



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of Commissioner
Charlotte A. Burrows

Statement of Commissioner Charlotte A. Burrows
on U.S. Equal Employment Opportunity Commission's Proposed MOU with
Department of Justice and Department of Labor

October 26, 2020

The U.S. Equal Employment Opportunity Commission (EEOC) will vote next Monday on a Memorandum of Understanding (MOU) with the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) and the U.S. Department of Justice. While I strongly support inter-agency coordination, the proposed MOU threatens to undermine the independence of the Commission as the primary federal agency charged with protecting American workers against workplace discrimination.

In addition to seeking to interfere with the Commission's independent judgment in interpreting the laws within our jurisdiction, the proposal would delegate to OFCCP the Commission's authority to investigate certain workplace discrimination claims. Such a delegation is contrary to the statutory scheme envisioned by Congress in enacting Title VII of the Civil Rights Act of 1964 and could allow OFCCP to use Title VII to enforce the new and controversial Executive Order 13950 on Combating Race and Sex Stereotyping.

The MOU purports to strip EEOC of its authority to make independent legal decisions on emerging or high-profile issues by vesting the Department of Justice with the power to shape EEOC's legal strategy. Such a provision could significantly impact future Commission litigation. For example, had this MOU been in place when EEOC was developing and litigating cases in favor of LGBTQ protections in the workplace, the outcome likely would have been very different given the current administration's contrary legal position.

I appreciate the Chair's willingness to hold a public hearing on this critically important and, in my view, highly problematic proposal. I welcome the opportunity to discuss these significant issues with my colleagues next week. It is my hope that the Commission will reach a resolution that advances inter-agency cooperation while preserving the EEOC's independence and unique role in enforcing workplace discrimination laws.

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