



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

September 21, 2011

The President  
The White House  
Washington, D.C. 20500

Re: OSC File No. DI-11-0831

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report based on disclosures made by a whistleblower at the Department of Defense (DoD), DoD Education Activity (DoDEA), DoD Dependents Schools (DoDDS), Royal Air Force Station Lakenheath, England. The whistleblower, Timothy Winey, who consented to the release of his name, was a teacher at Lakenheath Elementary School, a DoDDS school. Mr. Winey alleged that Lakenheath school officials failed to properly report an allegation of child abuse.

Mr. Winey's allegations were referred on January 18, 2011, to the Honorable Robert M. Gates, then-Secretary of Defense, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). On May 2, 2011, former Secretary Gates submitted the agency's report to this office. I received a supplemental report on August 10, 2011. Mr. Winey provided comments on the reports pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the reports and Mr. Winey's comments to you.

Mr. Winey disclosed that on October 20, 2010, he became aware that an allegation of child abuse had been made against him. Specifically, the allegation was that Mr. Winey tied students to their chairs as punishment for tipping the chairs onto their back legs while seated in them. On October 21, 2010, Mr. Winey received a memorandum from Principal Christy Blevins indicating that the allegation was not substantiated. The memo stated that upon hearing the allegations, Ms. Blevins "chose to report to the DSO<sup>1</sup> verses (sic) the FAP,<sup>2</sup> based upon [her] knowledge of Mr. Winey's use of 'colorful language and exaggerations'." Mr. Winey alleged that Principal Blevins and other DoDEA officials violated DoD Directive (DoDD) Number 6400.1(E2.1.1) (August 23, 2004) and DoDEA Regulation 2050.9 (January 27, 1998) when they failed to notify the FAP officer of the allegations made against him and instead used their personal judgment to handle the matter. Mr. Winey further alleged that he should have been notified of the allegation made against him prior to the initiation of interviews with his students.

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<sup>1</sup> District Superintendent's Office.

<sup>2</sup> Family Advocacy Program.

Pursuant to DoDEA Regulation 2050.9(E.4), a DoDEA employee who has reason to believe a student has been abused either within or outside of a DoDEA school shall report that information to the local installation's FAP officer immediately as an official, professional responsibility. Further, DoDEA Regulation 2050.9(E.3.f) requires DoDEA principals to immediately contact the local FAP officer in addition to the district superintendent, area superintendent and the Director, DoDEA, using a provided format. Principals also must consult with FAP officials and, if necessary, higher levels of DoDEA to determine whether an alleged offender should be temporarily relieved from duty pending further investigation, relying on the information gathered by FAP officials and other investigating entities.

Similarly, DoDD 6400.1(E2.1.1) requires that when an act of abuse has allegedly occurred, the local FAP office must be notified immediately, in order to set in motion assessment, treatment, and notification of the local public child protective agency, where such notification is covered by agreement. Neither DoDEA Regulation 2050.9 nor DoDD 6400.1 allows for personal discretion in reporting when an allegation of child abuse has been made.

While DoD's investigation did not find that Mr. Winey should have been notified of the allegation of child abuse, the report did substantiate Mr. Winey's allegation that DoDEA officials failed to notify the FAP officer, in violation of DoDEA Regulation 2050.9 and DoDD 6400.1. The report noted that officials made an improper judgment call regarding the veracity of the allegations against Mr. Winey, instead of properly reporting them as required by DoD regulations. As a result of these findings, the District Superintendent, Assistant Superintendent, School Principal, and Assistant Principal each received a letter of counseling reflecting the seriousness of their failure to follow policy and the risk to students as a result of such failure. The agency also stated that training will be provided to school administrators to better prepare them to handle allegations of child abuse.

In his comments on the agency reports, Mr. Winey noted that DoDDS employees receive annual training on how to properly report allegations of child abuse, and thus school officials were aware of the reporting requirements for child abuse allegations. He expressed his displeasure with the report's statement that Ms. Blevins contacted the FAP officer on February 1, 2011, well after the incident, and noted that he was the individual who made the initial report to the FAP officer when he first learned of the allegations against him. Mr. Winey also stated his belief that Lakenheath school officials acted in concert with other DoD officials as part of a larger organizational attempt to harass and remove DoDDS teachers.

I have reviewed the original disclosure, the agency's reports, and Mr. Winey's comments. Based on that review, I have determined that the agency's report contains all of the information required by statute, and the findings appear to be reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency's reports and Mr. Winey's comments to the Chairmen and Ranking Members of the Senate and House

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Committees on Armed Services. I have also filed copies of the reports, as redacted by DoD to include only employees' titles,<sup>3</sup> and Mr. Winey's comments in our public file, which is now available online at [www.osc.gov](http://www.osc.gov), and closed the matter.

Respectfully,



Carolyn N. Lerner  
Special Counsel

Enclosures

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<sup>3</sup>DoD provided OSC with a redacted report, which substitutes duty titles for the name of each DoD employee referenced therein. DoD cited the Privacy Act of 1974 (Privacy Act) (5 U.S.C. §552a) as the basis for these redactions to the report produced in response to 5 U.S.C. § 1213. OSC objects to DoD's use of the Privacy Act to remove the names of each DoD employee on the basis that the application of the Privacy Act in this manner is overly broad.