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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

February 7, 2018

Mr. Matthew R. Shay
President and Chief Executive Officer
National Retail Federation, Inc.
1101 New York Avenue, NW
Washington, DC 20005

Dear President Shay:

I write to your federation with deep concern regarding harassment in the workplace. In recent months, stories of sexual harassment have dominated the headlines and sparked a national conversation about change, power dynamics, and equality in the workplace and beyond. Workers across the country are speaking out about their experiences, and their stories have made clear that we all have a great deal of work to do to address this pervasive, systemic, and longstanding issue. Although we are seeing headlines about powerful and famous people being called to account for their actions, we are seeing far less action in industries outside of the spotlight. Therefore, I hope and expect that you are taking steps to address concerns about misconduct in your industry and to ensure your members' workplaces are free from harassment.

The retail trade industry employs nearly 17 million workers and has some of the highest rates of reported sexual harassment in the country.¹ According to data collected by the Equal Employment Opportunity Commission ("EEOC") from 2005 to 2015, the retail trade industry accounted for the second greatest portion of sexual harassment claims filed.² Sexual harassment is endemic to the retail trade industry at least in part because of its high proportion of low wage workers who are particularly vulnerable.

While the EEOC's dataset contextualizes the crisis of sexual harassment in the retail industry, it likely underestimates the exact rates of sexual harassment. Women in low wage, customer service jobs often do not report in fear of retaliation that may affect their earnings or their ability to keep the job. The EEOC estimates that 85 percent of all workers who are subjected to harassment never file a formal legal charge, and 70 percent of all workers never file a complaint internally.³ It has long been clear that the

¹ *Labor Force Statistics from the Current Population Survey*, Bureau of Labor Statistics (January 2018), <https://www.bls.gov/cps/cpsaat18.htm>.

² Jocelyn Frye, *Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment across Industries Affects All Workers*, Center for American Progress (November 2017), <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>.

³ Chai R. Feldblum & Victoria A. Lipnic, *Select Task Force on the Study of Harassment in the Workplace: Report of the Co-Chairs*, U.S. Equal Employment Opportunity Commission 16 (June 2016), https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf.

magnitude of the problem in your industry should not be ignored, and I am hoping that the recent focus on this issue will provide the needed push to make real progress.

As the Ranking Member of the U.S. Senate Committee with jurisdiction over issues of workplace harassment, I am extremely concerned about this issue and am seeking an update on efforts to prevent and address harassment in workplaces across the country.

As part of that effort, I am interested in the ongoing discussions, plans, and actions within the National Retail Federation ("NRF") aimed at protecting employees and establishing an equal and harassment-free workplace. I request a briefing with my staff within the next three weeks to discuss any recent efforts you have undertaken to assess and address workplace harassment in your industry.

I also request the following information:

1. Any polling, surveys, or research the NRF has conducted in order to understand the scope of the problem within the industry;
2. Any research or actions the NRF has undertaken to assess and address risk factors specific to the industry;
3. Any surveys the NRF has conducted to solicit feedback from employees about how to best address harassment in the industry and the results of the surveys;
4. Any steps the NRF has taken to ensure its associated employers are fully and properly educating their employees about workplace harassment policies and rights;
5. Any best practices the NRF has identified among its associated employers to accurately assess and address workplace harassment; and
6. Any suggestions you may have about how to strengthen and improve legal protections and processes in the workplace.

Studies have shown that workplaces that tolerate harassment have more of it, while workplaces that intentionally act to address issues of harassment have less of it.⁴ Employers and employees in your industry are undoubtedly looking to you for leadership in how to tackle this persistent problem with the urgency it requires. I appreciate you taking this matter seriously, and I look forward to our continued discussions. If you have any questions regarding this letter please contact Carly Rush or Joe Shantz at 202-224-0767 with my Health, Education, Labor, and Pensions Committee Staff.

Sincerely,



Patty Murray
United States Senator
Ranking Member, Senate Committee on
Health, Education, Labor, and Pensions

cc: Lamar Alexander, United States Senator,
Chairman, Senate Committee on Health, Education, Labor, and Pensions

⁴ Feldblum & Lipnic at 32.