



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Eric Bunn Sr.  
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April 20, 2022

The Honorable Bobby Scott  
Chairman  
House Education and Labor Committee  
2176 Rayburn House Office Building  
Washington DC 20515

The Honorable Matt Cartwright  
Chairman  
House Commerce, Justice, Science  
Appropriations Subcommittee  
H-310 The Capitol  
Washington, DC 20515

The Honorable Patty Murray  
Chairwoman  
Senate Health, Education, Labor and Pensions  
Committee  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Jeanne Shaheen  
Chairwoman  
Senate Commerce, Justice, Science  
Appropriations Subcommittee  
Room S-128, The Capitol  
Washington, D.C. 20510

Dear Chairman Scott, Chairwoman Murray, Chairman Cartwright, and Chairwoman Shaheen:

On behalf of the American Federation of Government Employees, AFL-CIO (AFGE) which represents over 700,000 federal and D.C. government employees across the country including 1,400 bargaining unit employees at the Equal Employment Opportunity Commission (EEOC) who work to stop and remedy unlawful employment discrimination in the workplace by enforcing Federal laws that prohibit employment discrimination, I write to clarify any confusion raised in recent press reports referencing a letter from members of the Committee’s minority regarding the status of EEOC’s reentry plans.

EEOC employees have worked to carry out the agency’s civil rights mission throughout the Covid-19 Pandemic. As we plan for reentry into physical offices it is critical that EEOC not stifle the voice of employees by excluding the union from the process. EEOC originally asserted that it would provide the union a reentry plan in December 2021. Instead EEOC did not share their plan with the union until March of this year. Now we fear at the expense of safety, EEOC wants to rush employees back to offices without adequate time to engage in good faith bargaining. Just since EEOC began the management phase of reentry, there has already been at least one known Covid-19 exposure event. The union’s objectives, consistent with those asserted by the Biden administration, are to ensure office safety and embrace innovations, such as expanded telework.

Utilizing telework, EEOC staff were prepared and equipped to continue serving the public without missing a beat when the pandemic forced the closure of physical offices. EEOC concurs: “EEOC spokesman Victor Chen stressed that all of EEOC’s services that were available prior to the pandemic remain available virtually.”<sup>1</sup>

<sup>1</sup> Wagner, E. GOP Lawmakers Are Blaming a Union for the EEOC's Omicron Reentry Delay Both the agency and its union said they’re committed to serving the public and ensuring the return to offices is done safely and according to federal labor law. *Govexec.com. March 25, 2022.* <https://www.govexec.com/workforce/2022/03/gop-lawmakers-are-blaming-union-eecs-omicron-reentry-delay/363594/>

EEOC employees have continued without interruption to process charges of discrimination, conducting intake, investigation, mediation, litigation, and adjudication of federal sector cases. For vulnerable workers or those without access to computers or internet EEOC has a 1-800 line to assist and offers the option of telephonic intake. Many of those we serve have expressed relief not to have to have to come to the office or pay for parking.

The necessity to maximize telework brought about by the Covid-19 Pandemic has resulted in innovating work processes. The public continued using EEOC's digital charge system (DCS) as the primary means to file inquiries and make appointments. Investigators implemented virtual onsite methods. New virtual mediations are popular for their effectiveness and convenience. Virtual outreach can increase access, include trainers from different locations, and save on travel. EEOC staff seamlessly communicate across offices with Microsoft TEAMS. Maxiflex, a workplace flexibility piloted during the Covid-19 Pandemic which offers broader tours of duty, allows staff to accommodate the public by contacting them earlier or later in the day.

The letter issued by the Committee's minority, according to the press, calls on EEOC to reopen all offices with all personnel immediately. The union supports ensuring coverage of in-person service options but opposes the one size fits all approach, the failure to capture innovations learned during the Covid-19 Pandemic, and the lack of required processes that assure safety and compliance with bargaining obligations.

The union is eager to work with EEOC on a safe and orderly reentry process. The union envisions every office reopened to provide in-person service options to the public, but in a manner that does not require every staff member to be in the office every day. EEOC's hybrid workplace can serve the public and expand workplace flexibilities for EEOC staff.

Returning staff to all offices on the same day *en masse* is not safe. The agency has previously conceded that some of EEOC's offices do not meet Covid-19 air quality standards. EEOC's 53 field offices are located throughout the country in new and old facilities. Intake rooms in which investigative staff meet the public are very small, basically a wall wrapped around a desk and two chairs. Ventilation of these rooms differs, raising transmission concerns with no room to social distance. Therefore, the union urges a staged reentry of staff and the public that takes into consideration each office's safety posture.

The union is also trying to negotiate a workplace that incorporates an expanded hybrid of telework and in-person work, which would be the best way to recognize the amazing success of telework and allow employees to continue to deliver for the American people in a safe, healthy workplace with virtual service options. Many agencies are adopting President Biden's guidance to expand telework and are implementing plans with up to eight days of telework per two-week pay period (as well as remote options), compared to EEOC's proposed five days per pay period with no nationwide remote plan. EEOC's formal reentry plan contains only a small temporary increase for telework, no mention of continuing the Maxiflex pilot, and no details on a remote program.

EEOC should strategically leverage telework, remote work and Maxiflex to help attract, recruit, and retain a skilled and diverse workforce. Otherwise, EEOC, which is already short-staffed, risks an employee exodus to other agencies and the private sector that embrace greater workplace flexibilities.

The union is confident that the labor management process will work and result in EEOC being able to safely provide enhanced service to the public and competitive workplace flexibilities for staff. President Biden supports collective bargaining and so should EEOC. I ask you please write to EEOC Chair

Burrows to urge EEOC to negotiate fairly with the union on a healthy and safe return to in-person work and a flexible workplace. I look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink that reads "Everett B. Kelley". The signature is written in a cursive style with a large, looping "K" at the end.

Everett B. Kelley  
National President  
American Federation of Government Employees

cc: Rachel Shonfield National Council of EEOC Locals, No. 216, AFGE/AFL-CIO