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United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Washington, DC
20250

Subject: Guidelines for Use of Official Time and Agency Resources – Equal Employment Opportunity (EEO) Complaints

To: APHIS Managers and Supervisors

On occasion, APHIS employees involved in the EEO complaint process may request official time to process their EEO complaint. Currently, employees are authorized time to participate in EEO Counseling, Alternative Dispute Resolution (ADR), EEO Investigations, Administrative Hearings, etc. The decision to grant official time to an employee rests with the employee's manager/supervisor, these guidelines are offered to assist with the approval process.

Equal Employment Opportunity Commission (EEOC) regulations require managers and supervisors to allow complainants who are employees "a reasonable amount of official time, when in official duty status, to prepare their EEO complaint and to respond to agency and EEOC requests for information". EEOC Management Directive (MD)-110, defines "reasonable" as "whatever is appropriate under the circumstances of the complaint". For example, an employee may need additional time to meet with his/her representative, participate in settlement negotiations, meet with an EEO Investigator, etc. Although the actual number of hours approved will vary according to the circumstances of the case, managers and supervisors should always consider the need for employees to be available to perform work on a regular basis. In this regard, it is important that the employee and the supervisor arrive at a mutual understanding as to the amount of official time to be used prior to the employee's use of such time. The following guidance is provided to APHIS managers and supervisors.

1. Informal and Formal EEO Complaint Preparation and Presentation

A reasonable amount of official time (e.g. 2 hours, 3 hours, etc.) will be allowed for an employee to make contact, discuss, and meet to attempt resolution of pre-complaint issues with EEO Counselors and/or Alternative Dispute Resolution (ADR) mediators. A reasonable amount of time may be granted for an employee to prepare for an initial pre-complaint contact, including time to discuss issues with the employee's representative. Official time for such purposes will typically include time to assemble documents to be submitted in conjunction with the complaint; time at the employee's official duty station to meet in person or by phone the employee's representative; and, time to write the complaint.

At the formal complaint stage, official time will be granted to employees to prepare responses to questions or information requests from government officials responsible for processing and/or attempting to resolve EEO complaints (e.g. EEO Counselor,



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Federal Relay Service
(Voice/TTY/ASCII/Spanish)
1-800-877-8339

Agency Representative, Agency/ contract Mediator, contract EEO investigator, designated program resolving official, Office of General Counsel Attorneys, EEOC, USDA Office of Civil Rights, etc.).

2. Meetings and Hearings

Official time is permitted for employees to travel and attend meetings initiated by EEO Counselors, EEO complaint investigators, ADR mediators and other agency officials authorized to discuss and/or attempt EEO complaint resolution. A reasonable amount of official time may be permitted for employees to prepare for such meetings with or without a designated representative. Although individual circumstances will vary, the need for large amounts of time to prepare for meetings and hearings is expected to be rare, being defined in terms of hours (versus days or weeks). Official time is also permitted for employees to attend agency or EEOC initiated meetings or hearings which may last an entire day.

3. Official Time Authorization:

Since all duty hours reported on time and attendance records must be certified by the employee's supervisor, employees requesting official time in conjunction with preparing an EEO complaint must obtain prior approval. Employees are expected to provide their supervisor with sufficient information to determine if the amount of time being requested is reasonable. Requests must be made and approved in writing but need not reveal confidential case information.

If necessary, additional time can be negotiated verbally by the supervisor and the employee. The supervisor must document the approval of additional time in writing and provide a copy to the employee. Other than union representatives whose use of official time is established under contract provisions, supervisors may set limits on the aggregate amount of time their employees may spend representing other to insure continued normal work operations. Supervisors are encouraged to consult with the Civil Rights Enforcement and Compliance (CREC) staff with any questions pertaining to official time requests, especially if such requests exceed 8 hours.

If any official time is denied, a written statement will be required from the supervisor containing the reason for the denial. A copy will be provided to the complainant and to CREC for inclusion in the CREC EEO complaint case file.

4. Agency Provided Resources and Travel

EEOC Management Directive (MD)-110 outlines the following general rule regarding a complainant's use of government property in pursuing discrimination complaint: "The complainant's or complainant's non-attorney representative's use of government property (copiers, telephones, word processors) must be authorized by the agency and must not cause any undue disruption or agency operations." (Chapter 6, Section VIII (E)).

Managers and supervisors requiring additional information on implementation of these guidelines should contact me or Myra Young, Assistant Director, ADR and EEO Counseling via the APHIS Manager's Helpline 1 (800) 372-7428.

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