

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS DIRECTIVE	1510.2	3/17/16
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**USE OF OFFICIAL TIME IN THE EQUAL EMPLOYMENT OPPORTUNITY (EEO)
COMPLAINT PROCESS**

I. PURPOSE

A. This directive provides procedures that FSIS employees are to follow when requesting official time to prepare and present an EEO complaint and respond to Agency requests for information regarding a complaint.

B. This directive includes instructions for Agency employees who:

1. File an EEO complaint;
2. Represent an employee who files an EEO complaint; and
3. Serve as witnesses in an EEO complaint whether the complaint is within FSIS or in another Federal agency.

II. POLICY

29 CFR 1614 grants authority to Federal agencies to develop guidelines for the processing of EEO complaints. In accordance with 29 CFR 1614.605(b), all Federal employees are entitled to a "reasonable amount of official time" when the employee is on duty to prepare and present an EEO complaint and to respond to Agency requests for information regarding EEO complaints. Designated representatives and witnesses who are Federal employees are also entitled to official time. The supervisor is to grant, deny, or negotiate an employee's request for official time for reasons in section I. B., above, after full consideration of the nature of the employee's request and of the present needs of the work unit. The official time is recorded as code 01 (regular base pay) on the time and attendance record.

III. USE OF OFFICIAL TIME FOR AN EMPLOYEE WHO FILES A COMPLAINT

A. An employee is entitled to a reasonable amount of official time to develop, prepare, and present the complaint. The employee is entitled to time to:

1. Make initial contacts;
2. Discuss and meet with EEO Counselors, human resource specialists, mediators, investigators, and other officials as necessary;
3. Assemble and submit documents related to the complaint;

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4. Consult with his or her representative in preparation for the complaint;
5. Draft the complaint;
6. Prepare responses to questions or information requests from government officials involved in the EEO complaint process; and
7. Prepare for and attend EEOC meetings and hearings.

B. An Agency employee who requests official time to pursue a complaint previously filed against another Federal agency is entitled to official time.

IV. EMPLOYEE PROCESS FOR REQUESTING OFFICIAL TIME

FSIS employees are to submit a request in writing for use of official time to his or her supervisor before spending any official work time on an EEO complaint or before representing another employee in a complaint. The request is to include:

1. The specific amount of official time needed;
2. The date of the requested official time;
3. The reasons for the amount of official time requested; and
4. Any additional information that would aid the Agency in determining whether the request is reasonable under EEOC regulations, excluding specific confidential case information.

V. SUPERVISOR RESPONSIBILITIES

A. The employee and the supervisor are to attempt to arrive at a mutual understanding of the amount of official time permitted. The supervisor is not to reject the amount of official time requested without first considering the employee's reasoning for the request. A "reasonable" amount of official time is defined on a case-by-case basis as whatever is appropriate, under the particular circumstances of the complaint, in order to allow a complete presentation of the relevant information associated with the complaint and to respond to the Agency's request for information. The actual number of hours granted to an employee and his or her representative will vary depending on the nature and complexity of the complaint and the need for available employees to perform their normal duties. Supervisors may not request the employee or the Civil Rights Staff (CRS) to reveal any confidential information about the complaint.

B. In the counseling and investigative stages of a complaint, the need for large amounts of preparation time is expected to be rare; however, individual circumstances may vary. A reasonable amount of preparation time will generally be defined in terms of hours rather than days. Official time requested in relation to the administrative hearing process is automatically deemed reasonable.

C. If the supervisor denies, in part or in whole, the initial request for use of official time for the complaint, he or she is to provide the complainant, or his or her representative, with a written explanation for the denial and to provide a copy to the CRS for inclusion in the EEO complaint file.

D. Supervisors are to authorize an employee's request for reasonable use of government property (i.e., telephone, computers, fax, supplies, etc.) in the processing of a complaint. Supervisors are to

ensure that an employee's use of government property does not cause undue disruption to Agency operations.

E. The supervisor is to authorize an employee's request for a reasonable amount of official time to represent employees of other USDA agencies.

F. Representatives from other USDA agencies and offices are to request official time from his or her supervisor in accordance with their agency's or office's policies or procedures.

VI. USE OF OFFICIAL TIME BY EMPLOYEE REPRESENTATIVE

A. Any USDA non-supervisory employee may serve as another employee's representative at any stage in the EEO complaint process, provided there is no conflict of interest between the representation functions and the representative's official duties. The complainant and his or her representative are to notify their first-line supervisors, in writing, of the designation of representation. The designated representative is to request use of official time in writing from his or her supervisor according to paragraph IV above. The representative can use official time to:

1. Assist in the preparation of a complaint;
2. Assist in responding to requests for information from the Agency or from an EEOC Administrative Judge;
3. Prepare for meetings with Agency officials;
4. Meet with Agency officials;
5. Prepare for a hearing; or
6. Present the case before the EEOC.

B. The Agency is not obligated to allow employees to change work schedules, pay overtime wages, or pay travel expenses to facilitate an in-person meeting between an employee and her or his choice of a specific representative. When a local representative is available, the Agency is not required to pay travel expenses for a non-local representative. The Agency will pay the travel expenses for the local representative consistent with the Federal travel regulations.

C. In accordance with 29 CFR 1614.605(c), a representative may be disqualified from representing an FSIS employee if the representational functions constitute a conflict of interest with the representative's official duties.

VII. USE OF OFFICIAL TIME FOR WITNESSES

In accordance with 29 CFR 1614.605(f), a witness who is a Federal employee, regardless of whether he or she is employed by FSIS, USDA, or another Federal agency, is entitled to official time when his or her presence is authorized or required by Commission or Agency officials in connection with an EEO complaint.

VIII. QUESTIONS

Refer questions regarding this directive to the Civil Rights Staff by telephone at (301) 504-7755 or e-mail at AskCRD@fsis.usda.gov.

A handwritten signature in black ink, appearing to read "David Joseph". The signature is written in a cursive style with a large initial "D" and "J".

Assistant Administrator
Office of Policy and Program Development