

United States Senate

March 12, 2020

VIA ELECTRONIC DELIVERY

RECEIVED

By ESEC at 8:39 am, Mar 13, 2020

Mr. Kenneth T. Cuccinelli
Senior Official Performing the Duties of the Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue
Washington, DC 20529

Dear Mr. Cuccinelli:

We are writing to express concern regarding public reports that U.S. Citizenship and Immigration Services (USCIS) denied a blind man accommodations to take the reading portion of the U.S. citizenship exam and failed him for not being able to read words he could not see.

According to these reports, USCIS received the man's request for a reasonable accommodation and his optometrist's certification of his 100 percent visual impairment before his appointment. Yet, USCIS refused to provide the reading test in Braille – instead asking him to read the exam in large print. Shockingly, USCIS officials questioned his blindness despite interacting with the man, who was born blind, in-person. Forcing individuals to “prove” their disability beyond reason is extremely offensive and disrespectful.

U.S. law protects naturalization applicants from discrimination. For decades, civil rights law has helped both citizens and non-citizens with disabilities access federal resources to live healthy and productive lives. In 2018, USCIS itself committed to making the reading test available in Braille. But it appears that the agency is violating its own policy.

USCIS must ensure all individuals with visible and invisible disabilities are provided with appropriate accommodations. We urge you to update policies, procedures and guidance to make sure policies on providing reasonable accommodations are consistent with all applicable federal laws and regulations and avoid offensive and unreasonable “certifications” of disabilities.

To make sure USCIS expeditiously works to improve its service and accessibility, we ask that you respond immediately, but no later than April 1, 2020 to the questions that follow this letter and arrange a staff briefing on how USCIS accommodates applicants with disabilities and/or impairments. Thank you for your prompt attention to this matter.

Please address the following:

1. Confirm whether the decision to deny a legal permanent resident with a vision impairment Braille text to read was consistent with statutory requirements, regulatory requirements and USCIS policy concerning reasonable accommodations for individuals with disabilities;

Letter to Mr. Cuccinelli

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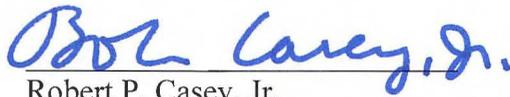
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2. Confirm whether the decision to fail a legal permanent resident with a vision impairment who could not see, and thus could not read, visual text on paper was consistent with statutory requirements, regulatory requirements and USCIS policies concerning reasonable accommodations for individuals with disabilities;
3. Provide a detailed description of the current process and guidance documents related to how individuals with disabilities request an accommodation;
4. Provide a detailed description of the resources and training that have been made available to field officers to ensure applicants have access to a Braille version of the read-aloud section of the citizenship exam in a timely manner; and
5. Confirm whether Federal guidance exists to adjudicate and provide accommodation requests from individuals seeking an immigration benefit or service, and if such guidance exists, please provide my office with a copy.

Sincerely,



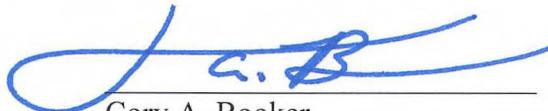
Tammy Duckworth
United States Senator



Robert P. Casey, Jr.
United States Senator



Richard Blumenthal
United States Senator



Cory A. Booker
United States Senator



Kamala D. Harris
United States Senator



Margaret Wood Hassan
United States Senator

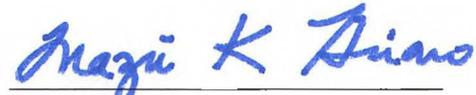
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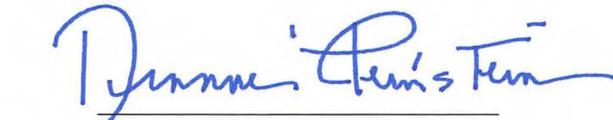
Elizabeth Warren
United States Senator



Mazie K. Hirono
United States Senator



Amy Klobuchar
United States Senator



Dianne Feinstein
United States Senator



**U.S. Citizenship
and Immigration
Services**

June 5, 2020

The Honorable Tammy Duckworth
United States Senate
Washington, DC 20510

Dear Senator Duckworth:

Thank you for your March 12, 2020 letter regarding the process for U.S. Citizenship and Immigration Services (USCIS) to accommodate individuals with disabilities who apply for naturalization. Mr. Cuccinelli asked that I respond on his behalf.

The matter discussed in your letter is currently under review by the Department of Homeland Security, Office for Civil Rights and Civil Liberties. Under Section 504 of the Rehabilitation Act of 1973, USCIS provides accommodations or modifications for applicants with physical or mental disabilities that make it difficult for them to complete the naturalization process. We are committed to providing reasonable accommodations for qualified individuals with disabilities that will help them fully participate in USCIS programs and benefits and each request is evaluated on a case-by-case basis.

USCIS ensures that all domestic USCIS facilities meet the Americans with Disabilities Act Accessibility Guidelines, so applicants generally will not need to contact USCIS to request an accommodation for physical access to a domestic USCIS office.

Although USCIS cannot comment on individual cases, we note that members of the public seeking benefits with USCIS may request braille materials by using the online accommodations request mechanism available at uscis.gov/accommodations or by calling the Contact Center. We take seriously and review any reports of improperly denied accommodations, and USCIS can grant a reasonable accommodation request to mitigate a circumstance in which a request was improperly denied. USCIS will also take steps to allow an eligible applicant to naturalize on the same day to prevent multiple returns to the office.

Regarding the accommodation request process, applicants must make their request online or by calling the USCIS Contact Center, upon receipt of their appointment notice. When an applicant communicates with the Contact Center to request an accommodation, the request is forwarded to the field office that has jurisdiction over the application.

There are no requirements that an accommodation be requested in a formal way, at a particular time, or through a particular format or mechanism. A person requesting an accommodation does not need to use specific words such as "accommodation" or "disability."

Also, an accommodation request can come from someone other than the person needing the accommodation, such as a representative, advocate, friend or family member. There is no requirement that requests be made in advance, although some accommodations, such as sign language interpreters, typically cannot be fulfilled on the interview day, unless they are made in advance.

USCIS makes a good faith effort to identify an accommodation or modification that will be effective and reasonable, if one is not suggested by the individual. The USCIS Public Disability Access Coordinator must generally concur on any alternative accommodation offered or any accommodation denial before the office communicates either action to the requestor. If an error is made at a field office regarding an accommodation, USCIS will work quickly to rectify the error.

USCIS has recently made the following modifications to the disability accommodations process:

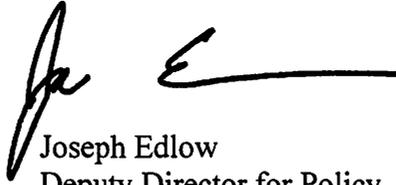
- We updated our “Disability Accommodations for the Public” webpage to provide greater clarification of the definition of accommodation, examples of commonly requested accommodations, and information on how to request an accommodation online. These updates can be found on our website, specifically at: <https://www.uscis.gov/tools/disability-accommodations-public>.
- We are working to update our public-facing forms and notices with standardized accommodations language. This will ensure that individuals receive consistent and up-to-date information regarding when and how to request a disability accommodation.
- Our Office of Equal Opportunity and Inclusion recently developed a training module regarding disability accommodations. The training includes content concerning USCIS’ obligations to provide accommodations, how to recognize a request for an accommodation, understanding the difference between an accommodation request and a medical exception, and next steps following a denial of an accommodation. We anticipate that this training will be available to USCIS officers this month.
- On March 9, 2020, we distributed guidance to the adjudicators in the Field Operations Directorate regarding how to request testing materials in braille. The guidance was sent out to the field offices electronically, as well as the attached material.

As indicated above, we have multiple guidance documents regarding how to adjudicate and provide accommodation requests from individuals seeking an immigration benefit or service. You may access these documents at www.uscis.gov.

The Honorable Tammy Duckworth
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Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in black ink, appearing to be 'Ja' followed by a long horizontal line that curves slightly upwards at the end.

Joseph Edlow
Deputy Director for Policy