assistive listening devices, language translation services, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

SUPPLEMENTARY INFORMATION: These meetings will be held under the authority of the PROGRESS Act (Pub. L. 116–180), the Negotiated Rulemaking Act (5 U.S.C. 561 *et seq.*), and the Federal Advisory Committee Act (5 U.S.C. Ch. 10). The Committee is to negotiate and reach consensus on recommendations for a proposed rule that will replace the existing regulations at 25 CFR part 1000. The Committee is charged with developing proposed regulations for the Secretary's implementation of the PROGRESS Act's provisions regarding the Department of the Interior's (DOI) Self-Governance Program.

The PROGRESS Act amends subchapter I of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5301 *et seq.,* which addresses Indian Self-Determination, and subchapter IV of the ISDEAA, which addresses DOI's Tribal Self-Governance Program. The PROGRESS Act also authorizes the Secretary to adapt negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes. The **Federal Register** (87 FR 30256) notice published on May 18, 2022, discussed the issues to be negotiated and the members of the Committee.

Meeting Agenda

These meetings are open to the public. Detailed information about the Committee, including meeting agendas can be accessed at *https://www.bia.gov/service/progress-act.* Topics for these meetings will include Committee priority setting, subcommittee reports on comments received from Tribal consultations, review and approval of draft final rule documents, Committee caucus, and public comment.

For in-person meetings, members of the public are required to present a valid government-issued photo ID to enter the building; and are subject to security screening, including bag and parcel checks.

Plenary Meeting (Number 16)

- *Meeting date:* September 12, 2024.
- *Meeting time:* 1 to 5 p.m. ET.
- *Meeting location:* Hybrid (in-person and virtual).
- *In-person meeting room:* John Muir Room.
- *Address:* Department of the Interior, 1849 C Street NW, Washington, DC 20240.
- *Virtual link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTJjZDA1M2YtNmM5MC00NGFhLWFlOTItNjQ1NTZmZWQ4Nzll%40thread.v2/0?context=%7B%22Tid%22%3A%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2C%22Oid%22%3A%2213321130-a12b-4290-8bcf-30387057bd7b%22%2C%22IsBroadcastMeeting%22%3Atrue%2C%22role%22%3A%22a%22%7D&btype=a&role=a.*
- *Comments:* Submit by October 10, 2024.

Plenary Meeting (Number 17)

- *Meeting date:* September 19, 2024.
- *Meeting time:* 1 to 5 p.m. ET.
- *Meeting location:* Hybrid (in-person and virtual).
- *In-person meeting room:* John Muir Room.
- *Address:* Department of the Interior, 1849 C Street NW, Washington, DC 20240.
- *Virtual link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTNhMTFmNTUtZGE3My00YmViLTgwNzQtZDliYjVhNTEyYjkz%40thread.v2/0?context=%7B%22Tid%22%3A%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2C%22Oid%22%3A%2213321130-a12b-4290-8bcf-30387057bd7b%22%2C%22IsBroadcastMeeting%22%3Atrue%2C%22role%22%3A%22a%22%7D&btype=a&role=a.*
- *Comments:* Submit by October 17, 2024.

Public Comments

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be limited. Requests to address the Committee during the meeting will be accommodated in the order the requests are received. Individuals who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written comments to the Designated Federal Officer up to 30 days following the meeting. Written comments may be sent to Vickie Hanvey listed in the **ADDRESSES** section above.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 5 U.S.C. Ch. 10)

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–18382 Filed 8–15–24; 8:45 am]

BILLING CODE 4337–15–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN 3046–AB00

Withdrawal of NPRM Addressing Official Time in the Federal Equal Employment Opportunity Process

AGENCY: Equal Employment Opportunity Commission.

ACTION: Withdrawal of rulemaking.

SUMMARY: The Equal Employment Opportunity Commission (''EEOC'' or ''Commission'') is withdrawing its Notice of Proposed Rulemaking (''NPRM'') to amend its regulation addressing official time for Federal agency employees who represent co-workers during the EEO complaint process.

DATES: August 16, 2024.

FOR FURTHER INFORMATION CONTACT: Kathleen Oram, Assistant Legal Counsel, at (202) 921–2665 or *kathleen.oram@eeoc.gov,* or Gary J. Hozempa, Senior Staff Attorney, at (202) 921–2672 or *gary.hozempa@eeoc.gov,* Office of Legal Counsel, U.S. Equal Employment Opportunity Commission. Requests for this document in an alternative format should be made to the EEOC's Office of Communications and Legislative Affairs at (202) 921–3191 (voice), 1–800–669–6820 (TTY), or 1–844–234–5122 (ASL video phone).

SUPPLEMENTARY INFORMATION: On December 11, 2019, the EEOC published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) announcing its intention to amend 29 CFR 1614.605(b) to state that union officers and stewards are excluded from that section's grant of reasonable official time for representational services during EEO administrative proceedings. *See* NPRM, *Official Time in Federal Sector Cases Before the Commission,* 84 FR

67683. That publication generated over 1800 comments, almost all of which opposed the proposed change. In order to give ''all interested stakeholders ample opportunity to comment,'' the Commission reopened the comment period for another 60 days. *See* 85 FR 33049 (June 1, 2020). During the second comment period, over 5,700 individuals and organizations submitted comments. Again, the vast majority of commenters opposed the proposed amendment. On January 12, 2021, the EEOC submitted to the **Federal Register** a draft final rule amending section 1614.605(b) as proposed in the NPRM. On January 21, 2021, the EEOC withdrew the draft rule before it was published, pursuant to the ''Memorandum for the Heads of Executive Departments and Agencies,'' from Ronald A. Klain, Assistant to the President and Chief of Staff (January 20, 2021). For the reasons stated below, the Commission has decided to withdraw this rulemaking.

Background—29 CFR 1614.605(a)

Pursuant to the EEOC's Federal sector complaint processing regulations, ''[a]t any stage in the processing of a complaint,'' a complainant is entitled ''to be accompanied, represented, and advised by a representative of complainant's choice.'' 29 CFR 1614.605(a). If the representative is an employee of the complainant's agency, ''the representative shall have a reasonable amount of time, if otherwise on duty,'' to provide representational services. 29 CFR 1614.605(b).

The Proposed Rule To Amend 29 CFR 1614.605(b)

The NPRM proposed amending section 1614.605(b) to state that the entitlement to official time to represent a same-agency employee in an EEO matter does not apply to a representative who serves in an official capacity in a labor organization that is an exclusive representative of employees of the agency. Instead, whether the union representative is entitled to official time would depend on a bargaining agreement between the agency and labor organization.

The NPRM asserted that whether a union official should receive official time for EEO representational duties was best determined by the relevant labor relations statute—the Federal Service Labor-Management Relations Statute (''FSLMRS''), as the FSLMRS was ''specifically designed to address the unique relationship between labor organizations and federal agencies.'' 84 FR at 67684. The NPRM reasoned that, because the EEOC's basic approach to official time stems from regulations predating enactment of the FSLMRS, and the EEOC never reconsidered its approach in light of the FSLMRS, the EEOC has caused stakeholder confusion. *See id.* In consideration of the FSLMRS, the NPRM concluded that the best policy choice would be to amend the EEOC's official time rule to exclude union officials so that an agency and a union could bargain over the availability of official time.

The Public Comments on the Proposed Rule

Most commenters objected to the proposed rule, although a small number endorsed the proposal and the rationale provided in the NPRM.

Comments in Support of the Proposed Rule

Those favoring the proposed rule primarily did so because it differentiated between the EEOC's authority over the Federal sector complaint process pursuant to section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16 (''Title VII'') and the authority of the Federal Labor Relations Authority (''FLRA'') under the FSLMRS. Commenters stated that the proposed rule correctly placed the issue of official time for union representatives under 5 U.S.C. 7131 (Official Time) of the FSLMRS. In the opinion of these commenters, official time for union representatives should not be administered or governed by the EEOC because the EEOC lacks authority over the issue, whereas the FLRA possesses such authority.

Comments Opposed to the Proposed Rule

Commenters objecting to the NPRM stated that the proposed rule was erroneously predicated upon the FSLMRS, rather than the Congressional intent expressed in Title VII, and unfairly targeted only those Federal employees who also happen to serve as union officials. Commenters further argued that the EEOC had not presented empirical evidence—such as reports, studies, statistics, data, surveys, or anecdotes—to demonstrate that, since the inception of the EEOC's official time rule in 1987, agencies or unions had in fact expressed confusion regarding bargaining obligations about official time or requested clarification on the matter of official time and its relationship to the FSLMRS. These commenters concluded that the EEOC was creating a solution for a non-existent problem.

Other commenters argued that the Commission failed to show that its policy choice would lead to better EEO complaint processing or outcomes consistent with the EEOC's mission. Some of these commenters asserted that the NPRM had not considered whether the proposal would have a negative impact on a complainant's right to a representative of their choice. For example, it was noted that union representatives often are knowledgeable of, and experienced in, the EEO process. These commenters stated that, if the only Federal employees not granted official time to represent their coworkers were those employees most experienced in these types of cases, the proposed rule would hinder Federal employees challenging discrimination. It further was asserted that the proposed amendment threatened to arbitrarily and capriciously except union representatives—and only union representatives—from the class of employees a complainant can choose as a representative.

Commenters stated that a union official representative could assist complainants in distinguishing between prohibited discrimination and non-actionable workplace behavior, which would lead to more constructive outcomes for complainants and agencies, and a more efficient EEO process. If union officials could not use official time, commenters stated, complainants would be deprived of the effective assistance that union officials can provide, and employees who have experienced prohibited discrimination would be less likely to initiate complaints and follow them through to resolution.

Other commenters opposing the NPRM noted that the EEOC's proposal to leave the determination of official time to negotiations between employers and labor organizations would most likely diminish a Federal employee's right to choose a union official as their representative of choice. They argued that the likely result of the proposed change—requiring union officials to take leave without pay for performing representational services—would discourage them from representing their coworkers in the EEO complaint process. They further maintained that the proposed rule would send a message that the EEOC wants complainants to have inferior representation or representation that is cost-prohibitive to many; it would cause many complainants to proceed pro se or with coworker-representatives who are unfamiliar with the EEO complaint process. Thus, they concluded, the proposed rule would prevent many complainants from obtaining competent representation and could thwart Federal

workers from successfully challenging and addressing workplace harassment and discrimination.

The Commission's Decision To Withdraw the Rulemaking

The NPRM proposed amending the official time rule because it ''believe[d] that the best policy approach is to leave the determination of whether a union official receives official time to the provisions of the FSLMRS.'' 84 FR at 67684. However, the NPRM did not take into account that the FSLMRS does not require an agency and union to bargain over the use of official time for representational services when provided in forums unrelated to labor-management relations activities, such as the 29 CFR part 1614 EEO complaint process. *See National Archives and Records Administration (Agency) and American Federation of Government Employees, Council 236, Local 2928 (Union),* 24 F.L.R.A. 245, 247, FLRA Rep. No. 407, 24 FLRA No. 29, 1986 WL 54527, *3 (November 26, 1986) (holding that ''official time negotiated under [the FSLMRS] is to be used for labor management relations activity''); *American Federation of Government Employees National Council of Field Labor Locals (Union) and U.S. Department of Labor Mine Safety and Health Administration Denver, Colorado (Agency),* 39 F.L.R.A. 546, 553, FLRA Rep. No. 672, 39 FLRA No. 44, 1991 WL 32963, *6 (February 13, 1991) (stating that ''[the FSLMRS] relates only to the granting of official time in connection with labor-management relations activities'').

Additionally, the FSLMRS does not address the Federal sector EEO complaint process and, in the absence of such a statutory command, commenters in favor of the proposed rule did not explain why the best policy choice for the EEOC would be to follow the FSLMRS when determining which EEO-related representational activities warrant the use of official time. As commenters acknowledged, the EEOC and the FLRA have authority to administer different laws, each with its own standards. Just as the EEOC does not have the authority to impose official time rules in the labor-management relations arena, the FLRA does not have the authority to impose its rules in the EEO complaint forum. Deferring to the FSLMRS regarding whether union officials are entitled to official time when representing a same-agency Federal co-worker in an EEO complaint would interfere with EEOC's authority and responsibilities under Title VII.

Part of the mission of the EEOC is to ensure that laws that protect Federal employees from workplace discrimination are fully enforced. This includes the guarantee that a Federal EEO complainant is entitled to a representative of their choice and that both the complainant and the representative, if a co-worker, are authorized to use official time when pursuing the complaint. Singling out union representatives as the only Federal employees ineligible for using official time to assist EEO complainants undermines this mission. It creates an obstacle to securing competent representation, making it harder for complainants to effectively pursue their EEO complaints. As a number of commenters stated, if a complainant is dissuaded from securing a union representative because the representative is not entitled to official time, the complainant may decide not to challenge alleged employment discrimination. When a Federal sector complainant is reluctant to proceed, it diminishes the EEOC's fundamental ability to eliminate employment discrimination within the Federal government. Since the purpose of the EEOC is to ensure that employees have equal employment opportunities, it must promote effective representation by providing employees with choices on who represents them, including being represented by co-worker union officials.

Moreover, Congress intended for both Title VII and the Commission to serve a broad remedial function in the Federal sector and for actions accordingly to be remedial in nature. *See* 42 U.S.C. 2000e–16(b) (the EEOC ''shall have the authority to enforce [the federal sector prohibition against discrimination in Title VII] through appropriate remedies. . . .''). The change proposed in this NPRM, however, is contrary to this Congressional directive and will harm Federal employees. It restricts a complainant's choice of representative by excluding, for the first time, any representative who ''serves in an official capacity in a labor organization'' from eligibility. Union representatives in the EEO process often are the only representatives available to Federal employees at no cost to those alleging discrimination. Without access to such representation, complainants would have to choose between finding and paying an attorney, proceeding without a representative, or dropping the complaint. None of these options is consistent with the EEOC's mandate under Title VII.

The Commission also agrees with commenters' arguments that there is no guarantee that all agencies and unions would bargain for affording official time to union officials when representing EEO complainants. Under the proposed rule, the result of bargaining would be that union officials at some agencies would be entitled to use official time whereas at other agencies they would not. Complainants who would file EEO complaints against agencies in the latter group likely would be foreclosed from choosing a union official as a representative, and many would be deprived of their chosen representative in the Title VII administrative EEO forum. Thus, it is likely that, if the proposed rule were adopted, a knowledgeable corps of union representatives committed to strongly advocating for Federal workers in workplace disputes would be excluded from representing EEO complainants in direct contradiction to EEOC's overall goal, to the detriment of Federal employees.

The EEOC, as the lead Federal EEO agency, is charged with full enforcement of the Federal EEO laws. Pursuant to 42 U.S.C. 2000e–16(b), the EEOC ''shall have authority to . . . issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section.'' Using this authority, the EEOC adopted a rule that provides that a same-agency co-worker shall have a reasonable amount of time to represent a same-agency EEO complainant. *See* 29 CFR 1614.605(a). Nothing in Title VII or the current rule restricts the type of co-worker representative who can receive official time. The co-worker can be a subordinate, a peer, a management official, or a union steward or officer. The changes proposed in this NPRM would, for the reasons stated above, weaken rather than strengthen EEO enforcement in Federal agencies. Therefore, the EEOC concludes that the proposal that official time for union officials in the EEO complaint process be governed by the FSLMRS is not consistent with the EEOC's statutory mandate.

Given that the Commission has determined that amending the current official time rule is not in the best interests of EEO complainants and their co-worker representatives under the laws enforced by the Commission, the Commission is withdrawing this rulemaking.

Charlotte A. Burrows,

Chair.

[FR Doc. 2024–18238 Filed 8–15–24; 8:45 am]

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