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December 30, 2021

Melody Braswell
Department Clearance Officer
United States Department of Justice
Justice Management Division
Policy and Planning Staff
Two Constitution Square
145 N Street NE, 3E.405B
Washington, DC 20530

Via reginfo.gov

**RE: OMB No. 1125-0016
Agency Information Collection Activities; Unfair Immigration-Related
Employment Practices Complaint Form**

Dear Ms. Braswell:

Texas RioGrande Legal Aid, Inc. (TRLA) writes in response to the notice from the Department of Justice's Executive Office for Immigration Review (EOIR) soliciting comments and suggestions regarding Form EOIR-58, the Unfair Immigration-Related Employment Practices Complaint Form. *See* 86 Fed. Reg. 68287 (Dec. 1, 2021).

For more than 50 years TRLA has provided free legal services to the indigent, including a substantial practice representing low-wage workers, from more than a dozen offices in a 68-county region of south and west Texas. TRLA also provides free employment-related legal services to Texas-based agricultural workers who work across the country and, through its Southern Migrant Legal Services office in Nashville, Tennessee, to agricultural workers who labor in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. TRLA routinely represents low-wage workers in cases involving workplace discrimination, including clients who are presenting claims before the Office of the Chief Administrative Hearing Officer.

TRLA provided an initial comment regarding this information collection,¹ and we appreciate the thorough response that EOIR provided to that comment in its Supporting Statement.² We write with two follow-up suggestions.

¹ *See* Comment of Texas RioGrande Legal Aid (Nov. 29, 2021), <https://www.reginfo.gov/public/do/DownloadDocument?objectID=116940200>.

² *See* Supporting Statement, OMB No. 1125-0016 (Dec. 2, 2021), <https://www.reginfo.gov/public/do/DownloadDocument?objectID=116939700>.

1. DOJ should allow electronic signatures and signatures from representatives on Form EOIR-58.

Our initial comment suggested that the requirement of original signatures on Form EOIR-58 be abolished.³ EOIR did not respond to this suggestion in its Supporting Statement.

Under 28 C.F.R. § 68.7, pleadings must be signed. To our knowledge, however, the regulations do not specify the type of signature. We therefore urge EOIR to follow standard practice of federal courts and many other agency adjudicators and permit electronic signatures and signatures by representatives on Form EOIR-58 and clarify the same in the form's instructions.

Electronic signatures are the norm on everything from court filings to business contracts. They are as legally binding as original, ink signatures, *see, e.g.*, 15 U.S.C. § 7001(a), and contain their own security measures. Likewise, representatives are routinely permitted to sign pleadings on behalf of their clients. Form EOIR-58 should adopt these commonplace practices.

2. Remove the boxes marked “Male” and “Female” that remain in Question 2.

We appreciate EOIR's decision, in response to our comment, to replace the question about gender at the beginning of Form EOIR-58 with a question about the title by which the complainant would like to be addressed.⁴ This is a helpful change that should provide EOIR with all the information it requires while minimizing the exclusion of transgender and nonbinary workers.

However, in the new version of the form, the checked boxes marked “Male” and “Female” are still included in the first line of Question 2. This may have been an inadvertent error as the form was being updated. In light of the new question about how the complainant prefers to be addressed, the “Male” and “Female” boxes in Question 2 should be deleted.

Leaving those gender boxes in Question 2, even with the improved Question 1 regarding how the complainant prefers to be addressed, continues to present a problem for transgender and nonbinary workers, who may feel pressure to check a box that does not match their gender identity or be unwilling to attest to their gender under penalty of perjury.

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³ See Comment, *supra* note 1 at 4.

⁴ See Supporting Statement, *supra* note 2 at 13 (concurring with TRLA's comment).

Thank you for allowing us the opportunity to comment on Form EOIR-58 and for considering both our initial comments and this second submission.

Sincerely,

TEXAS RIOGRANDE LEGAL AID, INC.

By:

Elizabeth Leiserson