

September 28, 2026

Andrea Lucas
Chair
U.S. Equal Employment Opportunity Commission
131 M St., NE
Washington, DC 20507

Submitted via Federal Rulemaking Portal: www.regulations.gov

RE: RIN 3046-AB46, Federal Sector Equal Employment Opportunity

Dear Chair Lucas:

The National Women’s Law Center (NWLC), joined by the undersigned organizations, writes in response to the U.S. Equal Employment Opportunity Commission’s (“EEOC” or “Commission”) request for comments on RIN 3046-AB46, “Federal Sector Equal Employment Opportunity” (“Proposed Rule”).¹ We strongly oppose the Proposed Rule, which would make it harder for federal employees to enforce their rights under federal anti-discrimination law.

The EEOC is tasked with ensuring that federal agencies provide equal employment opportunity and comply with anti-discrimination laws and regulations, but this Proposed Rule would undermine the EEOC’s ability to safeguard the rights of the millions of workers employed by the federal government. All federal employees deserve a fair, accessible, and independent process for bringing complaints about discrimination and retaliation. Access to such a process is particularly important for communities of workers who experience higher rates of workplace discrimination, including but not limited to women, Black workers and other workers of color, LGBTQI+ workers, and disabled workers. Unfortunately, this Proposed Rule would create confusion and impose procedural hurdles that will make it harder for federal sector employees to enforce their rights and pursue redress when they experience workplace discrimination.

We also oppose the Commission’s rushed process for overhauling a highly technical, important, and complex set of regulations. Any revisions to the federal sector complaint process should be informed by extensive consultation with a range of impacted stakeholders. When the EEOC proposed revisions to these regulations in the past, it provided a 60-day comment period.² Here, the Commission has provided only a 30-day

¹ Federal Sector Equal Employment Opportunity, 91 Fed. Reg. 55690 et. seq. (proposed Aug. 28, 2026).

² See 87 Fed. Reg. 58469 (Sept. 27, 2022); 84 Fed. Reg. 4015 (Feb. 14, 2019); 74 Fed. Reg. 67839 (Dec. 21, 2009); 63 Fed. Reg. 8594 (Feb. 20, 1998).

period for the public to review and comment on this lengthy Proposed Rule that will impact millions of workers if finalized.

For these reasons and those outlined in our comments below, we urge the EEOC to withdraw the Proposed Rule.

I. The Proposed Rule Would Hurt the Ability of Federal Sector Workers to Challenge Discrimination.

The EEOC's proposed changes to the federal sector complaint process would create barriers for employees seeking to bring discrimination complaints, which would discourage federal sector workers from coming forward and allow more discrimination to go unchecked. Federal workers who are women, people of color, people with disabilities, and/or LGBTQI+ are likely to be disproportionately harmed by these changes because these communities of workers experience workplace discrimination at higher rates.³ We therefore oppose the Proposed Rule, including the specific provisions outlined below:

- **The Proposed Rule would eliminate the pre-complaint counseling process.** EEOC regulations currently require pre-complaint counseling. Counselors are required to provide federal employees with specific information about their rights and the EEO process, and they help employees define and articulate the scope and basis for their claims so that any formal complaints they file are sufficiently developed.⁴ This counseling also allows for some complaints to be resolved quickly and informally by identifying appropriate relief—for example, an accommodation that allows a pregnant employee to remain in their job—without unnecessary delays or contentious proceedings. The Proposed Rule would eliminate this requirement and instead adopt a “direct filing” model.⁵ Eliminating pre-complaint counseling

³ See, e.g., CTR. FOR AMERICAN PROGRESS, ENDING DISCRIMINATION AND HARASSMENT AT WORK (Mar. 14, 2024), <https://www.americanprogress.org/article/playbook-for-the-advancement-of-women-in-the-economy/ending-discrimination-and-harassment-at-work/>; Katherine Schaeffer, *Black workers' views and experiences in the U.S. labor force stand out in key ways*, PEW RESEARCH CTR. (Aug. 2023), <https://www.pewresearch.org/short-reads/2023/08/31/black-workers-views-and-experiences-in-the-us-labor-force-stand-out-in-key-ways/>; BRAD SEARS ET AL., WILLIAMS INSTITUTE, LGBTQ PEOPLE'S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT (Aug. 2024), <https://williamsinstitute.law.ucla.edu/publications/lgbt-workplace-discrimination/>; DULCE GONZALEZ ET AL., URBAN INSTITUTE, FOUR IN TEN ADULTS WITH DISABILITIES EXPERIENCED UNFAIR TREATMENT IN HEALTH CARE SETTINGS, AT WORK, OR WHEN APPLYING FOR PUBLIC BENEFITS IN 2022 (Oct. 2023), <https://www.urban.org/research/publication/four-ten-adults-disabilities-experienced-unfair-treatment-health-care-settings>.

⁴ MANAGEMENT DIRECTIVE 110, CHAPTER 2, EQUAL EMPLOYMENT OPPORTUNITY PRE-COMPLAINT PROCESSING, U.S. EQUAL EMP. OPPORTUNITY COMM'N, <https://www.eeoc.gov/federal-sector/management-directive/chapter-2> (last visited Sept. 16, 2026).

⁵ 91 Fed. Reg. 55691.

would make it harder for workers to understand and enforce their rights and could deter early resolution of complaints.

- **The Proposed Rule would impose heightened standards for federal workers bringing complaints.** For example, under the Proposed Rule, federal workers would need to file a complaint with the agency that meets the plausibility standard required in federal litigation, or else the complaint could be dismissed without any investigation.⁶ Notably, the Proposed Rule would impose these more stringent standards even as it removes access to counseling that helps federal employees understand the standards and develop their claims. Imposing this more stringent pleading standard is at odds with the EEOC's stated goal of ensuring the federal complaint process is more accessible and less formal than federal litigation,⁷ and it will likely result in more complaints being dismissed before any investigation is even conducted due to confusion about what is required.
- **The Proposed Rule would eliminate employees' right to have their complaints heard by an independent EEOC administrative judge.** Under the current process, once a federal worker has filed a complaint and an investigation has been conducted, the worker can request a hearing before an administrative judge, which provides an opportunity to have the complaint heard by an independent, external party.⁸ The Proposed Rule would eliminate this option and instead require the federal agency accused of discrimination to issue a Final Agency Decision—which is the agency itself deciding the merits of an employee complaint. The worker could appeal the Final Agency Decision and request a hearing, but whether an employee receives a hearing would be left to the EEOC's discretion.⁹ The worker could also still file a civil action in federal district court,¹⁰ but the time and costs associated with litigation are a significant deterrent. Employees alleging discrimination deserve meaningful review by a neutral decision-maker. Eliminating this right raises serious concerns about fairness and impartiality. Likewise, the Proposed Rule also eliminates the right to pre-hearing discovery,¹¹ which would undercut employees' ability to obtain evidence to support a complaint and put them at a disadvantage, since the agency will have greater access to information.

⁶ 91 Fed. Reg. 55695-96, 55712.

⁷ 91 Fed. Reg. 55691.

⁸ *Hearings*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, <https://www.eeoc.gov/federal-sector/hearings> (last visited Sept. 16, 2026).

⁹ 91 Fed. Reg. 55692, 55714.

¹⁰ 91 Fed. Reg. 55714.

¹¹ Under the current EEOC regulations, parties have the right to request discovery prior to a hearing. 29 C.F.R. § 1614.109(d).

- **The Proposed Rule would eliminate administrative class action complaints.** Class actions are critically important tools for fighting workplace discrimination. They allow workers to challenge systemic discrimination, drive accountability and institutional reform, and promote efficiency and access to justice for workers.¹² For decades, EEOC regulations have outlined a process for federal employees to pursue administrative class complaints, recognizing that class actions are “an essential mechanism for attacking broad patterns of workplace discrimination and providing relief to victims of discriminatory policies or systemic practices,” including in the federal sector.¹³ The ability to pursue administrative class complaints, rather than pursuing class actions in court, makes class claims more accessible and affordable for federal workers and reduces the burden on federal courts. Without the ability to bring administrative class complaints, federal workers will have to bring similar claims individually,¹⁴ making it harder to identify and address patterns, and increasing the likelihood that many workers will not pursue their claims at all.

II. The EEOC Must Maintain Fair and Accessible Complaint Procedures to Address Discrimination and Retaliation in the Federal Sector.

Despite efforts to combat workplace discrimination in the federal sector, such discrimination remains far too common. In Fiscal Year 2024, the EEOC received over seven thousand requests for federal sector hearings, a nearly 7% increase from the previous year.¹⁵ In a 2021 survey of federal employees conducted by the U.S. Merit Systems Protection Board, over 12% of participants—and 17.5% of women participants—reported experiencing sexual harassment at work in the previous two years.¹⁶ NWLC data underscores that federal sector workers continue to experience workplace discrimination. NWLC houses and administers the TIME’S UP Legal Defense Fund and the Legal Network for Gender Equity, which connect people who have experienced sex discrimination with legal assistance. Since 2018, we have heard from more than 8,100 people looking for an attorney because of the sex discrimination they faced at work. Federal government workers are one of the groups of working people who commonly contact us for assistance—the

¹² See, e.g., *How Goliath Won: The Future Implications of Dukes v. Wal-Mart*, 106 NW. U.L. REV. COLLOQUY 35, 36 (2011).

¹³ See, e.g., 64 Fed. Reg. 37644 (July 12, 1999).

¹⁴ 91 Fed. Reg. 55697-98, 55715-16.

¹⁵ U.S. EQUAL EMP. OPPORTUNITY COMM’N, FISCAL YEAR 2026 CONGRESSIONAL BUDGET JUSTIFICATION (May 2025), https://www.eeoc.gov/fiscal-year-2026-congressional-budget-justification#_Toc176537242.

¹⁶ SEXUAL HARASSMENT IN FEDERAL WORKPLACES: 2021 UPDATE, U.S. MERIT SYSTEMS PROTECTION BOARD (June 2023), https://www.mspb.gov/studies/researchbriefs/Sexual_Harassment_in_Federal_Workplaces_2021_Update_2039216.pdf.

fourth-most common group we hear from behind only workers in educational services, health care, and arts and entertainment.¹⁷

These numbers likely only scratch the surface, as discrimination, including harassment, is severely underreported. Many workers refrain from coming forward with claims of discrimination because they fear retaliation. In fact, EEOC data shows that retaliation is the “most frequently alleged basis of discrimination” in the federal sector and the “most common discrimination finding in federal sector cases.”¹⁸ Discrimination also goes unreported because reporting mechanisms are unclear, or because workers do not think reporting will result in any action or accountability.¹⁹ To effectively combat workplace discrimination in the federal sector, the EEOC must maintain clear, accessible, and fair processes for federal workers to pursue their claims when they experience discrimination.

III. The Proposed Rule is the Administration’s Latest Action to Undermine Worker Protections in the Federal Sector.

The federal government is the largest employer in the United States, employing over 2.3 million workers as of September 2024.²⁰ Federal jobs have helped build a path to the middle class for many workers, especially for Black people, women, and other workers who frequently face discrimination in the workplace.²¹

Many federal jobs provide stable and consistent schedules and access to retirement benefits, health care, and paid parental leave, all of which contribute to economic security for workers and their families.²² Federal sector employees are more likely to be members of unions,²³ which is associated with better pay, benefits, working conditions, and workplace

¹⁷ Data on file with author.

¹⁸ U.S. EQUAL EMP. OPPORTUNITY COMM’N, BENDING TOWARD JUSTICE: 60 YEARS OF CIVIL RIGHTS LAWS PROTECTING WORKERS IN AMERICA 33 (Jan. 2025), https://www.eeoc.gov/sites/default/files/2025-01/60th_Anniversary_Civil_Rights_Report_final_2_508.pdf.

¹⁹ U.S. EQUAL EMP. OPPORTUNITY COMM’N, SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE, REPORT OF CO-CHAIRS CHAI R. FELDBLUM & VICTORIA A. LIPNIC, Part II.C. (June 2016), <https://www.eeoc.gov/select-task-force-study-harassment-workplace>.

²⁰ SARAH JAVAID, NAT’L WOMEN’S LAW CTR., ATTACKS ON THE FEDERAL WORKFORCE TARGET WOMEN AND PEOPLE OF COLOR 1 (May 2025), <https://nwlc.org/wp-content/uploads/2025/05/Federal-Workforce-FS-5.5.25v2.pdf>.

²¹ *Id.*; Peter Gordon & Alex Cogan, *Trump’s Agenda Is a Direct Threat to the Black Middle Class*, CTR. FOR AMERICAN PROGRESS (Aug. 18, 2025), <https://www.americanprogress.org/article/trumps-agenda-is-a-direct-threat-to-the-black-middle-class/> (explaining how federal sector employment has historically provided a “pathway to achieve middle-class employment” due in part to strong anti-discrimination protections); *Where Did the Government Jobs Go?*, N.Y. TIMES MAGAZINE (May 1, 2016), <https://www.nytimes.com/2016/05/01/magazine/where-did-the-government-jobs-go.html>.

²² JAVAID, *supra* note 20 at 6-7.

²³ *Id.* at 6.

protections.²⁴ Women and people of color working in the federal sector also typically experience greater pay equity and smaller wage gaps as compared to those working in the private sector, likely as a result of pay transparency and salary grids.²⁵

Unfortunately, this Proposed Rule is just the latest in this administration's long line of attacks on the federal workforce. Among other actions, the current administration has conducted large-scale staff reductions that disproportionately targeted agencies where women and people of color make up the majority of the workforce;²⁶ curtailed federal workers' collective bargaining rights;²⁷ and stripped thousands of federal workers of protections against being fired without cause.²⁸ Through these actions, the administration has engaged in a project of reshaping the federal workforce, in part by targeting women and people of color. This Proposed Rule continues that pattern by making it harder for federal employees to raise concerns about discrimination, which could allow discrimination to go unchecked and result in more federal workers—especially women, people of color, and other workers who have most benefited from opportunity in the federal sector—being pushed out of their jobs due to discrimination.

IV. Conclusion

We appreciate the opportunity to comment on the Proposed Rule. For the reasons outlined in the comments above, we strongly oppose the Proposed Rule and urge the EEOC to withdraw it.

Sincerely,

National Women's Law Center
American Association of University Women (AAUW)
American Humanist Association
Coalition on Human Needs

²⁴ LAYLA ZONOUZY, NAT'L WOMEN'S LAW CTR., UNIONS ARE GOOD FOR WOMEN (Sept. 2026), https://nwlc.org/wp-content/uploads/2026/09/Unions-Are-Good-For-Women_FS_2026_FINAL.pdf; CELINE MCNICHOLAS ET AL., UNIONS AREN'T JUST GOOD FOR WORKERS—THEY ALSO BENEFIT COMMUNITIES AND DEMOCRACY, ECONOMIC POLICY INSTITUTE (Aug. 20, 2025), <https://www.epi.org/publication/unions-arent-just-good-for-workers-they-also-benefit-communities-and-democracy/>.

²⁵ JAVAID, *supra* note 20 at 7-9.

²⁶ See generally JAVAID, *supra* note 20.

²⁷ Margaret Poydock, *How Trump Has Dismantled the Federal Workforce in His First 100 Days*, ECONOMIC POLICY INSTITUTE (May 23, 2025), <https://www.epi.org/blog/how-trump-has-dismantled-the-federal-workforce-in-his-first-100-days/>.

²⁸ Executive Order 14410, Implementing Schedule Policy/Career in the Excepted Service (June 3, 2026), <https://www.whitehouse.gov/presidential-actions/2026/06/implementing-schedule-policy-career-in-the-excepted-service/>; Kevin Bogardus, *Trump Strips Civil Service Protections From Thousands of Workers*, E&E NEWS BY POLITICO (June 3, 2026), <https://www.eenews.net/articles/trump-strips-civil-service-protections-from-thousands-of-workers/>.

Equal Rights Advocates
Lawyers' Committee for Civil Rights Under Law
Legal Defense Fund
Legal Momentum, the Women's Legal Defense & Education Fund
MomsRising
National Center for Law and Economic Justice
National Organization For Women
National Urban League
PowHer New York
The Leadership Conference on Civil and Human Rights
Women's Law Project