



February 10, 2026

By Electronic Mail

Andrea Lucas  
Chair  
U.S. Equal Employment Opportunity Commission  
131 M Street, N.E.  
Washington, D.C. 20507

Dear Chair Lucas:

We write to express our concern about your recent statements in a February 6, 2026 interview with the Daily Signal,<sup>1</sup> in which you suggested that a transgender person's use of facilities consistent with their gender identity may constitute unlawful harassment and encouraged cisgender women to file harassment charges if they encounter transgender women in these spaces at work. These comments follow a long line of actions the Equal Employment Opportunity Commission (EEOC) has taken under your leadership to attack workplace protections for transgender and nonbinary people under the guise of "protecting women."<sup>2</sup> Our organizations have each spent over 50 years shaping the legal landscape to protect women from workplace harassment and violence, and we care deeply about safety and privacy in the workplace. The EEOC's own data shows how widespread workplace harassment is, and our own experiences advocating for women workers aligns with the data. But rather than address the real harassment workers face, you have repeatedly chosen to attack transgender workers and falsely assert that their mere presence puts women in danger. Let us be clear: preventing transgender people from accessing bathrooms and other sex segregated spaces does nothing to make women or anyone else safer at work. In fact, the EEOC's abdication of its core mission to pursue an ideological agenda is an invitation for further abuse and harassment of transgender people, women, and all workers.

In your interview, you state that "it's important for women to realize that they could have a claim" if they encounter a transgender person in a women's restroom or other sex-segregated facility, noting "[t]hat's something I would take really seriously if someone was to file a charge about that." Your suggestion that women are likely to have a viable claim of harassment based solely on the presence of a

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<sup>1</sup> Elizabeth Troutman Mitchell, *How Women Harmed by Men in Their Private Spaces Can Get Justice*, The Daily Signal (Feb. 6, 2026), <https://www.dailysignal.com/2026/02/06/biology-is-not-bigotry-civil-rights-chief-urges-women-to-challenge-trans-policies/>.

<sup>2</sup> Commissioner Andrea R. Lucas's Statement On EEOC Enforcement Guidance On Harassment In The Workplace, U.S. Equal Employment Opportunity Comm'n, <https://www.eeoc.gov/commissioner-andrea-r-lucass-statement-eeoc-enforcement-guidance-harassment-workplace> (last visited Feb. 10, 2026).

transgender colleague in a bathroom or other sex-segregated facility is harmful and entirely inconsistent with the law. To meet the standard for unlawful workplace harassment under Title VII, the harassing conduct must be so severe or pervasive that it creates a hostile work environment. A transgender person's use of facilities consistent with their gender identity, alone, simply does not meet that standard—a reality that federal courts have affirmed for more than twenty years.<sup>3</sup> Soliciting such charges with no basis in the law only serves to further stigmatize transgender people and waste the agency's limited resources on bigotry instead of addressing the real harassment women, transgender people, and others face in the workplace.

By contrast, Title VII provides transgender people protections against discrimination at work.<sup>4</sup> Federal courts have recognized that denying transgender people access to bathrooms or other facilities that align with their gender identity can create a hostile work environment in violation of Title VII, consistent with EEOC's own federal sector decisions, which also found this constitutes disparate treatment.<sup>5</sup> All people deserve to work safely and with dignity, but when workers are forced to use a bathroom inconsistent with their affirmed gender, or denied access to any bathroom at all, it can have serious physical consequences<sup>6</sup> and result in stigmatization and psychological harm. Forcing transgender people alone to use single-occupancy bathrooms, which are often unavailable or inconveniently located, may subject them to long delays that their cisgender coworkers do not experience<sup>7</sup> and reinforces the harmful message that their mere presence in women's spaces creates a safety risk. By falsely suggesting to employers that they must deny transgender people access to restrooms and other facilities consistent with their gender identity, your comments will subject transgender workers to further exclusion and

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<sup>3</sup> See, e.g., *Cruzan v. Special Sch. Dist.*, No. 1, 294 F.3d 981, 984 (8th Cir. 2002) (rejecting a Title VII harassment claim where the plaintiff “[did] not assert [that a transgender colleague] engaged in any inappropriate conduct other than merely being present in the women’s faculty restroom.”); *Parents for Privacy v. Barr*, 949 F.3d 1210, 1217 (9th Cir. 2020) (finding that under Title IX, “The use of facilities for their intended purpose, without more, does not constitute an act of harassment simply because a person is transgender.”).

<sup>4</sup> *Bostock v. Clayton County*, 590 U.S. 669 (2020).

<sup>5</sup> See, e.g., *Membreno v. Atlanta Rest. Partners*, 517 F. Supp. 3d 425, 431 (D. Md. 2021) (finding that where a transgender worker was prevented from using the women’s bathroom and “berated” when she did use it, this conduct contributed to a hostile work environment); *Lusardi v. Dep’t of the Army*, EEOC Appeal No. 0120133395, 2015, WL 1607756 (Apr. 1, 2015) (decision by the Commission holding that Agency restrictions on a transgender woman’s ability to use a common women’s restroom constituted disparate treatment on the basis of sex and the Agency is liable for subjecting the employee to a hostile work environment based on sex by preventing her from using the common women’s restroom and allowing a team leader to intentionally and repeatedly misgender her).

<sup>6</sup> See, e.g., *Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 523 (3rd Cir. 2018) (explaining that when people are denied access to restrooms that align with their gender identity, they may “avoid going to the bathroom by fasting, dehydrating, or otherwise forcing themselves not to use the restroom throughout the day,” which can lead to health problems).

<sup>7</sup> Julie Moreau, “Laughed out of interviews”: Trans Workers Discuss Job Discrimination, NBC NEWS (Oct. 6, 2019, 2:22 PM), <https://www.nbcnews.com/feature/nbc-out/laughed-out> Interviews-trans-workers-discuss-job-discrimination-n1063041 (describing the experience of a transgender woman in Missouri who was forced to use the sole single-stall restroom in her workplace, which was often occupied or out of service, while other women at the company had access to over two dozen restrooms without waiting).

unlawful discrimination. Your statements also create confusion for employers about their legal obligations and may actually put employers at risk for increased liability.

Denying workers access to bathrooms and other facilities consistent with their gender identity does nothing to make women safer. Laws already exist that protect against various safety and privacy violations in any setting, including bathrooms and locker rooms. Research, along with the real-world experience of jurisdictions that have had trans-inclusive policies for years, shows that concerns about increased safety risks as a result of inclusive facilities policies are not supported by evidence.<sup>8</sup> But comments like yours prime the public to monitor access to sex-segregated spaces, perpetuating sex stereotypes, inviting scrutiny of anyone who does not conform to societal gender expectations, and exposing all people, including cisgender women, to confrontation and harassment based on their appearance and gender presentation. There are numerous examples of cisgender women who have been questioned, harassed, and even forcibly removed from restrooms because they were mistaken for transgender women or were perceived as too masculine.<sup>9</sup> In one such incident just last year in Minnesota, a teenager who was not transgender was forced to expose her breasts to prove she was a woman.<sup>10</sup> In another incident last year in Florida, a 6'4" cisgender woman working at a retail store was reportedly accosted by a customer who followed her into the women's bathroom and yelled a slur for transgender people; she was fired a week later.<sup>11</sup> This kind of gender policing makes all women less safe.

We strongly urge you to stop your dangerous attacks on the rights of transgender workers and instead use the EEOC's resources to address the real harassment and violence women across the country continue to face at work. With any questions, please reach out to Sharita Gruberg, National Partnership for Women & Families ([sgruberg@nationalpartnership.org](mailto:sgruberg@nationalpartnership.org)) and Katie Sandson, National Women's Law Center ([Ksandon@nwlc.org](mailto:Ksandon@nwlc.org)).

Sincerely,  
National Partnership for Women & Families  
National Women's Law Center

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<sup>8</sup> Amira Hasenbush et al., *Gender Identity Nondiscrimination Laws in Public Accommodations: A Review of Evidence Regarding Safety and Privacy in Public Restrooms, Locker Rooms, and Changing Rooms*, 16 Sexuality Rsch. and Soc. Pol'y 70, 81 (July 23, 2018), [https://escholarship.org/content/qt4rs4n6h0/qt4rs4n6h0\\_noSplash\\_8740e92d7f24b6c89dbd4bd4d27fbbcb.pdf](https://escholarship.org/content/qt4rs4n6h0/qt4rs4n6h0_noSplash_8740e92d7f24b6c89dbd4bd4d27fbbcb.pdf); see also Lou Chibbaro Jr., *Predictions of Trans Bathroom Harassment Unfounded*, Washington Blade (Mar. 31, 2016), <https://www.washingtonblade.com/2016/03/31/predictions-of-trans-bathroom-harassment-unfounded>.

<sup>9</sup> Chan Tov McNamara, *Cis-Woman-Protective Arguments*, 123 COLUM. L. REV. 845, 917-18 (2023) (listing examples, including a woman who was confronted when she tried to use a women's bathroom "because she 'dress[ed] like a man,'" and a woman who was forcibly removed from a women's bathroom at a restaurant).

<sup>10</sup> Jo Yurcaba, *Minnesota teen says server forced her to prove her gender in restaurant bathroom*, NBC News (Aug. 12, 2025), <https://www.nbcnews.com/nbc-out/out-news/minnesota-teen-says-server-forced-prove-gender-restaurant-bathroom-rcna224562>.

<sup>11</sup> Daniel Wu, *Walmart fires woman who reported anti-trans threats from man in bathroom*, The Washington Post (Mar. 27, 2025), <https://www.washingtonpost.com/nation/2025/03/27/walmart-fireswoman-trans-hate-bathroom/>.

Cc:

Kalpana Kotagal, Commissioner, U.S. Equal Employment Opportunity Commission

Brittany Panuccio, Commissioner, U.S. Equal Employment Opportunity Commission