



**Civil Rights & Diversity
Issuance System**



CRD – 013

Date: February 1, 2022

Office: Office of Civil Rights and Diversity

Subject: Processing Requests for Official Time in Pre-Complaints and Formal Complaints of Discrimination

1. **PURPOSE.** This issuance constitutes the Department of the Treasury’s policy with respect to requests by complainants, their representatives, and witnesses for official time during the pre-complaint and formal stages of the administrative Equal Employment Opportunity (EEO) complaint process. This document supplements, but does not replace, existing Equal Employment Opportunity Commission (EEOC) complaint procedures under 29 Code of Federal Regulations (CFR) 1614 and Management Directive 110 (MD-110).
2. **SCOPE.** This policy applies to all bureaus, offices, and organizations in the Department, including the Offices of Inspectors General within the Department. The provisions of this issuance shall not be construed to interfere with or impede the authorities or independence of the Offices of the Inspectors General.
3. **CANCELLATION.** Office of Equal Opportunity Program (OEOP) 003-01, “Requests for Official Time for Processing Complaints of Discrimination”, dated June 14, 2001.
4. **EFFECTIVE DATE.** This policy is effective as of the date of signature.
5. **REFERENCES.**
 - a. 29 CFR 1614.605(b).
 - b. MD-110, Chapter 6.

6. **POLICY.** It is the policy of the Department of the Treasury to ensure an objective EEO complaint processing program by providing complainants, their representatives, and witnesses, if they are employees of the agency, a reasonable amount of official time to prepare a complaint and to respond to Treasury and EEOC requests for information.
7. **DEFINITIONS.**
 - a. **Reasonable Amount of Official Time.** "Reasonable" is defined 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 agency requests for information. The actual number of hours to which a complainant and their representative are entitled will vary, depending on the nature and complexity of the complaint and considering the mission of the agency and the agency's need to have its employees available to perform their normal duties on a regular basis.
 - b. **Duty Status.** "Duty status" refers to an individual's normal hours of work.
8. **ELIGIBILITY.** The following employees are eligible for official time:
 - a. A complainant and their representative, who are employees of the Treasury and when otherwise in a pay status, are entitled to a reasonable amount of official time to present a complaint or perfect an appeal, or when their presence or written responses are authorized or required by the Treasury or EEOC during the investigation, resolution or settlement attempts, or hearing on the complaint.
 - b. A witness in an EEO complaint, who is a federal employee of the Treasury, regardless of whether the complaint was filed at the witness's bureau, another Treasury bureau, or even at another federal agency is entitled to official time when their presence or written responses are authorized or required by the Treasury or EEOC in connection with an EEO complaint.
9. **REQUESTS FOR OFFICIAL TIME.** Prior to the use of official time, Treasury and its employees should arrive at a mutual understanding as to the amount of official time to be used in connection with an EEO complaint. When reviewing or granting requests for official time, the following considerations should apply:
 - a. To the extent practical, meetings shall be scheduled during a complainant's or representative's normal working hours. If meetings, conferences, and hearings are scheduled outside of the complainant's or representative's normal working hours, Treasury should grant an adjustment to the work schedule to coincide with such meetings or hearings or should grant compensatory time or official time to allow an approximately equivalent time off during normal hours of work.
 - b. Treasury is not required to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow a complainant to confer with their representative.

- c. Time spent commuting to and from home should not be included in official time computations.
- d. Treasury should allow a reasonable amount of official time to prepare the formal complaint or appeals to EEOC, to prepare declarations, or to prepare for meetings, conferences, and hearings; however, a reasonable amount of preparation time is defined in terms of hours, not days, weeks, or months.
- e. Treasury may restrict overall hours afforded to a representative, for both preparation purposes and attendance at meetings and hearings, to a certain percentage of the representative's duty hours in any given month, quarter, or year.
- f. Treasury should take into consideration the nature of the position occupied by the representative, the mission, and the degree of hardship imposed on the agency's mission by the representative's absence from their normal duties.
- g. Treasury is not required to provide official time to employee representatives who are representing complainants in cases against other federal agencies.
- h. Witnesses who are federal employees of the Treasury, regardless of whether Treasury or some other federal agency is the respondent agency, shall be in a duty status when their presence is authorized or required by the agency or EEOC in connection with an EEO complaint.

10. DENIALS OF OFFICIAL TIME. If a Treasury supervisor or manager denies a request for official time (either in whole or in part) during the informal (pre-complaint) or formal stage, the agency must include a written statement in the complaint file noting the reason(s) for the denial. Where a request for official time is denied (in whole or in part) while an Administrative Judge is presiding over the matter, a copy of the Treasury's denial of official time with the requisite explanation should be provided to the Administrative Judge when provided to the requestor.

11. RESPONSIBILITIES. Treasury bureaus are responsible for establishing a process for requesting official time and deciding how much official time will be granted. In exercising this policy, bureaus shall carry out the following responsibilities:

- a. Identify appropriate officials to contact on questions regarding official time.
- b. Request and consider appropriate information and documentation from the parties involved when making a determination on official time.
- c. Document the denial of official time and reasons for the denial. Bureaus shall provide the complainant and/or their representative with a written explanation for any denial of official time during the informal (pre-complaint) or formal stage. The document should

then be forwarded to the Office of Civil Rights and Diversity (OCRD), either as part of the administrative file at the informal stage, or separately at the formal stage.

- d. Ensure that supervisors and managers are made aware of their responsibilities for providing a reasonable amount of official time to complainants, representatives, and witnesses.
- e. Inform complainants, their representatives, and others who may need official time (such as witnesses) of the procedures for requesting or claiming such time.

12. FEDERAL DISTRICT COURT CLAIMS. This policy only covers reasonable time for complaints in the EEO administrative process. Treasury is not required to grant official time to an employee in preparation for or in pursuit of their claims of discrimination in District Court; however, there are instances when a complainant is entitled to official time at this level, such as when the employee is summoned as a witness in a judicial proceeding. It is recommended that bureaus establish a policy on this matter that is in accordance with Treasury, Comptroller General, and Court decisions to ensure consistent decision-making within the bureaus.

13. OFFICE OF PRIMARY INTEREST. Office of the Assistant Secretary for Management and OCRD.

14. POLICY REVIEW. The provisions of this issuance are subject to modifications by changes in pertinent statutes and EEOC regulations. The applicable provision or provisions shall be amended or superseded effective on the dates specified in any statutory or regulatory change, and OCRD shall issue interim guidance addressing the change as soon as practicable. This issuance will be reviewed after five years.

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