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May 11, 2020

Chair Janet Dhillon  
U.S. Equal Employment Opportunity Commission  
131 M St., N.E.  
Washington, D.C. 20002

**Re: Ensuring Access to Justice re Right to Sue Notices and Filing Deadlines**

Dear Chair Dhillon:

On April 7, 2020, the National Women's Law Center and more than 80 other civil rights, workers' rights, and women's rights groups [wrote to EEOC](#) requesting that it take several critical steps to preserve workers' access to justice in light of the impacts of the COVID-19 pandemic. The letter requested that EEOC: (1) issue a moratorium on right-to-sue notices and toll all right-to-sue notices that would require a lawsuit to be filed after February 29, 2020; (2) toll the time periods for federal workers to start and engage in the EEO process; and (3) toll the 180/300 day filing period for private sector and state and local government charges.

We are grateful to EEOC staff who have been working hard not only to continue to conduct regular business during this difficult time, but also to respond to threats to workers' civil rights as a result of the pandemic. As groups representing a wide cross-section of workers, we would appreciate the opportunity to speak with you to discuss the steps EEOC has taken and plans to take to address the issues identified in the letter.

First, thank you for announcing that as of March 21, 2020, EEOC has temporarily suspended issuing new right-to-sue letters (unless the charging party so requests). In response to a *Bloomberg Law* reporter's inquiries related to our letter, EEOC [acknowledged this policy publicly for the first time](#) on April 7, 2020. EEOC subsequently noted this change [on a page on its website](#): "Recognizing that during the pandemic there are many issues that may prevent charging parties from being able to protect and exercise their rights, beginning March 21, 2020, the EEOC temporarily suspended the issuance of charge closure documents unless a charging party requests them."

However, neither the EEOC's statement to *Bloomberg Law*, nor EEOC's public website, address the handling of previously issued right-to-sue letters that would require a lawsuit to be filed after February 29, 2020, and we would welcome EEOC's clarification on this point. As we noted in our April 7 letter, individuals are facing unprecedented obstacles when trying to enforce their

equal employment opportunity rights. Obtaining and paying for legal representation and initiating lawsuits is incredibly difficult as a result of federal and state emergency declarations and stay-at-home orders of varying lengths and conditions that affect workers and attorneys; inconsistent federal and state court operations and filings policies; and the health and economic impacts of the pandemic. Accordingly, we hope EEOC will act quickly to preserve the rights of charging parties in this situation.

Second, EEOC's [April 7 statement to Bloomberg Law](#) noted that it had updated its guidelines for handling discrimination charges filed by federal workers. [The guidelines](#) allow for "flexibility" for extending timelines if both the agency and the worker agree to it. The document further states that "[a]bsent mutual agreement, agencies and complainants will be required to document in the record the reason(s) why tolling any of the time limits set forth in 29 CFR Part 1614 is necessary. Such justification will fully be considered by the Commission in any appeal raised in the matter." We are concerned that this policy places workers challenging agency action in a very difficult position. Such individuals have already potentially jeopardized their jobs for reporting discrimination. It is unrealistic to expect them to feel empowered to seek their employer's agreement to an extension. And those who are not represented by counsel may not be aware that one can ask for an extension of time.

Finally, the letter raised the importance of tolling agency filing deadlines as a result of the unprecedented circumstances created by the pandemic. We recognized that EEOC may not be able to change these statutory deadlines without congressional action. We hope EEOC will implement interim steps, including creating a dedicated telephone number where workers and attorneys can call and leave a message in order to meet the required deadline, and creating and distributing widely a condensed version of the charge form.

We welcome the opportunity to discuss this further with you. We appreciate your consideration of this request and look forward to hearing from you by May 18, 2020. Please feel free to contact Emily Martin of the National Women's Law Center at [emartin@nwlc.org](mailto:emartin@nwlc.org) with any questions.

Sincerely,

National Women's Law Center  
ACLU  
Lawyers' Committee for Civil Rights Under Law  
National Employment Law Project  
National Employment Lawyers Association  
The Leadership Conference on Civil and Human Rights

cc: Charlotte Burrows, Commissioner  
Victoria Lipnic, Commissioner  
Sharon Gustafson, General Counsel