

May 23, 2017
Statement of the Honorable Mark Takano (D-CA)
Ranking Member, Subcommittee on Workforce Protections
“The Need for More Responsible Regulatory and Enforcement Policies at the EEOC.”

Thank you, Mr. Chairman.

It’s been more than fifty-years since the enactment of the Civil Rights Act of 1965 and the creation of the EEOC. In that time, the EEOC has been on the forefront of fighting discrimination in the workplace for all people, and its work is needed now more than ever.

Race, gender, disability, and age discrimination still persist today. In Fiscal Year 2016, the EEOC received a record total of 91,503 charges: 35% were based on race, 29% were based on sex, 29% were based on disability status, and 22.8% were based on age discrimination. This evidence demonstrates that there is still a need for robust civil rights protections in the workplace.

We are here today to discuss the EEOC’s regulatory and enforcement policies. If past is prologue, then I’m sure we will hear from witnesses and my colleagues on the other side of the aisle claiming that the EEOC has overstepped its bounds in pursuing an “aggressive litigation strategy” and in its enforcement guidance. I do not believe this is the case. With a more diverse workforce the EEOC’s charge is more difficult than ever before and Congress should empower the EEOC to ensure that all people feel welcome in their workplace.

There is so much more work the EEOC needs to do.

Take for example the issue of pay discrimination. We are in the 21st Century. The Equal Pay Act was passed in 1963 and the Lilly Ledbetter Act in 2009. Why is the wage gap still an issue for millions of working women in our nation?

On average, working women make 83 cents for every dollar that a typical white man makes. And census data shows that for women of color the wage gap is even worse: on average black women earn 65 cents to the dollar, Hispanic women earn 59 cents, and some AAPI women earn as little as 44 cents. That is why I support the recent update to the EEO-1 pay data collection form.

If we don't have accurate data, we won't be able to solve this persistent problem. While the updated EEO-1 form won't eliminate pay discrimination on its own, it's an important step. The data that this form will now collect will help the EEOC assess where discrimination is and help the Commission work to put an end to it.

The work of the EEOC ensures that there is fundamental fairness in the workplace.

This is what the Commission sought to do with its 2012 arrest and conviction guidance. By clarifying when and how an employer can use arrest and conviction records, the EEOC was simply providing guidance to employers to ensure that they were being fair in hiring and employment decisions. This was not a mandate to tell employers that they can't use criminal background checks, but rather an effort to ensure fairness to all workers. In fact, the fundamentals of that enforcement guidance came from the pivotal case of *Griggs v. Duke* and previous EEOC memos. And over 150 cities and counties and 26 states already have adopted what is widely known as "ban the box" laws.

Mr. Chair, I hope that our discussion today can center around the continued work the EEOC needs to do to end discrimination in the workplace.