



August 24, 2026

Raymond Windmiller  
Executive Secretariat  
U.S. Equal Employment Opportunity Commission  
131 M Street NE  
Washington, D.C. 20507

**Re: Removal of Reporting Requirements, RIN 3046-AB37, 29 C.F.R. Part 1602**

Dear Mr. Windmiller,

The Center for American Progress (CAP) is submitting this comment in response to a proposed rescission of all six of the EEO reports. The proposal would also rescind EEO-1 through EEO-6 record keeping and record preservation rules at 29 C.F.R. Part 1602. Some of these forms have existed for more than 60 years and have been helpful to the agency across partisan leadership to help create a stronger enforcement apparatus within the EEOC. While the rescission of all of the EEO forms would have detrimental effects for the agency's enforcement capacity and the people it is obligated to serve, CAP's research has primarily focused on the benefits of the EEO-1 form and as such is the focus of our submission of public comment.

CAP is an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans through bold, progressive ideas, as well as strong leadership and concerted action. For more than two decades CAP has provided the public with evidence-based research and analysis.<sup>i</sup> CAP recommends that the EEOC maintain all six EEO reports, which collect necessary demographic data to identify patterns of potential discrimination that may not be caught through an individual claim to pursue litigation and to identify practices and sectors that may be contributing to discrimination in the workplace. This data helps the agency provide additional outreach, education, and guidance. Furthermore, state enforcement agencies utilize the EEO data and the EEOC has also made aggregate, anonymous data available for public use which has been helpful to organizations such as CAP. Research organizations, including CAP, use this data to conduct research on discrimination and equal opportunity in the workplace and understand the demographic composition of employers.

The EEO-1, EEO-3, EEO-4, and EEO-5 surveys have been collected from covered employers since 1966 and have provided the EEOC, employers, and researchers data-driven evidence to understand the demographic composition of employers and identify whether gaps in employment may be occurring to investigate if this may be driven by discrimination.<sup>ii</sup> In fact, for many employers the standardized form is a tool that provides clear guidance on the type of data they need to collect to be in compliance with federal law were they to undergo an investigation by the EEOC.

Although the proposed rule would rescind all EEO forms, employers would still be required under Title VII of the Civil Rights Act to collect the demographic information currently collected in the EEO-1. This point was made in a statement by Commissioner Kotagal, who stated, “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.”<sup>iii</sup> This makes the “substantial burdens imposed on employers” described in the NPRM a moot point since Congress requires this information by law as part of the record keeping requirements in Section 709(c) of Title VII to “make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed,” and “preserve such records for such periods.”<sup>iv</sup> The EEOC has relied on demographic data collection to identify unreported patterns of discrimination in order to pursue litigation and to pinpoint problematic practices and sectors in order to provide additional outreach, education, and guidance. The EEOC has also provided this data to state enforcement agencies and made aggregate, anonymous data available to researchers and the public.

Since the demographic information collected in the EEO-1 form would be inherently necessary to determine if any unlawful employment practices are being committed, the estimated cost savings to employers in the NPRM are far overstated as the data collected would still need to be recorded and preserved as required by the law. As described in CAP’s research, the Obama administration explored the question of compliance burden on employers in detail and found that not only was the EEO-1 form not burdensome, but employers could also supply salary information in addition to the demographic data required by the form.<sup>v</sup>

These demographic data collected in the EEO-1 form have been essential to help the EEOC understand how discrimination may be occurring across entire industries or sectors of the economy. Two examples of that include reports generated by the EEOC entitled “Diversity in High Tech” and “High Tech, Low Inclusion: Diversity in the High Tech Workforce and Sector from 2014–2022,” which were a series of reports finding systemic underrepresentation of women and racial and ethnic minorities in the technology sector using EEO-1 data.<sup>vi</sup> These kinds of findings can not only help the EEOC encourage employers in these sectors to make changes that help them come into compliance with the law but also help the EEOC identify areas worthy of inquiry in the first stages of investigation of discrimination charges and actually reduce the financial burden for the EEOC.<sup>vii</sup>

The clearest recent case demonstrating the essential nature of the EEO-1 data was a commissioner-initiated charge against Vallarta Supermarkets.<sup>viii</sup> Rather than a discrimination complaint bringing the case to light, Bloomberg Law reported that according to a magistrate judge’s filing the “impetus” for the commissioner-initiated charge was the company’s own EEO-1 disclosure.<sup>ix</sup> Another case against Bass Pro Shops similarly relied on the EEO-1 disclosure data to help make the case.<sup>x</sup>

Finally, on the question of costs to the agency, there is limited evidence to support the NPRM's claims. The methods of calculating the costs to the agency do not net out the cost savings the agency incurs using the EEO-1 to help identify potential discrimination cases. Furthermore, if the forms were rescinded, it would likely be more costly for the agency to initiate the legal proceedings to obtain the data it needs to investigate these cases as Commissioner Kotagal outlined in her remarks.<sup>xi</sup>

Research by CAP has repeatedly shown the benefits of addressing discrimination and harassment in the workplace. Much of this research has focused on the EEO-1 form and the benefits of adding pay data collection for discrimination enforcement in addition to other forms of discrimination enforcement on other bases. But, the benefits of collecting this additional information hinge on the demographic, gender, and job category data in the form and the data collection existing in the first place.<sup>xii</sup> The proposed rule would be a step in the wrong direction.

The EEOC's EEO-1 data collection is essential to help understand and therefore combat problems of discrimination in the workplace, and it has done so for more than 60 years under both Democratic-controlled and Republican-controlled executive and legislative branches of government. Without this data, the agency would have greater difficulty making enforcement decisions, and without a direct discrimination claim from an employee, many kinds of systemic discrimination would have a higher potential to go unchecked.

Sincerely,

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<sup>i</sup> Center for American Progress, "About us," available at <https://www.americanprogress.org/about-us/> (last accessed August 2026).

<sup>ii</sup> EEO Leaders, "Abandoning the Collection of Employment Data Will Harm Employers and Workers" available at <https://static1.squarespace.com/static/67f14b136c5a8838cca88ae0/t/6a1a383a4a7eaf79266dae12/1780103226694/EEO+Leaders+Response+to+EEO-1+etc+Rescission.pdf> (last accessed August 2026).

<sup>iii</sup> U.S. Equal Employment Opportunity Commission, "Commissioner Kotagal's Statement on Proposal to Rescind EEO Reports," July 21, 2026, available at <https://drive.google.com/drive/u/0/folders/1M-ntjd2QcQidBpvC8q47wQjPWBkj9GOx> (last accessed August 2026).

<sup>iv</sup> Civil Rights Act of 1964 § 709(c), 42 U.S.C. § 2000e-8(c).

<sup>v</sup> Jocelyn Frye, Center for American Progress, "Myths vs. Reality: Why Pay Data and the EEO-1 Form Matter", available at <https://www.americanprogress.org/article/myths-vs-reality-pay-data-eeo-1-form-matter/> (last accessed August 2026).

<sup>vi</sup> U.S. Equal Employment Opportunity Commission, "Diversity in High Tech" (Washington: 2016), available at [https://www.eeoc.gov/sites/default/files/migrated\\_files/eeoc/statistics/reports/hightech/diversity-in-high-tech-report.pdf](https://www.eeoc.gov/sites/default/files/migrated_files/eeoc/statistics/reports/hightech/diversity-in-high-tech-report.pdf) (last accessed August 2026); U.S. Equal Employment Opportunity Commission, "High Tech, Low Inclusion: Diversity in the High Tech Workforce and Sector 2014-2022" (Washington: 2024), available at <https://web.archive.org/web/20240926192709/https://www.eeoc.gov/sites/default/files/2024->

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<sup>vii</sup> EEO Leaders, “Abandoning the Collection of Employment Data Will Harm Employers and Workers” available at <https://static1.squarespace.com/static/67f14b136c5a8838cca88ae0/t/6a1a383a4a7eaf79266dae12/1780103226694/EEO+Leaders+Response+to+EEO-1+etc+Rescission.pdf> (last accessed August 2026).

<sup>viii</sup> U.S. Equal Employment Opportunity Commission, “EEOC Files Subpoena Enforcement Action Against Vallarta Food Enterprises,” available at <https://www.eeoc.gov/newsroom/eeoc-files-subpoena-enforcement-action-against-vallarta-food-enterprises> (last accessed August 2026); U.S. Equal Employment Opportunity Commission, “Federal Court Orders Vallarta Food Enterprises to Comply with EEOC Subpoenas,” available at <https://www.eeoc.gov/newsroom/federal-court-orders-vallarta-food-enterprises-comply-eeoc-subpoenas> (last accessed August 2026).

<sup>ix</sup> Bloomberg Law, “EEOC Plan to Cut Race, Sex Reports Carries Downsides for Agency,” available at <https://news.bloomberglaw.com/daily-labor-report/eeoc-plan-to-cut-race-sex-reports-carries-downsides-for-agency> (last accessed August 2026).

<sup>x</sup> Ibid.

<sup>xi</sup> U.S. Equal Employment Opportunity Commission, “Commissioner Kotagal’s Statement on Proposal to Rescind EEO Reports,” July 21, 2026, available at <https://drive.google.com/drive/u/0/folders/1M-ntjd2QcQidBpvC8q47wQjPWBkj9GOx> (last accessed August 2026).

<sup>xii</sup> Jocelyn Frye, Center for American Progress, “Next Steps for Progress on Equal Pay,” available at <https://www.americanprogress.org/issues/women/reports/2016/04/12/135267/next-steps-for-progress-on-equal-pay/> (last accessed August 2026); Center for American Progress, “Rhetoric vs. Reality: Equal Pay,” available at <https://www.americanprogress.org/article/rhetoric-vs-reality-equal-pay/> (last accessed August 2026); Jocelyn C. Frye, “Written Testimony of Jocelyn C. Frye, Senior Fellow, Center for American Progress,” U.S. Equal Employment Opportunity Commission, available at <https://www.eeoc.gov/written-testimony-jocelyn-c-frye-senior-fellow-center-american-progress> (last accessed August 2026); Center for American Progress, “Wage Discrimination: Behind the Numbers,” available at <https://www.americanprogress.org/issues/women/news/2017/07/05/435190/wage-discrimination-behind-numbers> (last accessed August 2026); Center for American Progress, “5 Things Ivanka Trump Could Do Right Now on Equal Pay,” available at <https://www.americanprogress.org/issues/women/news/2017/08/24/437739/5-things-ivanka-trump-right-now-equal-pay/> (last accessed August 2026); Jocelyn Frye, Center for American Progress, “Myths vs. Reality: Why Pay Data and the EEO-1 Form Matter,” available at <https://www.americanprogress.org/article/myths-vs-reality-pay-data-eeo-1-form-matter/> (last accessed August 2026); Center for American Progress, “Why Pay Data Matter in the Fight for Equal Pay,” available at <https://www.americanprogress.org/article/pay-data-matter-fight-equal-pay/> (last accessed August 2026); Juli Adhikari and Jocelyn Frye, Center for American Progress, “Who We Measure Matters: Connecting the Dots Among Comprehensive Data Collection, Civil Rights Enforcement, and Equality,” available at <https://www.americanprogress.org/issues/women/news/2020/03/02/481102/measure-matters-connecting-dots-among-comprehensive-data-collection-civil-rights-enforcement-equality> (last accessed August 2026); Center for American Progress, “Women Have Paid the Price for Trump’s Regulatory Agenda,” available at <https://www.americanprogress.org/issues/women/reports/2020/09/10/490241/women-paid-price-trumps-regulatory-agenda> (last accessed August 2026); Jocelyn Frye, Center for American Progress, “10 Essential Actions To Promote Equal Pay,” available at <https://www.americanprogress.org/article/10-essential-actions-promote-equal-pay/> (last accessed August 2026); Isabela Salas-Betsch and Lauren Hoffman, Center for American Progress, “Why Federal Pay Data Collection Is Critical to Equity,” available at <https://www.americanprogress.org/article/why-federal-pay-data-collection-is-critical-to-equity/> (last accessed August 2026); Center for American Progress, “Closing the Gender Pay Gap,” Playbook for the Advancement of Women in the Economy, available at <https://www.americanprogress.org/article/playbook-for-the-advancement-of-women-in-the->

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