Late last Friday afternoon, the Chair of the U.S. Equal Employment Opportunity Commission chose to overhaul the Commission’s conciliation process without so much as a courtesy copy to the Commissioners. This change, implemented under the guise of a nationwide pilot program, is beyond the Chair’s administrative authority and an end run around the Commission. The EEOC was established as a bipartisan, deliberative body to work cooperatively to further the national commitment to civil rights. In the midst of the current crises facing Americans, the Commission’s role is as important as ever. The pilot should be rescinded so that the Commission has the opportunity to consider whether changes are needed to the conciliation process.

Conciliation has a direct, real world impact on the rights of every employee who experiences unlawful discrimination, harassment, or retaliation at work. It is therefore fundamental to EEOC’s mission to eliminate unlawful discrimination in the workplace. The Civil Rights Act of 1964 provides that when the Commission finds reasonable cause to believe discrimination occurred, it must seek resolution through “informal methods of conference, conciliation, and persuasion” before filing suit to enforce the law. The conciliation process is not an end in itself, but rather a tool to eliminate workplace discrimination.

Congress vested the Commission with authority over major policy decisions about the conciliation process, just as the Commission has the authority to vote on litigation. For decades, the Commission has exercised this authority by outlining the procedures for conciliation in Commission regulations, the EEOC Compliance Manual, and other policy documents—all of which were approved by a Commission vote. While the Commission has delegated authority for day-to-day conduct of conciliation to career staff, the Commission—not the Chair alone—sets policy about conciliation. Conciliation is too important a subject for unilateral action by the Chair, and I urge Chair Dhillon to reconsider her decision.