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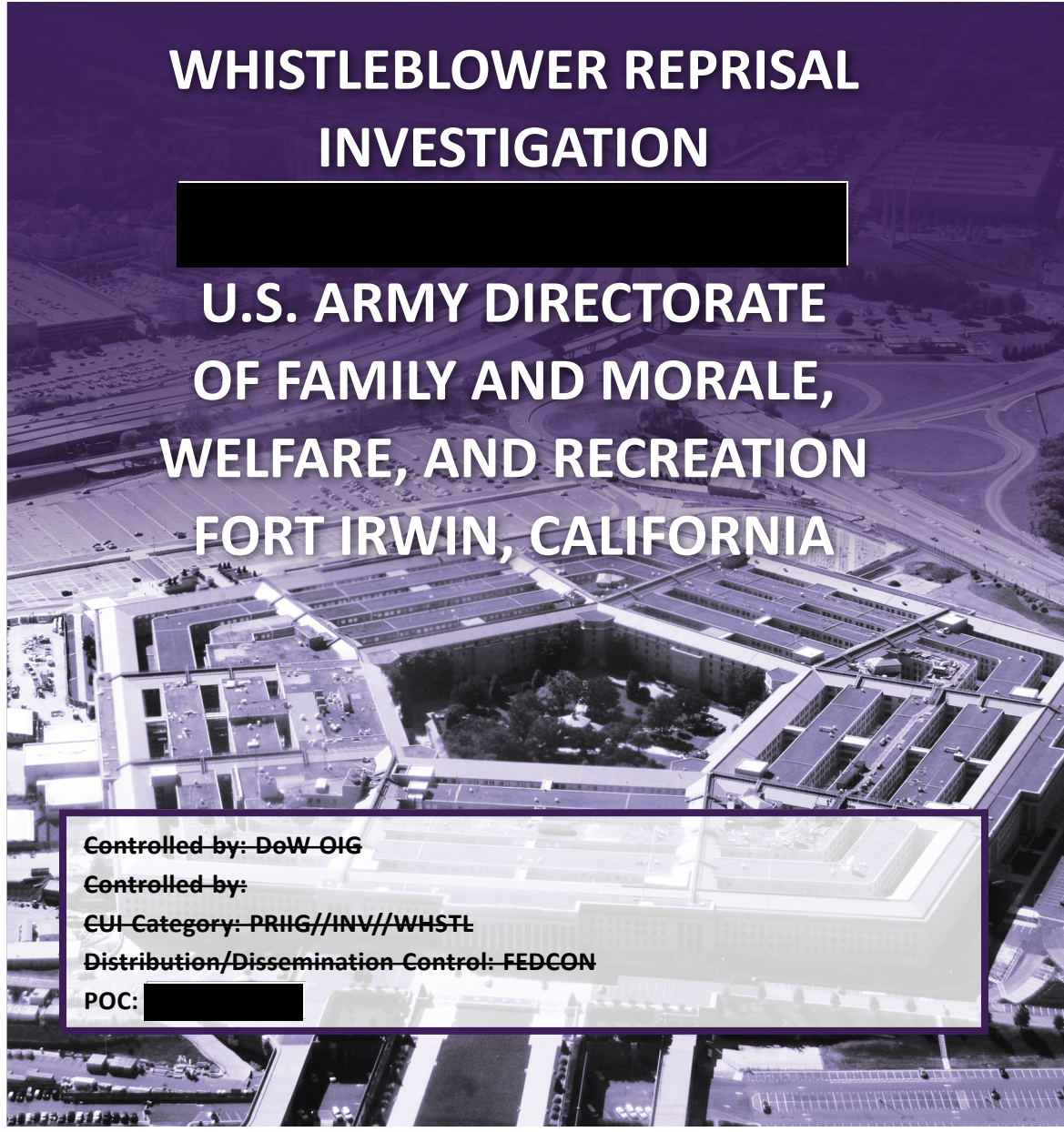
MAY 14, 2026



WHISTLEBLOWER REPRISAL INVESTIGATION



U.S. ARMY DIRECTORATE OF FAMILY AND MORALE, WELFARE, AND RECREATION FORT IRWIN, CALIFORNIA



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WHISTLEBLOWER REPRISAL INVESTIGATION:

[REDACTED] U.S. ARMY DIRECTORATE OF FAMILY AND MORALE, WELFARE, AND RECREATION FORT IRWIN, CALIFORNIA

Complaint Overview¹

We conducted this investigation in response to a reprisal complaint alleging that [REDACTED] (Subject 1) and [REDACTED] (Subject 2) took multiple personnel actions against [REDACTED] (the Complainant) in reprisal for making protected disclosures to Fort Irwin personnel concerning:

- the required sharing of tips with the cook;
- a hostile work environment;
- the assignment of duties inconsistent with her position description;
- the delegation of her supervision to a nonsupervisory employee; and
- the lack of cleaning supplies and operational unreadiness at a U.S. Army Directorate of Family and Morale, Welfare, and Recreation (DFMWR) facility.

The Complainant alleged that Subject 1 reduced her hours, changed her job duties, and denied her transfer to another DFMWR facility; Subject 2 counseled her; and Subject 1 and Subject 2 terminated her.

The following background information is provided for these individuals.

- [REDACTED] (the Complainant), Nonappropriated Fund (NAF), [REDACTED], DFMWR Business Operations Division, Fort Irwin
- Subject 1, [REDACTED], DFMWR Business Operations Division, Fort Irwin²
- Subject 2, [REDACTED] DFMWR Business Operations Division, Fort Irwin

For the reasons cited in this report, we substantiated the Complainant’s allegation of reprisal with regards to her termination.

¹ This report contains information that has been redacted because it was identified by the Department of War Office of Inspector General and the Department of War as Controlled Unclassified Information (CUI) that is not releasable outside the Executive Branch. CUI is government-created or -owned unclassified information that allows for, or requires, safeguarding and dissemination controls in accordance with laws, regulations, and government-wide policies.

² DoD Instruction 1400.25, Volume 1407, “DoD Civilian Personnel Management System: Nonappropriated Fund Classification,” March 18, 2024, assigns NAF occupational categories and pay band based on an employee’s position and responsibilities. “NA” is the pay category for NAF nonsupervisory positions and “NF” is the pay category for NAF white-collar positions.

Scope

This investigation covered the period from July 15, 2022, when the Complainant began working for Subject 1, through September 14, 2023, the date of the Complainant's termination. We interviewed the Complainant, Subject 1, Subject 2, and 11 additional witnesses under sworn oath or affirmation. We reviewed documentary evidence on departmental and organizational policies, written communications, emails, contemporaneous notes, reports of investigation, documents related to a command inquiry, text messages, payroll records, employee sign-in and sign-out sheets, personnel records, and schedules.

Statutory Authority

The Department of War Office of Inspector General conducts whistleblower reprisal investigations involving DoD NAFI employees under section 1587, title 10, United States Code (10 U.S.C. § 1587), “Employees of Nonappropriated Fund Instrumentalities: Reprisals,” as implemented by DoD Directive (DoDD) 1401.03, “DoD Nonappropriated Fund Instrumentality Employee Whistleblower Protection,” June 13, 2014 (Incorporating Change 3, April 5, 2023).³

³ Although Change 3 to this Directive occurred after some of the alleged actions, this administrative change simply refined definitions consistent with statutory text and updated references. It did not affect the conduct of our investigation or the content of this report.

Legal Framework

To determine whether reprisal has occurred in violation of 10 U.S.C. § 1587, the Department of War Office of Inspector General evaluates the following four elements based on proof by a preponderance of the evidence.⁴

1. **Protected Disclosure.** Did the Complainant make a protected disclosure, or was the Complainant perceived as having made a protected disclosure?
2. **Personnel Action.** Did the Subject take or fail to take a personnel action, or threaten to take or fail to take a personnel action, against the Complainant?
3. **Knowledge.** Did the Subject know of the protected disclosure or perceive the Complainant as making a protected disclosure, before the personnel action(s)?
4. **Causation.** Is there a causal connection between the protected disclosure(s) and the personnel action(s)? For this element, we weigh the following factors to determine whether the Subject would have taken or failed to take, or threatened to take or fail to take, the same personnel action(s) against the Complainant absent any protected disclosure(s).
 - **Strength of Evidence Supporting the Personnel Action.** Does the evidence support the Subject's stated reasoning for the personnel action as being unrelated to the Complainant's protected disclosure(s)?
 - **Timing.** Does the timing and sequence between the protected disclosures(s) and personnel action(s) support an inference of causation?
 - **Motive.** Could the protected disclosure(s) create a motive on the part of the Subject to retaliate, or has the Subject expressed animosity concerning the Complainant's protected disclosure(s)?
 - **Disparate Treatment.** Was the Complainant treated consistently with other similarly situated nonwhistleblowers?

If a preponderance of the evidence does not establish all four elements, there is no reprisal.

⁴ A preponderance of the evidence is that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue. See title 5 Code of Federal Regulations section 1201.4(q).

Protected Disclosure⁵

A protected disclosure under 10 U.S.C. § 1587, as implemented by DoDD 1401.03, is a disclosure of information by an employee, former employee, or applicant that the employee, former employee, or applicant reasonably believes evidences:

- a violation of any law, rule, or regulation;
- mismanagement;
- a gross waste of funds;
- an abuse of authority; or
- a substantial and specific danger to public health or safety.⁶

The statute does not require that such disclosures be made to any particular recipient unless the disclosure is specifically prohibited by law or the information is specifically required by or pursuant to executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Disclosures of information prohibited by law from release, or for which the information is specifically required by, or pursuant to executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, must be made to a civilian employee or Service member designated by law or the Secretary of Defense to receive such disclosures.

Personnel Action

Under 10 U.S.C. § 1587, as implemented by DoDD 1401.03, the term “personnel action” means:

- an appointment;
- a promotion;
- a disciplinary or corrective action;
- a detail, transfer, or reassignment;
- a reinstatement, restoration, or reemployment;
- a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, or other action described in this paragraph; and
- any other significant change in duties or responsibilities that is inconsistent with the employee’s salary or grade level.

⁵ Although 10 U.S.C. § 1587 does not explicitly state that being perceived as a whistleblower qualifies as a protected disclosure, we have consistently interpreted this statute and other reprisal statutes to protect complainants who are perceived as making a protected disclosure. In cases involving alleged reprisals under 5 U.S.C. § 2302(b)(8), which also does not explicitly state that being perceived as a whistleblower qualifies for protection, the Merit Systems Protection Board has held that being perceived as a whistleblower qualifies for protection even if the complainant has not made any protected disclosures. See *King v. Dep’t of the Army*, 116 M.S.P.R. 689, 694–96 (2011); *Special Counsel v. Dep’t of the Navy*, 46 M.S.P.R. 274, 280 (1990); and *Thompson v. Farm Credit Administration*, 51 M.S.P.R. 569, 580–81 (1991). As a result, we interpret 10 U.S.C. § 1587 to protect perceived disclosures.

⁶ The test to determine whether the Complainant had a reasonable belief is whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the Complainant could reasonably conclude one of the categories of wrongdoing protected by 10 U.S.C. § 1587 occurred.

Background

The Complainant began her NAFI employment on [REDACTED], as a flexible (flex) employee.⁷ As a flex employee, the Complainant worked at DFMWR food service facilities on post, was not guaranteed any weekly hours, was eligible to work overtime, and could be separated from employment with 7 days' written notice. The Complainant was entitled to overtime pay per Federal law when she worked more than 40 hours in a consecutive 7-day workweek and entitled to "daily overtime" pay per California state law when she worked more than 8 hours in a single day. Overtime pay was paid at 1 ½ times the Complainant's hourly rate of pay.

On July 15, 2022, the Complainant was assigned to work as a [REDACTED] under Subject 1.⁸ As a [REDACTED], the Complainant filled a variety of roles based on operational needs, such as cashier, server, waitress, and bartender. In addition to these typical duties, Subject 1 assigned the Complainant administrative duties normally done by a supervisor, such as paying vendors and accessing the safe and inventory, because Subject 1 did not have an operations assistant at the time.

From June 29, 2023, through the end of the period of investigation, while Subject 2 served as the [REDACTED], Subject 2 had supervisory or decision-making authority over staff and operations if Subject 1 was not available. When Subject 1, Subject 2, or an operations assistant was not present to supervise the Complainant, another employee served as the Complainant's acting shift lead.

Throughout the Complainant's employment, she complained to Subject 1 that her tips were not paid correctly when she worked as a bartender and that the cook asked her to split half her tips with him and the kitchen staff. The Complainant reported this same issue to:

- [REDACTED] (Witness 1), [REDACTED], DFMWR, Fort Irwin—Subject 1's supervisor;
- [REDACTED] (Witness 2), [REDACTED], Civilian Human Resources Agency, Fort Irwin;
- [REDACTED] (Witness 3), Fort Irwin's Equal Employment Opportunity [REDACTED]; and
- [REDACTED] (Witness 4), [REDACTED].

Subject 1 stated that she did not enforce a facility practice in which [REDACTED] split their tips with the kitchen staff because she was unsure about the policy and because of the Complainant's adamant insistence that she did not have to split her tips at all.

⁷ Army Regulation 215-3, "Morale, Welfare, and Recreation: Nonappropriated Funds Instrumentalities Personnel Policy," August 29, 2019, states that flexible employees serve in a continuing position on a scheduled or as-needed basis.

⁸ Subject 1 served as supervisor of the Complainant in some capacity until the Complainant was terminated.

When the Complainant started working for Subject 1, she scheduled the Complainant to work at least 40 hours per week as well as overtime. In December 2022, Subject 1 reduced the Complainant's hours because, according to Subject 1, the Complainant worked unauthorized daily overtime and habitually did not adhere to her scheduled hours, and because of operational needs.

On March 2, 2023, the Complainant told Witness 1, among other things, that she was not sure about her actual job duties because Subject 1 assigned the Complainant administrative duties normally done by a supervisor. After that conversation, Subject 1, at Witness 1's direction, removed the Complainant's access to the safe room and inventory storage and stopped assigning the Complainant administrative tasks.

On March 6, 2023, the Complainant reported "hostile work environment" allegations against Subject 1 to the Equal Employment Opportunity office, stating that Subject 1 stopped talking to her, would not give her more hours, belittled and embarrassed her, asked her to split her tips with the cook, took away previously granted access, and made the cook her supervisor. The Complainant contacted Witness 4 several times from March 2023 through April 2023 with examples of Subject 1's hostile behavior toward her such as Subject 1 and the cook harassing her on a daily basis. In May 2023, the Complainant repeated to [REDACTED] (Witness 5), the DFMWR [REDACTED], and Witness 4 what she told Witness 3 on March 6, 2023.

In summer 2023, the Complainant worked at a different DFMWR facility under [REDACTED] (Witness 6), [REDACTED]. Witness 6 told us that around late spring 2023, Subject 1 denied Witness 6's informal request to transfer the Complainant to work full-time at another DFMWR facility.

On August 24, 2023, Subject 2 counseled the Complainant about her work performance at a DFMWR snack bar and told her that she would be moved to a different DFMWR facility.

On August 25, 2023, the Complainant told [REDACTED] (Witness 7), U.S. Army, that the DFMWR snack bar under Subject 2 and Subject 1's management lacked some of the necessary sanitation supplies and equipment. [REDACTED] (Witness 8), [REDACTED], DFMWR, told us that on the same day, the Complainant told her that if Subject 1 terminated the Complainant, then she would get Subject 1 fired by going through Subject 1's chain of command. Subject 1 told us that she took the Complainant's statements to Witness 8 as a personal threat to her managerial position and that Army Regulation (AR) 215-3, "Morale, Welfare, and Recreation: Nonappropriated Funds Instrumentalities Personnel Policy," August 29, 2019, Table 7-1, allowed her to terminate employees for insubordination and retaliation.⁹

⁹ Although Subject 1 uses the word "retaliation" when referring to AR 215-3, that policy uses the word "reprisal"; for the purposes of analysis, we consider these interchangeable.

On August 28, 2023, Subject 1 emailed [REDACTED] (Witness 9), Subject 1's direct supervisor, that she wanted to terminate the Complainant based on various items, including the Complainant's threatening comment. Witness 9 responded to Subject 1's email, instructing her to speak to [REDACTED] (Witness 10), the Enterprise Management Employee Relations Group (EMERG) representative, before writing her termination proposal and to ask EMERG for recommendations on how to proceed.¹⁰

On September 11, 2023, Subject 2 emailed Subject 1 saying, in part, that the Complainant clocked in early, failed to clock out, asked other employees to perform her duties, and made threatening statements of retaliation to management. On September 13, 2023, Subject 1 submitted a request for action to EMERG to terminate the Complainant and used Subject 2's September 11, 2023 email as justification. Subject 2 is listed as the "proposing official" and Subject 1 is listed as the "deciding official" on the document. EMERG told Subject 1 to separate the Complainant on the basis of being a flex employee instead of for cause.

On September 14, 2023, the Complainant met with Subject 1, Subject 2, and Witness 9. During this meeting Subject 2 gave the Complainant a termination letter, which she refused to sign.

On October 5, 2023, the Complainant filed a complaint with the DoD Hotline.

¹⁰ EMERG handles all management-employee interactions such as disciplinary actions, counseling, and separations.

Facts and Analysis

Protected Disclosures

We determined, by a preponderance of the evidence, that the Complainant made five protected disclosures under 10 U.S.C. § 1587 from July 2, 2022, through August 25, 2023, to various Fort Irwin personnel, at least one of which she made directly to Subject 1, and that it was perceived that the Complainant would make additional disclosures.

Protected Disclosure 1: Reporting Tip-Sharing Expectations and Tip Splitting to Subject 1 and Fort Irwin Personnel

Throughout her period of employment, the Complainant reported various issues with her tips to Subject 1 and other Fort Irwin personnel, including Witness 1, Witness 2, and Witness 4. For the purposes of analysis, we treated the Complainant's disclosures about tips as a single disclosure because they were close in time and involved the same subject matter.

Predominantly, the Complainant reported that she was expected to pool her tips with other tip pool employees when working at the dining facility and did not want to give some of her tips to the cook while working lunch shifts, but that she was being asked to do so. Furthermore, a text message to a former colleague on approximately April 18, 2023, records the Complainant disclosing that Subject 1 "tried to tell me I have to give half of my tips to the kitchen." In addition to the various disclosures about tip pooling and tip sharing, the Complainant also reported to Subject 1 on at least one occasion that when working as a bartender with other bar staff, the tips were divided incorrectly.

The State of California Labor Code, section 351, states that "every gratuity is ... the sole property of the employee or employees to whom it was paid, given, or left for." Although the State of California Department of Industrial Relations clarifies that the law has been interpreted to allow involuntary tip pooling in certain circumstances, Witness 2 told us that he told the Complainant that the person who earned the tips must receive the tips. Witness 2 also told us that after that conversation with the Complainant, he advised management that they could not split money collected from gratuities to staff such as the cook.

We determined that to a reasonable person, a logical reading of the law saying that "every gratuity is ... the sole property of the employee or employees to whom it was paid, given, or left for" implies that every tip that came to the employee was their sole property, so a reasonable person could believe that the Complainant's reports that she was being told to share that property with colleagues would be a violation of law. The fact that Witness 2 informed the Complainant and, later, management of the same further supports that a preponderance of the evidence shows that the Complainant reasonably believed that this evidenced a violation of law, rule, or regulation.

Therefore, the Complainant's disclosures about tips were protected under 10 U.S.C. § 1587.

Protected Disclosure 2: Reporting a Hostile Work Environment to Fort Irwin Personnel

From March 2 through May 2023, the Complainant reported to various Fort Irwin personnel that she experienced a hostile work environment under Subject 1. For the purposes of analysis, we treated the Complainant's disclosures as a single disclosure because they were close in time and involve the same subject matter.

Witness 1 wrote that on March 2, 2023, the Complainant told him, among other things, that Subject 1 said the Complainant was "a glorified cashier," was rude when speaking with the Complainant, and denied the Complainant the opportunity to work during the Superbowl shift while allowing others to do so. On March 6, 2023, the Complainant filed with Witness 3 "hostile work" allegations against Subject 1 and reported some of the same information to Witness 4 on March 11 and 12, 2023. Specifically, the Complainant reported that Subject 1:

- did not directly communicate with the Complainant during her shifts,
- told the Complainant not to contact her on her days off,
- denied the Complainant the opportunity to work overtime while allowing others to do so,
- denied the Complainant the opportunity to work open shifts,
- denied the Complainant the opportunity to work at another DFMWR facility,
- referred to the Complainant as "just a bona fide cashier,"
- questioned the Complainant about her refusal to share her tips with the cook,
- removed previously granted access to the safe room and took the Complainant's keys, and
- belittled, humiliated, and embarrassed the Complainant.

On April 3, 2023, the Complainant texted a customer that Subject 1 "yelled" at her in front of other customers. On April 5, 2023, the Complainant told her [REDACTED] that Subject 1 was "badgering" her when she asked about signing performance standards and "screaming" at her to complete a task and that she experienced "daily harassment" from Subject 1 and the cook.

In May 2023, the Complainant repeated to Witness 5 and Witness 4 her March 6, 2023 allegations against Subject 1.

DoD Instruction 1020.04, "Harassment Prevention and Responses for DoD Civilian Employees," June 30, 2020, prohibits behavior that is unwelcome or offensive to a reasonable person and that interferes with work performance or creates an intimidating, hostile, or offensive work environment. It identifies bullying as a prohibited behavior, defining it

as a form of harassment that involves aggressive acts intended to harm, either physically or psychologically, another person without a proper governmental purpose but with a nexus to employment. It notes that bullying includes intimidating, teasing, or taunting another person, and oral or written berating of another person with the purpose of belittling or humiliating.

We found the Complainant described conduct, that, if substantiated, would violate DoD Instruction 1020.04, in that a disinterested observer could reasonably conclude that a manager screaming at, belittling, and humiliating an employee constituted bullying under the instruction.

Therefore, the Complainant's disclosures about a hostile work environment to Fort Irwin personnel from March 2 through May 2023 were protected under 10 U.S.C. § 1587.

Protected Disclosure 3: Reporting the Assignment of Duties Inconsistent with Her Position Description to Fort Irwin Personnel

In March 2023, the Complainant reported to Witness 2 that Subject 1 had assigned the Complainant duties inconsistent with her job title and position description. Specifically, the Complainant accessed the safe and inventory storage, retrieved her cash drawer without a supervisor's verification, and performed administrative duties such as paying vendors. The Complainant repeated all or portions of this same information to Witness 1, Witness 3, and Witness 4. Subject 1 told us that in October 2022, she assigned the Complainant administrative tasks to perform in addition to her normal duties because she—Subject 1—did not have an operations assistant on staff.

AR 11-2, "Army Programs: Managers' Internal Control Program," January 4, 2010 (Rapid Action Revision Issue, March 26, 2012), states that access to vulnerable assets such as cash and inventory should be limited. It further states that "transactions ... should be authorized and executed only by persons acting within the scope of their authority." Accordingly, we determined that a reasonable person could conclude that accessing the safe and inventory cabinet, paying vendors, and obtaining her own cash drawer without a supervisor's verification evidenced a violation of AR 11-2.

Therefore, the Complainant's March 2023 disclosures reporting that Subject 1 assigned her duties inconsistent with her job description were protected under 10 U.S.C. § 1587.

Protected Disclosure 4: Reporting the Delegation of Supervision to a Nonsupervisory Employee to Fort Irwin Personnel

On March 22, 2023, the Complainant told Witness 4 that Subject 1 made the cook her supervisor. On April 11, 2023, the Complainant told Witness 4 that the cook was going to conduct her annual performance review.

AR 215-3 discusses supervisory positions as positions employees must be appointed or selected into and also states, “The supervisor is responsible for the annual performance rating” The cook’s “cook leader” position description states that the position performs nonsupervisory work at the NA-04 level. Accordingly, we found that a reasonable person could conclude that an employee in the nonsupervisory position of a cook being given supervisory functions, including that of conducting performance reviews, evidenced a violation of AR 215-3.

Therefore, the Complainant’s disclosures about Subject 1 delegating supervisory duties to the cook from March 22 through May 2023 were protected under 10 U.S.C. § 1587.

Protected Disclosure 5: Reporting the Lack of Cleaning Supplies at a DFMWR Facility to Witness 7

On August 25, 2023, the Complainant identified to Witness 7 that the snack bar was not ready to open as scheduled due to cleanliness problems and missing sanitation supplies. The Complainant said that she told Witness 7 that the kitchen was not set up properly, it lacked soap, and the icemaker did not work. Witness 7 told us that he and the Complainant discussed that the facility was not ready to open because it lacked the proper utensils and cleaning supplies, such as mops and brooms. Witness 7 said that he subsequently informed DFMWR management that the snack bar was not sanitary enough for a restaurant on a military installation.

The Tri-Service Food Code obliges U.S. Army food service establishments to provide tools that effectively clean and sanitize kitchen equipment and utensils, accurate thermometers for monitoring both food safety and sanitizing processes, and adequate refrigeration to maintain appropriate food temperatures.¹¹ Accordingly, we determined that the Complainant disclosed information that a reasonable person could conclude evidenced a violation of the Tri-Service Food Code because she reported a lack of proper cleaning supplies.

Therefore, the Complainant’s August 25, 2023 disclosure to Witness 7 was protected under 10 U.S.C. § 1587.

Subject 2 and Subject 1 Perceived That the Complainant Would Make Additional Disclosures

On or about August 25, 2023, the Complainant told Witness 8 that if she were terminated, then she would undertake efforts to bring about negative consequences for Subject 1.

When we asked Subject 1 what she understood the Complainant’s statement to have meant, Subject 1 told us, “That, um, if she got separated that she would fight back. And most likely I would give an example of this is what her retaliation is. This—this—this is

¹¹ Army Technical Bulletin Medical 530/ Navy Bureau of Medicine and Surgery P-5010-1/Air Force Manual 48-147_IP, “Tri-Service Food Code,” March 1, 2019.

the retaliation that she said that she would do.” In this testimony, we understood that by the word “this” Subject 1 intended to indicate the present interview or more broadly, our investigation into the Complainant’s allegations of whistleblower reprisal against Subject 1. In a September 11, 2023 email to Subject 1, Subject 2 stated that the Complainant had, among other behaviors, made oral threats of retaliation to supervisors.

Thus, based on statements the Complainant made on or about August 25, 2023, as well as Subject 1’s testimony about her interpretation of the Complainant’s statements and Subject 2’s email, we determined that Subject 1 and Subject 2 perceived that the Complainant would make additional disclosures protected under the statute.

Therefore, the Complainant made five protected disclosures, and it was perceived that she would make additional disclosures under 10 U.S.C. § 1587.

Personnel Actions

We determined, by a preponderance of the evidence, that Subject 1 independently took one personnel action against the Complainant and that Subject 1 and Subject 2 were responsible for taking another personnel action against the Complainant. Specifically, we found that Subject 1 reduced the Complainant’s work hours and that Subject 1 and Subject 2 terminated the Complainant.

Finally, we determined that two of Subject 1’s alleged personnel actions did not qualify as personnel actions. Specifically, we found that altering the Complainant’s job duties was not inconsistent with her duties and responsibilities and that preventing the Complainant’s transfer to another workplace on Fort Irwin did not occur as alleged. We also determined that Subject 2’s counseling the Complainant did not qualify as a personnel action because it was not a disciplinary or corrective action.

Personnel Action: Subject 1 Reduced the Complainant’s Hours

From December 2022 through early September 2023, Subject 1 reduced the Complainant’s hours, which resulted in a reduction in the Complainant’s pay. Payroll records established the following information.

- From the pay period ending July 27, 2022, through the pay period ending December 28, 2022, the Complainant worked an average of 67.0 regular hours and 4.5 “daily overtime” hours per biweekly pay period, earning an average of \$1,927 gross per pay period.
- From the pay period ending January 11, 2023, through the pay period ending September 6, 2023, the Complainant worked an average of 38.5 regular hours and 0.8 daily overtime hours per pay period, earning an average of \$1,018 gross per pay period.

After Subject 1 reduced the Complainant's hours, her average gross pay per pay period went from \$1,927 to \$1,018—a reduction of 47 percent, which is a significant reduction in pay. Therefore, this action qualified as a decision concerning pay and is thus a personnel action under 10 U.S.C. § 1587.

Personnel Action: Subject 1 and Subject 2 Terminated the Complainant

On September 14, 2023, Subject 1 and Subject 2 terminated the Complainant. Evidence demonstrates that Subject 2 made the recommendation to terminate the Complainant to Subject 1 and that Subject 1 approved the recommendation and submitted it for processing. According to a human resources form, Subject 2 was the proposing official and Subject 1 was the deciding official for the termination action. Also, the termination letter provided to the Complainant was unsigned but listed Subject 2 as the signatory.

AR 215-3 states that first-line supervisor may propose an adverse personnel action, such as termination, to the deciding official, who makes the final determination.

Accordingly, we determined that Subject 1 and Subject 2 shared responsibility for terminating the Complainant. Termination is an action affecting the Complainant's appointment and is thus a personnel action under 10 U.S.C. § 1587.

Non-Qualifying Personnel Action: Subject 1 Altered the Complainant's Job Duties

On or about March 6, 2023, Subject 1, at Witness 1's direction, removed the Complainant's access to the safe and inventory cabinet and removed some administrative duties from her because they were inappropriate for her position and grade.

The Complainant initiated this chain of events when she reported to Witness 1 that Subject 1 assigned her administrative tasks outside of her normal duties. Witness 1 responded by reviewing the Complainant's job duties, agreeing with the Complainant's assessment that she was doing work outside of her normal duties, and then directing Subject 1 to remove the Complainant's access to the safe and inventory cabinet and remove administrative duties to align the Complainant with her regular job duties. Thus, the Complainant knew how Subject 1's alteration of her duties came about and that it was appropriate.

By making these changes, Witness 1 and Subject 1 did not make a change in the Complainant's duties or responsibilities that was inconsistent with her salary or grade level, but rather, aligned the Complainant's duties and responsibilities with her position description and her grade. Therefore, this action did not qualify as a personnel action under 10 U.S.C. § 1587.

Non-Qualifying Personnel Action: Subject 1 Prevented the Complainant's Transfer

In spring 2023, Witness 6 told us that she informally asked Subject 1 to transfer the Complainant to her operation permanently. Subject 1 denied the informal request to transfer. Witness 6 told us that because Subject 1 denied her request, she did not initiate the official transfer process.

We determined that a conversation between managers without taking any official action is simply a conversation that does not rise to the level of taking a personnel action. As no one initiated the formal transfer process for Subject 1 to deny, we determined that the action of preventing the Complainant's transfer did not occur as alleged.

Therefore, this action did not qualify as a personnel action under 10 U.S.C. § 1587.

Non-Qualifying Personnel Action: Subject 2 Counseled the Complainant

On August 24, 2023, Subject 2 and Witness 8 counseled the Complainant orally about her performance deficiencies. Subject 1 told us that Witness 8 described the counseling in a memorandum and sent it to her, and Witness 8 told us that that she wrote the memorandum at Subject 1's and Subject 2's direction but that Subject 2 dictated to her what to write. The memorandum listed the following concerns as raised with the Complainant on August 24, 2023.

- Incorrectly entering orders, which resulted in concerns that the Complainant did not capture all sales
- Getting other staff to perform duties that the Complainant herself should perform
- Not splitting tips between herself and the delivery driver
- Changing food pricing
- Giving away free food and offering food discounts
- "Insubordination—being verbally combative when approached with updates and concerns"

When we asked Subject 2 about the counseling, he told us, "I don't really remember anything," and stated that he did not recall being present for the counseling. However, the three statements from the Complainant, Witness 8, and Subject 1 establish that Subject 2 did counsel the Complainant on August 24, 2023.

However, we found no evidence that the oral counseling was part of a progressive disciplinary process and thus, found that it did not qualify as a disciplinary or corrective action.

Therefore, this action did not qualify as a personnel action under 10 U.S.C. § 1587.

Knowledge of the Protected Disclosures

A preponderance of the evidence indicates that it is more likely than not that:

- Subject 1 knew of one of the Complainant's protected disclosures before reducing her hours and knew of the majority of the Complainant's protected disclosures and further, perceived that the Complainant would make additional disclosures before terminating her; and
- Subject 2 knew of one of the Complainant's protected disclosures before counseling her and knew of two of the Complainant's protected disclosures and further, perceived that the Complainant would make additional disclosures before terminating her.

Protected Disclosure 1: Reporting Tip-Sharing Expectations and Tip Splitting to Subject 1 and Fort Irwin Personnel

Subject 1 told us that she knew of the Complainant reporting tip-sharing expectations and tip splitting, because the Complainant made the disclosure, in part, directly to Subject 1. Subject 1 also told us that she knew or suspected that the Complainant made the same protected disclosure to Witness 1 on March 2, 2023, and to Witness 4 beginning in January 2023. Therefore, Subject 1 knew of the Complainant's protected disclosure on tips to herself and Witness 1.

The available evidence indicates that Subject 2 did not know of the Complainant reporting tip-sharing expectations and tip splitting.

Protected Disclosure 2: Reporting a Hostile Work Environment to Fort Irwin Personnel

Subject 1 told us that around March 6, 2023, Witness 1 told her that the Complainant "was claiming a hostile work environment." Therefore, Subject 1 knew of the Complainant reporting a hostile work environment to Witness 1.

The Complainant told us that she assumed that "everyone" knew of her reporting a hostile work environment, but when we asked her exactly who knew, she did not list Subject 2. Additionally, Subject 2 told us that he did not know of the hostile work environment allegation that the Complainant made against Subject 1. Accordingly, and as Subject 2 was not hired as the [REDACTED] until after the Complainant made these disclosures, we found it more likely than not that he did not know of the Complainant reporting a hostile work environment to various Fort Irwin personnel.

Protected Disclosure 3: Reporting the Assignment of Duties Inconsistent with Her Position Description to Fort Irwin Personnel

Subject 1 told us that she knew that the Complainant spoke to Witness 1 because Witness 1 met with Subject 1 as a follow-up to the Complainant meeting with him. Subject 1 also told us that in March 2023, the Complainant began saying that she was given tasks outside of her scope of work. Witness 1 recorded in a memorandum dated March 8, 2023, that on that same day, he shared with Subject 1 the concerns the Complainant raised with him on March 2, 2023, which included the reassignment of the inappropriate duties. Therefore, Subject 1 knew of the Complainant reporting the assignment of duties inconsistent with her position description to Witness 1.

We found it more likely than not that Subject 2 did not know of the Complainant reporting the assignment of duties inconsistent with her position description to various Fort Irwin personnel because the issue was addressed and resolved by Subject 1 and Witness 1 in March 2023, which was 3 months before Subject 2 was hired.

Protected Disclosure 4: Reporting the Delegation of Supervision to a Nonsupervisory Employee to Fort Irwin Personnel

The Complainant made this protected disclosure to Witness 5, the [REDACTED]. In response, Witness 5 had a third party conduct a sensing session with management and staff on May 18, 2023, to review the Complainant's allegations, which issued its recommendations on June 2, 2023. Therefore, we found it more likely than not that Witness 5 would have spoken to Subject 1 about the Complainant reporting to her the delegation of supervision to a nonsupervisory employee.

We found it more likely than not that Subject 2 did not know of the Complainant reporting the delegation of supervision to a nonsupervisory employee to various Fort Irwin personnel because the Complainant made the disclosures from March through May 2023, the resulting sensing session occurred in May 2023, and the recommendations were issued on June 2, 2023—all before Subject 2 was hired as the [REDACTED].

Protected Disclosure 5: Reporting the Lack of Cleaning Supplies at a DFMWR Facility to Witness 7

Subject 1 told us that she learned about Witness 7's visit to the [REDACTED] from another DFMWR leader on August 25, 2023, and heard that the Complainant told Witness 7 that she was getting fired and did not know where the soap was. Additionally, Subject 1 recorded this same information in a memorandum dated August 25, 2025. Therefore, Subject 1 knew of the Complainant reporting the lack of cleaning supplies to Witness 7.

Subject 2 told us that he recalled that the Complainant identified issues with a water nozzle, storage, and refrigeration at the [REDACTED] snack bar to an inspector but that he did not remember having an in-depth conversation about it with Subject 1. However, Subject 1 told us that she told Subject 2 about Witness 7's walkthrough, and, as Subject 1 contemporaneously recorded in a memorandum that the Complainant had reported to Witness 7 that she did not have access to soap, we found it more likely than not that she told Subject 2 the Complainant had told Witness 7 that she did not have access to soap. Therefore, it is more likely than not that Subject 2 knew of the Complainant reporting the lack of cleaning supplies to Witness 7.

Subject 1 and Subject 2 Perceived that the Complainant Would Make Additional Disclosures

Subject 1 told us that in August 2023, Witness 8 told her that, after the Complainant was counseled by Subject 2, she told Witness 8 that if anything happened to her (the Complainant) that she (the Complainant) was going to retaliate against management. Additionally, Subject 1 told us that she discussed the Complainant's threatening statement with Witness 9, who stated that he was briefed on the situation. Subject 1 also received Subject 2's September 11, 2023 email that identified this perceived disclosure. Therefore, Subject 1 perceived that the Complainant would make additional disclosures.

In a September 11, 2023 email to Subject 1 documenting performance concerns about the Complainant, Subject 2 stated that the Complainant had, among other behaviors, made oral threats of retaliation to supervisors. Therefore, Subject 2 perceived that the Complainant would make additional disclosures.

Causation

Strength of the Evidence Supporting the Personnel Actions

Stated Reasons for Subject 1 Reducing the Complainant's Hours

Subject 1 stated that she reduced the Complainant's hours for the following reasons.

- The Complainant did not work her hours as assigned, which required Subject 1 to take action to control unscheduled daily overtime.
- On one occasion the Complainant asked to be scheduled for fewer hours, and on various occasions she asked to leave shifts early due to being tired.
- Operational logistics: Initially, during the holidays, a facility's hours of operation were reduced and there were entire days of closure; later, the same facility was closed for an extended period due to renovations.

Subject 1 specifically told us that in December 2022, the Complainant worked unapproved overtime. On December 21, 2022, Subject 1 emailed Witness 1—her supervisor at the time—writing that she had reduced the Complainant's regular hours because the Complainant

worked unscheduled overtime. Witness 1 told us that Subject 1 had told him that she was reducing the Complainant's hours "to help manage the overtime situation in her facility and that [the Complainant] continued to go around her, um, and accept, I guess, shifts. [...] ... [I]t was because of the fact that she kept accepting shifts outside of the shifts she was scheduled."

Department of the Army Installation Management Command Regulation 215-1-1 states that labor and personnel management is responsible for balancing staffing against the overall budget; a plain language reading of this indicates that managers must regulate employee hours—including the amount of overtime hours worked—to meet business metrics.¹² The documentary evidence, testimony from Witness 1, and Department of the Army regulation strongly support Subject 1's statement that she, in part, reduced the Complainant's scheduled hours due to her need to moderate the amount of overtime worked by her employees.

Additionally, in a contemporaneous memorandum from December 2022, Subject 1 recorded that the Complainant had told Subject 1 that she was getting tired from her shifts and that a colleague had stated that the Complainant frequently requested to leave shifts early because she wanted to rest. Subject 1 told us that beginning in November 2022, the Complainant habitually did not work her hours as assigned by Subject 1 by starting earlier than scheduled or leaving earlier than scheduled. The Complainant's sign-in and sign-out sheets from July 15 through December 29, 2022, reflect that the Complainant started her shift early 45 times and left early 67 times. A March 8, 2023 memorandum authored by Witness 1 showed that the Complainant requested reduced hours due to wanting to be home with [REDACTED] and not wanting to work night shifts due to young, rowdy Soldiers and that she was okay with later shifts but only on certain terms. These memorandums and time logs strongly support Subject 1's statement that she, in part, reduced the Complainant's scheduled hours due to the Complainant's own request.

On the impact on the Complainant's hours due to reduced business operations and facility closures, Subject 1 told us that during the 2022 holiday season, a facility reduced its hours of operation, which resulted in a cut to hours for all employees. Specifically, on November 7, 2022, Subject 1, proposed closing the same facility early from December 19, 2022, through January 3, 2023. Additionally, in a memorandum dated July 24, 2023, Subject 1 sent a "Notice of a Temporary Change in Workplace" to the Complainant's union, stating that a facility was closed for scheduled renovation effective July 9, 2023.

¹² Department of the Army Installation Management Command Regulation 215-1-1, "Installation Management Command (IMCOM) G9, Family and Morale, Welfare, and Recreation (FMWR) Business Operating Standards (IMCOM BOS)," May 31, 2018.

Although Subject 1 reduced the Complainant's overall hours, documentary evidence establishes that Subject 1 continued to approve some overtime for the Complainant on January 9 and 10, 2023, February 12, 2023, June 8, 2023, July 29, 2023, and July 31, 2023. We also found that in April and May 2023, when Subject 1 had an operational need for additional staffing, she offered the Complainant more hours.

Therefore, the available evidence strongly supports that Subject 1 reduced the Complainant's hours in response to the Complainant's attendance record and requests for time off, Subject 1's responsibility to moderate the amount of overtime hours worked, and other operational, business-based reasons.

Stated Reasons for Subject 1 Terminating the Complainant

Subject 1 indicated to us that in telling staff that "nothing can happen to her," the Complainant "compromise[d]" Subject 1's managerial position. Subject 1 further characterized the Complainant's statement as "insubordination" and told us that she considered it to be a personal threat. She told us that under AR 215-3, she could separate staff for insubordination or retaliation.¹³ When we asked for an example of a retaliatory action the Complainant could take, Subject 1 said, "[T]his is the retaliation that she said she would do," which we understood to refer to the present interview, or more broadly, our investigation into the Complainant's allegations of whistleblower reprisal against Subject 1.

Subject 1 raised the Complainant's threat to report Subject 1's conduct with Witness 9 on August 28, 2023. On August 29, 2023, Witness 9 responded to Subject 1's email, instructing her to speak to EMERG before writing her proposal and to ask EMERG for recommendations on how to proceed. She told us that Witness 9 told her he would recommend that they terminate the Complainant because of her statement. Additionally, in her September 11, 2023 email to EMERG to initiate the Complainant's termination, Subject 1, in part, cited an email from Subject 2 from earlier that day as justification for the separation. Subject 2's email identifies various issues he perceived with the Complainant, one of which was "making verbal threats of retaliation to [s]upervisors." Significantly, Subject 1 told us that it was her opinion the Complainant would not have been terminated if not for her threatening statement and told us that this statement was "the main reason" she believed the Complainant's misconduct "escalated" in August 2023 to the point where they "needed to do something about it."

Additionally, in her September 11, 2023 email to EMERG to initiate the Complainant's termination, Subject 1, in part, cited a memorandum as justification for the separation. That memorandum included an overview of the Complainant's August 25, 2023 conversation with Witness 7, which we determined constituted a protected disclosure. Subject 1 had

¹³ AR 215-3, Table 7-1, Penalties for Delinquency or Misconduct, defines insubordination as refusal to obey orders, impertinence, and similar offenses. The table prescribes an official written reprimand or 1-day suspension for the first offense, a 2-to-5-day suspension for the second offense, and a 6-to-14-day suspension or separation for the third offense.

shared that same memorandum with Witness 9 on August 28, 2023, saying, “I would like to pursue a separation on [the Complainant’s] position.” Subject 1 told us that the Complainant’s conversation with Witness 7 “compromise[d]” Subject 1’s position.

Therefore, by her own words and statements, Subject 1 indelibly linked the Complainant’s disclosure to Witness 7 and Subject 1’s perception that the Complainant would make additional disclosures as the basis for the termination.

Stated Reasons for Subject 2 Terminating the Complainant

Subject 2 told us that he recalled very little about the Complainant’s termination. Therefore, our analysis focused on a contemporaneous record authored by Subject 2. Specifically, on September 11, 2023, Subject 2 emailed Subject 1, writing that, among other things, the Complainant made oral threats of retaliation to supervisors. In so doing, Subject 2 identified his perception that the Complainant would make additional disclosures—the threat of retaliation to supervisors—as a basis for terminating the Complainant.

Timing

The Complainant began making protected disclosures about tips in July 2022 and continued making the same protected disclosures frequently, beginning approximately 5 months before Subject 1 reduced the Complainant’s scheduled hours and approximately 14 ½ months before Subject 1 and Subject 2 terminated the Complainant.

The Complainant made additional protected disclosures from March 6, 2023, through May 2023, beginning approximately 4 ½ months before Subject 1 and Subject 2 terminated the Complainant. However, the evidence established only that Subject 1 knew of these protected disclosures.

The Complainant made another protected disclosure on August 25, 2023, and on or about August 25, 2023, less than 3 weeks before Subject 1 and Subject 2 terminated the Complainant, Subject 1 and Subject 2 perceived that the Complainant would make additional disclosures.

Based on the subjects’ knowledge and the close timing between the protected disclosures and the personnel actions, a preponderance of the evidence established that the protected disclosures were a contributing factor in the personnel actions.

Because the Complainant has successfully established the elements of a *prima facie* allegation by a preponderance of the evidence, the question then becomes whether a preponderance of the evidence establishes that Subject 1 and Subject 2 would have taken the same actions even absent the protected disclosures.¹⁴ To determine this, we considered the following factors.

¹⁴ Black’s Law Dictionary defines a *prima facie* case as one that is “established by sufficient evidence, and can be overthrown only by rebutting evidence adduced on [offered by] the other side.”

Motive to Retaliate

Evidence for motive generally exists when protected disclosures allege wrongdoing that, if proven, would adversely affect the subject. This could be true in this case, since the Complainant's protected disclosures and the perceived additional disclosures that she would make could have reflected poorly on Subject 1 and Subject 2.

Subject 1

Each of the Complainant's protected disclosures and Subject 1's stated belief that the Complainant would make additional disclosures either directly expressed fault by Subject 1 or could have reflected negatively on her management. The Complainant's first protected disclosure suggested that tip-sharing practices implemented by Subject 1 were illegal. The Complainant's second protected disclosure expressly alleged that Subject 1 created a hostile work environment by various means, including not communicating directly with the Complainant during her shifts and belittling, humiliating, and embarrassing the Complainant in front of customers. The Complainant's third, fourth, and fifth protected disclosures alleged that Subject 1 made the Complainant do work outside her scope of duties, improperly delegated authority to a cook to act as the Complainant's supervisor, and did not provide the Complainant with the necessary cleaning supplies to successfully open a snack bar. Subject 1 expressed to us that she understood the Complainant as having indicated that if she were terminated, then she would undertake efforts to bring about negative consequences for Subject 1, which Subject 1 understood to mean that the Complainant would file a complaint against Subject 1, which would expose Subject 1 and the DFMWR to scrutiny by investigators.

Such clear allegations of personal fault would call into question Subject 1's competence and professionalism and thus would have provided her a strong personal motive to retaliate. Additionally, Subject 1 told us outright that the Complainant's conversation with Witness 7 negatively compromised her managerial position. We agree that it would have done so, because only 2 days before that conversation, Subject 1 had emailed Witness 9, stating that the snack bar was "fully operational." As the Complainant's conversation with Witness 7 resulted in Witness 7 stating that the facility was not sanitary enough for a restaurant and concluding that it was not ready to open, it would have undermined Subject 1's credibility to her direct supervisor.

Subject 1 reacted strongly after perceiving that the Complainant would make additional disclosures. Within a few days of learning of the Complainant's statement, she had talked to and emailed Witness 9 about it and was considering terminating the Complainant, largely because of it. Subject 1 indicated to us that the Complainant's statement "compromise[d]" Subject 1's managerial position, and she told us that she considered it to be a personal threat. We found that this evidence firmly established that her perception that the Complainant would make additional disclosures provided Subject 1 strong personal motive to retaliate.

Subject 2

The Complainant's protected disclosure to Witness 7 and his perception that she would make additional disclosures could have reflected negatively on Subject 2's management. The Complainant's disclosure to Witness 7 indicated that her managers, including Subject 2, did not provide the Complainant with the necessary cleaning supplies to successfully open a snack bar. Such a clear allegation of personal fault would call into question Subject 2's performance and thus would have provided him a personal motive to retaliate.

Additionally, in his September 11, 2023 email, Subject 2 characterized the Complainant as "making verbal threats of retaliation to [s]upervisors," which could logically be understood to indicate both him and Subject 1. It is significant that just over 2 weeks after perceiving that the Complainant would make additional disclosures, Subject 2 submitted a recommendation to Subject 1 to terminate the Complainant, identifying the perception that she would make additional disclosures as a justification for his recommendation. This supports a determination that his perception that the Complainant would make additional disclosures provided Subject 2 strong personal motive to retaliate.

Disparate Treatment of the Complainant

Subject 1 Reducing the Complainant's Hours

We found no evidence that Subject 1 treated the Complainant disparately in her decision to reduce the Complainant's hours. Subject 1 told us that it was her responsibility to mitigate excessive work hours, including justifying overtime and cutting back in those areas as needed. When asked if she reduced the hours of other employees, Subject 1 told us that she would move employees' schedules around as necessary to ensure she had the coverage needed for the facility "without having to have too much back and forth with the person that—that is not honoring their schedule." We found two similarly situated nonwhistleblower employees from the Complainant's period of employment whose hours Subject 1 reduced due to her stated reason of reducing labor costs. We found the employees to be similarly situated to the Complainant because they worked at one of the same facilities where the Complainant worked, had similar work hours, and, although they were [REDACTED] instead of [REDACTED], worked in food service.

Subject 1 Terminating the Complainant

As we found no evidence of other flexible employees who exhibited conduct similar to the Complainant, we could not assess whether Subject 1 treated the Complainant disparately in her decision to terminate her as there were no similarly situated nonwhistleblowers.

Subject 2 Terminating the Complainant

As we found no evidence of other flexible employees who exhibited conduct similar to the Complainant, we could not assess whether Subject 2 treated the Complainant disparately in his decision to terminate her as there were no similarly situated nonwhistleblowers.

Totality of the Evidence

Weighed together, a preponderance of the evidence established that Subject 1 would have reduced the Complainant's hours independent of any retaliatory purpose. However, we found by a preponderance of the evidence that Subject 1 and Subject 2 would not have terminated the Complainant absent her protected disclosures.

Although Subject 1 knew of one of the Complainant's protected disclosures before reducing her hours, documentary evidence and testimony established that Subject 1 took this action in response to the Complainant's attendance record and preferences, Subject 1's responsibility to moderate the amount of overtime hours worked, and operational logistics.

The testimonial and documentary evidence strongly supported that Subject 1 and Subject 2 terminated the Complainant in reprisal for the Complainant's protected disclosures and their respective perceptions that she would continue to make additional protected disclosures—characterized as making oral threats of retaliation to managers. Subject 1 indicated to us that in telling staff that “nothing can happen to her,” the Complainant “compromise[d]” Subject 1's managerial position. Subject 1 further characterized the Complainant's statement as “insubordinate” and told us that she considered it to be a personal threat. Subject 1 also told us that “this is the retaliation that she said she would do,” which intimated that she was referring to the present investigation into the Complainant's allegations of whistleblower reprisal against Subject 1.

On September 11, 2023, Subject 2 emailed Subject 1, writing that, among other things, the Complainant made oral threats of retaliation to supervisors. In so doing, Subject 2 identified the Complainant's perceived disclosure—the threat of retaliation to supervisors—as a basis for terminating the Complainant. In her email initiating the termination process, Subject 1 used the following disclosures as a basis for her request: the Complainant's perceived disclosure referred to by Subject 2 in his earlier email and the Complainant's protected disclosure to Witness 7.

Significantly, Subject 1 told us that it was her opinion that the Complainant would not have been terminated if not for her statement and that this statement was “the main reason” she perceived that the Complainant's misconduct “escalated” in August 2023 to the point where they “needed to do something about it.”

Therefore, based on their knowledge of a protected disclosure and their perception that the Complainant would make additional disclosures, a preponderance of the evidence established that Subject 1 and Subject 2 would not have terminated the Complainant absent her protected disclosure and their perception that she would make additional disclosures.

Preliminary Conclusion

A preponderance of the evidence established that Subject 1 would have reduced the Complainant's hours independent of any retaliatory purpose. However, we found by a preponderance of the evidence that Subject 1 and Subject 2 would not have terminated the Complainant absent her protected disclosures.

Subjects' Responses to Preliminary Conclusion

We provided a preliminary report of investigation to Subject 1 and Subject 2 on April 3, 2026, and provided them an opportunity to respond to our preliminary conclusion; both subjects confirmed receipt and neither provided further response. On April 20, 2026, we sent Subject 1 and Subject 2 follow-up correspondence notifying them that the deadline for a response had passed and that absent any immediate information for our consideration, we would finalize the report of investigation. On April 20, 2026, Subject 1 confirmed receipt of our latest correspondence, writing, "I have no further comments or additional information in response to the preliminary report of investigation"; Subject 2 did not respond. Absent a response or additional information for our consideration, our conclusions remain unchanged.

Overall Conclusion

After providing Subject 1 and Subject 2 an opportunity to respond to our preliminary report of investigation and absent a response or additional information, our conclusions remain unchanged. In the absence of any evidence to the contrary, a preponderance of the evidence established that Subject 1 would have reduced the Complainant's hours independent of any retaliatory purpose. However, we found by a preponderance of the evidence that Subject 1 and Subject 2 would not have terminated the Complainant absent her protected disclosures.

Recommendations

We recommend that the Director of Administration and Management consider the following remedial and corrective actions.

- Direct the removal of the Complainant's termination from her personnel record.
- Restore the Complainant's employment and award her all appropriate compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that the Complainant would have received had she not been retaliated against.
- Consider appropriate actions against Subject 1 and Subject 2 for retaliating against the Complainant.



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