AFPI
AMERICA FIRST POLICY INSTITUTE

VIA ELECTRONIC FILING

August 21, 2026

Raymond Windmiller
Executive Secretariat
Attention: Comments RIN 3046-AB37
U.S. Equal Employment Opportunity Commission
131 M Street NE, Washington, D.C. 20507

Re: Comments to RIN 3046-AB37 Removal of Reporting Requirements

DEAR MR. WINDMILLER:

The America First Policy Institute (AFPI) is pleased to submit its comments on the U.S. Equal Employment Opportunity Commission's (EEOC) proposed rule to rescind and remove the requirements for the filing of the EEO-1, EEO-2, EEO-3, EEO-4, EEO-5, and EEO-6 reports, and the recordkeeping and record preservation requirements related to these reports.

I. Introduction to AFPI

AFPI is a 501(c)(3) nonprofit, nonpartisan research organization advancing policies that put the American people first. In the realm of labor and economic policy, AFPI is guided by the principles of liberty, free enterprise, national greatness, and the primacy of American workers, families, and communities. That means that AFPI prioritizes policies that advance the legitimate civil rights interests of all Americans, avoid unnecessary administrative burdens on America's businesses, and promote a merit-based labor model, whereby America's workforce is judged solely on fitness and qualifications for employment, rather than arbitrary biological grounds, including sex, and race-based hiring practices.

II. Background

The EEOC was created under Title VII of the Civil Rights Act of 1964 to enforce federal laws prohibiting employment discrimination based on race, color, religion, sex, or national origin.[1] On July 2, 1965, the "EEOC open[ed] for business . . . [with the] primary responsibility . . . to receive and investigate charges of unlawful employment practices, determine if reasonable cause exists to believe the charge is true, and if the agency determines there has been a violation of law, to attempt to reach a voluntary settlement through conciliation."[2] This was the intended purpose of the agency, one that provided infrastructure for the government to ensure that desegregation efforts in the 1960s were successfully integrated to ensure equal opportunity for all Americans.

---

[1] *History of the EEOC*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/history.
[2] *EEOC History: 1964–1969*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/history-1964-1969.

Over time, however, the EEOC's reporting regime has strayed from the Civil Rights Act's promise of equal opportunity. What began as a tool to assist civil rights enforcement now requires employers to routinely sort, count, and report employees by race and sex, even absent a charge of discrimination. This has had the effect of entrenching rather than dislodging employment decisions rooted in protected characteristics. That turns the Civil Rights Act's promise on its head: A law enacted to prohibit discrimination has become the basis for a reporting regime that pressures employers to continually measure their workforces, and their employment decisions, by race and sex.

AFPI commends EEOC Chair Andrea Lucas for voting to approve RIN 3046-AB37, which is a corrective measure that ensures equal opportunity for all is not misconstrued to mean guaranteed opportunities for those who happen to be a specific race, ethnicity, or sex. This rule is supported by the following: (a) advancing the merit-based employment policies that put American workers first; (b) acknowledging that the practice of self-identifying data produces unreliable results; (c) ending a civil rights disaster; and (d) correcting the missteps taken away from the Civil Rights Act's intended purpose.

III. <u>Analysis and Recommendations</u>

a. Merit-Based Employment Policies:

AFPI strongly believes that equality under the law is the birthright of all Americans. The Declaration of Independence asserts "all men are created equal" and endowed by God with "certain unalienable rights" including "life, liberty and the pursuit of happiness."[3] The EEOC's proposed rule helps abandon a discriminatory racial spoils system in favor of a merit-based system that honors the legacy of American civil rights leaders like Dr. Martin Luther King Jr. and Frederick Douglass.[4] Our nation's employment policies should judge workers on individual merit, rather than, "transform[ing] America's promise of equal opportunity into a divisive pursuit of results preordained by irrelevant immutable characteristics, regardless of individual strengths, effort or achievement."[5] As the world's leading free-market society, the United States should not burden employers with reporting requirements that pressure them to focus on demographic outcomes rather than individual qualifications.

The reporting requirements do not merely facilitate data sharing with the public. The resulting demographic scorecard encourages frivolous claims against legally compliant businesses. These claims, in turn, undermine civil rights compliance by incentivizing unlawful discriminatory hiring and promotion practices, whereby employers are pressured to make such decisions on the basis of race and sex, so as to improve their end-of-year outlook on the publicly available EEOC reporting.

The EEOC's mission is to unify all American workers, regardless of race and sex; however, "[e]xtensive research has shown that DEI programs divide Americans by promoting racial discrimination and by

---

[3] *Declaration of Independence* (U.S. 1776).
[4] Christopher Schorr, *President Trump Defends Americans' Civil Rights*, AM. FIRST POL'Y INST. (May 12, 2025), www.americafirstpolicy.com/issues/president-trump-defends-americans-civil-rights.
[5] Exec. Order No. 14281 (Apr. 23, 2025).

placing them into categories of 'oppressor' and 'oppressed' based on immutable characteristics such as race and ethnicity."[6] Supporters of these discriminatory diversity, equity, and inclusion (DEI) programs retort that employers should focus on race and sex to ensure "equity" as a conflated remedy to historical injustices. When "'equity' and 'equitable outcomes' [are made] central decision-making criteria for federal agencies . . . [that] pressures agencies to make decisions based on race or other demographic characteristics in hiring . . . [and] directs the federal government to stop treating Americans as individuals [with] equal rights and to . . . systematically discriminate based on race or other demographic characteristics to equalize group outcomes."[7] In the United States of America, the land of the free, no business should be forced by the government to discriminate against its job seekers.

Our nation has long recognized the value of individual merit over government-imposed preferences. The Founders warned against government policies that create favored classes and intrude in private affairs.[8] That principle remains important in employment, where Americans should be judged by their qualifications and accomplishments—not by race or sex.

The shift from discriminatory DEI practices back to common-sense merit-based systems of hiring is not only restoring the true intent of the Civil Rights Act by removing the focus on race, but it also promotes stronger-performing businesses. According to the White House Council of Economic Advisers, "DEI practices are associated with significantly lower productivity," and "[b]y 2023, industries that heavily pursued DEI were approximately 2.7 percent less productive than those that did not."[9] Among other reasons, discriminatory DEI practices lead to inefficient management, increase the cost of doing business, and reduce hiring and pay, due to program compliance burdens.[10]

The EEOC's proposed rule puts our country back on track. No longer will companies be forced to pour an aggregate $275 million into data collection and 5.2 million compliance hours into a reporting regime that places race and sex at the center of the workplace, in direct conflict with the Civil Rights Act's intended purpose of creating and promoting equality.[11] Merit-based employment practices are deeply rooted in our Nation's history and represent the "gold standard" for employment practices. The EEOC is correct to

---

[6] Matthew Lobel, *President Trump Takes Real Action to Combat Racial Discrimination*, AM. FIRST POL'Y INST. (Apr. 3, 2025), www.americafirstpolicy.com/issues/president-trump-takes-real-action-to-combat-racial-discrimination; Nicholas Confessore, *The University of Michigan Doubled Down on D.E.I. What Went Wrong?*, N.Y. TIMES MAG. (Oct. 16, 2024).

[7] Jack Brewer, James Sherk, & Jacob Sagert, *Biden Administration Policies Replace Equal Opportunity with Equity & Discrimination*, AM. FIRST POL'Y INST. (Sept. 20, 2023), www.americafirstpolicy.com/issues/research-report-biden-administration-policies-replace-equal-opportunity-with-equity-discrimination.

[8] Federalist No. 1 (Hamilton); Federalist No. 57 (Madison).

[9] *2026 Economic Report of the President,* WHITE HOUSE COUNCIL OF ECON. ADVISERS, Ch. 10, 207–09 (Apr. 2026).

[10] *Id.*

[11] 29 C.F.R. pt. 1602; *Removal of Reporting Requirements*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, RIN 3046-AB37 (July 21, 2026).

remove these obsolete reporting requirements and devote its resources to protecting equal opportunity for all Americans.

b. Self-Identification Results in Unreliable Data:

The problem with the EEOC's demographic reporting regime is not that its data is inconsequential; rather, it is that consequential employment and legal decisions are driven by this unreliable data, creating risks of overinflation, inaccuracy, and fraud. The standard practice for collecting the data for EEO-1 compliance involves employees filling out an employer-provided, optional EEO-1 Voluntary Self-Identification Form. Self-identification has also been the EEOC's suggested practice since 2003.[12] These forms collect two key data points: the employee's gender and the race/ethnicity that they *identify* with. Yet the methods used to collect both produce data that do not reliably reflect the workforce they purport to measure.

First, EEO-1 self-reporting forms provide two options for sex: male and female. EEO-1 reporting mechanisms do not require employees to list their God-given biological sex, which allows for biological men to report themselves as women (and vice versa) because the instructions of these forms are self-identification, rather than being rooted in basic biological facts. This gap in common-sense policy allows for employees to select whichever gender they identify with, enabling companies to use inaccurate data for their required EEO-1 report. By allowing inaccurate or overinflated data, the current reporting regime undermines the very civil rights enforcement the data was intended to support. Fact-based claims of valid civil rights violations brought to the EEOC should not be weighed against failed reporting standards that prioritize feelings and self-identification over facts and biology.

Under Executive Order 14168, the Trump Administration directs federal agencies to protect men and women as biologically distinct sexes, and to remove all statements, policies, regulations, forms, communications, or other internal and external messages promoting gender ideology.[13] Rescinding EEO-1's sex reporting requirement aligns the EEOC's reporting requirements with the President's common-sense policy and reduces opportunities for frivolous claims rooted in inaccurate data.

Second, EEO-1 self-reporting forms ask employees to self-identify their race and ethnicity. Employees only have the following options, and may only select one: (i) Hispanic or Latino; (ii) White (not Hispanic or Latino); (iii) Black or African American (not Hispanic or Latino); (iv) Asian (not Hispanic or Latino); (v) Native Hawaiian or Other Pacific Islander (not Hispanic or Latino); (vi) American Indian or Alaska Native (not Hispanic or Latino); or (vii) Two or More Races (not Hispanic or Latino). Yet according to the U.S. Census Bureau, the United States comprises nearly 1,500 race and ethnicity groups as of 2020.[14] Asking employees, who represent these nearly 1,500 race and ethnicity groups, to self-identify from a list of seven options compresses a highly diverse population into broad categories that obscure meaningful

[12] *Alternative Suggested Employee Questionnaire*, U.S. EQUAL EMP. OPPORTUNITY COMM'N (Oct. 29, 2003), www.eeoc.gov/alternative-suggested-employee-questionnaire.
[13] Exec. Order No. 14168 (2025).
[14] *New Population Counts for Nearly 1,500 Race and Ethnicity Groups*, U.S. CENSUS BUREAU (Sept. 21, 2023), https://www.census.gov/library/stories/2023/09/2020-census-dhc-a-race-overview.html.

differences within those groups. In his concurring opinion in *Ames v. Ohio*, a case that the EEOC cites to as rationale for this rule, Justice Thomas correctly identifies this problem by stating that "racial categories tend to be 'overbroad' and 'imprecise' in many ways," and is clear that "divvying us up by race . . . [is] . . . sordid business."[15] The common-sense solution is to eliminate this arbitrary reporting requirement, rather than requiring employers to reduce a diverse workforce to seven broad categories and rely on the resulting data to measure equal opportunity.

Furthermore, when an employee does not voluntarily self-identify their race/ethnicity, employers may "acquire the information necessary . . . by visual surveys of the work force."[16] In other words, if an employee refuses to self-identify, federal regulations permit the employer to determine the employee's race or ethnicity simply by looking at them. This requirement is an extreme measure that directly runs afoul of the purpose of the Civil Rights Act. A civil rights regime intended to make race irrelevant to employment should not require employers to look at their employees and decide what race they are. The Civil Rights Act was passed to ensure that the American Dream was available to all Americans, equally, regardless of their race; this requirement moves away from that critical purpose, because it forces employers not only to focus on racial matters in the workplace, but also to use staff, time, and protocols to determine the race of an employee to the best of their ability and report their guesswork back to the government as fact.

c. Ending a Civil Rights Disaster:

The Civil Rights Act of 1964 was enacted with a clear purpose: to ensure that race would no longer determine a person's opportunities in the workplace. Title VII exists to ensure that employers judge applicants and employees as individuals, rather than as members of demographic groups. Over time, however, EEOC practices have drifted from that founding principle. Instead of encouraging employers to disregard race and sex, the EEOC's current demographic reporting regime compels employers to identify, classify, and report individuals based on the very characteristics the Civil Rights Act sought to deemphasize. By rescinding these reporting mandates, the EEOC has taken an important step toward restoring Title VII's original purpose: that employment decisions be based on merit rather than race and sex.

Throughout the debates over the Civil Rights Act of 1964, Congress repeatedly emphasized that employment decisions should turn on individual merit rather than racial classifications. Senator John Williams explained that hiring an individual solely because of race "is racial discrimination," adding that "[t]he language of [Title VII] simply states that race is not a qualification for employment."[17] Senator Hubert Humphrey likewise assured opponents that nothing in Title VII would authorize employers, the

---

[15] *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303, 316 (2025) (citing *Students for Fair Admissions v. President & Fellows of Harvard College*, 600 U.S. 181, 216 (2023)); id. at 318 (citing *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 551 (2006)).
[16] 29 C.F.R. § 1602.13.
[17] 110 Cong. Rec. 8921 (1964).

courts, or the EEOC to require racial quotas or "a certain racial balance."[18] These framers understood the value of putting America first by promoting the American Dream through hard work, rather than government quotas.

Congress codified that principle in Title VII itself. Section 703(j) provides that nothing in Title VII "shall be interpreted to require any employer" to grant preferential treatment because of an imbalance between the racial composition of its workforce and that of the surrounding labor market.[19] Likewise, although Congress authorized the EEOC to collect information necessary to enforce Title VII, it did so to investigate unlawful discrimination—not to transform racial composition into an ongoing measure of employer reporting.[20] EEO-1 through EEO-6's reporting requirements depart from that understanding. By requiring employers to classify employees by race and ethnicity and to regularly report that data to the federal government, the reporting regime makes race a continuing feature of employment administration. Title VII was enacted to remove race from employment decisions, yet these requirements have kept race at the center of them.

This does not mean that demographic information can never be relevant to the enforcement of Title VII. When the EEOC investigates a charge of unlawful discrimination, Congress has authorized it to obtain evidence relevant to that investigation.[21] But that targeted authority does not justify requiring employers to annually collect and report demographic data regardless of whether any charge of discrimination exists. The EEOC can still vigorously investigate actual allegations of discrimination without imposing a blanket reporting regime on employers that are not the subject of an enforcement matter. Rescission does not blind the EEOC to discrimination; it refocuses its resources on investigating discrimination where there is an actual basis to do so.

The Supreme Court has clearly warned of the danger of judging employment practices through demographic outcomes. In *Ricci v. DeStefano*, the Court held that city officials violated Title VII by discarding promotion exam results because of a racial disparity among successful candidates.[22] In *Firefighters Local Union No. 1784 v. Stotts*, the Court rejected a race-conscious layoff plan that protected minority employees at the expense of more senior non-minority employees where that plan conflicted with a bona fide seniority system protected by Title VII.[23] Most recently, in *Ames v. Ohio Dep't of Youth Servs*., the Court unanimously held that majority-group plaintiffs are not subject to a heightened evidentiary standard when bringing Title VII discrimination claims.[24] These cases demonstrate what the framers of Title VII knew to be true: equal opportunity under the law does not mean guaranteed opportunities for certain groups. Title VII protects individuals on all sides of the demographic ledger.

---

[18] 110 Cong. Rec. 7420 (1964).
[19] 42 U.S.C. § 2000e-2(j).
[20] § 2000e-8.
[21] *Id*.
[22] *Ricci v. DeStefano*, 557 U.S. 557, 585 (2009).
[23] *Firefighters Local Union No. 1784 v. Stotts*, 467 U.S. 561, 572–74 (1984).
[24] *Ames v. Ohio Dep't of Youth Servs*., 605 U.S. 303, 313 (2025).

A major problem with demographic reporting is not just that employers must collect the data, but what employers are encouraged to do with that data. The incentives facing employers changed dramatically once demographic statistics became relevant to evaluating compliance with federal law. Employers understand that demographic disparities invite scrutiny, investigations, and litigation.[25] This forces employers to question whether their own data could "support [a] claim of systemic discrimination" and, when significant disparities appear, to consider corrective action such as auditing job qualifications and reviewing selection procedures for adverse impact.[26] The same incentives extend beyond hiring. When employers consider layoffs, industry standards advise them to conduct an "adverse impact analysis" comparing the percentage of protected-class employees selected for termination against their representation in the relevant workforce.[27] Employers are then instructed to consider whether any resulting disparity creates litigation risk.[28] In other words, an employer making an otherwise neutral personnel decision is encouraged to measure that decision by race before carrying it out. That puts employers in an untenable position: The reporting regime pressures them to manage demographic outcomes, while *Ricci* warns that changing otherwise neutral employment decisions because of racial outcomes can itself violate Title VII. The government should not maintain a reporting regime that creates pressure to make the very race-conscious decisions that federal law was designed to prohibit.

This civil rights disaster also imposes a great burden on the EEOC itself. The EEOC has calculated that it expends more than $3.8 million annually to collect EEO-1 data alone. At the same time, publicly available demographic data can be used to identify employers as potential litigation targets, generating additional scrutiny and litigation based on demographic disparities rather than evidence concerning any particular employment decision.[29] Removing demographic reporting requirements would allow the EEOC to redirect those resources toward cases where actual intentional discrimination is alleged and vigorously enforce the civil rights laws where they are needed most.

The EEOC's reporting regime does more than depart from the principles underlying Title VII. Although the EEOC protects all races, its reporting framework harms the very individuals Title VII was enacted to protect.[30] By encouraging employers to focus on demographic outcomes rather than individual qualifications, the reporting requirements have created incentives that can disadvantage minority applicants and employees.

---

[25] Employers are well aware that plaintiffs' "attorneys may use the publicly available data to identify potential targets for discrimination or pay equity litigation." Sheila M. Abron & Jennifer B. Sandberg, *Federal Contractors Face February 25 Deadline for EEO-1 Release*, SOC'Y HUM. RES. MGMT. (Feb. 12, 2026), www.shrm.org/mena/topics-tools/employment-law-compliance/federal-contractors-face-february-25-deadline-eeo-1-release.
[26] *Id*.
[27] Allen Smith, *When RIF Selections Go Wrong*, SOC'Y HUM. RES. MGMT. (Nov. 12, 2019), www.shrm.org/in/topics-tools/employment-law-compliance/rif-selections-go-wrong.
[28] *Id*.
[29] *See Federal Contractors Face February 25 Deadline for EEO-1 Release*, *supra note 26.*
[30] *Race/Color Discrimination*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/youth/racecolor-discrimination (last visited Aug. 7, 2026).

Race consciousness creates another problem once an employee is hired. When employers openly monitor demographic outcomes, minority employees may reasonably wonder whether their race or sex helped determine their selection. Research has found that race-conscious employment policies produce stigma and tokenism, causing employees to take less credit for their accomplishments and to question whether their success reflects merit.[31] When selection is clearly based on merit, however, those effects diminish.[32] This is not progress. More than 60 years after the Civil Rights Act sought to make race irrelevant to employment, workers are still being sorted, counted, and viewed through racial categories. Americans protected by Title VII should never have to wonder whether they were hired because of their qualifications or because of the box they checked. A civil-rights regime that leaves them asking that question has lost sight of the principle it was created to defend.

Civil rights succeeded in America because we rejected racial and sex-based classifications. Over time, regulations brought race and sex back into employment decisions. The EEOC's proposed rule to rescind the race and sex reporting requirements in EEO-1 through EEO-6 restores the principle that individuals should be judged by their abilities, not by arbitrary demographics, and helps to end this civil rights disaster.

d. Civil Rights Missteps of Reporting Requirements and Disparate Impact:

The Civil Rights Act not only protects equality in private sector workplaces under Title VII but also champions merit-based hiring in education under Title VI. However, there have been missteps in the fight for equality, which were built under the false banner of civil rights protection due to distortions of civil rights law. EEO-5 and EEO-6 extend the EEOC's reporting regime to "certain elementary and secondary school systems and districts" and "certain institutions of higher education to biennially report the number of employees according to specified . . . ranks by race/ethnicity and sex."[33] Institutions of higher education should hire faculty and staff based on academic achievement and other considerations rooted in merit. They certainly should not *rank order employees* based on protected demographic characteristics. Ranking workers by race is the exact "sordid business" that Justice Thomas warned of in *Ames v. Ohio*.[34] Our educators deserve better; their varied experiences, professional backgrounds, and academic achievements should be the focus of hiring decisions directed towards educating the next generation of Americans. Government requirements to rank professors and other faculty based on characteristics like race and sex insult educators and unfairly sow doubt as to the merits of educators from historically underrepresented groups. Government should not be in the business of encouraging students to ponder whether their instructors are truly qualified or "DEI hires." The American Dream in the education system

---

[31] Madeline E. Heilman, Michael C. Simon & David P. Repper, *Intentionally Favored, Unintentionally Harmed? Impact of Sex-Based Preferential Selection on Self-Perceptions and Self-Evaluations*, 72 J. APPLIED PSYCH. 62, 67 (1987).
[32] *Id.* at 66, 68.
[33] *Removal of Reporting Requirements*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, RIN 3046-AB37 (July 21, 2026); 29 C.F.R. § 1602.41; 29 C.F.R. § 1602.49.
[34] *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303, 318 (citing *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 551 (2006)).

must be equally available for all Americans, not just those who help their college improve a racial or sex-based government ranking.

The disparate impact doctrine is another prominent civil rights misstep. This doctrine "…holds that a near insurmountable presumption of unlawful discrimination exists where there are any differences in outcomes in certain circumstances among different races, sexes or similar groups, even if there is no facially discriminatory policy or practice or discriminatory intent involved."[35] Dr. Christopher Schorr, director of AFPI's higher education reform initiative, finds "[d]isparate impact doctrine is conceptually flawed and counterproductive" because the "doctrine distorts civil rights law – and with it, post-secondary education and labor markets . . . [by offering] a vision of civil rights that conflicts with our nation's fundamental commitment to procedural equality."[36] Applying this doctrine to the EEOC's reporting practices, "[d]isparate impact theory applies [the] label to group outcome differences or 'disparities,' including those resulting from *equal* treatment . . . courts and federal regulators force employers to abandon non-discriminatory policies and encourage outcome-leveling remedies that erode equality under law."[37] Demographic reporting compounds this problem by providing the statistical scoreboard through which otherwise neutral employment practices are measured by their racial and sex-based outcomes.

By removing the reporting requirements under this proposed rule, the EEOC is paving the way for "a more intellectually coherent civil rights regime, [whereby] businesses would not be subjected to unnecessary, intrusive, and counterproductive compliance burdens predicated on unfounded assumptions" and "would greatly improve fairness in federal civil rights law, help students, workers, and families by reducing harmful distortions to post-secondary education and labor markets; and reduce government intrusion and business compliance burdens."[38] Even in *Griggs v. Duke Power*, the decision that recognized disparate impact liability under Title VII, the Supreme Court emphasized the importance of legitimate job qualifications. The Court explained that in passing the Civil Rights Act, "Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications as such, Congress has made such qualifications the controlling factor, so that race . . . and sex become irrelevant."[39] *Griggs* therefore recognized that qualifications—not race or sex—should control employment decisions. Our nation should protect individuals from discrimination because of their demographics, not give certain demographics an advantage "simply because of minority origins."[40] Harmful missteps such as EEO-1 through EEO-6's reporting requirements, the disparate impact doctrine, and discriminatory DEI programs have moved the needle set in *Griggs* so far away from the intention of the Civil Rights Act that race and sex have not only become relevant in hiring decisions, but risk becoming the "controlling factor" that the *Griggs* Court

---

[35] Exec. Order No. 14281 (Apr. 23, 2025).
[36] Christopher Schorr & Jay Menees, *Equal Treatment & College Degree Barriers: The Problem of Disparate Impact Doctrine*, AM. FIRST POL'Y INST., 1, 12 (June 9, 2026).
[37] *Id.* at 2.
[38] *Id.* at 5.
[39] *Griggs v. Duke Power Co.*, 401 U.S. 424, 436 (1971).
[40] *Id.*

foretold.[41] The rule before the EEOC resets that needle, which helps to ensure that race and sex are no longer controlling factors for an employer's decisions; rather, those factors will remain protected characteristics for which the EEOC can provide real relief in cases of actual discrimination, ending this civil rights disaster once and for all.

IV. Conclusion

The Civil Rights Act created the Equal Employment Opportunity Commission with the primary goal—as evidenced by the agency's name—of ensuring equal **opportunity** for all American workers. The American Dream rewards those who work hard and promises fair treatment to enable individuals to succeed (or fail) based on their own aptitudes and diligence. The use of merit-based standards does not unfairly exclude qualified individuals for arbitrary outcomes-based leveling purposes. Nor can the American Dream be portioned out by the government to selective demographics. Attempting to do so only grants the federal government excessive power over employment decisions and undermines America's founding principles. RIN 3046-AB37 is a step in the right direction toward ending this civil rights disaster, restoring equal opportunity, and putting individual merit and work ethic above all else.

AFPI commends the EEOC for the extensive analysis provided in this proposed rule and emphasizes the benefits of merit-based employment systems. Rescinding these reporting requirements will also reduce unnecessary compliance burdens and allow the EEOC to focus its resources on enforcing the civil rights laws and providing real relief in cases of actual discrimination. AFPI appreciates the opportunity to submit this comment letter. If the staff at the EEOC have any questions on the foregoing, please email info@americafirstpolicy.com.

AMERICA FIRST, *ALWAYS*.

Ryan Micozzi

Ryan Micozzi, Esq.
Deputy General Counsel
America First Policy Institute

Henry Bishop

Henry Bishop
Law Clerk
America First Policy Institute

[41] *Id.*

AFPI
AMERICA FIRST POLICY INSTITUTE

WORKS CITED

History of the EEOC, U.S. EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/history.

EEOC History: 1964–1969, U.S. EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/history-1964-1969.

Declaration of Independence (U.S. 1776).

Christopher Schorr, *President Trump Defends Americans' Civil Rights*, AM. FIRST POL'Y INST. (May 12, 2025), www.americafirstpolicy.com/issues/president-trump-defends-americans-civil-rights.

Exec. Order No. 14281 (Apr. 23, 2025).

Matthew Lobel, *President Trump Takes Real Action to Combat Racial Discrimination*, AM. FIRST POL'Y INST. (Apr. 3, 2025), www.americafirstpolicy.com/issues/president-trump-takes-real-action-to-combat-racial-discrimination.

Nicholas Confessore, *The University of Michigan Doubled Down on D.E.I. What Went Wrong?*, N.Y. TIMES MAG. (Oct. 16, 2024).

Jack Brewer, James Sherk, & Jacob Sagert, *Biden Administration Policies Replace Equal Opportunity with Equity & Discrimination*, AM. FIRST POL'Y INST. (Sept. 20, 2023), www.americafirstpolicy.com/issues/research-report-biden-administration-policies-replace-equal-opportunity-with-equity-discrimination.

Federalist No. 1 (Hamilton).

Federalist No. 57 (Madison).

2026 Economic Report of the President, WHITE HOUSE COUNCIL OF ECON. ADVISERS, Ch. 10, 207–09 (Apr. 2026).

29 C.F.R. § 1602.

Removal of Reporting Requirements, U.S. EQUAL EMP. OPPORTUNITY COMM'N, RIN 3046-AB37 (July 21, 2026).

Alternative Suggested Employee Questionnaire, U.S. EQUAL EMP. OPPORTUNITY COMM'N (Oct. 29, 2003), www.eeoc.gov/alternative-suggested-employee-questionnaire.

Exec. Order No. 14168 (2025).

New Population Counts for Nearly 1,500 Race and Ethnicity Groups, U.S. Census Bureau (Sept. 21, 2023), https://www.census.gov/library/stories/2023/09/2020-census-dhc-a-race-overview.html.

Ames v. Ohio Dep't of Youth Servs., 605 U.S. 303 (2025).

Students for Fair Admissions v. President & Fellows of Harvard College, 600 U.S. 181 (2023).

League of United Latin American Citizens v. Perry, 548 U.S. 399 (2006).

110 Cong. Rec. 8921 (1964).

110 Cong. Rec. 7420 (1964).

42 U.S.C. § 2000(e).

Ricci v. DeStefano, 557 U.S. 557 (2009).

Firefighters Local Union No. 1784 v. Stotts, 467 U.S. 561 (1984).

Sheila M. Abron & Jennifer B. Sandberg, *Federal Contractors Face February 25 Deadline for EEO-1 Release*, SOC'Y HUM. RES. MGMT. (Feb. 12, 2026), www.shrm.org/mena/topics-tools/employment-law-compliance/federal-contractors-face-february-25-deadline-eeo-1-release.

Allen Smith, *When RIF Selections Go Wrong*, SOC'Y HUM. RES. MGMT. (Nov. 12, 2019), www.shrm.org/in/topics-tools/employment-law-compliance/rif-selections-go-wrong.

Federal Contractors Face February 25 Deadline for EEO-1 Release, supra note 26.

Race/Color Discrimination, U.S. EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/youth/racecolor-discrimination (last visited Aug. 7, 2026).

Madeline E. Heilman, Michael C. Simon & David P. Repper, *Intentionally Favored, Unintentionally Harmed? Impact of Sex-Based Preferential Selection on Self-Perceptions and Self-Evaluations*, 72 J. APPLIED PSYCH. 62 (1987).

Christopher Schorr & Jay Menees, *Equal Treatment & College Degree Barriers: The Problem of Disparate Impact Doctrine*, AM. FIRST POL'Y INST. (June 9, 2026).

Griggs v. Duke Power Co., 401 U.S. 424 (1971).