

**U.S. ELECTION ASSISTANCE
COMMISSION
OFFICE OF INSPECTOR GENERAL**



**REPORT OF INVESTIGATION:
WORK ENVIRONMENT AT THE
U.S. ELECTION ASSISTANCE COMMISSION**

**No. I-IV-EAC-01-09
MARCH 2010**

This report contained information that has been redacted pursuant to the Freedom of Information Act, 5 U.S.C. §§ 552(b)(6) and (b)(7)(C).



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1201 New York Ave. NW - Suite 300
Washington, DC 20005

March 25, 2010

Memorandum

To: Donetta Davidson
Chair, U.S. Election Assistance Commission

From: Curtis Crider
Inspector General

A handwritten signature in blue ink that reads "Curtis W. Crider".

Subject: Report of Investigation – Work Environment at the
U.S. Election Assistance Commission, No. I-IV-EAC-01-09

Attached is a copy of the final investigative report issued by the U.S. Department of Interior Office of Inspector General (DOI OIG). The investigation was conducted by the DOI OIG under an interagency agreement between my office and theirs. The DOI OIG was engaged due to the fact that my office does not currently have an investigator on staff and to ensure that the investigation was conducted and the report was prepared by an independent third-party.

The investigation was initiated by my office because of numerous confidential and anonymous complaints received from current and former employees of the U.S. Election Assistance Commission (EAC) that they feared retaliation for reporting wrongdoing to management or to the EAC Office of Inspector General (EAC OIG). These concerns were also reported in the EAC's 2008 Annual Employee Survey. The DOI OIG was asked to assess whether a hostile working environment exists at EAC and whether any current or former employees of EAC have been subject to or threatened with retaliation or retribution.

The investigation found no evidence of actual retaliation. Likewise, the investigation found that a hostile working environment does not exist based upon definitions established by Federal employment discrimination laws. However, it did identify some problems and individual comments that the EAC may want to address.

We are providing this information to you for whatever action you deem appropriate. If during the course of your review, you have any questions, please do not hesitate to contact me at (202) 566-3125.

Attachment



**United States Department of the Interior
Office of Inspector General**

REPORT OF INVESTIGATION

Case Title EAC (Misconduct)	Case Number PI-PI-09-0699-I
Reporting Office Program Integrity Division	Report Date March 17, 2010
Report Subject Final Report of Investigation	

SYNOPSIS

This investigation was initiated at the request of the U.S. Election Assistance Commission's (EAC) Office of Inspector General (OIG) to confirm or refute the existence of a hostile work environment and identify whether EAC employees have suffered or have been threatened with retaliation or retribution. In April 2009, the EAC-OIG began receiving complaints – some of them anonymous or confidential – from EAC employees alleging that retaliatory practices were occurring and a hostile work environment existed. Employees also noted that they feared reprisal for disclosing information to management or the EAC-OIG.

We found that of the EAC's 40 current employees, none had personally experienced retaliation or reprisal by management, however, six employees claimed to have knowledge of past retaliation. Employees who expressed fear of retaliation based their fear on the alleged treatment of former EAC employees [REDACTED], [REDACTED], and [REDACTED]. We found that [REDACTED], [REDACTED], and [REDACTED] left the agency at their own free will, but they believed they were being pushed out for reporting an Anti-deficiency Act violation, among other issues. Although EAC management claimed that these three employees had performance problems, we found that none had received prior counseling or progressive disciplinary action. The fourth employee, [REDACTED], was transferred within the agency after printing out a copy of one of the [REDACTED] emails and giving it to two coworkers.

With regard to the allegations of a hostile work environment, we found no evidence that employees had been subjected to discrimination based on race, color, gender, religion, national origin, age, handicap, marital status, or political affiliation. Other hostile work environment complaints described a general dissatisfaction or distrust of supervisors or fellow employees.

Reporting Official/Title [REDACTED], Investigator	Signature
Approving Official/Title [REDACTED]	Signature

Authentication Number: 03018BEA1009ED8A854D7946BC71E8DB

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BACKGROUND

In December 2003, the Help America Vote Act (HAVA) formally constituted the EAC. The purpose of the Act was to provide states with funds to replace their punch-card voting systems and establish an agency to assist with the administration of Federal elections. According to its website, the EAC is an independent and bipartisan Federal agency charged with certifying and adopting guidelines for voting systems, accrediting testing laboratories, and serving as a clearinghouse for election administration information.

The EAC is headed by a four-member commission appointed by the President with the confirmation of the Senate. Commissioners serve 4-year terms but may be reappointed for one additional term. The commission elects a chair and vice chair from among their members who serve a term not to exceed 1 year.

The HAVA provides for two statutory positions, an executive director and general counsel, appointed by the Commission. The executive director is responsible for implementing EAC policy and the day-to-day administration of the agency. The general counsel provides legal guidance to the agency and serves under the leadership of the executive director. The duties and responsibilities of the commissioners and executive director are outlined in an undated memorandum created by the Commission titled, "Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission" (**Attachment 1**).

Between 2008 and 2009, the EAC hired its first chief operating officer and chief financial officer to assist the executive director. The EAC's first general counsel, who was hired in September 2004, resigned in late 2008 and accepted a position as legal counsel with the [REDACTED]. To date, the position of general counsel at the EAC has not been filled.

The EAC has a staff of approximately 40 full-time employees (**Attachment 2 & 3**). Employees of the EAC serve in the excepted service. As such, they do not have many of the protections of other Federal employees, including fewer appeal rights when disciplinary action and/or removal from office occurs.

Title 5 United States Code § 2302, however, provides that all Federal employees shall be free from the fear of reprisal through prohibited personnel actions for whistleblower disclosures that they believe evidence a violation of law, rule, or regulation; gross mismanagement; gross waste of funds; or abuse of authority (**Attachment 4**). There are no Federal hostile workplace laws, per say, but discrimination based on race, color, gender, religion, national origin, age, handicap, marital status, or political affiliation in the workplace is prohibited by this and other Federal discrimination statutes.

In April 2009, the EAC-OIG began receiving complaints – some of them anonymous or confidential – from EAC employees alleging that retaliatory practices were occurring and a hostile work environment existed at the EAC. Some complainants feared that by reporting violations of rules or laws, they would suffer retribution from management. These fears were echoed in an annual Office of Personnel Management survey of EAC employees in 2008, in which seven, or 32 percent, of the 23 respondents did not believe they could disclose a suspected violation of any law, rule, or regulation without fear of reprisal (**Attachment 5**). Eleven of the agency's employees did not respond to the survey. These results marked a significant increase over the previous year's survey results in which one employee, or 6 percent, of the 18 respondents, stated that they feared reprisal (**Attachment 6**). Seven employees did not respond to the 2007 survey.

DETAILS OF INVESTIGATION

We initiated our investigation at the request of Curtis W. Crider, Inspector General, EAC, to confirm or refute the existence of a hostile work environment and to determine if employees had suffered or had been threatened with retaliation or retribution (**Attachments 7 & 8**). The Inspector General warned us that confidentiality would be a significant concern to employees, some of whom had already expressed fear of retribution or retaliation for cooperating with the OIG. We made every effort to give special consideration to ensure confidentiality of information provided during this investigation.

In total, we reviewed 15 anonymous or confidential complaints received by the EAC-OIG between April and October 2009 (**Attachments 9 – 23**). Additionally, we also reviewed a spreadsheet prepared by the EAC-OIG listing a chronology of those complaints received between April and September 2009 (**Attachment 24**). The complaints provided a variety of allegations directed at management that included cronyism in hiring, poor communications, and overall lack of management accountability. Most of these complaints did not specifically include allegations of waste, fraud, or abuse but instead criticized management practices. Some also noted a lack of confidence in the ability of the [REDACTED] and the [REDACTED] to resolve issues or to maintain confidentiality, thus necessitating the need to report these matters to the EAC-OIG. In five of the complaints, employees indicated they were fearful of retribution if management discovered they had made a complaint to the OIG.

None of the complainants alleged that they had personally experienced retaliation or retribution, but five expressed fear of retaliation, and two claimed that the EAC fostered a hostile work environment. One employee also alleged that those who brought issues to the attention of the [REDACTED] or management were either punished or demoted and subsequently left the agency. We later learned that the employees being referred to were [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. Additionally, one employee stated that they had been warned by management to distance themselves from the OIG, while another said they had been accused of being anti-management and pro-OIG.

Beginning on September 15, 2009, we interviewed all current EAC employees, including the [REDACTED], the [REDACTED], the [REDACTED], and the [REDACTED]. Additionally, we interviewed the EAC Inspector General, his staff, and eight former EAC employees, including [REDACTED]. Former employees [REDACTED] and [REDACTED] did not respond to our requests for interviews.

We questioned current and former EAC employees specifically about the relationship between the EAC and the EAC-OIG, the perception of retaliatory practices by EAC management, and the perception of a hostile work environment.

Relationship with the OIG

According to the Inspector General, tension developed between EAC management and the OIG because some of the EAC's senior managers, including the [REDACTED] and the [REDACTED], had no prior Federal government experience and did not understand the role of the OIG. He said he had attempted to explain the OIG's role to them but they did not appreciate the fact that he had a reporting relationship to Congress. The Inspector General also noted that the nature of his role in the

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organization to conduct reviews, evaluations, and investigations created tension between his office and EAC senior management. The EAC being a small agency exacerbated this, he said, with the perception that the Inspector General was picking on management because there was a limited amount of subject matter to review.

██████████ ██████████ said ██████████ had concerns with the lack of boundaries between the EAC and the Inspector General (**Attachment 25**). "I've never seen anything like this place where people talk about everything with the IG," ██████████ said. "I've always been taught that you're forthcoming with the IG staff, but you do not go out of your way to tell them things. You help them with their investigations, but you keep a separation between the agency and what the Inspector General is doing." ██████████ also said ██████████ was bothered by the EAC always concurring with the Inspector General's findings.

We found that two other issues continued to be contentious between EAC senior management and the OIG (See Attachment 8). In September 2008, ██████████, while still ██████████; ██████████ and ██████████ reported a potential Anti-Deficiency Act violation to management that was identified during a financial audit. According to the Inspector General, the Office of Management and Budget (OMB) rendered an opinion that EAC apportioned money correctly in accordance with law. OMB did not think it was a problem, according to the Inspector General, but never rendered a written opinion. EAC management accepted OMB's decision. The Inspector General, however, said that the ruling rendered by OMB was contrary to prior Comptroller General decisions that would indicate an Anti-Deficiency Act violation might have occurred. He has sought a ruling from the Government Accountability Office to settle the matter.

The second issue that instigated tension between the EAC and the EAC-OIG involves the purchase of T-shirts during the November 2008 elections. EAC management purchased T-shirts for the staff as a "non-monetary award" during the November 2008 elections. The T-shirts were purchased at a cost of approximately \$7,000, and each employee was given multiple shirts at a cost of \$81 per person. The OIG did not feel this was an appropriate use of government funds and subsequently conducted a discretionary audit on the T-shirt purchase.

██████████ ██████████ who thought of the idea to purchase the shirts, questioned the Inspector General's audit (**Attachment 26**). "It doesn't even make any sense," ██████████ said. "I get investigated for ordering T-shirts. I'm like, 'What's that about?' 'You're using appropriated funds in the wrong way.' I'm like, 'Oh, for Christ's sake. It's a non-monetary award to the tune of somewhere around \$6,000 for the staff to have T-shirts, and they had T-shirts.'"

Finally, we found that the Inspector General's hiring of former ██████████ has created tension between the OIG and EAC management. Some senior managers, including ██████████ and ██████████ felt that ██████████ hiring by the OIG created a conflict of interest (**Attachments 27 & 28**). Additionally, ██████████ and ██████████ alleged that ██████████ had been heard saying that ██████████ wanted revenge for not being ██████████ by the Commission.

According to the Inspector General, the Commissioners opposed his hiring ██████████ because they were concerned about confidentiality on matters that ██████████ had rendered a legal opinion while ██████████ (See Attachment 8). He advised that according to the OIG's research with the Office of Government Ethics and the Bar Association, there was no attorney/client privilege between the OIG and the EAC that would prevent ██████████ from being hired. Protocols were established, however, to

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recuse [REDACTED] from those matters where [REDACTED] rendered a legal opinion. The OIG also provided a memorandum to the Commission that identified those matters that [REDACTED] would have to recuse [REDACTED].

Still, the matter of [REDACTED] employment with the OIG continues to be a matter of concern with the Commission. In April 2009, the commissioners sent a letter to the Council of the Inspectors General on Integrity and Efficiency (CIGIE) requesting an opinion on the appropriateness of [REDACTED] employment with the OIG. To date, they have received no response from CIGIE (See Attachment 27).

Retaliation

We asked 32 current EAC employees, including eight mid-level managers and subordinate personnel, if they had experienced or observed retaliation or retribution while at the EAC (Attachments 29 - 60). We also asked them if they felt disclosures to management or the EAC-OIG would be maintained confidential. Employees were given an opportunity to voice their concerns about issues affecting the EAC workplace.

We reviewed the information provided during employee interviews to determine the extent of the actual or perceived retaliation, retribution, or other prohibited personnel actions. Of the 32 employees interviewed, none said they had personally experienced retaliation, and only six employees reported that they had knowledge of retaliation or retribution by EAC management (See Attachments 40, 43, 48, 49, 51 & 59).

These alleged acts of retaliation occurred between mid-2008 and September 2009 and were directed at [REDACTED], [REDACTED], and [REDACTED] and [REDACTED] and [REDACTED] (Attachment 61). [REDACTED], and [REDACTED] subsequently resigned from the agency, and [REDACTED] was not [REDACTED].

Senior management alleged that [REDACTED], [REDACTED], and [REDACTED] had performance issues, but we found no evidence that they attempted to take corrective action. One EAC employee said, "It seems that there's one action that takes place and then the person's gone That certainly is concerning If you just go by what you're observing, very minor infractions sometimes can lead to fairly severe consequences So to me, there's only one message there" (See Attachment 40).

As a side issue, some EAC employees also reported concerns about the abolishment of a working lunch group that included [REDACTED], [REDACTED], and [REDACTED]. In 2008, [REDACTED], [REDACTED], [REDACTED]; and [REDACTED] joined forces to develop a Certification Program Manual. [REDACTED] named the group the "[REDACTED]," taking the name from the military where the name is used to identify an interdisciplinary group. The "[REDACTED]" evolved into a lunch group that ate, carpooled, and socialized together. Other employees associated with the group included [REDACTED], [REDACTED] and [REDACTED], former [REDACTED] among others.

While the "[REDACTED]" included Hispanic employees, it was perceived by some minority employees as being racially exclusive. Others described it as elitist. One mid-level manager described the "[REDACTED]" as the "white boys, club" (See Attachment 47).

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According to [REDACTED] the "[REDACTED]" started out innocent enough, but because of the perception of its racial exclusiveness, it had to be stopped (**Attachment 62**). EAC management took no action to address the issue itself but contracted C.W. Hines and Associates to mediate the "[REDACTED]" issue.

During our investigation, we interviewed [REDACTED], [REDACTED], and [REDACTED] did not respond to our request for an interview. We found that [REDACTED], [REDACTED], and [REDACTED] were all mid-level managers at the time of the alleged retaliation and reported directly to [REDACTED] and [REDACTED] had been employed by the EAC for between three and four years, respectively. [REDACTED] was in [REDACTED] probationary year as [REDACTED] but had previously served as a [REDACTED] and was employed by the EAC in January 2008.

After reviewing these four incidents, we found that [REDACTED] and [REDACTED] resigned from the EAC, and [REDACTED] appeared to investigators to have been forced to resign. [REDACTED] resigned to accept a position with the [REDACTED] [REDACTED] resigned 3 months after being transferred to a new position as part of organizational restructuring. [REDACTED] while not forced to resign, was removed from [REDACTED] probationary position as [REDACTED] but allowed to accept another position within the agency.

[REDACTED] said [REDACTED] was [REDACTED] as the EAC's [REDACTED] on September 7, 2004 (**Attachment 63**). [REDACTED] held that position for 4 years, during which [REDACTED] duties involved providing advice and legal counsel to EAC employees. During [REDACTED] tenure as [REDACTED] [REDACTED] said [REDACTED] relationship with [REDACTED] deteriorated after [REDACTED] provided legal advice with which senior management did not agree. [REDACTED] said [REDACTED] felt it was [REDACTED] responsibility to make sure that the agency was in compliance with all laws and regulations, and this sometimes meant telling the commissioners they could not do something. At times, it also meant protecting the interests of the agency against the individual interests of the commissioners, [REDACTED] said.

[REDACTED] said [REDACTED] felt that [REDACTED] and the [REDACTED] had at times exposed the agency to risk when handling procurements and appropriations, and [REDACTED] began to document those issues, which later caused [REDACTED] problems with management. In September 2008, [REDACTED], [REDACTED] and [REDACTED] notified the EAC of a potential Anti-Deficiency Act violation, where money was being used for a purpose other than what was identified in the Appropriations Act. The EAC later reconstructed the accounts and found that some funds were miscoded, [REDACTED] said.

[REDACTED] and [REDACTED] said that [REDACTED] had become disrespectful, belligerent, and difficult to work with (See Attachments 27 & 28). [REDACTED] criticized [REDACTED] for not giving the commissioners options on issues that required [REDACTED] legal opinion. For example, when the potential Anti-Deficiency Act violation first surfaced, [REDACTED] said that [REDACTED] approached the Commission with an "OIG tone" versus that of the EAC [REDACTED] was nearing the end of [REDACTED] term as [REDACTED] and the commissioners chose not to [REDACTED]

[REDACTED] said [REDACTED] would not have sought [REDACTED] because, among other issues, [REDACTED] was not "having fun" and [REDACTED] was tired of fighting with the commissioners over what they should or should not do. [REDACTED] also felt that [REDACTED] identifying the potential Anti-Deficiency Act issue culminated in [REDACTED] not being [REDACTED] While [REDACTED] felt that not being [REDACTED] because of the Anti-Deficiency Act

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issue was retaliation, [REDACTED] said this was probably not actionable because [REDACTED] job was to tell the commissioners no. [REDACTED] said [REDACTED] considered filing a complaint with the Office of Special Counsel but did not believe [REDACTED] would have succeeded and did not want to continue working for the EAC. [REDACTED] was subsequently hired by the [REDACTED] in November 2008.

[REDACTED] said [REDACTED] was hired by the EAC in July 2005 as an [REDACTED] in what was then the [REDACTED] Division (Attachment 64). [REDACTED] was responsible for overseeing the EAC's [REDACTED] and its administration of the [REDACTED]

In 2007, [REDACTED] said, [REDACTED] asked [REDACTED] if [REDACTED] could become the [REDACTED]. There had previously not been a [REDACTED] in the [REDACTED] Division, but with the hiring of two additional personnel, [REDACTED] felt there was a need for one. [REDACTED] said [REDACTED] told [REDACTED] one of the commissioners did not like [REDACTED] work and did not want [REDACTED] in that position. Instead, [REDACTED] made [REDACTED] the [REDACTED] according to [REDACTED] to give [REDACTED] an opportunity to prove that [REDACTED] could perform the duties of the position. [REDACTED] noted that until that time, [REDACTED] was unaware that a commissioner was unhappy with [REDACTED] work.

[REDACTED] said [REDACTED] prepared [REDACTED] first-year performance evaluation. [REDACTED] said [REDACTED] explained to [REDACTED] that [REDACTED] had received two complaints that [REDACTED] ([REDACTED]) had not returned telephone calls, and as a result, [REDACTED] could not give [REDACTED] a superior performance rating. [REDACTED] said this was the first time these issues were brought to [REDACTED] attention, and [REDACTED] subsequently appealed [REDACTED] performance rating. According to [REDACTED], [REDACTED] never received an official notification that [REDACTED] appeal had been accepted; however, [REDACTED] later received the superior rating and the cash bonus associated with it.

[REDACTED] acknowledged that [REDACTED] performance did not improve while [REDACTED] was the [REDACTED] but [REDACTED] continued to give [REDACTED] favorable employee performance evaluations anyway (See Attachment 62).

During early 2009, the EAC went through a restructuring as part of its strategic plan that divided the [REDACTED] Division into the [REDACTED] Division and [REDACTED] Division. [REDACTED], who was partially responsible for developing the organizational change, explained that EAC senior management "wasn't high on [REDACTED] running the [REDACTED] Division," and [REDACTED] was "a little bit out of [REDACTED] depth in that position" (Attachment 65). [REDACTED] said [REDACTED] agreed that [REDACTED] would like to work on policy, and [REDACTED] had a background in elections, so [REDACTED] could better serve the agency in the [REDACTED] Division. At that time, there were only two employees in the [REDACTED] Division, [REDACTED] said, including the Division Director, and certain legal mandates were not being accomplished. Despite the transfer, [REDACTED] salary did not change.

[REDACTED] denied that [REDACTED] transfer was directed by management as retaliation for [REDACTED] reporting the Anti-Deficiency Act violation. [REDACTED] maintained that unless [REDACTED] was unwittingly manipulated by management, [REDACTED] transfer was based on the needs of the agency and not retaliation (See Attachment 65).

[REDACTED] however, saw [REDACTED] transfer as management's way of retaliating against [REDACTED] for reporting the potential Anti-Deficiency Act violation to [REDACTED], among other concerns. [REDACTED] said that approximately one month after [REDACTED] transfer, [REDACTED] submitted a request for travel to [REDACTED]

██████████ said ██████████ called ██████████ into ██████████ office and told ██████████ did good work, but management did not like ██████████ "tone." ██████████ also said ██████████ told ██████████ that ██████████, ██████████, and ██████████ felt that ██████████ did not know ██████████ place, and ██████████ was subsequently denied travel. ██████████ again attributed this to ██████████ role in reporting the Anti-Deficiency Action violation as well as ██████████ criticism of ██████████.

██████████ resigned on August 4, 2009. In ██████████ exit interview questionnaire, ██████████ wrote the following:

Current agency and division management do not communicate with staff. This makes it difficult for staff to meet expectations because the expectations are either not communicated or are changed over time without notice to staff...In Addition, management is not willing to address issues with staff and take a passive-aggressive approach of taking away responsibilities from staff, circumventing staff, and other negative actions when they believe a staff member has done something they do not agree with. This creates an atmosphere of distrust within the agency The agency's senior management is not able to separate personal and professional relationships when dealing with employees. Any constructive criticism by employees is viewed as a personal attack towards senior management and employees are ostracized and their work devalued or ignored as a result. Personal interactions between staff are monitored and staff are penalized professionally if they are perceived as associating with other staff that are viewed unfavorably by management. These factors have created an environment where staff fear retribution from senior management for personal association with others, constructive criticism of agency practices, or disagreement with approaches to work (**Attachment 66**).

██████████

We attempted to interview ██████████ to determine the circumstances surrounding ██████████ leaving the EAC. ██████████ refused our request for an interview, but during an October 22, 2009 telephone conversation, ██████████ stated that ██████████ resigned from the EAC after ██████████ duties there had been minimized (**Attachment 67**). We also attempted to address ██████████ separation from the EAC with ██████████ however, ██████████ refused to discuss it because it was an administrative matter. While ██████████ would not discuss the circumstances surrounding ██████████ departure from the agency, ██████████ did say, "Nobody is going anywhere with this staff unless I say so. And so far, nobody has been pushed out the door" (See **Attachment 62**).

While we were unable to interview ██████████ we did obtain a memorandum for record, prepared by ██████████, documenting a meeting with ██████████ on August 20, 2009 (**Attachment 68**). The meeting reportedly occurred in ██████████ office, and no one else was present. At the time, ██████████ was the ██████████

██████████ wrote that on August 20, 2009, ██████████ met with ██████████ at ██████████ request to discuss four issues, the first of which was that the EAC Office of ██████████ was no longer informed of, or allowed to attend senior staff briefings with the commissioners in which ██████████ issues were discussed. Additionally, ██████████ criticized what ██████████ characterized as "unprofessional, demeaning, and insulting" behavior by ██████████ the ██████████ toward ██████████ ██████████ also complained that ██████████ "had written a legal opinion to, and sought an opinion from, OMB concerning two unknown fiscal law matters." The matters in question included the Anti-Deficiency Act issue that ██████████

[REDACTED], and [REDACTED] had reported to management. According to [REDACTED] [REDACTED] complained that [REDACTED] had taken these actions without consulting the EAC-OGC and alleged that [REDACTED] was practicing law without a license and potentially harming the agency. Lastly, [REDACTED] voiced [REDACTED] concerns about the appropriateness of a meeting with [REDACTED], the [REDACTED], and the [REDACTED].

According to [REDACTED], [REDACTED] apologized for failing to include [REDACTED] in the commissioners' briefings. [REDACTED] also wrote that [REDACTED] agreed to send a letter to [REDACTED] reminding [REDACTED] to consult the OGC on legal matters.

On August 24, 2009, [REDACTED] said, [REDACTED] told [REDACTED] that [REDACTED] "behaved inappropriately and physically threatened [REDACTED]" during the meeting. [REDACTED] maintained that these allegations were false and that [REDACTED] never screamed at or threatened [REDACTED] in any way. [REDACTED] acknowledged that their conversation was loud, but [REDACTED] noted that at no time did [REDACTED] suggest that [REDACTED] demeanor or tone was inappropriate.

Several EAC employees, including [REDACTED] said they were in close proximity to [REDACTED] office during the August 20, 2009 meeting and confirmed that they could hear [REDACTED] yelling (See Attachment 25). [REDACTED] said [REDACTED] was walking down the hall to talk to [REDACTED] and [REDACTED] could hear yelling. [REDACTED] said, "I was very concerned about it," and [REDACTED] informed [REDACTED]. Additionally, [REDACTED] said, "It was going on for some time, and I feel bad until this day that I didn't call Federal Protective Service because it was just not something you normally hear in an office."

[REDACTED] the [REDACTED] also witnessed the incident and recalled that [REDACTED] was walking by [REDACTED] closed office door when [REDACTED] heard [REDACTED] talking loudly inside (Attachment 69). [REDACTED] noted that [REDACTED] frequently did so when [REDACTED] got excited and said [REDACTED] had seen similar behavior from other members of the [REDACTED] staff. Similar behavior had been tolerated in the past and [REDACTED] felt that it was normal.

[REDACTED] said [REDACTED] later learned that the incident had escalated after [REDACTED] left and that adverse administrative action was pending. Additionally, [REDACTED] said, [REDACTED] and [REDACTED] had decided they would allow [REDACTED] to resign in lieu of termination. [REDACTED] acknowledged that making decisions of this nature without first consulting with Human Resources personnel was not typical, but [REDACTED] believed [REDACTED] and [REDACTED] went outside the agency to obtain advice.

[REDACTED] said [REDACTED] called a meeting with [REDACTED] and [REDACTED] where [REDACTED] told [REDACTED] that [REDACTED] felt threatened by the outburst. [REDACTED] said [REDACTED] appeared confused and began asking questions. [REDACTED] said [REDACTED] asked [REDACTED] to leave the room so [REDACTED] could talk in private with [REDACTED], and [REDACTED] admitted to talking loudly. [REDACTED] also told [REDACTED] that [REDACTED] had received a job offer from another agency. [REDACTED] was, however, concerned that [REDACTED] would be leaving [REDACTED] caseload to the only remaining [REDACTED] in the [REDACTED]. [REDACTED] and [REDACTED] negotiated the terms of [REDACTED] resignation and agreed that [REDACTED] could remain for 60 days, and if [REDACTED] left within that time, nothing would be placed in [REDACTED] personnel file concerning the incident. [REDACTED] subsequently resigned from the agency.

In a second memorandum for record, dated August 27, 2009, [REDACTED] said [REDACTED] was told by [REDACTED] and [REDACTED] that [REDACTED] would be placed on administrative leave for 60 days upon submitting [REDACTED] resignation (Attachment 70). [REDACTED] said the EAC never provided a reason for being placed on administrative leave. [REDACTED] left the agency effective September 2009.

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██████████ was employed by the EAC in January 2008 (See Attachment 61). From October 2008 until May 2009, ██████████ was ██████████. As the ██████████ ██████████ had access to ██████████ computer and e-mail. In April 2009, ██████████ intercepted an e-mail to the ██████████ from a former employee that encouraged ██████████ to “push other people out of the agency.” According to ██████████ the e-mail did not specify who should be pushed out, but it made a broad generalization that anyone who had a “problem with management” or was “a bad apple” should be encouraged to move on. Concerned by the contents of the e-mail, ██████████ said ██████████ printed a copy of it without ██████████ knowledge and later shared it with fellow employees ██████████, ██████████, and ██████████, with whom ██████████ carpooled.

██████████ said ██████████, the ██████████ subsequently contacted ██████████ and ██████████ had a printout of the e-mail. According to ██████████, ██████████ told ██████████ an investigation into the incident had been conducted and ██████████ actions may have constituted a possible Privacy Act violation. ██████████ said that before this point, ██████████ had never been notified about an investigation, and if ██████████ had, ██████████ would have been honest about printing the e-mail. ██████████ said ██████████ told ██████████ that someone had brought the e-mail to the attention of ██████████ the ██████████ said ██████████ later apologized to the ██████████ explaining that ██████████ shared the e-mail out of ██████████ concern for other colleagues.

██████████ said ██████████ had previously criticized management in discussions with ██████████ and ██████████ speculated that ██████████ was removed from the position of ██████████ not because ██████████ copied the e-mail, but because ██████████ criticized management. ██████████ felt that ██████████ was looking for a way to get rid of ██████████ said ██████████ told ██████████ that ██████████ could no longer trust ██████████ and ██████████ was placed on administrative leave pending termination. ██████████ said ██████████ was given the opportunity to accept a position as a ██████████ at a reduced salary but commensurate with ██████████ original salary as a ██████████

Hostile Work Environment

None of the current or former EAC employees whom we interviewed stated that they had been discriminated against because of their race, color, gender, religion, national origin, age, handicap, marital status, or political affiliation. Two former EAC employees did say that in February 2009, ██████████ resigned from the EAC, and the agency held a farewell luncheon with a Hispanic theme. They said that at the luncheon, ██████████ was asked to wear a sombrero and mustache (**Attachments 64 & 71**). The two employees said that this was the first luncheon that had an ethnic theme.

██████████ said ██████████ was surprised by the Hispanic theme of the farewell luncheon but was not offended (**Attachment 72**). ██████████ advised that the luncheon was planned by subordinate personnel and that management was not involved in its planning.

Four other current employees said they had been subjected to a hostile work environment, but upon further examination, their complaints did not rise to the level of prohibited personnel practices. Instead, they described dissatisfaction with their supervisors. One employee alleged that management attempted to discourage ██████████ from associating with ██████████ since ██████████ worked for the ██████████

From our preliminary interviews of senior management and the Inspector General, we learned that between 2008 and 2009, the EAC had implemented several significant organizational changes, including the hiring of a [REDACTED] and [REDACTED], which affected management/staff relations. The creation of these two new positions, while necessary, was seen by some EAC employees as placing an extra layer in between management and staff, affecting communications and creating an us/them environment.

DISPOSITION

This report is being forwarded to the EAC Inspector General for whatever action he deems appropriate.

ATTACHMENTS

1. Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission.
2. EAC Organization Chart
3. EAC Employee Roster with Contact Information
4. Title 5 United States Code § 2302, Prohibited Personnel Practices
5. 2008 EAC Employee Survey
6. 2007 EAC Employee Survey
7. Request for Investigative Services
8. Interview of Curtis Crider, Inspector General, September 30, 2009
9. Anonymous E-Mail Complaint received by the EAC-OIG, [REDACTED]
10. Anonymous E-Mail Complaint received by the EAC-OIG, [REDACTED]
11. Anonymous E-Mail Complaint received by the EAC-OIG, [REDACTED]
12. Anonymous E-Mail Complaint received by the EAC-OIG, [REDACTED]
13. Anonymous E-Mail Complaint received by the EAC-OIG, [REDACTED]
14. EAC-OIG, Memorandum to File, Confidential Telephone Conversation with [REDACTED], [REDACTED]
15. EAC- OIG, Memorandum to File, Meeting with [REDACTED]
16. EAC- OIG, Memorandum to File, Meeting with [REDACTED]
17. EAC- OIG, Memorandum to File, Meeting with [REDACTED]
18. EAC-OIG, Memorandum to File, Meeting with [REDACTED]
19. EAC-OIG, Memorandum to File, Meeting with [REDACTED]
20. Anonymous IG Complaint, received [REDACTED]
21. Anonymous IG Complaint, received [REDACTED]
22. Anonymous IG Complaint, received [REDACTED]
23. Anonymous IG Complaint, received [REDACTED]
24. Complaint Spreadsheet prepared by the EAC- OIG
25. IAR – Interview of [REDACTED], October 2, 2009
26. IAR – Interview of [REDACTED] September 22, 2009
27. IAR – Interview of [REDACTED]
28. IAR – Interview of [REDACTED]
29. IAR – Interview of [REDACTED] October 1, 2009
30. IAR – Interview of [REDACTED] October 1, 2009
31. IAR – Interview of [REDACTED] October 6, 2009
32. IAR – Interview of [REDACTED] October 1, 2009
33. IAR – Interview of [REDACTED], October 1, 2009
34. IAR – Interview of [REDACTED] October 5, 2009
35. IAR – Interview of [REDACTED] October 1, 2009
36. IAR – Interview of [REDACTED] October 1, 2009

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37. IAR – Interview of [REDACTED], October 1, 2009
38. IAR – Interview of [REDACTED], October 1, 2009
39. IAR – Interview of [REDACTED], October 7, 2009
40. IAR – Interview of [REDACTED], October 6, 2009
41. IAR – Interview of [REDACTED], October 1, 2009
42. IAR – Interview of [REDACTED], October 2, 2009
43. IAR – Interview of [REDACTED], October 1, 2009
44. IAR – Interview of [REDACTED], October 1, 2009
45. IAR – Interview of [REDACTED], October 2, 2009
46. IAR – Interview of [REDACTED], October 1, 2009
47. IAR – Interview of [REDACTED], September 29, 2009
48. IAR – Interview of [REDACTED], October 1, 2009
49. IAR – Interview of [REDACTED], October 1, 2009
50. IAR – Interview of [REDACTED], October 7, 2009
51. IAR – Interview of [REDACTED], October 1, 2009
52. IAR – Interview of [REDACTED], October 6, 2009
53. IAR – Interview of [REDACTED], October 1, 2009
54. IAR – Interview of [REDACTED], October 1, 2009
55. IAR – Interview of [REDACTED], October 1, 2009
56. IAR – Interview of [REDACTED], October 1, 2009
57. IAR – Interview of [REDACTED], October 7, 2009
58. IAR – Interview of [REDACTED], October 6, 2009
59. IAR – Interview of [REDACTED], October 1, 2009
60. IAR – Interview of [REDACTED], October 6, 2009
61. IAR – Interview of [REDACTED], September 29, 2009
62. IAR – Interview of [REDACTED], September 21, 2009
63. IAR – Interview of [REDACTED], September 30, 2009
64. IAR – Interview of [REDACTED], October 19, 2009
65. IAR – Interview of [REDACTED], November 2, 2009
66. Exit Interview Questionnaire of [REDACTED], August 7, 2009
67. IAR – Telephone Conversation with [REDACTED], October 22, 2009
68. Memorandum for Record prepared by [REDACTED], “Meeting with [REDACTED]”
August 27, 2009.
69. IAR – Interview of [REDACTED], November 20, 2009
70. Memorandum for Record prepared by [REDACTED], “Administrative Leave”
August 27, 2009.
71. IAR – Interview of [REDACTED], October 20, 2009
72. IAR – Interview of [REDACTED], January 4, 2010.