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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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January 21, 2020

The Honorable Janet Dhillon
Chair
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

RE: Comment on Notice of Proposed Rulemaking—Official Time in Federal Sector Cases
Before the Commission (RIN 3046—AB00)

Dear Chair Dhillon:

We write to oppose the Equal Employment Opportunity Commission's (EEOC) proposed rule to exclude union officials from receiving official time for representing a complainant in federal sector equal employment opportunity (EEO) proceedings. Constraining the EEO process for all federal employees by limiting their choice of representation undermines the EEOC's mission to enforce federal anti-discrimination laws and combat harassment in the workplace. The agency's rationale for changing its longstanding policy is unfounded and represents yet another attack by the Trump Administration on career civil servants and the unions that represent them. We urge you to abandon this unsubstantiated, unnecessary, harmful proposed rule.

The EEOC is responsible for the EEO complaint process across all federal agencies. The regulation the EEOC proposes to amend currently makes available reasonable official time to any federal employee who represents a complainant in their agency in an EEO proceeding.¹ Union representatives are especially knowledgeable, experienced, and effective in assisting their agency colleagues in navigating the EEO process, and their involvement leads to greater procedural efficiency and better outcomes for all involved. The EEOC would now require union officials to take leave without pay for performing this service, which would inevitably discourage them from doing so. As a result, this rule would impair federal EEO complainants from obtaining competent representation and thus impede federal workers across the country from successfully challenging and addressing workplace harassment and discrimination.


The EEOC's purported rationale for excluding union officials from its official time regulation comprises just one paragraph of a two-page notice of proposed rulemaking. The agency claims this rule is necessary because "[f]ailing to clarify the Commission's regulation can cause agencies and unions to be unclear on exactly which aspects of official time they need to bargain." However, the EEOC has presented no evidence—statistics, data, surveys, or even anecdotes—that federal agencies or unions have expressed a need or even desire for such

¹ 29 CFR 1614.605

clarification, or that this change would lead to any positive outcomes whatsoever. Nor does the EEOC appear to have considered the damaging impact this rule would have on workers.

We are deeply disappointed the agency tasked with enforcing civil rights laws is instead investing its resources in hindering the ability of those who serve the public to assert their rights to a workplace free of harassment and discrimination. We strongly urge you to rescind this harmful proposed rule and instead refocus the EEOC's efforts on making it easier, not harder, to address workplace harassment and discrimination across the country.

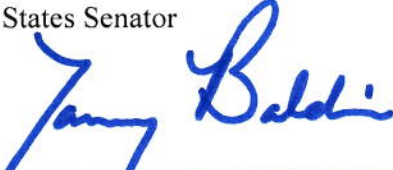
Sincerely,


PATTY MURRAY
United States Senator


ELIZABETH WARREN
United States Senator


BERNARD SANDERS
United States Senator


TIM KAINE
United States Senator


TAMMY BALDWIN
United States Senator