



Homeland  
Security

September 2, 2022

MEMORANDUM FOR: Chris Magnus  
Commissioner  
U.S. Customs and Border Protection

Scott K. Falk  
Chief Counsel  
U.S. Customs and Border Protection

FROM: Dana Salvano-Dunn, (b) (6)  
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. 000235-22-CBP

*Purpose*

The purpose of this memorandum is to inform U.S. Customs and Border Protection (CBP) about the results of an investigation conducted by the Office for Civil Rights and Civil Liberties (CRCL) into the allegation that CBP 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 CBP discriminated against the complainant on the basis of her disability in violation of Section 504 by not providing her with an accommodation for her arthritis while she waited in line at the San Ysidro Port of Entry on May 7, 2021.

*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 CBP 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 remedies under 6 C.F.R. § 15.70(g)(1)(ii) that are contained in our decision letter to the complainant are:

CRCL requires CBP to, within 30 days, re-issue a muster reminding officers at the San Ysidro Port of Entry about how to respond to requests for reasonable accommodations, specifically including accommodations for persons who are unable to stand in line for extended periods of time. The use of an existing seating area for persons with disabilities may be an acceptable accommodation, however CBP must be proactive about offering that option to persons with disabilities.

CRCL also requires CBP to provide the Complainant with a reasonable accommodation that addresses her inability to stand in line for extended periods of time during future inspections. CBP is also required to provide a reasonable accommodation to others with mobility disabilities who are unable to stand in line for extended periods of time.

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. CBP'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 Senior Policy Advisor who conducted this investigation.

Enclosure

Copy to:

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