



October 20, 2023

Shannon L. Watson
Designated Federal Officer, WOTAB
Federal Motor Carrier Safety Administration (FMCSA)
1200 New Jersey Avenue SE
Washington, D.C. 20590

Re: Public Comments for Women of Trucking Advisory Board (WOTAB) Public Meeting (Docket No. FMCSA-2022-0209)

Dear Ms. Watson:

The National Women's Law Center, Peter Romer-Friedman Law PLLC, and REAL Women in Trucking are writing to submit a public comment addressing sexual harassment in the trucking industry for the Federal Motor Carrier Safety Administration's (FMCSA) Women in Trucking Advisory Board (WOTAB) meeting scheduled for October 26, 2023. The National Women's Law Center has worked for over fifty years to advance and protect women's equality and opportunity—with a focus on women's employment, education, income security, health, and reproductive rights—and has long worked to remove barriers to equal treatment of women in the workplace, especially for women of color, LGBTQI+ people, and low-income women and families. Peter Romer-Friedman Law PLLC is a public interest law firm that represents people, non-profits, and unions to advance social and economic justice, including in the areas of employment discrimination, constitutional rights, fair housing, and public accommodations. REAL Women in Trucking is a non-profit membership organization that works to improve the lives of female truck drivers.

We appreciate the work of WOTAB to address the barriers facing women in trucking. As the meeting discussions have established, sexual harassment is a serious problem in the trucking industry that WOTAB must tackle to meet its goals of addressing the barriers facing women in trucking. We write to make clear that "same-sex training policies" cannot be a solution to addressing discrimination in trucking as they are a blatant violation of Title VII of the Civil Rights Act (Title VII). We also write to provide our recommendations for addressing sexual harassment in the trucking industry.

In 2014, a federal judge declared that "same-sex" training policies violate Title VII of the Civil Rights Act. See [Equal Employment Opportunity Commission v. New Prime, Inc.](#), 42 F. Supp. 3d 1201, 1213-14 (W.D. Mo. 2014). The same is true today. "Same-sex" training policies violate Title VII's ban on sex discrimination because they deny and delay the hiring, training, and assignment of women to truck driver positions because of their sex, and they classify, segregate, and limit the employment opportunities of women because of their sex.

REAL Women in Trucking has heard from its members that a number of trucking companies currently have same-sex training policies or practices and the organization is starting to take legal action to challenge those practices. One example is Stevens Transport's alleged "same-sex" training policy or practice. On October 5, 2023, we filed an Equal Employment Opportunity Commission (EEOC) class-based pattern or practice sex [discrimination charge](#) on behalf of REAL Women in Trucking (RWIT) and three women truck drivers against Stevens. In the charge, we allege that Stevens routinely refuses to hire women truck drivers, or substantially delays hiring them, because the company only allows women to do the mandatory training for driving positions with other women trainers ("same-sex" training policy), and Stevens does not have enough women trainers to provide timely training to the qualified women drivers who apply. The practical effect of this "same-sex" training policy/practice is a waiting list for women—while none exists for men—causing women to experience a substantial delay in being hired that men do not face, with many qualified women never hired at all. It is important to note that "same sex" training policies are not permissible under Title VII even if the purported goal for such policies is protecting drivers from sexual harassment.¹ While there is a very real problem of sexual discrimination and sexual harassment in the trucking industry, Stevens' alleged "same sex" training policy/practice exacerbates discrimination against women by creating additional barriers for women truck drivers, rather than solutions. The [New York Times article](#) "Women Could Fill Truck Driver Jobs. Companies Won't Let Them" further explains the problems with same-sex training policies.

We similarly have concerns regarding proposals to require that "CDL Schools must provide an option for female trainees to learn the trade from a trainer of the same sex."² The mandatory nature of this recommendation could lead to the same problems that the women truck drivers at Stevens Transport are experiencing—waiting lists for available trainers, delays in hiring and denials of hiring. Moreover, this recommendation is based on the same faulty sex-based stereotypes about the inability of men and women to work together.³

Rather than resorting to discriminatory same-sex training policies, WOTAB and the trucking industry must confront the significant problem of sex-based harassment, including sexual violence and other gender-based violence, in the trucking industry through meaningful and valid reforms that do not work to penalize women in the name of protecting them. There are a number of strategies that WOTAB can recommend to protect all drivers, including women, from discrimination, harassment, assault, and violence. Recommended strategies include but are not limited to:

- Promoting zero-tolerance policies for sex-based harassment, including sexual violence and other gender-based violence.
- Providing public education, including service announcements regarding rights related to sex-based harassment, including sexual violence and other gender-based violence, and the process for filing complaints.
- Providing comprehensive, industry-specific, and frequent training (at least annually) to prevent sex-based harassment, including sexual violence and other gender-based violence. Training should be provided both in CDL schools and at trucking companies.

¹ The court in the New Prime case considered whether sex was a "bona fide occupational qualification" that would permit the employer to use a same-sex training policy. This defense was rejected by the court. Equal Employment Opportunity Commission v. New Prime, Inc., 42 F. Supp. 3d 1201, 1213-14 (W.D. Mo. 2014).

² WOTAB Task 23-2 Discussion Notes, [WOTAB_Task 23-2_Discussion Notes.pdf \(dot.gov\)](#).

³ See *REAL Women in Trucking et al. v. Stevens Transport* charge on pages 10-11 for further explanation.

- Ensuring this training includes “bystander intervention” education programs for drivers and trainers, as well as recruiters and others.
- Providing clear, comprehensive, and safe reporting mechanisms for all employees, including drivers and trainees, and providing clear and comprehensive information to all employees about employer policies for investigating and responding to sex-based harassment.
- Ensuring that allegations of harassment are promptly investigated and that appropriate consequences are consistently and promptly levied when an employee has been found to engage in harassing behavior, up to and including termination.
- Providing separate sleeping accommodations for all employees, including trainers, trainees, and drivers when they are training together overnight, including hotels or motels.
- Requiring trainers to provide training to any drivers, regardless of their sex, race, and other protected characteristics, and terminating any driver who refuses to provide such training.
- Installing and using vehicular tools such as panic buttons.
- Establishing and/or providing 24-hour emergency hotlines for drivers and trainees.
- Regularly conducting climate surveys by a neutral third party.
- Regularly soliciting evaluations of trainers by trainees. Trainee evaluations should be reviewed and heavily weighted when making decisions about trainers’ promotion, compensation, discipline, etc.

Thank you for your consideration of these issues. We appreciate WOTAB’s focus on barriers to women in trucking, including sex-based harassment, and look forward to your report, which we hope will include robust recommendations to address sex-based harassment, including sexual violence and other gender-based violence. We also look forward to working with FMCSA regarding steps that FMCSA will take to implement the recommendations.

Sincerely,

National Women’s Law Center
 Peter Romer-Friedman Law PLLC
 REAL Women in Trucking