



U.S. Equal Employment Opportunity Commission

# Position of Acting Chair Lucas Regarding the Commission's Final Regulations Implementing the Pregnant Workers Fairness Act

Acting Chair Andrea R. Lucas has been vocal in her opposition to certain parts of the Commission's Final Rule implementing the Pregnant Workers Fairness Act ("PWFA"), enacted as part of the Consolidated Appropriations Act ("CAA"). See Pub. L. 117-328, Div. II, 136 Stat. 4459, 6084-89, 42 U.S.C. §§ 2000gg-2000gg-6; *Implementation of the Pregnant Workers Fairness Act*, 89 Fed. Reg. 29,096 (Apr. 19, 2024) ("Final Rule"). The Acting Chair has explained that while she has supported—and continues to support—elements of the Final Rule, ultimately she was unable to vote to approve it because it broadens the scope of the statute in ways that cannot be reconciled with the text. Specifically, the Acting Chair does not agree with the Commission's interpretation of the phrase "pregnancy, childbirth, or related medical conditions" and the contrivances the Commission used to arrive at its construction of the statute.

As explained in then-Commissioner Lucas's **Statement re: Vote on Final Rule to Implement the Pregnant Workers Fairness Act** ([https://www.eeoc.gov/sites/default/files/2025-01/Lucas\\_Statement\\_re\\_PWFA\\_Final\\_Rule\\_%2804.2024%29.pdf](https://www.eeoc.gov/sites/default/files/2025-01/Lucas_Statement_re_PWFA_Final_Rule_%2804.2024%29.pdf)), dated April 3, 2024, at a high level, the rule fundamentally erred in conflating pregnancy and

childbirth accommodation with accommodation of the female sex, that is, female biology and reproduction. The Commission extended the new accommodation requirements to reach virtually every condition, circumstance, or procedure that relates to any aspect of the female reproductive system.

Acting Chair Lucas voted against the Final Rule when it came up for a vote in April 2024. Consistent with the views she expressed last April, Acting Chair Lucas remains opposed to the Commission's construction of the phrase "pregnancy, childbirth, or related medical conditions" described in the Final Rule. However, the Office of the Chair cannot unilaterally rescind or modify this (or any other) Final Rule under the APA, in whole or in part. Once a quorum is re-established at the Commission, Acting Chair Lucas intends for the Commission to reconsider portions of the Final Rule that she believes are unsupported by law.