



Retaliation: Winning the Battle, Losing the War

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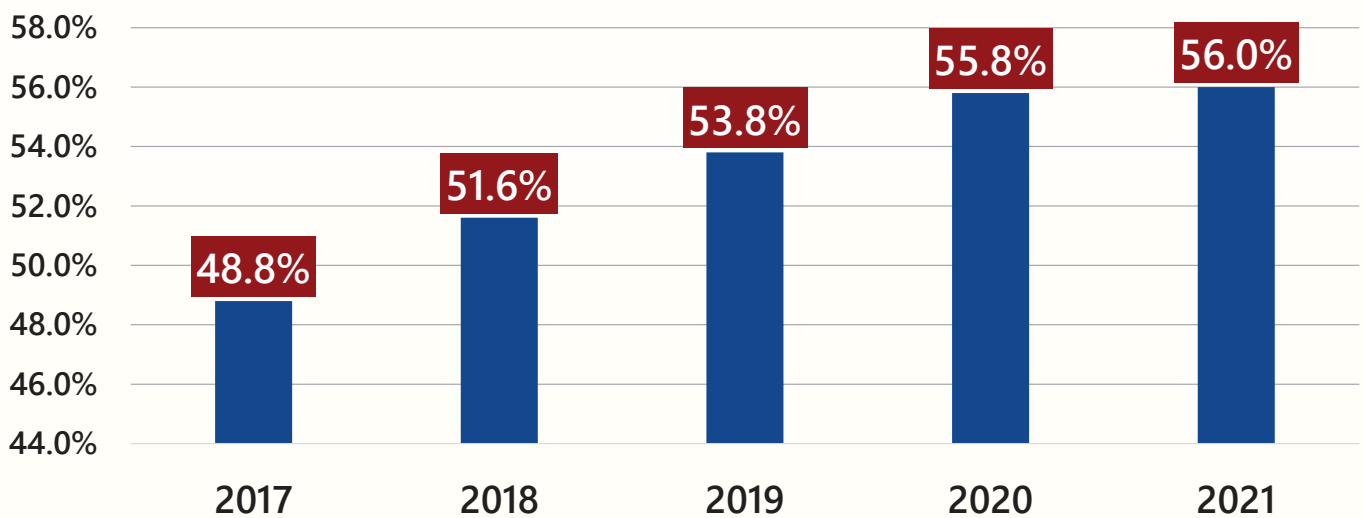
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 U.S. Equal Employment Opportunity Commission

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Retaliation Charges: FY 2017 – FY 2021

Percentage increase in retaliation charges filed = 7.2%



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Summary

- ▶ Allegations of retaliation outnumbered allegations of bias based on disability, race, and sex.
- ▶ Allegations of retaliation accounted for more than half of all charges of workplace misconduct filed with the EEOC.
- ▶ Complainants more likely to prevail on retaliation charges in cases filed with the EEOC.
- ▶ The monetary relief awarded victims of retaliation exceeded \$200M in 2021, in addition to other related relief.



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COVID-19 Issues

- ▶ Caregiver responsibilities:
 - Gender
- ▶ Retaliation against those who identify as:
 - AANHPI (Asian American, Native Hawaiian, Pacific Islander)
 - LGBTQ+
 - Hispanic, Latinx
 - Black
- ▶ Individuals with disabilities.



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What are protected activities?

- ▶ Protected actions can take many forms, ranging from **participating in an EEO complaint process to reasonably opposing discrimination.**
- ▶ Participating in a complaint process is protected from retaliation under all circumstances.
- ▶ Other acts to oppose discrimination are protected if the employee was acting on a **reasonable belief** that something in the workplace may violate EEO laws, even if they did not use legal terminology to describe the issue.

Examples of protected activities

- ▶ Taking part in an internal or external investigation of employment discrimination, including harassment.
- ▶ Filing or being a witness in a charge, complaint, or lawsuit alleging discrimination.
- ▶ Communicating with a supervisor or manager about employment discrimination, including harassment.
- ▶ Answering questions during an employer investigation of alleged harassment.

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First appeared as part of the conference materials for the
29th Annual Labor and Employment Law Conference session
"Retaliation: Winning the Battle, Losing the War"