

November 1, 2023

Chair Charlotte A. Burrows  
Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507

RE: EEOC's Proposed Enforcement Guidance on Harassment in the Workplace

Howard Brown Health is a federally qualified health center in Chicago, and we provide comprehensive care to about 35,000 patients annually. About 20% of our patients identify as transgender, genderqueer, and nonbinary. We are one of the largest providers of gender affirming care in the Midwest, including affirming primary care, behavioral health, and social services for transgender people. Howard Brown is dedicated to improving all aspects of transgender people's lives and we see firsthand how life-saving gender-affirming spaces can be, including in the workplace.

We support the explicit inclusion of sexual orientation and gender identity under sex-based harassment protections in the EEOC's proposed Enforcement Guidance on Harassment in the Workplace. The explicit inclusion of deadnaming and misgendering as examples of sex-based harassment will strengthen workplace protections for transgender people. Altogether, these proposed changes will enhance workplace protections for LGBTQ+ Americans, and especially for transgender individuals, who face pervasive workplace discrimination.

Research shows that LGBTQ+ individuals experience high rates of harassment and discrimination at work. According to a 2021 study by the Williams Institute, 45.5% of LGBT workers reported experiencing unfair treatment—including being fired, not hired, or harassed due to sexual orientation or gender identity—in the workplace.<sup>1</sup> Transgender people in particular experience widespread workplace discrimination. According to the 2015 US Trans Survey, 30% of respondents who had a job in the previous year said they had been harassed or attacked at work, had been denied a promotion, or had been fired because of their gender identity or expression.<sup>2</sup> Additionally, 16% of respondents who had ever been employed reported experiences of losing their jobs based solely on gender identity or expression. Transgender people also routinely face other forms of mistreatment on the job, such as being forced to use restrooms that don't match their gender identity, being restricted in terms of clothing and gender expression, and being outed by coworkers and supervisors. This leads the vast majority of transgender workers (77%) to take

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<sup>1</sup> <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf>

<sup>2</sup> <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

proactive steps to avoid workplace discrimination, including hiding their gender identity, delaying transition, or being forced to quit.

The financial security of transgender Americans is seriously and immediately threatened by these workplace abuses.<sup>3</sup> According to the 2015 US Trans Survey, 29% of respondents reported living in poverty, which is more than twice the poverty rate of the US population.<sup>4</sup> Financial insecurity also leads to housing insecurity, with 30% of respondents reporting that they had experienced homelessness in their lives. Additionally, because of widespread workplace discrimination, transgender people often turn to sex work and other underground economy work that puts them at risk of violence and police brutality. All in all, these economic disparities have a huge overall impact on health outcomes and contribute to the stark health disparities that disproportionately burden transgender populations.

In the wake of an increasingly dangerous political climate for TNB people across the country, we urge the EEOC to finalize this proposed guidance as soon as possible to protect workers from unlawful sex and gender-based harassment. This proposed guidance will also bring EEOC workplace protections into alignment with the significant *Bostock* Supreme Court ruling, which found that discrimination based on sexual orientation and gender identity is covered by the ban on sex discrimination, as well as recent efforts by the Biden Administration to curtail discrimination against transgender Americans. We implore also the Commission to oppose attempts to claim that the right to free speech and the right to practice one's religion are sufficient justifications for discriminating against LGBTQ+ people in the workplace.

All workers deserve to have protections from harassment and harm in the workplace. We urge the EEOC to update and finalize the proposed Workplace Harassment Guidance to Protect Workers.

Sincerely,

David Ernesto Munar  
President and CEO

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<sup>3</sup> <https://www.americanprogress.org/article/gay-and-transgender-people-face-high-rates-of-workplace-discrimination-and-harassment/>

<sup>4</sup> <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>