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**FACT SHEET: Gallup-McKinley County Schools files federal lawsuit challenging EEOC’s unlawful investigation — School District alleges EEOC acted without legal authority, violated due process, and bypassed state jurisdiction in vague commissioner’s charge**

On August 8, 2025, the Board of Education for the Gallup-McKinley County Schools (GMCS) filed a federal lawsuit, Board of Education for the Gallup-McKinley County Schools v. Andrea R. Lucas, et al., Case No. 1:25-CV-00762 (D.N.M.), challenging the U.S. Equal Employment Opportunity Commission’s (EEOC) ongoing investigation as unlawful, constitutionally deficient, and far outside the agency’s statutory authority. The lawsuit directly responds to the EEOC’s escalating legal pressure, including its recently announced second subpoena enforcement action. The School District’s position is clear: additional subpoenas cannot substitute for a lawful foundation — and the EEOC has none here.

**A VAGUE AND UNLAWFUL CHARGE FROM THE START**

In August 2024, EEOC Commissioner Andrea Lucas filed a self-initiated “Commissioner’s Charge” against GMCS, a public school district serving a community that is overwhelmingly Native American, alleging a vague and unspecified “pattern or practice” of race discrimination since at least 2020. The Charge named no specific employees, identified no specific incidents, cited no complaints, and contained no factual basis for the allegations beyond broad, conclusory language. Under the EEOC’s own regulations, a charge must contain “a clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices.” 29 C.F.R. § 1601.12(a)(3). This charge falls far short of that standard.

No employee or job applicant has filed a complaint against the District. No prior EEOC investigation has ever been opened against the District. No court has ever found the School District liable for employment discrimination. When GMCS’s counsel requested the factual basis for the charge so the District could meaningfully respond, the EEOC refused to provide any additional information.

**THE SCHOOL DISTRICT’S CORE LEGAL CONCERNS**

**A charge with no facts:** The Charge of Discrimination fails to identify any specific employment action, individual, date, or circumstance that could be considered discriminatory. The District has been denied the most basic information needed to understand or respond to the allegations against it.

**Administrative overreach that threatens employee privacy:** Despite the absence of any individual complaint, the EEOC has demanded five years' worth of highly sensitive personally identifiable information on every employee and job applicant, including Social Security numbers, home addresses, personal phone numbers, birth dates, race and ethnicity, supervisor relationships, and complete employment histories. The EEOC's investigative authority is limited to evidence "relevant to the charge under investigation." 42 U.S.C. § 2000e-8(a). A charge that alleges nothing specific cannot justify a fishing expedition into the private data of thousands of GMCS employees and applicants who have done nothing wrong.

**No legal quorum — No legal authority:** Since January 27, 2025, the EEOC has operated with only two commissioners — below the statutory quorum of three required to act as a commission. Title VII vests investigative authority in the Commission as a body, not in any single Commissioner acting alone. Any agency action taken without a lawful quorum is ultra vires and void.

**Violation of mandatory state agency jurisdiction:** Federal law requires the EEOC to notify the appropriate state agency and afford it at least 60 days to act before the EEOC proceeds with a commissioner-initiated charge. The EEOC issued its Notice of Charge to GMCS just two days after the Charge was filed, a direct violation of Title VII and the EEOC's own regulations that independently deprives the agency of jurisdiction. 29 C.F.R. § 1601.13(e).

**Fifth Amendment due process violations:** The Fifth Amendment prohibits vague agency directives that fail to give an employer fair notice of the conduct at issue. All of the Charge's allegations are undefined, overbroad, and turn on the subjective judgment of EEOC officials. The District has been denied the ability to meaningfully respond to or defend against the Charge and courts have long held it is the EEOC's duty to put employers on adequate notice before pursuing enforcement.

## **WHAT GMCS IS ASKING THE COURT TO DO**

The lawsuit asserts five causes of action: a claim for Declaratory Judgment; a Fifth Amendment Due Process / Void for Vagueness violation; Ultra Vires conduct exceeding the EEOC's statutory authority; and two counts under the Administrative Procedure Act alleging arbitrary and capricious agency action and agency action not in accordance with law (5 U.S.C. § 706).

The District is seeking a court order declaring the Charge of Discrimination unlawful, a finding that the Charge violates the Fifth Amendment, an order quashing all subpoenas issued to District officials, a halt to all investigative activity, and a permanent injunction

barring the EEOC from pursuing this investigation. The case is pending before the U.S. District Court for the District of New Mexico.

**STATEMENT FROM GMCS FORMER SUPERINTENDENT MIKE HYATT**

“GMCS serves a community that is overwhelmingly Native American — our students, our staff, and our families. We are not in the business of discriminating against the very community we exist to serve. What we are doing is insisting that the federal government follow the law when it investigates us, provide adequate notice of the allegations against us, and respect the privacy of our employees. That is not obstruction. That is due process.”

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*Case: Board of Education for the Gallup-McKinley County Schools v. Andrea R. Lucas et al., No. 1:25-CV-00762, U.S. District Court for the District of New Mexico.*