

April 12, 2021

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20515

Dear Members of Congress:

We write in opposition to H.J. Res. 33 and S.J.Res.13, which would use the Congressional Review Act to disapprove the “Update of Commission's Conciliation Procedures” finalized by the Equal Employment Opportunity Commission (EEOC).

The new procedures amend existing EEOC regulations on required steps in the conciliation phase of the EEOC administrative process for claims brought under Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, and the Age Discrimination in Employment Act. The rules became effective on February 16, 2021.

The EEOC is required by federal discrimination statutes to attempt to conciliate, or settle through negotiations, a matter with any party when the agency has determined that there is reasonable cause to believe that discrimination or retaliation has occurred. Should this attempt at conciliation fail, then the EEOC can file a lawsuit.

The new rules will enhance this settlement process by providing all parties with the factual and legal basis for a reasonable cause determination. By doing so, the likelihood that conciliation will produce a settlement is increased, thus increasing the likelihood that the employee will get restitution sooner and with less cost than if the matter goes to litigation.

EEOC’s new procedures strike a fair balance, with EEOC only disclosing basic legal and factual information about the underlying claim. The new regulation does not require EEOC to disclose the full details of the case nor violate any charging party’s confidentiality.

We urge you to oppose efforts to disapprove of these well-crafted updated regulatory procedures.

Sincerely,

Associated Builders and Contractors
HR Policy Association
National Association of Wholesaler-Distributors
National Federation of Independent Business
National Retail Federation

National Restaurant Association
Retail Industry Leaders Association
U.S. Chamber of Commerce
Workplace Policy Institute

cc: Members of the U.S. House of Representatives
Members of the U.S. Senate