



May 8, 2019

Chair Williamson, Vice Chairs Gorsek and Sprenger, and Members of the Committee:

On behalf of the American Association of University Women (AAUW) of OR, we respectfully ask you to support Senate Bill 726A.

As recent research has shown, while sexual harassment is a widespread problem in our workplaces, it commonly remains unreported and unaddressed. If we do not find ways to make it abundantly clear that such misconduct will not be tolerated, it will continue unabated.

This research also reveals that more than one-third of the US workforce is bound to their company by a non-disclosure agreement.¹ Grown in number and breadth, such agreements have not only become a matter of course in the context of sexual harassment settlement contracts but are now routinely included in standard employment contracts at the time of hire. This proactive stance effectively stymies anyone from making a claim, and signals to perpetrators that they have a green light to continue their bad behavior.

What are the underlying reasons for non-disclosure agreements? Employers may have a genuine need to protect dissemination of sensitive business information, but that should not include the facts and circumstances of sexual harassment. In that case, these agreements are plainly and simply designed to silence aggrieved workers, confine them to their current job and make sure that no one else summons the courage to report instances of sexual harassment. They perpetuate hostile working environments and condone serial abusers.

Non-disclosure agreements have also been found to be harmful to entrepreneurship, competition and economic growth.²

Harassment at work results from the imbalance of power between those at the top and those underneath.³ As stated by the National Alliance to End Sexual Violence, “

In our culture, one rooted in sexism and institutionalized inequality, no workplace can claim exception from gender-based discrimination or sexual harassment. This truth is exacerbated in workplaces with stark

¹ Orly Lobel, NDA's Are Out of Control. Here's What Needs to Change. Harvard Business Law, January 30, 2018.

² Lobel, above.

³ Michael Skapinker, Company non-disclosure agreements need to be tracked, Financial Times, February 19, 2019.

power imbalances between workers and employers and in industries with a high proportion of low-wage jobs. . . .”⁴

Sexually harassing behavior renders a work environment intimidating, hostile, or offensive and unreasonably interferes with an employee’s work performance. Is this the type of environment we want to see our partners, wives, daughters, aunts, grandmothers and friends work in? There is also “quid pro quo” sexual harassment when an employment decision -- like a promotion, an assignment, or even keeping a job — is based on the recipient’s submission to the sexual harassment. The conduct can either explicitly or implicitly impact an individual’s employment situation.⁵ Again, this conduct should not go unacknowledged or addressed.

One of the fundamental problems with sexual harassment is the shame it engenders. A recent survey revealed that 81% of women are victims of sexual harassment during their lifetimes, the majority of whom do not report it.⁶ Forcing women who do come forward with a demand that they have to maintain this culture of silence should no longer be condoned.

It is also critical that the time within which an individual who has been subjected to sexual harassment can make a claim be extended to five years. Given all the “no-no” aura that surrounds this subject and the genuine, continuing minefields that women must face when coming forward with complaints of sexual harassment, they need to be given time to gather the courage to bring their complaints to light.

We urge you to support SB 726A.

Respectfully submitted,

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⁴ National Alliance to End Sexual Violence, August 2018.

⁵ See, AAUW website available at <https://www.aauw.org/what-we-do/legal-resources/know-your-rights-at-work/workplace-sexual-harassment/employees-guide/> .

⁶ Lobel, above.