

# Etsy Report Regarding Employment-Related Concealment Clauses

Etsy cares deeply about creating a workplace free from discrimination and harassment and is committed broadly to equity efforts.

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*Etsy employees are not bound by any contractual agreement during their employment with Etsy that would prevent them from speaking up about conduct that is or is perceived to be unlawful, discriminatory, or harassing. Our limited use of confidentiality or non-disparagement provisions (sometimes called “concealment clauses”) protects continuing employees who may have spoken up to Etsy regarding their concerns in the workplace, as well as those employees who may have been witnesses to actual or alleged misconduct, from harassment or retaliation from involuntarily terminated employees who were terminated because of complaints or concerns about their behavior. Employees have overwhelmingly shared that they are comfortable raising such concerns at Etsy, and confidentiality and protection from retaliation are critical to employees feeling comfortable using open reporting channels.*

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## Background

This report has been prepared by management under the oversight of the Nominating and Corporate Governance Committee of the Board of Directors of Etsy, Inc. (“Etsy”) to assess potential risks to Etsy associated with the use of “concealment clauses” in the context of harassment, discrimination, and other unlawful acts.

Solely for the purpose of this report, “concealment clauses” are defined as any employment or post-employment agreement, such as arbitration, non-disclosure, or non-disparagement agreements, that Etsy asks employees or contractors to sign which would limit their ability to discuss unlawful acts in the workplace, including harassment and discrimination.

## Who We Are: Etsy Cares About a Harassment-Free Workplace

At Etsy, we encourage open communication, feedback, and discussion about topics that matter to our employees. We have a transparent culture, and we encourage employee feedback through frequent engagement and pulse surveys, Etsy forums with live question and answer sessions with our Executive Team, and a commitment to equality.

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In 2020, Etsy commissioned a pay equity study undertaken by a third-party consulting firm. The analysis found no unexplained pay gaps adverse to women or employees from other marginalized genders, or non-white employees. This was consistent with the findings of Etsy's 2018 analysis. Etsy will again conduct this analysis in 2022, as it does every two years.

Creating a culture of equality, transparency, and inclusion is one of our differentiators; it's in our DNA, it's one of the reasons why people come to work for Etsy. We have been recognized in numerous ways for our outstanding support of our employees, including:

- Bloomberg Gender Equality Index ([2020](#), [2021](#), and [2022](#))
- Human Rights Campaign Foundation - Corporate Equality Index ([2020](#), [2021](#), and [2022](#)) and [Best Places to Work for LGBTQ Equality](#) (2021)
- Fast Company - [Best Workplaces for Innovators](#) (2020) and [Brands That Matter](#) (2021)
- [Forbes JUST 100](#) (2021)
- JUST Capital 2021 - [Best Companies for Workers](#), [Companies Leading the Way for Women](#) and [Top 100 U.S. Companies Supporting Healthy Families and Communities](#)
- BuiltIn NYC 2021 - [100 Best Places to Work](#), [Best Large Places to Work](#), [Best Perks & Benefits](#).

## What We Do: Etsy Encourages Reporting of Harassment and Discrimination Allegations and Investigates and Remediate Complaints

Etsy encourages employees to speak up about concerns in the workplace, and they do. Etsy provides numerous avenues – both anonymous and non-anonymous – through which employees can raise concerns, including to managers, Human Resources Business Partners, our Diversity Equity and Inclusion (DEI) team, and the Employment Counsel team, as well as through an Anonymous Whistleblower Hotline, Engagement Surveys, and other Etsy forums. In our 2021 engagement survey conducted by an independent third party, Etsy employees reported a high level of satisfaction with Etsy's approach, and more than 90% of Etsy respondents agreed that Etsy is a place where they rarely experience or observe misconduct.

When Etsy receives allegations of harassment and/or discrimination, Etsy addresses such allegations promptly and in accordance with the law. We investigate matters thoroughly and initiate prompt remedial action where appropriate, up to and including the termination of employment of the bad actor. Etsy does not tolerate retaliation of any kind, and takes great efforts to protect existing employees who speak up about conduct they perceive to be unlawful from retaliation.

These are sensitive and difficult matters. To encourage Etsy employees to report concerns and thereby promote Etsy's culture of transparency, Etsy must also take into account employees' legitimate concerns about personal privacy and minimize the risk of retaliation.

## Etsy's Limited Use of Concealment Clauses

Accordingly, at this time, Etsy makes very limited use of concealment clauses as follows:

- **Arbitration:** Etsy does not use arbitration clauses in any employment or contractor agreements.
- **Non-Disclosure:** The non-disclosure/confidentiality agreements that our employees and contractors sign on start do not prohibit Etsy employees or contractors from speaking openly about harassment, discrimination, or other unlawful conduct, should they encounter any at Etsy. Further, employees who resign from their Etsy jobs are not restricted from speaking up about conduct that they consider to have been unlawful, harassing, or discriminatory during their Etsy employment.

The only circumstances in which employees may be bound by a non-disclosure provision post-employment is if they are involuntarily separated from Etsy (e.g., as a result of their own performance, attendance issues, or misconduct) and agree to sign a separation agreement that contains a non-disclosure/confidentiality clause in exchange for a severance package. Etsy has robust procedures in place to investigate and, where appropriate, to remediate alleged workplace misconduct, and the results of internal investigations are reviewed by a team which includes our Chief Legal Officer, our most senior HR leaders, and our DEI leader, as appropriate, to minimize the risk that a severance package may operate to silence legitimate claims.

*Where a determination to involuntarily separate an employee (e.g., an employee who harassed or discriminated against others) is ultimately made, Etsy believes non-disclosure agreements serve to protect the reputation and careers of continuing employees who may have spoken up to Etsy regarding their concerns in the workplace, as well as those employees who may have been witness to or impacted by inappropriate workplace conduct. These clauses prevent terminated employees from harassing continuing employees who were witnesses that spoke up about their conduct, leading to their termination. In order for Etsy to maintain the transparent, inclusive, law-abiding workplace that it has, it needs to be able to assure victims and witnesses, i.e., our existing employees, that they will be protected from harassment or retaliation if they speak up about inappropriate workplace conduct.*

Further, even where an employee signs a separation agreement, the agreement explicitly states that the employee retains the right to raise any claims of harassment, discrimination, or unlawful behavior by Etsy through the relevant administrative agencies in charge of overseeing workplace issues (i.e., the EEOC and state and local partner agencies) and with OSHA or the SEC, as well as to continue to make use of our anonymous reporting hotline

(participants are permitted to identify themselves but not required to do so), available to former as well as current employees to raise concerns.

- **Non-Disparagement:** Etsy does not use non-disparagement clauses in employment or consulting agreements, except that in the case of an involuntary separation, a terminated employee may voluntarily waive their rights to disparage Etsy in exchange for an internally published additional severance amount. Similar to the non-disclosure/confidentiality provisions, the non-disparagement provisions in our separation agreements do not prevent involuntarily exited employees from raising any claims of harassment, discrimination, or other unlawful behavior by Etsy through the relevant government agencies.

In summary:

- Etsy employees are intentionally not bound by any concealment clauses during their employment with Etsy. Nothing would prevent them from speaking up about conduct that is or is perceived to be unlawful, discriminatory, or harassing, and in fact our employees overwhelmingly state that they would feel comfortable doing so. Etsy regularly reviews its employment agreements and existing harassment and discrimination policies, including to confirm that they encourage and facilitate employees in coming forward and expressing any concerns.
- The limited circumstances in which these clauses are used post-employment serve to protect Etsy's continuing employees – specifically those employees who may have reported, witnessed, or been impacted by the conduct resulting in a former employee's termination – from retaliation or exposure by that former employee, and therefore are critical to maintaining open reporting channels for existing employees.

## Our Risk Assessment

Etsy believes that the practical effect of eliminating the narrow instances where we use concealment clauses (e.g., to prevent involuntarily terminated employees – including those who were terminated because they harassed or discriminated against others – from harassing continuing employees who may have reported or witnessed the exiting employee's conduct that led to termination) would be to allow terminated employees (e.g., bad actors) to publicize very sensitive workplace issues or reveal previously private personal information about an individual (doxxing) on social media and other external channels – for example, targeting or harassing the continuing employees who they believe reported their conduct and cost them their job – which risks a substantial negative impact on Etsy's culture of equality, transparency, and inclusion.

We strongly believe that Etsy's transparent workplace is best served by the very limited use of concealment clauses to encourage reporting, as described in this report, and that altering our practices would increase rather than decrease risk. Restricting Etsy's further use of these provisions may negatively impact people's ability to feel comfortable raising concerns or speak freely about workplace topics that affect them. Accordingly, we believe the risk associated with

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continued use of these provisions in limited instances appropriately balances protecting Etsy's culture of transparency and is intended to encourage employees to raise concerns through numerous forums without undue loss of privacy or fear of retaliation or disparagement by former employees.