

June 5, 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

Dear Chairman Cassidy and Ranking Member Sanders,

As organizations committed to civil rights, workers' rights, and gender justice, we urge you to rigorously question and closely review the records of Andrea Lucas and Brittany Panuccio, who are nominated to serve as commissioners of the Equal Employment Opportunity Commission (EEOC). The Senate hearing and confirmation process is a crucial vehicle for transparency and accountability on the President's nominations. While Acting Chair Lucas has served as an EEOC commissioner since 2020, she was confirmed without a hearing, and the Senate has never asked questions to evaluate her qualifications to carry out the EEOC's mission to protect working people. Her record at the EEOC, particularly since being named Acting Chair in January of this year, raises significant concerns about her commitment to preserving the integrity of the agency and protecting the rights of all workers to be free from discrimination. The confirmation of Panuccio would give Lucas the power to take further action to shape the EEOC's priorities and enforcement strategy. It is imperative that the committee hold hearings on both nominations so you and your colleagues may carefully scrutinize the nominees' records in a public forum to determine their fitness to lead the EEOC in its vital mission to protect working people.

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 American people deserve a transparent hearing and confirmation process to ensure the leaders tasked with this immense responsibility are held accountable to the people they serve.

Andrea Lucas

Andrea 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.

Under Lucas' leadership, however, the EEOC has 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...."^v 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.^{vi} 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.^{vii} 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.^{viii} The EEOC later announced it had reached "settlement agreements" with several firms, despite the fact that these letters do not constitute charges of discrimination, 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.^{ix} 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 also stated her intent 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.^x This may include policies such as "no fault" attendance policies, which make employees eligible for discipline for absences or tardiness regardless of the reason—these policies are more likely to harm women, who disproportionately hold family caregiving obligations. Lucas's intentions are again in conflict

with Title VII, which expressly prohibits disparate impact discrimination, and the EEOC's guidance that outlines employers' obligations to comply with these protections. 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.^{xi} 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. Lucas' intent to deprioritize disparate impact discrimination puts this guidance at risk and also threatens the agency's only disparate impact case pending in court, *EEOC v. Sheetz*—a case Lucas voted against bringing—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.^{xii} Lucas' statements on disparate impact discrimination and the agency's independence are yet another example of her 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 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.^{xiii} 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.^{xiv}

Finally, even as a commissioner, 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.^{xv}

Lucas' tenure at the EEOC raises significant doubts about her fitness to serve a second term as commissioner. We urge you to hold a full hearing and thoroughly investigate her views and actions.

Brittany Panuccio

Brittany Panuccio's only qualification for the job of EEOC commissioner appears to be loyalty to the Trump administration's agenda and her ability to join Lucas in forming a quorum, allowing them to reshape EEOC's enforcement priorities in Trump's image. EEOC commissioners carry out the agency's mission on behalf of workers by issuing regulations and

guidance, identifying and implementing enforcement priorities, and in some cases, authorizing litigation. The position of EEOC commissioner therefore requires deep knowledge of employment anti-discrimination law and dedication to enforcing workers' rights to equal employment opportunity. Panuccio's experience in employment law appears to be limited to one year as a labor and employment associate at the law firm Jones Day and a summer internship at the EEOC.^{xvi} Her professional background raises serious questions about her qualifications and commitment to protecting individuals' right to be free from discrimination, including harassment, in the workplace.

Panuccio's limited professional experience includes her current role as an Assistant U.S. Attorney, where there is no indication she has worked on employment law matters; her service in the U.S. Department of Education, where she was one of the lead authors of the Trump Title IX rule, which weakened protections against sexual harassment in schools^{xvii}; and a three month stint in the U.S. Department of Justice, Office of Legal Policy, where she assisted with the nomination of Justice Brett Kavanaugh, one of Trump's nominees to the U.S. Supreme Court.^{xviii} Her record of carrying out Trump's policy priorities and lack of relevant subject-matter experiences call into question whether she was nominated to protect civil rights or to serve as a rubber stamp for the Trump administration agenda.

We urge you to hold a confirmation hearing on Ms. Panuccio's nomination, and to ask thorough questions about her relevant work experience and qualifications to serve as an EEOC commissioner.

Conclusion

Workers around the country count on the EEOC to uphold civil rights in the workplace. It is imperative that you hold a confirmation hearing on both nominations to carefully scrutinize their fitness to lead this critically important agency and their commitment to ensuring equal opportunity for all workers.

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), and Peggy Ramin at The Leadership Conference on Civil and Human Rights (ramin@civilrights.org). Thank you for your consideration.

Sincerely,

National Women's Law Center Action Fund
National Employment Law Project
The Leadership Conference on Civil and Human Rights
Access Ready, Inc.
Advocates for Trans Equality
American Association of University Women (AAUW)
Americans United for Separation of Church and State
Bazelon Center for Mental Health Law

Center for Public Representation
 Clearinghouse on Women's Issues
 Color of Change
 Disability Rights Education and Defense Fund (DREDF)
 Economic Policy Institute
 Equal Rights Advocates
 Equality California
 Feminist Majority Foundation
 Gender Equality Law Center
 Human Rights Campaign
 Institute for Sustainable Diversity & Inclusion
 Institute for Women's Policy Research
 Japanese American Citizens League
 Lawyers' Committee for Civil Rights Under Law
 Legal Momentum, the Women's Legal Defense & Education Fund
 Maine Employment Lawyers Association
 Maine Women's Lobby
 Mississippi Workers Center for Human Rights
 MomsRising
 NAACP Legal Defense and Educational Fund, Inc.
 Nathaniel R. Jones Foundation
 National Action Network
 National Association of Social Workers
 National Bar Association
 National Center for Law and Economic Justice
 National Employment Lawyers Association
 National Institute for Workers' Rights
 National Organization for Women
 National Partnership for Women & Families
 National Urban League
 National Workrights Institute
 NBJC
 People's Parity Project
 Southern Poverty Law Center
 TDIforAccess
 The Colorado Anti-Violence Project
 The Partnership for Inclusive Disaster Strategies
 The Sikh Coalition
 Women Employed
 Women's Law Project

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/>.

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- 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 *Bostock v. Clayton County*, 590 U.S. 644, 655, 658, 660-61, 669 (2020).
- ^{vi} 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>.
- ^{vii} 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>.
- ^{viii} *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>.
- ^{ix} 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>.
- ^x *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).
- ^{xi} 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/>.
- ^{xii} *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).
- ^{xiii} 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>.
- ^{xiv} *Id.*
- ^{xv} *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).
- ^{xvi} *Brittany Bull Panuccio*, LINKEDIN, <https://www.linkedin.com/in/brittanykbull/> (last visited May 21, 2025).
- ^{xvii} *DeVos’ New Title IX Sexual Harassment Rule, Explained*, NATIONAL WOMEN’S LAW CENTER (May 2020), <https://nwlc.org/wp-content/uploads/2020/05/Title-IX-Final-Rule-Factsheet-5.28.20-v3.pdf>.
- ^{xviii} *Brittany Bull Panuccio*, LINKEDIN, <https://www.linkedin.com/in/brittanykbull/> (last visited May 21, 2025).