



Sexual Harassment Payouts Hit All-Time High In 2019

10 TAKEAWAYS FROM LATEST EEOC STATISTICS

Insights

1.28.20

Employers paid out a record \$68.2 million to those alleging sexual harassment violations through the EEOC in 2019, shattering the all-time record by over \$10 million and reminding us all that the #MeToo movement continues to be a major influence on workplaces across the country. This is just one of many interesting findings released by the Equal Employment Opportunity Commission (EEOC) in its annual data summary covering fiscal year 2019 (which wrapped up in September). The January 24 release is full of eye-opening statistics that could help you set your compliance priorities for 2020 and beyond. Here are 10 thought-provoking takeaways from the EEOC's annual summary.

1. Sexual Harassment Recovery Exploded

As noted in the introduction, the most compelling piece of information from the release is the amount of money recovered from employers in 2019 for claims of sexual harassment. The \$68.2 million represents a 20% increase from the previous all-time high set of \$56.6 million in 2018, and is nearly double the total from just five years previous (\$35 million in 2014).

2. Sex Harassment Claims Held Steady

It should come as no surprise, then, that claims of sexual harassment remained high in 2019. Although the number of claims dipped slightly from 7,609 in 2018 to 7,514 in 2019, this figure still represents the second-highest mark for claims in the past seven years.

3. Retaliation Remains The Most Popular Claim – By Far

By a very wide margin, the most common EEOC claim employers faced in 2019 involved allegations of retaliation. Once again, these claims proved to be the most popular filed by workers. In 2019, over 39,000 retaliation claims were filed, representing nearly 54% of all claims filed with the EEOC. This is the highest percentage ever, highlighting just how important it is to have robust HR policies and training in place. It's also the 18th year in a row that we have seen an increase in that percentage. Employers can only fondly dream of the year 2002, when only 27% of EEOC claims involved retaliation allegations.

4. Disability Discrimination Claims Also Proved Popular

The next-highest type of claim filed with the EEOC in 2019 were disability discrimination allegations. Following the passage of the ADA Amendments Act in 2008, we have seen a steady increase in the number of such claims. Pre-ADAAA, only 14,893 disability claims were filed, representing under 20% of all EEOC claims. By 2019, that number had jumped to 24,238, accounting for a third of all claims filed. You will want to ensure you and your managers have a firm grasp on your reasonable accommodation obligations and the interactive process to ensure you don't fall victim to such a claim in 2020.

5. **LGBT Discrimination Claims Are Starting To Have An Impact**

When the EEOC began tracking LGBT-based discrimination claims in 2013, the numbers were fairly miniscule. Only 808 claims were filed, and the agency recovered under a million dollars from employers for such claims. The numbers from 2019 reflect the societal shift we have seen when it comes to sexual orientation and gender identity rights in the workplace. Last year saw 1,868 LGBT discrimination claims filed – another all-time high – and \$7 million recovered. This amount represents a 677% dollar increase in just six years. With the Supreme Court set to rule on the validity of sexual orientation and gender identity claims under Title VII, and an ever-increasing number of states expanding their local antidiscrimination laws, you can expect to see these figures rise again in 2020.

6. **Overall Litigation Resolutions Increased...**

The EEOC has placed a recent emphasis on efficiency, and the numbers bear out the success that the agency is having in this area. Just two years prior, the EEOC only resolved 125 pieces of litigation, including 109 merits suits (those involving substantive claims, excluding subpoena enforcement or pure requests for preliminary injunctions). By 2019, those numbers increased dramatically. The agency resolved 180 pieces of litigation, including 173 merits cases.

7. **...But The Number Of Lawsuits Filed Dropped Substantially**

Meanwhile, the agency has demonstrated a reticence to file a high number of federal lawsuits, perhaps placing a greater emphasis on systemic claims or larger-scale targets. The number of suits filed in 2019 fell to a three-year low of 157 (a drop from 217 in 2018), and it filed only 144 merits suits (a drop from 199 the previous year).

8. **Overall EEOC Claims Filed Fell Once Again**

The past year also continued a trend that has seen a steady slide in the number of overall charges filed with the EEOC. For the past four years, the number of claims filed has dropped, reaching only 72,675 in 2019 (a 4.9% decrease from 2018). This figure represents the lowest number of claims filed in a single year since at least 1997 (the last year made publicly available on the EEOC's website).

9. **Age Discrimination Claims Fell**

Given the aging workforce and the renewed emphasis on the pernicious impacts of age discrimination, it is somewhat surprising to see another dip in the number of EEOC claims filed

discrimination, it is somewhat surprising to see another dip in the number of EEOC claims filed involving ADEA allegations. 2019 saw a four-year low with only 15,573 age claims filed, a 25% decrease since 2016.

10. Texas, Florida, And Georgia Lead The Way

The states where you are most likely to face an EEOC discrimination charge? Texas once again had the nation's highest tally, with 7,448 claims filed. Florida followed with 5,990 such claims, and Georgia came in third in the nation with 4,779. This is not necessarily a reflection on the states where you are most likely to face a workplace claim, but simply the locations where EEOC claims are most common in lieu of other enforcement mechanisms. States like California, New York, Washington, and others have generous local laws and advantageous state court systems that lead disgruntled workers and their attorneys to generally resort to other means besides the EEOC to address alleged workplace wrongs. So don't let your guard down if you don't see your state high up on this list.

What Should You Do?

In the wake of these statistics, you should be more aware than ever of the importance of a positive workplace culture and the need to eliminate sexual harassment in the workplace. You should review our firm's five-point plan for addressing sexual harassment concerns, developed by partners Jennifer Sandberg and Joe Shelton.

We will continue to monitor further developments and provide updates, so you should ensure you are subscribed to Fisher Phillips' alert system to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney.

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