

**U.S. DEPARTMENT OF AGRICULTURE  
EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT FINAL DECISION**

Complainant: James E. Patterson (921203)

Agency: Foreign Agricultural Service

Issue: Nonselection After Denial of a Medical Waiver

Basis: Disability of a Dependent

**DECISION**

We find discrimination based on an associational disability was a factor when the Agency denied the waiver request and subsequently did not select the Complainant for the position of Foreign Agricultural Officer. The following relief and corrective actions are ordered:

- (1) The agency will retroactively appoint the complainant to the Foreign Service as a career candidate, with all rights, entitlements and responsibilities as if originally appointed at the time of the waiver decision. Any corrections to salary and benefits as if he were a Foreign Service Career Candidate will be paid as if he had originally been granted the waiver. Training opportunities and developmental work assignments will be accelerated if necessary to compensate for the lost time between when he should have been selected and now.
- (2) The agency will cease denying applicants for Foreign Service candidate positions because of the disability of their dependents or associates. Applicants with dependents who have disabilities, but who otherwise fully qualify for the Foreign Service, will be appointed to the Foreign Service upon agreeing in writing to accept unaccompanied tours and apply for separate maintenance allowance. Failure to agree to worldwide availability for unaccompanied tours in such circumstances will be sufficient grounds to deny an appointment.
- (3) Proven compensatory damages are awarded. The complainant's submission of any claim for compensatory damages should be sent to the Director, Office of Civil Rights Enforcement, through the Compensatory Damages Unit, Room 1328, South Building, 14th and Independence Avenue, S.W., Washington, DC, 20250, within 30 days of receipt of this decision. A decision on the proven damages will be issued, with full appeal rights from any amount awarded.