

June 17, 2025

The Honorable Bill Cassidy
Chairman
Committee on Health, Education, Labor &
Pensions
United States Senate
455 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Bernie Sanders
Ranking Member
Committee on Health, Education, Labor &
Pensions
United States Senate
332 Senate Dirksen Office Building
Washington, DC 20510

Re: Opposition to the Confirmation of Andrea Lucas to the U.S. Equal Employment Opportunity Commission

Dear Chairman Cassidy and Ranking Member Sanders,

The undersigned organizations committed to civil rights, workers' rights, and gender justice write to express our strong opposition to the confirmation of current Acting Chair Andrea Lucas to serve a second term as a commissioner on the U.S. Equal Employment Opportunity Commission (EEOC). Lucas' record during her first term at the EEOC, particularly since being named Acting Chair in January of this year, calls into question her commitment to preserving the integrity of the agency and protecting the rights of all workers to be free from discrimination, demonstrating that she is not fit to serve a second term.

The EEOC is an independent agency that serves a critically important role in ensuring equal opportunity for workers in the United States, enforcing laws prohibiting discrimination on the basis of sex (including pregnancy, sexual orientation, and gender identity), race, national origin, age, disability, and religion. The EEOC not only investigates these charges of discrimination, litigating when appropriate, but it also plays a key role in preventing discrimination through outreach, education, data collection, and technical assistance programs. Workers around the country rely on the EEOC to enforce their rights. In FY 2024, the EEOC received 88,531 new charges of discrimination, a nearly 9 percent increase from the previous year,ⁱ and through its enforcement actions, EEOC obtains real relief for workers—from 2014-2024, the agency recovered \$5.6 billion for workers who had experienced discrimination.ⁱⁱ Given the importance of the EEOC to the lives and livelihoods of millions of workers, the agency requires strong leadership dedicated to protecting working people from discrimination.

As Acting Chair of the EEOC, Lucas has regularly overstepped her authority and taken actions that undermine the EEOC's mission to protect the civil rights of all workers. She has repeatedly politicized the agency, going so far as to state that "[t]he EEOC is an executive branch agency, not an independent agency."ⁱⁱⁱ Congress, however, specifically designed the EEOC to be a bipartisan, multi-member agency, and attempted to protect it from being captured by the executive.^{iv} Its independence from the executive is a key feature of the agency; workers will only turn to the EEOC to enforce their rights if they believe that the agency is fair and

independent, and not beholden to political whims that favor the powerful at the expense of everyday workers.

Lucas, however, has compromised the independence of the EEOC, and therefore betrayed working people, by failing to enforce anti-discrimination laws in an even-handed manner and instead attempting to reshape the EEOC's enforcement priorities to advance the Trump administration's agenda. For example, she has instructed EEOC field offices to prioritize cases that align with her policy priorities—including eliminating diversity, equity, and inclusion practices and attacking the rights of transgender workers—diverting resources from the agency's other work.^v These priorities run counter to the EEOC's FY 2024-2028 Strategic Enforcement Plan (SEP)^{vi}, a document adopted by a Commission vote to set the agency's enforcement priorities, and Lucas does not have the authority to unilaterally reorient the agency's priorities in this way.

Under Lucas' leadership, the EEOC has consistently abandoned enforcement of the law in order to enforce the will of President Trump. For example, the EEOC has turned its back on enforcing anti-discrimination laws on behalf of transgender workers—under the guise of complying with Trump's "gender ideology" executive order—despite the Supreme Court's holding in *Bostock v. Clayton County* that Title VII prohibits discrimination based on gender identity because "discrimination based on ... transgender status necessarily entails discrimination based on sex...."^{vii} At Lucas's direction, the EEOC has moved to dismiss several lawsuits it had brought on behalf of transgender and gender nonconforming workers, abandoning these workers without warning in the middle of their cases.^{viii} She has also directed staff to deprioritize all charges of gender identity discrimination, essentially predetermining that EEOC will not investigate or help workers seek relief in any of these cases.^{ix} Declining to enforce the law on behalf of transgender and nonbinary workers is an abdication of the EEOC's obligation under the law.

Further, Lucas has used the EEOC to intimidate businesses and sow confusion around the legality of diversity, equity, inclusion, and accessibility practices that help create equal opportunity for workers. In March, she sent public letters to twenty law firms, requesting detailed information about the firms' diversity, equity, inclusion, and accessibility practices, despite having no authority to demand this information.^x The EEOC later announced it had reached "settlement agreements" with several firms—despite the fact that these letters do not constitute charges of discrimination, so there was nothing to "settle." These "agreements," however, came immediately after those firms entered into deals with the White House to provide millions of dollars in pro bono legal services solely to benefit causes favored by the President.^{xi} This sequence of events, and her seeming misuse of power, raises serious concerns about Lucas' willingness to weaponize the EEOC to score political points.

In response to President Trump's directives, Lucas has made clear that she plans to deprioritize disparate impact discrimination cases. Disparate impact claims capture employment practices that may appear neutral on their face but in practice disproportionately deny workers equal

opportunity based on race, sex, or other protected characteristics.^{xii} This may include policies such as degree requirements that are not job-related, or “no fault” attendance policies, which make employees eligible for discipline for absences or tardiness regardless of the reason. As just one example, these “no fault attendance” policies are more likely to harm women (who disproportionately hold family caregiving obligations), workers with disabilities, or workers whose religious observations may require schedule changes.

Lucas’ choice to deprioritize disparate impact discrimination directly conflicts with Title VII, which expressly prohibits disparate impact discrimination, decades of case law interpreting other workplace anti-discrimination laws, and the EEOC’s guidance that outlines employers’ obligations to comply with these protections, further demonstrating her lack of commitment to enforcing the law. For example, the EEOC’s guidance on employer obligations to protect the rights of workers with arrest and conviction records is rooted in the disparate impact of our nation’s criminal-legal system on people of color.^{xiii} This guidance was issued with bipartisan support in 2012 and benefits workers of all backgrounds by allowing the nearly one-in-three adults with records to compete for jobs on a more level playing field. But under Lucas’ leadership, the EEOC has moved to dismiss its only Title VII disparate impact case pending in court, *EEOC v. Sheetz*, which challenges an alleged hiring practice that systematically excludes applicants based on their conviction history without regard for whether that record has any relationship to the worker’s ability to perform the job.^{xiv} The dismissal of this case, as called for in the President’s April 23 Executive Order,^{xv} is yet another example of Lucas putting Trump’s political priorities over the law and the civil rights of workers.

At Lucas’ direction, the EEOC is also trying to coerce states into conforming with her agenda. Through work-sharing agreements, state and local civil rights enforcement agencies receive funding from the EEOC to process and investigate discrimination charges—for example, in Maine, the EEOC provides nearly a third of the funding for the state enforcement agency.^{xvi} In May, the EEOC informed these agencies that they will no longer get credit for investigating charges involving disparate impact discrimination or discrimination based on gender identity, even though such discrimination remains illegal under federal law and many state and local laws. This will result in state and local agencies losing funding, making it more difficult for them to investigate these charges, hold employers who discriminate accountable, and provide relief to workers whose rights have been violated.^{xvii}

Finally, even before becoming acting chair, Lucas demonstrated her willingness to prioritize a political agenda over ensuring protections for workers. For example, Lucas was willing to block regulations and guidance documents because she wanted to deny protections to transgender workers and limit accommodations under the Pregnant Workers Fairness Act (PWFA). Specifically, she voted against the EEOC’s updated Enforcement Guidance on Workplace Harassment and the Final Rule to implement the PWFA—critical resources that help actualize protections for all workers—and took the highly unusual step of issuing written statements of dissent outlining her opposition, another action to politicize the agency.^{xviii}

Workers around the country count on the EEOC to uphold civil rights in the workplace. In her tenure at EEOC, Andrea Lucas has let workers down at every turn. She has consistently undermined the anti-discrimination laws the EEOC was created to enforce, and she has prioritized the administration's anti-civil rights agenda over the agency's legal obligations to workers. As leaders in the fight for workplace civil rights, we strongly oppose the confirmation of Andrea Lucas to a second term as EEOC commissioner and urge the Committee to reject her nomination. If you have any questions, please contact Katie Sandson at the National Women's Law Center Action Fund (ksandson@nwlc.org), Josh Boxerman at the National Employment Law Project (jboxerman@nelp.org), Peggy Ramin at The Leadership Conference on Civil and Human Rights (ramin@civilrights.org), and Michelle Feit with the National Partnership for Women and Families (mfeit@nationalpartnership.org).

Sincerely,

National Women's Law Center Action Fund
National Employment Law Project
National Partnership for Women and Families
The Leadership Conference on Civil and Human Rights
AAUW California
Access Ready Inc.
Advocates for Trans Equality
American Association of University Women (AAUW)
Americans United for Separation of Church and State
Applied Self-Direction
Autistic Self Advocacy Network (ASAN)
AVP Colorado
California Employment Lawyers Association
Center for Advancement of Public Policy
Chicago Jobs Council
Chicago Women in Trades
Clearinghouse on Women's Issues
CLUE (Clergy and Laity United for Economic Justice)
Community Legal Services in East Palo Alto
Courage California
CRLA Foundation
Deaf Equality
Economic Policy Institute
Equal Rights Advocates
Equality California
Equality Federation
Family Values @ Work
Feminist Majority Foundation
Gender Equality Law Center
Human Rights Campaign
Institute for Sustainable Diversity & Inclusion (ISDI)

Japanese American Citizens League
 Lawyers' Committee for Civil Rights Under Law
 Legal Aid at Work
 Legal Momentum, the Women's Legal Defense & Education Fund
 Maine Employment Lawyers Association
 Maine Women's Lobby
 Missouri Women in Trades
 MomsRising
 NAACP Legal Defense and Educational Fund, Inc.
 Nathaniel R. Jones Foundation
 National Bar Association
 National Black Worker Center
 National Employment Lawyers Association
 National Institute for Workers' Rights
 National Organization for Women
 National Taskforce on Tradeswomen's Issues
 National Urban League
 National Workrights Institute
 NELA/NY
 Nevada Women In Trades
 PAVE
 People's Parity Project
 Public Advocacy for Kids (PAK)
 Race Forward
 Revolution Workshop
 Service Employees International Union (SEIU)
 Southern Poverty Law Center
 TDIforAccess
 The Restaurant Opportunities Center of Pennsylvania (ROC PA)
 The Workers Circle
 Women Employed
 Worksafe

ⁱ U.S. EQUAL EMP. OPPORTUNITY COMM'N EEO-1, ANNUAL PERFORMANCE REPORT FISCAL YEAR 2024 at (Jan. 17, 2025), https://www.eeoc.gov/sites/default/files/2025-01/24-126_EEOC_2024_APR_508_1.16.25_508.pdf.

ⁱⁱ Brittany Williams, *Priceless: The Over \$5.6 Billion Impact of Equal Opportunity at Work*, THE NAT'L PARTNERSHIP FOR WOMEN AND FAMILIES (Feb. 2025), <https://nationalpartnership.org/report/priceless-over-5-6-billion-impact-of-equal-opportunity-at-work/>.

ⁱⁱⁱ *Message from EEOC Acting Chair Andrea Lucas*, U.S. EQUAL EMP. OPPORTUNITY COMM'N EEO-1, https://www.eeocdata.org/eeo1?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term= (last visited May 20, 2025).

^{iv} 42 U.S.C. 2000e-4(a) (requiring that the EEOC include five members, of whom no more than three are of the same political party, and that members serve five-year terms, which ensures that commissioners' terms run between presidential terms).

^v Bryce Covert, *Trump-Appointed Leader Of Worker Protection Agency Directs Focus On DEI, 'Binary Reality of Sex'*, TALKING POINTS MEMO (May 20, 2025), <https://talkingpointsmemo.com/muckraker/trump-eeoc-dei-gender>.

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- ^{vi} U.S. EQUAL EMP. OPPORTUNITY COMM’N, STRATEGIC ENFORCEMENT PLAN 2024-2028, <https://www.eeoc.gov/sites/default/files/2023-09/SEP%20FY%2020242028%20FINAL%20APPROVED.pdf>.
- ^{vii} *Bostock v. Clayton County*, 590 U.S. 644, 655, 658, 660-61, 669 (2020).
- ^{viii} Rebecca Klar & Khorri Atkinson, *Transgender Workers’ Options Shrink With EEOC Shift*, BLOOMBERG LAW (last updated Mar. 5, 2025), <https://news.bloomberglaw.com/daily-labor-report/transgender-workers-see-legal-options-shrink-with-eeoc-shift>.
- ^{ix} Claire Savage, *EEOC instructs staff to sideline all new transgender discrimination cases, employees say*, AP NEWS (last updated Apr. 18, 2025), <https://apnews.com/article/transgender-discrimination-gender-civil-rights-88def3b2a735f09cb79d37fc1125b095>.
- ^x *EEOC Acting Chair Andrea Lucas Sends Letters to 20 Law Firms Requesting Information About DEI-Related Employment Practices*, U.S. EQUAL EMP. OPPORTUNITY COMM’N (Mar. 17, 2025), <https://www.eeoc.gov/newsroom/eeoc-acting-chair-andrea-lucas-sends-letters-20-law-firms-requesting-information-about-dei>.
- ^{xi} See, e.g., *Trump says five more law firms agree to pro bono work to avoid punitive executive orders*, THE GUARDIAN (Apr. 11, 2025), <https://www.theguardian.com/us-news/2025/apr/11/trump-law-firms-pro-bono-deal>; *In EEOC Settlement, Four ‘BigLaw’ Firms Disavow DEI and Affirm Their Commitment to Merit-Based Employment Practices*, U.S. EQUAL EMP. OPPORTUNITY COMM’N (Apr. 11, 2025), <https://content.govdelivery.com/accounts/USEEOC/bulletins/3db9087>.
- ^{xii} *Message from EEOC Acting Chair Andrea Lucas*, U.S. EQUAL EMP. OPPORTUNITY COMM’N EEO-1, https://www.eeocdata.org/eeo1?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term= (last visited May 20, 2025).
- ^{xiii} ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT, U.S. EQUAL EMP. OPPORTUNITY COMM’N (2012), <https://www.eeoc.gov/laws/guidance/enforcement-guidance-consideration-arrest-and-conviction-records-employment-decisions>; Beth Avery, *We Must Defend the Civil Rights of Workers With Conviction Records*, NAT’L EMP. LAW PROJECT (May 14, 2025), <https://www.nelp.org/we-must-defend-the-civil-rights-of-workers-with-conviction-records/>.
- ^{xiv} *EEOC Sues Sheetz, Inc. For Racially Discriminatory Hiring Practice*, U.S. EQUAL EMP. OPPORTUNITY COMM’N (Apr. 18, 2024), <https://www.eeoc.gov/newsroom/eeoc-sues-sheetz-inc-racially-discriminatory-hiring-practice>; *Commission Votes: January 2024*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/commission-votes-january-2024> (last visited Apr. 25, 2025).
- ^{xv} Executive Order 14281 of April 23, 2025, *Restoring Equality of Opportunity and Meritocracy*, 90 Fed. Reg. 17537 (Apr. 28, 2025).
- ^{xvi} Niko Gallogly, *Trump Administration Tells State Regulators It Won’t Back Some Discrimination Claims*, N.Y. TIMES (last updated May 28, 2025), <https://www.nytimes.com/2025/05/27/business/eeoc-funding-states.html>.
- ^{xvii} *Id.*
- ^{xviii} *Statement re: Vote on Final Rule to Implement the Pregnant Workers Fairness Act*, U.S. EQUAL EMP. OPPORTUNITY COMM’N (Apr. 3, 2024), <https://www.eeoc.gov/statement-re-vote-final-rule-implement-pregnant-workers-fairness-act>; *Commissioner Andrea R. Lucas’s Statement On EEOC Enforcement Guidance On Harassment In The Workplace*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/commissioner-andrea-r-lucass-statement-eeoc-enforcement-guidance-harassment-workplace> (last visited Apr. 25, 2025).