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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

April 21, 1995

Dear Friend:

On April 19, 1995, the Equal Employment Opportunity Commission held the first in a series of special meetings to consider the findings and recommendations of the three task forces appointed by Chairman Gilbert F. Casellas on December 1, 1994, to address critical operational issues facing the EEOC.

I have enclosed for your review information on the recommendations made by EEOC Vice Chairman Paul M. Igasaki who led the Charge Processing Task Force. These recommendations, presented by Vice Chairman Igasaki in the form of motions, were adopted by the Commission on April 19.

Following the Commission's action, Chairman Casellas announced a series of actions to be taken to implement the newly adopted policies. A list of the Chairman's actions are also enclosed.

The Commission will consider recommendations from the Task Force on EEOC's Relationship with State and Local Fair Employment Practices Agencies on Monday, April 24 at 2:00 p.m. and recommendations from the Task Force on Alternative Dispute Resolution on Tuesday, April 25 at 2:00 p.m.

If you have any questions or wish any additional information, please contact me at 663-4915.

Sincerely,

A handwritten signature in cursive script that reads "Claire Gonzales".

Claire Gonzales
Director of Communications
and Legislative Affairs

Enclosures

APP 25

**MOTIONS MADE BY
PAUL M. IGASAKI, VICE CHAIRMAN
ADOPTED AT THE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SPECIAL MEETING TO CONSIDER RECOMMENDATIONS
OF THE CHARGE PROCESSING TASK FORCE
April 19, 1995**

1. That, the Commission adopt priority charge handling procedures under which field offices will categorize and prioritize charges. The first category includes those high priority charges identified as falling within the national or local enforcement plans and those in which it appears more likely than not that discrimination has occurred; the second category includes those charges that initially appear to have some merit but will require additional evidence to determine whether it is more likely than not that a violation occurred; and the third category includes those charges appropriate for immediate resolution.
2. That the Chairman develop, in consultation with the General Counsel, a National Enforcement Plan for approval by the Commission that will identify priority issues and set out a plan for administrative and litigation enforcement. Issues currently designated by the Commission for priority review will be superseded by the Enforcement Plan.
3. That the following Commission policies are rescinded:

The "full investigation" policy and the Commission resolution dated December 6, 1983 upon which it is based.

The Commission's February 5, 1985 "Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination."

The Commission's September 11, 1984 "Statement of Enforcement Policy."
4. That the Commission eliminates the substantive "no cause" letter of determination in cases where the appropriate investigation of the charge has not established reasonable cause to believe that discrimination has occurred. Such charges should be dismissed without particularized findings. However, field offices are encouraged to share with charging parties the basis for EEOC's determination through such means as pre-determination interviews.
5. That settlement efforts be encouraged at all stages of the administrative process and that the Commission may accept settlements providing "substantial" relief when the evidence of record indicates a violation or "appropriate" relief at an earlier stage in the investigation.

6. That, until the Commission adopts its National Enforcement Plan, the authority of the Commission to decide to file suit is hereby delegated to the General Counsel in Title VII and ADEA enforcement actions involving individual claims of disparate treatment not rising to a pattern of discrimination (i.e., those cases which are currently "certified"). The General Counsel may re-delegate that authority to the Regional Attorneys; after the National Enforcement Policy is adopted, the Commission will determine those classes of cases over which it retains litigation decision authority, and the remainder will be delegated to the General Counsel, who may re-delegate that authority to the Regional Attorneys. The authority of the Commission is delegated to the General Counsel to make referrals to the Department of Justice as to Title VII and ADA cases against state and local governments; the General Counsel may re-delegate that authority to the Regional Attorneys.
7. That the General Counsel is encouraged to delegate litigation authority to the Regional Attorneys to the maximum extent feasible as to those cases not reserved by the Commission for Commission vote, and to similarly delegate referrals to the Department of Justice.

***Special Meeting of the EEOC to Consider
Recommendations of the
Charge Processing Task Force***

***Task Force Recommendations to be
Implemented by
Chairman Gilbert F. Casellas***

Wednesday, April 19, 1995

Based on the Commission's votes, I am prepared to begin implementation immediately, requesting the help and cooperation of all of our employees. I therefore request and direct as follows:

1. I am requesting the General Counsel and the Director of the Office of Program Operations ("OPO"), with broad consultation with internal staff and external stakeholders, to prepare a draft national enforcement plan for presentation to the Chairman by June 30, 1995.
2. I am requesting district directors and regional attorneys to prepare local enforcement plans to be submitted to the General Counsel and Director of OPO by August 1, 1995. Such plans shall include categories of cases to be prioritized and plans for resolving older charges.
3. Field offices shall immediately begin implementation of priority charge processing procedures. The Office of Program Operations shall prepare and submit to the Chairman by May 15, 1995, flexible guidance for use by field offices.
4. Under the new charge processing procedures, potential charging parties will not be discouraged from filing a charge, after being advised of EEOC's jurisdictional requirements. Charging parties will be advised that some charges may be dismissed at intake, with a notice of right to sue.
5. Charging parties and respondents shall normally be provided with access upon request to the positions of the other during the investigation. Charging parties and respondents shall be advised of this policy.

6. Directors shall begin use of non-substantive "no cause" determinations by May 15, 1995. The language of such determinations shall be prepared by the Director of OPO, in consultation with Legal Counsel, and submitted to the Chairman by May 1, 1995.

7. I am requesting that the General Counsel authorize regional attorneys to cease the process of submitting presentation memoranda in cases involving recommendations against litigation. If a district director disagrees with a recommendation against litigation by the regional attorney, the matter may be submitted to the General Counsel, who will make the final decision. I also request that regional attorneys be authorized to cease submitting presentation memoranda in cases referred to the Department of Justice. I will work with the General Counsel to advise regional attorneys by May 1, 1995 of reporting requirements respecting these cases.

8. Presentation memoranda to the Commission will no longer be required in Title VII and ADEA enforcement actions involving individual claims of disparate treatment not rising to a pattern of discrimination. I will work with the General Counsel to advise regional attorneys by May 1, 1995 of reporting requirements respecting such cases.

9. In cases in which District Offices will still be required to submit Presentation Memoranda to the General Counsel (i.e. "non-certified cases"), I am requesting that the General Counsel forward each such Presentation Memorandum to the Commission within fourteen days.

10. I am requesting the General Counsel to develop further standards for delegation of litigation authority to regional attorneys as part of the national enforcement plan.

11. I am requesting the General Counsel to delegate to regional attorneys the authority to seek temporary relief pursuant to § 706(f)(2) of Title VII, without prior approval from the General Counsel or the Commission, in cases involving individual claims of disparate treatment not rising to a pattern of discrimination, when the District Director has concluded on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of the Act.

12. I recognize that in order to enhance legal unit productivity, regional attorneys must have input into basic administrative decisions such as legal unit staffing levels, computer and software needs and litigation travel budget. We will work aggressively to address these issues in order to facilitate more effective administrative processes.

13. In preparing new standards for evaluating field offices and individual employees, the labor-management partnership shall establish standards for evaluation of regional attorneys and district directors which should include measures for evaluating their collaboration and cooperation.

14. New systemic cases developed in the field offices based on individual or Commissioner charges shall not require prior approval or oversight of the investigation by OPO.

15. Directors are encouraged to increase the use of directed investigations in ADEA and EPA cases. Requests for directed Commissioner charges in Title VII and ADA cases may be submitted directly to the Commission, and if signed by a Commissioner, shall be investigated like other charges, without OPO oversight of the investigation. The Director of OPO, in consultation with Legal Counsel, shall submit to the Chairman by May 15, 1995, recommendations for implementation of a directed Commissioner charge procedure.

16. I am requesting the General Counsel and the Director of OPO to consider establishing pilot enforcement units, which will include attorneys and investigators.

17. I am requesting the General Counsel and the Director of OPO, with input from Legal Counsel and field staff, to prepare and submit to the Chairman by August 15, 1995, plans for training of the Commission's legal and enforcement staff, including training for effective implementation of the national and local enforcement plans.

18. OPO is encouraged to share information pertaining to EEOC and FEPA charge processing maintained in Headquarters with field offices as requested. The Director of OPO shall submit to the Chairman by May 15, 1995 proposals for implementing this policy.

19. The Office of Communications and Legislative Affairs shall submit to the Chairman a proposal for responding to inquiries concerning the new procedures announced today and for responding to complaints about prioritization of charges in particular cases.

NEWS

FOR IMMEDIATE RELEASE
Fri., April 21, 1995

CONTACT: Claire Gonzales
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EEOC COMMISSIONERS ADOPT TASK FORCE RECOMMENDATIONS TO STRENGTHEN AND STREAMLINE AGENCY CHARGE PROCESSING SYSTEMS

WASHINGTON -- At a special meeting held Wednesday, April 19, the U.S. Equal Employment Opportunity Commission (EEOC) adopted a wide ranging set of innovative recommendations to radically improve the agency's private sector charge processing systems. The recommendations were presented by EEOC Vice Chairman Paul M. Igasaki, chairman of the Commission's Charge Processing Task Force (CP Task Force).

In November 1994, EEOC Chairman Gilbert F. Casellas directed the CP Task Force to thoroughly review existing charge processing procedures and develop workable solutions to the longstanding problems therein. The Commission's actions, only five months later, are the first steps toward effectuating the changes recommended by the CP Task Force.

Perhaps the most fundamental element of both the CP Task Force recommendations and the Commission's actions is the rescission of three key enforcement and administrative and litigation policies adopted by the Commission in the 1980's. The three rescinded policies include: the *full investigation* policy and the Commission resolution of December 6, 1983 upon which the policy is based; the February 5, 1985 *Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination* (known as the "full remedies" policy); and the September 11, 1984 *Statement of Enforcement Policy*, which provided that all "cause" cases in which conciliation failed would be recommended for litigation.

Other motions made by the Vice Chairman and passed by the Commission include:

- Moving from a "one-size-fits-all" charge processing procedure to a more flexible approach that prioritizes charges based on the appropriate level of investigative effort needed.
- Developing a National Enforcement Plan that identifies priority issues and provides guidance for administrative and litigation enforcement.

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COMMISSION ADOPTS RECOMMENDATIONS (Continued) -- Page 2

- Eliminating detailed "no cause" letters in cases where an appropriate investigation did not result in a finding of discrimination.
- Encouraging settlement at all stages of the investigative process, with appropriate relief sought for aggrieved parties.
- Delegating the Commission's authority to the General Counsel to decide whether to litigate basic individual disparate treatment claims under Title VII of the Civil Rights Act of 1964 (Title VII) and the Age Discrimination in Employment Act (ADEA) involving basic individual claims of disparate treatment.

Based on the Commission-adopted recommendations, Chairman Casellas directed that several actions be undertaken **immediately** by headquarters and field office components of the agency. Among those actions are:

- Development of a draft National Enforcement Plan by June 30, 1995, and field office Local Enforcement Plans by August 1, 1995, all of which should include defined categories for case prioritization and approaches for resolving older charges, as well as plans for training legal and enforcement staff in effectively implementing national and local plans.
- Implementation of priority charge processing procedures and new intake procedures that include dismissal of charges outside EEOC's purview.
- Delegation of increased litigation decision-making authority to the General Counsel and/or lead attorneys in field offices in certain types of cases.
- Development of a plan to respond to public inquiries about the newly adopted operational and charge processing procedures.

On Monday, April 24, and Tuesday, April 25, the Commission will hold special meetings to act on recommendations presented by the Commission's Task Force on Fair Employment Practices Agencies and the Task Force on Alternative Dispute Resolution, respectively. Both meetings begin at 2 p.m. and the public is encouraged to attend.

In addition to Title VII -- which prohibits discrimination in employment based on race, color, religion, sex, or national origin -- and the ADEA, EEOC enforces the Equal Pay Act, the Americans with Disabilities Act, prohibitions against discrimination affecting people with disabilities in the federal government, and sections of the Civil Rights Act of 1991.

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