

**Memorandum to the File  
Case Closure**

**Alleged Preferential Treatment and Prohibited Personnel Practices  
Brooklyn Campus of the VA NY Harbor Healthcare System  
(2010-03530-IQ-0180)**

The VA Office of Inspector General Administrative Investigations Division investigated allegations that [REDACTED] Facilities and Human [REDACTED] Engineering Service; and [REDACTED] Labor Employee Relations, all from the Brooklyn Campus of the VA New York Harbor Healthcare System (NYHHS), engaged in prohibited personnel practices and preferential treatment. To assess these allegations, we interviewed [REDACTED] and other VA employees. We also reviewed email, personnel, and telephone records, as well as Federal regulations and VA policy.

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Federal law prohibits public officials from appointing, employing, promoting advancing, or advocating for appointment, employment, promotion, or advancement, in the agency in which the public official is serving, or which he exercises jurisdiction or control, any individual who is a relative of the public official. 5 USC § 3110(b). Federal law also requires that Federal employees be selected and advanced solely on the basis of relative ability, knowledge, and skills, and unless otherwise exempted by law, after fair and open competition. 5 USC § 2301(b)(1). Federal law further 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 discriminate for or against any employee or applicant for employment or 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)(1) and (6).

Standards of Ethical Conduct for Employees of the Executive Branch require employees to act impartially and not give preferential treatment to any individual and to avoid any actions creating the appearance that they are violating the law or ethical standards. 5 CFR § 2635.101(b)(8) and (14). It also prohibits an employee from using his public office for his own private gain or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity and prohibit an employee from using his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to themselves or to friends, relatives, or persons with whom the employee is affiliated with in a nongovernmental capacity. 5 CFR § 2635.702.

[REDACTED] and [REDACTED] allegedly gave preferential treatment to [REDACTED] Electrician; [REDACTED] Pipefitter; [REDACTED] Pipefitter; and [REDACTED] Pipefitter, by improperly advocating for their hiring and advancement, because they were related to the former (retired) VISN Director.

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[redacted] and [redacted] also allegedly "pre-selected" [redacted] as an [redacted] and promoted her non-competitively, since she was [redacted] s "cousin through marriage." Further, [redacted] and [redacted] allegedly, with the assistance of [redacted] Labor Employee Relations, pre-selected [redacted] Mechanic, and [redacted] Mechanic. Finally, [redacted] allegedly, as a result of an inappropriate relationship, gave [redacted] Engineer, preferential treatment by promoting her to [redacted] Engineer without the prerequisite education or proper status.

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#### [redacted] and [redacted] Appointments

[redacted] told us that he originally applied for an electrician position; however, he said that he did not qualify. He said that he then applied for his current position through the internet after his brother, [redacted] told him about an electrical helper job announcement, and he said that [redacted] and [redacted] interviewed him for the position. Personnel records reflected that [redacted] signed a Request for Personnel Action to recruit a [redacted] Electrician Helper, effective August [redacted] 2005. A Personnel Specialist told us that, due to the passage of time, documents associated with [redacted] s hiring action were no longer available. [redacted] told us that, at that time, they were trying to hire entry-level employees and develop them, since they had difficulty finding qualified electricians. [redacted] told us that he was not related to the former VISN Director and that he did not receive any employment assistance from him. He also said that his brother did not advocate for his employment and no VA employee assisted him. [redacted] told us that no one approached him regarding [redacted] employment nor did anyone recommend him.

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In an April 15, 2005, email, [redacted] commented to [redacted] in reference to [redacted] s interview, "the next hurdle will be how to handle the situation IF he is not qualified." [redacted] replied, "I'll worry about that tomorrow.....signed [redacted]" [redacted] told us that his email expressed a concern he had prior to conducting interviews for the position and that he did not know why [redacted] replied as she did. [redacted] told us that she did not remember this particular email and that she could not explain why she answered as she did, since it was written and sent in 2005. She said that she would normally not be involved in hiring efforts within [redacted] s department unless he asked for her opinion based on her human resources knowledge. [redacted] said that he did not know [redacted] before he began working at VA.

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[redacted] told us that his mother, [redacted] was a [redacted] Program Assistant, and that she told him about the [redacted] announcement for which he applied. He said that [redacted] and [redacted] interviewed him for the position. Personnel records reflected that [redacted] signed a Request for Personnel Action form to convert [redacted] to a permanent employee with an effective date of May [redacted] 2005. A Personnel Specialist told us that due to the passage of time the documents associated with [redacted] s hiring effort were no longer available. [redacted] told us that he did not know the

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former VISN Director; he was not related to him; and no VA employee assisted him with respect to his employment. [REDACTED] told us that although he initially supervised [REDACTED] Engineering, currently supervised him. (b) (7)(C)  
He further said that no one at VA, to include the former VISN Director, advocated for [REDACTED] at the time he was hired. [REDACTED] told us that she thought that the former VISN Director may be a distant cousin of [REDACTED] and [REDACTED] however, she said that neither he nor anyone else at VA advocated for them.

#### [REDACTED] and [REDACTED] Appointments

[REDACTED] told us that he applied for his position through the USAJOBS internet website and that [REDACTED] Plumbing [REDACTED] and [REDACTED] Supervisory [REDACTED] Engineer, interviewed him for the position. He said that no one assisted him with the application process or assisted him with his appointment. Personnel records reflected that certificate number [REDACTED] dated October [REDACTED] 2007, contained four names to fill four vacancies, listing [REDACTED] fourth. Records reflected that no applicant had veteran's preference; the first applicant was not selected; the third declined; and [REDACTED] and [REDACTED] selected and appointed the second applicant and [REDACTED] on October 31, 2007. (b) (7)(C)  
[REDACTED] told us that [REDACTED] did not fall within his chain of command. [REDACTED] told us that he did not know either [REDACTED] or [REDACTED]; he did not know the former VISN Director; and he was not related to him. [REDACTED] told us that he had no knowledge of anyone advocating for [REDACTED]'s appointment.

[REDACTED] told us that he applied for his position through the USAJOBS internet website and that [REDACTED] (no longer with VA), Plumbing [REDACTED] interviewed him for the position. He said that no one assisted him with his application or appointment, to include any VA employee. Personnel records reflected that certificate number [REDACTED] dated November, [REDACTED] 2007, contained three names and that [REDACTED] was ranked as number two. Records reflected (b) (7)(C)  
that no applicant had veteran's preference and that [REDACTED] selected [REDACTED] for the position on November [REDACTED] 2007. Personnel records reflected that [REDACTED] signed a Request for Personnel Action form appointing [REDACTED] to his position effective January [REDACTED] 2008. [REDACTED] told us that he did not know [REDACTED] or [REDACTED] before he began working at VA; he did not know the former VISN Director; and he was not related to him. [REDACTED] told us that he was not approached regarding [REDACTED]'s appointment; no one advocated for him; and that he did not know [REDACTED] prior to his VA appointment. [REDACTED] told us that she did not know [REDACTED] or [REDACTED] and that the former VISN Director did not advocate for them.

#### [REDACTED] Appointment

Personnel records reflected that merit promotion certificate number [REDACTED] dated November [REDACTED] 2005, contained six names, three of whom withdrew, leaving three GS-7 VA employees on the list. Records reflected that on December 22, 2005, [REDACTED] (b) (7)(C)

selected [REDACTED] noting that a "panel board committee" recommended her selection. [REDACTED] told us that he obtained approval for the position, because he said that he was short two supervisory positions. He also said that the [REDACTED] position was valuable and that he knew that the applicants not selected would complain. He said that he therefore removed himself from the selection process and instead had a panel board committee make the selection. In an email, dated January [REDACTED] 2006, [REDACTED] told the former VISN Director that a panel recommended [REDACTED] for the position, as she was the best applicant. She further said that another employee did not do well in her interview, because "she did nothing but complain about [REDACTED] during the interview." [REDACTED] told us that he was not related to [REDACTED] however, he said that his mother grew up with an individual whose son married [REDACTED]'s niece. Records reflected that [REDACTED] resigned her position effective February [REDACTED] 2009. (b) (7)(C)

#### [REDACTED] and [REDACTED] Appointments

[REDACTED] told us that [REDACTED] did not process human resources actions for the Medical Center's engineering department. [REDACTED] told us that she oversaw disciplinary actions and retirement benefits and that she had no involvement with job announcements, ratings and rankings, or other hiring processes. She said that she did not have any hiring authority and did not assist [REDACTED] with human resources-related actions.

[REDACTED] told us that prior to his appointment at VA, he worked at the VA facility for a contractor and that he saw the position announcement posted on a bulletin board. Personnel records reflected that certificate number [REDACTED] dated March [REDACTED] 2008, listed one name, [REDACTED] and that [REDACTED] selected [REDACTED] for the position, effective March [REDACTED] 2008. [REDACTED] told us that no one approached him concerning [REDACTED]'s employment; however, he said that he met [REDACTED] prior to his VA employment. He said that [REDACTED] supervised a contract job installation at VA and he saw him about once a week. He said that he did not assist him with the application process or recommend him for the position. However, he said that the [REDACTED] Supervisor recommended that [REDACTED] select [REDACTED] and [REDACTED] told us that they did not know [REDACTED] and that they were not involved with his VA appointment. (b) (7)(C)

[REDACTED] told us that he was already a VA employee and that he ultimately wanted a position in the [REDACTED]. He said that the [REDACTED] Supervisor told him of an upcoming position opening, explained the application process to him, and after he applied for the position, the [REDACTED] Supervisor interviewed him for the position. Personnel records reflected that [REDACTED] signed the Request for Personnel Action form to appoint [REDACTED] to an [REDACTED] position with an effective date of February [REDACTED] 2006. A Personnel Specialist told us that the hiring certificates associated with [REDACTED]'s appointment were no longer available, due to the passage of time. [REDACTED] told us that at different times, he held three different positions in VA and that no one gave him any assistance in the application process other than guidance on how to apply. He said that he did not know [REDACTED] or [REDACTED] before his VA employment, and he said that, (b) (7)(C)

to his knowledge, no one spoke with either of them regarding his employment. He further said that he did not know [REDACTED]

[REDACTED] told us that the [REDACTED] Supervisor told him that he knew [REDACTED] from a chiller installation; he was a good pipefitter; and he "hustles." [REDACTED] and [REDACTED] told us that [REDACTED] was not involved in [REDACTED]'s appointment. [REDACTED] said that although she recognized [REDACTED]'s name, she did not know him and she did not "pre-select" him for a VA position.

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#### *Preferential Treatment of [REDACTED]*

VA police records reflected that in October 2010, they conducted an investigation into an allegation that [REDACTED] and [REDACTED] were involved in an inappropriate and/or romantic relationship and that the relationship influenced Engineering Services financial decisions regarding contracts and projects. VA police records reflected:

The total consensus is that it is common knowledge by all interviewed that due to the mentorship, [REDACTED] and [REDACTED] appear to have more of a casual relationship than [REDACTED] has with other staff. All interviewed stated they have not observed or witnessed anything "inappropriate" or any action that would give the perception the relationship rises to the level of "romantic" other than the opinion of [REDACTED]

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[REDACTED] told us that his relationship with [REDACTED] was neither intimate nor romantic but that of "good friends." He said that he did not spend time with her outside of the workplace. [REDACTED] described her relationship with [REDACTED] as "work colleagues" and friends and that their relationship never went beyond that of supervisor and subordinate. [REDACTED] told us that when she first started at VA she asked [REDACTED] if he would mentor her, since her supervisor was absent and she had no coworkers to ask for direction. [REDACTED] told us that he originally had to think about it and eventually said yes. [REDACTED] said that [REDACTED] agreed to a mentorship program as long as it did not interfere with either of their work assignments, and the VA police records reflected that the [REDACTED] said that he agreed to the mentorship between [REDACTED] and [REDACTED] as long as it did not interfere with her work. [REDACTED] told us that [REDACTED] and [REDACTED] related to one another as employee and employer.

Cellular telephone records reflected that between April 19, 2010, and February 18, 2011, [REDACTED] exchanged 270 phone calls with [REDACTED]'s personal cell phone. Records reflected that a majority of the calls were made either between 5:00 a.m. and 7:00 a.m. or between 7:00 p.m. and 9:00 p.m. [REDACTED] told us that in the past, he frequently communicated with [REDACTED] outside of their duty hours. He said that if it was a busy day and he did not have a chance to sit down with her, he would "give her a call and go over things." He also said that they would discuss items related to her current projects and that he would recommend other employees for her to

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visit and discuss various matters. [REDACTED] told us that they would discuss work-related items on the telephone. [REDACTED] said that he ended their mentorship, after [REDACTED] raised concerns of [REDACTED] showing [REDACTED] favoritism.

[REDACTED] told us that she laterally transferred from a [REDACTED] Engineer position to that of a [REDACTED] Engineer. Personnel records reflected that [REDACTED] authorized [REDACTED] s transfer, effective August [REDACTED] 2009. This action converted [REDACTED] from a title 38 GS-9 [REDACTED] Engineer to a title 5 GS-9 [REDACTED] Engineer. [REDACTED] told us that he transferred her from the [REDACTED] Engineering service to [REDACTED] after she expressed an interest in making the switch. He said that [REDACTED] spoke with human resources personnel and that they told him that [REDACTED] could be laterally transferred, since both positions had promotional potential to GS-12. Personnel records reflected that the salary for a [REDACTED] Engineer, GS-9, and a [REDACTED] Engineer, GS-9, was \$53,234. [REDACTED] told us that a [REDACTED] Engineer was a hybrid title 38 position and that the transfer was proper. Personnel records further reflected that [REDACTED] resigned her VA position effective August [REDACTED] 2011, to return to school.

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*Conclusion:*

We did not substantiate the allegation that [REDACTED] and [REDACTED] engaged in prohibited personnel practices or gave preferential treatment to [REDACTED], [REDACTED], or [REDACTED]. We also did not substantiate that their appointments were the result of them being related to the former VISN Director. Personnel records associated with [REDACTED] and [REDACTED] s appointments were unavailable, and records associated with [REDACTED] and [REDACTED] s appointments reflected proper selections. All four employees denied receiving any assistance, and there was no evidence that [REDACTED] or [REDACTED] gave them any preference.

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We did not substantiate the allegation that [REDACTED] and [REDACTED] gave preferential treatment to [REDACTED] by appointing her to an Administrative Officer position. Personnel records reflected that [REDACTED] properly promoted [REDACTED] at the recommendation of a selection panel, and there was no evidence that [REDACTED] was related to [REDACTED] by marriage. Furthermore, [REDACTED] resigned from VA on February [REDACTED] 2009.

We did not substantiate the allegation that [REDACTED] and [REDACTED] with the assistance of [REDACTED] gave preferential treatment to [REDACTED] or [REDACTED]. [REDACTED] told us that the [REDACTED] Supervisor recommended [REDACTED] from previous work conducted at VA, and personnel records reflected that [REDACTED] properly selected [REDACTED] for his VA position. Due to the passage of time, recruitment records associated with [REDACTED] s appointment were unavailable, and we found no improper involvement by anyone.

We did not substantiate the allegation that [REDACTED] engaged in an inappropriate relationship with or gave preferential treatment to [REDACTED]. Personnel records reflected that [REDACTED] was properly transferred from a title 38 hybrid [REDACTED] Engineer position to a title 5 [REDACTED] Engineer position at the same grade, salary, and promotional potential. The VA Police previously investigated an allegation of [REDACTED] and [REDACTED] having an inappropriate relationship, and they found no evidence of an improper relationship. We found that [REDACTED] and [REDACTED] interacted as a mentor/mentee and that [REDACTED] ended the mentorship, after he learned there was a concern of an appearance of favoritism. Furthermore, [REDACTED] resigned her VA position effective August [REDACTED] 2011.

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We are therefore closing this investigation without issuing a formal report or memorandum.

Prepared By: [REDACTED]

1/13/12  
Date

Approved By: [REDACTED]

1/13/12  
Date