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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON CIVIL RIGHTS AND HUMAN SERVICES
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I. Introduction

Thank you for the opportunity to testify about the important work and strategic priorities of the U.S. Equal Employment Opportunity Commission (“the Commission,” “EEOC” or “agency”), to enforce the nation’s laws against discrimination in employment based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), national origin, age, disability, and genetic information.¹ The Commission is working hard to respond to the unique workplace civil rights challenges and opportunities of our time.

The EEOC was created in direct response to the call for basic human dignity and equal rights that was put forth so eloquently at the historic 1963 March on Washington for Jobs and Freedom. That call, which is also inherent in America’s founding values, is at the center of the EEOC’s work and informs everything we do. The agency first opened its doors in 1965 with a simple mission — to prevent and remedy discrimination in our nation’s workplaces. Since the EEOC’s founding, America has made real strides to advance equal opportunity. The civil rights laws we enforce have opened doors that were previously shut for all the wrong reasons. But laws alone are not enough. As the Reverend Dr. Martin Luther King, Jr. said in March 1964, when the Senate began its historic debate on the 1964 Civil Rights Act, “When the legislation becomes law, its vitality and power will depend as much on its implementation as on the strength of its declarations.” At the EEOC, we take seriously our crucial role in that implementation. The EEOC’s efforts have helped countless workers and advanced opportunity in workplaces and industries across the country.

Today, we are in a similarly important moment for civil rights. In the past few years, we have witnessed our nation’s attempts to reckon with the historic inequities faced by persons of color — a reckoning brought into sharp focus by the murder of George Floyd and so many others like

¹ The EEOC enforces Title VII of the Civil Rights Act of 1964 (Title VII), the Equal Pay Act of 1963 (EPA), the Age Discrimination in Employment Act of 1967 (ADEA), Section 501 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA).

him. These tragic events have brought national attention to broader questions about economic inequality and the role of persistent discrimination in limiting equal employment opportunity.

At the same time, COVID-19 exposed gulfs in economic inequality. The pandemic has affected all of us, but it has had a disproportionate impact on many working families, caregivers, and frontline workers. Many of these workers were women and persons of color who were concentrated in industries hit hardest by layoffs early in the pandemic – such as hospitality and retail. Others kept the American economy working by serving in hospitals, caring for the elderly, staffing grocery stores, and delivering goods. These essential workers, who were at an increased risk of contracting COVID-19, were also the least likely to have good health insurance or paid sick leave. The pandemic also sparked an alarming rise in harassment and violence directed at Asian Americans, Native Hawaiians, and Pacific Islanders. As the nation recovers from the pandemic, we must ensure that discrimination does not prevent all of America’s workers from sharing equally in the recovery.

As Chair of the EEOC, my overarching goal is to ensure that the EEOC has the resources it needs to meet this moment and advance its mission, which is critical to our future and our children’s future. Thanks to the support and advocacy of the leadership of this Committee and other Members of Congress, the additional resources provided by Congress have allowed us to make a down payment on rebuilding the agency’s capacity. In FY 2021, we hired additional staff, ending the year with over 2,100 employees. The President’s FY 2023 Budget request proposes \$464.65 million for the EEOC. This funding level will allow us to continue strengthening the agency’s capacity to meet the needs of the dynamic and increasingly diverse American workforce as the nation continues to recover from the impacts of the pandemic.

Fiscal Year (FY) 2021 was a year of challenges and opportunities for the Commission. Yet despite historically low staffing levels and the agency’s first full fiscal year of working remotely, FY 2021 was also a year of successes, thanks to the resilience and resourcefulness of the EEOC’s workforce. Among the significant accomplishments, in FY 2021, the EEOC:

- Secured more than \$485 million for victims of discrimination in private, state and local government, and federal workplaces and helped over 15,000 people;
- Increased the recoveries obtained for individuals in our administrative process by nearly \$20 million compared to the prior fiscal year;
- Increased the number of successful mediations and the monetary benefits recovered for charging parties through mediation (6,600 successful mediations resulting in \$177 million in benefits to charging parties, a \$20 million increase over FY 2020);
- Increased our merit factor rate from 17% to 19%—meaning that nearly 1 in 5 charges were resolved favorably to workers;
- Began rebuilding our litigation program, including by filing 116 lawsuits (compared to 93 filed the previous year);
- Hired 450 staff across the country, mostly front-line staff (including intake staff, investigators, mediators, and trial attorneys);
- Provided technical assistance to the public on a variety of pandemic-related questions; and

- Provided timely updates to our “[What You Should Know](#)” document on COVID-19 and the laws enforced by the EEOC to provide employers and employees much-needed information on emerging employment issues during the pandemic.

We know, however, that more must be done to advance equal employment opportunity. The agency’s strategic and budgetary priorities for doing so are discussed below.

II. The EEOC’s Strategic Priorities

The EEOC vigorously enforces each of the federal anti-discrimination laws within its jurisdiction. To maximize the agency’s impact, the Commission is focused on four broad areas that cut across all of our statutes: 1) advancing racial justice and addressing broad patterns or practices of discrimination, on all protected bases, through our systemic program and inter-agency cooperation; 2) determining, confronting, and tackling the civil rights impact of the COVID-19 pandemic; 3) advancing pay equity; and 4) strengthening the agency’s capacity.

We continue to work toward an America where all people have a fair chance to obtain employment, provide for their families, and contribute to our economy.

III. Advancing Racial Justice and Addressing Economic Inequality Through Systemic Program

Central to the effort to advance equal employment opportunity, the EEOC is working to strengthen and deepen the agency’s focus on addressing systemic discrimination, while also continuing to pursue individual charges of discrimination. Systemic discrimination creates barriers to opportunity that cause widespread harm to workers, employers, and our economy. Systemic investigations and lawsuits address significant problems that have a broad impact on an industry, profession, company or geographic area.

In FY 2021, the EEOC resolved over 378 systemic investigations and obtained over \$24 million in remedies during the administrative process. The EEOC also resolved 26 systemic lawsuits, obtaining an additional \$22.7 million for 1,671 individuals and significant equitable relief. In FY 2021, the EEOC’s litigation program achieved a remarkable 96% success rate in its systemic case resolutions.

The broad range of the types of systemic cases demonstrates our systemic program’s importance. In FY 2021, the Commission filed 13 systemic lawsuits. The allegations in these lawsuits included sex-based failure to hire, harassment based on sex and pregnancy, discharge based on race and national origin, age-based layoffs, and challenges to employment policies that limited the rights of individuals with disabilities. At the end of FY 2021, 29 cases on the EEOC’s active litigation docket were systemic suits, accounting for 16.1% of the 180 active merits suits.

While enforcement is a cornerstone of our mission, we recognize that combatting systemic discrimination need not always be adversarial. At the EEOC, we are thinking creatively about how to use all of the agency’s tools to combat broad patterns and cultures of exclusion, including through outreach, education, training, and technical assistance. We continue to work with

employers interested in proactively seeking to ensure fairness in their own policies and practices. The EEOC also collaborates with significant partners to increase our engagement with underserved and vulnerable communities. Collectively, our outreach interactions help foster practices to prevent discrimination and ensure the agency remains aware of emerging issues that can help inform effective strategies to reduce or eliminate discriminatory barriers to employment.

In FY 2021, the EEOC held 2,325 outreach events reaching 254,830 individuals nationwide with information about employment discrimination and their workplace rights and responsibilities.

The following table highlights outreach that focused on the agency’s priorities:

Outreach	FY 2021	
	Events	Audience Size
Vulnerable Workers/Underserved Communities	643	69,506
Equal Pay	124	24,248
Harassment (Sexual and Non-Sexual)	447	75,528
COVID-19	254	24,367
Small Business	460	27,495

The agency is also assisting the administration’s whole-of-government efforts to address systemic discrimination and advance equal opportunity. We are providing advice and assistance to federal agencies as they implement Executive Order (EO) 13985, [*Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*](#); EO 13988, [*Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*](#); and EO 14035, [*Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce*](#).

1. Racial Justice

The EEOC has a vitally important role in protecting employees against racial discrimination, and during the pandemic this has been especially important for essential workers. Over the past five fiscal years, one-third of all charges filed with the agency have alleged some form of racial discrimination. As a result, advancing racial justice also remains a top priority for the EEOC. In FY 2021, the agency filed 23 new lawsuits alleging race or national origin discrimination, including 19 involving discrimination against Black workers. This comprised nearly 20% of all merit suits filed by the EEOC.² The EEOC also resolved 21 cases involving race or national origin – 3 of which included over 150 victims of discrimination each – and obtained approximately \$15 million in relief for 798 individuals subjected to systemic discrimination.

² Merits suits include direct suits and interventions alleging violations of the substantive provisions of the statutes enforced by the Commission and suits to enforce administrative settlements.

To help illustrate the issues workers of color face in the workplace, I want to highlight a few facts from some of our cases. In *EEOC v. Cardinal Health 200*, managers and employees made derogatory racial comments to Black employees, including use of the n-word and references to Black employees as “monkeys” and “slaves.” Restroom facilities were also defaced with racist graffiti.³ In *EEOC v. MVM, Inc.*, supervisors and managers told employees who they believed were African to “go back to Africa,” and referred to them in derogatory terms, accused them of poor performance, and discharged them.⁴ In *EEOC v. JBS USA, LLC*, Black Somali Muslim employees were denied religious accommodations and subjected to harassment based on race, national origin, and religion. The employer also disciplined and discharged Somali Muslim employees because of their national origin and religion in retaliation for requesting religious accommodations. In *EEOC v. Food Ventures North America*, a Venezuelan employee was subjected to daily derogatory comments about Hispanics by the employer’s head of marketing, who described Hispanics as lazy and barbaric.⁵ These cases and the many others like them make clear the urgent need for the agency to focus on furthering racial justice.

The EEOC’s work to advance racial justice in the workplace benefits all workers by promoting merit-based practices that expand opportunity for everyone. In FY 2021, the EEOC conducted 261 outreach sessions involving issues related to race, which were attended by 35,162 individuals, and 245 sessions on national origin discrimination with 16,521 attendees.

The EEOC also reached out to Asian Americans, African Americans, and other workers of color through listening sessions, panel discussions, trainings and other meetings to strategize ways to combat racial and ethnic harassment and discrimination. The EEOC’s field offices facilitated the exchange of information across district offices, coordinated community engagement efforts with other federal agencies, and collaborated with the White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders (WHIAANHPI), and the White House Office of Public Engagement in response to the rise in hate crimes and incidents against Asian American and Pacific Islander communities around the nation.

The EEOC also recognizes that language access remains an important tool to inform limited English proficient job applicants, employees, and employers about their rights and responsibilities in the workplace. All of the agency’s District and Field Offices nationwide have the capability to provide interpreter services during intake calls or interviews. In addition to existing Spanish translations, the EEOC has translated key documents, fact sheets, and publications into Arabic, simplified Chinese, Haitian Creole, Korean, Russian, Tagalog and Vietnamese. With additional funding we plan to add more languages and translate additional information.

³ *EEOC v. Cardinal Health 200, LLC, d/b/a Cardinal Health; and Howroyd-Wright Employment Agency, Inc., d/b/a AppleOne Employment Services*, No. 5:19-cv-00941 (C.D. Cal. July 8, 2021).

⁴ *EEOC v. MVM, Inc.*, No. 8:17-cv-o2864 (D. Md. Dec. 17, 2020).

⁵ *EEOC v. Food Ventures North America, Inc., d/b/a Wild Fork Foods*, No. 1:21-cv-21389 (S.D. Fla. April 12, 2021).

2. Harassment

Preventing harassment in all its forms and on all bases—including but certainly not limited to sexual harassment—remains a critical priority for the EEOC. As we saw with the explosive rise of the #MeToo movement, workplace harassment is a persistent and pervasive problem. More than one-third of all charges of discrimination filed against private, state or local government employers allege some form of unlawful harassment. Accordingly, the Commission has made preventing harassment on any prohibited basis a top national priority. In FY 2021, the EEOC recovered over \$19 million for 895 individuals subjected to harassment through our litigation program.

In the past fiscal year, the EEOC filed 53 lawsuits challenging workplace harassment—34 cases raised claims of hostile work environment based on sex, 19 based on race, 5 based on national origin, 2 based on disability, 1 based on religion, and 1 based on age. In all, 45.6% of all lawsuits filed by the agency included an allegation of harassment. The EEOC successfully resolved 51 harassment suits in FY 2021. Eight of these resolutions involved allegations of systemic harassment.

Sex-based harassment represents the largest category of harassment charges filed with the EEOC; in FY 2021, they were approximately 47% of harassment charges. In the first fiscal year after the #MeToo movement went viral, charges filed with the EEOC alleging sex-based harassment increased by 13.6%. In FY 2021, the EEOC received 5,581 charges alleging sexual harassment. Although lower than the initial spike in charges brought on by the #MeToo movement, sexual harassment charges continue to be about nine percent of the total number of all charges received nationwide involving private or state or local government employers.

After the #MeToo movement gained international attention in October 2017, the rest of America awakened to what the Commission has known for some time—sexual harassment is a major problem in American workplaces. In FY 2021, we litigated one case where a male supervisor subjected workers – mostly teen girls – to sexually explicit comments and inappropriate touching.⁶ In another case, a male manager subjected female employees to unwelcome touching, sexual remarks, comments about their bodies, and inappropriate texts. This manager also conditioned better assignments and benefits on submitting to his advances.⁷

In the last few months alone, we resolved multiple lawsuits involving egregious sex or race-based harassment, including the EEOC's second largest monetary recovery in a sexual harassment case—*Activision Blizzard*.⁸ In that case, the gaming company subjected a class of female employees throughout the country to sexual harassment, pregnancy discrimination, and retaliation. The three-year consent decree provides for \$18 million, which will be distributed through a claims process, and as importantly, an agreement for substantial changes to workplace policies. These changes are aimed at preventing workplace harassment, discrimination, and

⁶ *EEOC v. Del Taco, LLC*, No. 5:18-cv-1978 (C.D. Cal. Nov. 30, 2020).

⁷ *EEOC v. Carrabba's Italian Grill, LLC and OS Restaurant Services, LLC*, No. 8:21-cv-02507 (M.D. Fla. Dec. 9, 2021).

⁸ *EEOC v. Activision Blizzard, Inc., et al.*, Case No. 2:21-cv-07682 (C.D. Cal. Mar. 29, 2022).

retaliation. The decree will be implemented throughout the companies, including locations in California, Arkansas, Minnesota, New York, Texas, and Wisconsin.

In addition to litigation, the EEOC has worked proactively with employers, unions, and workers to help address and prevent harassment. During the pandemic, we moved many of our training and outreach events focused on prevention to virtual platforms, including the EEOC's signature Respectful Workplaces training, which continues to generate strong interest and teaches skills that promote and contribute to respect in the workplace, including how bystanders may help when problematic behavior happens to others. During FY 2021, the agency conducted 203 outreach sessions on the topic of sexual harassment alone, reaching 55,417 attendees.⁹

3. New Initiatives Advancing Systemic Work

a. Interagency Cooperation to Combat Retaliation

Because retaliation is a common thread in many charges filed with the Commission, we are also redoubling our efforts to address retaliation. Last November, [the EEOC, the Department of Labor's Wage and Hour Division and Office of the Solicitor, and the National Labor Relations Board \(NLRB\)](#) launched a joint initiative to raise awareness about retaliation issues when workers exercise their protected rights. The initiative includes collaboration among our agencies to protect workers against unlawful retaliatory conduct, educate the public, and engage with employers, business organizations, labor organizations, and civil rights groups about ways to prevent retaliation. Although the EEOC often learns of retaliation in connection with a charge filed by a single individual, by its nature, retaliation is often intended to send a signal to discourage an entire workforce from opposing abuses. As such, whether pursued as an individual charge or a systemic enforcement action, combatting retaliation supports the EEOC's efforts to combat systemic discrimination.

b. The Hiring Initiative to Reimagine Equity

In addition to our inter-agency anti-retaliation initiative with the Department of Labor and the NLRB, in the past year, OFCCP Director Jenny Yang and I launched the Hiring Initiative to Reimagine Equity (HIRE). The initiative recognizes that many employers and workers' organizations are seeking actionable strategies to ensure diversity, equity, inclusion, and accessibility (DEIA) programs meaningfully expand opportunities while also ensuring compliance with federal anti-discrimination laws. HIRE seeks to provide employers with a better understanding of potential barriers to DEIA in hiring and to highlight promising practices to advance equal employment opportunity. This initiative is critical as employers confront changing

⁹ The EEOC has published a variety of useful materials for employees and employers addressing workplace harassment on our website. See, e.g., "What You Should Know" fact sheets that give practical advice to individuals who believe they have been harassed at work; The EEOC Select Task Force on the Study of Harassment in the Workplace report of the Co-Chairs; and EEOC's list of "Promising Practices for Preventing Harassment," which gives employers guidance on proactive measures they may adopt to prevent harassment from occurring.

labor market dynamics while our nation makes major investments in our infrastructure and recovery.

c. EEOC's Initiative on Artificial Intelligence and Algorithmic Fairness

Last Fall, the EEOC launched its Initiative on Artificial Intelligence (AI) and Algorithmic Fairness to ensure that the use of new technologies in employment decisions complies with federal employment laws. Workplaces are also changing rapidly due to the pandemic and new developments in technology. Tech-based hiring and human resources systems are increasingly used to recruit, select, and manage workers raising important equity concerns. AI is used throughout the hiring process, from recruiting and job advertisements, to screening, interviewing, and candidate selection. AI is also increasingly used in the management of employees. It can be used to help human resources professionals assign bonuses or suggest who should be let go. And it can also be used to monitor workers' productivity.

The initiative's goal is to help guide applicants, employees, employers, and technology vendors to ensure that these technologies do not perpetuate discrimination. While this is an EEOC initiative, we are in close contact and collaboration with other partners across the federal government, including OFCCP.

IV. The Civil Rights Impact of the COVID-19 Pandemic

As noted above, the COVID-19 pandemic has brought civil rights challenges in addition to public health and economic challenges. The myriad civil rights impacts of the COVID-19 pandemic—including its disproportionate impact on women, people of color, immigrants, people with disabilities, and so many others—underscore the importance of the EEOC's work to build respectful and inclusive workplaces. Additionally, life during the pandemic has created mental health issues for some workers and exacerbated existing mental health challenges for others.

The agency continues to field thousands of stakeholder questions concerning re-entry to physical workplaces, health and safety requirements, and the future of work. From April 2020 to December 31, 2021, the EEOC received more than 6,225 COVID-19-related charges of discrimination under the federal laws we enforce, including nearly 3,150 in 2020 and 3,075 in 2021. From October 2020 to December 2021, the EEOC received more than 2,700 vaccine-related charges, most of which were received in 2021, as vaccine requirements were introduced. The overwhelming majority of the vaccine-related charges were Title VII charges.

The EEOC is responding to the COVID-19-related civil rights issues in a number of ways. Last year, the Commission held a [public hearing](#) to explore how the COVID-19 pandemic has impacted civil rights in the workplace. We heard from witnesses about the many ways it has affected employers and employees, and the importance of ensuring that the economic recovery benefits everyone as the public health situation evolves, and the economy continues to add jobs.

In addition to achieving resolutions and conciliations, to date, we have filed three cases involving COVID-19 related issues:

- *EEOC v. ISS Facility Services, Inc.*¹⁰ The EEOC alleges that the employer denied a health and safety manager’s accommodation request and discharged her after she requested accommodation in the form of telework and frequent breaks she needed due to her disability.
- *EEOC v. Fabens Pharmacy.*¹¹ The EEOC alleges that the employer violated the Americans with Disabilities Act (ADA) when a pharmacy technician who suffers from asthma was constructively discharged for asking to wear a mask at work as an accommodation for his disability immediately following the onset of the COVID-19 pandemic.
- *EEOC v. 151 Coffee.*¹² The EEOC filed suit after its investigation concluded that the employer violated the ADA by denying reasonable accommodation to two baristas with disabilities and refusing to allow them to return to work until a vaccine for COVID-19 was developed, despite their willingness to work.

Perhaps most significantly, the Commission has provided numerous resources to assist employers and employees as they grapple with pandemic-related issues. The EEOC’s primary [COVID-19 technical assistance](#) online resource, which we have continually updated to address frequently asked questions and emerging pandemic-related workplace issues, received 4.26 million webpage views from March 2020 through March 2022.

Most recently, the EEOC issued technical assistance addressing discrimination against employees with caregiving responsibilities, the majority of whom are women. Nearly [1.8 million](#) women left the labor force during the pandemic.¹³ [Women with children](#), including women of color with children, were among the most likely to exit.¹⁴ Even though many businesses, schools, and care centers have reopened, the pandemic continues to have myriad effects on employment. Establishments may operate on hybrid schedules or close with little notice. Employees may be asked to work extra shifts or may need to quarantine unexpectedly. These developments have consequences for employers and workers, including workers with caregiving responsibilities.

To help employees understand their rights and employers understand their responsibilities regarding caregiver discrimination under the laws enforced by the EEOC, the agency issued a technical assistance document, “[The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Laws](#),” and updated the related section of our existing COVID-19 information on our website.

We also continue our intensive outreach and training efforts to promote EEO compliance by both public and private sector employers on specific pandemic-related issues arising under the statutes we enforce. The EEOC has prioritized outreach and education on the workplace civil rights

¹⁰ *EEOC v. ISS Facility Services, Inc. No. 1:21-cv-2708 (N.D. Ga.) (Case is currently pending).*

¹¹ *EEOC v. Fabens Pharmacy, No. 3:21-cv-232 (W.D. Tx.) (Case is currently pending).*

¹² *EEOC v. 151 Coffee, No. 4:21-cv-01081 (N.D. Tex.) (Case is currently pending).*

¹³ Department of Labor Women’s Bureau Report Fact Sheet. [Bearing the Cost: How Overrepresentation in Undervalued Jobs Disadvantaged Women During the Pandemic](#)

¹⁴ Ibid.

implications of the COVID-19 pandemic, providing workers, employers and other stakeholders with up-to-date information about the interplay of COVID-19 and federal EEO laws. During FY 2021, EEOC held 313 outreach events related to COVID-19, reaching 39,827 individuals.

Although the pandemic has forced employers in nearly every sector of the economy to rethink traditional workplace practices, it has been particularly challenging for workers who before the pandemic already faced substantial barriers to meaningful employment, including unlawful discrimination. These workers must navigate additional hurdles as the nation begins to reopen and recover from the COVID-19 pandemic. As the nation's economy recovers, historically underrepresented communities have been slow to regain their jobs. We have a critical opportunity to identify barriers and strengthen recruiting and hiring practices to ensure all workers can access good jobs.

For example, older workers left the workplace in disproportionate numbers during the pandemic. It is highly likely that millions more older workers would have remained in the workplace if the pandemic had not occurred. When attempting to reenter the workforce, these workers face several barriers to hiring. These include reluctance to hire employees who have gaps in their resumes, as well as legal hurdles, such as court decisions that have created questions over whether older workers can establish their rights when workplace practices have a disparate impact on their attempts to find new work. Bipartisan legislation like H.R. 2062, the *Protecting Older Workers Against Discrimination Act* and H.R. 3992, the *Protecting Older Job Applicants Act* can help clarify and reaffirm the legal rights of many older workers.

1. Impact of COVID-19 on Agency Operations and Return to the Physical Workplace

The EEOC has experienced this pandemic both as an employer and as a law enforcement agency. At the EEOC, we have been working to keep our employees and the public safe while navigating changing public health conditions, managing the logistics of social distancing and telework, continuing our enforcement, and responding to a large volume of requests from employers and the public about how federal employment law applies to emerging COVID-19 issues in the workplace.

Like many employers, the EEOC moved to maximum telework in March 2020 in response to the pandemic. In FY 2021, the agency experienced our first full fiscal year of maximum telework. During this time, the agency has adjusted and learned to conduct investigations, mediations, hearings, and even trials, remotely.

The biggest pandemic-related challenge for the EEOC has been ensuring that we continue to reach the individuals who most need our assistance. Before the EEOC pivoted to emergency telework, about 15% of the almost 200,000 inquiries that the EEOC received in FY 2019 were handled in-person at our 53 field offices across the country. 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. In addition, although the EEOC works with employees by telephone and electronic mail to assist employees in filing charges successfully, due to budget constraints, appointment calendars in many of our offices stretch several months into the future. Because our field offices are closed to the public and our in-

person events have been limited due to the pandemic, the agency has relied on strategic partnerships with civil rights and workers' organizations to help reach vulnerable workers who lack access to broadband or the technology needed to interface with the EEOC virtually. The agency also hopes, with the additional resources provided in its FY 2023 budget, to reduce wait times for its 1-800 number.

The EEOC is currently working with our union, to complete reentry negotiations so that we can safely return to our field offices across the country in the coming months, while also maintaining workplace flexibilities. While this will require an adjustment for all of us, I am confident that the EEOC will meet this challenge in a way that allows us to continue to fulfill our mission and serve those who need our help.

V. Pay Equity

The EEOC is working hard to address pay discrimination and other forms of discrimination that contribute to unjustified gaps in pay along the lines of race, gender, ethnicity, and other unlawful bases. Although more than 50 years have passed since the Equal Pay Act of 1963 (EPA) and Title VII of the Civil Rights Act of 1964 outlawed pay discrimination, significant and unjustified pay disparities still persist. This is true for women generally, women of color, and men of color.

Notably, women continue to file a substantial number of the charges filed with the EEOC alleging pay discrimination. Women [filed 91.7%](#) of the 5,044 EPA charges received between FY 2017 and FY 2021 and 65.4% of the 19,055 Title VII pay discrimination charges received between FY 2017 and FY 2021. These filings are underscored by the [2020 Census data](#) (which is the most recent available national data) that show women in the United States earned [82 cents for every dollar earned by men](#). And the pay gap is [even wider for women of color](#), mothers of young children, Native American and indigenous women, and individuals with disabilities. As equal pay champion Lilly Ledbetter put it, "those pennies add up to real money."

While not all pay gaps are due to pay discrimination, the academic research and the EEOC's own experience make clear that discriminatory factors— like race and gender segregation in jobs and assignments, discrimination in hiring and promotions, and overt pay discrimination—contribute to the problem. A recent Department of Labor report estimates that Black women lost \$39.3 billion, and Hispanic women lost \$46.7 billion, in wages compared to white men due to differences in industry and occupation in 2019.

Unfortunately, the EEOC still sees cases of blatant pay discrimination. For example, in one suit, which we settled last September, [a female IT analyst](#) was paid \$17,000 less than her male counterpart despite her 24 years of experience and despite having performed the same tasks, assignments, and work as her male coworker, who had been hired at the same time from the same former employer.

In all, the agency has recovered millions of dollars for workers paid unequal wages both in the administrative enforcement process and in litigation, as well as achieving real changes to workplace policies to prevent future violations. Between FY 2017 and FY 2021, the EEOC recovered \$65.3 million for individuals filing EPA charges and \$159 million for individuals filing Title VII pay discrimination charges. The EEOC recovered an additional [\\$32.9 million](#) in

lawsuits including pay issues (under sex or any other basis) from FY 2017 through FY 2021. We have also conducted outreach and education to prevent pay discrimination. As noted above, during FY 2021, the agency conducted 124 outreach sessions involving pay equity, with 24,248 attendees.

Notwithstanding the agency's successes, the lack of access to pay data has been a long-standing gap in the EEOC's enforcement toolbox for addressing pay discrimination. Collecting and analyzing pay data will enhance enforcement of federal civil rights laws and help close gender, ethnic, and racial pay gaps by allowing the agency to better identify patterns of potential discrimination in pay and promotions or job segregation.

In 2020, the EEOC completed its first, historic collection of pay data from private employers with 100 or more employees; this was the EEO-1 Component 2 data collection. Subsequently, the agency contracted with the Committee on National Statistics of the National Academies of Sciences, Engineering, and Medicine (CNSTAT) to examine this first-time pay data collection and provide recommendations that will help inform the agency's decision making for future collections.

The EEOC also plays a key role in the White House's [National Strategy on Gender Equity and Equality](#), which outlines a roadmap to address longstanding gender discrimination and systemic barriers faced by women and girls and advance equal opportunity for all people. Addressing pay discrimination and closing pay gaps based on gender, race, and ethnicity are key components of the national strategy and the EEOC's work is crucial to those efforts.

VI. Additional Agency Priorities

1. Sexual Orientation and Gender Identity

The EEOC is working to fully implement and enforce the Supreme Court's decision in *Bostock v. Clayton County*,¹⁵ which affirmed the EEOC's longstanding position that Title VII of the Civil Rights Act of 1964 prohibits discrimination based on sexual orientation and gender identity. The EEOC also is moving to effectively implement Executive Order 13988 entitled, *Preventing and Combating Discrimination Based on Gender Identity and Sexual Orientation* and to assist other federal agencies across the administration in meeting their obligations under the Executive Order as well. As part of this work, we continue to educate employers and employees on their rights and responsibilities in this area as well as work to investigate and resolve charges of sexual orientation and gender identity discrimination. In FY 2021, the EEOC resolved 1,891 charges of LGBTQI+ based discrimination and recovered more than \$9 million on behalf of victims. We also continue to educate employers and employees on their rights and responsibilities in this area. In FY 2021, there were 186 LGBTQI+ events that reached 19,208 individuals.

In January 2021, the Commission published its first federal sector decision applying *Bostock*, in *Bart M. v. Department of the Interior*. That decision was bipartisan and unanimous. The agency also has issued several additional [federal sector decisions](#) in cases alleging discrimination against

¹⁵ *Bostock v. Clayton County, Georgia*, 590 U.S. ___, 140 S. Ct. 1731, 1737 (2020).

LGBTQI+ employees and continues to obtain relief through the administrative process for employees who face discrimination based on sexual orientation or gender identity.

2. Workers with Criminal Convictions

For over six months, the EEOC has been participating in an Interagency Policy Committee that is focused on increasing employment opportunities for formerly incarcerated persons. The EEOC has been leading in this area for over a decade. In 2012, the Commission issued bipartisan guidance on how anti-discrimination laws can come into play when employers consider arrest or conviction records during the hiring process. More recently, for Second Chance Month in April 2022, the EEOC launched a new landing page that compiles all of our resources—for workers and employers—on arrest and conviction issues.¹⁶

VII. Strengthening the Agency

In FY 2020, the agency's staff of full-time employees was at its lowest level since 1980. As the agency's resources declined, its responsibilities increased because of the growing workforce and the additional legal protections signed into law. Today, promoting equal employment opportunity and enforcing the nation's federal workplace anti-discrimination laws are as necessary as ever.

To continue to ensure vital civil rights protections for all workers, it is crucial that the EEOC have the capacity, resources, and tools it needs to continue protecting and advancing equal employment opportunity, both now and far into the future. First and foremost, that requires ensuring that the Commission has sufficient funding to carry out its mission.

Fortunately, as noted above, Congress' support of the EEOC's FY 2021 budget made it possible to begin rebuilding the agency's capacity, and we greatly appreciate that support. The EEOC made a down payment on rebuilding the agency in FY 2021 with the authorization of 450 hires—mostly front-line staff, including intake staff, investigators, mediators, and trial attorneys—and ended the year with over 2,100 employees. Accounting for historical attrition, we also plan to add approximately 250 full-time staff to advance the agency's mission and vigorously enforce the laws entrusted to us. Our new front-line personnel and our plans to expand our intake capacity will help us act on Executive Order 14058, [*Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government*](#).

In addition to hiring and training, we are planning an investment of more than \$25 million in system modernization, particularly for improving our data quality.

1. Fiscal Year 2023 Budget Request

The FY 2023 Budget request of \$464,650,000 includes \$31,500,000 for state and local fair employment practice agencies and tribal employment rights organizations. With this proposed budget for FY 2023—overall a 10% increase over the amount Congress appropriated in FY 2022—the Commission will continue to work diligently to advance equal opportunity in the

¹⁶ Link to landing page forthcoming

American workplace. I believe that the investments the Administration and Congress are making in the EEOC will pay dividends for workers and employers through increased fairness, equality, and opportunity—fundamental American values that we can all support.

Much of this increase will be invested in the staff needed to investigate and resolve discrimination complaints, provide oversight of federal sector equal employment opportunity, and education, outreach and guidance to employer and the public. The increase is particularly important because more than 90% of the EEOC’s budget goes towards fixed costs — e.g., state, local and tribal programs; employees’ compensation and benefits; rent and security; as well as information technology. Because much of the proposed increase will be used to support staff salaries, including the hiring of additional staff, the Commission will be able to continue the vital work of tackling illegal employment discrimination in all forms and on all bases, including the priorities I have outlined today. The EEOC provides taxpayers with a substantial return on its investment; the benefits we recover that go directly to workers consistently exceed our appropriation from Congress.

VIII. Conclusion

The EEOC was established as a result of America’s bipartisan, national commitment to civil rights. As such, the EEOC is tangible proof that the causes of justice and equality are more powerful than prejudice and division.

Our mission—to prevent and remedy employment discrimination—is greater than any one of us, and the EEOC remains firmly committed to this mission.

As the nation begins to recover from the worst effects of the COVID-19 pandemic and the American workforce increasingly diversifies, we must remain true to the founding vision of an America that offers equality and justice for all, in which everyone has a fair chance to earn a living and contribute to the nation’s economy. This means we must be intentional about investing in civil rights enforcement.

With continued robust investments from Congress, the EEOC will be better able to efficiently and effectively do its part to form a “more perfect union.”