



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

INVESTIGATIVE REPORT OF ALLEGED MISUSE OF POSITION BY NPS ETHICS COUNSELOR

This is a revised version of the report prepared for public release

SYNOPSIS

We initiated this investigation after receiving a complaint from officials at another Federal Government agency (hereinafter referred to as the agency), concerning alleged actions taken by a National Park Service (NPS) ethics counselor. The NPS ethics counselor allegedly used his U.S. Government email address and official title several times in 2016 and 2017 to represent a family member before agency officials regarding a negative performance review that the family member received and regarding her use of sick leave. The NPS ethics counselor allegedly falsely represented to the agency that his family member needed to use sick leave to assist him at times when he was actually working and may have submitted false medical documentation to the agency to support his family member's use of sick leave.

We found that the NPS ethics counselor violated Federal regulations by using his official title when communicating with agency officials via email and telephone regarding his family member's negative performance review and her use of sick leave. We also found that the NPS ethics counselor did not obtain approval, as required, to represent his family member to the Federal Government. The NPS ethics counselor admitted that when communicating with agency officials, he used his official title with the intent to influence them to act in his family member's favor, an action he acknowledged was wrong and likely violated Federal ethics regulations.

We did not find that the NPS ethics counselor presented false medical documentation to the agency on behalf of his family member. We also did not find sufficient evidence that the NPS ethics counselor intentionally misrepresented information to the agency related to his family member's use of sick leave.

We provided this report to the Acting NPS Director for any action deemed appropriate.

DETAILS OF INVESTIGATION

We initiated this investigation on April 11, 2017, after receiving a complaint from officials from another Federal Government agency (hereinafter referred to as the agency) alleging that an NPS ethics counselor inappropriately communicated with agency officials on behalf of a family member regarding performance and leave matters and made false representations in an effort to influence the agency officials' actions. The agency officials noted that the NPS ethics counselor's family member, an agency employee, was the subject of past and ongoing administrative action that included a leave restriction. Specifically, the complainants alleged that:

- The NPS ethics counselor violated Federal regulations by using his official title when communicating with agency officials via email and telephone regarding his family member's negative performance review and her use of sick leave.
- The NPS ethics counselor falsely represented to the agency that his family member was required to use sick leave to assist him on dates when he was actually working.
- The NPS ethics counselor submitted false medical documentation to the agency to support his family member's use of sick leave to assist him.

The NPS Ethics Counselor Misused His Official Position and Title

We found that the NPS ethics counselor violated Federal regulations on six different occasions by using his official title and position when contacting agency officials on behalf of a family member. We also found the NPS ethics counselor did not seek or receive approval, as required, from anyone at the U.S. Department of the Interior (DOI), to include his supervisor or ethics officials, to represent his family member.

According to 5 C.F.R. § 2635.702, “Use of Public Office for Private Gain,” an employee may not use his or her Government position or title or any authority associated with their public office in a manner intended to coerce or induce another person to provide a benefit to themselves, friends, or relatives. Employees also may not use their public office for the private gain of relatives and, under 5 C.F.R. § 2635.101(b)(14), must avoid actions creating the appearance that they are violating the law or ethical standards.

In addition, 18 U.S.C. § 205, “Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government,” states that Government employees are prohibited from representing anyone other than themselves on any matter before the executive branch or any court if the Government has an interest, with certain exceptions when employees have obtained proper approval.

During our investigation, we found that the NPS ethics counselor made six communications with agency officials on behalf of his family member:

1. On July 27, 2016, the NPS ethics counselor responded to an email that his family member forwarded to him about a discussion she had had with her supervisor about her poor performance. In his response, the NPS ethics counselor gave his family member advice regarding the negative performance rating. The NPS ethics counselor copied his family member’s supervisor and his family member’s second-line supervisor on the reply. The NPS ethics counselor questioned his family member’s supervisor’s “true motivation” behind the rating and noted that results were pending from an inquiry into allegations that the supervisor harassed and bullied his family member. The NPS ethics counselor’s email signature block included his official title.
2. On March 29, 2017, the NPS ethics counselor emailed his family member medical documentation to support her taking sick leave. The NPS ethics counselor copied the agency’s head of the program where his family member worked on this email. The NPS ethics counselor called his family member’s supervisors’ request for documents “redundant” and stated, “I am copying your SES leadership for assistance in this matter.” This email also included the NPS ethics counselor’s official signature block.
3. On March 31, 2017, the NPS ethics counselor emailed a personal physician after agency management had questioned the authenticity of the medical documents the NPS ethics counselor provided to his family member to support her use of sick leave. The NPS ethics counselor copied his family member’s supervisor, his family member’s second-line

supervisor, and an official from the agency's Federal employee union. The NPS ethics counselor stated, "I personally witnessed you signing the documents and find it disturbing that . . . my integrity is being questioned." This email also included the NPS ethics counselor's official signature block.

4. On April 7, 2017, the NPS ethics counselor left a voicemail for an agency human resources specialist in which he provided his title and position with NPS. In the message, the NPS ethics counselor disputed his family member's removal from the voluntary leave transfer program.
5. On April 18, 2017, the NPS ethics counselor emailed his family member medical documentation that again verified the need for the family member to use sick leave. The NPS ethics counselor copied the agency Federal employee union official, his family member's second-line supervisor, and the head of the program on this email. This email did not include the NPS ethics counselor's signature block but was sent from his Government email address.
6. Since early 2016, on at least two occasions, the NPS ethics counselor had called an agency employee relations specialist, who was a former NPS colleague, to discuss his family member's personnel issues.

The NPS ethics counselor admitted to us during his interview that he communicated with agency officials with the intent to influence them to act in his family member's favor; he acknowledged this was wrong and likely violated Federal ethics regulations. He signed a written statement acknowledging his actions. Regarding the use of his title in his emails copying agency management, he said that his "own gut feeling was . . . it probably shouldn't have been on there."

The NPS ethics counselor stated that he was "very familiar" with 5 C.F.R. § 2635.702, and he admitted that his actions "would probably fall within the constraints of the regulation . . . as being improper or [in] violation of" the regulation. He questioned the "private gain" referred to within the regulation, however, stating that he did not stand to gain anything substantive from his actions. The NPS ethics counselor stated that his goal was for his family member to be treated fairly, as he believed agency management had mistreated her; he believed that goal was outside the breadth and confines of "private gain" as intended in 5 C.F.R. § 2635.702. Later in the interview, the NPS ethics counselor recognized that his family member's position could be at risk, and her potentially keeping the position due to his inappropriate actions could be seen as private gain.

The NPS ethics counselor stated that if he had a question pertaining to his own ethics situation and needed advice, he would first go to the DOI Ethics Office and talk to an attorney-advisor. He said he never spoke to an attorney-advisor or to DOI's designated agency ethics official regarding his actions. The NPS ethics counselor said he did speak via telephone with an attorney in DOI's Office of the Solicitor in early 2016 with regard to representing his family member and the potential 18 U.S.C. § 205 implications. The NPS ethics counselor stated that he proposed the situation as being hypothetical.

The NPS ethics counselor told us he also sought counsel regarding his family member's situation from an agency employee relations specialist who was a former NPS colleague. The NPS ethics counselor characterized the initial contact via telephone with the agency employee relations specialist as a surprise realization that the agency employee relations specialist was the same individual who he previously worked with. He portrayed this contact as an unforeseen coincidence.

We interviewed the NPS ethics counselor's family member's supervisor and second-line supervisor, who perceived the NPS ethics counselor's email communications as an effort to influence how agency management dealt with the NPS ethics counselor's family member concerning the administrative actions and her leave restriction. The family member's supervisor noted that the NPS ethics counselor's family member had a long history of significant performance and conduct issues and was on a leave restriction that required the family member to telephone or email her direct supervisor with a reason when she requested leave.

DOI's designated agency ethics official and two DOI attorneys deemed the NPS ethics counselor's use of his title to be inappropriate and in violation of Federal ethics rules. The DOI designated agency ethics official and one of the DOI attorneys we interviewed stated that if the NPS ethics counselor had approached them for advice, they would have recommended that he use personal equipment and not reference his title or position in his communications with the agency.

One DOI attorney stated that she and the NPS ethics counselor did not have a formal meeting about the NPS ethics counselor representing his family member and that the NPS ethics counselor never formally asked the DOI attorney for advice. The DOI attorney said she would give the NPS ethics counselor the "benefit of the doubt," however, and say that they probably had some type of informal conversation years ago about the issue. The DOI attorney said there was a conversation at some point, but it definitely was not within the past year. The DOI attorney stated that any conversation they had was not a formal request for ethics advice regarding actions that the NPS ethics counselor planned to take.

When we interviewed the agency employee relations specialist, he stated that when he received the NPS ethics counselor's calls, he did not perceive the calls as an attempt to influence him or agency management. He later agreed, however, that the NPS ethics counselor's mention of the agency employee relations specialist's background and experience as a former colleague while discussing a situation involving the potential discipline of the NPS ethics counselor's family member could be considered a furtherance of the NPS ethics counselor's improper use of his title and position. The agency employee relations specialist believed this was especially true considering the NPS ethics counselor's knowledge of the agency employee relations specialist's role advising agency management on conduct and performance issues. The agency employee relations specialist said that the NPS ethics counselor specifically called him and that it was not a coincidence.

The NPS ethics counselor's supervisor told us she was not aware of the NPS ethics counselor's actions and that he had never told her that he was representing his family member or communicating with agency officials.

The NPS Ethics Counselor Did Not Present False Medical Documentation

We did not find that the NPS ethics counselor presented false medical documentation to the agency to support his family member's use of sick leave.

Agency officials believed that two medical excuses signed by a physician—that the NPS ethics counselor attached to emails in support of his family member's use of sick leave appeared to be “adulterated.” The agency officials questioned the legitimacy of the physician's notes because the language used was unlike that of a typical physician, the font style changed in the body of the notes, and the electronic files contained lines that indicated potential tampering.

When asked about the validity of the medical documents, the NPS ethics counselor stated the documents were valid and that the physician had signed them. Regarding the overall appearance of the notes, the NPS ethics counselor explained that he provided the text for the physician to paste into the “medical excuse” template that the physician's office used.

We confirmed that the physician reviewed each of the notes separately and confirmed that both were legitimate. The physician initialed each note, affirming that he provided the notes to the NPS ethics counselor.

Insufficient Evidence That the NPS Ethics Counselor Misrepresented Information to Agency Officials

We did not find evidence that the NPS ethics counselor intentionally misrepresented to agency officials that his family member was required to use sick leave to assist him on dates when he was actually working.

SUBJECT

Ethics Counselor, National Park Service.

DISPOSITION

We presented this case to the U.S. Attorney's Office for the District of Columbia, which declined to prosecute.

We are providing this report to the Acting NPS Director for any action deemed appropriate.