



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

July 22, 2011

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

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

Dear Mr. Reukauf:

This replies to your March 25, 2011, letter regarding allegations reported by (b) (6), a former employee at the New Mexico VA Health Care System (NMVAHCS), that her 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 thoroughly investigated these allegations. Findings of the review are included in the enclosed Report of Investigation that was conducted by a fact-finding. A redacted copy of the Report of Investigation is also enclosed for public disclosure. The evidence does not support (b) (6) allegations that (b) (6) misused official time and government property.

I have reviewed the Report of Investigation and concur with the findings, conclusions and action taken by the NMVAHCS.

Thank you for the opportunity to respond to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric K. Shinseki".

Eric K. Shinseki

Enclosure

I. SUMMARY OF INFORMATION

An investigation was conducted in response to OSC File No. DI-11-1650, as required by 5 U.S.C. § 1213(d) regarding allegations 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 are as follows:

(b) (6) reported that (b) (6) routinely misused official time and government property to spend approximately three to four hours per workday for the past year, completing school work for a Master of Science in Nursing Degree that she is pursuing through the (b) (6). (b) (6) also alleged that (b) (6) 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 INVESTIGATION

The investigation was delegated to the NMVAHCS and the fact finding review was conducted by (b) (6), MPA (Health System Specialist). (b) (6) interviewed the following staff: (b) (6), Complainant; Meghan Gerety, MD, Chief of Staff; (b) (6), Human Resources; (b) (6), Human Resources; (b) (6), Geriatrics and Extended Care; (b) (6), HBPC; (b) (6), HBPC; and (b) (6), Office of Information and Technology.

Additionally, the following documents were obtained and reviewed: (1) (b) (6) Microsoft Outlook calendar for selected random periods between March 2010 and 2011; (2) (b) (6) notes from the December 9, 2010 meeting with (b) (6); (3) National Nursing Education Initiative (NNEI) Scholarship Program Agreement (from (b) (6)); and, (4) NNEI Cost Calculation Tool (from (b) (6)).

III. SUMMARY OF EVIDENCE

(b) (6) worked as a Registered Nurse in HBPC under a temporary appointment between (b) (6) 2010 and (b) (6) 2011. This appointment expired on (b) (6) 2011. (b) (6) (HBPC Program (b) (6)) denied that (b) (6) told her in July 2010 about these allegations.

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(b) (6) indicated that (b) (6) was and continues to be one of the most productive HBPC nurses at NMVAHCS. (b) (6) has continued patient home visits and maintained the duties of the (b) (6) since November 2010. (b) (6) indicated that based on (b) (6) workload and productivity, (b) (6) does not have time to do homework three to four hours a day on duty time.

(b) (6) denied completing schoolwork three to four hours per workday, as it was not possible with her (b) (6) duties and patient load. (b) (6) did admit to completing schoolwork on Wednesday evenings after she completed her tour of duty at 4 p.m. Her Wednesday evening class is on NMVAHCS campus. (b) (6) stays on the VA campus until the class starts at 5 p.m. During this time, she normally does her schoolwork while in a non duty status.

(b) (6) indicated that she printed e-mail communications and spreadsheets specifically related to scholarship funding and expenses, which two higher level supervisors ((b) (6)) verified. Both supervisors stated they had not received any complaints alleging that (b) (6) inappropriately used VA time and resources to complete her schoolwork. Other VA Leadership (Human Resources and Chief of Staff) was not aware of any allegations that (b) (6) was violating any rules or procedures.

(b) (6) (Geriatrics and Extended Care) met with (b) (6) on December 9, 2010. (b) (6) indicated there was no discussion about (b) (6) using VA time and resources to complete her Master's degree work. During this meeting, (b) (6) confirmed the expectation that HBPC nurses should see three patients a day, between 50-60 patients per month.

(b) (6) was asked to provide documentation and specific dates to the investigator about her reported conversations with (b) (6) and (b) (6) regarding allegations. None were provided. (b) (6) indicated she did not take notes or document the outcomes of these meetings with (b) (6) and (b) (6). During the interview, she could not articulate the exact date and time she reported allegations to (b) (6). She indicated that it was "probably" May or June 2010.

By (b) (6) own account, it is not possible that she saw (b) (6) completing three to four hours of homework a day. (b) (6) described her normal work day as 7:30 a.m. – tour starts, 7:30 – 8:30 a.m. – prepare paperwork, supplies, schedule for home based visits, 8:30 – 9:15 a.m. - travel from VA (located in southeast Albuquerque) to home visits, 9:15 – 10:45 a.m. - home visit #1 with administrative time and travel to next patient, 10:45 a.m. -12:00 p.m. - home visit #2 with administrative time and travel to next patient, 12:00 p.m. - 30 minute lunch (sometime during the day), 12:30 - 2:00 p.m. – home visit #3 and administrative time, 2:00 – 2:45 p.m. - travel back

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to VA facility, and 2:45 - 4:00 p.m. - complete paperwork/patient charting/ prepare for next day.

(b) (6) indicated she "barely had any contact" with (b) (6) after she (b) (6) completed orientation in May 2010. She stated they had a completely different patient workload in different parts of Albuquerque.

(b) (6) NMVAHCS Office of Information and Technology (OI&T), indicated that it is not possible to determine the extent of time someone may (or may not) be using Government IT resources. He indicated that he could only provide the times a VA employee logged into and out of the VA computer system. Additionally, he indicated that it is not possible to identify specific printing jobs initiated by a VA employee.

IV. SUSTAINED OR UNSUSTAINED VIOLATIONS

The New Mexico VA Health Care System (NMVAHCS) did not substantiate Ms. (b) (6) allegations. No evidence was provided by (b) (6) that indicates she had made the NMVAHCS aware of her allegations. (b) (6) denied completing homework during work time. She also denied using government printers for inappropriate purposes. All of the leaders in (b) (6) chain of command denied being told that there were issues with her use of official time and Government property. (b) (6) continues to be one of the most productive HBPC nurses at the NMVAHCS.

V. ACTION TAKEN

No action is planned as the NMVAHCS did not substantiate the allegations.