

# Rules and Regulations

Federal Register

Vol. 68, No. 171

Thursday, September 4, 2003

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## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 5 CFR Part 7201

RIN 3209-AA15

### Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission

**AGENCY:** Equal Employment Opportunity Commission (EEOC or Commission).

**ACTION:** Final rule.

**SUMMARY:** The Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics (OGE), amends the Supplemental Standards of Conduct for Employees of the Equal Employment Opportunity Commission by adding a sentence permitting EEOC employees to represent other EEOC employees in administrative equal employment opportunity (EEO) proceedings unless there is a conflict of interest.

**EFFECTIVE DATE:** This rule is effective on September 4, 2003.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Schlageter, Assistant Legal Counsel, at (202) 663-4668, or Kathleen Oram, Senior Attorney, at (202) 663-4681, or TTY (202) 663-7026. This final rule issuance is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this rule in an alternative format should be made to EEOC's publications center at 1-800-669-3362.

**SUPPLEMENTARY INFORMATION:** On February 26, 1996, with the concurrence and co-signature of OGE, EEOC published its interim rule establishing supplemental standards of ethical conduct for employees of EEOC (61 FR 7065-7067). The Commission, with OGE concurrence and co-signature, published a final rule adopting the

interim rule on July 8, 1997 (62 FR 36447). EEOC, again with OGE's concurrence and co-signature, is amending the restriction contained in 5 CFR 7201.102(c) of its supplemental standards, prohibiting certain kinds of outside employment, to permit EEOC employees to represent without compensation other EEOC employees in EEO administrative complaint proceedings. Both exceptions to the general prohibition in paragraph (c), including the existing one for behind-the-scenes assistance to family members, will still require prior approval under § 7201.103 of the supplemental regulation to ensure there are no conflicts. The change will make EEOC's supplemental regulation more consistent with the exception contained in 18 U.S.C. § 205(d)(1)(A), which permits Federal employees, if not inconsistent with the faithful performance of their duties, to represent without compensation other employees who are the subject of disciplinary, loyalty, or other personnel administration proceedings. EEOC notes that this amendment as to representation of other EEOC employees is also consistent with 29 CFR 1614.605, which generally allows an EEO complainant to choose a representative, subject to the possibility of disqualification of the representative if representation would conflict with the representative's official or collateral duties. The prohibition will remain, however, on EEOC employees representing employees of other Federal agencies in EEO proceedings, because the Commission is concerned about a possible perception that EEO office personnel or EEOC administrative judges would give EEOC employees deference in the proceedings.

### Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) and (d), the EEOC has determined that good cause exists for waiving the general notice of proposed rulemaking, opportunity for public comment and 30-day delayed effective date as to these revisions. Notice, comment and delayed effectiveness are being waived because these amendments concern matters of agency organization, practice and procedure. Moreover, it is in the public interest that the revisions take effect promptly.

### Regulatory Flexibility Act

The EEOC has determined under the Regulatory Flexibility Act, 5 U.S.C. Chapter 6, that this rule will not have a significant economic impact on a substantial number of small entities because it only affects Commission employees.

### Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply to these final rule amendments because they do not contain any information collection requirements subject to approval by the Office of Management and Budget.

### Congressional Review Act

The EEOC has determined that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress. This rulemaking is related to EEOC personnel.

### Executive Order Nos. 12866 and 12988

Since this rule relates to EEOC personnel, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988.

### List of Subjects in 5 CFR Part 7201

Conflict of interests, Ethics, Executive branch standards of conduct, Government employees.

Dated: August 12, 2003.

For the Commission,

**Cari L. Dominguez,**  
*Chair.*

Approved: August 22, 2003.

**Amy L. Comstock,**  
*Director, Office of Government Ethics.*

■ For the reasons set forth in the preamble, the Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics, is amending part 7201 of title 5 of the Code of Federal Regulations as follows:

### PART 7201—SUPPLEMENTAL STANDARDS OF CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

■ 1. The authority citation for part 7201 continues to read as follows:

**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p.