



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Washington, D.C. 20507**

Office of  
Legal Counsel

October 28, 2022

Michael J. Lotito  
Shareholder and Co-Chair of Littler Workplace Policy Institute  
Littler Mendelson, P.C.  
333 Bush Street  
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San Francisco, California 94104

Delivered via email: [milotito@littler.com](mailto:milotito@littler.com)

Dear Mr. Lotito:

Thank you for your letter of October 21, 2022, regarding correspondence sent by the former General Counsel of the Equal Employment Opportunity Commission (EEOC), Sharon Gustafson. In your letter, you stated that Ms. Gustafson's correspondence was sent directly to employers represented by your firm.

You also indicated that Ms. Gustafson's correspondence has caused your clients significant confusion and concern because they understood the letter to suggest that Ms. Gustafson has some measure of legal authority and that her views may reflect the EEOC's position and intent.

Ms. Gustafson is not an employee of the EEOC, and she lacks authority to speak on behalf of the agency. Accordingly, her letter should be understood to represent her own views, not those of the Commission.

Information about the EEOC's established, Commission-approved positions with respect to pregnancy and pregnancy-related medical conditions can be found here: [Pregnancy Discrimination and Pregnancy-Related Disability Discrimination | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov/pregnancy-discrimination). As with any charge of discrimination filed with the EEOC, the Commission would evaluate any alleged Title VII violations involving employer benefit

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policies based on all the facts and circumstances of the particular matter and applicable legal principles.

I hope that this letter is helpful. Please feel free to share it with your clients.

Sincerely,

Carol R. Miaskoff  
Legal Counsel  
Equal Employment Opportunity Commission