

Department of Veterans Affairs

Memorandum

Date: August 7, 2013

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation, Appearance of Preferential Treatment, VA Loma Linda Healthcare System, Loma Linda, CA (2013-00996-1Q-0009)

To: Director of the Loma Linda Healthcare System

1. The VA Office of Inspector General Administrative Investigations Division investigated an allegation that Mr. (b) (7)(C) the (b) (7)(C) at VA Loma Linda Healthcare System, misused his position and VA funds to pay for his wife's education as well as for another VA employee, Ms. (b) (7)(C) (b) (7)(C). His wife Ms. (b) (7)(C), also worked at the medical center. To assess the allegation, we interviewed Mr. (b) (7) Ms. (b) (7)(C) Mr. (b) (7)(C); and other VA employees. We also reviewed personnel, email, and purchase card records, as well as requests for repayment of student loans, Federal regulations and VA policy.
2. Although we found no evidence reflecting that Mr. (b) (7) misused his position or VA funds, we concluded that Mr. (b) (7) engaged in the appearance of preferential treatment when he gave an additional \$5,000 in funding to Ms. (b) (7)(C) his supervisor's wife, to pay her student loans. When additional funds became available, by not distributing those funds equally to all qualified employees, it created a substantial increase in funds available for Ms. (b) (7)(C). Further, Dr. Dwight Evans, Chief of Staff, told Mr. (b) (7) that no one should receive extra money. We suggest that you confer with your Regional Counsel to determine how to avoid any future appearances of preferential treatment by Mr. (b) (7) or other officials at the Loma Linda Healthcare System concerning their authority to recommend and/or approve personnel and funding actions for Ms. (b) (7)(C) when her husband, Mr. (b) (7) is their direct supervisor making decisions about their performance and awards. We are providing this memorandum to you for your information, official use, and whatever action you deem appropriate. **No response is necessary.**
3. Standards of Ethical Conduct for Employees of the Executive Branch reflect that employees shall act impartially and not give preferential treatment to any individual, shall not use public office for private gain, and that employees shall endeavor to avoid any actions creating the appearance that they are violating ethical standards. 5 CFR §§ 2635(b)(7), (8) and (14). VA Financial Policies and Procedures, Student Loan Repayment Program state that VA will provide qualified employees with student loan repayment benefits whereby VA will repay a qualifying student loan previously taken out by such employee as an incentive to retain high-quality employees. Volume III,

Chapter 4, Paragraph 040101 (September 2010). It also states that under 5 USC § 5379, an employee may receive a maximum of \$10,000 per tax (calendar) year and no more than \$60,000 in a lifetime. Id., at Paragraph 040502C.

4. Purchase card records, dated January 19, 2010, reflected that Mr. (b) (7)(C), (b) (7)(C), Loma Linda Healthcare System, used his Government-issued purchase card to pay tuition of \$2,388 for Ms. (b) (7)(C) and \$2,388 for Ms. (b) (7)(C) for a delinquent obligation for a Business Management course they took at the University of Redlands School of Business, Loma Linda, CA. December 30, 2009, and January 6, 2010, memoranda reflected that Ms. (b) (7)(C) and Ms. (b) (7)(C) were not aware that a request for training was required to be submitted and approved prior to the training. Mr. Donald Moore, former (retired) Medical Center Director, approved these expenditures for the course. We found no other records reflecting Mr. (b) (7)(C) used his Government-issued purchase card to pay educational expenses, to include tuition, for Ms. (b) (7)(C) or Ms. (b) (7)(C) and we found no evidence that Mr. (b) (7) was involved in approving these expenditures.

5. A memorandum dated August 26, 2011, Subject: Repayment of Student Loan – (b) (7)(C) reflected that Mr. John Byrne, Associate Chief of Staff for Education, submitted a proposal for an annual student loan repayment in the amount of \$5,000 for Ms. (b) (7)(C) Dr. Evans and Mr. (b) (7) concurred with the request, and Mr. Moore approved it. The typed \$5,000 was crossed through with pen and a new amount of \$10,000 was handwritten on it. Mr. (b) (7) told us that he made the pen and ink change from \$5,000 to \$10,000, and he identified the initials next to the new entry as his. He said that he also increased the amount to \$10,000 for another VA employee, Ms. (b) (7)(C). He said that he did not recall whether he increased the amounts before or after Mr. Moore signed the paperwork, but he said that the Education Committee approved the increased amounts. He further said that he purposely kept Mr. (b) (7) “out of the loop” so as to eliminate any appearance of preferential treatment.

6. Mr. (b) (7) told us that funding for the Student Loan Repayment Program (SLRP) was divided into three departments and that after they initially designated the SLRP money within the administration department, they later received more funding. He said that he then asked the supervisors if they wanted additional funds for the employees they submitted for SLRP funding, and only Dr. Byrne, who supervised Ms. (b) (7)(C) and Mr. Ronald Pitts, Financial Manager, who supervised Ms. (b) (7)(C) accepted additional funding for their employees. However, Dr. Evans told us that when Mr. (b) (7) contacted him about “whether anyone should be receiving ‘additional’ student loan” money, he told Mr. (b) (7) that he “didn’t feel that anyone (after the initial Facility-wide determination of student loan monies) should receive any more” money.

7. Mr. (b) (7) told us that “almost every time” SLRP funding was available to employees it was always “last minute” to distribute the funds. He said that when other facilities within the Veterans Integrated Services Network (VISN) did not use all of their program

funds, the Loma Linda Healthcare System usually received the reallocated funds. Ms. (b) (7)(C), (b) (7)(C) told us that SLRP funding was designed for hard to fill positions and that HR received, on average, 20-30 applications from employees for the funds. She said that they typically divided the number of applicants by the amount of money allocated but that sometimes they determined the amount of money to give to an employee by how hard their position was to fill. She also said that the funding was divided between three departments: clinical, administration, and engineering. Funding documents reflected that there was \$35,000 to distribute to seven employees in the administration category; however, only five of the employees were selected to receive funds. This left a surplus of \$10,000 to be distributed among the five employees.

8. Personnel records reflected that Mr. (b) (7) was the rating official for Mr. (b) (7) and that he signed Mr. (b) (7)'s performance plan and conducted his performance appraisal for the fiscal year 2011 rating period, from October 1, 2010, to September 30, 2011. Mr. (b) (7) rated Mr. (b) (7) "excellent" for that rating period, and Mr. (b) (7) received a \$2,000 rating-based cash award. This performance year was the same time period that Mr. (b) (7) concurred with the initial \$5,000 in SLRP funds for Ms. (b) (7)(C) and then increased the funding she was to receive to a total of \$10,000.

9. Although we found no evidence reflecting that Mr. (b) (7) misused his position or VA funds, we concluded that Mr. (b) (7) engaged in the appearance of preferential treatment when he gave an additional \$5,000 in funding to Ms. (b) (7)(C) his supervisor's wife, to pay her student loans. When additional funds became available, by not distributing the funds equally to all qualified employees, it created a substantial increase in funds available for Ms. (b) (7)(C). Further, the Chief of Staff, Dr. Evans, told Mr. (b) (7) that no one should receive extra money. We suggest that you confer with your Regional Counsel to determine how to avoid any future appearances of preferential treatment by Mr. (b) (7) or other officials at the Loma Linda Healthcare System concerning their authority to recommend and/or approve personnel and funding actions for Ms. (b) (7)(C) when her husband, Mr. (b) (7) is their direct supervisor making decisions about their performance and awards.

10. We are providing this memorandum to you for your information and official use and whatever action you deem appropriate. It is subject to the provisions of the Privacy Act of 1974 (5 USC § 552a). You may discuss the contents of this memorandum with those named within it, within the bounds of the Privacy Act; however it may not be released to them. If you have any questions, please contact [REDACTED]

[REDACTED]

[REDACTED]

WARNING
5 USC § 552A, PRIVACY ACT STATEMENT

This memorandum contains information subject to the provisions of the Privacy Act of 1974 (5 USC § 552a). Such information may be disclosed only as authorized by this statute. Questions concerning release of this memorandum should be coordinated with the Department of Veterans Affairs, Office of Inspector General. The contents of this memorandum must be safeguarded from unauthorized disclosure and may be shared within the Department of Veterans Affairs on a need-to-know basis only.