

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Civil Action No. _____

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Applicant-Plaintiff,

v.

GALLUP-MCKINLEY COUNTY SCHOOLS,

Respondent.

**APPLICATION FOR AN ORDER TO SHOW CAUSE WHY
ADMINISTRATIVE SUBPOENAS SHOULD NOT BE ENFORCED**

1. This is an action for enforcement of a subpoena issued pursuant to Section 710 of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e-9.
2. Jurisdiction is conferred on this Court by Section 706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3), and by Section 11 of the National Labor Relations Act, 29 U.S.C. § 161, as amended, incorporated in Section 710 of Title VII, 42 U.S.C. § 2000e-9.
3. Applicant and Plaintiff Equal Employment Opportunity Commission (“EEOC”) is the federal agency charged with the administration, interpretation, and enforcement of federal laws prohibiting employment discrimination, including Title VII, and the investigation of charges of unlawful employment practices, and is authorized to bring this action pursuant to Section 710 of Title VII, 42 U.S.C. § 2000e-9.
4. Respondent Gallup-Mckinley County Schools (“GMCS”) is an employer doing business in the State of New Mexico.

5. On August 21, 2024, former EEOC Commissioner and current Acting EEOC Chair Andrea Lucas filed a Commissioner's charge (Charge No. 543-2024-01242) against GMCS alleging a pattern and practice of discrimination in violation of Title VII, including failing to interview, hire, promote, classify, and otherwise discriminate against Native American applicants and employees for jobs as classroom teachers, administrators, and principals. Ex. 1 to Klug Decl.

6. On July 29, 2025, pursuant to its authority under 29 U.S.C. § 161 (incorporated in Section 710 of Title VII, 42 U.S.C. § 2000e-9), the EEOC issued Subpoena Nos. PHX-25-11 and PHX-25-12 to GMCS for the testimony of two witnesses. Exs. 6 & 7 to Klug Decl.

7. The Subpoenas required GMCS to produce high-level administrators Ashley Ryan, GMCS Director of Personnel, and Michael Hyatt, GMCS Superintendent, for testimony needed as part of EEOC's investigation of Charge No. 543-2024-01242. *Id.* The date for testimony in the Subpoenas was August 13, 2025. *Id.*

8. The Subpoenas were received by GMCS's counsel on July 29, 2025 by email and by GMCS through the EEOC's Respondent Portal on July 30, 2025. Exs. 10 & 16 to Klug Decl. The two witnesses also received the subpoenas before August 8, 2025. Exs. 9 & 15 at 22 to Klug Decl.

9. Prior to issuing the Subpoenas, the EEOC attempted to achieve voluntary compliance and set up an interview date with GMCS's agreement to take testimony from these witnesses.

10. On June 9, 2025, the EEOC contacted GMCS to request interviews with the two witnesses for July 30, 2025. Ex. 4 at 2 to Klug Decl.

11. GMCS did not respond to this first request, so the EEOC again requested on July 16, 2025 to interview these two witnesses on July 30, 2025. *Id.* at 1.

12. On July 18, 2025, GMCS agreed to make the witnesses available for interviews in Gallup on July 30, 2025. *Id.*

13. On July 28, 2025, the EEOC emailed GMCS about the upcoming interviews to advise GMCS that it would need approximately two hours with each witness. Ex. 5 at 2 to Klug Decl.

14. On July 29, 2025, the day before the interviews set in Gallup, New Mexico, GMCS unilaterally canceled the interviews and told the EEOC it would “no longer voluntarily cooperate” with the EEOC’s investigation. *Id.* at 1.

15. After receiving this communication stating GMCS would no longer cooperate with the investigation, the EEOC issued Subpoena Nos. PHX-25-11 and PHX-25-12 on July 29, 2025 again seeking the testimony of the two GMCS witnesses. Exs. 6, 7, 10 to Klug Decl.

16. As previously mentioned, the date for the testimony in the Subpoenas was August 13, 2025 at 9:00 a.m. for Ashley Ryan and August 13, 2025 at 11:00 a.m. for Michael Hyatt at the Albuquerque EEOC offices. *Id.*

17. On August 12, 2025, the EEOC received via email a “Notice of Non-Appearance for Deposition” from GMCS for both Ashley Ryan and Michael Hyatt. Ex. 8 to Klug. Decl.

18. At no time did GMCS file a petition to revoke or modify the Subpoenas, as allowed under 29 U.S.C. § 161 (incorporated into Title VII by 42 U.S.C. § 2000e-9).

19. The EEOC has not received any further communication from GMCS about the Subpoenas.

20. GMCS has failed or refused to comply with the Subpoenas.

21. GMCS's failure or refusal to comply with the Subpoenas has delayed and impeded the EEOC's investigation.

22. The accompanying Declaration of April Klug, Albuquerque Area Office Director, filed concurrently herewith, and the attachments thereto, provide the factual support for this Application. The Declaration and the attachments are incorporated by reference into this Application.

WHEREFORE, the Equal Employment Opportunity Commission prays:

- a) That the Court issue an Order directing GMCS to appear before this Court and to show cause, if there be any, why an Order should not issue directing GMCS to comply with the Subpoenas;
- b) That, upon return of the Order to Show Cause, the Court issue an Order directing GMCS to comply with the Subpoenas; and
- c) That the Equal Employment Opportunity Commission be granted its costs and such further relief as may be appropriate.

Respectfully submitted,

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PLEASE NOTE:

For purposes of service on EEOC, it is sufficient that pleadings, notices, and Court documents be served upon the Trial Attorneys.