

The Impact of Sexual Harassment and Gendered Violence on Working New Yorkers

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Workplace sexual harassment and violence have been put under the spotlight during the past five years, heightening public awareness of how pervasive these issues are. Amid this increased attention, policymakers, employers, and unions continue to grapple with the question of how to effectively respond. People experiencing workplace sexual harassment often face significant consequences for their wellbeing and their careers,² and despite recent public attention, these experiences and their consequences often remain hidden. As sexual harassment and gendered violence are rooted in unequal power relations, the way they are experienced is often shaped by workers' economic and workplace position and by their race/ethnicity, immigration status, gender identity, sexual orientation, and other facets of identity.

This policy brief shares pertinent findings on workplace sexual harassment and gendered violence in New York State from the 2022 Empire State Poll, carried out by Cornell University School of Industrial and Labor Relations (ILR).³ In light of the Worker Institute's history of confronting workplace sexual harassment and gendered violence, we provide context and recommendations grounded in the knowledge of survivors, advocates and researchers who have been grappling with these issues for decades.

BACKGROUND: THE STATE OF AFFAIRS IN NEW YORK

New York State (NYS) has been recognized as a leader in addressing sexual harassment through legislation and policy initiatives,⁴ with the most recent changes in the law aiming to make grievance and complaint processes more accessible and survivor-centered. Highlights include: prohibitions on the use of mandatory arbitration agreements as well as nondisclosure and confidentiality agreements; a lower threshold for establishing harassment with the elimination of the "severe or pervasive" standard; extension of the statute of limitations for workplace sexual harassment claims filed with the NYS Division of Human Rights from one year to three years; anti-harassment protections now apply to all protected classes and not just gender (so as to better address the intersectional nature of workplace harassment); encouragement of bystander intervention; expanded protections from retaliation;⁵ extending protections to state and public sector employees; and extending protections against sexual harassment to all employers within NYS, regardless of size.^{6,7} These are important developments that reflect an ongoing process, as demonstrated by the NYS DOL public hearings on sexual harassment prevention held in September 2022.⁸ This ongoing monitoring of progress is also reflected in the obligation that an employer maintain a sexual harassment prevention policy and evaluate the efficacy of their policy every four years.

Yet not all workers have equal access to these protections. While state law has expanded to cover a wider scope of workers (protections now apply to non-employees, such as contractors, vendors, and consultants), many workers without formal employee status—including gig workers and workers who are misclassified as independent contractors, for example—still have fewer protections, and workers may also face higher risk of both harassment and retaliation due to their job sector, race, immigration status, gender identity, disability, or sexual orientation.

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FINDINGS

The results of the Empire State Poll (ESP) reveal that workplace sexual harassment is a problem for New Yorkers across all gender identities and racial/ethnic groups.

An overall assessment of the data reveals the role of gender in the experience of sexual harassment. Out of the 2675 ESP respondents, 589 (22%) reported that they experienced workplace sexual harassment and indicated a gender identity; of those 589 respondents, 58.5% were cis women, 34.4% were cis men and 6.9% identified as transgender, nonbinary, nonconforming, questioning or other gender identity. A deeper analysis of the responses to the ESP reveals the importance of gender identity. Of the 981 respondents who identified as **cis women, 345 or 35.6% reported that they experienced workplace sexual harassment.**⁹ Of the 1086 respondents who identified as **cis men, 203 or 18.9% reported that they had experienced workplace sexual harassment.** Of the 66 respondents who identified as **transgender, nonbinary, nonconforming, questioning or other gender identity, 33 or 50% reported that they experienced workplace sexual harassment.**¹⁰ While our sample of respondents in this latter group is comparatively small, the findings are consistent with previous studies showing that transgender and gender non-conforming people face higher risks of different types of harassment and violence, sexual violence in particular.¹¹

These findings indicate that workplace sexual harassment remains a significant problem for New Yorkers. Comparing these findings to the results of the 2018 Empire State Poll, the rates of sexual harassment for respondents who identified as women has increased from 31.1% to 35.6%; the rate for those identifying as men has remained the same, at 18.9%.

Further analysis demonstrates the significance of race/ethnicity in shaping experiences of workplace sexual harassment, and in particular, the importance of an intersectional analysis. **Among cis women, experiences of workplace sexual harassment were reported by 63.6% (35 out of 55) of those who identified as two or more race/ethnicities;** by 34.6% or 215 of 621 who identified as only white; 34.1% or 44 of 129 who identified as only Black or African American; 31.4% or 22 of 70 who identified as only Hispanic or Latina/o/x; 18.9% or 7 of 37 who identified as only Asian; and 12.5% or 1 of 8 who identified as only American Indian, Alaska Native, Native Hawaiian, or Other Pacific Islander. Importantly, for certain categories, rates of reported workplace sexual harassment were significantly higher when our analysis included those who identified as two or more race/ethnicities: 69.2% or 27 of 39 who identified as American Indian, Alaska Native, Native Hawaiian, or Other Pacific Islander and identified as two or more race/ethnicities reported experiences of sexual harassment, and 32.6% or 15 of 46 who identified as Asian and as two or more race/ethnicities.¹²

Among cis men, the highest rate reporting such experiences was among those who identified as two or more race/ethnicities, at 49.2% or 30 of 61. Among men who identified as only American Indian, Alaska Native, Native Hawaiian, or Other Pacific Islander, 28.6% or 2 of 7 reported experiencing workplace sexual harassment or inappropriate sexual behavior; 27.3% or 30 of 110 men who identified as only Black or African American; 22.8% or 23 of 101 men who identified as only Hispanic or Latina/o/x; 21.7% or 13 of 60 men who identified as only Asian; and 13.7% or 94 of 685 men who identified as only white. Again, the reported rate was significantly higher among American Indian, Alaska Native, Native Hawaiian, or Other Pacific Islander when including those who identified as two or more race/ethnicities, at 47.2% or 17 of 36.

Experiences of sexual harassment are often shaped by different facets of workers' identities—including race/ethnicity, gender identity, sexual orientation, immigration status, and ability. While some of the analyses above are based on relatively small sample sizes, the findings point to the importance of further research illuminating the distinct experiences of different racial/ethnic groups facing high rates of sexual harassment; the high rates reported among respondents who identified as two or more race/ethnicities are especially noteworthy.

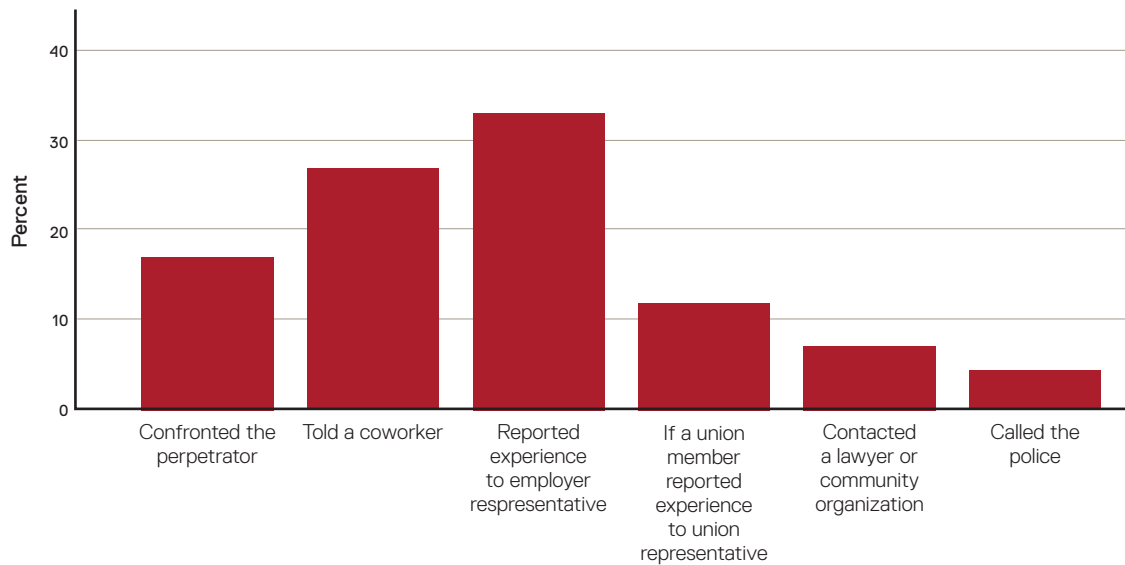
Because sexual harassment is an expression of power that thrives amid unequal power relations, workers' economic and workplace position can also affect their risk of being targeted for harassment. While the 2022 Empire State Poll

did not collect data on respondents' sector of employment, previous research has shown that women working in low-wage industries, in jobs without the formal protections of employee status, without legal immigration status, and in male-dominated professions (such as the building trades) are often more vulnerable to workplace sexual harassment and violence and face greater challenges in accessing protections. Immigrant women and women of color are overrepresented in many of these more vulnerable jobs, such as janitorial workers, hotel workers, and domestic workers.¹³

The results of the Empire State Poll show that those who experienced sexual harassment or inappropriate behavior in the workplace responded in various ways.

Of the 510 ESP respondents who indicated that they responded to the experience of workplace sexual harassment, as Figure 1 shows, more told a co-worker (27.1%), reported the experience to an employer representative (33.3%), or confronted the perpetrator (17.1%), than those who reported an incident to a union representative (11%), contacted a lawyer or community organization (7.3%) or called the police (4.3%).

Figure 1 Methods of response for ESP respondents who experienced sexual harassment or inappropriate behavior in the workplace



Source: 2022 Cornell University ILR School Empire State Poll

It is worth noting that the ability to report an incident to a union representative is limited to those respondents who are union members; of the total of ESP respondents, 32.5% who were currently employed indicated that they were union members. **Among ESP respondents who were currently union members and had experienced workplace sexual harassment at their current job, 18.3% had reported it to their union representative;** of this same group of union members who experienced workplace sexual harassment, only 7.6% reported it to an employer representative.

Sexual harassment is enabled by sharp power differentials in the workplace, underlying inequities within the workforce, unconstrained managerial authority, and workplace cultures that signal tolerance of harassment.¹⁴ Recent Cornell research has found that employees are more likely to identify sexual harassment as such when they perceive that their organization has implemented policies that indicate a low tolerance for harassment, expand mechanisms for employee voice, and increase the power of employees who may be marginalized.¹⁵ It is noteworthy that about two-thirds of ESP respondents who experienced workplace sexual harassment did not report it to an employer representative. In order to make workplace problem-solving and complaint processes accessible and centered on survivors' needs, best practice is

to provide multiple points of entry. Mechanisms of redress must be seen as effective, proactive, and viable options for constructive resolution; they should also be regularly evaluated to ensure that they take into account structural inequity and how workers' identities and positions inform their choice of response.

Unions should also pursue measures for creating more accessible and effective resources for members facing workplace sexual harassment. While union members experiencing sexual harassment were more likely to report it to their union representative (18.3%) than to their employer representative (7.6%), this relatively low reporting rate suggests that unions must also take action to be a stronger and more welcoming resource for members.

Workers who identified as Black or African American, Hispanic or Latina/o/x, or as having two or more race-ethnicities were most likely to contact a lawyer or community organization in response to experiences of sexual harassment or inappropriate behavior in the workplace. Research carried out by the Worker Institute and partners on workers' experiences during the Covid-19 pandemic has indicated that Black and Latinx workers had higher rates of concern about employer retaliation in response to speaking out about unsafe conditions;¹⁶ this research also found that “[t]hirty-four percent of working New Yorkers reported that potential employer retaliation could prevent them from reporting workplace sexual harassment, as compared to 25% in the rest of the country.”¹⁷ In such circumstances, community organizations increasingly respond to gaps in enforcement and become critical sites of support for workers of color and precarious workers seeking redress.

The 2022 Empire State Poll reveals that intimate partner violence (IPV) impacted New Yorkers' employment.

Across all ESP respondents, 402 or 18.4% reported that they had experienced intimate partner violence (IPV) or controlling behavior by an intimate partner; it is also noteworthy that more than half of that group—226 or 56.2% of 402—also reported that they experienced workplace sexual harassment at a current and/or previous job.¹⁸

Among the 402 respondents who had experienced IPV, one third (33.2%) reported it had impacted their employment. The rates of those reporting that IPV impacted their employment were particularly high among those who identified as being two or more races, at 51.2% or 21 out of 41; among Hispanic or Latina/o/x respondents who experienced IPV, 40% or 14 out of 35 reported it had impacted their employment; the rate was 35.7% or 5 out of 14 among those identifying as Asian; 34% or 16 out of 47 among those identifying as Black or African American respondents; and 31.6% or 81 out of 256 among white respondents experiencing IPV. While the sample of respondents is relatively small in many of these categories, the findings echo previous research demonstrating that different aspects of survivors' identities shape their experiences of IPV and how it affects their employment and economic security;¹⁹ further research would help illuminate the intersecting forces that shape such experiences.

Among the respondents who had experienced IPV or controlling behavior by an intimate partner, 38.5% or 57 of 148 who identified as cis men said that it had impacted their employment; among cis women this was 29.5% or 64 of 217; among those who identified as trans, nonbinary, nonconforming, questioning, or other gender identity, it was 57.1% or 12 of 21. The small sample size of this latter group makes it difficult to draw clear conclusions, and points to the need for further research that can more fully represent the experiences of this group—especially in the current political context of anti-trans and anti-LGBTQ+ laws being passed nationwide.

Overall, these results across all gender and racial/ethnic categories highlight the importance of making services available, appropriate, and accessible to all gender identities and backgrounds, and recognizing potential stigma attached to experiences of IPV and seeking services. It is important to raise awareness around the existing workplace protections for survivors of domestic violence in NYS and NYC, including prohibitions on discrimination based on one's status as a survivor, access to paid safe leave and leave for other grounds related to domestic violence, broader reasonable accommodations in NYC, and specific exemptions that allow survivors to qualify for unemployment insurance even if

they leave their job voluntarily. Community organizations are a resource for workers who may face barriers to accessing support mechanisms in the workplace and for people who experience IPV. They can be a critical site of support for people marginalized on the basis of race/ethnicity, gender identity, or sexuality, for workers who are not represented by unions, or for people confronting stigma surrounding their experiences of sexual harassment or IPV.

LOOKING AHEAD

Address the roots of workplace sexual harassment by confronting unequal power relations and inequity.

To confront workplace sexual harassment at the roots—with an eye toward not only redress but also prevention and workplace culture change—it is essential to support pathways toward strengthening employee voice, shifting power toward workers who are marginalized, and curbing unchecked managerial and executive authority. More resources should be invested in implementing best practices aligned with these goals, and in research that can help inform more effective responses to workplace sexual harassment—and in particular, to inform responses that are attuned to the nuanced ways different positions and identities shape experiences of harassment and risks of retaliation.

Workers facing high rates of sexual harassment and violence should be directly involved in developing responses to it.

Immigrant women and women of color—who are overrepresented in many of the jobs with high rates of sexual harassment and violence—have taken the lead in developing innovative, worker- and survivor-centered strategies for confronting workplace sexual harassment and violence, in ways that are tailored to the experiences and identities of their particular workforces and workplaces. Examples of such innovative models include the peer education *promotora* model developed by janitorial workers in California and the panic buttons and other protections won by hotel workers of the New York Hotel and Motel Trades Council (HTC).²⁰ Workers who are at higher risk of being targeted for sexual harassment should have a role in directly shaping practices and policies for confronting this issue.²¹

Best practice is to provide multiple points of entry to a workplace problem-solving and complaint process.

To encourage workers to actually use existing mechanisms of redress, they must be seen as effective, proactive, and viable options for constructive resolution that shield workers from retaliation. Training and education are critical tools for transforming workplace culture, but must be understood as one part of a broader systemic strategy.²² Employers should enlist an external party to do a cultural audit and an educational needs assessment before designing training curricula, and then to conduct a cultural audit in order to assess if workplace policies and training are working to shift workplace culture. Organizations should also consider providing alternative systems of redress as an option for employees who are not comfortable using existing mechanisms or the formal legal system; examples of alternative systems include restorative justice models and organizational ombuds (an independent third party advising workers on complaint and resolution processes).²³ A 24-hour hotline can also offer an accessible means of reporting complaints, particularly for workers who may not feel comfortable reporting on-site or who work non-traditional hours or shift work; such hotlines must also ensure they are fully accessible in the languages preferred by the workforce. Unions should also pursue measures for creating more accessible and effective resources for members facing workplace sexual harassment.²⁴

Support and highlight community resources for responding to sexual harassment and gendered violence.

Employers and unions should highlight community resources available for their employees and members who may be experiencing IPV or harassment. These community organizations should be supported with adequate funding, and they should have access to training on worker protections as needed, to ensure they are well equipped to support those who seek guidance in responding to workplace sexual harassment. Employers and unions should also learn from innovative models that community organizations are using to support workers; for example, the organization CONNECT, NYC developed a community model for “engaging men and women as allies” against violence, and they worked with the ILR Worker Institute to bring this model into the workplace through a collaboration with a union and employer.²⁵

ENDNOTES

- 1 We are grateful for the contributions of our colleagues at Cornell ILR: Anne Marie Brady (Research Director, Worker Rights and Equity, The Worker Institute) contributed analysis; Risa Lieberwitz (Academic Director, The Worker Institute) and Patricia Campos-Medina (Executive Director, The Worker Institute) provided substantive feedback; and Russell Weaver (Director of Research, Buffalo Co-Lab) also contributed analysis. We are also grateful to Seher Khawaja, Senior Attorney for Economic Empowerment at Legal Momentum, for providing valuable feedback on this policy brief, including reviewing and verifying recent changes to sexual harassment protections in New York State and City law.
- 2 See Schneider, K. T., Swan, S., and Fitzgerald, L. F. (1997). Job-Related and Psychological Effects of Sexual Harassment in the Workplace: Empirical Evidence from Two Organizations. *Journal of Applied Psychology*, vol. 82, no.3, pp. 401.
- 3 The Empire State Poll (ESP), first launched in 2003, is the first statewide survey of its kind for New York State (NYS), specifically designed to provide timely and actionable data on NYS residents. The core instrument includes workplace, community, governmental, economic, and special topical issue questions, in addition to rotating omnibus modules submitted by researchers. In 2022, the ESP became part of the Cornell University School of Industrial and Labor Relations (ILR). Before coming under the ILR School umbrella, the ESP surveyed 800 New Yorkers each year using phone interviews exclusively. ILR expanded on that template by adding online and mailing options, which more than tripled the number of responses received (n=2,675). This memo summarizes key highlights from these data, which were obtained between June 6 and August 10, 2022.
- 4 Johnson, A.; Ijoma, S.; Kim, D.H. (October 2022). #METOO Five Years Later: Progress & Pitfalls in State Workplace Anti-Harassment Laws. National Women’s Law Center. Retrieved from https://nwlc.org/wp-content/uploads/2022/10/final_2022_nwlcMeToo_Report-MM-edit-10.27.22.pdf
- 5 In NYS, new protections prohibit the release of personnel files as retaliation for filing a complaint for sexual harassment. In New York City, retaliation includes any action taken by the employer that could discourage employees from reporting sexual harassment.
- 6 New York State Division of Human Rights. New Workplace Discrimination and Harassment Protections. Retrieved from <https://dhr.ny.gov/new-workplace-discrimination-and-harassment-protections>. For most recent changes, see Governor’s Press Office. (March 16, 2022). Governor Hochul Signs Package of Legislation to Address Workplace Harassment and Discrimination. Retrieved from <https://www.governor.ny.gov/news/governor-hochul-signs-package-legislation-address-workplace-harassment-and-discrimination>
- 7 Other highlights include: Employers now must maintain a sexual harassment prevention policy; employers must now provide annual training to employees on sexual harassment; employees no longer must file an internal complaint prior to filing an administrative complaint or lawsuit; protections now apply to non-employees, such as contractors, vendors, and consultants; the law now allows the award of attorney’s fees and punitive damages in harassment claims; and the creation of a NYS sexual harassment hotline.
- 8 New York State Department of Labor, Sexual Harassment Prevention Hearing, 09-15-2022. View recording here: <https://www.youtube.com/watch?v=fBz9trdfHV4>
- 9 For the purpose of this analysis, persons who identified as either “man” alone or “woman” alone, and not as transgender, are assumed to be cisgender (cis) men and women, respectively.
- 10 Persons who identified as one or more of the following categories—transgender, nonbinary, nonconforming, questioning, or other gender identity—are grouped together, and this group is not broken down by race/ethnicity in our analysis due to low observed frequencies.
- 11 See Stotzer, R. L. (2009). Violence against transgender people: A review of United States data. *Aggression and Violent Behavior*, 14(3), 170-179; see also Lombardi, Emilia L., et al. (2002). Gender Violence: Transgender Experiences with Violence and Discrimination.” *Journal of Homosexuality*, vol. 42, no. 1, pp. 89-101.
- 12 Rates of reported workplace sexual harassment were higher across all race/ethnicity categories when including those who identified as two or more race/ethnicities; here we only detail numbers for the specific racial/ethnic groups where the percentage difference was especially high once multiracial respondents were included.
- 13 Yeung, B. (2018). *In a day’s work: The fight to end sexual violence against America’s most vulnerable workers*. New York, NY: The New Press; Lopez, S.H., Hodson, R. & Roscigno, V.J. (2016). Power, status, and abuse at work: general and sexual harassment compared. *The Sociological Quarterly*, 50(1), 3-27; West, Z., Pinto, S., & Wagner, K.C. (2020). *Sweeping Change: Building Survivor*

and Worker Leadership to Confront Sexual Harassment in the Janitorial Industry. The Worker Institute, ILR School, Cornell University. Retrieved from <https://ecommons.cornell.edu/handle/1813/74351>;

Elejalde-Ruiz, Alexia. (June 7, 2018). Chicago Hotels Roll out Panic Button Systems to Protect Housekeepers from Sexual Harassment. *The Chicago Tribune*. Retrieved from <https://www.chicagotribune.com/business/ct-biz-hotel-housekeepers-panic-buttons-xxxx-20180605-story.html>

- 14 See Shultz, V. (2018). Reconceptualizing sexual harassment, again. *Yale L&J*, 128, 22 and Crawford, S. & Tejani, S. (2020). *What Works at Work: Promising practices to prevent and respond to sexual harassment in low-paid jobs*. National Women's Law Center. Retrieved from: https://nwlc.org/wp-content/uploads/2020/05/Convening-report_English-Final.pdf.
- 15 Strom, P., Collins, C. J., Avgar, A. C., & Ryan, K. (2022). Drawing the line: How the workplace shapes the naming of sexual harassment. *Personnel Psychology*, 1– 27. Advance online publication. <https://doi.org/10.1111/peps.12496>
- 16 Mabud, R.; Paye, A. Pinto, M.; and Pinto, S. (2021). *Foundations for a Just and Inclusive Recovery: Economic Security, Health and Safety, and Agency and Voice in the COVID-19 Era. Color of Change*; National Employment Law Project; Time's Up Foundation; ILR Worker Institute. <https://ecommons.cornell.edu/handle/1813/111491>
- 17 Tung, I. & Pinto, S. August 10, 2021. Power and Voice at Work: New Yorkers View Employer Retaliation as a Barrier to Addressing Workplace Problems and Express Desire for Union Representation. National Employment Law Project. Retrieved from https://www.nelp.org/publication/power-and-voice-at-work-new-yorkers-view-employer-retaliation-as-a-barrier-to-addressing-workplace-problems-and-express-desire-for-union-representation/#_edn5
- 18 For more on co-occurrence of different forms of violence and harassment against women, see Campbell, R., Greeson, M. R., Bybee, D., & Raja, S. (2008). The co-occurrence of childhood sexual abuse, adult sexual assault, intimate partner violence, and sexual harassment: a mediational model of posttraumatic stress disorder and physical health outcomes. *Journal of consulting and clinical psychology*, 76(2), 194.
- 19 For a review of some literature on this topic, see Tarshis, S. (2022). Intimate partner violence and employment-seeking: a multilevel examination of barriers and facilitators. *Journal of interpersonal violence*, 37(7-8), NP5774-NP5804.
- 20 For more on the *promotora* model, see West et al., 2020. For more on the HTC response, see Pinto, S., Wagner, K. C., & West, Z. (2019). *Stopping sexual harassment in the Empire State: Past, present, and a possible future*. The Worker Institute, ILR School, Cornell University. Retrieved from: <https://ecommons.cornell.edu/handle/1813/74350>. For descriptions of other models, see Crawford & Tejani, 2020.
- 21 In testifying at the New York State Department of Labor (DOL) Sexual Harassment Prevention Hearing on September 15, 2022, Seher Khawaja, Senior Attorney for Economic Empowerment at Legal Momentum, identified steps the DOL could take to strengthen its efforts against workplace sexual harassment, including by centering the needs of workers who are especially vulnerable to workplace sexual harassment. One key recommendation was for the DOL to identify these high-risk sectors and engage workers directly in consultations to shape policy and guidance, drawing on the experiences of diverse workers including women of color, LGBTQ+ workers, workers with disabilities, and immigrant workers. The policy must be attuned to the risks of retaliation these workers confront and it should be language accessible for all workers. See Khawaja, S. (September 15, 2022). Testimony on New York State's Model Sexual Harassment Prevention Policy. Retrieved from: <https://www.legalmomentum.org/library/testimony-new-york-state%E2%80%99s-model-sexual-harassment-prevention-policy>
- 22 For more on best practices, see Feldblum, C. R. & Lipnic, V. A. (June 2016). *Select Task Force on the Study of Harassment in the Workplace: Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic*. U.S. Equal Employment Opportunity Commission (EEOC). Retrieved from <https://www.eeoc.gov/select-task-force-study-harassment-workplace>.
- 23 For more on these two models, see Crawford & Tejani, 2020.
- 24 For resources, see AFL-CIO. (2019). *Addressing Sexual Harassment in the Workplace: There Is Power in my Union*. Retrieved from <https://aflcio.org/reports/addressing-sexual-harassment-workplace-there-power-my-union>
- 25 For more information about this model, see: Wagner, K. C., Yates, D., & Walcott, Q. (2012). Engaging men and women as allies: a workplace curriculum module to challenge gender norms about domestic violence, male bullying and workplace violence and encourage ally behavior. *Work*, 42(1), 107–113.