

United States Senate

WASHINGTON, DC 20510-0908

October 24, 2023

The Honorable Charlotte Burrows
Chair
U.S. Equal Employment Opportunity
Commission
131 M Street NE
Washington, D.C. 20507

The Honorable Jocelyn Samuels
Vice Chair
U.S. Equal Employment Opportunity
Commission
131 M Street NE
Washington, D.C. 20507

Dear Chair Burrows and Vice Chair Samuels:

We write to express serious concern regarding the U.S. Equal Employment Opportunity Commission's (EEOC) recently released "Proposed Enforcement Guidance on Harassment in the Workplace." This guidance weaponizes antidiscrimination laws and invites disgraceful suppression of free speech and religious liberty in the workplace. The proposed guidance distorts sincere expressions of faith as "religiously motivated harassment," and it undermines religious liberty protections guaranteed by Title VII of the Civil Rights Act of 1964.

If finalized, the EEOC's proposed guidance will usher in a future in which federal bureaucrats dictate which religious beliefs are, and are not, acceptable in the workplace, and holds employers legally responsible for policing the penchants of bureaucrats in Washington.

The radical nature of the EEOC's proposed guidance is easily captured on pages 12-13, which infers that a biological male who identifies as a "female" faces harassment if a coworker addresses them with the term "dude." In fact, the guidance employs convoluted logic to argue that "misgendering" is hostile and prohibited speech.

Millions of faithful Americans believe that biological sex and gender are inextricably woven together. Yet, the EEOC is attempting to forbid these citizens from expressing their views out of a desire to appease left-wing activists. This example, and many others, plainly reveal what this guidance really is: an unconstitutional compelled speech agenda that prioritizes fringe social ideologies over the unalienable rights enshrined in our Constitution.

The EEOC's proposed guidance also runs in direct opposition to religious liberty protections guaranteed by Title VII of the Civil Rights Act of 1964. The EEOC recognizes that Title VII requires employers to protect religious expression in the workplace. However, it cites "special consideration[s] when balancing anti-harassment and accommodating obligations with respect to religious expression." Specifically, the EEOC asserts that "employers are not required to accommodate religious expression" if such expression meets EEOC's highly controversial definition of a "hostile work environment."

When Congress passes a law, the executive branch of government cannot fabricate arbitrary exceptions to that law. Title VII was specifically designed to protect the right for

religious Americans to express their dearly held beliefs even when those beliefs might be controversial or offensive to others. EEOC's baseless interpretation of Title VII views this statute as irrelevant to the very situations it was intended to address. This insults Americans with religious convictions, and it is a backdoor attempt to illegally impose partisan gender-related speech codes in every workplace.

The EEOC's recently proposed guidance is illegal, divisive, and out of touch with ordinary Americans. We urge you to withdraw this proposed guidance immediately.

Thank you for your attention to this important matter. We look forward to your prompt response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rubio'.

Marco Rubio
U.S. Senator

A handwritten signature in blue ink, appearing to read 'Ted Budd'.

Ted Budd
U.S. Senator