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August 30, 2019

The Honorable Janet Dhillon  
Chair  
U.S. Equal Employment Opportunity Commission  
131 M St., NE  
Washington, D.C. 20002

Dear Chairwoman Dhillon:

We write to request information regarding the U.S. Equal Employment Opportunity Commission's (EEOC) current practice and procedure for intakes, investigating, mediating, and adjudicating charges and claims. Specifically, the decrease in the agency's staffing levels, coupled with decreases in the charge inventory, raises questions about whether the EEOC has developed policies that elevate expedience over due process. Accordingly, we have concerns about the EEOC's ability to carry out its mission and request that the EEOC produce the following information and documents:

Please provide the following documentation:

- 1) In July 2017, the EEOC held a meeting with senior leadership and field staff to discuss "sustainable responses to charge processing challenges"<sup>1</sup>; during that time, then Acting Chair Lipnic distributed a discussion memo on how to substantially reduce the private sector charge inventory.<sup>2</sup>
  - a. Please provide the July 2017 memo.
  - b. Please provide emails, memos, meeting notes, and other internal documentation pertaining to the planning and outcome of the July 2017 meeting.
- 2) All documentation of initiatives the EEOC implemented beginning in Fiscal Year 2017 through the current fiscal year to change the percentage of charges designated as A, B, or

<sup>1</sup> U.S. Equal Employment Opportunity Commission, Fiscal Year 2020 Congressional Budget Justification 6 (March 2019), <https://www.eeoc.gov/eeoc/plan/2020budget.cfm>.

<sup>2</sup> U.S. Equal Employment Opportunity Commission, *Performance and Accountability Report, FY 2018* (2018).

C under the Priority Charge Handling Procedures (PCHP).<sup>3</sup> The scope of this document request includes but is not limited to:

- a. Any memoranda, or other communication, from Office of Field Programs to District Directors, and from District Directors to their managers, that discuss increasing the percentage of C charges;
  - b. Any EEOC pilot program to increase charge closures; and
  - c. The performance standards for the District Director position for each of the past 5 years.
- 3) All documentation showing the EEOC's official policy and procedure for intake interviews of individuals who walk into a district office without an appointment to file a charge.
  - 4) All reports, or informal analysis, documenting the impact of the government shutdown between Dec. 22, 2018, and Jan. 25, 2019, on operations, including the intake process for private and federal sector complainants.
  - 5) Documentation of changes to the interview process, or effective pre-charge counseling, that the EEOC credits with the decrease in charge receipts filed after completion of the interview.<sup>4</sup>
  - 6) The Administrative Judge Performance Plan for the past 5 years and internal documentation, emails, and memos discussing case closure requirements.

Please provide the following data:

- 1) The number of full-time equivalents (FTE) employed by the EEOC for each of the past 10 years disaggregated by position type. Please ensure that, for each year, this data at minimum indicates the number of FTEs in each of the following positions:
  - a. Information Intake Representatives staffing the Information Intake Group;
  - b. EEOC investigators; and
  - c. Administrative Judges.
- 2) The following information for the past five years disaggregated by: (1) the total number received, (2) the number in the EEOC's pending inventory (backlog), and (3) the total number as of August 1, 2019:
  - a. The number of charges in the EEOC's inventory of private sector charges, and

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<sup>3</sup> "A charges include charges which fall within the national or local enforcement plan and other charges where further investigation will probably result in a cause finding; B charges include charges that initially appear to have some merit but will require additional evidence to determine whether continued investigation is likely to result in a cause finding and charges where it is not possible to make a judgment regarding the merits; and C charges are those in which the office has sufficient information to conclude that it is not likely that further investigation will result in a cause finding. A charges will receive priority treatment; B charges will be investigated as resources permit; and C charges will be dismissed." Introduction to Commission Policies, REGIONAL ATTORNEYS' MANUAL, [https://www.eeoc.gov/eeoc/litigation/manual/1-3-a\\_intro.html](https://www.eeoc.gov/eeoc/litigation/manual/1-3-a_intro.html) (last visited Aug 10, 2019).

<sup>4</sup> EEOC, *FY 2018 Performance and Accountability Report*, p. 31 (2018).

- b. The number of pending hearing requests from federal complainants.
- 3) The number of A, B, and C, charges as designated by the PCHP for each of the past 5 years.
- 4) Beginning with January 2001, provide the number of charge filings dismissed with a notice of right to sue within:
  - a. Two weeks;
  - b. One month; and
  - c. Six months.
- 5) The number of private sector charges assigned to the EEOC's mediation program for each of the past 5 years.
- 6) The number of onsite investigations that took place annually for each of the past 5 years.
- 7) The number of the EEOC requests made annually for each of the past 5 years for position statements from employers responding to charges of discrimination.
- 8) Disaggregated annually and by the EEOC's 53 field offices for each of the past 5 years, the number of:
  - a. Initial inquiries; and
  - b. Charge receipts.
- 9) The average hold time for an individual calling the EEOC's charge filing hotline for each of the past 5 years (1-800-669-4000).

Please provide answers to the following questions:

- 1) Has the EEOC indicated to district offices that there is any form of quota on the percent of charges that should be categorized as A, B, or C under the PCHP? If such a quota exists, please provide documentation sufficient to show this.
- 2) Are there case closure requirements in the Administrative Judge Performance Plan?
  - a. If so, what is the EEOC's rationale for including the requirements?
- 3) Are the Digital Charge and Appointment Systems currently available in any language other than English?
  - a. If so, which languages are they available in, and are there plans to add additional languages?
  - b. If not, does the EEOC have any plans to make online charging and appointment systems available in any language other than English?

- 4) Do the Digital Charge and Appointment Systems currently meet 508 compliance standards that require federal agencies to make their information and communication accessible to, and usable by, individuals with disabilities?<sup>5</sup>
  - a. If not, does the EEOC have any plans to make them 508 compliant?
  
- 5) The EEOC's approved staffing ceiling is 2,347 FTE. However, the EEOC ended Fiscal Year 2017 with 2,082 FTEs and Fiscal Year 2018 with 1,968 FTEs.<sup>6</sup> Further, Congress appropriated a \$15 million increase in the EEOC's Fiscal Year 2017 budget, an increase that was maintained in Fiscal Year 2018.
  - a. What accounts for the EEOC's FTE levels falling almost 20% below approved staffing levels despite increases in congressional funding?

Please provide the EEOC's response to the above requests by September 13<sup>th</sup>, 2019. Please also provide the EEOC's response to each of the above requests as it becomes available rather than waiting to provide all responses at once. If you have any questions, please contact Janice Nsor at [Janice.Nsor@mail.house.gov](mailto:Janice.Nsor@mail.house.gov). Please direct all official correspondence to the Committee's Chief Clerk at [Tylease.Alli@mail.house.gov](mailto:Tylease.Alli@mail.house.gov). Thank you for your attention to this matter, and we look forward to your response.

Sincerely,



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**ROBERT C. "BOBBY" SCOTT**  
Chair



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**SUZANNE BONAMICI**  
Chair  
Subcommittee on Civil Rights and Human  
Services

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<sup>5</sup> <https://www.section508.gov/about-us>.

<sup>6</sup> <https://www.eeoc.gov/eeoc/plan/budgetandstaffing.cfm>.