

**Memorandum to the File
Case Closure**

Alleged Prohibited Personnel Practices
Central Alabama Veterans Health Care System, Montgomery, Alabama
(2011-03313-IQ-0193)

The VA Office of Inspector General Administrative Investigations Division investigated an allegation that (b) (7)(C) Central Alabama Veterans Health Care System (CAVHCS), engaged in prohibited personnel practices by giving unauthorized preference or advantage in employment to a former (retired) Human Resources (HR) Officer and improperly promoting a Supervisory HR Specialist into the former HR Officer's position. To assess these allegations, we reviewed personnel records and interviewed the current HR Officer. We also reviewed applicable Federal laws, regulations, and VA policies. We substantiated another allegation, which was addressed in a separate memorandum.

Federal law states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment for the purpose of improving or injuring the prospects of any particular person for employment. 5 USC § 2302(b)(6). Federal law also states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. 5 USC § 2301(b)(1).

Standards of Ethical Conduct for Employees of the Executive Branch require that employees act impartially and not give preferential treatment to any private organization or individual and that employees endeavor to avoid any actions creating an appearance that they are violating the law or these ethical standards. 5 CFR § 2635.101(b)(8) and (14).

Federal Regulations state that, except as otherwise specifically authorized by OPM, an agency may make promotions only to positions for which the agency has adopted and is administering a program designed to insure a systematic means of selection for promotion according to merit. Each agency must establish procedures for promoting employees which are based on merit and are available in writing to candidates. 5 CFR § 335.103(a) and (b). *Promotion* means an employee's change, while serving continuously within the same agency, to a higher grade or to a position with a higher rate of pay. *Reassignment* means an employee's change, while serving continuously within the same agency, from one position to another without promotion or demotion. 5 CFR § 210(a)(11) and (12). Regulations also state that an agency must wait at least 90 days after an employee's latest nontemporary competitive appointment before promoting, transferring, reassigning, or detailing an employee to a different position. 5 CFR § 330.502.

We did not interview (b) (7)(C) or the (b) (7)(C); however, in a review of personnel records, we found no evidence that (b) (7)(C) gave unauthorized preference in employment and/or promotion to the former HR Officer and the former Supervisory HR Specialist. Recruitment records reflected that (b) (7)(C) selected the former HR Officer from among five candidates referred by the VISN 7 HR Management Officer, who determined that they were the "best qualified" candidates. The referral certificates also reflected that (b) (7)(C) conducted performance-based interviews of all five candidates, prior to making a selection. Records also reflected that (b) (7)(C) and not (b) (7)(C) was the selecting official for the former Supervisory HR Specialist. Records showed that (b) (7)(C) selected the former Supervisory HR Specialist from among 12 qualified candidates referred by CAVHCS HR Management.

Personnel records reflected that (b) (7)(C) reassigned the former Supervisory HR Specialist to the position of HR Officer in February 2011. Records also reflected that the former Supervisory HR Specialist, a GS-13 Step 10, was reassigned to a GS-13 Step 10 position, at the same rate of pay, after the incumbent was temporarily promoted to an Associate Director position and subsequently retired.

Conclusion

We did not substantiate that (b) (7)(C) gave preference or advantage in employment and/or promotion to the former HR Officer or the former Supervisory HR Specialist. (b) (7)(C) selected the former HR Officer after performance-based interviews of the best qualified candidates, and he was not the selecting official for the former Supervisory HR Specialist. Further, the former Supervisory HR Specialist was properly reassigned to the HR Officer position at the same grade and rate of pay, after it was left vacant by the incumbent. Federal regulations permit a reassignment from one position to another without a promotion. We are therefore closing these allegations without a formal report or memorandum.

Prepared by:

(b) (7)(C)

1/19/2012
Date

Approved by:

(b) (7)(C)

1/19/12
Date