

United States Senate

WASHINGTON, DC 20510

December 14, 2017

Victoria A. Lipnic
Acting Chair
U.S. Equal Employment Opportunity Commission
131 M St. N.E.
Washington, D.C. 20507

Dear Acting Chair Lipnic,

We write today regarding the high levels of sexual harassment taking place in the food and hospitality industries, especially among tipped workers, and to request information on efforts currently underway at the U.S. Equal Employment Opportunity Commission (EEOC) to address this harassment.

The EEOC is tasked with enforcing federal workplace anti-discrimination laws and has the power to investigate discrimination charges that employees file with the commission.¹ Each year, the EEOC receives thousands of complaints alleging workplace harassment. In fiscal year 2016 alone, the Commission received 91,503 complaints, 26,934 of which alleged discrimination on the basis of sex.² Nearly 50% of sex discrimination complaints (12,860) involved sexual harassment.³

Sexual harassment is pervasive throughout the United States, and it does not discriminate by industry: workers in the health care, manufacturing, mining, construction, agricultural, and information technology industries—among others—have experienced and reported sexual harassment to the EEOC.⁴ Yet EEOC data shows that the “accommodation and food services” industry—including restaurants and the hospitality industry—is particularly rife with harassment.

From fiscal years 2005 to 2015, complaints from accommodation and food services workers accounted for 14.2% of all sexual harassment allegations filed with the EEOC.⁵ One survey of restaurant workers found that “60% of women and 46% of men found sexual

¹ U.S. Equal Employment Opportunity Commission, “Overview” (online at <https://www.eeoc.gov/eeoc/index.cfm>).

² U.S. Equal Employment Opportunity Commission, “EEOC Releases Fiscal Year 2016 Enforcement and Litigation Data” (January 18, 2017) (online at <https://www.eeoc.gov/eeoc/newsroom/release/1-18-17a.cfm>).

³ U.S. Equal Employment Opportunity Commission, “Charges Alleging Sex-Based Harassment (Charges filed with EEOC) FY 2010- FY 2016).

⁴ Jocelyn Frye, “Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment Across Industries Affects All Workers,” *Center for American Progress* (November 20, 2017) (online at <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>).

⁵ Jocelyn Frye, “Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment Across Industries Affects All Workers,” *Center for American Progress* (November 20, 2017) (online at <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>).

harassment to be an uncomfortable aspect of the [restaurant] work environment.”⁶ Another survey of Chicago hotel and casino workers found that 49% of hotel workers had “experienced a guest answering the door naked or otherwise exposing himself,” while 65% of cocktail servers reported that “a guest had touched or tried to touch them without permission.”⁷ And in recent weeks, numerous hotel⁸ and restaurant workers⁹ have reported instances of sexual abuse in the press.

Data show that workers who rely on tips—over 60% of which are women, and 40% of which are people of color—are particularly susceptible to sexual harassment.¹⁰ According to the EEOC’s Select Task Force on the Study of Harassment in the Workplace (Select Task Force), of which you were a member, “workplaces where an employee’s compensation may be directly tied to customer satisfaction or client service” is a “risk factor” for workplace harassment. Tipped workers, for example, “may feel compelled to tolerate inappropriate and harassing behavior rather than suffer the financial loss of a good tip.”¹¹

Some evidence also suggests that tipped workers who are paid less than the minimum wage¹² experience harassment at higher rates than tipped workers paid the standard minimum wage. According to the Restaurant Opportunities Centers United, female restaurant workers living in states that permit the use of the sub-minimum wage for tipped workers are “twice as likely to experience sexual harassment as women in states that pay the same minimum wage to all workers,” and “[a]ll workers [in the restaurant industry] in states with a \$2.13 sub-minimum wage... reported higher rates of sexual harassment” than in states without the sub-minimum wage.¹³

Sexual harassment remains a persistent problem for American workers—particularly women and people of color. We appreciate the efforts of the EEOC in recent years, through its

⁶ Restaurant Opportunities Centers United and Forward Together, *The Glass Floor: Sexual Harassment in the Restaurant Industry* (October 7, 2014) (online at http://rocunited.org/wp-content/uploads/2014/10/REPORT_TheGlassFloor_Sexual-Harassment-in-the-Restaurant-Industry.pdf).

⁷ Dave Jamieson, “He was Masturbating... I Felt Like Crying”: What Housekeepers Endure to Clean Hotel Rooms,” *Huffington Post* (November 18, 2017) (online at https://www.huffingtonpost.com/entry/housekeeper-hotel-sexual-harassment_us_5a0f438ce4b0e97dffd3443).

⁸ Stephanie Zacharek, Eliana Dockterman, and Haley Sweetland Edwards, “The Silence Breakers,” *Time* (December 6, 2017) (online at <http://time.com/time-person-of-the-year-2017-silence-breakers/>).

⁹ Maura Judkis, “Rape in the storage room. Groping at the bar. Why is the restaurant industry so terrible for women?” *Washington Post* (November 17, 2017) (online at https://www.washingtonpost.com/lifestyle/food/rape-in-the-storage-room-groping-at-the-bar-why-is-the-restaurant-industry-so-terrible-for-women/2017/11/17/54a1d0f2-c993-11e7-b0cf-7689a9f2d84e_story.html?tid=ss_tw&utm_term=.b20462defaf0).

¹⁰ Restaurant Opportunities Centers United and Forward Together, *The Glass Floor: Sexual Harassment in the Restaurant Industry* (October 7, 2014) (online at http://rocunited.org/wp-content/uploads/2014/10/REPORT_TheGlassFloor_Sexual-Harassment-in-the-Restaurant-Industry.pdf).

¹¹ U.S. Equal Employment Opportunity Commission, Select Task Force on the Study of Harassment in the Workplace, *Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic* (June 2016) (online at https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf).

¹² National Employment Law Project, “Minimum Wage Basics: Overview of the Tipped Minimum Wage” (April 29, 2015) (online at <http://www.nelp.org/publication/minimum-wage-basics-overview-tipped-minimum-wage/>).

¹³ Restaurant Opportunities Centers United and Forward Together, *The Glass Floor: Sexual Harassment in the Restaurant Industry* (October 7, 2014) (online at http://rocunited.org/wp-content/uploads/2014/10/REPORT_TheGlassFloor_Sexual-Harassment-in-the-Restaurant-Industry.pdf).

Select Task Force and other initiatives, to combat the scourge of workplace harassment. To help us better understand the Commission's ongoing efforts to identify, investigate, and limit sexual harassment in the workplace, we request you provide us with the following no later than January 5, 2018:

1. A staff-level briefing on the prevalence of sexual harassment charges filed with the EEOC from industries with large numbers of tipped workers, including industries that commonly pay tipped workers the sub-minimum wage.
2. A list of the recommendations¹⁴ included in the final report of the Select Task Force that the EEOC has implemented since June 2016, or is in the process of implementing.
3. Details on the specific challenges the EEOC faces in identifying and investigating charges of sexual harassment among minimum wage and sub-minimum wage tipped workers, as well as a list of any legal or regulatory changes that could improve the EEOC's ability to combat sexual harassment in the hospitality and food service industries.

Please do not hesitate to contact Lindsay Owens of Senator Warren's staff at 202-224-4543, Nora Todd of Senator Brown's staff at 202-224-2315, or Avenel Joseph of Senator Markey's staff at 202-224-2742 with any questions or concerns.

Sincerely,



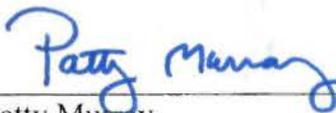
Elizabeth Warren
United States Senator



Sherrod Brown
United States Senator



Kirsten Gillibrand
United States Senator

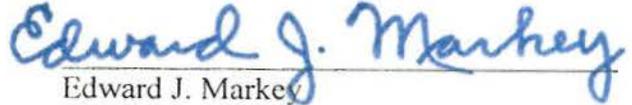


Patty Murray
United States Senator

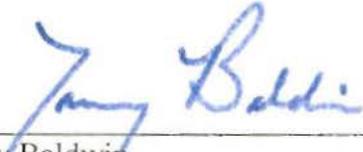
¹⁴ See U.S. Equal Employment Opportunity Commission, "Select Task Force on the Study of Harassment in the Workplace, Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic, Executive Summary and Recommendations" (June 2016) (online at https://www.eeoc.gov/eeoc/task_force/harassment/report_summary.cfm).



Robert P. Casey, Jr.
United States Senator



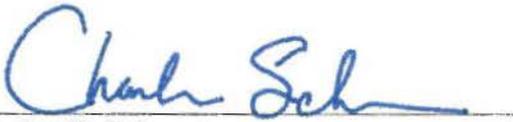
Edward J. Markey
United States Senator



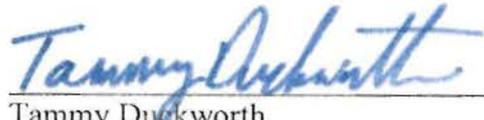
Tammy Baldwin
United States Senator



Cory A. Booker
United States Senator



Charles E. Schumer
United States Senator



Tammy Duckworth
United States Senator



Bernard Sanders
United States Senator



Jeanne Shaheen
United States Senator



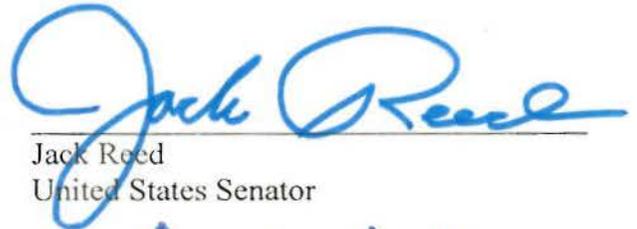
Mazie Hirono
United States Senator



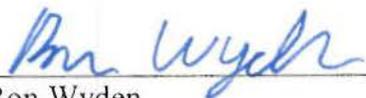
Margaret Wood Hassan
United States Senator



Kamala D. Harris
United States Senator



Jack Reed
United States Senator



Ron Wyden
United States Senator



Jeff Merkley
United States Senator



Dianne Feinstein

Dianne Feinstein
United States Senator