



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Office of Federal Operations**  
**P.O. Box 77960**  
**Washington, DC 20013**

[REDACTED]  
Tabetha M.,<sup>1</sup>  
Complainant,

v.

Thomas J. Vilsack,  
Secretary,  
Department of Agriculture  
(Agricultural Research Service),  
Agency.

Request No. 2024004547

Appeal No. 2024003123

Agency No. FPAC-2024-00074

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Tabetha M. v. Dep't of Agric., EEOC Appeal No. 2024003123 (July 10, 2024). For the following reasons, the Commission DENIES the request.

**ISSUE PRESENTED**

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024003123 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

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<sup>1</sup> This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

### BACKGROUND

During the relevant time, Complainant was a Former Soil Scientist and applicant for employment with the Agency's Agriculture Research Service. Complainant filed a formal EEO complaint alleging that the Agency discriminated against her on the bases of race (Black) and in reprisal for prior protected EEO activity when, on October 16, 2023, she learned that she was not selected for the CO-1101-5/12, County Executive Director position, advertised under Vacancy Announcement No. FSACO-12135580-CO-23-CJ, located in Greeley, Colorado.

On March 13, 2024, the Agency issued a final decision dismissing the formal complaint for being untimely filed. The Agency reasoned that the formal complaint was not filed within 15 calendar days of January 23, 2024, the date that the Complainant received the Notice of Right to File. Complainant filed her formal complaint on February 29, 2024, which was 22 days beyond the 15-day limitation period.

In the appellate decision, the Commission determined that the formal complaint was properly dismissed due to its untimely filing. Complainant admitted in her appeal statement that she received the Notice of Right to File a Formal EEO complaint on January 19, 2024. A review of the Notice showed that it properly informed Complainant that she had to file a formal complaint within 15 calendar days of receipt of the Notice and provided her information on the procedures for filing a complaint. The Commission determined that there was no evidence in the record showing that Complainant timely sent a complete and signed complaint to the Agency via email or mail to either of the two addresses identified in the Notice. As a result, the Commission affirmed the Agency's dismissal.

The instant request for reconsideration from Complainant followed.

### CONTENTIONS ON REQUEST

Complainant asserts she was displaced from her home and stayed in a hotel in Fort Morgan, Colorado, from January 17 to January 31, 2024, where internet service was erratic, citing severe weather conditions that disrupted living conditions. According to Complainant, these challenges contributed to her delayed submission of the formal complaint.

### STANDARD OF REVIEW

EEOC regulations provide that the Commission may, in its discretion, grant a request to reconsider any previous Commission decision issued pursuant to 29 C.F.R. § 1614.405(a), where the requesting party demonstrates that: (1) the appellate decision involved a clearly erroneous interpretation of material fact or law; or (2) the appellate decision will have a substantial impact on the policies, practices, or operations of the agency. See 29 C.F.R. § 1614.405(c).

### ANALYSIS

We have reviewed the various arguments raised by Complainant in the instant request for reconsideration. However, we can find no basis to disturb the Commission's prior decision. Complainant presents arguments which were previously raised and considered or could have been raised during the original appeal.

A request for reconsideration is not a second appeal to the Commission. Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), Chap. 9 § VI.A (Aug. 5, 2015); see, e.g., Lopez v. Dep't of Agric., EEOC Request No. 0520070736 (Aug. 20, 2007). Rather, a reconsideration request is an opportunity to demonstrate that the appellate decision involved a clearly erroneous interpretation of material fact or law, or will have a substantial impact on the policies, practices, or operations of the Agency. Complainant has not done so here.

### CONCLUSION

After reviewing the previous decision and the entire record, the Commission finds that the request fails to meet the criteria of 29 C.F.R. § 1614.405(c), and it is the decision of the Commission to DENY the request. The decision in EEOC Appeal No. 2024003123 remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request.

### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0124)


This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision.

If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by their full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work.

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests. Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:

  
Carlton M. Hadden, Director  
Office of Federal Operations

February 3, 2025  
Date