

March 18, 2025

By Electronic Mail

Andrea Lucas
Acting Chair
U.S. Equal Employment Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507

Dear Acting Chair Lucas:

The U.S. Equal Employment Opportunity Commission (“EEOC” or “Commission”) was established by Congress 60 years ago and charged with protecting workers from unlawful employment discrimination. As former officials of the EEOC who collectively have decades of experience in the positions of EEOC Chair, Commissioner, General Counsel or Legal Counsel, we strongly support robust and even-handed enforcement of federal anti-discrimination laws to protect all workers of every background.

Because we deeply respect the Commission’s statutory authorities and its institutional reputation, we write to express our grave concerns about the public letters you recently sent to 20 major law firms. These letters appear to exceed your authority under Title VII of the Civil Rights Act of 1964. We therefore believe it is important to share these concerns with you immediately.

Your letters request extensive information and imply a duty to respond without any basis in the laws that the EEOC enforces. As you know, the EEOC has no authority to require information from employers under Title VII simply by the request of a Commissioner. If you had a sufficient basis in evidence to believe that any of the recipients of your letters had engaged in discrimination in violation of Title VII, you would have had the authority to file a Commissioner charge, signed under penalty of perjury, to begin an investigation. But Title VII does not authorize the sort of public demand for information encompassed in your letters to these law firms. Nor does Title VII require these firms to respond to your letter or permit EEOC to impose penalties on firms for declining to respond.

Should you have chosen to file a Commissioner charge, the statute states that such a charge “shall not be made public by the Commission,” 42 U.S.C. sect. 2000e-5(b). For that reason, you would not have been permitted to reveal the existence, target, or subject of your charge without violating Title VII’s civil and criminal confidentiality provision. *Id.*

Title VII’s confidentiality provision is a bedrock principle. In passing Title VII on a bipartisan basis, Congress made a reasoned choice that the Commission should pursue cooperative compliance with employment laws wherever possible and thus deliberately prohibited the

Commission from seeking to intimidate employers through public pressure before any finding of discrimination that results in a court proceeding.

The detailed information requests contained in your letters also raise significant questions under the Paperwork Reduction Act (PRA). To protect the American people against unduly burdensome information collections, the PRA provides clear procedural requirements that must be met before a government agency solicits information from 10 or more members of the public. These letters appear to circumvent those requirements.

More broadly, no single member of the Commission, including the Chair, has the authority to unilaterally change the EEOC's longstanding position on employers' diversity, equity, and inclusion efforts. As the EEOC has long recognized in Commission-voted documents, employers' efforts designed to ensure that all employees have a full and equal opportunity to participate, contribute, and succeed in the workforce typically "do not make or encourage decisions to be made on the basis of race or another protected characteristic." EEOC, [Brief for the EEOC as Amicus Curiae](#), n. 1 in *Roberts v. Progressive Preferred Ins. Co.*, 1:23 CV 1597 (N.D. Ohio Feb. 22, 2024). The [EEOC Strategic Enforcement Plan, Fiscal Years 2024-2028](#) states that "the EEOC will support employer efforts to implement lawful and appropriate diversity, equity, inclusion, and accessibility (DEIA) practices that proactively identify and address barriers to equal employment opportunity, help employers cultivate a diverse pool of qualified workers, and foster inclusive workplaces." (Page 18). Section IX of the EEOC's Guidance on [Race and Color Discrimination](#) (Apr. 19, 2006), entitled [Proactive Prevention](#), encourages employers "to reduce the likelihood of Title VII violations and to address impediments to equal employment opportunity" through proactive measures such as conducting self-analyses and enhancing outreach.

The Commission should vigorously enforce Title VII's prohibition against discrimination to protect all employees. It must do so, however, in accordance with the law and procedures established by Congress to ensure fairness and confidentiality during the Commission's administrative process. To preserve the credibility of the Commission, we request that you withdraw the 20 letters that you issued to law firms on March 17, 2025.

Sincerely,
/s/
Charlotte Burrows (former Chair and Commissioner)
Jenny R. Yang (former Chair and Commissioner)
Jocelyn Samuels (former Vice Chair and Commissioner)
Chai R. Feldblum (former Commissioner)
Karla Gilbride (former General Counsel)
P. David Lopez (former General Counsel)
Peggy R. Mastroianni (former Legal Counsel)