

MAJORITY MEMBERS:

ROBERT C. "BOBBY" SCOTT, VIRGINIA,  
*Chairman*

RAÚL M. GRUJALVA, ARIZONA  
JOE COURTNEY, CONNECTICUT  
GREGORIO KILILI CAMACHO SABLÁN,  
NORTHERN MARIANA ISLANDS  
FREDERICA S. WILSON, FLORIDA  
SUZANNE BONAMICI, OREGON  
MARK TAKANO, CALIFORNIA  
ALMA S. ADAMS, NORTH CAROLINA  
MARK DESAULNIER, CALIFORNIA  
DONALD NORCROSS, NEW JERSEY  
PRAMILA JAYAPAL, WASHINGTON  
JOSEPH D. MORELLE, NEW YORK  
SUSAN WILD, PENNSYLVANIA  
LUCY MCBATH, GEORGIA  
JAHANA HAYES, CONNECTICUT  
ANDY LEVIN, MICHIGAN  
ILHAN OMAR, MINNESOTA  
HALEY M. STEVENS, MICHIGAN  
TERESA LEGER FERNÁNDEZ,  
NEW MEXICO  
MONDAIRE JONES, NEW YORK  
KATHY E. MANNING, NORTH CAROLINA  
FRANK J. MRVAN, INDIANA  
JAMAAL BOWMAN, NEW YORK  
SHEILA CHERFILUS-MCCORMICK, FLORIDA  
MARK POCIAN, WISCONSIN  
JOAQUIN CASTRO, TEXAS  
MIKIE SHERRILL, NEW JERSEY  
ADRIANO ESPAILLAT, NEW YORK  
KWEISI MFUME, MARYLAND



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

MINORITY MEMBERS:

VIRGINIA FOXX, NORTH CAROLINA,  
*Ranking Member*

JOE WILSON, SOUTH CAROLINA  
GLENN THOMPSON, PENNSYLVANIA  
TIM WALBERG, MICHIGAN  
GLENN GROTHMAN, WISCONSIN  
ELISE M. STEFANIK, NEW YORK  
RICK W. ALLEN, GEORGIA  
JIM BANKS, INDIANA  
JAMES COMER, KENTUCKY  
RUSS FULCHER, IDAHO  
FRED KELLER, PENNSYLVANIA  
MARIANNETTE MILLER-MEEKS, IOWA  
BURGESS OWENS, UTAH  
BOB GOOD, VIRGINIA  
LISA C. MCCLAIN, MICHIGAN  
DIANA HARSHBARGER, TENNESSEE  
MARY E. MILLER, ILLINOIS  
VICTORIA SPARTZ, INDIANA  
SCOTT FITZGERALD, WISCONSIN  
MADISON CAWTHORN, NORTH CAROLINA  
MICHELLE STEEL, CALIFORNIA  
CHRIS JACOBS, NEW YORK  
BRAD FINSTAD, MINNESOTA  
JOE SEMPOLINSKI, NEW YORK

December 5, 2022

**SUBMITTED VIA REGULATIONS.GOV**

The Honorable Charlotte A. Burrows  
Chair  
Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20002

**RE: EEOC-2022-0004-0014, FY 2022-2026 Strategic Plan**

Dear Chair Burrows:

We write to provide input on the Equal Employment Opportunity Commission's (EEOC) draft Strategic Plan for Fiscal Year's 2022-2026 (Strategic Plan).<sup>1</sup> We are concerned the Strategic Plan refuses to reinstate EEOC's mediation and conciliation pilot programs, omits a specific plan to address EEOC's current failure to return its employees to regular in-person work, and does not fully address issues highlighted by the findings of a recent Government Accountability Office (GAO) report on EEOC's charge intake and outreach efforts. Unfortunately, these are all troubling issues we have raised previously with EEOC. Without properly addressing these issues, the Strategic Plan will fail to meet its stated commitments to equal employment opportunity, accountability, and integrity.

**Mediation and Conciliation Programs**

Mediation and conciliation are vitally important functions of EEOC that lead to just and timely resolutions of cases for workers and employers in lieu of costly litigation. In July 2020, EEOC

---

<sup>1</sup> Notice of Availability and Request for Comment: EEOC's Draft Strategic Plan 2022-2026, 87 Fed. Reg. 68,690 (Nov. 16, 2022); EEOC Strategic Plan 2022-2026: Preliminary Draft (Nov. 4, 2022), <https://www.regulations.gov/document/EEOC-2022-0004-0001>.

launched mediation and conciliation pilot programs.<sup>2</sup> However, within the first week of the Biden administration, EEOC discontinued these successful pilot programs with little explanation or justification.<sup>3</sup>

The mediation pilot program, or “ACT (Access, Categories, Time) Mediation pilot,” was intended to enhance EEOC’s successful mediation program by expanding the categories of discrimination charges eligible for mediation and by allowing mediation throughout investigations. The ACT Mediation pilot additionally expanded the use of virtual mediation. EEOC received enough positive feedback on the pilot that it was extended through the end of Fiscal Year 2021.<sup>4</sup> The conciliation pilot was intended to build on a renewed commitment to communication between EEOC and the parties, to increase internal accountability, and to improve existing practices by adding a requirement that the appropriate level of agency management approve offers before they are communicated to employers.<sup>5</sup>

EEOC’s hasty cancellation of these pilot programs and the Strategic Plan’s omission of any plans to reinstate them are missed opportunities for the agency to resolve cases for workers and employers constructively. We believe that Strategic Plan “Goal I” would be better met by reinstating these important pilot programs.

### **Serving the Public**

In March 2020, EEOC ceased its regular operations due to COVID-19. On March 23, 2022, Committee on Education and Labor Republican Leader Virginia Foxx (R-NC) and Committee on Oversight and Reform Republican Leader James Comer (R-KY) wrote to Chair Burrows to express their concerns with EEOC’s inability to return approximately 2,000 employees to in-person service and with the continued closure of its field offices.<sup>6</sup> These concerns were spurred by a disagreement between EEOC and the American Federation of Government Employees (AFGE) despite businesses and workers long since having returned to in-person work. The letter noted that 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.”

As 2022 will soon draw to a close, EEOC has still failed to implement a plan to return its employees to the kind of onsite, in-person work that resembles its operations before the pandemic. The damage done by this unreasonable delay was conceded by Chair Burrows in

---

<sup>2</sup> Press Release, EEOC Announces Pilot Programs to Increase Voluntary Resolutions (July 7, 2020), <https://www.eeoc.gov/newsroom/eeoc-announces-pilot-programs-increase-voluntary-resolutions>.

<sup>3</sup> Press Release, EEOC Concludes Conciliation and Mediation Pilots (Jan. 27, 2021), <https://www.eeoc.gov/newsroom/eeoc-concludes-conciliation-and-mediation-pilots>.

<sup>4</sup> Press Release, EEOC Announces Extension of Act Mediation Pilot (Jan. 6, 2021), <https://www.eeoc.gov/newsroom/eeoc-announces-extension-act-mediation-pilot>.

<sup>5</sup> See EEOC Announces Pilot Programs to Increase Voluntary Resolutions, *supra* note 2.

<sup>6</sup> Letter from Reps. Virginia Foxx & James Comer to Charlotte A. Burrows, EEOC Chair (Mar. 23, 2022), <https://republicans-edlabor.house.gov/news/documentsingle.aspx?DocumentID=408163>.

testimony before the Committee.<sup>7</sup> Instead, on November 18, 2022, EEOC and AFGE signed a grossly insufficient plan for employees to continue reporting to the office for only two days a week for the remainder of 2022, then for only three days for every two-week pay period in January and February 2023, and then returning to two days per week from March 2023 onward until EEOC and AFGE can reach another agreement.<sup>8</sup> This plan, which ostensibly is in response to a pandemic that has ended, clearly puts the interests of the union far ahead of individuals seeking assistance from EEOC. Given this new, disappointing agreement, the Strategic Plan’s omission of any plans to return its employees to onsite, in-person work in FY 2022-2026 is particularly glaring.

As EEOC revises its Strategic Plan, we urge you to consider that EEOC and the laws it executes are for the benefit of individuals seeking justice, not for its federal employees or AFGE. Therefore, as EEOC considers its implementation of strategic objectives for Strategic Plan “Goal III” to allocate people and resources effectively, we expect EEOC’s final Strategic Plan to consider how it will ensure the immediate return of its employees to regular, in-person work and how it will use technology to serve the public better.

### **Improving Charge Intake Processing and Outreach**

On October 31, 2022, GAO published a report requested by Republican Leader Foxx concerning EEOC’s charge intake process and outreach efforts.<sup>9</sup> GAO examined EEOC’s steps to address its pending charge inventory as well as the length of time and quality of its investigation process. GAO found that while EEOC monitors the quality of its investigations, it does not monitor the intake process’ length of time across field offices. In its evaluation of data from 53 field offices from FY 2018 to FY 2021, GAO found that the length of time varied significantly—with the fastest office averaging 11 days from inquiry to intake and the slowest office averaging 111 days in FY 2021. Further, in FY 2021, the average claim among all field offices took 69 days on average. The report recommends that EEOC monitor its field office data on the length of time of the intake process to help EEOC support offices that take longer to complete investigations.

GAO also found that while EEOC has taken steps to improve its outreach efforts, additional education and support for its personnel are needed to improve in this area. Additionally, GAO found that EEOC had difficulty reaching all areas and populations within a district and that it lacks standardized outreach materials.

---

<sup>7</sup> *Examining the Policies and Priorities of the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs: Hearing Before the Subcomm. on Civ. Rights & Hum. Serv. of the H. Comm. on Educ. & Lab.*, 117th Cong. (2022) (statement of Charlotte A. Burrows, Chair, EEOC) (“It is unclear how many of these employees have no other way to reach us, but we understand that these are likely to be some of the most vulnerable workers, and that in many rural communities, communities of color and immigrant communities, internet access may be limited.”).

<sup>8</sup> MEM. OF UNDERSTANDING BETWEEN THE NAT’L COUNCIL OF EEOC LOCALS, NO. 216 & THE U.S. EQUAL EMP. OPPORTUNITY COMM’N CONCERNING THE AGENCY’S REENTRY PLAN (Nov. 18, 2022), <https://aboutblaw.com/5Qc>.

<sup>9</sup> GAO, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION: OVERSIGHT OF THE LENGTH OF THE CHARGE INTAKE PROCESS IS NEEDED (Oct. 2022), <https://www.gao.gov/products/gao-23-106245>.

The Honorable Charlotte A. Burrows

December 5, 2022

Page 4

As GAO's report was published around the time the Strategic Plan was made public for comment, its recommendations could not be included in the draft. We believe the execution of Strategic Plan Goals II and III will be stronger if GAO's recommendations are included in the final Strategic Plan. We encourage EEOC to review these recommendations and include them accordingly.

### **Conclusion**

EEOC has the important mission of ensuring that workers and job seekers can work and seek employment without fear of employment discrimination. We offer our comments to the Strategic Plan so that EEOC can better achieve its mission.

Sincerely,



Virginia Foxx  
Ranking Member



Russ Fulcher  
Ranking Member  
Subcommittee on Civil Rights and  
Human Services