



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Sector
P.O. Box 77960
Washington, DC 20013

[REDACTED] Matilde M.,
[REDACTED] Lael G., and
[REDACTED] Bryce B.,
Complainants,¹

v.

Douglas J. Burgum,
Secretary,
Department of the Interior
(Bureau of Indian Education),
Agency.

Appeal Nos. 2023003969
2023003970
2023003971

Hearing Nos. 540-2023-00043X
480-2022-00561X
540-2023-00003X

Agency Nos. DOI-BIE-22-0130
DOI-BIE-22-0131
DOI-BIE-22-0132

DECISION

Complainants work for the Bureau of Indian Education (“the Agency”) at the Sherman Indian High School in Riverside, California. In late 2021, and consistent with Executive Order 14043, the Agency ordered all employees to vaccinate against

¹ These cases have been randomly assigned pseudonyms which will replace the Complainants’ names when the decision is published to non-parties and the Commission’s website.

the COVID-19 virus. Complainants each requested exemption as a religious accommodation, citing their religious belief in the sacredness of human life and their religious practice of refraining from using substances developed using human fetal cells obtained through abortion. The Agency denied their requests, claiming accommodation would impose an undue hardship.

Complainants filed formal EEO complaints contending the Agency, by denying them reasonable accommodation for their religious practice, violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. After investigation, each Complainant requested a hearing before an EEOC Administrative Judge and then withdrew their requests in favor of receiving a final decision from the Agency. The Agency in each case found no discrimination. Complainants appeal. Since Complainants advance identical claims based on identical facts, we exercise our discretion to consolidate their appeals, pursuant to 29 C.F.R § 1614.606.

After careful review, we conclude that testing and masking were a possible alternative reasonable accommodation for Complainants. And we find the Agency has not met its burden to establish by preponderant evidence that testing and masking would have imposed an undue hardship on its operations. Moreover, we find the Agency acted discriminatorily when it subjected Complainants to an unduly adversarial accommodation process. We therefore REVERSE and REMAND to the Agency with instructions to provide Complainants with appropriate relief.

STANDARD OF REVIEW

We review the Agency's final decisions de novo. 29 C.F.R. § 1614.405(b). To that end, we “review the documents, statements, and testimony of record” with fresh eyes, and we make our decision based on “[our] own assessment of the record[.]” E.E.O.C. Management Directive 110, Ch. 9, § 4 (Aug. 5, 2015).

BACKGROUND

Each Complainant faced the same undisputed sequence of events. In September 2021, all Agency employees, Complainants included, were ordered to immediately receive a COVID-19 vaccine. The order was mandatory and warned that non-compliance would result in disciplinary action, up to and including removal.

The order did, however, acknowledge the possibility of reasonable accommodation for religion and disability, provided accommodation did not impose an undue hardship on the Agency.

Complainants promptly submitted requests for religious-based reasonable accommodations. To support their request, each identified as Christian and explained in writing how, through scripture and prayer, they derived a belief in the sacredness of human life. It was, in turn, their religious practice to abstain from products derived from the destruction of human life, including the then-available COVID-19 vaccines which were developed using human fetal cells obtained through abortion.

The Agency gave Complainants temporary reprieve from the mandate while their requests were considered. About a month after the requests were lodged, Complainants were individually summoned to appear before a four-member panel. One panel member described the panel's purpose as to determine "whether the employee expressed a sincerely held religious belief and whether the belief was in conflict with the vaccination mandate."

The panel administered the same block of questions to each Complainant:

1. Describe the religious belief that is the basis of your request for a religious exemption to the COVID-19 vaccination mandate.
2. When did you first fully subscribe to this belief or, how long have you held this religious belief?
3. Does your religious belief affect your receipt of medical treatment or forbid you from receiving certain medical treatments? What treatments must you refuse and why?
4. Does your religious belief affect your use of medications or forbid you from taking certain medications? Are there any over-the-counter medicines you must avoid?
5. Does your religious belief affect your receipt of vaccinations or forbid you from receiving any vaccinations? Why are they forbidden? As an adult, have you received any of these prohibited vaccinations? What vaccination(s) did you receive

and when? Why is the COVID-19 vaccine different from other vaccines?

6. Please explain how the COVID-19 vaccination requirement conflicts with your religious belief.

Before it would act on the request, the Agency further required each Complainant to review and sign a form with “information to ensure your understanding of how commonly fetal stem cells are used in the testing and development of everyday medications.” The form listed 23 medications and stipulated:

My signature below indicates that I received a copy of this document, Additional Information Related to the Use of Fetal Stem Cells, read through it in its entirety, and fully understand how fetal stem cells were used in the development of the listed medications. I acknowledge that the reason(s) for my sincerely held religious belief regarding COVID-19 vaccines also applies to the listed medications since they also used fetal cell lines in their development or testing.

In the end, the panel concluded that receiving the COVID-19 vaccine did, in fact, conflict with each Complainant’s sincerely held religious belief and practice. The panel nevertheless recommended, and the deciding official concurred, that granting any accommodation would impose an undue hardship. The deciding official’s analysis considered two key factors:

- 1) Risk of infection for unvaccinated individuals.
- 2) Testing costs, estimated by the deciding official at approximately \$5,000.00 to \$10,000.00 per year per unvaccinated employee.

In mid-December 2021, about two months after lodging the original requests, Complainants were told their requests were denied in full. They were given 14 days to get their first vaccine dose and again admonished that non-compliance would result in disciplinary action and eventual termination.

After their accommodations requests were denied, Complainants continued to decline vaccination. There is no evidence in the record that the Agency initiated any disciplinary proceedings or other adverse action.

On January 21, 2022, a judge for the Southern District of Texas entered a preliminary nationwide injunction against Executive Order 14043. Feds for Med. Freedom v. Biden, 581 F. Supp. 3d 826, 830 (S.D. Tex. 2021) (subsequent history omitted). Consistent with the injunction, the Agency refrained from taking any disciplinary action. Complainants were allowed to continue working at the school, provided they masked and regularly tested.

ANALYSIS

A. Stating a claim under Muldrow

In its final decisions, the Agency concluded Complainants did not state claims for relief since they were never formally disciplined or terminated for remaining unvaccinated. The factual contention is true, to a point, since the Agency’s plans to terminate Complainants were cut short by nationwide injunction. We do not agree, however, that the district court’s fortuitous intervention deprives Complainants of a cause of action. There is ample evidence to establish that Complainants had already suffered redressable injuries because of the Agency’s actions before the district court intervened.

Crucially, this is not a case where an agency was still in the process of deciding a pending accommodation request when the injunction came down. The Agency here had already issued its final decision denying accommodation and threatening discipline and termination if Complainants failed to comply. In the Ninth Circuit, where these cases arise, it has long been established that a denied reasonable accommodation for religion, followed by “threatened” disciplinary action, is enough to state a claim. Tiano v. Dillard Dep’t Stores, Inc., 139 F.3d 679, 681 (9th Cir. 1996); see also Heller v. EBB Auto Co., 8 F.3d 1433, 1438 (9th Cir. 1993).

Additionally, we consider that previous decisions on this issue did not have the benefit of the Supreme Court’s decision in Muldrow v. City of St. Louis. In Muldrow, the Court clarified that to state a claim under Title VII, a plaintiff need only establish “some injury respecting . . . employment terms or conditions.” 601 U.S. 346, 355 (2024) (emphasis added). That injury need not be “significant[,] . . . [o]r serious, or substantial, or any similar adjective suggesting that the disadvantage to the employee must exceed a heightened bar.” Id.

To decide the instant appeals, we need not precisely establish Muldrow's floor, i.e., the bare minimum that must be alleged to state a claim. We note that in light of Muldrow, courts have begun revisiting heightened pleading standards for religious accommodation plaintiffs. See Bilyeu v. UT-Battelle, LLC, 154 F.4th 396, 405 (6th Cir. 2025) (“[A] court cannot dismiss a Title VII complaint simply because the plaintiff’s only harm is having to choose between violating his religious beliefs and violating workplace policies”) (recognizing abrogation of Tepper v. Potter, 505 F.3d 508 (6th Cir. 2007)); Cole v. Grp. Health Plan, Inc., 105 F.4th 1110, 1114 (8th Cir. 2024) (“the denial of a requested religious accommodation absent a showing of undue hardship may itself constitute an adverse action [under Muldrow]”); Desmarais v. Wright, No. CV 23 - 1541 (LLA), 2026 WL 523022, at *4 (D.D.C. Feb. 25, 2026) (alleged discriminatory “deprioritization” of plaintiff’s request for religious exemption to vaccine mandate stated a claim under Muldrow).

Whatever Muldrow's floor, the circumstances here rise well above it. Complainants were made to undergo an unduly intrusive interrogation of their religious beliefs. Their requests for accommodation were formally denied. And they were threatened with the virtual certainty of eventual termination. The circumstances clearly exceeded “some injury” to Complainants’ employment.

B. Complainants’ prima facie case

Turning to the merits, we start with the basic principle that “Title VII . . . requires employers to accommodate the religious practice of their employees unless doing so would impose an ‘undue hardship on the conduct of the employer’s business.’” Groff v. Dejoy, 600 U.S. 447, 453-454 (2023) (quoting 42 U.S.C. § 2000e(j)). To prevail here, Complainants must demonstrate (1) they had a sincere religious practice conflicting with an employment requirement; (2) they informed the employer of this conflict; and (3) the employer nevertheless maintained the employment requirement. See, e.g., Baker v. Home Depot, 445 F.3d 541, 546 (2d Cir. 2006); Storey v. Burns Int’l Sec. Svcs., 390 F.3d 760, 767 n. 17 (3d Cir. 2004); Jones v. TEK Indus., Inc., 319 F.3d 355, 359 (8th Cir. 2003); Daniels v. City of Arlington, 246 F.3d 500, 506 (5th Cir. 2001); Chalmers v. Tulon Co. of Richmond, 101 F.3d 1012, 1019 (4th Cir. 1996).

If Complainants establish their prima facie cases, the Agency may, as a total defense, establish that the accommodation would amount to an undue hardship, meaning “a burden [that] is substantial in the overall context of an employer’s business.” Groff at 468 (quotations omitted).

The prima facie elements resolve persuasively in Complainants’ favor. On the sincerity prong, we are convinced Complainants had a deep-rooted objection, religious in nature, to the available vaccines. Each Complainant persuasively described their belief in the sacredness of human life and their attendant practice of refraining from substances derived using human fetal cells obtained through abortion. The belief and practice, derived from scripture and prayer, are unquestionably religious. And the sincerity of this belief and practice is convincingly bolstered by the fact that each Complainant was willing to face discipline, and even lose their livelihoods, to remain true to this practice.

On the notice prong, there is also no question the evidence favors Complainants. There is no dispute Complainants promptly informed the Agency of their religious objection. Nor is there any indication in the record that Complainants were anything but cooperative during the interactive process. Complainants jumped through each hoop the Agency placed in front of them, answered every question, and signed every form.

On the last prong, whether the employer nevertheless maintained its employment requirement, the Agency makes much of the fact that its plans to terminate Complainants never came to fruition due to intervening court order. There is no hiding the fact, however, that the Agency made a final decision squarely denying Complainants’ requests. And we cannot ignore that the Agency made it clear to Complainants they would eventually be terminated for their non-compliance. We are not convinced that a third-party’s, i.e., the court’s, belated intervention absolves the Agency from its legal obligations to provide its employees with a timely reasonable accommodations for their religious practices. It was still the case that Complainants went more than a month, from the time their requests were formally denied to the issuance of the nationwide injunction, waiting for the other shoe to drop. Under the unique circumstances here, this amounts to an actionable denied accommodation.

The Agency will be liable for the consequences of its decision to deny accommodation unless it can show that granting it would have been an undue hardship.

C. The Agency’s undue hardship defense

As noted above, the deciding official determined undue hardship based on two key factors, first that unvaccinated individuals were at a higher risk of severe infection, and second that regular testing, over the long term, would be expensive. In concluding that these factors established an undue hardship, the deciding official applied a “de minimis” standard derived from the Supreme Court’s decision in Trans World Airlines, Inc. v. Hardison, 432 U.S. 63, 84 (1977). In the interim, however, the Court has clarified, “the de minimis reading of Hardison is a mistake.” Groff, 600 U.S. at 454. The correct reading is that an “undue hardship is shown when a burden is substantial in the overall context of an employer's business.” Id. at 468 (quotations omitted). We approach the record de novo with this correct reading in mind.²

Because it is not dispositive, we accept for the sake of argument the Agency’s contention that an unvaccinated employee is at a heightened risk of serious infection. This could tend to show that simply exempting Complainants from vaccination could present a workplace safety concern. But we have never approached religious accommodation as an all or nothing proposition. Where an employee’s religious practice conflicts with an employment requirement, the inquiry isn’t just whether the requirement can be waived wholesale without undue hardship on the employer. In many cases, the pertinent question is whether there is a reasonable alternative to the employment requirement that does not conflict with the employee’s religious practice and does not impose an undue hardship on the employer. So while the Agency might end up being right that it was not required to simply exempt Complainants from vaccination, full stop, that still leaves the question whether an

² Although Groff was decided after the events in this case, its holding “must be given full retroactive effect in all cases still open on direct review and as to all events, regardless of whether such events predate or postdate [the Court’s] announcement of the rule.” Harper v. Virginia Dep’t of Tax’n, 509 U.S. 86, 97 (1993).

alternative existed that would meet both Complainants' religious needs and the Agency's safety needs.

Under the circumstances, and on the record here, testing and masking were at least potential reasonable alternatives to vaccination. Testing and masking ostensibly effect similar safety goals as vaccination. In conjunction they plausibly mitigate transmission. And testing plausibly improves individual outcomes for an unvaccinated employee by allowing for early identification and intervention should the employee become infected. The Interior Secretary contemplated as much, advising Agency managers that implementation of the vaccine mandate would involve considering testing and masking as possible reasonable accommodations. Dep't of the Interior, Order No. 3402, p. 2 (Sept. 2, 2021).

Since testing and masking were considered by the Agency as a potential reasonable alternative to vaccination, the only remaining question is whether this alternative would have imposed an undue hardship. The Agency fails to persuade.

The Agency first claims undue hardship because testing and masking would have been, to its view, less effective than vaccination. We do think relative effectiveness can be relevant to the undue hardship analysis. However, we are also mindful that undue hardship is an affirmative defense, meaning the Agency bears "the burdens of production and persuasion." 42 U.S.C. § 2000e(m). We cannot just take the Agency's word that testing and masking are materially less effective. To fulfill our role as *de novo* factfinder, we still need to see the underlying evidence supporting that conclusion. Yet we find none in the record. And it is not our place to independently research the question to drum up evidence to support any party. Since the Agency's safety concerns about testing and masking remain unsubstantiated on the present record, we cannot say that allowing Complainants to test and mask in lieu of vaccination would have created a "substantial" burden on the safety of the Agency's business. Groff, 600 U.S. at 468.³

³ Our decision today does *not* establish that testing and masking is *never* an undue hardship due to safety concerns. Whether a particular accommodation imposes an undue hardship must be decided on a case-by-case basis. And it must be decided based on the available evidence. The Agency here provided no evidence, other than

Besides safety, the deciding official was concerned with the costs of testing. The problem, again, is a lack of evidentiary support in the record. The deciding official estimated that a single test would cost \$127.00, with yearly costs of \$5,080.00 if given weekly and \$10,160.00 if given bi-weekly. But where did she come up with that number? Before making her decision, the deciding official received implementing instructions from the Manager of Employee and Labor Relations estimating that tests would cost as little as \$25.00 each, with yearly costs between \$1,000.00 to \$5,000.00.

Although the record is also devoid of evidence of how the E&L Manager derived his numbers, we will accept them for the sake of argument. Under the circumstances, we are not persuaded that a yearly outlay of \$1,000.00 to \$5,000.00 per Complainant would have imposed a “substantial” burden on the Agency’s business. These are not inconsequential amounts, but we must take into consideration the resources reasonably available to the Agency. In addition to its own operational funds, the Agency could purchase testing supplies with funds provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), PL 116-136, 134 Stat 281 (Mar. 27, 2020). That is, in fact, exactly what the Agency eventually did, using CARES funds to purchase tests for Complainants and other unvaccinated employees after the vaccine mandate was enjoined in January 2022. And there is no indication in the record to suggest that these sustained purchases imposed a substantial burden on the Agency’s business or otherwise meaningfully interfered with the Agency’s ability to deliver effective educational services. This is persuasive, and emphatic, evidence that reasonably accommodating Complainants’ religious practices with testing and masking would not have imposed an undue financial hardship on the Agency.

Accordingly, the Agency has fallen short of its obligations under Title VII.

D. The Agency’s discriminatory process for religious accommodations

We find additional concern in the Agency’s general handling of religious-based accommodation requests related to the vaccine.

its say so, tending to show that testing and masking would have been so unsafe as to create an undue hardship on its operations.

The Agency concedes that at the time the vaccine mandate was issued, it did not have any established process for employees to request reasonable accommodations for religious reasons. When numerous employees requested religious accommodations to the mandate, the Agency had to make up a process on the fly.

At the barest minimum, a process to handle religious accommodation requests needs to provide employees with a non-adversarial forum to support their request and receive a reasonably prompt decision. The process the Agency imposed was adversarial to the point that we can persuasively infer an underlying discriminatory, even disdainful, motive. The Agency singled out employees with religious objections related to the use of human fetal cells for particularly disfavored treatment. They were summoned to an inquisitorial panel to be quizzed and lectured on their medical history and knowledge of other medicines derived from human fetal cells. We are persuaded that the crucible of invasive gotcha-style questioning was a thinly veiled, and discriminatory, attempt to expose supposed hypocrisy and convince Complainants to recant their objections. Even if the Agency had in the end formally granted Complainants' requests for accommodation, we would find an independent Title VII violation based on this discriminatory process.

This is not to say that an employee's asserted religious views evade all scrutiny. Measured, non-adversarial inquiry may be appropriate to help the employer fully understand the contours and sincerity of the employee's religious beliefs and practices. But like a reviewing court, the Agency's inquiry as an employer is necessarily a "narrow function" limited to whether the purported religious conflict "reflects an honest conviction." Burwell v. Hobby Lobby Stores, Inc., 573 U.S. 682, 725 (2024). Within this narrow scope, the "veracity [i.e., the correctness] of [the employee's] religious belief" does not meaningfully bear on the honesty of the conviction. Detwiler v. Mid-Columbia Med. Ctr., No. 23-3710, 2026 WL 1019017, at *3 (9th Cir. Apr. 15, 2026) (Forrest, J. dissenting to denial of reh'g en banc) (citing United States v. Ballard, 322 U.S. 78, 86–87 (1944)). Nor should the Agency as employer "assess the reasonableness of [an employee's] belief." Id. (citing Bolden-Hardge v. Off. of Cal. State Controller, 63 F.4th 1215, 1223 (9th Cir. 2023)).

At bottom, Title VII extends its protections to "all aspects of religious observance and practice, as well as belief." 42 U.S.C. 2000e(j) (emphasis added).

All means all, and an employer may not decline to accommodate a sincere religious practice simply because the employer finds it objectionable, ill-considered, or inscrutable. Compare Thomas v. Review Bd. of Ind. Emp. Sec. Div., 450 U.S. 707, 714 (1981) (“[R]eligious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection.”).

CONCLUSION

For the foregoing reasons, we find the Agency liable for unlawful religious discrimination. We REVERSE the Agency’s final decisions and REMAND to the Agency for consideration of appropriate remedies and relief, consistent with the ORDER below.

ORDER

The Agency, within **120 calendar days** of the date this decision is issued, shall take the following remedial actions:

1. The Agency shall conduct and complete a supplemental investigation to determine whether Complainants are entitled to compensatory damages. In so doing, the Agency shall:
 - a. Issue a notice to Complainants of their right to submit evidence based our guidance in Carle v. Dep’t of the Navy, EEOC Appeal No. 01922369 (Jan. 5, 1993) and request evidence from Complainants in support of compensatory damages. The Notice shall provide Complainants with **30 calendar days** to respond (with an option and instructions to request an extension in the case of extenuating circumstances). Complainants have a duty to cooperate with Agency’s investigation to determine compensatory damages, including responding to Agency requests for documentation or completing Agency forms.
 - b. Issue new final Agency decisions (“Compensatory Damages FADs”) based on the findings of the supplemental investigations. The Compensatory Damages FADs shall state the amount (if any) of compensatory damages owed to Complainants and explain how the Agency determined that amount. The Compensatory Damages FADs shall include appeal rights to the Commission.

Within **60 calendar days** of the date the Compensatory Damages FADs are issued, the Agency shall pay Complainants the amount of compensatory damages it determined they are owed. If there is a dispute over the exact amount of compensatory damages owed, the Agency shall pay the undisputed amount to Complainants. If Complainants disagree with the Agency's award, they may challenge the Agency's decisions on the amount of compensatory damages by filing appeals of the Compensatory Damages FADs with the Commission. Instructions on how to appeal, including the deadline to file, will be included in the appeal rights portion of the Compensatory Damages FADs.

2. Within **90 calendar days** of the date this decision is issued, the responsible management officials shall complete four hours of online or live training on the Agency's obligations under Title VII with an emphasis on accommodating employees' religious practices. For assistance in obtaining the necessary training, the Agency may contact the Commission's Outreach, Training and Engagement Division via email, at FederalTrainingandOutreach@eeoc.gov. The Agency shall provide the Compliance Officer with proof of attendance, as well as the contents and materials it used for the training. If the responsible management officials have left the Agency's employment, then the Agency shall furnish documentation of his/her/their departure date.

3. Within **15 calendar days** of the date this decision is issued, U.S. Department of Interior, Office of Civil Rights or equivalent, shall contact the Office of Federal Sector, Federal Sector Oversight and Compliance Service, for Technical Assistance on the Agency's reasonable accommodation process under Title VII of the Civil Rights Act of 1964, as amended. With technical assistance from EEOC, the Agency will establish a fair and effective process for religious accommodation. The EEOC reserves authority to issue additional orders as necessary to ensure implementation of a fair and effective process for religious accommodation at the Agency.

POSTING ORDER (G0617)

The Agency is ordered to post, at its Sherman Indian High School located in Riverside, California, copies of the attached notice. Copies of the notice, after being signed by the Agency's duly authorized representative, shall be posted both in hard copy and electronic format by the Agency within 30 calendar days of the date this decision was issued, and shall remain posted for 60 consecutive days, in conspicuous

places, including all places where notices to employees are customarily posted. The Agency shall take reasonable steps to ensure that said notices are not altered, defaced, or covered by any other material. The original signed notice is to be submitted to the Compliance Officer as directed in the paragraph entitled "Implementation of the Commission's Decision," within 10 calendar days of the expiration of the posting period. The report must be in digital format and must be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

ATTORNEY'S FEES (H0124)

If Complainants have been represented by an attorney (as defined by 29 C.F.R. § 1614.501(e)(1)(iii)), they are entitled to an award of reasonable attorney's fees incurred in the processing of the complaint. 29 C.F.R. § 1614.501(e). The award of attorney's fees shall be paid by the Agency. The attorney shall submit a verified statement of fees to the Agency -- not to the Equal Employment Opportunity Commission, Office of Federal Operations -- within thirty (30) calendar days of receipt of this decision. The Agency shall then process the claim for attorney's fees in accordance with 29 C.F.R. § 1614.501.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and §1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a).

The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

STATEMENT OF RIGHTS - ON APPEAL
RECONSIDERATION (M1125)

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that tend to establish that:

1. The appellate decision involved a clearly erroneous interpretation of material fact or law; or
2. The appellate decision will have a substantial impact on the policies, practices, or operations of the agency.

Requests for reconsideration must be filed with EEOC's Office of Federal Sector (OFS) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration.** A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015).

Complainant should submit their request for reconsideration, and any statement or brief in support of their request, via the EEOC Public Portal, which can be found at <https://publicportal.eeoc.gov/Portal/Login.aspx>. Alternatively, Complainant can submit their request and arguments to the Director, Office of Federal Sector, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFS receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files their request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the request for reconsideration.** The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(f).

COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0124)

This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency, or filed your appeal with the Commission. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by their full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you

work. **Filing a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests. Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:



Gul Chaudhry, Acting Director
Office of Federal Sector

May 15, 2026
Date