

Congress of the United States

Washington, DC 20510

June 13, 2025

The Honorable Andrea R. Lucas
Acting Chair
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

Dear Acting Chair Lucas:

We are writing to strongly oppose the recent actions you have taken as Acting Chair of the U.S. Equal Employment Opportunity Commission (EEOC or Commission) that fail to fulfill enforcement of Title VII of the Civil Rights Act of 1964 (Title VII) relating to gender identity discrimination.¹

In *Price Waterhouse v. Hopkins* (Price Waterhouse), the Supreme Court determined that discrimination based on gender stereotypes is a form of sex discrimination under Title VII.² In its landmark decision in *Macy v. Holder*, the Commission relied on *Price Waterhouse* to hold that discrimination based on gender identity is a form of sex discrimination that violates Title VII.³ This interpretation was affirmed by the Supreme Court in *Bostock v. Clayton County* (*Bostock*), where the Court also held that discrimination based on gender identity is prohibited by Title VII.⁴ Over the past decade, the Commission has decided a number of additional cases that have further clarified different ways in which unlawful gender identity discrimination may manifest in the workplace.⁵

Discrimination against transgender and nonbinary people is a serious and ongoing issue. A recent survey found that despite the *Bostock* decision, 27% of transgender people experienced workplace discrimination in the past year.⁶

As you know, the EEOC was created under Title VII and charged with addressing discrimination against workers. Yet, under your leadership, the EEOC has abdicated this responsibility under the law when it comes to transgender and nonbinary workers.

¹ 42 U.S.C. § 2000e *et seq.*

² *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989).

³ *Macy v. Holder*, EEOC Appeal No. 0120120821, 2012 WL 1435995.

⁴ *Bostock v. Clayton Cty.*, 590 U.S. 644 (2020).

⁵ E.g., *Jameson v. U.S. Postal Serv.*, EEOC Appeal No. 0120130992, 2013 WL 2368729; *Lusardi v. Department of the Army*, EEOC Appeal No. 0120133395, 2015 WL 1607756.

⁶ Caleb Smith and Haley Norris, *The LGBTQI+ Community Reported High Rates of Discrimination in 2024*, CENTER FOR AMERICAN PROGRESS (Mar. 12, 2025), <https://www.americanprogress.org/article/the-lgbtqi-community-reported-high-rates-of-discrimination-in-2024/>.

Shortly after you were appointed Acting Chair in January, it was reported that you instructed Commission employees to stop processing claims alleging gender identity-based discrimination.⁷ In April, it was reported that the Commission instructed employees to classify all new gender identity-based discrimination complaints as its lowest priority—a categorization reserved for meritless charges—which essentially puts the processing of such complaints in an indefinite hold.⁸

Under your leadership, the Commission also filed motions to dismiss with prejudice half a dozen cases the Commission had originally brought against employers accused of gender identity discrimination.⁹ This includes *EEOC v. Boxwood Hotels*, a lawsuit alleging that a transgender employee was terminated after a manager repeatedly and intentionally misgendered the employee, including calling him “it,” and made multiple derogatory comments about being transgender.¹⁰ Additional cases include examples in which transgender and nonbinary employees were subject to graphic sexual comments and harassment, intentional and repeated misgendering, questions and comments about their genitalia or other body parts, being referred to as “it,” or had their gender identity revealed without their permission to others.¹¹

You have also taken numerous other troubling actions that will leave individuals vulnerable to discrimination on the basis of gender identity in potential violation of *Bostock*. For instance, under your leadership, the EEOC has removed the ‘X’ gender marker on intake forms and removed materials that provided information on rights and protections against discrimination based on gender identity. The EEOC also recently issued a memorandum informing Fair Employment Practices Agencies (FEPAs) that they will not receive credit for intakes or resolutions relating to gender identity discrimination and that such charges will be subject to substantial weight review.¹² The EEOC’s 2025 Memorandum will impede enforcement of

⁷Ryan Holden and Kate Tornone, *EEOC tells its workers to halt LGBTQ+ discrimination claim processing*, HR DRIVE (Jan. 31, 2025), <https://www.hrdrive.com/news/eec-tells-employees-halt-lgbtq-discrimination-cases/738853/>. While in January, it was reported that both gender identity and sexual orientation discrimination complaints were not being processed, our understanding is sexual orientation complaints are now being processed normally.

⁸ Claire Saage, *EEOC instructs staff to sideline all new transgender discrimination cases, employees say*, ASSOCIATED PRESS (Apr. 18, 2025), <https://apnews.com/article/transgender-discrimination-gender-civil-rights-88def3b2a735f09cb79d37fc1125b095>.

⁹ Claire Savage and Alexandra Olson, *EEOC seeks to drop transgender discrimination cases, citing Trump’s executive order*, ASSOCIATED PRESS (Feb. 15, 2025), <https://apnews.com/article/eec-trump-gender-identity-discrimination-alabama-73a065c8aa5e0060472e1cac1ecd8212>.

¹⁰ *EEOC v. Boxwood Hotels, LLC et al.* 1:24-cv-902/.

¹¹ E.g., *EEOC v. Starboard Group, Inc. d/b/a Wendy’s, and Starboard with Cheese, LLC* 3:24-cv-02260; *EEOC v. Lush Handmade Cosmetics, LLC* 5:24-cv-06859; *EEOC v. Sis-Bro, Inc.* 3:24-cv-968.

¹² U.S. Equal Employment Opportunity Commission, Memorandum on Executive Orders Regarding Gender Identity and Disparate Impact (May 20, 2025), on file with House Committee on Education and Workforce Democratic Staff [hereinafter 2025 Memorandum]. The 2025 Memorandum to FEPAs also attempts to curtail the ability of FEPAs to address discriminatory employment practices that have a disparate impact on workers. The 2025 Memorandum, and the Executive Order 14281 it is based on, both deviate from longstanding legal precedents and statutory recognition that the concept of disparate impact liability is an essential element of ensuring merit-based hiring under Title VII. Exec. Order No. 14,281, 90 Fed. Reg. 17,537 (Apr. 28, 2025), 42 U.S.C. § 2000e-2(k). See also *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

federal law and create unnecessary complexity with respect to FEPAs that operate in states where the state anti-discrimination law protects individuals from discrimination based on gender identity. In addition, you have announced your priority to exclude transgender people from single-sex spaces consistent with their gender identity, and also your intent, once the Commission has a quorum, to hold votes to remove or modify the Commission's Enforcement Guidance on Harassment in the Workplace because you oppose the sections of the guidance detailing unlawful gender identity harassment.¹³

Alarming, in both the Commission's filings in court and in your previous statements, you have invoked President Trump's sweeping Executive Order, which states it is the policy of the federal government to only recognize two sexes and seeks to have all agencies refuse to acknowledge the existence of transgender people.¹⁴

The Commission is supposed to be an independent agency, and as a Commissioner and its Acting Chair, your job is to enforce the law. The Supreme Court's ruling in *Bostock* is the law of the land, and the Commission's previous cases, including *Macy v. Holder*,¹⁵ *Jameson v. U.S. Postal Serv.*,¹⁶ and *Lusardi v. Department of the Army*,¹⁷ are binding precedents on the agency. An Executive Order cannot overturn any of those precedents or the Commission's obligations and responsibilities under the Civil Rights Act of 1964.

We urge you to uphold your obligations as both Acting Chair and a Commissioner of the Equal Employment Opportunity Commission to address discrimination against transgender and nonbinary workers. This includes by instructing employees to process and prioritize gender identity discrimination complaints like all other unlawful discrimination complaints, ensuring employees are properly assessing these complaints based on their merits, and treating FEPAs' considerations of gender identity charges like all other charges, as well as restoring webpages and resources that support the transgender and nonbinary community to acknowledge their existence and their legal protections. We also urge you to properly enforce *Bostock* and EEOC precedents under Title VII, which includes filing cases, when warranted under the law, to protect the rights of transgender and nonbinary workers who have been discriminated against. Lastly, we urge that the Commission maintain the Enforcement Guidance on Harassment in the Workplace (as issued on April 29, 2024).

¹³ Press Release: Removing Gender Ideology and Restoring the EEOC's Role of Protecting Women in the Workplace, EEOC (Jan. 28, 2025), <https://www.eeoc.gov/newsroom/removing-gender-ideology-and-restoring-eeocs-role-protecting-women-workplace>. We believe the recent district court ruling to vacate portions of the Commission's Enforcement Guidance on Harassment in the Workplace (Guidance) is inconsistent with *Bostock* and urge the EEOC to both maintain the Guidance and appeal the ruling to defend the Guidance in court. Rebecca Klar, *Texas Judge Strikes Transgender Protections in EEOC Guidance*, BLOOMBERG LAW (May 16, 2025), <https://news.bloomberglaw.com/daily-labor-report/texas-judge-strikes-transgender-protections-in-eeoc-guidance>.

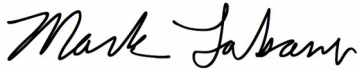
¹⁴ Exec. Order No. 14168, 90 C.F.R. 8615 (Jan. 30, 2025) (*Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*).

¹⁵ *Supra*, note 2.

¹⁶ *Supra*, note 4.

¹⁷ *Supra*, note 4.

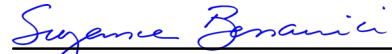
Sincerely,



Mark Takano
Member of Congress



Robert C. "Bobby" Scott
Member of Congress
Ranking Member, Committee
on Education and Workforce



Suzanne Bonamici
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



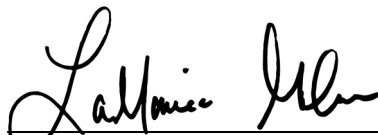
Emanuel Cleaver, II
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Rashida Tlaib
Member of Congress



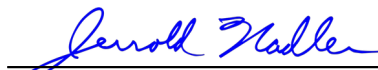
Eleanor Holmes Norton
Member of Congress



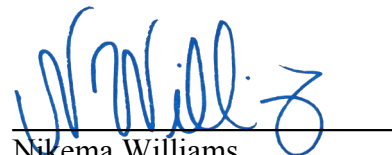
LaMonica McIver
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Delia C. Ramirez
Member of Congress



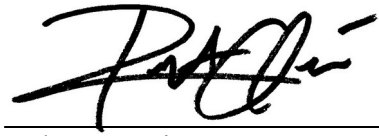
Terrold Nadler
Member of Congress



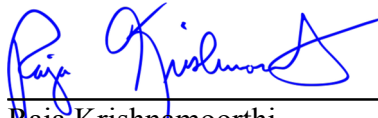
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Maxwell Alejandro Frost
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Robert Garcia
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Raja Krishnamoorthi
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Madeleine Dean
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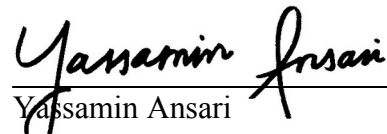
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Veronica Escobar
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Zoe Lofgren
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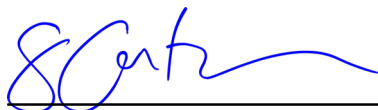
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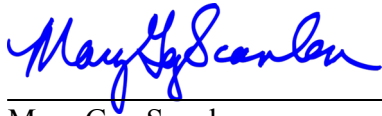
Julia Brownley
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Sean Casten
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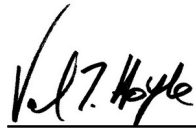
Betty McCollum
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Mary Gay Scanlon
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Ritchie Torres
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Val Hoyle
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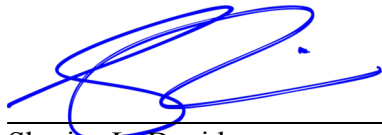
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Dan Goldman
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Emily Randall
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Member of Congress



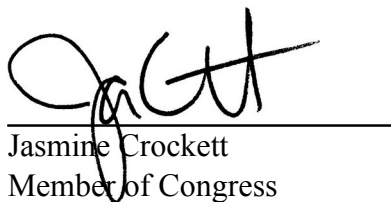
Darren Soto
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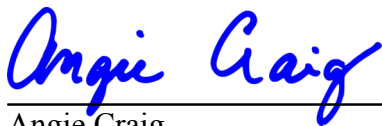
Frank Pallone, Jr.
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Andrea Salinas
Member of Congress



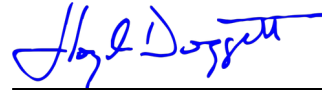
Jasmine Crockett
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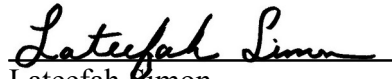
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Lloyd Doggett
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Lateefah Simon
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Sarah McBride
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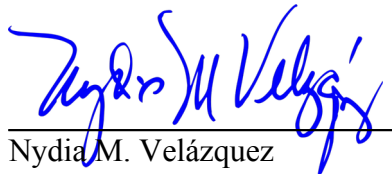
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Danny K. Davis
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Eric Sorensen
Member of Congress



Nydia M. Velázquez
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Julie Johnson
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John Garamendi
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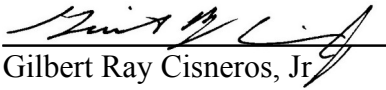
Kevin Mullin
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Mike Quigley
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Gilbert Ray Cisneros, Jr.
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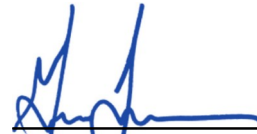
Laura Friedman
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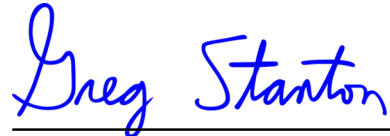
Pramila Jayapal
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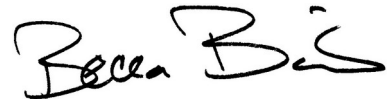
Bonnie Watson Coleman
Member of Congress



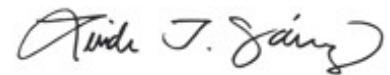
Greg Landsman
Member of Congress



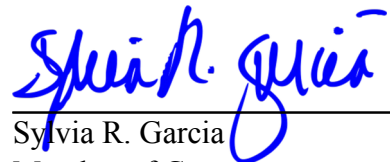
Greg Stanton
Member of Congress



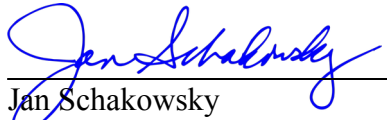
Becca Balint
Member of Congress



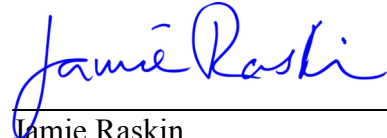
Linda T. Sánchez
Member of Congress



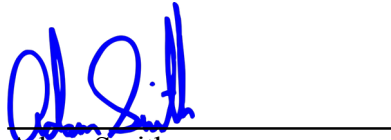
Sylvia R. Garcia
Member of Congress



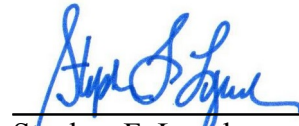
Jan Schakowsky
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Jamie Raskin
Member of Congress



Adam Smith
Member of Congress



Stephen F. Lynch
Member of Congress



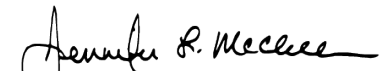
Mark DeSaulnier
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Maxine Dexter
Member of Congress



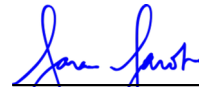
Chris Pappas
Member of Congress



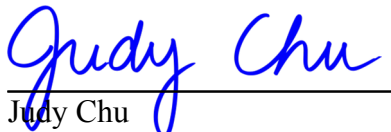
Jennifer L. McClellan
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Donald S. Beyer Jr.
Member of Congress



Sara Jacobs
Member of Congress



Judy Chu
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