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**KENNEDY: EEOC CHANGES WILL FURTHER UNDERMINE ENFORCEMENT OF
CIVIL RIGHTS LAWS**

Washington, DC: Today the Equal Employment Opportunity Commission approved proposed changes to the form that employers use to track the race and ethnicity of their employees. Senator Kennedy sent the following letter to EEOC Chair Cari Dominguez yesterday urging her not to make these changes prior to the vote. There is a thirty day review period before the decision becomes final.

“I am deeply disappointed at the outcome of the Equal Employment Opportunity Commission’s vote,” Senator Kennedy said. “These changes create an inaccurate and incomplete picture of the workforce, and will undermine our efforts to monitor and combat racial discrimination in the workplace. The proposal is yet another shameful attempt by the Bush administration to weaken enforcement of our nation’s critical civil rights laws.”

Below is the text of the letter:

November 15, 2005

The Honorable Cari Dominguez
Chair
Equal Employment Opportunity Commission
1801 L Street, NW, 10th Floor
Washington, DC 20507

Dear Chair Dominguez:

Now more than ever, we need the skills and talents of everyone for America to compete in the global economy. We should be doing everything we can to remove obstacles to the full participation of every American in our economy. So I urge you to reconsider a proposal before the Commission that would weaken enforcement of our laws against discrimination in the workplace.

Specifically, the Commission’s proposal to alter the system currently used to classify the race and ethnicity of employees on the EEO-1 report will have wide-ranging effects on our ability to combat discrimination and move America forward. The data collected through the EEO-1 Report is essential to meaningful enforcement of our nation’s laws prohibiting unlawful discrimination in the workplace. While it is important that the Commission continue to monitor, and periodically update, its methods for data collection, the Commission should take particular

care to ensure that changes to this form do not undermine its intended purpose to assist our efforts in monitoring and enforcing compliance with civil rights laws.

Particularly troubling to me is the proposed new requirement mandating that all persons of mixed race or ethnicity must be classified on the form in a catch-all “two or more races” category, rather than included in both (or all) of the appropriate racial or ethnic classifications. This change will undermine the efforts of the Commission, employers, and private litigants to monitor and enforce our employment anti-discrimination statutes for employees in all racial and ethnic categories, especially for those employees that are lumped together in this “two or more races” category. This “catch all” category would no doubt encompass a tremendous variety of people. Including all mixed-race individuals in a single category creates an inaccurate, less refined picture of workforce composition that inappropriately dilutes the number of people classified in many racial or ethnic groups.

This change will have an especially adverse effect on private litigants. As you are well aware, EEO-1 data is the basis for almost all public and private pattern or practice suits alleging racial and gender discrimination. Without accurate data about the race of employees, it is very difficult to develop statistical evidence of discrimination. A requirement that all persons of mixed race or ethnicity be reported in a single category would essentially make pattern or practice civil rights enforcement impossible, because accurate data about historical patterns of employment for particular races or ethnicities would not be available. This result would be inconsistent with the intent of our civil rights laws, which clearly contemplate a role for private citizens as private attorneys-general playing an active role in combating systemic workplace discrimination.

In contrast, a requirement that employers report both (or all) races of a mixed-race employee, at least for the most common racial combinations, would produce far more accurate information that would be more useful for government, employers and private citizens alike. Allowing multiple racial and ethnic classifications would also correct a shortcoming of the current form, which does not allow individuals who identify themselves as Hispanic or Latino in ethnicity to also identify themselves by race.

I urge the Commission to consider these issues seriously before revising the EEO-1 form, and to engage in a meaningful dialogue with stakeholder communities before implementing any proposed revisions.

With best wishes.

Sincerely,

Edward M. Kennedy

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