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

SEP 26 2012

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail# 7004-2510-0004-2241-7265

In Reply Refer to:
EPA File No. 04Dr-12-R2

[redacted]

Re: REJECTION OF ADMINISTRATIVE COMPLAINT

Dear Ms. [redacted]

This letter is in response to your administrative complaint filed with the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR). Your complaint was received by OCR on March 26, 2012. The complaint alleges that the United States Virgin Islands Department of Human Services (DHS), Pre-School Services – Head Start Program refused to provide reasonable accommodations, as required by the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability (*See* 29 U.S.C. §794). The complaint also alleges that the Office of the Lieutenant Governor's decision to terminate your employment was retaliatory, in violation of Title VI of the Civil Rights Act of 1964.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of discrimination complaints to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's Part 7 regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, would violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, or disability). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, the complaint must be filed against an applicant for, or a recipient of, EPA assistance that committed the alleged discriminatory act. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

Your complaint states that the DHS Pre-School Services – Head Start Program discriminated against your son, because of his Type 1 Juvenile Diabetes, by failing to provide nurses to care for your child's condition and administer the medication he needs. Your complaint also states that there are no trained nurses to take care of children with special needs, and that there are no plans to remedy this. Finally, your complaint states that the Office of the Lieutenant Governor retaliated against you by terminating your employment because of the

complaint you filed against the Virgin Islands DHS Pre-School Services – Head Start Program, with the U.S. Department of Health and U.S. Department of Health and Human Services (HHS), Office of Civil Rights (OCR). After careful review, OCR is rejecting your complaint because the allegations you describe do not meet EPA's jurisdictional requirements.

To be accepted for investigation, a complaint must meet the jurisdictional criteria described above. The allegations in your complaint fail to meet these criteria; and, must therefore be rejected for investigation. First, the DHS Pre-School Services – Head Start Program is not a recipient of EPA assistance. Second, your complaint is not timely, because it was not received within 180 days of the alleged discriminatory act. According to your complaint, the last alleged discriminatory act was in September or October 2010. Your complaint was not filed until March 26, 2012 and, therefore, is untimely.

Additionally, your complaint states that the Office of the Lieutenant Governor retaliated against you by terminating your employment because of the complaint you filed against DHS Pre-School Services – Head Start Program, with the HHS Office of Civil Rights. EPA's nondiscrimination regulations prohibit retaliation against anyone who has opposed any practice made unlawful by EPA's regulations implementing Title VI. 40 C.F.R. Part 7.100 (b). EPA's regulations do not apply to alleged retaliatory treatment because of a complaint you filed with a different agency. Therefore, OCR must reject this allegation for investigation.

If you have any questions regarding this letter, please contact Samuel Peterson at (202) 564-5393, via email at peterson.samuel@epa.gov, or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

Rafael DeLeon

Rafael DeLeon
Director

cc: Ms. Julia A. Rhodes, Assistant General Counsel
Civil Rights & Finance Law Office (MC 2399A)

Ms. Cynthia D. Burrows, EPA Region 3
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Philadelphia, PA 19103-2029

Mr. Luis Wilmont
The U.S. Department of Health and Human Services
Office of Civil Rights
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