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OFFICE OF INSPECTOR GENERAL

2020-0006-INVI-P – Suspected Violation of the Architect of the Capitol (AOC) “Standards of Conduct” and AOC “Workplace Anti-Harassment” Policies: Not Substantiated; Violation of Congressional Accountability Act: Substantiated

On March 5, 2020, the AOC, Office of Inspector General (OIG) received an OIG Hotline complaint from a former AOC employee, who claimed an AOC manager retaliated against them after filing a harassment complaint on September 30, 2019. The AOC employee claimed they worked for the AOC from December 10, 2018 until December 9, 2019, when they were terminated one day short of completing their probationary period. The former AOC employee claimed they received favorable performance evaluations, raises, and bonuses throughout the year and suspects the AOC manager retaliated against them after filing a harassment complaint.

The OIG investigation determined, based upon a preponderance of evidence and the timeline of events, that there was retaliation on the part of the AOC manager. Official documents supported the former AOC employee’s claim of receiving favorable performance (Fully Successful) evaluations, raises and bonuses. The OIG determined the AOC manager claimed the former AOC employee had a history of poor work performance but did not document the employee’s alleged poor work performance in writing throughout the rating period. After the former AOC employee filed a harassment complaint, the AOC manager recommended the former AOC employee’s termination and submitted a removal packet including a narrative summary of performance observations and feedback from memory (December 2018 through November 2019), citing the former AOC employee was not meeting expectations, and for sleeping on duty.

A review of AOC policies in effect at the time of the complaint revealed that the AOC only defined retaliation for complaints made to the OIG and not for other AOC jurisdictions. However, we concluded in the absence of an AOC policy protecting the employee at the time of the complaint the anti-retaliation provision of the Congressional Accountability Act 2 U.S.C. § 1317(a) covers the employee.

AOC Order 752-2, Standards of Conduct, April 25, 2014, Section 2.11, prohibits “reprisal or retaliation against an employee who referred an issue to the OIG in accordance with the AOC Inspector General Act of 2007 (2 U.S.C. §1808).” However, the former AOC employee brought the harassment matter to the attention of the OIG after their employment was terminated. Additionally, the AOC updated its sexual harassment policy on October 25, 2019, and further updated Order 24-2, Architect of the Capitol Workplace Anti-Harassment Policy, on March 13, 2020. Under AOC Order 24-2, the AOC added and defined retaliation under paragraph 5 - Retaliation; 5.1. Retaliation against an AOC employee who made a complaint or cooperated with a harassment investigation, or any investigation based on protected categories, is strictly prohibited. Under Order 24-2, and Policy Memorandum 24-3, any concerns of retaliation shall be reported directly to the AOC office responsible for dispute resolution. The retaliation against the former AOC employee occurred at the time of their termination in December 2019, prior to the

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Investigative Summary

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March 2020 revision and expansion of harassment and retaliation defined in Order 24-2. The AOC office responsible for dispute resolution neither addressed the complainant's request for additional assistance, nor did they refer the former AOC employee to the AOC Conciliation Program as directed under Order 24-1. In addition, no timely information was offered to the former AOC employee about recourse provided through the Office of Congressional Workplace Rights. The complainant then sought the OIG's help with their retaliation complaint on March 5, 2020.

Final Management Action: The investigation is closed and management action is pending.