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Fighting Discrimination and Harassment in the Workplace

Overview

Workplace harassment, including sexual harassment, is a pervasive problem in the United States. According to a 2016 report by the U.S. Equal Employment Opportunity Commission, “Almost fully one third of the approximately 90,000 charges received by [the] EEOC in fiscal year 2015 included an allegation of workplace harassment. This includes, among other things, charges of unlawful harassment on the basis of sex (including sexual orientation, gender identity, and pregnancy), race, disability, age, ethnicity/national origin, color, and religion.”¹ Workplace harassment is also a problem in the halls of Congress. A February 2017 Roll Call story reported that four in 10 women on congressional staff said that sexual harassment is a problem on Capitol Hill, and “one in six said they personally had been victimized.”² Unlike federal agencies and private workplaces, Congress has no consistent system in place for responding to and preventing sexual harassment and assault.

Why Public Citizen Supports Changing the Current System

Public Citizen has been fighting for more than 45 years for an open and accessible court system for all. Procedural obstacles that hinder reporting discrimination and harassment claims allow systemic problems to continue. We are fighting to change the current system by:

Removing forced arbitration provisions from private sector employment contracts

More than 60 million Americans working in the private sector are barred from going to court if they are the victims of workplace discrimination or harassment because “forced arbitration” clauses are included in their employment contracts.³ These provisions are buried in the fine print of many contracts and compel individuals to give up their ability to enforce their legal rights in court in advance of a dispute with their employer. Forced arbitration in the employment context

¹ https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm#_Toc453686298

² <https://www.rollcall.com/news/predatory-behavior-capitol-hill-sexual-harassment>

³ <http://www.epi.org/publication/the-growing-use-of-mandatory-arbitration/>

is particularly pernicious because the corporate employer has outsized bargaining power against an employee. The employer sets the terms of arbitration and often chooses the arbitrator. In addition, arbitrators are not bound by rules of evidence, there's no public review of decisions, and generally no right to appeal a bad outcome.

Most employees are required to sign many pages of documents before starting a new job and do not realize that they have signed away their constitutional rights until it is too late. And even when they understand that they are signing away their rights, employees have no choice but to sign or refuse to take the job—an unthinkable option for many.

Public Citizen will campaign to make the business case for removing these insidious provisions from corporate employment contracts. Companies should have a strong incentive for removing forced arbitration provisions from their contracts because it is good for recruiting and retaining top talent—thus, good for business.

Reforming secretive and anti-employee procedures for congressional staffers

On Capitol Hill, each congressional office operates somewhat independently with its own rules and procedures. Sexual harassment training is not mandatory for members or their staff. There's no central HR department on the Hill, which makes it harder for individuals to know where to go to report harassment or assault or seek assistance. Even though harassment remains a longstanding and significant problem in Congress, when staffers do report harassment to the office, they must navigate a labyrinth of obstacles in order to seek justice.

Congress must reform the procedures governing how a congressional staffer can report discrimination and harassment to ensure that it is employee centric.

What's Next?

Public Citizen is committed to working with the private sector and Congress to pass sensible, important reforms that protect the rights of workers. In addition to private sector reforms, several bills have been introduced that are aimed at prohibiting forced arbitration clauses in employment contracts and reforming congressional procedures such as the METOO Congress Act (H.R. 4396/ S. 2159) and Ending Forced Arbitration of Sexual Harassment Act (H.R. 4570/S. 2203). Public Citizen supports both bills, which have bipartisan support.

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