

**AMERICAN BAR ASSOCIATION
SECTION OF LABOR AND EMPLOYMENT LAW
REPORT TO THE HOUSE OF DELEGATES**

RECOMMENDATION

RESOLVED, That the American Bar Association urges Congress to provide adequate funding to enable the Equal Employment Opportunity Commission to carry out its congressionally-mandated duties to investigate, conciliate and, where appropriate, take legal action to enforce laws prohibiting discrimination in an effective, fair and efficient manner. 1
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Report

Since 1963, Congress has passed a series of laws reflecting its continuing commitment to addressing employment discrimination. These laws include the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, as amended in 1972 (giving enforcement authority to the EEOC), the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, and the Family and Medical Leave Act.

Each of these laws carries with it significantly increased responsibility for the various agencies charged with enforcement. For most of these laws, primary enforcement lies with the U.S. Equal Employment Opportunity Commission (EEOC).

The Section of Labor and Employment Law represents the major legal constituencies (plaintiff, public, union and management) with interests in the enforcement of this country's equal employment laws. While Section members representing their respective constituencies may take issue over the interpretation and scope of various laws and, from time to time, complain about methods of enforcement, we all believe that the EEO laws must be fairly and effectively enforced.

Our focus in this report is on the increased responsibilities placed on the EEOC by Congress without the necessary financial support to meet the mandates for enforcement of the non-discrimination statutes. For example, between fiscal year 1992 and fiscal year 1997, the EEOC's budget increased by only 11 percent, from \$211,271,000 in fiscal year 1992 to \$239,740,000 million in fiscal year 1997. When adjusted for inflation and discounting salary increases for incumbent employees, this amounts to a net reduction in its budget in terms of resources available for administrative and legal enforcement.

Set forth in Appendix A is the statement of Gilbert Casellas, Chairman of the EEOC, before the House Appropriations Subcommittee in April 1997. According to Chairman Casellas, despite increased enforcement responsibility and the continued high number of charges as a result of mandated legislation and transfer of authority from the U.S. Department of Labor (Equal Pay Act and ADEA), the EEOC's budget has not come close to meeting its needs.

As explained by Chairman Casellas, the EEOC has tried to meet its mandates through a variety of management initiatives. Recent efforts by the Commission have resulted in a thirty percent reduction in its charge inventory. However, the Commission receives over 75,000 new charges each year. Chairman Casellas predicts that at the current rate and budget level, the Commission's charge inventory in fiscal year 2000 will be approximately 129,000 charges. In light of the EEOC's budget levels, the EEOC cannot meet its statutory obligations to enforce the laws under its mandate.

The Section of Labor and Employment Law recognizes that the Commission and the Executive Branch can and should do more to improve management and operational

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effectiveness at the EEOC. Such improvement will serve not only those who bring charges, but will also benefit the employer community and the interest of the public through more effective and fair enforcement of EEO laws.

We believe, however, that it is incumbent upon Congress to do its part. Despite any disagreement that may exist in specific cases over interpretation of law, or enforcement activities, Congress has repeatedly decreed that discrimination is unlawful and must be stopped and remedied where found. This can only be done if the Agency with principal responsibility is given the necessary budgetary support. Congress can and should assure that these necessary resources are used effectively through regular oversight.

Respectfully submitted,

Robert M. Dohrmann, Section Chair
February 1998

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STATEMENT OF
GILBERT F. CASELLAS, CHAIRMAN
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BEFORE THE
SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE,
THE JUDICIARY AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES
APRIL 16, 1997

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today in support of the Administration's fiscal year 1998 budget request for the Equal Employment Opportunity Commission (EEOC).

Let me first begin by stating that we at EEOC recognize the realities of the constraints imposed by the current budget deficit. It is this recognition that has driven our efforts to do the best we can with what we have. Sadly, incidents of workplace discrimination are not constrained by our lack of resources. Each and every day, we are confronted with evidence of not just subtle but egregious instances of illegal discrimination. Cases such as Mitsubishi and Texaco are not isolated and clearly dispel the myth that illegal discrimination is not still a very real and widespread problem in today's workplace. Unfortunately, EEOC is just as needed today as it was when the agency was created more than 30 years ago. Tens of thousands of Americans turn to us each year seeking a guarantee of their right to equal employment opportunity. As such, our first commitment is to effectively serve those who come to us for help. We are committed to our mission. Therefore, I welcome the opportunity to appear before you today in support of the FY 1998 budget request for the agency. Adequate funding for EEOC is imperative if we are to be effective in accomplishing this mission.

EEOC has and continues to seek ways to maximize the agency's limited resources in pursuit of our mission. Toward this end, during my tenure, we have made major progress in addressing many of the inherited, longstanding problems of the agency, including the private sector inventory of more than 100,000 charges, chronic underfunding, ineffective enforcement strategies and low staff morale.

In my previous appearances before this Subcommittee, I detailed for you the management, policy and operational changes we put in place throughout fiscal years 1995 and 1996 to counter these problems and to fundamentally reform and reinvent the way EEOC conducts business. The framework for these changes is a high performance management philosophy that values employees and holds administrators accountable, and an organizational policy that shifts more resources and more enforcement responsibility to the front lines. Today, we continue the