

February 9, 2018

The Honorable Mitch McConnell Senate  
Majority Leader  
U.S. Senate  
317 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Paul Ryan  
Speaker of the House  
U.S. House of Representatives  
1233 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Chuck Schumer  
Senate Minority Leader  
U.S. Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
House Minority Leader  
U.S. House of Representatives  
233 Cannon House Office Building  
Washington, D.C. 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Ryan, and Minority Leader Pelosi:

The undersigned leadership of the Make It Safe Coalition<sup>1</sup> writes in support of the inclusion of congressional whistleblower protections in legislation aimed at addressing sexual harassment on Capitol Hill. Robust anti-retaliation rights are necessary for the effective enforcement of any reform aimed to combatting abuses of power in Congress, including sexual harassment.

Although it is difficult to track the full extent of the problem due to insufficient staff protections and data, available information demonstrates the pervasiveness of sexual harassment in Congress. Four in 10 of female congressional staff members believe that sexual harassment is a problem on Capitol Hill, and one in six have been the victims of sexual harassment, according to a 2016 CQ Roll Call survey of congressional staff.<sup>2</sup> Further, 90 percent of female congressional staff members are not aware of a structure in place for reporting allegations of harassment in Congress, underscoring the need for robust protections as well as mandatory training on how to enforce one's rights.<sup>3</sup>

Moreover, the current structure for harassment settlements requires taxpayers, not the wrongdoer, to foot the bill. The Office of Compliance (OOC) has paid victims more than \$17 million in taxpayer dollars in settlements related to sexual harassment, discrimination and other cases between 1997 and 2017.<sup>4</sup> This system prevents the harasser from being held financially accountable and is a gross misuse of taxpayer dollars, given that the responsible party should be liable for the settlement fees. That sum also likely accounts for a small margin of overall instances of harassment. Over the past 20 years, there have been 268 settlements, and 77 employees sought OOC harassment counseling in FY2016. However, there is significant underreporting due to fear of retaliation.<sup>5</sup>

Cases of sexual harassment and other acts of discrimination often go unreported, because employees fear retribution for making a formal complaint. A staff assistant for one congressional office that was the

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<sup>1</sup> The Make It Safe Coalition is a non-partisan, trans-ideological network of more than 75 member organizations whose missions span taxpayer protection, homeland security, scientific integrity, natural disasters, consumer hazards, and corruption in government contracting and procurement. We are united in the cause of protecting employees who honor their duties to serve and warn the public.

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

<sup>3</sup> <https://www.rollcall.com/news/predatory-behavior-capitol-hill-sexual-harassment>

<sup>4</sup> <http://www.cnn.com/2017/11/16/politics/settlements-congress-sexual-harassment/index.html>

<sup>5</sup> *Ibid.*; <https://www.rollcall.com/news/predatory-behavior-capitol-hill-sexual-harassment>

subject of a sexual harassment investigation explained, “I think a lot of people were kind of worried about saying something, at the risk of losing their job.”<sup>6</sup> In addition to termination, common forms of retaliation include social isolation, intimidation and threats, reassignment of job duties, poor performance appraisals, demotion, and blacklisting. Further, congressional staff often face political pressure to remain silent, due to assertions that the charges may harm a member or party’s reputation. This response sends a clear message to employees that if they report the abuse, they will be punished and their disclosures will not have an impact, creating a chilling effect throughout the workplace.

Without robust whistleblower protections to enforce sexual harassment reform, individuals who experience or witness sexual harassment or other wrongdoing will continue to have to make the difficult decision of remaining silent or report the abuse and risk retaliation. This is why policymakers have repeatedly called for the expansion of whistleblower protections to cover the legislative branch. There is no policy basis for this longstanding loophole.

Over the past two decades, the OOC has recommended, on 10 separate occasions – exceeding all other policy recommendations – the establishment of whistleblower protections for congressional staff to reflect protections available to federal employees under the Whistleblower Protection Act.<sup>7</sup> Consistently, bipartisan congressional proposals by leadership of the Senate Judiciary Committee and the Senate Whistleblower protection Caucus (S. 633), and in the House of Representatives (H.R. 4396, H.R. 4195) would amend the Congressional Accountability Act to apply executive branch whistleblower protections to legislative branch employees, fulfilling OOC’s steadfast recommendations. At the state level, this month the California legislature unanimously passed Republican-led whistleblower legislation for congressional staff who report sexual harassment and other legal or ethical violations.<sup>8</sup>

The inclusion of whistleblower protections as the bedrock of enforcement is not a new phenomenon. The Legal Justice for Service Members Act of 2015 sought to strengthen protections for military whistleblowers, including sexual assault survivors, largely in response to high rates of sexual harassment within the U.S. military. More broadly, Congress has unanimously passed dozens of whistleblower laws for the public and private sector, reflective of its longstanding bipartisan mandate to protect employees who report misconduct. Time’s Up to apply those same protections to congressional staff and ensure accountability in its own backyard.

Sincerely,

Government Accountability Project  
Liberty Coalition  
National Taxpayers Union  
Project On Government Oversight  
Public Citizen  
Taxpayers Protection Alliance

Cc: Members of the U.S. Senate  
Members of the U.S. House of Representatives

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<sup>6</sup> <https://www.rollcall.com/news/predatory-behavior-capitol-hill-sexual-harassment>

<sup>7</sup> <http://docs.house.gov/meetings/HA/HA00/20171207/106702/HHRG-115-HA00-Wstate-GrundmannS-20171207.pdf>

<sup>8</sup> <http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-after-years-of-delay-california-1517869395-htmlstory.html>