

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
<https://oversight.house.gov>

March 1, 2024

The Honorable Charlotte A. Burrows
Chair
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

Dear Chair Burrows:

The Committee on Oversight and Accountability is conducting oversight of the U.S. Equal Employment Opportunity Commission (EEOC)'s enforcement of federal law prohibiting racial discrimination in employment practices in light of concerns that some U.S. companies may be incorporating racially discriminatory policies into decisions related to recruiting, hiring, job assignments, and promotions. The Committee seeks information from the EEOC and a staff-level briefing to better understand EEOC's current posture ensuring the enforcement of longstanding prohibitions on racially discriminatory policies in employment practices.

Title VII of the Civil Rights Act of 1964, as amended, clearly and explicitly prohibits unlawful employment practices for covered employers that discriminate against an individual "because of such individual's race, color, religion, sex, or national origin."¹ Following the Supreme Court's opinion last summer that the Equal Protection Clause of the Fourteenth Amendment prohibits racial discrimination in college admissions practices,² EEOC Commissioner Andrea R. Lucas wrote that that the decision could serve as a warning to U.S. businesses adopting "increasingly popular race-conscious corporate initiatives" in light of Title VII's even more explicit prohibition on racial discrimination in the workplace.³ Commissioner Lucas called on U.S. businesses to "to take a hard look at their diversity programs" and stressed that "companies seriously err if they evaluate their risk under federal employment law by mistakenly referring to (now outdated) standards for higher education admissions which had approved of diversity-motivated affirmative action."⁴

¹ 42 U.S.C. § 2000e-2.

² *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. ____ (2023).

³ Andrea Lucas, *With Supreme Court affirmative action ruling, it's time for companies to take a hard look at their corporate diversity programs*, REUTERS (June 29, 2023).

⁴ *Id.*

State attorneys general have also warned Fortune 100 chief executive officers, citing evidence of potentially illegal employment practices within those companies, that “companies that engage in racial discrimination should and will face serious legal consequences” under federal and state law prohibiting racial discrimination in the workplace.⁵

As the federal agency responsible for enforcing federal laws against illegal racial discrimination in all types of work situations, it is critical that EEOC is taking all available measures to prevent and end unlawful employment practices that discriminate on the basis of an individual’s race or color. To facilitate our oversight of this critical matter, please provide the following documents and information, covering the time period January 1, 2023 to the present, as soon as possible, but no later than March 15, 2024:

1. All documents and communications containing any enforcement guidance related to Title VII’s prohibition on employment practices that discriminate on the basis of an individual’s race or color prepared for or disseminated to any covered employer;
2. All documents and communications containing any internal training materials for EEOC officials relating to enforcement of Title VII’s prohibition on employment practices that discriminate on the basis of an individual’s race or color;
3. All documents and communications containing any numerical accounting of enforcement actions by EEOC related to, whether in whole or in part, Title VII’s prohibition on employment practices that discriminate on the basis of an individual’s race or color;
4. All documents and communications related to or referencing the Supreme Court’s decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*.

Additionally, please provide a staff-level briefing on this matter as soon as possible, but no later than March 8, 2024.

Attached are instructions for producing the documents and information to the Committee. If you have any questions, contact the Committee on Oversight and Accountability Majority staff at 202-225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, “any matter” at “any time” under House Rule X. Thank you for your attention to this important matter.

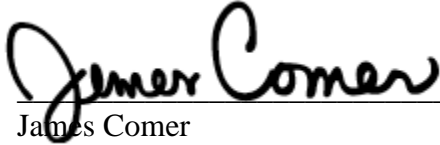
⁵ Letter from Kris W. Kobach, Kansas Attorney General, *et al.*, to Fortune 100 CEOs (July 13, 2023).

The Honorable Charlotte A. Burrows

March 1, 2024

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Sincerely,



James Comer

Chairman

Committee on Oversight and Accountability



Pat Fallon

Chairman

Subcommittee on Economic Growth,
Energy Policy, and Regulatory Affairs

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Cori Bush, Ranking Member
Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs

The Honorable Jocelyn Samuels, Vice Chair
U.S. Equal Employment Opportunity Commission

The Honorable Keith E. Sonderling, Commissioner
U.S. Equal Employment Opportunity Commission

The Honorable Andrea R. Lucas, Commissioner
U.S. Equal Employment Opportunity Commission

The Honorable Kalpana Kotagal, Commissioner
U.S. Equal Employment Opportunity Commission