



EEOC Transparency and Accountability Act (H.R. 4959)

Background: Established in 1965, the Equal Employment Opportunity Commission (EEOC) is an independent federal agency tasked with enforcing federal laws that protect individuals from employment discrimination, including the *Civil Rights Act* and the *Americans with Disabilities Act*. Federal law generally protects individuals from discrimination based on age, color, disability, genetic information, national origin, race, religion, or sex. The commission has the authority to investigate charges of discrimination against employers who are covered by these laws, including individual charges and charges of so-called “systemic” or class-wide discrimination. The agency also has a legal responsibility to engage in conciliation with employers in order to resolve disputes before filing suit in federal court.

The commission has increasingly relied on cases of systemic discrimination that allege a pattern or practice of illegally discriminating against an entire class of employees or job applicants but where there is no specific allegation of wrongdoing. On two occasions federal courts have imposed large monetary sanctions (\$4.7 million in one case) against EEOC for bringing lawsuits that were frivolous, unreasonable, or groundless. One court described the agency’s enforcement actions as “sue first, ask questions later.” The commission is also taking the position that federal courts cannot review whether the agency has engaged in good faith conciliation efforts with employers, as it is required by law to do.

To make matters worse, much of what EEOC does takes place in the shadows. It does not publicly disclose information about its investigations, decision-making, or negotiations. Congress and the public have no way of knowing whether investigations are abusive, decision-making is reasonable, or negotiations are done in good faith.

EEOC Transparency and Accountability Act:

- Promotes transparency by requiring EEOC to post on its website and in its annual report an array of information, including: any case in which EEOC was required to pay fees or costs, or where a sanction was imposed against it by a court; the total number of charges filed by an EEOC member or as a result of a directed investigation; and each systemic discrimination lawsuit brought by EEOC.
- Strengthens protections in current law requiring EEOC to conduct conciliation with employers in good faith and clarifies that such efforts are subject to judicial review.
- Provides independent accountability of the agency by requiring EEOC’s Inspector General (IG) to notify Congress within 14 days when a court has ordered sanctions against EEOC and conduct an investigation to determine why sanctions were imposed. The legislation also requires EEOC to submit a report to Congress within 60 days of a court’s decision detailing steps EEOC will take to reduce court-ordered sanctions.