



DEPARTMENT OF VETERANS AFFAIRS  
Office of the General Counsel  
Washington DC 20420

JAN 11 2012

In Reply Refer To:

Mr. William E. Reukauf  
Associate Special Counsel  
U.S. Office of Special Counsel  
1730 M Street NW, Suite 218  
Washington, DC 20036

Re: Supplemental Report: Office of Special Counsel (OSC) File No. DI-11-1650,  
Albuquerque, NM

Dear Mr. Reukauf:

This replies to your request for supplemental interviews regarding allegations reported by [REDACTED], a former employee of the New Mexico VA Health Care System (NMVAHCS), who alleges that her former supervisor routinely misused official time and government property in possible violation of 5 C.F.R. § 704, 5 C.F.R. § 705 (Use of Official Time), and VA Directive 6001 (Limited Personal Use of Government Office Equipment Including Information Technology).

The Department of Veterans Affairs has conducted the supplemental interviews. Findings of the review are included in the enclosed Supplemental Report of Investigation. A redacted copy of the Supplemental Report of Investigation is also enclosed for public disclosure. After conducting the initial and supplemental interviews and investigation, the NMVAHCS did not substantiate [REDACTED] specific allegations or determine that there was a disclosure to any level of management by [REDACTED] or any of the four additional interviewees concerning the alleged wrongdoing.

Thank you for the opportunity to respond to these issues.

Sincerely yours,

Walter A. Hall  
Assistant General Counsel

Enclosure

**Supplemental Report of: Office of Special Counsel (OSC) File No. DI-11-1650,  
Albuquerque, NM**

**I. SUMMARY OF INFORMATION:**

Pursuant to OSC's request, a supplemental investigation was conducted in response to OSC File No. DI-11-1650 regarding allegations that an employee in Home Based Primary Care (HBPC) engaged in conduct that may constitute violations of law, rule, or regulation and an abuse of authority. Specifically, the allegations were as follows:

[REDACTED] reported that [REDACTED] routinely misused official time and government property to spend approximately three to four hours per workday from March 2010 to March 2011, completing school work for a Master of Science in Nursing Degree that she is pursuing through the [REDACTED]. [REDACTED] also alleged that [REDACTED] used VA computers to print 150-page packets related to her coursework approximately two to three times per week between March 2010 and March 2011.

**II. CONDUCT OF THE SUPPLEMENTAL INVESTIGATION**

The supplemental investigation was delegated to the NMVAHCS and [REDACTED] (Health System Specialist) [REDACTED] (2011) led it. In accordance with OSC's request, four supplemental interviews were conducted with [REDACTED] regarding [REDACTED] allegations. Each of these interviewees requested Union Representation (AFGE Local 2063). Phone interviews were conducted with [REDACTED] and [REDACTED]. In-person interviews were conducted with [REDACTED] and [REDACTED]. All four employees were asked the same questions.

**III. SUMMARY OF EVIDENCE**

- [REDACTED] has worked in HBPC since [REDACTED] 2010 and works as a [REDACTED]. Between [REDACTED] 2010 and [REDACTED] 2010 (when HBPC moved from Building 3 to Building 15), [REDACTED] worked in a large room in Building 3 that included many workstations for HBPC staff. She stated that between August 2010 and December 2010, she may have seen [REDACTED] completing her schoolwork. She stated that [REDACTED] was working on "electronic documents" that appeared to be a Microsoft Word document. She stated that she had a direct line of vision on [REDACTED] computer screen. She stated that on most days, [REDACTED] was back from seeing her patients between 1:30-2:00 p.m. and that she witnessed what she thought was

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homework completion frequently, although she did not indicate it was as often as 3-4 hours a day, five days a week (as [REDACTED] alleges).

[REDACTED] also stated that [REDACTED] would use the printer for her e-books and homework and that this would often frustrate the other [REDACTED] nurses who were trying to print patient materials. She stated that this happened especially in the morning, when nurses were preparing to visit patients. She further stated that the staff would have to wait to have access to printed materials necessary for patient care visits.

After [REDACTED] and the HBPC staff moved to Bldg. 15, [REDACTED] could not as readily confirm [REDACTED] completion of homework or printing of documents. [REDACTED] indicated that "on occasion" she would see text books on the floor and desk in [REDACTED]

[REDACTED] stated that she did not report this activity to *any* level of management (HBPC Director, Associate Chief Nurse for Geriatrics and Extended Care, Chief of Staff, and/or Director).

- [REDACTED] has worked in HBPC since 2004 and is a home-based [REDACTED] [REDACTED] also worked in the big room in Building 3. She was located in the [REDACTED] [REDACTED] was "a distance" from [REDACTED] work station and computer. She could not, with certainty, state that [REDACTED] was doing homework on her computer, although she stated that [REDACTED] was quite open about attending graduate school.

[REDACTED] described her work day as leaving the Albuquerque VA around 8:30 a.m., conducting home visits, and returning to the VA between 1:30-2:00 p.m. each day. She indicated that was typical for [REDACTED] although [REDACTED] would sometimes already be back in the office when she got back.

[REDACTED] indicated that because she was [REDACTED] she would frequently see school documents printed by [REDACTED] and indicated that this happened at least once a week. After December 2010 (when [REDACTED] the staff moved), she could not, with certainty, state that the printing continued.

[REDACTED] also stated that she did not see [REDACTED] doing homework after the move to Building 15 in November/ December 2010.

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She stated that [REDACTED] door was sometimes partially shut and that the back of her computer screen was facing the door.

[REDACTED] stated that she did not report this activity to *any* level of management (HBPC Director, Associate Chief Nurse for Geriatrics and Extended Care, Chief of Staff, and/or Director). [REDACTED] stated that in retrospect she should have reported this activity to management.

- [REDACTED] is a [REDACTED] and has worked in HBPC since 2006. She stated that her work day includes patient home visits and office work. [REDACTED] also worked in the large, open room in Building 3 with the other HBPC staff. She indicated that [REDACTED] typically returned from home visits between 1 p.m. and 2 p.m. each day. She stated that [REDACTED] would leave each day by 3:30 p.m. because she [REDACTED]. [REDACTED] indicated that she would see [REDACTED] working on documents on her computer but did not know what kinds of documents they were.

When the HBPC staff moved in December 2010, [REDACTED] stated that she did not have any way to see [REDACTED] computer because [REDACTED] office. [REDACTED] did state that [REDACTED] would stay late on Wednesdays because she had a graduate level class [REDACTED].

[REDACTED] stated that she did “pull” a big document off the printer once that was related to [REDACTED] school work.

[REDACTED] stated that she did not report this activity to *any* level of management.

- [REDACTED] is a [REDACTED] and she has worked in HBPC since 2009. She also stated that she worked in the large, open room in Building 3 and that she would see everyone else’s desk from hers. She indicated that she was back-to-back with [REDACTED]’s desk and she could “look over and see everything.” She indicated that her work is much like a Nurse’s as she is in the field most of the time doing [REDACTED]. On a typical day, she is back in the office by 1:30 - 2:00 pm. [REDACTED] stated she saw [REDACTED] doing homework “almost daily” but especially on Wednesday. She indicated that she saw [REDACTED] searching different websites and doing Medline searches. She indicated that her perception was that [REDACTED] would complete her homework “at least more than one hour.”

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[REDACTED] also described difficulties with printing in the morning, when [REDACTED] nurse and they were all located in Building 3, because [REDACTED] was using the printer for school work and that she heard other staff complain about it.

[REDACTED] stated that she did not report this activity to *any* level of management (HBPC Director, Associate Chief Nurse for Geriatrics and Extended Care, Chief of Staff, and/or Director).

**IV. SUSTAINED OR UNSUSTAINED VIOLATIONS**

The NMVAHCS did not substantiate [REDACTED] specific allegation that [REDACTED] was completing homework three to four hours per workday for the past year (March 2010 to March 2011) while on official duty time. Additionally, the NMVAHCS did not substantiate the specific allegation that a VA printer was used to print up to 150-page packets approximately two to three times a week between March 2010 and March 2011 as alleged by [REDACTED]. While the four supplemental interviewees did not provide definitive testimony concerning whether [REDACTED] was completing school work on official time, they did indicate that she was using a VA printer to print out school related documents that, in some cases, interfered with staff work. However, NMVAHCS did not substantiate that these concerns were disclosed to any level of management prior to the OSC letter to the Secretary of Veterans Affairs of March 25, 2011. In fact, none of the supplemental interviewees disclosed or reported these allegations to *any* level of management at the NMVAHCS. And, as noted in the original report, the [REDACTED] supervisor, [REDACTED] met with [REDACTED] at [REDACTED] request in December 2010; [REDACTED] took detailed notes during this meeting and there was no discussion about these specific allegations.

**V. ACTION TAKEN**

As a result of the NMVAHCS' initial and supplemental investigation, NMVAHCS management [REDACTED] concerning the proper use of Government time and equipment and her responsibility as a supervisor to assure against the perception that she would inappropriately use Government resources.