

United States Senate
WASHINGTON, DC 20510-2002

July 1, 2005

The Honorable Cari Dominguez
Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507

Dear Chair Dominguez:

We write to express our serious concerns about the Equal Employment Opportunity Commission's (EEOC) recently announced plan to downgrade certain of its offices and consolidate personnel under others. In particular, we are greatly disturbed by your proposal to reduce the Baltimore EEOC Office from a District to a Field Office and transfer almost half of its jurisdiction to the Washington, D.C. and Charlotte offices. This rushed and problematic proposal would seriously impair the EEOC's ability to fulfill its mission with respect to the citizens currently served by the Baltimore office and we ask that you abandon its implementation.

The EEOC's Proposal has been Rushed

This proposal was originally released on Friday, May, 6, presented to EEOC employees the following Tuesday and scheduled for a vote the Monday after that – just a week after being released. Neither the civil rights organizations who practice before the EEOC, nor the congressional offices who oversee it were consulted as part of this initial process despite the fact that the Congressional Committee of jurisdiction included language in last year's Appropriations Conference Report *requiring* the EEOC to consult with Congress before moving forward with any restructuring plans. The EEOC has since rescheduled its vote for July 8, but has held only one public briefing and one congressional briefing on the proposal. It has still failed to consult with Congress on its plans. In view of the lightening fast pace of the Commission's initial approval process, you can certainly understand our concerns that these briefings are merely *pro forma*, and that the proposal itself was formulated in a similarly precipitous and haphazard manner.

Demographics, Caseload, and Geography Support Maintaining a Baltimore District Office

The numbers used to substantiate the plan only exacerbate and cement these concerns. EEOC staff assert that the restructuring proposal is about "accepting the reality" of demographic and caseload shifts and moving offices to address these new realities. The facts, however, fall far short of supporting this justification, both as it relates to the Baltimore office and beyond.

Currently, the Baltimore office serves the State of Maryland and a number of counties in Southern Virginia, in the Norfolk and Richmond areas. Since 1990, the population of Maryland has grown by 1.77 million people. The number of employees has increased by over 335,000 since 1993 and the number of employers has grown by almost 13,000. As for the Virginia counties served by the Baltimore office, the vast majority of them have also experienced increases in population, employees, and employers over the last 10 years.

Reflecting these increases, the Baltimore office has seen its load of charges rise steadily. From 2003 to 2004, the Baltimore office's charge activity increased from 1,742 to 2,131, or by almost 400 charges. The office's federal sector case load has similarly increased, from 601 cases in 2003 to 618 cases in 2004, to a projection of approximately 740 cases in 2005. Indeed, the increase in charging activity experienced by the Baltimore office is larger than has been experienced by any other office in the country.

Digging a bit deeper, one questions whether this proposal was motivated by a decrease in charges at all. Charlotte, which is projected to absorb part of Baltimore's work, had only 2,111 charges filed last year. For sake of comparison, Memphis, which is also slated to remain a District Office, had only 1,953, San Francisco only 1,932, and St. Louis a mere 1,760 charges filed. The geographic area that would comprise the jurisdiction of a new Mobile, Alabama office – southern Alabama, Mississippi, and the panhandle of Florida – generates approximately 200 charges a year. We question how a decision to substantially downgrade one of EEOC's busiest offices nationwide, while growing the personnel of an office that receives only 200 complaints a year, is truly based on changing demographics and caseload shifts.

Even more puzzling is EEOC's proposal to eliminate Southern Virginia and five Maryland counties – Montgomery, Prince George's, St. Mary's, Charles, and Calvert – from the Baltimore office's geographic jurisdiction. Under the restructuring proposal, the Maryland counties would be moved to the Washington, D.C. office and the Southern Virginia counties would be transferred to the Charlotte office. The move to Washington, D.C. is problematic because it would shift work related to five of the most populous Maryland counties from an office that has 55 employees to one with 37 employees. Without any staffing changes, the Washington, D.C. office will be unable to handle the larger caseload that would accompany this expanded jurisdiction, and the EEOC has steadfastly contended that it will not be increasing its workforce. It defies explanation as to why the EEOC would shift work from a large and efficient office that is meeting its commitments to one that is not prepared and would require substantial investment to handle such an increase.

Further, EEOC has justified moving the Southern Virginia counties from Baltimore to the Charlotte office based on proximity. There are two problems with the EEOC's reasoning. First, Charlotte is actually further from Richmond and Norfolk than is Baltimore. Second, citizens are entitled to file charges at any office and the EEOC has invested substantial sums in technology to ease the ability of citizens to file charges

without actually going to an EEOC office. Thus, there is simply no reason for moving the Virginia work to Charlotte.

Downgrading the Baltimore District Office will Impair EEOC's Ability to Fulfill its Mission

In addition to the demographic, caseload, and geographic reasons for maintaining the Baltimore District office, there are a number of policy reasons for doing so. First, downgrading this office will make it more difficult for the EEOC to carry out its mission of promoting workplace equality and prohibiting employment discrimination. In recent years, the EEOC's enforcement of race discrimination cases has declined significantly in the states where it should be greatest – the states with the largest percentage of African American residents. Those states are Mississippi, Louisiana, South Carolina, Georgia, and Maryland. Commissioner Ishimaru recently commented on this trend, and the local offices' responses to it:

In the last few years, race discrimination cases from Mississippi, Georgia, and Alabama have been close to non-existent and have been cases with minimal impact beyond the individual and employer. Louisiana has been slightly better and Maryland has been much better – both are rewarded in this restructuring proposal by being downgraded.

We find it hard to imagine how EEOC will improve its record on enforcing race discrimination cases if it downgrades the only offices enforcing the anti-discrimination laws with any regularity.

Second, downgrading the Baltimore office will leave only one District office in the Fourth Circuit. The Fourth Circuit has the largest African American population of any Circuit in the federal judiciary. The states that make up the Fourth Circuit have a long tradition of both civil rights activism (for example, the National Association for the Advancement of Colored People is headquartered in Baltimore) as well as, unfortunately, a history of resisting civil rights laws. The current structure recognizes this complex history by placing an increased number of offices in the southern states – three in the Eleventh Circuit and two in the Fourth Circuit. The proposed structure, however, will eliminate the heightened presence in the Fourth Circuit, making it more difficult for the courts of that Circuit to have a realistic understanding of the number of civil rights cases being filed and thus the contours of the employment discrimination environment in the Circuit. It will also require the already overburdened Washington, D.C. office to learn the rules, procedures, and customs of a new circuit, something it does not have the resources to do.

Third, transferring the largest Maryland counties will not only split the Fourth Circuit cases among two offices, it will transfer approximately 50 to 60 percent of the Baltimore office's federal sector caseload to the Washington, D.C. office. Such a move makes little sense when the Baltimore Office has not only satisfied its increasing federal sector caseload, but has also taken on some of the Washington, D.C. office's cases over

the years. For example, last year, the Washington, D.C. office transferred more than 100 cases to Baltimore (and another 100 to San Antonio) because it was unable to process those cases. We fail to see the logic in transferring more than half of the Baltimore office's federal workload to an office that cannot even meet its current caseload. Clearly this would hinder the ability of the EEOC to provide well-considered and timely resolutions to federal claims.

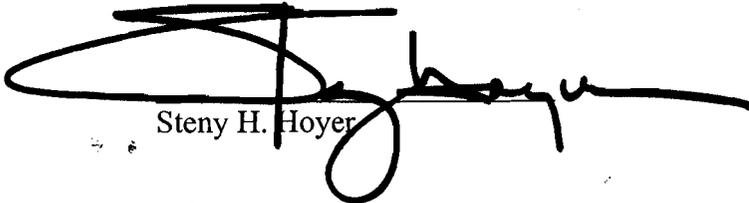
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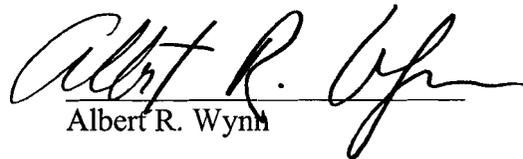
The restructuring plan proposed by EEOC would undermine the office's mission to promote equal opportunities in employment with respect to the constituents currently served by the Baltimore office. Thus, we urge you to rethink this ill-considered proposal. If, despite our concerns, the EEOC moves forward with its proposal, we urge it to maintain the Baltimore District office as a district office with jurisdiction for the entire State of Maryland.

Sincerely,

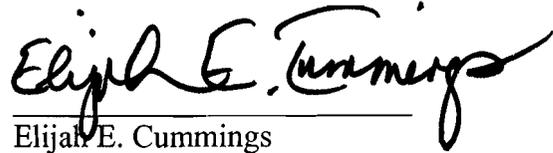

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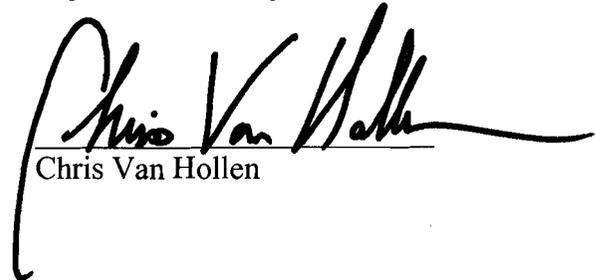

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