment affects particular groups of women – low-paid workers, women of color, actresses, Capitol Hill staffers, undocumented women – differently. One perspective that has yet to be examined in depth is the cumulative impact of sexual harassment on women's economic security across their lifespan. To do so, we explore the ways that sexual harassment impacts (either directly or indirectly) women's wages, promotional opportunities and/or mental health. In addition, with original analysis of EEOC charge data, we investigate the prevalence of sexual harassment across different age groups of women, demonstrating that sexual harassment continues to be a problem for women as they age. Central to our understanding of sexual harassment is that it does not exist in a vacuum. Instead, sexual harassment discrimination is a systemic aspect of our labor market and part of a larger structure of inequality women face in the workplace. As such, other forms of systemic inequity, such as the gender pay gap and the leadership gap, cannot be separated from sexual harassment.

We argue that sexual harassment not only directly threatens women's economic security, but its effects compound over the course of a woman's life and career. As we demonstrate in this report, sexual harassment early in a woman's career contributes to long-term consequences for her career attainment and future economic security. For instance, we know that the pay gap widens over time, especially as women age. The compounded impact of sexual harassment over the course of a woman's career provides one explanation for why the gender pay gap widens as women get older. Sexual harassment interrupts career trajectories, limits advancement and corresponding pay increases, and perpetuates occupational segregation, all of which can contribute to the gender pay gap.

Harassment and discrimination can have many short- and long-term negative effects. As discussed below, the immediate responses to and impact of harassment can set off a chain of events that hurt women into the later stages of their careers when they should be reaching their peak in terms of advancement and pay. For example, individuals who experience sexual harassment may need to take time off work and reduce their hours to avoid being harassed, while some may be forced to leave their jobs or an entire field to get away from a harassing environment. Leaving a job or cutting back on work hours can have detrimental effects on income and set back a woman's career trajectory. Women who report sexual harassment may face retaliation from colleagues or supervisors, undermining their advancement in the workplace. Experiencing sexual harassment can also lead to mental and physical health problems such as Post-Traumatic Stress Disorder (PTSD) and can exacerbate preexisting mental health conditions. These negative health consequences can have severe impacts on job performance and workplace engagement.

The effects of sexual harassment also impact society as a whole. Women who have been sexually harassed are significantly more likely to leave their

jobs than women who have not experienced sexual harassment. When women are pushed out, there are fewer talented people in the workforce, particularly in male-dominated fields, which can contribute to the larger problem of occupational segregation.

Further, it is important to understand that women's experiences are not homogenous. Instead, people experience harassment on several different and intersecting bases, including harassment based on race, age, sexuality, occupation or disability status. When individuals hold multiple marginalized identities, they often experience intersecting forms of harassment, such as racialized sexual harassment. And because sexual harassment can be viewed as an abuse of power, the position and clout of an employee greatly impacts their vulnerability to and experience of sexual harassment. Age and occupation are critical to this calculus based on their role in determining seniority, authority and respect in the workplace.

Given that women have different stereotypes associated with them at each stage of life, it is imperative to interrogate the intersection of sexual harassment, career arc and age for women in the workplace. For instance, in 2017, David Neumark, Ian Burn and Patrick Button field-tested resumes of older workers to determine differences in callbacks after resume submission. They found "robust evidence of age discrimination in hiring against older women, especially those near retirement age."[1] This highlights that older women not only face sexism in the workplace, but also ageism, which they experience in greater proportion than older men. The effects of these multiple forms of harassment can compound, but our current laws fall short when contending with multi-faceted forms of harassment.

Further, in our legal system, harassment does not need to be sexual in nature to be deemed harassment, as long as the harassment is based on the person's sex. For example, sex-based put-downs, offensive comments about women or about any gender's failure to conform to stereotypes also qualify as harassment. And while women experience an outsized amount of sexual harassment, it is important to note that no group is immune. For instance, rates of sexual harassment toward LGBT employees in the United States are also high. A 2011 report of the National Center for Transgender Equality and National Gay and Lesbian Task Force, for example, found that half of transgender men (individuals who were assigned female at birth and identify as men) surveyed and slightly over half (54 percent) of transgender women (individuals who were assigned male at birth and identify as women) surveyed, reported harassment at work.[2] And in a 2018 report from the Stanford Center on Poverty and Inequality, researchers found that relative to the general population, LGBT workers reported higher rates of sexual harassment based on their analysis of the 2016 General Social Survey.[3] As a result, real solutions for sexual harassment must strengthen protections against all types of workplace harassment because often they are intertwined and inseparable.

In this report, we examine the prevalence of harassment, women's experiences with sexual harassment and the cumulative impact on their economic security across the lifespan. We feature original AAUW analysis of EEOC charge data, along with survey responses from AAUW members and individuals in their networks about their experiences with harassment. Our AAUW survey data are unique because our sample reflects a group of women with a median age of 64, allowing us to document sexual harassment of older women and the long-term economic consequences across the lifetime. The focus of this report, then, is to better understand the negative consequences of sexual harassment and the subsequent impact on women's careers and economic security, particularly in the later stages of their careers. Finally, we offer recommendations to policymakers, employers and individuals on ways to combat workplace sexual harassment and prevent its harmful long-term consequences. ♦

STANDARDS FOR WORKPLACE HARASSMENT AND RISK FACTORS

LEGAL STANDARDS

Although individuals, scholars and various government sectors define harassment in different ways, for the purposes of this report, we adopt the definition used by the EEOC, the federal agency tasked with enforcing Title VII of the Civil Rights Act of 1964 and other federal employment discrimination laws.

According to the EEOC, workplace harassment is a form of employment discrimination that violates Title VII, the Age Discrimination in Employment Act of 1967 (ADEA) and the Americans with Disabilities Act of 1990 (ADA).[4] Currently, the agency explains workplace harassment as:

> unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. … Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.[5]

With respect to sexual harassment, courts historically have recognized two main forms: quid pro quo and hostile environment.[6] Quid pro quo harassment occurs when submission to harassing conduct is made either explicitly or implicitly a term or condition of an individual's employment, or submission to or rejection of harassing conduct is used as the basis for employment decisions affecting that employee.[7] For example, if an employer conditions a job promotion on submission to a sexual request, this is a "tangible employment action"[8] that changes the terms and conditions of employment and would constitute quid pro quo harassment. When quid pro quo harassment is perpetrated by a manager or supervisor, employers can be held "vicariously liable" for the harassment, meaning that an employer, whether an individual or a corporation, can be liable for the actions of supervisors who subject subordinates to sexual harassment.[9] A hostile work environment is created when sexual harassment "has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment."[10] To create a hostile environment, courts have held that any harassing conduct must be so "severe or pervasive" that the conditions of an employee's workplace are altered and an abusive working environment is created.[11] Conduct must be both objectively (as considered by a reasonable person) and subjectively (as considered by the victim) hostile or abusive.[12] Ultimately, while it is important to recognize these categories, they can and do overlap; the key distinction in the legal analysis is whether or not there

has been a tangible employment action taken against the employee.

The employer is automatically liable for harassment by a supervisor that results in a negative employment action, such as firing, failure to promote or hire and loss of wages.[13] If the supervisor's harassment results in a hostile work environment, the employer can avoid liability if it proves: (1) that it exercised reasonable care to prevent and promptly correct any harassing behavior and (2) that the employee unreasonably failed to take advantage of any preventive or corrective opportunities that were provided.[14] The employer will be liable for harassment by non-supervisory employees or third parties over whom it has control, such as independent contractors or customers or vendors on the premises, if it knew, or should have known, about the harassment and failed to take prompt and appropriate corrective action.[15]

Employment discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying or participating in any way in a proceeding under the laws, or for opposing employment practices that they reasonably believe discriminate against individuals.[16] This protection is important, as many women report that they fear they will face retaliation if they report sexual harassment.[17] A 2016 EEOC report stated that 70 percent of individuals who experienced harassment did not tell a supervisor, manager or union representative about the harassing conduct.[18] Further, on average, anywhere from 87 percent to 94 percent of individuals who experienced harassment did not file a formal complaint.[19] Employees' lack of reporting is directly related to fear that they will experience professional or social retaliation.[20] Similarly, Sociology Professor Anna-Maria Marshall found that women are afraid they will be met with skepticism and discouragement if they report, or that little will happen to the person who harassed them.[21] The fear of retaliation can take several forms, including: concerns about termination and loss of income, being ostracized at work or in related fields, the loss of networks and professional opportunities, potential demotions and/or the devaluation of one's work. Research demonstrates that these fears are well founded. The EEOC, citing research by Lilia M. Cortina and Vicki J. Magley, reports that 75 percent of employees who spoke out against workplace mistreatment faced some form of retaliation.[22]

WORKPLACE HARASSMENT RISK FACTORS

While women across occupations experience sexual harassment, certain identity factors and circumstances can increase the likelihood that someone will experience sexual harassment in their workplace. The EEOC identified some major risk factors for workplace harassment in general.[23] These include certain workplace cultures, professional hierarchies and power structures and types of work. For the purposes of this report, the most relevant factors are those that lead to stark power disparities among employees—for example, workplaces with young workforces, with women not being among the "high value" or "rainmaking" employees, or hierarchies where women comprise the majority of employees without decision-making authority. Each of these factors can lead to certain employees having or perceiving themselves to have considerably less power than other employees; this, in turn, could create an environment where the more powerful individuals feel emboldened to harass, and the less powerful employees feel unable or afraid to confront a harasser or report harassment. Extrapolating from these risk factors and other research, we know certain categories of workers are particularly vulnerable to harassment, such as tipped minimum-wage workers and women in traditionally male-dominated occupations.

Finally, aging in the labor force and advancing in one's career is not a buffer against harassment. Instead, as women advance into managerial and supervisory positions, sexual harassment and discrimination can still hamper their success. Although it is often assumed that sexual harassment in the workplace involves a male superior victimizing a female subordinate, a recent study found that when women enter supervisory roles, the likelihood of being sexually harassed does not change significantly.[24]

Sexual harassment does not just include behavior that is of a sexual nature but also behavior that involves verbal and nonverbal insults, and hostile and degrading attitudes about a gender (such as demeaning jokes or comments about women). In fact, as another study found, women in supervisory roles may experience backlash from clients, subordinates and fellow supervisors. The impulse to put women "in their place" may be a motivating factor for men who perpetrate or condone sexually harassing behaviors against women in managerial positions.[25] This can be particularly true in high-paying, male-dominated fields, such as manufacturing, where women report sexual harassment at higher rates.[26] Both of these studies show that women gaining power within systems rife with sexist hostility does not solve the problem of sexual harassment.

AGING IN THE LABOR FORCE AND ADVANCING IN ONE'S CAREER IS NOT A BUFFER AGAINST HARASSMENT. INSTEAD, AS WOMEN ADVANCE INTO MANAGERIAL AND SUPERVISORY POSITIONS, SEXUAL HARASSMENT AND DISCRIMINATION CAN STILL HAMPER THEIR SUCCESS.

LIMITS OF THE CURRENT LEGAL FRAMEWORK

Although federal law appears comprehensive and robust, employees subjected to harassment regularly find themselves unable to access justice. To begin with, Title VII applies only to employers with 15 or more employees;[27] those working for smaller organizations or for individual employers, as domestic workers do, have no recourse under Title VII.[28] In addition, independent contractors and other workers who are not considered "employees" are not covered by Title VII, despite their work relationship with employers.[29] Further, employees are afforded very limited time to take legal action; those wishing to challenge workplace harassment must file a charge with the EEOC within as few as 180 days of the date of the last act of harassment.[30] Many victims may not report in this short time frame due to the trauma, shame and uncertainty that characterize experiences of sexual harassment.

Additionally, narrow application of the above-detailed standards has created precedent that restricts the capacity for victims to prevail in legal actions. For instance, some federal courts have interpreted the "severe or pervasive" standard so rigidly that obtaining relief has become extremely difficult, even where egregious harassment is alleged.[31] For example, in *Brooks v. City of San Mateo,* a female employee's superior, among other egregious behaviors, forced his hand under her sweater and bra and touched her bare breast while she was taking a 911[32] call. The Ninth Circuit held that no hostile environment harassment had been established because the supervisor had only touched his employee a single time, which was not sufficient to meet the "severe or pervasive" standard.[33] Over time, this standard has grown increasingly burdensome to prove, with some lower courts interpreting only the most outrageous conduct as unlawful despite Congress' intent to afford broad remedial protections.[34]

The Supreme Court has also shielded employers from liability for much workplace sexual harassment by significantly limiting the category of employees who may be considered "supervisors." In *Vance v. Ball State University*, the Supreme Court narrowed the definition of "supervisor" to mean only someone who is "empowered by the employer to take tangible employment actions against the victim."[35] In other words, a "supervisor" is only someone who has hiring or firing power over an employee. If, instead, the person harassing an employee is her immediate manager who

does not possess the power to fire her, this person will be considered a co-worker. In such circumstances, an employer will only be liable for harassment when their negligence failed to prevent the harassment.[36]

Courts have further narrowed protections for employees by making it more difficult to hold employers liable for actions caused or motivated by discrimination. For example, the Supreme Court has held that employees can only prevail in age discrimination claims under the ADEA when age discrimination is the sole cause of adverse employer actions.[37] Similarly, although employees are technically protected from retaliation under the law, Supreme Court precedent requires employees to show not only that an employer's actions, such as firing an employee, were motivated by retaliation, but also that retaliation was the primary cause of the employer's actions.[38] It is feared that decisions like these are harbingers of an intent to whittle down safeguards for other protected characteristics.

Finally, access to justice is curtailed by the wide use of mandatory arbitration and non-disclosure agreements in sexual harassment disputes. Mandatory arbitration clauses, which approximately 55 percent of employees were subject to in 2017,[39] force employees, as a condition of employment, to waive their federal civil rights to proceed in court and instead resolve disputes in binding arbitration, which offers less protection than litigation. Moreover, arbitration agreements are confidential, meaning that the facts of the dispute, the nature of the claim and the outcome are all kept secret.[40] Similarly, non-disclosure agreements (NDAs) are regularly used in employment contracts and settlement agreements to prevent employees from speaking out about any harassment or discrimination they experience at the hands of an employer.[41] NDAs promote a culture of secrecy and disincentivize employers from addressing structural inequalities in the workplace. Both practices isolate victims, allow employers to avoid accountability and bury harassment and discrimination claims that may otherwise have been brought to court.[42]

The above-discussed issues are just some of the barriers that can make pursuing legal action an uphill battle. Assuming an employee overcomes the hurdles and fear associated with reporting harassment, she must deal with cumbersome processes, a situation fraught with possible retaliation, and the legal system's ever-narrowing understanding of what constitutes and who can be held liable for harassment. These limitations mean that few women bring legal challenges, and even fewer succeed with them. ♦

WOMEN'S EXPERIENCES OF WORKPLACE SEXUAL HARASSMENT ACROSS AGE AND RACE

The sexual harassment and discrimination that women face across age, race and ethnicity — using AAUW original analysis of EEOC complaints — are technically known as "charges." These experiences include quid pro quo sexual harassment, unwanted sexual advances and hostility toward their gender. Our original analysis of EEOC charge data from 1995 to 2016 revealed that nearly 85 percent of workplace sexual harassment complaints were filed by women. Further, we found that a plurality of sexual harassment charges filed by women between the years of 1995 and 2016 were submitted when the workers were between the ages of 25 and 34 (36.3 percent). Women ages 35 to 44 represent the second largest group of women to submit sexual harassment charges to the EEOC in the same time frame. Additionally, girls and young women between the ages of 16 and 19 were nearly nine times more likely than boys and young men of the same age to report sexual harassment to the EEOC. Overall, the younger the workers are, the larger the disparity between men and women reporting sexual harassment.[43]

These data suggest that in the early and middle stages of their careers, women are especially at risk of experiencing sexual harassment. However, our analysis also shows that sexual harassment does not disappear as women age. Sixteen percent of all women who submitted charges of sexual harassment to the EEOC were 45 to 55 years old. And almost four percent of women who submitted charges were over 55 years old.[44]

EEOC Sexual Harassment Charges 1995-2016 by Age – All Races/Ethnicities

	Raw Numbers		Percent Within Total		Percent Within Gender		Ratio of Female Charges to Male Charges
	Women	Men	Women	Men	Women	Men	
Over 65	580	191	0.4%	0.1%	0.5%	0.8%	3.0
55-64	4,260	1,403	2.9%	0.9%	3.4%	6.1%	3.0
45-54	20,067	4,639	13.5%	3.1%	16.0%	20.2%	4.3
35-44	37,836	7,306	25.5%	4.9%	30.1%	31.9%	5.2
25-34	45,650	7,278	30.7%	4.9%	36.3%	31.7%	6.3
20-24	12,099	1,505	8.1%	1.0%	9.6%	6.6%	8.0
16-19	5,176	582	3.5%	0.4%	4.1%	2.5%	8.9
TOTAL	**125,668**	**22,904**	**84.6%**	**15.4%**	**100.0%**	**100.0%**	**5.5**

Source: AAUW analysis of Buzzfeed's 2017-12-EEOC-Harassment-Charges data

In addition to age, race and ethnicity also affect women's experiences with workplace harassment. As civil rights attorney and legal scholar Kimberle Crenshaw has explained, Black women are "multiply-burdened" and their oppression "cannot be understood as resulting from discrete sources of discrimination."[45] She asserts that because "the intersectional experience is greater than the sum of racism and sexism," we must examine Black women's experiences through a multidimensional analysis, rather than "the single-axis analysis" of race- or sex-based discrimination alone.[46] Despite the heavy burden of intersectional harassment, current race and sex discrimination law still evaluates the two types of discrimination narrowly and separately, making it nearly impossible for women of color to bring intersectional claims.[47]

RACE AND ETHNICITY ALSO AFFECT WOMEN'S EXPERIENCES WITH WORKPLACE HARASSMENT. THERE IS A NEED FOR AN INTERSECTIONAL UNDERSTANDING OF THE PROBLEM.

The EEOC report also explains that people who are part of multiple marginalized groups experience intersectional harassment, which is defined as "harassment on the basis of more than one identity group."[48] Research demonstrates the need for an intersectional understanding of sexual harassment. A 2010 study showed that women who are part of minority groups are more likely to experience harassment, both race- and sex-based, than white women.[49] Another study, conducted by the National Women's Law Center in 2018, analyzed sexual harassment charges filed with the EEOC by women working in the private sector between 2012 and 2016. The researchers found that Black women filed sexual harassment charges with the EEOC at more than three times the rate of white, non-Hispanic women, two times the rate of Asian women, and five times the rate of Latina women.[50] According to the report, one in 17 women who filed sexual harassment charges also reported experiencing racial discrimination.[51] These findings suggest that many women experience harassment that is both race- and sex-based.

Based on our analysis of EEOC data, we found similar patterns emerge when considering the same numbers broken down by race and ethnicity. The EEOC data contain 16,000 sexual harassment charges filed by Hispanic women and men, 34,000 charges filed by non-Hispanic Black women and men, and 71,000 charges filed by non-Hispanic white women and men. Within each race, women make up the large majority of those filing charges, though men are a larger portion of the group filing charges among Hispanic and Black people than they are among white people. The mean age of those submitting charges during the data period was 35.2 for Hispanic women, 37.4 for Hispanic men, 35.1 for Black women, 38.2 for Black men, 36.0 for white women and 38.6 for white men.

On average, Black women were the youngest when reporting harassment and white men the oldest. Across all races, sexual harassment was reported at all ages by both women and men, but at much higher rates by women. The largest discrepancy in the number of charges by age and gender is seen for white women and men age 16-19: the young women in this group were 10 times more likely to make sexual harassment charges than the young men. And again, aging in the labor market did not eliminate sexual harassment risk, as older women across race and ethnicity reported sexual harassment charges. All of this is in addition to racially motivated harassment, which also has a profound effect on women of color. Moreover, as our survey data demonstrate later in this report, the cumulative effects of harassment at younger ages continue to impact women throughout their careers.[52]

EEOC Sexual Harassment Charges 1995-2016 by Age - Hispanic							
	Raw Numbers		Percent Within Total		Percent Within Gender		Ratio of Female Charges to Male Charges
	Women	Men	Women	Men	Women	Men	
Over 65	29	22	0.2%	0.1%	0.2%	0.7%	1.3
55-64	350	153	2.1%	0.9%	2.6%	5.1%	2.3
45-54	1,996	566	12.2%	3.4%	14.9%	18.8%	3.5
35-44	4,107	928	25.0%	5.7%	30.6%	30.9%	4.4
25-34	5,037	1,035	30.7%	6.3%	37.6%	34.4%	4.9
20-24	1,309	214	8.0%	1.3%	9.8%	7.1%	6.1
16-19	564	85	3.4%	0.5%	4.2%	2.8%	6.6
12-16	12	4	0.1%	0.0%	0.1%	0.1%	3.0
TOTAL	13,404	3,007	81.7%	18.3%	100.0%	100.0%	4.5

Source: AAUW analysis of Buzzfeed's 2017-12-EEOC-Harassment-Charges data

EEOC Sexual Harassment Charges 1995-2016 by Age - Non-Hispanic Black							
	Raw Numbers		Percent Within Total		Percent Within Gender		Ratio of Female Charges to Male Charges
	Women	Men	Women	Men	Women	Men	
Over 65	82	41	0.2%	0.1%	0.3%	0.6%	2.0
55-64	663	320	1.9%	0.9%	2.4%	4.9%	2.1
45-54	4,050	1,325	11.8%	3.9%	14.5%	20.5%	3.1
35-44	8,463	2,156	24.6%	6.3%	30.3%	33.3%	3.9
25-34	10,954	2,109	31.9%	6.1%	39.3%	32.6%	5.2
20-24	2,739	386	8.0%	1.1%	9.8%	6.0%	7.1
16-19	926	132	2.7%	0.4%	3.3%	2.0%	7.0
12-16	23	4	0.1%	0.0%	0.1%	0.1%	5.8
TOTAL	27,900	6,473	81.2%	18.8%	100.0%	100.0%	4.3

Source: AAUW analysis of Buzzfeed's 2017-12-EEOC-Harassment-Charges data

EEOC Sexual Harassment Charges 1995-2016 by Age - Non-Hispanic White							
	Raw Numbers		Percent Within Total		Percent Within Gender		Ratio of Female Charges to Male Charges
	Women	Men	Women	Men	Women	Men	
Over 65	246	84	0.3%	0.1%	0.4%	0.8%	2.9
55-64	2,301	698	3.2%	1.0%	3.8%	6.9%	3.3
45-54	10,251	2,105	14.4%	3.0%	16.8%	20.9%	4.9
35-44	18,331	3,168	25.8%	4.5%	30.0%	31.4%	5.8
25-34	21,249	3,073	29.9%	4.3%	34.8%	30.5%	6.9
20-24	5,817	663	8.2%	0.9%	9.5%	6.6%	8.8
16-19	2,739	277	3.9%	0.4%	4.5%	2.7%	9.9
12-16	69	11	0.1%	0.0%	0.1%	0.1%	6.3
TOTAL	61,003	10,079	85.8%	14.2%	100.0%	100.0%	6.1

Source: AAUW analysis of Buzzfeed's 2017-12-EEOC-Harassment-Charges data

There are several key takeaways from our analysis. First, regardless of age or race, sexual harassment is a form of discrimination that women must contend with in the labor market. Second, the occurrence of sexual harassment seems most prevalent in the early and mid-career years. This is particularly troublesome for women's economic prospects as these working years are critical for women's earnings and promotion opportunities later in their careers. Third, the experience of sexual harassment for older women highlights the need for education, policy and structural changes that are directed, at least in part, to the experiences of older women.

While the percentage of older women reporting sexual harassment is lower than it is for their younger counterparts, we are concerned that this reporting data may underestimate the occurrence of sexual harassment among older women in the workforce. A 2017 NBC/Wall Street Journal poll found that older women were less likely to report that they noticed sexual harassment in their workplaces as compared to their younger counterparts.[53] The poll found that among women 18 to 49 years old, 78 percent report that "sexual harassment happens in almost all or most workplaces."[54] In contrast, among women aged 50 or older, only 64 percent agree with the statement.[55] Further, when asked if they had "received an unwelcome sexual advance or other verbal or physical harassment of a sexual nature at work," 56 percent of women aged 18 to 34 said yes, in contrast to 41 percent of women aged 50 and older.[56] Many older women workers come from a generation where power dynamics were different than they are today. These women came of age when sexual harassment may not yet have been illegal or as openly discussed; sexist workplace cultures were often treated as the norm. In addition, many older women (particularly those in non-traditional occupations) may have been one of only a few women in their workplaces, thereby compounding the fears of retaliation or not being believed if they were to report sexual harassment, even after it became unlawful.

AAUW's analysis of the EEOC charge data illustrates that older women still experience harassment in the workplace. Experiencing sexual harassment later in one's career could drive older women out of the labor market earlier than anticipated, thus negatively impacting their economic security in retirement years. In addition, new research has found that older women are also more likely to refuse to report sexual harassment, perhaps indicating that existing data actually *underreport* the reality of older women's lives. In her analysis of Wisconsin Longitudinal Study data, Deborah Carr found that older women (along with women in blue-collar occupations, high-school dropouts and part-time workers) were likely to conceal their experiences of harassment.[57] Carr notes that some evidence suggests that women born in the 1930s and 1940s were socialized to believe that inappropriate sexual attention was simply expected behavior from men in the workplace, and not harassment.[58] Moreover, she suggests that some older women may not have had the vocabulary to characterize their experiences as harassment or felt they would not be believed if they reported such behavior.[59] The prevalence of sexual harassment for older women may be greater than we are identifying via our EEOC data analysis. As such, we conducted a survey of AAUW members and their networks to dig more deeply into older women's experiences with sexual harassment in the workplace and to gain a more nuanced understanding of the cumulative impacts of sexual harassment as women age. ♦

NEGATIVE OUTCOMES OF WORKPLACE SEXUAL HARASSMENT AND THE LONG-TERM IMPACTS FOR WOMEN'S CUMULATIVE ECONOMIC SECURITY

In this section we detail some of the immediate consequences of sexual harassment on workers, as well as the cumulative economic and psychological impacts that can continue throughout a worker's lifetime. Using original survey data collected by AAUW, as described in the Methodology Section, we have highlighted stories about the effects of sexual harassment. Our analysis found that a significant proportion of respondents experienced some form of sexual harassment during their careers. Eighty-six percent of respondents reported at least one form of sexual harassment: with 12 percent reporting experiences of sexual coercion, 61 percent reporting unwanted sexual attention and 65 percent reporting sex-based harassment.[60] The prevalence of sexual harassment is striking. Since the median age of our survey respondents was 64, we are in the unique position of asking older respondents to reflect on the impact of these experiences on their lives, careers and economic security.

MENTAL AND PHYSICAL HEALTH

> *"My dean consistently made gender-based jokes and put-downs to me and to other women faculty in private and public meetings. The impact has been profound: insomnia, anxiety, depression. Very negative effects on my career."* – *Susan, 55*

Multiple studies indicate that sexual harassment has serious negative mental health effects on workers, as well as witnesses and bystanders.[61] According to a recent meta-analysis, women who have experienced sexual harassment report severe and long-lasting mental health outcomes, such as symptoms of depression and post-traumatic stress.[62] In one response to our survey, a woman describes the period following an incident of sexual harassment, when she continued to work with the harasser, as "a year of nightmares and anxiety attacks each time [the harasser and I] crossed paths, and my guard being constantly up." Further research has found that the more severe or frequent the sexual harassment, the more it leads to

serious consequences for employees' mental health.[63] Sexual harassment has also been linked to a higher risk of long-term negative physical health effects, both direct and indirect, as a consequence of negative mental health outcomes.[64] The destructive impact sexual harassment has on health and well-being can last for years after the incidents.[65] In addition, sexual harassment can create a distracted and dangerous work environment where workplace accidents are more likely to occur, putting the target, the harasser and bystanders at increased risk for physical injury.[66] One woman from AAUW's survey recalled that the harassment had both negative impacts on her career, as well as her safety: "[t]he harassment carried over into vandalism of my car and home. [I was] blacklisted in the...industry."

RISKING RETALIATION FOR REPORTING

> *"I was 'encouraged' to find employment elsewhere and told my reporting would reflect badly on me."* – *Ramona, 49*

> *"Reporting would have labeled me as 'a trouble-maker' and I would have lost much support."* – *Nora, 85*

It has been estimated that up to 75 percent of workers who reported harassment experience retaliation from their harasser, employer or colleagues.[69] Retaliation is often thought of as termination for reporting harassment to authorities, but it can take many forms. Employees who report may face even harsher harassment or verbal and physical abuse, increased disciplinary action, unfairly low performance evaluations, or denial of promotions and raises. Retaliation can also take the form of being transferred to less desirable positions, being subject to increased surveillance and scrutiny, getting ostracized by coworkers, or being the object of rumors and generally making the survivor's work life difficult.[70] For example, one of our survey respondents described being encouraged to leave her job after reporting sexual harassment:

> *The director of my department...ask[ed] me inappropriate questions about my sex life with my husband. He then progressed to touching me, followed by suggestions that if I did what he wanted I had a promising future at the company. He kept this up until I reported it to HR at the urging of my immediate manager. After that, they took steps to protect him and suggested I might be healthier finding a job elsewhere.* – *Margaret, 49*

STUDIES SHOW THAT THE DESTRUCTIVE IMPACT OF SEXUAL HARASSMENT ON A WOMAN'S HEALTH AND WELL-BEING CAN LAST FOR YEARS AFTER THE INCIDENTS.

Heather Mclaughlin, Christopher Uggen and Amy Blackstone's analysis of longitudinal data from the Youth Development Study found that sexual harassment in one's early career "knocks many off course" during this career stage and can negatively shape career trajectories.[67] For instance, one woman reported that, as a result of sexual harassment: "I ended up temping for quite a while, in part because it made it easier to leave an uncomfortable job. This changed my planned career path." Taken together, the mental health risks are associated with increased economic risk as women take time out of the labor market to contend with their well-being or leave jobs completely. All of these negative mental and physical health effects impact job performance and morale and lead to significant costs for both women individually and the health care system that serves them.[68] This is particularly problematic for women who do not have access to paid sick days or other paid leave programs, compounding an already economically precarious situation.

While it is illegal to retaliate against employees who complain about underlying discriminatory behavior, individuals can find themselves in a no-win situation. If they do report, the harassment may not be taken seriously, they may be labeled a "problem employee," or they may face retaliation from employers and fellow workers. If they don't report, many targets of harassment will suffer in silence or leave. One respondent felt that telling someone about her experience would have just made life harder: "Reporting would have labeled me as 'a troublemaker' and I would have lost much support."

These stories are echoed throughout our survey findings. Over half (59 percent) of the respondents who experienced sexual harassment did not report their experiences to their employers, the EEOC, the police or the media. For some of the women in our survey who experienced harassment earlier in their careers, they felt that the cultural climate at the time was not conducive to anyone taking their experiences seriously. As one woman reflected: "It happened early in my career (I'm 73 now) and at that time it was something you should expect, and reporting was not an option. My best friend was the Director of Human Resources and she told me not to bother because nothing would be done." Another noted, "The harasser was my boss. I really did not know who to report to. And it was 1982. Not much support then." Several women voiced a similar sentiment. One woman noted how embedded in the work culture sexual harassment was. As she stated: "It was 1977. It was common practice. I thought it was gross; others thought it was funny."

A sexist work culture creates an environment where women believe that reporting sexual harassment will be more detrimental to them than to the harasser. For instance, one woman reported that, "at the time I believed—and it is likely accurate—that reporting the events and issues would have hurt my advancement." Other women felt that, even if they did report, there would be no resolution or punishment for the harasser. As one woman stated: "The people who harassed [a] young woman at the company I worked for were all friends with our president and CEO. Their kids played sports together…they drank together… They had been reported before and nothing had been done. Adding my voice to the mix wouldn't have helped." Similarly, another woman said: "I didn't want to cause a stir. The company was large, but our office was small, and it would not have been kept private." The fear of retaliation that would negatively impact their wages and career advancement played a significant role in women's reluctance to report sexual harassment.

ECONOMIC SECURITY AND THE LONG-TERM IMPACTS OF SEXUAL HARSSMENT

> *"The harassment included comments about my body, sexual advances and groping. I couldn't report it because it came from the top down. But it definitely contributed to me changing [and] taking a lesser paying job four months later."* – *Lynn, 34*

In the analysis of our own survey, 38 percent of the respondents who reported experiencing harassment said that the experience contributed to their decision to leave their position or job before they would have otherwise. In addition, 37 percent of the respondents reported that the patterns of sexual harassment they faced disrupted their advancement in their job. According to a recent paper, job loss and subsequent income insecurity is one of the most devastating economic effects of workplace sexual harassment during the early and middle stages of a woman's career.[71] The study found that women who report experiencing sexual harassment are over six times more likely to leave their jobs prematurely when compared to women who do not report experiencing sexual harassment.[72] Another study on academic environments found that women who experience harassment may leave their institutions or their fields entirely, which can impede or halt their career trajectories.[73] Targets of sexual harassment may also cut down hours or retreat within their positions, which can also result in lost wages and economic instability.[74] Even a short time out of the

workforce can negatively impact women's pay. Sexual harassment is a distinctly gendered issue, so time out of the workforce due to sexual harassment and its consequences are not impacting men nearly as much as they are impacting women.[75]

• *The Gender Pay Gap and Sexual Harassment*

> *"In my current faculty position, I had to fight retaliation by more than one man, and this resulted in my not getting promoted to associate professor for an additional 7 years, which represents an approximate $40,000 of lost income."* – *Anna, 61*

The negative consequences of sexual harassment can have a ripple effect, impacting women's earnings throughout their careers, their income in retirement and their poverty levels. When women leave a job due to sexual harassment, they often to move to a job of lower quality or with lower pay.[76] Given its prevalence, sexual harassment cannot be ignored as a possible contributor to the pay gap, which widens over the course of women's careers. According to recent Census Bureau data, a typical woman working full time aged 20 to 24 is being paid 11 cents less on the dollar than a man of the same age, but by the time a woman is 55 years old, that number jumps to 25 cents less on the dollar than a man of the same age.[77] One woman from our survey who had achieved two degrees and several certifications over the course of her career, said that "[i]nstead of moving up … each new move was at a lower pay rate, and the working environment was worse than the company before it." And when women earn less money, they contribute less into Social Security, pension plans and retirement savings accounts. As a result, in 2018, women had 30 percent less retirement income than men.[78]

In addition, older women are also face the early effects of "gendered ageism." Research indicates that women start to face age discrimination as early as age 35, largely in the form of "lookism" and assumptions about women's roles in the workplace.[79] At the same time, around age 35, the gap between women and men's wages widens significantly, from 12 percent during ages 25 through 34, to 19 percent during ages 35 to 44.[80]

By contributing to the wage gap and diminishing labor market rewards, sexual harassment also can be a factor in women's poverty levels. According to recent Census Bureau data, women over 65 are 37 percent more likely to be living below the poverty line than men.[81] Disaggregating these numbers by race reveals even starker inequities. Hispanic women over 65 experience the highest rates of poverty (22.4 percent).[82] This is followed by Black women (19.7 percent), Asian women (12.8 percent) and white women (8.4 percent), all of whom experience higher rates of poverty than men within their own race, men overall (8.1 percent), and especially white men (6 percent).[83]

Finally, the unemployment, underemployment and lost wages caused by sexual harassment shrinks the overall economy. According to an original analysis by the Institute for Women's Policy Research, if women received equal pay, the U.S. economy would have produced additional income of $512.6 billion dollars, representing almost three percent of the 2016 gross domestic product.[84] In sum, sexual harassment can cause women to make less money throughout their careers; this diminishes women's retirement income, increases women's poverty rates and hurts the national economy.

• *Career Advancement: The Leadership Gap and Occupational Segregation*

> *"I was working as an office manager in a small business, and the boss/owner was the one harassing me. There was no one else to report it to. I ended up quitting."* – *Maria, 53*

Sexual harassment can make it difficult for women to get the training, mentorships and apprenticeships necessary to further their careers. In many professions, career advancement is dependent on on-the-job training and mentorship from more senior workers. If a workplace mentor is also a harasser, survivors of harassment may have to choose between their safety

and well-being or their careers.[85] Even if a woman chooses to remain on her career path, the effects can reverberate for many years if she continues to work in the same company or industry as her harasser. One respondent described being harassed at the beginning of her career, at age 24. After she confronted her harasser, the initial behavior stopped, but, she states: "This man held a grudge and talked me down over the next 18 years with male colleagues."

In academia, graduate students, post-graduate professionals and new professors are in vulnerable positions, often learning and working at the same time, with varying and sometimes insufficient protections under the law. In another example from our survey, a woman explained that, after she declined a sexual request from a "more senior colleague," the harasser "worked to make me fail in my tenure-track position. He did not succeed, but I was never able to undo the false rumors he spread about me or the marginalization." Similarly, a 2018 National Academies of Science, Engineering and Medicine study on sexual harassment in these academic fields found that graduate student women who experience sexual harassment face many negative subsequent career effects.[86] For example, women in a harassing academic environment may not participate in some of the informal activities offered on campus that could result in academic and career advancement. Women at the professor level interviewed for the study reported leaving leadership positions to avoid a harasser or being asked to step down from those positions after reporting their experience of harassment.[87]

Attempting to avoid a harasser can impede a woman's ability to get valuable on-the-job training and mentorship, either because she has to cut back her time on the job or because a potential mentor is the one doing the harassing. Lack of learning and mentoring opportunities is one of the main factors AAUW cites as reasons for the "leadership gap" – the difference between men and women leaders in the workforce overall or in a particular field.[88] In our report, *Why So Few? Women In Science, Technology, Engineering and Mathematics (STEM)*, we chronicled how environmental and social factors such as stereotypes, gender bias and workplace climate block women's progress in STEM fields.[89] While women represent nearly half of the workers in private industry, they represent only 30 percent of senior leadership.[90] When disaggregated by race, white women account for most of the women in these positions.[91] Nonprofit and academic sectors follow a similar pattern. Although the average person in senior leadership across industries is in their mid to late 50s, women 55 and over are less likely to be in leadership positions than men of the same age.[92] Nonprofit and academic sectors follow a similar pattern. The AAUW report *Broken Ladders: Barriers to Women's Representation in Nonprofit Leadership* found that, while women make up a significant portion of the workforce, they are underrepresented in top leadership.[93] For example, in 2016, only about 30 percent of campuses had college presidents who were women.[94] And in our nation's nonprofit sector, women make up just 22 percent of chief executives at the 2,200 nonprofit organizations with annual budgets of at least $50 million.[95]

THE NEGATIVE CONSEQUENCES OF SEXUAL HARASSMENT CAN HAVE A RIPPLE EFFECT, IMPACTING WOMEN'S EARNINGS THROUGHOUT THEIR CAREER.

The impact of sexual harassment can also impede women's career attainment by perpetuating occupational segregation, the tendency for women to be concentrated in different and lower-paying fields, professions and subspecialties. In many high-paid, male-dominated fields, women experience hostile or harassing environments. Being pushed out of these

jobs can exacerbate occupational segregation in these fields.[96] According to a study conducted by the U.S. Census Bureau, one-third of women in the labor force 55 and older worked in only ten occupations.[97] The majority of the occupations are in the lower paying fields, like retail salespersons, housekeepers, cashiers and medical aides.[98]

• *Retirement Security*

Time away from work, job loss and subsequent loss of wages can have devastating effects on retirement security. During the pre-retirement ages of 50 to 64, men have 1.5 times the wealth of women in the same age group, which means women have less of a financial cushion to start retirement.[99] Once women retire, they are more likely to rely on retirement income and to be living in poverty than retired men. Recent Census data show that women have only 70 percent of the retirement income that men have, suggesting that the pay gap affects women's economic security now and in the long term.[100] Women's economic standing becomes significantly more precarious as they age: While women between the ages of 55 and 59 are 11 percent more likely to be living in poverty than their male counterparts, that number jumps to 37 percent for women over 65.[101] One impact of sexual harassment that women reported to us was that they had to leave the workforce earlier than they had anticipated. One woman shared: "After almost 20 years of success based on concrete accomplishments, I was subjected to ongoing public demeaning and humiliation, stripped of most of my responsibilities and essentially forced to retire." Of course, having to "retire" by circumstance instead of choice often comes with a financial penalty.

To make matters worse, studies suggest that retirement-age women (over 65) face "gendered ageism" in hiring. A recent experiment, using the largest resume correspondence survey to date (40,000 resumes), found that women are much more negatively affected by age discrimination than men.[102] While callback rates for women aged 64 to 66 (12 percent) were significantly lower than for women aged 29 to 31 (19 percent), older men did not seem to have lower callback rates than younger ones.[103] So, even though retirement-age women are more likely to need extra income to make ends meet, finding a job to provide that income may be more difficult. This compounds the economic impact of sexual harassment.

The connection between sexual harassment and retirement insecurity is often overlooked. When women leave their jobs earlier than anticipated because of workplace harassment, it may diminish their income, as well as interrupt their contributions to retirement savings programs. ♦

CONCLUSION

Sexual harassment is a systemic problem in American workplaces. This report highlights older women, an understudied group in sexual harassment research and policy. Using EEOC data and our own survey of AAUW members and networks, we were in the unique position to not only document EEOC charges by age, race and sex; but to also describe the cumulative impacts of sexual harassment over women's lifetimes.

Throughout this report, we demonstrate that sexual harassment remains a problem for women throughout their entire careers. Older women both experience and report sexual harassment. In addition, using qualitative data from our survey, we found that sexual harassment has long-term effects on women's mental health and economic security. These cumulative effects amplify the discrimination that women experience throughout their lifetimes. ♦

RECOMMENDATIONS

To truly root out workplace harassment we need to update employment policies, strengthen federal and state laws and change societal attitudes. The following are actions that individuals, employers and policymakers can take to reduce the incidence of and improve responses to sexual harassment.

INDIVIDUALS

It is important for individuals to understand sexual harassment and to know their legal rights and exercise them when necessary. AAUW's *Know Your Rights: Employee Guide* is a helpful resource.[104] The first thing every employee should do is consult their employee handbook or policies. If an individual begins experiencing harassment, they should keep meticulous records—putting complaints in writing and taking contemporaneous notes on the harassment. Specificity is essential. For example, notes should include the time and place of each incident, what was said and done, and who witnessed the actions. An employee can even document their own work productivity while the incident(s) occurred or after. If they feel comfortable, they should tell their supervisor about the behavior and the steps they have taken to address it. If they do not feel comfortable speaking with their supervisor directly, they should report the behavior to the human resources department or the person responsible for workplace complaints. While going through these processes, individuals should consider confiding in family and friends, as they will need a support system in place to validate their experiences and to encourage them. Bystander coworkers can also serve as allies for those who are going through this process.

Individuals should also consider contacting the EEOC. Even if they do not want to pursue a charge, they can speak to an EEOC counselor for insight and resources. If they do decide to file a discrimination charge with the EEOC, even without an attorney, they must do so within 180 calendar days from the date of the discriminatory activity. The 180-day filing deadline is extended to 300 calendar days if a state or local agency enforces a state or local law that prohibits employment discrimination on the same basis. The EEOC's website offers more information on filing a charge.[105]

EMPLOYERS

Employers must take active steps to create a harassment-free environment that does not punish employees for reporting. AAUW also offers a *Know Your Rights: Employer Guide*, which includes recommendations for creating healthy working environments.[106] The EEOC has also published a robust set of recommendations for employers, as well as for agency enforcement purposes.[107]

The first step each employer should take is to create a well-defined sexual harassment policy that includes examples of prohibited behavior. Employers should incorporate the policy into the employee handbook and regularly train and engage employees and supervisors alike. The EEOC notes that this policy should be based not on compliance, but rather on a commitment to diversity and inclusion.[108] It further reminds employers that anti-harassment policies should be comprehensive and prohibit harassment based on any protected characteristic.[109] Employers should create a complaint procedure that identifies HR professionals designated to document and investigate complaints, and explain this process to employees.[110]

This process should be "multi-faceted, offering a range of methods, multiple points-of-contact, and geographic and organizational diversity where possible, for an employee to report harassment."[111] These policies must also empower bystanders by providing trainings that give employees the skills necessary to intervene when appropriate and report harassing behavior.[112] This will help to create a culture where all employees are invested in maintaining a workplace climate that is free from discrimination.

Another important aspect of creating a healthy workplace culture is conducting regular, anonymous climate surveys to ascertain the existing workplace culture and to identify potential areas for growth for the employer.[113] Additionally, employers must model good behavior and require that leadership at all levels be trained and exemplify a culture that is inclusive and values employees.[114] Leadership and accountability move from the top down, beginning with senior management and continuing through to midlevel managers and direct supervisors, who are key to establishing and enforcing acceptable behavior at work.

Finally, with respect to helping address the impact of workplace harassment on pay, employers should adopt policies that help address pay disparities, including conducting regular pay audits, adopting policies making salary ranges more transparent, eliminating the use of salary history to set wages and prohibiting retaliation against employees for discussing, disclosing or inquiring about their wages.

POLICYMAKERS

Eliminating sexual harassment in the workplace will require both a shift in cultural norms and updates to our current federal and state laws. Our laws must accurately reflect the way sexual harassment functions in the workplace, thereby better preventing and addressing it. This means tackling the problem from different angles and thinking creatively about how harassment influences people's lives and how those realities interact with the law. It also means policies must cover all forms of workplace harassment, not just sexual harassment, to be as effective as possible. For purposes of this report, we focus on policies that specifically address workplace harassment and pay discrimination, but lawmakers should consider a wide range of solutions.

• *Federal Policy*

Legislation that tackles workplace harassment in a comprehensive way must include a number of provisions to protect workers and fix overly narrow standards created through problematic case law. This includes addressing the particular challenges that older workers face when they experience harassment. For example, policymakers should codify strong anti-retaliation provisions, prohibit non-disparagement and non-disclosure agreements unless requested by the employee, ban pre-dispute mandatory arbitration, expand protections to cover all employees, institute strong penalties and eliminate caps on damages awarded to workers who have experienced discrimination.

To specifically address harassment of older workers, policymakers must also fix harmful legal precedent that restricts an employee's ability to prove age discrimination. In *Gross v. FBL Financial Services*,[115] the Supreme Court held that an employee must show that age is the sole cause of the adverse employment action. A strong legislative response to this misguided decision would modify this standard and allow employees to show that age was a motivating factor in any adverse employment decision, even if it was not the *only* motivating factor.

Members of Congress have introduced a number of bills that would address the issues raised in this report. The Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination (BE HEARD) Act[116] would ensure all workers can do their jobs without fear of harassment by building on existing civil rights laws to provide new protections for workers, while also safeguarding existing discrimination laws. The Protecting Older Workers Against Discrimination Act, which is also contained in the BE HEARD Act, addresses discrimination faced by older workers in the workplace and would restore fairness and well-established legal standards on workplace discrimination.[117] Specifically,

it would fix the *Gross v. FBL Financial Services* decision and allow for age to be a contributing factor to any adverse employment actions, among other protections. In addition, the EMPOWER Act[118] would take a number of steps to increase transparency and training in the workplace, making it less difficult for employees to come forward and report inappropriate behavior. Policymakers should also require workplaces to institute prevention strategies and trainings and to support research and data collection, in order to understand how harassment works and to prevent it from happening in the first place.

Since older workers are particularly impacted by the effects of harassment on their paychecks and the compounding of the gender pay gap over time, policymakers should also work to curb pay inequality. There are a host of provisions that combine to create a comprehensive pay equity bill, but to specifically address the consequences of workplace harassment on older workers, lawmakers should: put anti-retaliation provisions in place; enact bans on the use of salary history in the hiring process; eliminate the tipped minimum wage; and address occupational segregation by updating legal standards to compare equivalent work and putting mechanisms in place to guide pay adjustments. Additionally, laws should include robust penalties and remedies and require data collection and publication that shed light on these issues. The Paycheck Fairness Act[119] would take steps towards this goal by updating and strengthening the Equal Pay Act of 1963 to ensure that it provides effective protection against sex-based pay discrimination in today's workplace. In addition, the Fair Pay Act[120] would curb occupational segregation by requiring employers to provide equal pay for work of equivalent value. This legislation would ban paying workers less based on their sex or race than they do workers in equivalent jobs that are predominately filled by workers of a different sex or race.

• *State Policy*

Many states are working to pass strong bills designed to stop workplace harassment and close the gender pay gap. For example, in 2018 and 2019, Maryland[121] enacted a law that extends protections from workplace harassment to all employers, regardless of size; Virginia[122] made it illegal for employers to require employees to sign a nondisclosure agreement that would cover up the details of a sexual assault; and California[123] passed laws creating robust training requirements. During the same time period, Colorado[124] enacted a law that prohibits the use of salary history in the hiring process while also requiring that employers post salary ranges in job postings; Nevada[125] instituted higher fines and more robust damages to deter employers from engaging in pay discrimination and make wronged employees whole; and New York[126] modified their legal standard to require equal pay for substantially similar work and cover a range or protected classes beyond just sex. Other states should follow their lead in passing bills designed to stop workplace harassment and close the gender pay gap. ♦

FOOTNOTES

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[9] *Id.*; *see also Vance v. Ball State University*, 570 U.S. 421, 424, 431-32 (2013) (narrowing the definition of "supervisor" to a person who can take "tangible employment action against the victim," meaning hiring, firing, failing to promote or similar).
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[30] 42 U.S.C. § 2000e-5(e)(1). This extends to 300 days for those living in states with Fair Employment Practices Agencies ("FEPAs").
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[32] *Brooks*, 229 F.3d at 921-23.
[33] *Id.* at 923, 925-26.
[34] *See e.g.*, H.R. 2148, Sec. 204, 116th Cong. (2019)
[35] *Vance v. Ball State University*, 570 U.S. 421, 424 (2013).
[36] *Id*., *see also Nat'l Women's L. Center, supra* note 29 at 3.
[37] *See Gross v. FBL Financial Services, Inc.*, 557 U.S. 167, 175 (2009).
[38] *See Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 360 (2013).
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APPENDIX A: OCCUPATIONAL RISK FACTORS AND SEXUAL HARASSMENT

While sexual harassment experiences cross occupational lines, the EEOC has well documented that certain occupations and working conditions put women at greater risk.[1] This appendix discusses some of the factors in more detail to provide additional context for the prevalence of sexual harassment.

Workers in service and sales jobs like those in restaurants, retail stores and hotels report sexual harassment to the EEOC at significantly higher rates than many other sectors.[2] According to AAUW's analysis of the full service restaurant industry, women ages 25 to 34 were the most likely of any age group to report sexual harassment to the EEOC.[3] Those working in these sectors are at high risk because they may be working for sub-minimum-wage tipped wages.[4] Tipped workers in the food service industry are especially vulnerable to harassment, particularly when their compensation is tied to customer satisfaction, because workers may feel compelled to tolerate harassing behavior for fear of losing tipped wages. Workers in the service industry are often expected to treat customers as "always right," making it difficult to rebuff unwanted sexual advances or seek formal redress when harassment happens.[5] This power dynamic that results from the sub-minimum tipped wage is a major reason for the prevalence of sexual harassment in the restaurant industry.[6] They are also at the mercy of shift managers or other superiors that control their work schedules and other parts of their jobs. Tipped women restaurant workers who earn a guaranteed wage report half the rate of sexual harassment as those women workers in states with a sub-minimum wage, likely because the former do not have to accept inappropriate behavior to guarantee an income.[7]

Tipped workers are not the only ones who are vulnerable to sexual harassment. A homogeneous workplace (based on sex and/or race) is also a major risk factor. Workplaces with high degrees of occupational segregation by race or sex are often correlated with higher levels of sexual harassment. This is particularly problematic for women's long-term economic security, as male-dominated occupations often offer higher pay. Experiencing sexual harassment can deter women from nontraditional fields and potentially push them into lower-paying work. And when women are forced out of a position by harassing behavior, that not only hurts them, but contributes to a lack of diversity in the workplace. This can create a cyclical effect: women leave workplaces or fields rampant with harassment, leading to fewer women and the reinforcement of the homogeneity that creates a fertile ground for harassment in the first place.

Women in nontraditional occupations (those that are historically and predominately male) report

higher levels of sexual harassment than women in traditionally female fields. A 2017 PEW survey found that 62 percent of the women who work in male-dominated industries reported that sexual harassment is a problem in their industry. In contrast, 46 percent of women working in female-dominated industries reported that sexual harassment was a problem in their fields.[8] A 2018 report of the National Academies found that women pursuing careers in academia or as scientific researchers also encounter unwelcoming and hierarchical environments.[9] According to a recent survey from Westat and the Association of American Universities, one in 10 women graduate students at major research universities reports being sexually harassed by a faculty member.[10] A recent paper analyzing over 300 cases of sexual harassment by faculty members found that most of the cases in this study involved allegations of faculty engaging in unwelcome physical contact.[11] Additionally, more than half (53 percent) of cases involved allegations of serial sexual harassment.[12] Other recent studies have found that as many as 38 percent of women graduate students report sexual harassment from a faculty or staff member, while 58 percent report experiencing sexual harassment by a classmate.[13] These findings suggest that sexual harassment is not a problem of isolated events, but something embedded in the graduate departments and the university workplaces responsible for helping young women start their careers.

And as AAUW research has documented, the senior leadership in America's universities is overwhelmingly male and white. In our report *Broken Ladders*, we found that, while women make up the majority of nontenure-track lecturers and instructors across institutions, they represent only 44 percent of tenure-track faculty and 36 percent of full professors.[14] Senior faculty are often recruited for positions in administration, so it is unsurprising that college leadership shows severe female underrepresentation at the top, despite efforts to close the gap. Though more than half of academic department heads are now comprised of women, college presidents are women on only about 30 percent of campuses.[15]

There are other male-dominated occupations where women face heightened risk of sexual harassment. Women in the building trades, for instance, are vulnerable to a variety of forms of sexual harassment. A 2015 report found that 30 percent of all women and 37 percent of LGBT trades workers reported frequent harassment.[16] And a 2014 RAND study found that sexual harassment is also prevalent in the military: 26 percent of active duty military women reported experiencing sexual harassment or gender discrimination over the year of the study.[17] ♦

APPENDIX B: METHODOLOGY

AAUW's Analysis of EEOC Charge Data

Accurate and detailed statistics about the prevalence of sexual harassment can be difficult to obtain due to the understandable reluctance of many people to report that harassment. But one source of information is the charges made to the EEOC. In 2017, reporter Lam Thuy Vo of *Buzzfeed News* obtained more than 20 years' worth of data (1995-2016) from the EEOC on sexual harassment charge receipts. These receipts included anonymized information on the person filing the charge, as well as the industry in which they were working. In addition to their reporting on sexual harassment across industries, Vo and *Buzzfeed News* made the full data publicly available via *https://github.com/BuzzFeedNews/2017-12-eeoc-harassment-charges.* This is the source of AAUW's analysis of sexual harassment charges.

Because sexual harassment charges must be filed within a relatively short time period after the alleged incident or pattern of behavior, AAUW calculated age at time of the harassment by comparing the date of intake of the charge and the birth dates of people making complaints. Of over 170,000 sexual harassment charges, about 149,000 contained information on both the age and gender of the person submitting the charge.

In addition, we note that while the *Buzzfeed News* article uses terms like charge, claim and complaint interchangeably, throughout the report we refer to charges when we report on the data pursuant to the EEOC files.[18]

Detailed Notes on How EEOC Data Were Handled

In many of the EEOC records, data were incomplete. In other cases, data were clearly inaccurate, as for example when the recorded date of birth (DOB) for the person filing a charge was listed as being in the year 1066, or only a few years before the charge occurred, or in the future. For the purposes of our analysis and breakdown by age, all charge with missing DOBs, recorded DOBs before 1912, and recorded DOBs where the person filing the charge would supposedly have been under age 16 at the time of the charge, were excluded from the analysis.

As with DOB, race and ethnicity data were incomplete, as many people filing the charges declined to disclose their race, or data were missing entirely. Race and ethnicity information was also contained in multiple variables, some of which were made obsolete during the time period covered. We followed common guidelines on approaching race and ethnicity data to create a single race and ethnicity variable. Our analysis coded people submitting charges as Hispanic if they were coded as Hispanic in the variable Hispanic_CP, or as having Cuban, Mexican, Puerto Rican, Salvadoran, "Hispanic" or "Other Hispanic" origin in the variable CP_National_Origin. Those who selected only a single race in the variable CP_RACE_STRING were coded appropriately as White, Black or African American, Native Hawaiian or Other Pacific Islander, and American Indian or Alaska Native. We combined those who selected

"Asian" with those who selected "Asian or Pacific Islander" in earlier years of data collection. Those whose race was listed as Other were coded as Other, while those who reported more than one race but were not identified as Hispanic were classified as "More Than One Race." Those with missing data or who declined to disclose were coded as such. This breakdown yielded the number of charges by race and ethnicity, the total for which exceeds the total number of charges broken down by age as a result of missing or inaccurate DOB data.

AAUW Survey Data

AAUW asked for input from our members and their networks about their experiences with workplace sexual harassment in the form of a survey. During the summer and fall of 2018, using snowball (nonrandom) sampling, 311 people told us about their experiences with workplace sexual harassment and how those experiences have impacted their careers. In particular, we asked what type(s) of harassment participants had experienced, whether or not the harassing behaviors had impacted their career advancement, whether or not they had reported the experiences and why or why not. Although the survey is not nationally representative, we believe that these qualitative data provide important insight into workplace sexual harassment, as well as its impact on women's careers. In order to protect the confidentiality of our respondents, we have used pseudonyms when respondents are referred to by a name in the report. Some of the quotes from the qualitative data have been edited for grammatical reasons. Our edits have not altered the content of what was reported. ♦

The following represent the key demographics of our sample.

Demographic Characteristics of AAUW Sample (N=311)

Gender Identity*	
Man	2
Woman	293
Transgender	0
Nonbinary or genderqueer	2
Missing	17
Race/ethnicity*	
American Indian or Alaska Native	7
Asian	11
Black or African American	13
Hispanic or Latino/a	11
White	263
Missing	19
Sexual Orientation*	
Straight or heterosexual	270
Gay, lesbian or homosexual	4
Bisexual	18
Other	1
Missing	18
Highest salary in work history/career (median)**	$74,500
Highest Level of Education	
PhD	44
Professional Degree	25
Masters	132
Bachelor's Degree	69
Some College	8
Associate Degree	9
High School	3
Missing	21
Median Age	64

Notes:
* Respondents could select more than one response.
** Respondents were asked for their highest salary or rate of pay attained in their career/work history.

APPENDIX FOOTNOTES

[1] *Chart of Risk Factors for Harassment and Responsive Strategies,* U.S. Equal Emp't Opportunity Comm'n, https://www.eeoc.gov/laws/types/harassment.cfm.
[2] Lam Thuy Vo, *We Got Government Data On 20 Years Of Workplace Sexual Harassment Claims. These Charts Break It Down*, BuzzFeed News (Dec. 5, 2017, 12:16 PM), https://www.buzzfeednews.com/article/lamvo/eeoc-sexual-harassment-data.
[3] AAUW analysis of BuzzFeed News data, *supra* note 2.
[4] Chai R. Feldblum & Victoria A. Lipnic, Select Task Force on the Study of Harassment in the Workplace, U.S. Equal Emp't Opportunity Comm'n (2016), https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm
[5] *Id.*; *see also* Laura Good & Rae Cooper, *'But It's Your Job to Be Friendly': Employees Coping With and Contesting Sexual Harassment from Customers in the Service Sector*, 23 Gender, Work & Org. 447 (2016).
[6] Feldblum & Lipnic, *supra* note 4.
[7] The Restaurant Opportunities Ctr. United, *The Glass Floor: Sexual Harassment in the Restaurant Industry* 2–3 (2014), http://rocunited.org/wp-content/uploads/2014/10/REPORT_The-Glass-Floor-Sexual-Harassment-in-the-Restaurant-Industry2.pdf.
[8] Pew Research Center, *Majority of Women in Male-Dominated Workplaces Say Sexual Harassment is a Problem in Their Industry* (March 7, 2018), https://www.pewresearch.org/fact-tank/2018/03/07/women-in-majority-male-workplaces-report-higher-rates-of-gender-discrimination/ft_18-03-07_genderimbalance_majorityofwomen/.
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[10] Cantor *et. al.*, *supra* note 9.
[11] Nancy Chi Cantalupo & William C. Kidder, *A Systematic Look at a Serial Problem: Sexual Harassment of Students by University Faculty*, 2018 Utah L. Rev. 671 (2018).
[12] *Id.*
[13] Marina N. Rosenthal, Alec M. Smidt, & Jennifer J. Freyd, *Still Second Class: Sexual Harassment of Graduate Students*, 40 Psychol. of Women Q. 364, 364-377 (2016).
[14] AAUW, Broken Ladders: Barriers to Women's Representation in Nonprofit Leadership 2 (2018), https://www.aauw.org/aauw_check/pdf_download/show_pdf.php?file=women-in-leadership.
[15] *Id.*
[16] Ariane Hegewisch & Bridget O'Farrell, *Women in the Construction Trades: Earnings, Workplace Discrimination, and the Promise of Green Jobs*, (Inst. for Women's Pol'y Res. 2015), https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/C428-Women%20in%20Construction%20Trades.pdf.
[17] Andrew R. Morral, Terry L. Schell, Matthew Cefalu, Jessica Hwang & Andrew Gelman, *Sexual Assault and Sexual Harassment in the U.S. Military* (Rand Corporation 2018), https://www.rand.org/pubs/research_reports/RR870z7.html.
[18] For a detailed discussion of the data set we use for our analysis, *see* the Readme file for the EEOC charge data compiled by Buzzfeed News at https://github.com/BuzzFeedNews/2017-12-eeoc-harassment-charges.

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