



1201 16th St., N.W. | Washington, DC 20036 | Phone: (202) 833-4000

Rebecca S. Pringle
President

Princess R. Moss
Vice President

Noel Candelaria
Secretary-Treasurer

Kim A. Anderson
Executive Director

August 24, 2026

Submitted via Regulations.gov

Andrea R. Lucas
Chair
U.S. Equal Employment Opportunity Commission
131 M Street NE
Washington, DC 20507

Re: Docket Number EEOC-2026-0034; Removal of Reporting Requirements

Dear Commissioner Lucas:

The National Education Association (NEA) respectfully submits these comments in opposition to the Commission’s proposed rule eliminating Equal Employment Opportunity (EEO) recording and reporting requirements, particularly for large employers and educational institutions, which are covered by the EEO-1 and EEO-5 reporting requirements, respectively. The EEO-1 requires private-sector employers with 100 or more employees, like NEA and private educational institutions that employ NEA members, to identify and report their EEOC-defined job categories, detailing aggregate demographic information such as race and gender of the employees in each job category. The EEO-5 requires public elementary and secondary school systems and districts—many of which employ NEA members—to submit demographic workforce data by race and gender in each functional job category. The proposal would end the requirement that employers, labor organizations, and employment agencies make and keep records relevant to determining whether unlawful employment practices have been or are being committed, preserve those records for prescribed periods, and make reports from those records as the Commission prescribes by regulation or order, after public hearing, as reasonable, necessary, or appropriate for enforcement of Title VII.¹

Removal of EEO recording and reporting requirements ignores, and risks undermining, the significant benefits of identifying and eliminating discrimination by educational institutions, school districts, and employers. Reliable EEO data have long served as an essential tool for federal agencies, employers, researchers, and educational institutions to assess employment practices, identify barriers to equal opportunity, and ensure compliance with federal civil rights laws. The Commission has not demonstrated that existing EEO reporting requirements are unnecessary, ineffective, or unduly

¹ See 42 U.S.C. § 2000e-8(c).

burdensome. For decades, federal agencies have relied on these data to fulfill statutory responsibilities, and employers have used them to evaluate their own employment practices. A decision to eliminate such a longstanding source of information requires a reasoned explanation supported by evidence. The proposed rule does not identify any comparable alternative mechanism that would allow federal agencies, educational institutions, school districts, employers, and the public to monitor employment trends and identify barriers to equal opportunity.

EEO Data Support Transparency, Accountability, and Effective Civil Rights Enforcement

The elimination of EEO-1 and EEO-5 recording and reporting requirements will significantly impair the ability and motivation for federal agencies, school districts, educational institutions, and covered employers to identify patterns of discrimination and evaluate progress toward equal employment opportunity. Requiring EEO-1 and EEO-5 filers to disclose workforce demographic data at the job category level serves significant purposes beyond the pursuit of individual discrimination claims. Such required reporting is not merely a mechanism for investigating discrimination after it occurs. Rather, for employers like NEA and private educational institutions, these reporting requirements serve as a diagnostic and preventative tool that allows employers to identify potential barriers before they develop into unlawful practices.

Similarly, the EEO-5 reporting requirements provide public school systems and district with a tool to ensure that these school systems are identifying barriers to employment opportunities before such employment practices result in unlawful discrimination. For example, examining and reporting aggregate demographic data by job category enables an employer to learn if employees of a particular gender or race are disproportionately underrepresented in certain job categories. This may lead the employer to analyze why the trend is occurring and if there are any unlawful employment practices that are serving as a barrier to equal employment opportunity.

By requiring covered employers and school systems to examine patterns in recruitment, hiring, promotion, and retention, these EEO reports support voluntary compliance and proactive efforts to expand equal employment opportunity. Further, mandating that certain workforce demographic data are maintained and reported at the job category level, benefits covered employers and school systems by providing a consistent framework for evaluating their own employment practices. Eliminating these reporting requirements removes a critical resource for preventing discrimination in the first instance. Additionally, eliminating EEO reporting requirements will likely have a chilling effect on these best practices, as employers may abandon their internal reporting and analysis of employment practices, increasing the potential for unchecked systemic discrimination.

The absence of EEO data will not eliminate disparities in employment, including in the education sector. Instead, it will make those disparities more difficult to identify, investigate, and remedy. The proposed rule would shift the burden of identifying systemic discrimination away from institutions and enforcement agencies with access to workforce information and onto individual employees who may have limited ability to obtain comparable data. This shift is inconsistent with the purpose of federal civil rights enforcement, which recognizes that systemic discrimination often cannot be identified through individual complaints alone. Indeed, systemic discrimination often becomes apparent only through examination of workforce outcomes over time and across institutions.

Colorado provides one concrete example of why these data matter. The numbers in Colorado demonstrate that disparities identified through workforce demographic data are not theoretical. Roughly 50 percent of Colorado public school students are students of color, while about 85 percent of Colorado teachers are White and predominantly monolingual English-speaking women. In 2024-25, about 70 of 178 Colorado school districts had zero teachers of color. Sixty-two percent of districts employ no Black male teachers, and 47 percent employ no Latino male teacher. In Aurora Public Schools, the student body is approximately 86.7 percent non-White, while the teaching staff is approximately 77 percent White, female, and monolingual English-speaking. In Deer Trail 26J, 44 percent of students are Latinx, while the entire teaching staff is White.²

These data have helped shape state policy and educator workforce initiatives in Colorado, including the HB21-1010 workgroup, the SB19-190 mentor grant program, and the 2023 Teacher Degree Apprenticeship Program.³ These initiatives are designed, in different ways, to expand pathways into the teaching profession and support the recruitment, development, and retention of educators. Colorado therefore illustrates the broader point: workforce demographic data provides policymakers and researchers with a basis for identifying disparities, evaluating interventions, and assessing progress over time. Losing the standardized federal layer does not erase the underlying gap; it removes the comparable, auditable format that policymakers and researchers rely on to understand workforce disparities and assess whether efforts to address them are working.

While the burden of uncovering systemic discrimination will increasingly fall on individual employees, who frequently lack access to the statistical information necessary to support such claims, the Commission has not identified an equivalent substitute for EEO reporting that would provide consistent, nationwide, employer-level workforce data. Individual complaints, voluntary employer disclosures, and ad hoc studies cannot replace a standardized reporting system designed specifically to identify workforce patterns and disparities. The elimination of EEO reporting undermines federal enforcement agencies' ability to identify and challenge systemic discriminatory employment practices under both the theory of disparate treatment and disparate impact discrimination.

Colorado also illustrates why state-level reporting cannot necessarily substitute for the federal framework. Colorado has state-level infrastructure for education workforce demographic data but is largely CDE-run and separate from the EEO-5 filing. Eliminating EEO-5 and EEO-6 would not just end a federal filing; it would remove the standardized federal layer against which state reporting and national benchmarking can be compared. Colorado's recent enactment of HB26-1207 underscores the point. The law creates a state-level backstop for EEO-1 demographic workforce data for certain private employers if the federal requirement is repealed or discontinued, but school districts and higher education are expressly excluded. If EEO-5 and EEO-6 disappear, Colorado public education employers would therefore have no comparable state or federal requirement to report this data. This example demonstrates the broader concern with relying on state systems as a substitute for federal reporting: states may collect useful workforce data, but their requirements may differ in scope and

² <https://www.nasbe.org/overcoming-barriers-for-colorados-educator-workforce/>

³ <https://www.nasbe.org/overcoming-barriers-for-colorados-educator-workforce/>

may not cover the same employers. The federal reporting framework provides a standardized basis for comparison that individual systems cannot necessarily replicate.

Employment Data Can Help Identify Barriers to Equal Opportunity in Education

Reliable employment data, including the data reported through EEO-1 and EEO-5 reports, is particularly important in the education sector because it can help educational institutions and federal agencies identify disparities and potential discrimination in recruitment, hiring, advancement, and retention. These data provide a basis for evaluating whether employment practices are resulting in equal opportunities and for identifying areas that may warrant further inquiry.

Equal employment opportunity in education also has implications beyond the interests of individual employees. Research indicates that students benefit from exposure to diverse educators. For example, having a Black educator is associated with higher test scores and social and emotional gains among Black elementary school students, and emerging research indicates similar benefits for Latin(o/a/x) students taught by Latin(o/a/x) educators.⁴ Diverse educators can also contribute to an inclusive school culture and culturally relevant pedagogy and serve as cultural translators and role models.⁵

These findings underscore why identifying and addressing barriers to equal opportunity in the educator workforce matters to educational institutions. To the extent that recruitment, hiring, advancement, or retention practices create barriers for educators from underrepresented groups, reliable employment data can help institutions and federal agencies identify those disparities and assess whether further investigation or corrective action may be warranted.⁶ Ensuring equal opportunity in the educational workforce therefore serves not only employees, but also students and the broader goal of educational opportunity and excellence.

Systemic Disparate Treatment Liability Relies Upon Statistical Data

The elimination of EEO reporting requirements will reduce employees' and federal enforcement agencies' ability to identify and challenge systemic discrimination. It is well settled that statistical data—like the data historically collected in EEO reports—is a critical element of a plaintiff's ability to establish that an employer is liable for systemic disparate treatment discrimination against a particular group. Systemic disparate treatment cases often proceed using statistical evidence, and that statistical evidence is sufficient to establish discriminatory intent. Indeed, the Supreme Court has explained that one way of establishing discriminatory intent is through the use of statistical evidence.⁷ In *Teamsters*, the United States presented statistical evidence to support its claim of race discrimination in pay and promotion practices.⁸ The Court

⁴ Desiree Carver-Thomas, et al., *Supporting and Sustaining a Diverse Teacher Workforce* (Learning Policy Institute 2025).

⁵ Carlos Nevarez, *Benefits of Teacher Diversity: Leading for Transformative Change*, 4 J. OF SCH. ADMIN. RESEARCH & DEV. 24 (2019); Carver-Thomas, et al., *Supporting and Sustaining a Diverse Teacher Workforce* (Learning Policy Institute 2025).

⁶ Carver-Thomas, et al., *Supporting and Sustaining a Diverse Teacher Workforce* 46–53 (Learning Policy Institute 2025).

⁷ *Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324 (1977).

⁸ *Id.* at 339.

held that “our cases make it unmistakably clear that ‘[s]tatistical analyses have served and will continue to serve an important role’ in cases in which the existence of discrimination is a disputed issue.”⁹ *Id.* Statistics of sufficient weight may establish the inference of intentional discrimination.¹⁰ Eliminating the EEO reporting requirements will impair federal enforcement agencies’ and other plaintiffs’ ability to hold employers liable for systemic disparate treatment discrimination.

Disparate Impact Liability Is a Longstanding Component of Federal Civil Rights Law

The elimination of EEO recording and reporting requirements appears to be based on the Administration’s opposition to discrimination claims based on disparate impact. Yet disparate-impact liability has been recognized as a basis for discrimination claims by the Supreme Court for over 50 years.¹¹

As the Court recognized in the seminal case of *Griggs v. Duke Power Co.*, the “absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as ‘built-in headwinds’ for minority groups.”¹² Instead, Title VII requires the “removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of a racial or other impermissible classification.”¹³

The disparate impact theory of liability has been significant in reforming employer practices that have inhibited the advancement of members of disadvantaged groups.¹⁴ Disparate impact addresses a critical reality of discrimination: employment practices may produce unlawful discriminatory effects even when those practices appear neutral and even when there is no evidence of intentional discrimination.¹⁵ For example, educators have relied on disparate impact theory to challenge layoffs that had a disproportionate impact on educators of color,¹⁶ as well as the impact of COVID-related policies on members of a particular religious group.¹⁷

⁹ *Id.* (citation omitted).

¹⁰ *Id.* at 340; see also *Hazelwood Sch. Distr. v. United States*, 433 U.S. 299, 308-09 n.14 (1977).

¹¹ *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971); *Ricci v. DeStefano*, 557 U.S. 2658, 2675 (2009) (Congress has imposed Title VII liability on employers for unintentional discrimination in order to rid the workplace of practices that are fair in form, but discriminatory in operation).

¹² *Id.* at 432.

¹³ *Id.* at 431.

¹⁴ See, e.g., Robert Belton, [Title VII at Forty: A Brief Look at the Birth, Death, and Resurrection of the Disparate Impact Theory of Discrimination](#), 22 *Hofstra Lab. & Emp. L.J.* 431, 454-63 (2005); Alfred W. Blumrosen, [The Legacy of Griggs: Social Progress and Subjective Judgments](#), 63 *Chi.-Kent L. Rev.* 1, 3-7 (1987); Susan P. Carle, [A Social Movement History of Title VII Disparate Impact Analysis](#), 63 *Fla. L. Rev.* 251, 295-98 (2011); Barry Goldstein & Patrick O. Peterson, [Ricci v. DeStefano: Does It Herald an “Evil Day,” or Does It Lack “Staying Power”?](#), 40 *U. Mem. L. Rev.* 705, 753-65 (2010); Helen Norton, [The Supreme Court’s Post-Racial Turn Towards a Zero-Sum Understanding of Equality](#), 52 *Wm. & Mary L. Rev.* 197, 253-56 (2010); Samuel R. Bagenstos, [The Structural Turn and the Limits of Antidiscrimination Law](#), 94 *Calif. L. Rev.* 1, 20-24 (2006); Michael Selmi, [Was Disparate Impact Theory a Mistake?](#), 53 *UCLA L. Rev.* 701, 732-45 (2006).

¹⁵ Charles A. Sullivan, [Disparate Impact: Looking Past the Desert Palace Mirage](#), 47 *Wm. & Mary L. Rev.* 911, 941-52 (2005).

¹⁶ *Chicago Teachers Union v. Board of Education of the City of Chicago*, 14 F.4th 650, 655 (7th Cir. 2021).

¹⁷ *Meullion v. Bd. of Supervisors for Univ. of La. System*, No. 6:23-CV-013122025 WL 953328 (W.D. La. Mar. 28, 2025).

Congress repeatedly has recognized the importance of this framework. Years after the *Griggs* decision, the Civil Rights Act of 1991 formalized disparate impact liability under Title VII, and the Americans with Disabilities Act similarly incorporates protections against unjustified discriminatory effects.¹⁸ These provisions recognize that employers' subjective processes for assessing candidates for employment or promotion may result in disparate outcomes that warrant review. For example, the use of AI screening devices can result in discrimination based on various protected classes.¹⁹ At the same time, employers' legitimate interests are preserved by allowing them to justify practices that are job-related and consistent with business necessity.²⁰

EEO Data Are Necessary to Identify and Address Disparate Treatment and Disparate Impact

Federal agencies have promulgated guidance to support investigation of disparate impact claims. Both the Department of Education's Office of Civil Rights (OCR) and the Equal Employment Opportunity Commission (EEOC) are charged by Congress with investigating, respectively, discrimination by educational institutions and employers more broadly, including claims based on disparate impact.

Federal agencies, including OCR and the EEOC, have routinely relied on rigorous empirical evidence, including EEO data, to assess program performance, identify unmet needs, allocate resources efficiently, and improve public services. The collection of workforce demographic data has allowed agencies to identify patterns that may not be apparent through individual complaints alone.

The removal of EEO reporting requirements undermines the federal government's obligation to address discrimination, including both disparate treatment and disparate impact. Under past administrations since the passage of civil rights protections, DOJ, the EEOC, and OCR investigated both patterns-or-practices of discrimination and discrimination based on neutral practices with disparate results that lacked justification by the employer.²¹

NEA opposes this proposed rule because the elimination of EEO-1 and EEO-5 data will likely undermine or discourage lawful practices aimed at maintaining or increasing the diversity of educators. Without reliable data, institutions and agencies will have fewer opportunities to identify barriers to equal employment opportunity and address them proactively.

The Administration's Continued Reliance on Statistical Evidence Demonstrates the Importance of EEO Data

¹⁸ [42 U.S.C. §2000e-2\(k\)\(1\)\(A\)\(i\)](#); 42 U.S.C. § 12112(b)(3)(discrimination includes "utilizing standards, criteria, or methods of administration (A) that have the effect of discrimination on the basis of disability"). See Michael J. Zimmer, [Individual Disparate Impact Law: On the Plain Meaning of the 1991 Civil Rights Act](#), 30 *Loy. U. Chi. L.J.* 473, 488-507 (1999).

¹⁹ Lily Manshel, [The Bigotry of the Future: AI Recruitment Tools & Hiring Discrimination Law](#), 29 *City Univ. of New York L. Rev.* 78 (2026).

²⁰ *Ricci v. DeStefano*, 557 U.S. 2658, 2678 (2009).

²¹ [Title VI Legal Manual- Disparate Impact](#)

The current administration has withdrawn a regulation²² and announced the rescission of guidelines for disparate impact claims under Title VI.²³ These actions represented a significant reversal of agencies' past exercise of their longstanding authority to promulgate regulations incorporating a disparate impact standard when applying Title VI.²⁴ At the same time, the Department of Education and the Department of Justice continue to initiate investigations of educational institutions based on perceived statistical evidence of discrimination, including investigations involving claims that certain practices adversely affected white students and applicants.²⁵

EEO reporting requirements have remained in place across administrations of both political parties because they serve a fundamental governmental function: providing reliable information necessary to enforce civil rights laws. The Commission's proposed elimination of these requirements represents a significant departure from a longstanding federal approach to monitoring equal employment opportunity. Such a departure requires careful consideration of the reliance interests of agencies, employers, employees, and educational institutions that have incorporated these data into their compliance and accountability practices.

The Administration's continued reliance on evidence regarding the impact of certain practices demonstrates the importance of both the disparate impact theory of liability and the collection of data necessary to support those claims. Statistical evidence cannot be considered unnecessary when evaluating claims of discrimination against some groups while simultaneously being relied upon as a basis for enforcement actions involving others.

Conclusion

For these reasons, NEA respectfully urges the Commission to withdraw this proposed rule in its entirety. Eliminating EEO recording and reporting requirements would significantly impair the federal government's ability to identify, investigate, and remedy unlawful discrimination; reduce transparency and accountability in educational employment practices; and weaken efforts to maintain a diverse educator workforce that benefits students, schools, and communities.

Please do not hesitate to contact me or Bianca Singh at BSingh@nea.org, should you have any questions.

²² [Federal Register :: Rescinding Portions of Department of Justice Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281](#)

²³ [Federal Register :: Rescinding Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs](#)

²⁴ [Alexander v. Sandoval](#), 532 U.S. 275 (2001); [Guardians Association v. Civil Service Commission](#), 463 U.S. 582, 584 (1983).

²⁵ [U.S. Department of Education Investigates Five Medical Schools as Trump Administration Pushes to End Racial Discrimination in Admissions | U.S. Department of Education; Office of Public Affairs | Justice Department Finds University of California San Diego Medical School Discriminates Based on Race in Admissions | United States Department of Justice](#).

Sincerely,

A handwritten signature in black ink, reading "Daaiyah Bilal-Threats". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Daaiyah Bilal-Threats
Senior Director, Education Policy and Implementation Center
National Education Association