

July 19, 2026

Submitted via regulations.gov

Chair Andrea R. Lucas
Commissioner Kalpana Kotagal
Commissioner Brittany Bull Panuccio
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

RE: EEOC Draft Strategic Plan 2026–2030

Dear Chair Lucas, Commissioner Kotagal, and Commissioner Panuccio:

We are scholars at the Ethics and Public Policy Center (EPPC). Rachel Morrison is an EPPC Fellow, the director of EPPC’s Administrative State Accountability Project (ASAP), and a former attorney with the Equal Employment Opportunity Commission (EEOC). Eric Kniffin is an EPPC Fellow, member of EPPC’s ASAP, and a former attorney in the U.S. Department of Justice’s (DOJ) Civil Rights Division.

We write in strong support of the Commission’s draft Strategic Plan 2026–2030.¹ We wholeheartedly affirm the three values that guided this plan: a commitment to equal employment opportunity (EEO), accountability, and integrity.² Under Chair Lucas’ leadership, the Commission has been doing excellent work to fulfill those values. Below we affirm the need for the proposed strategic goals and provide some minor suggestions for improvements.

Strategic Goal I states, “Combat and Prevent Employment Discrimination Through the Strategic Application of the EEOC’s Law Enforcement Authorities.” We affirm this goal. To further the EEOC’s efforts to combat and prevent unlawful discrimination, we urge the EEOC to stop collecting EEO-1 data, which can be used to intentionally or inadvertently induce affirmative-action-style hiring and promotions in violation of nondiscrimination law.³

Performance Measure 1 states, “97% of EEOC conciliation agreements and favorable litigation resolutions contain targeted, equitable relief, and that level is maintained through FY

¹ U.S. Equal Employment Opportunity Commission, *Strategic Plan 2026-2030 [DRAFT]* [hereinafter “Strategic Plan”], available at <https://www.regulations.gov/document/EEOC-2026-0001-0001>.

² *Id.* at 3.

³ See Dan Morenoff, *Title VII’s Classification Bar: Section 2(a)(2), Disparate Impact, and EEO-1s*, 3 J.L. & Civ. Governance, at Section 8.3 (forthcoming 2026), available at https://jlcgtamu.com/wp-content/uploads/2026/07/morenoff-article_forthcoming-2026.pdf.

2030.” We support this Performance Measure, especially EEOC’s focus on obtaining relief that is targeted and equitable.

On occasion, EEOC has pressured employers to agree to settlements that included terms that do not reflect caselaw, but rather what the Commission or some within the Commission wished Congress had outlawed. Then, when negotiating with other employers, EEOC would point to such settlement decrees as evidence as to what the law requires and as to what sort of relief the Commission is authorized to pursue. This is an abuse of the Commission’s authority. EEOC should not use conciliations as a way to push employment practices divorced from the laws Congress passed. We believe this Performance Measure will help curb this abuse.

Performance Measure 2 states, “In each year through FY 2030, the EEOC continues to favorably resolve at least 90% of enforcement lawsuits.” We support this Performance Measure as well. Reducing intake inventory and increasing efficiency of charge evaluation and resolution is important to combat, prevent, and remedy employment discrimination.

Performance Measure 3 indicates that the Commission will focus its systemic enforcement on matters involving more significant violations, as reflected by seeking “at least \$1 million in monetary relief.” This will enable the Commission to direct its resources to truly significant violations. We encourage the Commission to also define “significant” systemic matters by employee headcount, for example unlawful employer practices or policies that affect at least 20 employees.

These measures will greatly support **Strategic Objective I.A**, which states “The agency will have a broad impact on preventing and remedying employment discrimination while providing meaningful relief for victims of discrimination.”

Strategic Objective I.B states, “The agency will exercise its enforcement authority even-handedly, efficiently, and based on the circumstances of each charge or complaint.” We applaud the Commission for focusing on even-handed enforcement.

This commitment to even-handed enforcement is important, given the federal government’s enormous resources. In practice, once the Commission commits to prosecuting a matter, it is able to bring the full weight of a nationwide agency—53 field offices, over 1,700 employees, and a budget request of \$455.45 million for FY 2027⁴—against a single respondent. By contrast, the typical American employer subject to EEOC’s jurisdiction is a small operation: small businesses—defined as those with 500 or fewer employees—make up 99.9% of all U.S. employers.⁵

This asymmetry can put American employers under coercive pressure to settle a matter on EEOC’s terms, even when employers dispute EEOC’s factual allegations and interpretation of the law. Too often in the past the EEOC has abused this authority, bringing questionable claims

⁴ Strategic Plan at 5; U.S. Equal Emp. Opportunity Comm’n, *Fiscal Year 2027 Congressional Budget Justification* 1 (Mar. 2026), <https://www.eeoc.gov/fiscal-year-2027-congressional-budget-justification> (\$455,450,000 budget request).

⁵ U.S. Small Bus. Admin., *Frequently Asked Questions About Small Business* (Feb. 2026) https://advocacy.sba.gov/wp-content/uploads/2026/02/FINAL_FAQsAboutSmallBusiness_2026_012826.pdf.

against small employers and dragging religious organizations through years of investigation and litigation.⁶ The EEOC has also pursued its policy objectives with little regard for employers' statutory and constitutional rights, exceeding the statutory and constitutional limits of the Commission's own authority.⁷ And there has been *uneven* enforcement when it comes to accommodation protections from COVID-19 vaccine mandates.⁸ We are grateful to see that under Chair Lucas' leadership this abdication of duty is being addressed.⁹

Strategic Goal II states "Prevent Employment Discrimination and Advance Equal Employment Opportunities Through Outreach and Training." This extends to members of the public (**Strategic Objective II.A**) and employers, federal agencies, unions, and staffing agencies (**Strategic Objective II.B**). And **Strategic Goal III** states, "Strive for Organizational Excellence Through our People, Practices and Technology" with **Strategic Objective III.B** focused on aligning "resources, technology, and operations to improve performance and service delivery." We support these goals and objectives.

We agree that there is need for more training of the employees, employers, and EEOC and other federal agency staff about employee's religious discrimination and accommodation rights. The "need for training and guidance" and "the lack of awareness about religious discrimination rights and obligations" was discussed by participants during November and December 2020 listening sessions held by General Counsel Sharon Fast Gustafson, in partnership with then-Commissioner Lucas.¹⁰ Listening Session participants shared that both employees and employers lack knowledge of religious rights and obligations under Title VII, as well as EEOC's resources and role in combatting employment discrimination.¹¹

⁶ See Rachel N. Morrison & Eric Kniffin, *Eradicating Anti-Christian Bias*, EPPC, at 15 (2025), <https://media.eppc.org/2025/11/25-11-Eradicating-Anti-Christian-Bias-1.pdf> ("For religious employers, the process is the punishment. Not every employer is able to afford the time and monetary costs of EEOC investigations and litigation.").

⁷ *Id.* at 12-18; see also U.S. Dep't of Justice, *Eradicating Anti-Christian Bias Within the Federal Government: 2026 Task Force Report* at 74 (Apr. 30, 2026), <https://www.justice.gov/opa/media/1438506/dl?inline> ["DOJ ACB Report"] ("Even where the Biden Administration acknowledged that religious exemptions could apply, its actions or inactions often suggested a perfunctory compliance with longstanding federal law, rather than a good-faith effort to avoid religious discrimination.").

⁸ DOJ ACB Report at 125 ("Of the 397 COVID-19-related Title VII violations, the Biden EEOC sued private employers only four times for failing to accommodate an employee's religious beliefs under the COVID-19 vaccine mandates.").

⁹ See Katelynn Richardson, *Americans Who Endured Biden's Vax Discrimination Finally Getting Justice, Trump Official Says*, Daily Caller (Aug. 18, 2025), <https://dailycaller.com/2025/08/18/exclusive-americans-discriminated-against-biden-vaccine-mandate-eeoc-official-andrea-lucas/>; Press Release, EEOC, 200 Days of EEOC Action to Protect Religious Freedom at Work (Aug. 22, 2025), <https://www.eeoc.gov/newsroom/200-days-eeoc-action-protect-religious-freedom-work>; Press Release, EEOC, EEOC Reaches \$15 Million Conciliation Agreement to Resolve Discrimination Claims Related to COVID-19 Vaccinations (Mar. 24, 2026), <https://www.eeoc.gov/newsroom/eeoc-reaches-15-million-conciliation-agreement-resolve-discrimination-claims-related-covid>.

¹⁰ EEOC, Religious Discrimination in Employment: General Counsel Listening Sessions Final Report, at 12 (Jan. 2021), available at <https://media.eppc.org/2023/02/Religious-Discrimination-in-Employment-General-Counsel-Listening-Sessions-Final-Report.pdf>.

¹¹ *Id.* at 12.

The lack of knowledge of religious accommodation rights (or possible blatant disregard for those rights) became acutely evident during COVID-19-era workplace vaccination mandates where employers failed to follow standard accommodation practices and discriminated and retaliated against employees for their religious beliefs about the COVID-19 vaccine in the accommodation process, regardless of whether a reasonable accommodation could be provided absent undue hardship.

Another area where more training would be beneficial for EEOC staff is on protections, exemptions, and exclusions for religious organizations under Title VII's religious organization exemptions, the Religious Freedom Restoration Act, and the First Amendment.¹² In this way, staff would be informed of potential constitutional and statutory constraints on government when a potentially successful religious defense is raised.

Relatedly, we affirm the importance of **Performance Measure 9** to “expand[] the EEOC’s reach to employers, federal agencies, and other covered entities [to] ensure[] they have the information necessary to prevent discrimination and remedy discriminatory practices” and **Performance Measure 13** that commits the Commission to invest in workforce development by conducting annual in-person trainings. We urge the EEOC to expand its outreach and training to its Fair Employment Practices Agencies (FEPAs). We have heard of situations where FEPAs are enforcing civil rights laws in ways that may improperly expand or even contradict the Commission’s enforcement priorities. In some cases, FEPA investigators and staff are inadequately trained on the Commission’s priorities or applicable law. FEPA understaffing and turnover result in poor outcomes. As such, we support the Commission soliciting its Regional Directors and Regional Attorneys to include FEPAs in its trainings and enforcement communications as much as possible.

We also affirm the need for revised or updated guidance by the EEOC. For example, the current regulations implementing the Pregnant Workers Fairness Act (PWFA) impose an unlawful abortion accommodation mandate and adopt an extremely broad definition of “pregnancy, childbirth, or related medical conditions” divorced from the text of the Act. We are pleased to see the Commission is already contemplating revising these regulations.¹³

The June 2026 draft report of President Trump’s Religious Liberty Commission recommends EEOC guidance and trainings related to combatting antisemitism and “Know Your Rights” posters on religious nondiscrimination and accommodation rights that employers, and in particular schools, may post in employee gathering areas.¹⁴

EEOC Guidance on emerging issues would also be helpful. These issues include the use of AI in hiring, race-based (or other) employee resources groups, alleged “offensive” employee

¹² See *id.* at 10-11, 14.

¹³ See Office of Info. & Regul. Affs., Off. of Mgmt. & Budget, View Rule: Revisions to the Pregnant Workers Fairness Act Regulations, RIN 3046-AB36, Unified Agenda of Regulatory and Deregulatory Actions (Fall 2025 or Spring 2026), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=3046-AB36> (last visited July 18, 2026).

¹⁴ The Presidential Religious Liberty Commission, Draft Report, at 103-04, 156, 173 (June 26, 2026), <https://www.justice.gov/religious-liberty-commission/media/1449896/dl?inline>.

speech including on social media outside the workplace, and employee trainings that require employees to affirm certain beliefs about race, gender, or sexuality. At bottom, all guidance and technical assistance should be grounded in law not personal preferences of some at the Commission.

Finally, below are a few minor suggestions to help strengthen the plan.

- **Page 4-5.** On the bullet point summary of laws EEOC enforces, it would be helpful to include a reference to accommodation protections for religion and disability in addition to the prohibition against discrimination. General nondiscrimination obligations do not include affirmative accommodation requirements. Even though the next paragraph mentions accommodation protections, it would still be helpful to include in the bullet point summary, especially because the PWFA bullet point mentions accommodation protections for pregnancy.
- **Page 5.** Also, on the bullet point summarizing the laws EEOC enforces, it would be helpful if the Plan clarified what protections federal employees have under Section 501 and 505 (i.e., disability). Similarly, it would be helpful to mention which discrimination protections apply under GERA—all protected bases in laws EEOC enforces or just some.
- **Page 7.** The Plan discusses the EEOC’s coordination with the Attorney General when it comes to claims against state governments. It would be helpful to also mention the Commission’s coordination with HHS’s Office for Civil Rights when it comes to the potential overlap between Title VII religious accommodation protections and health care conscience protections.
- **Page 21.** In the chart, it is unclear whether the increase in outreach and training events for new agency partners is based on 2026’s number or based on the prior year’s number. We encourage the Commission to clarify the baseline for increase each year.

Thank you for the opportunity to provide input on EEOC’s draft Strategic Plan for 2026–2030.

Sincerely,

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