

113TH CONGRESS
2^D SESSION

H. R. 4959

To direct the Equal Employment Opportunity Commission to maintain up-to-date information on its website regarding charges and actions brought by the Commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2014

Mr. HUDSON (for himself, Mr. KLINE, and Mr. WALBERG) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To direct the Equal Employment Opportunity Commission to maintain up-to-date information on its website regarding charges and actions brought by the Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “EEOC Transparency
5 and Accountability Act”.

1 **SEC. 2. AVAILABILITY OF INFORMATION ABOUT CASES ON**
2 **THE EEOC WEBSITE.**

3 (a) IN GENERAL.—Beginning not later than 30 days
4 after the date of enactment of this Act, the Equal Employ-
5 ment Opportunity Commission shall maintain the fol-
6 lowing up-to-date information on its public website:

7 (1) A description of each case brought in court
8 by the Commission, not later than 30 days after a
9 judgment is made with respect to any cause of ac-
10 tion in the case, without regard to whether the judg-
11 ment is final. Such description shall identify—

12 (A) the court in which the case was
13 brought;

14 (B) the name and case number of the case,
15 the nature of the allegation, the causes of ac-
16 tion brought, and the outcome of each cause of
17 action in the case;

18 (C) each instance in which the Commission
19 was ordered to pay fees and costs, including the
20 amount of such fees and costs ordered to be
21 paid and, when applicable, the amount of fees
22 and costs actually paid by the Commission and
23 the reason for the fee or cost award;

24 (D) whether the case was authorized by a
25 majority vote of the Commission or was brought
26 pursuant to the Commission's delegation of au-

1 thority to the General Counsel of the Commis-
2 sion, including the basis on which the General
3 Counsel determined that submission to the
4 Commission for authorization was not necessary
5 and a justification of that decision;

6 (E) any case in which a sanction was im-
7 posed on the Commission, including the amount
8 of such sanction and the reason for the sanc-
9 tion; and

10 (F) any appeal and the outcome of the ap-
11 peal.

12 (2) The total number of charges of an alleged
13 unlawful employment practice filed during the pre-
14 ceding fiscal year by a member of the Commission,
15 as authorized by the Commissioner charge authority
16 under section 706(b) of the Civil Rights Act of 1964
17 (42 U.S.C. 2000e-5(b)) and section 107(a) of the
18 Americans with Disabilities Act of 1990 (42 U.S.C.
19 12117(a)), and the total number of resolutions of
20 such charges disaggregated by type of resolution.

21 (3) The total number of charges of an alleged
22 unlawful employment practice filed during the pre-
23 ceding fiscal year as a result of the Commission's
24 use of its directed investigation authority under sec-
25 tion 7(a) of the Age Discrimination in Employment

1 Act of 1967 (29 U.S.C. 626(a)) and section 11(a)
2 of the Fair Labor Standards Act of 1938 (29 U.S.C.
3 211(a)), and the total number of resolutions of such
4 charges disaggregated by type of resolution.

5 (4) Each case of systemic discrimination (in-
6 cluding pattern or practice discrimination) brought
7 in court by the Commission under section 706 or
8 707 of the Civil Rights Act of 1964 (42 U.S.C.
9 2000e-5, 2000e-6) within the preceding 30 days,
10 the court in which the case was brought, the name
11 and case number of the case, the industry involved,
12 the employment practice or practices at issue, the
13 nature of the alleged discrimination, and the cir-
14 cumstances of the systemic discrimination alleged in
15 the case.

16 (b) DISAGGREGATION.—With respect to the total
17 number of charges of alleged unlawful employment prac-
18 tices provided under paragraphs (2) and (3) of subsection
19 (a), the Commission shall, on its public website,
20 disaggregate each such total number by the number of
21 such charges filed in each State, and within each State,
22 by the number of such charges alleging discrimination on
23 the basis of, or filed under, each of the following:

24 (1) Race.

25 (2) Sex.

1 (3) National Origin.

2 (4) Religion.

3 (5) Color.

4 (6) Retaliation.

5 (7) Age.

6 (8) Disability.

7 (9) Section 6(d) of the Fair Labor Standards
8 Act of 1938 (29 U.S.C. 206(d)).

9 (c) ANNUAL PERFORMANCE REPORT.—Beginning
10 fiscal year 2015, the Commission shall include in its an-
11 nual performance report under section 1116 of title 31,
12 United States Code, the information described in para-
13 graphs (1) through (4) of subsection (a) for the preceding
14 fiscal year, except that such information shall not be
15 disaggregated in accordance with subsection (b).

16 (d) DEFINITION.—For purposes of this section, the
17 term “State” has the meaning given the term in section
18 701 of the Civil Rights Act of 1965 (42 U.S.C. 2000e).

19 **SEC. 3. GOOD FAITH CONFERENCE, CONCILIATION, AND**
20 **PERSUASION.**

21 Section 706(b) of the Civil Rights Act of 1964 (42
22 U.S.C. 2000e–5(b)) is amended—

23 (1) in the sixth sentence—

1 (A) by striking “shall endeavor” and in-
2 serting “shall use good faith efforts to endeav-
3 or”; and

4 (B) by inserting “bona fide” after “con-
5 ference,”;

6 (2) in the seventh sentence—

7 (A) by inserting “, good faith” after “such
8 informal”; and

9 (B) by striking “persons concerned” and
10 inserting “employer, employment agency, or
11 labor organization, except for the sole purpose
12 of allowing a party to any pending litigation to
13 present to the reviewing court evidence to en-
14 sure the Commission’s compliance with its obli-
15 gations under this section prior to filing suit”;
16 and

17 (3) by adding at the end the following: “No ac-
18 tion or suit may be brought by the Commission
19 under this title unless the Commission has in good
20 faith exhausted its conciliation obligations as set
21 forth in this subsection. No action or suit shall be
22 brought by the Commission unless it has certified
23 that conciliation is at impasse. The determination as
24 to whether the Commission engaged in bone fide
25 conciliation efforts shall be subject to judicial review.

1 The Commission’s good faith obligation to engage in
2 bona fide conciliation shall include providing the em-
3 ployer, employment agency, or labor organization be-
4 lieved to have engaged in an unlawful employment
5 practice with all information regarding the legal and
6 factual bases for the Commission’s determination
7 that reasonable causes exist as well as all informa-
8 tion that supports the Commission’s requested mon-
9 etary and other relief (including a detailed descrip-
10 tion of the specific individuals or employees com-
11 prising the class of persons for whom the Commis-
12 sion is seeking relief and any additional information
13 requested that is reasonably related to the under-
14 lying cause determination or necessary to conciliate
15 in good faith).”.

16 **SEC. 4. REPORTING TO CONGRESS REGARDING CASES IN**
17 **WHICH THE EEOC IS ORDERED TO PAY FEES**
18 **AND COSTS OR SANCTIONS.**

19 (a) INVESTIGATION AND REPORT OF INSPECTOR
20 GENERAL.—In any case brought by the Equal Employ-
21 ment Opportunity Commission in which a court orders the
22 Commission to pay fees and costs or imposes a sanction
23 on the Commission, the Inspector General of the Commis-
24 sion shall—

1 (1) notify the Committee on Education and the
2 Workforce of the House of Representatives and the
3 Committee on Health, Education, Labor, and Pen-
4 sions of the Senate of the order or sanction within
5 14 days of the court’s decision, including the name
6 of the case, the nature of the court’s determination,
7 and the amount of fees and costs ordered or the
8 amount of the sanction imposed by the court; and

9 (2) conduct an investigation to determine why
10 an order for sanction, fees, or costs was imposed by
11 the court, and, not later than 90 days after the
12 court’s decision, submit a report to the Committee
13 on Education and the Workforce of the House of
14 Representatives and the Committee on Health, Edu-
15 cation, Labor, and Pensions of the Senate that in-
16 cludes—

17 (A) information obtained from interviews
18 and affidavits of each member and staff person
19 of the Commission involved in the case;

20 (B) the amount of resources allocated to
21 the case, including in terms of full-time equiva-
22 lents;

23 (C) a comparison of the case to other cases
24 in which a court ordered fees and costs or im-
25 posed sanctions against the Commission;

1 (D) if the determination to bring the case
2 was not by a vote of the full Commission, the
3 reasons such a vote was not held; and

4 (E) any other relevant information.

5 (b) REPORT OF THE COMMISSION.—For any case de-
6 scribed in subsection (a), the Commission, in consultation
7 with the General Counsel of the Commission, shall—

8 (1) not later than 60 days after the court’s de-
9 cision, submit a report to the Committee on Edu-
10 cation and the Workforce of the House of Rep-
11 resentatives and the Committee on Health, Edu-
12 cation, Labor, and Pensions of the Senate detailing
13 the steps the Commission is taking to reduce in-
14 stances in which a court orders the Commission to
15 pay fees and costs or imposes a sanction on the
16 Commission; and

17 (2) not later than 30 days after the report is
18 submitted to the Committee on Education and the
19 Workforce of the House of Representatives and the
20 Committee on Health, Education, Labor, and Pen-
21 sions of the Senate under paragraph (1), post such
22 report on its public website.

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