

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

December 26, 2019

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 2064

In Reply Refer to:

EPA Complaint No: 01D-20-R5

Rosemary Fox
Director
U.S. Equal Employment Opportunity Commission
310 West Wisconsin Avenue Suite 500
Milwaukee, WI 53203-2292

Re: Referral of Administrative Complaint

Dear Ms. Fox:

The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) is referring a complaint received December 4, 2019, from ^{(b) (6) Privacy, (b) (7)(C) Enforcement Privacy}, a former employee of the Wisconsin Department of Natural Resources (WI DNR). The complaint alleges that the WI DNR discriminated against Mr. ^{(b) (6) Privacy, (b)} on the basis of disability by denying his request for reasonable accommodation due to his disability and retaliating against him by terminating his employment as of February 7, 2019, in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504).

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

However, as described in 29 CFR 37.6(c)(1) (and 29 C.F.R. Part 1640), "[i]f an agency determines that it does not have jurisdiction over a complaint of employment discrimination under either section 504 or title II and determines that the EEOC may have jurisdiction under title I, the agency shall promptly refer the complaint to the EEOC for investigation and

processing under title I of the ADA.” In the present case, ECRCO has rejected this complaint because it was not filed within 180 days of the alleged discriminatory act and a waiver of the deadline is not reasonable given the circumstances of the case. Accordingly, as the EEOC may have jurisdiction over this matter under Title I of the ADA, ECRCO is referring this complaint to the EEOC’s Milwaukee office for appropriate action. We have notified the complainant through certified mail that the complaint is being referred to the EEOC and provided your contact information. A copy of our rejection and referral letter as well as the original complaint are enclosed.

Thank you in advance for your assistance. If you have any questions about this correspondence, please contact Dale Rhines, Deputy Director, at (202) 564-4174, by e-mail at rhines.dale@epa.gov or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,

A handwritten signature in black ink, appearing to read "Lilian S. Dorka", with a stylized flourish at the end.

Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosures

cc: Angelia Talbert-Duarte
Acting Associate General Counsel
Civil Rights & Finance Law Office

Leverett T. Nelson
Regional Counsel
EPA Region 5

Cheryl Newton
Acting Deputy Regional Administrator
Deputy Civil Rights Official
EPA Region 5