



Homeland
Security

June 10, 2022

MEMORANDUM FOR: Tae Johnson
Acting Director
U.S. Immigration and Customs Enforcement

Kerry Doyle
Principal Legal Advisor
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
(b) (6)

FROM: Dana Salvano-Dunn
Director, Compliance Branch
Office for Civil Rights and Civil Liberties

Susan Mathias /s/
Assistant General Counsel, Legal Counsel Division
Office of the General Counsel

SUBJECT: Final Report
Complaint No. 002431-22-ICE

Purpose

The purpose of this memorandum is to inform U.S. Immigration and Customs Enforcement (ICE) about the results of an investigation conducted by the Office for Civil Rights and Civil Liberties (CRCL) into the allegation that ICE discriminated against (b) (6) in violation of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794(a) (Section 504). CRCL found that ICE discriminated against the complainant on the basis of her disability in violation of Section 504 by not providing Ms. (b) (6), who was a detainee at the Southern Louisiana Correctional Center (SLCC), with adequate hearing aids or other accommodations for her hearing loss.

Background

Through Department of Homeland Security (DHS) Delegation Number 19003, the Secretary of DHS delegated to the Officer for Civil Rights and Civil Liberties responsibility for coordinating the implementation of the Department's regulations issued pursuant to the requirements of Section 504. 6 C.F.R. Part 15. The regulations require the Department to issue findings of fact, conclusions of law, a description of a remedy for each violation found, and a notice of the right to appeal to the Officer for Civil Rights and Civil Liberties. *See* 6 C.F.R. § 15.70(g)(1)(i)-(iii).

On February 28, 2008, based on an earlier but similar delegation, the Officer for Civil Rights and Civil Liberties delegated this responsibility to the Deputy Officer for Civil Rights and Civil Liberties for Programs and Compliance to allow an appeal to the Officer for Civil Rights and Civil Liberties as provided for in the Interim Regulation. DHS Delegation No. 19001.

CRCL also has responsibility to oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department. 6 U.S.C. § 345(a)(4). DHS Management Directive Number 3500 clarifies the responsibilities and authorities of this Office under 6 U.S.C. § 345, including the authority to issue findings and recommendations at the conclusion of the examination of a matter, including recommendations for corrective action. Additionally, DHS Management Directive Number 065-01 establishes policy and implementation mechanisms for ensuring nondiscrimination for individuals with disabilities served by DHS-conducted programs and activities under Section 504.

Conclusion

As stated in the attached letter containing CRCL's findings of fact, conclusions of law, and remedy regarding this complaint, we have concluded our investigation and determined that ICE discriminated against the complainant on the basis of her disability in violation of Section 504 and the Interim Regulation.

Remedies Issued Pursuant to CRCL's Section 504 Authority

Under 6 C.F.R. § 15.70(g)(1)(ii), CRCL may determine appropriate remedies for individual complainants for each Section 504 violation found. If the complainant does not appeal to the Officer for Civil Rights and Civil Liberties, under 6 C.F.R. § 15.70(h), the remedies are part of the final agency decision. If the complainant appeals, the Officer for Civil Rights and Civil Liberties will issue the final agency decision, which may include appropriate corrective action to be taken by the Department. 6 C.F.R. § 15.70(i). The remedy under 6 C.F.R. § 15.70(g)(1)(ii) that is contained in our decision letter to the complainant is:

CRCL orders ICE to, within 30 days, develop, implement, and train relevant staff at SLCC on compliance with the disability requirements contained in PBNDS 2011 Section 4.8. This shall ensure that someone from the facility is responsible for identifying, assessing, and coordinating, and monitoring the needs of people with hearing and other disabilities upon entrance into the facility and throughout their detention in the facility.

The above remedy is issued pursuant to CRCL's authority under 6 C.F.R. § 15.70(g)(1)(ii) and DHS Delegation Number 19001, which delegates responsibility for coordinating the enforcement of the Department's regulations issued pursuant to the requirements of Section 504 to the Officer for Civil Rights and Civil Liberties. USCIS's cooperation in implementation of this resolution is authorized per 6 C.F.R. § 15.70(g)(2). Please inform CRCL within 60 days of how and when this remedy will be implemented by contacting CRCL at (b) (6). CRCL will share your response with (b) (6), the Policy Advisor who conducted this investigation.

Enclosure

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