

Reasonable Amount of Official Time

Does an employee (complainant) get official time to work on his or her EEO complaint in the office?

Yes. Employees who file EEO complaints are entitled to a reasonable amount of official time to present their complaint and to respond to the Department's, Bureau's or the Equal Employment Opportunity Commission's request for information, if he or she is in duty status. Employees who serve as representatives of complainants, if they are current employees of the Department or Bureau, are also entitled to official time.

How much time is considered reasonable?

"Reasonable" is defined as whatever is appropriate, under the 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.

How do I determine what is appropriate?

The actual number of hours to which a complainant and his or her representative (if an employee) is entitled will vary, depending on the nature and complexity of the complaint and considering the mission of the office and your need to have your employees available to perform their normal duties on a regular basis. You and your employee should arrive

at a mutual understanding as to the amount of official time to be used prior to the employee's use of such time.

Should I charge an employee leave if he or she has a meeting or attends a hearing of his or her complaint?

No. An employee is entitled to official time to attend meetings and hearings about his or her complaint. Whatever time is spent in such meetings is automatically deemed reasonable.

What about time to work on their complaint?

Employees and their representatives are afforded a reasonable amount of official time to prepare for meetings and hearings. They are also afforded a reasonable amount of official time to prepare the formal complaint and any appeals that may be filed with the EEOC.

This appears to be a lot of time spent on EEO complaints.

The EEO regulations do not envision large amounts of official time for preparation purposes. The amount of time spent in preparation is determined in hours; not days, weeks, or months. Again, what is reasonable depends on the individual circumstances of the complaint. The Equal Opportunity Officer will be able to assist you in determining what is reasonable.

Is an employee exempt from performing his or her work assignments after he or she files an EEO complaint?

No. An employee is expected to perform his or her duties as contemplated by his or her position and to meet the expectations set out in his or her performance plan.

Can I find out the status of the complaint before I make a decision on granting official time?

Yes. The Equal Opportunity Officer can inform you of the status of the complaint and what is being required of the employee. From this information, you can make a decision on how much time is necessary.

My employee works on his or her complaint in the office every day. When I ask about the status of his or her work, he or she says that they didn't have time. Is this necessary?

No. The employee is entitled to a "reasonable" amount of time to present the complaint and prepare for meetings. This is typically not an everyday requirement. You and the Equal Opportunity Officer can meet with the employee to determine what he or she is doing and decide if it is reasonable.

One of my employees represents several employees in their EEO complaint. Can I limit his or her involvement?

The EEO regulations consider it reasonable for you to expect your employees to spend most of their time doing the work for which they are employed. Therefore, you may restrict the overall hours of official time afforded to a representative, for both preparation purposes and for attendance at meetings and hearings, to a certain percentage of that representative's duty hours in any given month, quarter, or year. The restrictions would depend on the nature of the position occupied by the representative, the relationship of that position to the mission of the organization, and the degree of hardship imposed on the mission of the organization by the representative's absence from his or her normal duties. Again, the amount of official time to be afforded to an employee for representation activities will vary with the circumstances. You should seek advice from your Equal Opportunity Officer.

cation. The Equal Opportunity Officer will determine whether the representative should be disqualified.

Can an employee file a complaint if I don't give him or her the time requested?

The denial of official time to work on an EEO complaint cannot be the subject of an EEO complaint. If an employee is not satisfied with the approval or disapproval of the official time requested, it is considered a violation of EEO regulations, not discrimination. An employee can notify the Equal Opportunity Officer if he or she feels that he or she has been denied official time. The Equal Opportunity Officer will review the matter and determine whether the decision on the official time was appropriate. The Equal Opportunity Officer will document the complaint file with the response to the denial of official time claim.

Suppose there is a conflict of interest between the representative's official duties and his or her representation activities. Can the representative be disqualified?

Yes. If there is a conflict between the employee's official duties and his or her representation activities, the representative may be disqualified. Before the representative is disqualified, the Equal Opportunity Officer must give the representative an opportunity to respond to the proposed disqualifi-



For more information regarding the EEO complaint process, please contact The EEO Office (907) 271-5066.

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A Manager's Guide

