

VIRGINIA FOXX, NC  
Chairwoman

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ROBERT C. "BOBBY" SCOTT, VA  
Ranking Member

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MAJORITY – (202) 225-4527

MINORITY – (202) 225-3725

**COMMITTEE ON EDUCATION  
AND THE WORKFORCE**  
U.S. HOUSE OF REPRESENTATIVES  
2176 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6100

January 12, 2023

The Honorable Charlotte A. Burrows  
Chair  
U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507

Dear Chair Burrows:

The Members of the 118th Congress were recently sworn in and, with this new Congress, we have new leadership in the House of Representatives. As the newly elected Chair of the Committee on Education and the Workforce, it is my responsibility to ensure accountability and transparency from federal agencies under the Committee's jurisdiction. With this letter, I am officially putting you on notice that your agency has an obligation to provide timely and complete responses to inquiries and requests made by the Committee.

During the first two years of the Biden administration, agencies have failed to comply fully with congressional oversight letters. I hope that this will end and we can expect robust responses from you in a timely manner to every letter sent from the Committee or its members. Enclosed are copies of letters Committee Republicans sent to which the Equal Employment Opportunity Commission (EEOC) chose not to provide full responses:

1. A March 23, 2022, letter requesting information about EEOC's plans for returning to regular, in-person work; and
2. A June 15, 2022, letter requesting information about EEOC's implementation of Executive Order 14019, Promoting Access to Voting.

The Committee expects EEOC to provide timely and complete responses to each letter enclosed. You are instructed to respond in writing by no later than January 27, 2023, with your plans for responding to each letter. Enclosed is a copy of the Committee's instructions to be followed for responses to oversight requests. EEOC is expected to

The Honorable Charlotte A. Burrows

January 12, 2023

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comply with them as it responds to each of the letters cited in this letter and all others issued by the Committee during the 118th Congress. Failure to do so may result in the Committee taking more robust actions to ensure compliance with its oversight requests.

Sincerely,

A handwritten signature in blue ink that reads "Virginia Foxx". The signature is written in a cursive, flowing style.

Virginia Foxx  
Chairwoman

Enclosures

# Congress of the United States

Washington, D.C. 20515

March 23, 2022

The Honorable Charlotte A. Burrows  
Chair  
U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507

Dear Chair Burrows:

In March 2020, the U.S. Equal Employment Opportunity Commission (Commission or EEOC) ceased its regular operations to protect its staff from the then-unknown risks of COVID-19. With two years having passed and other federal agencies returning to in-person work,<sup>1</sup> we write seeking information about EEOC's plans to return to in-person work.

We are concerned EEOC does not have an immediately executable plan for returning its personnel to in-person work. In January, a news report on EEOC's plans suggested that the agency may have halted re-opening efforts because of continued bargaining with the American Federation of Government Employees (AFGE).<sup>2</sup> Unfortunately, there still appears to be a disagreement between the Commission and the AFGE. While a recent article outlined EEOC's plans to return supervisory and non-bargaining unit employees by April 11, we are unaware of any plan for the Commission to return the remainder of its workforce of approximately 2000 employees to in-person service.<sup>3</sup> The Commission's failure to return to work delays justice for individuals who have filed discrimination charges with the agency and are entitled to have them reviewed and resolved.

The EEOC's mission is to "prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace."<sup>4</sup> However, with no offices open for claimants to file their discrimination charges and no publicly available plans outlining EEOC's return to regular operations, we are concerned the Commission is not meeting its obligations to workers.

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<sup>1</sup> See, e.g., Rebecca Rainey & Paige Smith, *Punching In: Rank and File Returning to Labor Department Desks*, BLOOMBERG L., Feb. 22, 2022, <https://news.bloomberglaw.com/daily-labor-report/punching-in-rank-and-file-returning-to-labor-department-desks-27>.

<sup>2</sup> John Hewitt Jones, *EEOC Pauses Reentry Plans, Agrees to Bargain with Union on Telework*, FEDSCOOP, Jan. 12, 2022, <https://www.fedscoop.com/eec-pauses-reentry-plans-agrees-to-bargain-with-union-on-telework/>.

<sup>3</sup> Erin Mulvaney & Shira Stein, *EEOC Staff to Return to Office After Omicron Spike Delay*, BLOOMBERG GOV'T, Mar. 9, 2022, <https://www.bgov.com/core/news/#!/articles/R8HEY2DWLU6B>.

<sup>4</sup> EEOC, STRATEGIC PLAN FOR FISCAL YEARS 2018-2022 (Feb. 2018), <https://www.eeoc.gov/us-equal-employment-opportunity-commission-eeoc-strategic-plan-fiscal-years-2018-2022#introduction>.

The Honorable Charlotte A. Burrows

March 23, 2022

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We therefore ask you to bring EEOC personnel back to in-person service and re-open all offices throughout the country immediately. We also request that you provide the following information:

1. All documents and communications since January 20, 2021, regarding plans to return EEOC personnel to in-person work status—including, but not limited to, how the AFGE's unfair labor practice complaints against EEOC have complicated these plans;
2. Timetables for reopening each district, area, field, and local office;
3. An explanation of why offices remain closed in states and localities where private businesses and state and local government agencies have returned to in-person work;
4. An analysis of the impact of closed offices on intake and processing of charges;
5. An explanation of whether EEOC has ensured each remotely working employee is being paid in accordance with the locality in which their remote worksite is located; and
6. An explanation of whether employees in EEOC's currently expanded levels of teleworking employees are being paid in accordance with the locality in which they reside and from which they work instead of where their official duty station is.

We look forward to your response with the information we have requested by April 6, 2022. Thank you for your attention to this important matter.

Sincerely,



Virginia Foxx  
Ranking Member  
Committee on Education and Labor



James Comer  
Ranking Member  
Committee on Oversight and Reform

Cc: The Honorable Jocelyn Samuels, Vice Chair  
The Honorable Janet Dhillon, Commissioner  
The Honorable Keith E. Sonderling, Commissioner  
The Honorable Andrea R. Lucas, Commissioner

**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

June 15, 2022

The Honorable Charlotte Burrows  
Chair  
U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507

Dear Chair Burrows:

We write today to inquire about the Executive Order on Promoting Access to Voting, E.O. 14019, which President Joe Biden signed on March 7, 2021, and to share our concerns about the lack of constitutional and statutory authority for federal agencies to engage in any activity beyond its stated mission, including federal voting access and registration activities. On March 29, 2022, Committee Republican Leaders sent a letter of inquiry to the Directors of the Domestic Policy Council and the Office of Management and Budget and, to date, received no response.<sup>1</sup>

We are certain you agree with us that every eligible voter who chooses to vote must have the opportunity to vote, and that every lawful vote must count, and increased voter registration and participation is a goal we share. Yet, our system requires that our actions must comport always with the Constitution and other federal law. According to Article I, section 4 of the Constitution, states have the primary role in establishing election law and administering elections.<sup>2</sup> And, to the extent the Elections Clause contains a federal “fail-safe,”<sup>3</sup> it is the Congress to whom the Constitution delegates that power, not the President. The President’s role is limited to enforcing enacted legislation passed by Congress; therefore, the President must exercise great restraint when attempting to act on election law.

We are concerned that this Executive Order goes beyond the power of the President and the statutory authority given to federal agencies, specifically (1) Directing federal agencies to assist states with voter registration if a state requests assistance; (2) Expanding the use of vote.gov and

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<sup>1</sup> Letter from Rep. Rodney Davis et al. to Susan E. Rice, Dir., Domestic Policy Council, & Shalanda Young, Dir., Off. of Mgmt. & Budget (Mar. 29, 2022) <https://republicans-edlabor.house.gov/news/documentsingle.aspx?DocumentID=408179>.

<sup>2</sup> Ranking Member Rodney Davis, *The Elections Clause: States’ Primary Constitutional Authority Over Elections*, Report, U.S. H. of Reps., Comm. on H. Admin. Republicans (Aug. 12, 2021), [https://republicans-cha.house.gov/sites/republicans.cha.house.gov/files/documents/Report\\_The%20Elections%20Clause\\_States%20Primary%20Constitutional%20Authority%20over%20Elections%20%28Aug%2011%202021%29.pdf](https://republicans-cha.house.gov/sites/republicans.cha.house.gov/files/documents/Report_The%20Elections%20Clause_States%20Primary%20Constitutional%20Authority%20over%20Elections%20%28Aug%2011%202021%29.pdf).

<sup>3</sup> Even Congress’ role in this space is secondary, and Congress must restrain itself from acting improperly and unconstitutionally.

suggesting agencies add a link to it on their websites; and (3) Proposing ways to increase federally funded government employee participation in the voting process.

As laudable as expanding access to information about voter registration is, it is not under the purview of the statutes that authorize EEOC. EEOC was established by Title VII of the *Civil Rights Act of 1964* and has subsequently been given additional jurisdiction through the enactment of five additional laws.<sup>4</sup> Taken together, EEOC is authorized to protect individuals from employment discrimination (including unlawful harassment) based on race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age, disability, and genetic information. EEOC has critical work to do. It is inappropriate for EEOC to turn its attention to issues for which it has not been statutorily directed to undertake.

We request you respond in writing to the following questions:

1. Has EEOC submitted a plan in response to the Executive Order? If yes, has the agency made any updates to the plan originally submitted? If so, what changes have been made? Please provide copies of the plan submitted, including any and all changes.
2. What statutory authorities enable EEOC to engage in voter registration and share election information? How does engaging in activities related to voter registration further the agency's mission?
3. Has EEOC estimated the amount of funding it will require to implement these plans? If so, please send the estimate. Where will the funding come from?
4. The Executive Order directs agencies to consider soliciting and facilitating approved, third-party organizations and state officials to provide voter registration services on agency premises. What are the criteria for such approval, including the responsible parties or clearance process for such approval? Please provide a list of third-party entities that have been solicited and a list that have been approved, to date.
5. Which states, if any, have requested assistance for voter registration from EEOC, and, specifically, what assistance have they requested?
6. Have proper steps been taken to ensure that the actions taken by EEOC employees do not violate the *Hatch Act*? If so, please provide a detailed description of the steps taken.

We share the same goal of protecting every eligible citizen's right to vote and that every lawful vote must count. However, we must follow the paradigm as established by the Constitution. States have the primary role in establishing election law with Congress playing a secondary role. As the federal government, we must exercise caution to ensure the actions we take are constitutional.

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<sup>4</sup> EEOC, FISCAL YEAR 2023 CONGRESSIONAL BUDGET JUSTIFICATION, <https://www.eeoc.gov/fiscal-year-2023-congressional-budget-justification>.

The Honorable Charlotte Burrows

June 15, 2022

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We look forward to hearing from you. Rules of the House of Representatives give the Committee on Education and Labor oversight of EEOC and the Committee of House Administration oversight of federal elections. Please respond by July 11, 2022. Please send your response and any questions you may have to Joe Wheeler, Professional Staff Member, of the Committee on Education and Labor at [Joseph.Wheeler@mail.house.gov](mailto:Joseph.Wheeler@mail.house.gov) and Caleb Hays, General Counsel and Deputy Staff Director, of the Committee on House Administration at [Caleb.Hays@mail.house.gov](mailto:Caleb.Hays@mail.house.gov).

Sincerely,



Virginia Foxx  
Ranking Member  
Committee on Education and Labor



Rodney Davis  
Ranking Member  
Committee on House Administration



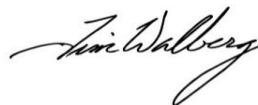
James Comer  
Ranking Member  
Committee on Oversight and Reform



Bryan Steil  
Ranking Member  
Subcommittee on Elections



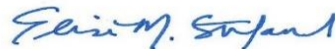
Glenn Thompson



Tim Walberg



Glenn Grothman



Elise Stefanik



Rick W. Allen



Jim Banks



Russ Fulcher



Fred Keller



Mariannette Miller-Meeks



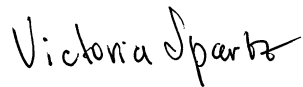
Burgess Owens



Lisa C. McClain



Diana Harshbarger



Victoria Spartz



Scott Fitzgerald



## **Responding to Committee Document Requests**

1. In complying with this request, you should produce all responsive documents that are in your agency's possession, custody, or control, whether held by you or other past or present employees of the executive branch, or a representative acting on your behalf. Your response should also produce documents that you have a legal right to obtain, that the agency has a right to copy or to which you have access, or that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee on Education and the Workforce (the "Committee").
2. If any entity, organization, or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., email, CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box, or folder is produced, each CD, hard drive, memory stick, thumb drive, box, or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph, question number, or request number in the Committee's request to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity—either inside or outside of the executive branch—also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), the agency's staff should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
12. In the event that a document or portion of a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document or redaction: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject, and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or other agency employees, or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 20, 2021, to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information, not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery. Such submission shall include an explanation as to why the information was not produced originally.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. If physical documents are to be delivered, two sets of documents should be delivered, one set to the Majority Staff in Room 2176 of the Rayburn House Office Building and one set to the Minority Staff in Room 2101 of the Rayburn House Office Building during Committee office

hours (9am-5pm, unless other arrangements are made) and signed by members of the respective staffs upon delivery.

19. Upon completion of the document production, the agency's written response should include a written certification, signed by the agency head or his or her designee, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.
20. If the agency does not expect to produce all documents responsive to this letter by the date requested, the agency's staff shall consult with the Committee as soon as it is known the agency cannot meet the deadline, but no later than 24 hours before the due date to explain: (1) what will be provided by the due date, (2) why the agency believes certain materials cannot be produced by the due date, and (3) the agency's proposed timeline for providing any omitted information.
21. The agency's response to questions and request should be answered or provided in separate document and not included inside a narrative response.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or

otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business, or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; and (b) the individual’s business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
7. The term “agency” means any department, independent establishment, or corporation of the federal government. For the purposes of responding to oversight requests, the Committee expects information to be provided from all sub-agencies of an agency and not just the information that is immediately available to the addressee or the addressee’s immediate sub-agency.