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October 21, 2020

Bernadette B. Wilson, Executive Officer, Executive Secretariat
United States Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

RE: Extension of Comment Period for RIN 3046-AB19, Update of Commission's Conciliation Procedures

Dear Ms. Wilson,

The Leadership Conference on Civil and Human Rights and the undersigned 39 organizations request that the Equal Employment Opportunity Commission ("the Commission") extend by a minimum of 30 days the comment period for responding to the Notice of Proposed Rulemaking (NPRM), RIN 3046-AB19, Update of Commission's Conciliation Procedures.

The NPRM seeks to significantly change the Commission's conciliation procedures and potentially affects millions of working people seeking redress from employment discrimination. The Commission issued the NPRM on October 9, 2020, amid a global pandemic, and provided the public with merely 30 days to comment. This truncated timeframe does not provide members of the public who have a significant stake in the conciliation process with adequate time to comment on the proposed changes and its potential impact on the rights and interests of working people and is insufficient for gathering meaningful public comment on this proposal.

Executive Order 13563 calls on agencies to base their proposed regulations on input provided by affected stakeholders and the public. Section 2 of Executive Order 13563 specifically requires agencies, "to the extent feasible and permitted by law," to "afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days."¹ Extending the comment period by a minimum of 30 days would not unduly delay or harm the Commission or the Commission's roles and responsibilities in combatting employment discrimination. A truncated comment period does, however, potentially harm millions of working people and casts a shadow on the integrity of the comment process. The Commission provides no reason in its NPRM why a comment period of 60 days is not feasible or would be contrary to law.

The unnecessarily short comment period is also concerning given that the Commission issued the NPRM before completing its current conciliation pilot. As a result, neither the Commission nor the public has had an opportunity to study the pilot for its effectiveness.

¹ Exec. Order 13563, 76 Fed. Reg. 3821-22 (2011).

The NPRM itself is premature. That in combination with the provision of only a 30-day comment period calls into question whether the Commission is unduly rushing this process. Working people throughout the country rely upon the Commission to protect equal employment opportunity, a responsibility that is all the more critical in times of economic uncertainty like millions of workers are experiencing today. Changes to the Commission's conciliation procedures should therefore be made only after careful consideration through a process that gives stakeholders a meaningful opportunity, and time, to engage with the proposal.

As organizations committed to protecting the civil rights of all working people in the United States, we respectfully request that the Equal Employment Opportunity Commission extend the comment period for this NPRM by a minimum of 30 days. For questions, please contact Gaylynn Burroughs, Senior Policy Counsel at The Leadership Conference on Civil and Human Rights, at burroughs@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
A Better Balance
American Association of University Women (AAUW)
Bazelon Center for Mental Health Law
Clearinghouse on Women's Issues
Disability Rights Education & Defense Fund (DREDF)
Equal Justice Center
Feminist Majority Foundation
Futures Without Violence
Gender Equality Law Center
Justice at Work (Pennsylvania)
KWH Law Center for Social Justice and Change
Lambda Legal
LatinoJustice PRLDEF
Lawyers' Committee for Civil Rights Under Law
Legal Aid at Work
Legal Momentum, The Women's Legal Defense and Education Fund
Medina Orthwein LLP
NAACP
NAACP LDF
National Center for Law and Economic Justice
National Council of Jewish Women
National Employment Law Project
National Employment Lawyers Association
National LGBTQ Task Force
National Organization for Women
National Partnership for Women & Families
National Women's Law Center

Philadelphia Legal Assistance
Public Citizen
Public Justice Center
Shriver Center on Poverty Law
Texas RioGrande Legal Aid, Inc.
The Women's Law Center of Maryland
UNITED SIKHS
United Spinal Association
William E. Morris Institute for Justice (Arizona)
Women Employed
Women's Law Project
Workplace Fairness

Cc: Janet Dhillon, Chair
Keith E. Sonderling, Vice Chair
Charlotte A. Burrows, Commissioner
Andrea Lucas, Commissioner
Jocelyn Samuels, Commissioner
Sharon Fast Gustafson, General Counsel