United States Department of Agriculture

Office of the Assistant Secretary for Civil Rights

Center for Civil Rights Enforcement

1400 Independence Avenue SW

Washington, DC 20250

OCT 1 1 2018

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy
[redacted]
Stacy, Minnesota 55079

RE: USDA Correspondence Number: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy [redacted]

Dear (b) (6) Privacy, (b) (7)(C) Enforcement [redacted]

On September 28, 2018, the United States Department of Agriculture (USDA), Office of the Assistant Secretary for Civil Rights (OASCR), Center for Civil Rights Enforcement (CCRE), Program Complaints Division, received your complaint dated August 14, 2018, forwarded from the U.S. Department of Justice, alleging discrimination in a program administered by USDA. This office is responsible for processing administrative complaints alleging discrimination in a program conducted by or receiving Federal financial assistance from USDA.

In your complaint letter, you alleged you were discriminated against on the basis of disability (mental) when the Minnesota Department of Agriculture denied your request for reasonable accommodation during a pesticide exam.

Your letter raises concerns which our office has jurisdiction jointly with the Environmental Protection Agency (EPA); therefore, we are forwarding your complaint to their office for further processing. Our office will monitor your complaint. If you desire further information on the processing of your complaint, please contact EPA, as follows:

Lillian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1210 A
Washington, D.C. 20460
Telephone: (202) 564-8040

We will keep our case file open while this complaint is being processed by EPA. Once the decision regarding the case is completed, EPA will forward a copy to CCRE.

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

No person shall be subject to reprisal or harassment for filing a discrimination complaint against USDA; participating in or contributing to the identification, investigation, prosecution, or resolution of civil rights violations by an agency of USDA or by a recipient of Federal financial assistance from USDA; or otherwise aiding or supporting the enforcement of civil rights laws, rules, regulations or policies applicable to USDA programs. Any individual alleging such reprisal or harassment may file a complaint with USDA. We will investigate such allegations of reprisal or harassment. If you believe you have been retaliated against, please explain the circumstances, including the protected activity you believe was the basis for the retaliation.

If you have any questions about this matter, please contact our customer service unit, the Information Research Service at (866) 632-9992 (toll free), (202) 260-1026, or (800) 845-6136 (Spanish). Individuals who are deaf, hard of hearing, or have speech disabilities, may contact us through the Federal Relay Service on (800) 877-8339.

Please contact the office identified for further information.

Sincerely,

Archie D. Crawford
Director
Program Complaints Division

U.S. Department of Justice

Civil Rights Division

Disability Rights Section - NYA
950 Pennsylvania Avenue, NW
Washington, DC 20530

July 23, 2018

Notice of Referral of Complaint for Appropriate Action

To: Mr. Carl-Martin Ruiz
Office of Adjudication and Compliance
Office of Civil Rights
Department of Agriculture
326W Jamie L. Whitten Federal Building
Room 1322 South Building
14th and Independence Avenue, S.W.
Washington, D.C. 20250

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy
[redacted]
Stacy, MN 55079

From: Disability Rights Section, Civil Rights Division, U.S. Department of Justice

Reference: (b) (6) Privacy, (b) (7)(C) Enforcement Pr [redacted] regarding Minnesota Department of Agriculture, Saint Paul, MN; received by DOJ on July 10, 2018

The Disability Rights Section has reviewed the enclosed complaint and determined that it raises issues that are more appropriately addressed by the U.S. Department of Agriculture under title II of the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act. We, therefore, are referring this complaint to that agency for appropriate action. This letter serves to notify that agency and the complainant of this referral. The Disability Rights Section will take no further action on this matter.

To check the status of the complaint, or to submit additional information, the complainant may contact the referral agency at the address above or at the following telephone number(s):

(202) 720-5212 (Voice)

If the agency has any questions or concerns about this referral or believes that it raises issues outside the agency's jurisdiction, please do not hesitate to contact the Department of Justice at the address and phone number attached hereto.

(b) (6) Privacy, (b) (7)(C) Enforcement Privac
[redacted]

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
AVIATION
HIGHWAYS & TRANSIT
WATER RESOURCES AND ENVIRONMENT
ECONOMIC DEVELOPMENT, PUBLIC BUILDING AND EMERGENCY MANAGEMENT
COMMITTEE ON AGRICULTURE
CONSERVATION, ENERGY, AND FORESTRY
LIVESTOCK, RURAL DEVELOPMENT, AND CREDIT

Congress of the United States
House of Representatives
Washington, DC 20515–2308

NOLAN.HOUSE.GOV
DULUTH OFFICE
11 EAST SUPERIOR STREET, SUITE
DULUTH, MN 55802
PHONE: (218) 464-5095
FAX: (218) 464-5098
BRAINERD OFFICE
601 LAUREL STREET
BRAINERD, MN 56401
PHONE: (218) 454-4078
FAX: (218) 454-4096

Authorization to Release Information

The Privacy Act of 1974 requires your written consent before information can be obtained from a government agency regarding your records. To better serve you, please complete this form and return it to my appropriate office address. The person requesting assistance must sign this form.

Please Print

Mr. X Mrs. _____ Ms. _____ Dr. _____

Full Name: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy [redacted]

Address: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy [redacted]

City: Stacy State: MN Zip: 55079

Phone: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy [redacted]

(Home) (Cell) (Work)

Email: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy [redacted]

I prefer to be contacted by: ☐Home Phone ☐Work Phone ☒Cell Phone ☒Email

Date of Birth: [redacted]

Social Security Number: [redacted]

Agency to be contacted: Dept of Agriculture

I hereby authorize the release to Congressman Nolan or to any member of his staff, any information or records in your possession concerning me.

Signature: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy [redacted] Date: 8/14/18

I designate the following person(s) to discuss this matter on my behalf with Congressman Nolan or his staff. _____

Office of Congressman Richard M. Nolan
Attn: Constituent Service Representation
11 E. Superior Street, #125
Duluth, MN 55802
Phone 218-464-5095 Fax 218-464-5098

Please briefly explain your situation. Use numbers and adjective whenever possible. Please include any additional relevant correspondence that you have regarding this issue.

Disability discrimination with Dept of Agricutture.
See E-mail

Please state what you would like our office to help you with.

Resolve discrimination

Have you contacted any other Congressional office? ☐Yes ☐No

If yes, which office have you contacted?_____

Military or Veteran's Issues

Rank:_____ Unit:_____

Duty Station:_____ Have you received a DD214? ☐ Yes ☐ No

Social Security/ Medicare Issues

Type of claim filed:_____

Has the claim been denied? ☐ Yes ☐ No Office you are working with:_____

Immigration Issue

Receipt Number:_____ Alien Number:_____

Type of Petition Filed:_____ Current Status:_____

Consulate Involved:_____

Office of Congressman Richard M. Nolan
Attn: Constituent Service Representation
11 E. Superior Street, #125
Duluth, MN 55802
Phone 218-464-5095 Fax 218-464-5098

My supervisor, [redacted], and the Safety Manager, [redacted] both stated that I would need to pass the State of Minnesota pesticide license exam to continue my assigned duties.

I emailed the Minnesota Department of Agriculture (MDA) on 6/28/18 requesting accommodations for taking an exam for a pesticide license for spraying FCI Sandstone property. I requested a test reader initially. [redacted] emailed me back and stated MDA will not provide the accommodation for me. After I received an email that MDA would not grant a test reader; I requested a privite room and without time restrictions. Once again the MDA denied my request. See the complete email below regarding the denied reasonable accommodations requests.

From: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy
Sent: Thursday, June 28, 2018 11:42 AM
To: MN_MDA_ Pesticide Licensing <Pesticide.Licensing@state.mn.us>
Subject: Licensing exam
Hello,
I have a few questions regarding the licensing.
First, I am a federal employee at Federal Bureau of Prisons-FCI Sandstone and I'm in charge of maintaining the fence line for weeds and other growth. Its my understanding that I would need to take the exams for categories A and E, Would that be correct?
Second, the cost for a gov't applicator is $10, is that correct also? Do you accept credit cards?
Third, I have a disability that would requires a test reader depending how the exam reads, if that make sense. Could I get an example of the test so I can see if I would need to request an accommodation?
Thank you for your time,

[redacted]
Grounds Maintenance Supervisor
Disability Employment Program
FCI Sandstone
[redacted]

>>> (b) (6) Privacy, (b) (7)(C) Enforcement Privacy 6/28/2018 1:53 PM >>>

HI Nathan,

You would test in A and E, that is correct. For a non-commercial, government license, it is $10 and yes, we accept cards. You can apply online at our website: https://www2.mda.state.mn.us/webapp/erenewal/apply.jsp

As far as accommodations, we do not and are not allowed to send out samples of the exam, as they are protected. If you require accommodations under the Americans with Disabilities Act, you must document your request in writing and submit it to Pesticide.Licensing@state.mn.us no later than 7 days before the exam. The MN Department of Agriculture will notify you whether the request for accommodation has been approved before the exam date. Note: All exam materials are written in English. Independently reading and understanding printed English is an essential eligibility requirement of being a certified pesticide applicator. Therefore, no accommodation will be made that allows for another person to read exam materials to a tester.

Please let me know if you have further questions.

[redacted]

From: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy
Sent: Thursday, June 28, 2018 3:24 PM
To: (b) (6) Privacy, (b) (7)(C) Enforcement Privacy
Subject: RE: Licensing exam

OK. thanks for correcting me. I have no idea where I got U of M from. sorry.

Regarding the locations for testing, where is the Pine location at? The prison is in Pine Country. What would be perfect.

Have a great rest of your day.

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy
Grounds Maintenance Supervisor
Disability Employment Program
FCI Sandstone
(b) (6) Privacy, (b) (7)(C) Enforcement P

>>> (b) (6) Privacy, (b) (7)(C) Enforcement Privacy 6/28/2018 3:29 PM >>>

320-591-1657	Pine County Planning and Zoning and Solid Waste Dept	635 Northridge Drive NW, STE 250	Pine City	MN	55063

You can call that number and I think Joe is one of the proctors there. They should be able to help you out!

The U sells and manages the manuals ☺

(b) (6) Privacy, (b) (7)

>>> (b) (6) Privacy, (b) (7)(C) Enforcement Privacy 7/5/2018 8:46 AM >>>

(b) (6) Privacy, (b) (7)(C) Enforc

We are not able to accommodate a request to use a reader for pesticide exams. A person needs to be able to read and understand the pesticide label, and so must be able to demonstrate that through an exam. I have included my supervisor, (b) (6) Privacy, (b) (7)(C) Enforcement in the event you have additional questions.

Sincerely,

(b) (6) Privacy, (b) (7)(C) Enforcement Pr

Licensing & Certification Unit

Pesticide & Fertilizer Management Division

Minnesota Department of Agriculture

625 Robert Street N

Saint Paul MN 55155-2538

phone: 651/201-6284

fax: 651/201-6105

Licensing General Questions

651/201-6615

Pesticide.Licensing@state.mn.us

Test Scheduling

651/201-6633

Pesticide.Testing@state.mn.us

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy

On 7/10/18, I emaile[redacted] ADA Coordinator for MDA. See email below.

>>> [redacted] 7/10/2018 10:29 AM >>>

Good morning, I just tried to call you and got your voice mail.

I am a Federal Employee and my supervisor informed me that I need to get the pesticide license for my assigned duties.

On 6/28/18, I requested an accommodation, test reader, for taking an exam for the pesticide license. [redacted] emailed me back and stated MDA will not provide the accommodation for me. After I received an email that MDA would not grant a test reader; I requested a private room and without time restrictions. Once again the MDA denied my request. [redacted] suggested that I contact the Pine County testing location.

On 6/29/18, I emailed [redacted] Pine County test location, for the accommodations and once again it was denied by [redacted]

I am requesting for you to overrule the denied accommodations for me to take the pesticide license exam. Due to my disabilities, I always had accommodations for exams at schools, ACT, colleges and employers. One of my disabilities is a learning disability, I have never attended mainstream English classes. I also have autism, the private room with free of distractions request is for that. I also have a speech disability, but that won't affect me for taking the exam unless I need to say a question out loud.

I am again requesting the following accommodations to take the pesticide license exam; access to a test reader, private room with free of distractions and without time restrictions.

Thank you for time regrading this issue,

[redacted]
Grounds Maintenance Supervisor
Disability Employment Program
FCI Sandstone
[redacted]

[redacted] MDA's ACA Coordinator emailed response is the following;

>>> [redacted] 7/10/2018 11:47 AM >>>
Good morni[redacted]

Please review the attached information from our Pesticide and Fertilizer Management Division on "Steps to Successfully Completing a Pesticide Certification Exam"

http://www.mda.state.mn.us/licensing/licensetypes/pesticideapplicator/pestexamsteps.aspx

Laws regarding exams from a public entity.

28 CFR 35.130 - General prohibitions against discrimination.

(b)(1)(vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(b)(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability.

(b)(7)(i) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

(b)(8) A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.

(d) A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

United States Department of Agriculture

USDA

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™

9430

Official Business

7014 0510 0001 0526 2123

OCT 16 2018

Ms. Lillian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
Environmental Protection Agency
1200 Pennsylvania Avenue< NW
Mail Code 1210 A
Washington. DC 20460