



HOUSE COMMITTEE ON
OVERSIGHT AND ACCOUNTABILITY

DEMOCRATS

RANKING MEMBER JAMIE RASKIN

Accountability for Workplace Misconduct Act

Workplace misconduct is a deeply entrenched problem experienced by workers in every industry. To conceal workplace misconduct, employers have increasingly used non-disclosure, confidentiality, and non-disparagement agreements (collectively known as NDAs) to silence victims inside and outside of the workplace. According to the National Women's Law Center, more than one-third of the U.S. workforce is bound by some form of non-disclosure agreement, which allows employers to silence employees and evade accountability for workplace misconduct.

The Accountability for Workplace Misconduct Act would safeguard against the abuse of NDAs that silence victims of workplace misconduct and establish requirements for employers when conducting investigations of harassment, discrimination, and retaliation complaints.

Employers' policies addressing the handling of workplace misconduct vary widely and there is no uniform standard that must be followed when conducting investigations into related complaints. Employers often fail to provide complainants information on the status of their complaints, including whether an investigation has been initiated or even the outcome of the investigation once concluded. This lack of transparency can foster distrust and contribute to unhealthy workplaces.

The **Accountability for Workplace Misconduct Act** would:

- Prohibit the use of post-dispute NDAs that limit, prevent, or interfere with an employee's ability to disclose harassment, discrimination, or retaliation to Congress or government agencies, including law enforcement;
- Require employers to provide employees who agree to post-dispute NDAs a 21-day consideration period and 7-day revocation period;
- Prohibit employers from attempting to intimidate, hinder, obstruct, impede, or retaliate against employees who disclose or attempt to disclose harassment, discrimination, or retaliation to Congress, government agencies, or law enforcement;
- Require that employers establish and communicate to employees a policy that includes multiple methods and avenues for reporting workplace misconduct, including a method for confidential reporting;

- Require employers to establish a policy requiring employers to take specific steps to satisfy their obligation to conduct thorough investigations;
- Direct the EEOC to prescribe regulations to notify and educate employers of their responsibilities and employees of their rights under the bill when enacted; and
- Process complaints regarding violations of the bill.

Employers must also be held accountable for failing to establish clear policies for reporting and fairly investigating complaints of workplace misconduct. **The Accountability for Workplace Misconduct Act** would help protect workers and encourage employers to foster workplace cultures that aim to *prevent*—rather than *conceal*— workplace misconduct.