



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

Commissioner
Kalpana Kotagal

July 21, 2026

Commissioner Kotagal's Statement on Proposal to Rescind EEO Reports

I voted against the Commission's proposal to rescind EEO-1 demographic data collection because it would kneecap the agency's ability to investigate discrimination and protect workers.

Since 1966, the EEOC has required large employers to submit race and sex data for their employees. The EEOC, in turn, has used this data to investigate discrimination. If a worker files a complaint, EEOC staff use EEO-1 data to assess whether the issue may be more widespread. Staff dig deeper to see if there are statistically significant racial or gender disparities, compared with the local workforce. These disparities may warrant further investigation. The data helps the agency focus our limited resources on particularly impactful cases. It's a key tool in our toolbox.

The agency also uses EEO-1 data to identify industries and employers where there might be barriers to opportunity and to inform outreach and education efforts. The agency maintains the confidentiality of individual data, but aggregated data is available on the EEOC's website. On EEOC Explore, users can analyze data associated with more than 56 million employees and 73,000 employers nationwide. Outside the EEOC, the data is used by our state and local civil rights agencies, or FEPAs, to enforce the law, and by employers, researchers, and the press to educate the public about workforce trends.

Perhaps what's most perplexing about this proposal to rescind the EEOC's demographic data collection is that we're depriving the agency of critical data employers are still required to collect. I fear that this proposal will confuse employers, risking future liability. So, I want to be clear – regardless of whether the Commission ultimately rescinds its EEO-1 regulations, employers are still required to collect demographic data under the law. Section 709(c) of Title VII states that employers must "*make and keep* such records relevant to the determinations of whether unlawful employment practices have been or are being committed." Demographic data is necessarily part of that recordkeeping requirement. Collecting and maintaining this data is also central to employer obligations to guard against disparate impact.

In addition to their legal obligations, employers should stay the course and continue to collect and maintain demographic data for several other reasons. For one, a future Democratic administration will reinstate EEO-1 data collection. Eliminating the structures employers have in place, only to restore them in the near term, is not prudent. Collecting and analyzing demographic data is also good business. EEO-1 data collection is an important tool for employers to conduct a self-assessment to compare to peers in the same industry or geographic area and identify whether existing policies or practices create barriers to opportunity. This type of analysis helps prevent discrimination and minimize liability in the long-term. Employers should also continue to collect and analyze demographic data to comply with similar state laws, which will surely multiply in response to this action.



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The EEOC is at its lowest staffing levels in more than 45 years. We have roughly 600 fewer employees than at the height of the Biden Administration, an approximately 25 percent drop. Staff shortages will only worsen given deflated morale. At a time when we are barely scraping by, why make it harder for the agency to fulfill its storied mandate?

This Notice of Proposed Rulemaking (NPRM) offers several explanations. None are compelling. The argument that collecting demographic data somehow leads to sex- or race-based employment actions is entirely speculative, with no foundation in law or fact. This NPRM fails to offer any evidence – not one example – of employers discriminating against their workers because of EEO-1 reporting.

Similarly, the constitutional arguments are untethered from reality. Even if the data collection were subject to strict scrutiny, which I don't concede and no court has found, the agency's own experience over six decades shows that the EEO-1 collection is narrowly tailored and advances a compelling government interest of protecting workers. The Supreme Court has recognized that the mere act of classifying individuals does not in and of itself violate the Equal Protection Clause. There must be a benefit or burden based on a racial classification. Here, there isn't one.

I'm also skeptical that the rescission will lead to cost savings for the agency. Should this change go into effect, to get baseline demographic data, EEOC staff, already contending with resource challenges, will have to further rely on RFIs and subpoenas, which employers will challenge in court, prolonging investigations and needlessly wasting precious resources. Staff will have to battle with employers — in resource intensive ways — to get them to produce this data.

This NPRM is held together by conjecture, not case law. Worse, it is ahistorical and divorced from the reality of present-day discrimination. All of this is unbecoming of this agency. The truth is that EEO-1 data has been key to our investigations of race and sex discrimination. Just this May, the EEOC announced a \$5.5 million settlement with Central Transport, resolving allegations that for at least ten years, the company passed over qualified female truck driver applicants, instead hiring male applicants with less experience. An analysis of the company's EEO-1 reports revealed statistically significant disparities in the hiring of male drivers, which directly contributed to the EEOC finding cause that discrimination occurred.

Unfortunately, this action by the Administration further erodes civil rights. These efforts should be seen for what they are: an attempt to weaken equal employment opportunity, and to undermine progress for women and historically marginalized communities.

It's a See No Evil, Hear No Evil, approach. But discrimination doesn't go away just because you erase the data. It just becomes harder to prove. Enforcement gets weaker. It takes more time. It's costlier. Accountability suffers. And workers get left behind. I cannot, in good conscience, support this proposal.