

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: BRIAN ADAMS

)

OEIG Case # 09-1090

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Commission to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Executive Ethics Commission (“Commission”) received a final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Brian Adams at his last known address.

These recipients were given fifteen days to offer suggestions for redaction or provide a response to be made public with the report. Certain information contained in the proposed public response may have been redacted in accordance with the Commission’s determination that it should not be made public. The Commission, having reviewed all suggestions received, makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. Initial Allegations and Subsequent Allegations

The Office of Executive Inspector General (“OEIG”) received a complaint alleging that Illinois Department of Juvenile Justice (“DJJ”) employee Brian Adams used his State email account to engage in prohibited political activity. In addition, the OEIG’s investigation revealed that Mr. Adams, [names of other employees redacted who received less than three days’ suspension] violated DJJ policy by using their State computers and email system for personal use.

II. Background

Mr. Adams, [redacted], and [redacted] work for DJJ as educators at the Illinois Youth Center in Harrisburg (“IYC-Harrisburg”). [Redacted] is an employee of Southeastern Illinois College (“SIC”) who works at IYC-Harrisburg pursuant to a contract between DJJ and SIC. The work schedule for all subjects is Monday – Friday, 8:00 a.m. to 4:00 p.m.

III. Investigation

A. Review of October 23, 2009 Email

The OEIG obtained a copy of an email sent by Mr. Adams on October 23, 2009, at 2:08 p.m. This email, sent from Mr. Adams’ State email account, read as follows:

The events of the past few days and listening to the youth talk about how we “can’t do shit to them now” and how they “can’t wait to send this place up”, I’ve been inspired (sic) to give everyone a hint. If you have half a ****ing brain in your head you will vote a straight Republican ticket in 2010 and 2012!!!!!! If not, prepare yourself for more of the same shit.

The subject line of the email reads “inspiration” and the “To” line reads “ALL”.

B. Interview of [redacted]

On January 14, 2010, the OEIG interviewed [name and identifying information redacted]. [Redacted] explained that the “ALL” in the “To” line of Mr. Adams’ email indicates that it was distributed to all 40 employees at the IYC-Harrisburg school. [Redacted] stated that, although she was not at work on October 23, 2009, she saw the email when she returned the following morning. [Redacted] indicated that some employees at the school voiced concerns to her regarding the email.

[Redacted] provided OEIG investigators with an email exchange she had with Mr. Adams after she read Mr. Adams’ email. In the email exchange, [redacted] informed Mr. Adams that his message was “totally inappropriate for a workplace e-mail.” Mr. Adams responded by saying “I understand that I shouldn’t have written this and that in a moment of anger and frustration, I did not use good judgement.” [Redacted] informed investigators that Mr. Adams has expressed worry over this email and has apologized to her and to others in the school, including sending an email to the school staff apologizing for the email.

[Redacted] also informed OEIG investigators that, in May 2007, Mr. Adams and another educator were brutally attacked by juveniles incarcerated at IYC-Harrisburg. [Redacted] stated that this incident has clearly affected Mr. Adams. [Redacted] further stated that a juvenile had threatened Mr. Adams the day before he sent the October 23, 2009, email. The juvenile received counseling for the threat. [Redacted] stated that Mr. Adams was outraged that the juvenile was not disciplined more harshly and believes he sent the email in anger.

C. Forensic Examination of Mr. Adams' State Computer

On January 19, 2010, the OEIG seized Mr. Adams' State computer and conducted a forensic examination of it. Investigators found the October 23, 2009, email in the Outlook "Sent Items" folder. In addition, investigators found the following on Mr. Adams' computer:

- A July 9, 2009, email exchange between Mr. Adams and [redacted] bemoaning the effect they felt Democrats and "political liberals" were having on society. The exchange includes two emails sent by [redacted] and one sent by Mr. Adams.
- A response [redacted] sent to Mr. Adams' October 23, 2009 message, which read "Let's just hope the Republicans are capable of learning; they **must not** be lukewarm Dems!!!!" Mr. Adams and [redacted] then engaged in an exchange of emails regarding the number of Democrats working at IYC-Harrisburg. The exchange includes four emails sent by [redacted] and three sent by Mr. Adams (not including the initial message sent to "ALL").

D. [Redacted]

[This section describes part of the investigation of an employee who received a suspension of less than three days and is not required to be disclosed pursuant to subsection 20-52 of the State Officials and Employees Ethics Act. *See* 5 ILCS 430/20-52(a).]

E. [Redacted]

[This section describes part of the investigation of an employee who received a suspension of less than three days and is not required to be disclosed pursuant to subsection 20-52 of the State Officials and Employees Ethics Act. *See* 5 ILCS 430/20-52(a).]

F. [Redacted]

[This section describes part of the investigation of an employee who received a suspension of less than three days and is not required to be disclosed pursuant to subsection 20-52 of the State Officials and Employees Ethics Act. *See* 5 ILCS 430/20-52(a).]

G. Interview of Brian Adams

On March 31, 2010, the OEIG interviewed Mr. Adams. During the interview, Mr. Adams acknowledged sending the October 23, 2009, email with the subject "inspiration" to his coworkers at IYC-Harrisburg. Mr. Adams said that he knew it was inappropriate to write about his political opinions on his work email account. Mr. Adams also stated that he was not trying to get someone to vote Republican and acknowledged that the email offended some people but said that was not his intent. Mr. Adams said he apologized to his coworkers that were offended by the email.

Mr. Adams said that the email was a spontaneous reaction to his frustration regarding events that occurred a week prior to his sending the email. Mr. Adams related that he felt working at IYC-Harrisburg was unsafe. Mr. Adams said he felt that the students at the school believe they can get away with anything, including assaulting a staff member. Mr. Adams said that he was assaulted by students. Mr. Adams stated he felt that nothing was being done to correct the situation at IYC-Harrisburg. Mr. Adams said that he sought help regarding his safety from IYC-Harrisburg administrators and was told that their hands were tied and that it was political.

H. [Redacted]

[This section describes part of the investigation of an employee who received a suspension of less than three days, and is not required to be disclosed pursuant to subsection 20-52 of the State Officials and Employees Ethics Act. *See* 5 ILCS 430/20-52(a).]¹

I. [Redacted]

[This section describes part of the investigation of an employee who received a suspension of less than three days, and is not required to be disclosed pursuant to subsection 20-52 of the State Officials and Employees Ethics Act. *See* 5 ILCS 430/20-52(a).]²

IV. Analysis

A. Prohibited Political Activity

The State Officials and Employees Ethics Act (“Ethics Act”) states that “State employees shall not intentionally perform any prohibited political activity during any compensated time [or] misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.” 5 ILCS 430/5-15(a). The Ethics Act defines “Prohibited Political Activity” to include “soliciting votes on behalf of a candidate for elective office or any political organization.” 5 ILCS 430/1-5. Moreover, Department of Corrections (“DOC”) Administrative Directive 03.02.108 Section II(G)(1)(f), which DJJ has adopted, echoes the language of Section 5-15(a) of the Ethics Act.

The email that Mr. Adams sent on October 23, 2009, constitutes prohibited political activity because it encourages readers to vote for Republican candidates. Although Mr. Adams informed OEIG investigators that he was not trying to encourage anyone to vote Republican, the text of the email belies his statement as it clearly encourages readers of the email to “vote a straight Republican ticket.”

Mr. Adams informed OEIG investigators that he sent the email out of frustration regarding the lack of security at IYC-Harrisburg. While Mr. Adams’ frustration regarding the perceived lack of security at IYC-Harrisburg may explain the email distribution, it does not

¹ [Footnote redacted]

² [Footnote redacted]

excuse it. Mr. Adams violated the Ethics Act by engaging in prohibited political activity on compensated time and by misappropriating State resources for prohibited political purposes. Moreover, the same conduct is also a violation of DJJ policy for the same reasons. Therefore, the allegation that Mr. Adams used his State email account to engage in prohibited political activity is **FOUNDED**.

B. Misuse of State Computers

DOC Administrative Directive 01.05.105 Section II(F)(4), which DJJ has adopted, states “Departmental microcomputers shall not be used for personal reasons. Personal use of departmental microcomputers shall result in disciplinary action.”

Mr. Adams, [redacted names of three employees] each violated DJJ policy by using the DJJ email system to send non-work related messages while on State time.³ Moreover, each of these employees acknowledged sending the emails in question and thus they violated agency policy and this allegation is **FOUNDED**.

V. Recommendations

The OEIG issues these findings:

- **FOUNDED** – Mr. Adams engaged in prohibited political activity in violation of the Ethics Act by using his State email account and State computer to send a message soliciting votes for Republican candidates on compensated time.
- **FOUNDED** – Mr. Adams violated DJJ policy by using his State email account and State computer to send a message soliciting votes for Republican candidates on compensated time.
- **FOUNDED** – Mr. Adams, [redacted names of three employees] violated DJJ policy by using the DJJ email system and DJJ computers for purposes that were unrelated to their State duties.

Based upon the evidence, the OEIG recommends that Brian Adams be subject to discipline for his violation of the Ethics Act and DJJ policy. In addition, the OEIG recommends that [redacted names of three employees] be reminded of the prohibition of using DJJ electronic resources for purposes unrelated to their State duties.

However, pursuant to 5 ILCS 430/20-50(c), the OEIG has determined that it will not request that the Illinois Attorney General petition the Illinois Executive Ethics Commission (“Commission”) for leave to file a complaint alleging a violation of the Ethics Act by Mr.

³ Other than the October 23, 2009 email sent by Mr. Adams, none of the email messages discussed in this report constitutes prohibited political activity as that term is defined in the Ethics Act. Although most of these messages contain political discussions, none of them solicits votes for a particular candidate or organization, nor do they fit into any of the other categories of prohibited political activity contained in the Ethics Act.

Adams. Given the circumstances of Mr. Adams' sending of the e-mail message at issue and that it was a single violation of the Ethics Act, the OEIG has concluded that pursuing a complaint before the Commission would not be a judicious use of its resources.

No further investigative action is needed and this case is considered closed.



Illinois
Department of
Corrections

Pat Quinn
Governor

S. A. Godinez
Director

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May 10, 2011

Kristy L. Shores
Supervising AIG
Complaints & Compliance
Office of Executive Inspector General
32 West Randolph Street, Suite 1900
Chicago, IL 60601

Re: **OEIG Complaint #09-01090**

Dear Ms. Shores:

This a follow-up letter to complaint # 09-01090. The Department has recently completed an Employee Review Hearing on Brian Adams. Mr. Adams was issued a 10-Day Suspension. I have enclosed Mr. Adams' Employee Review Hearing.

If you need further assistance on this matter, please contact

Sincerely,

S. A. Godinez
Director
Illinois Department of Corrections

Enclosures
Employee Review Board Hearing
Union Response
OEIG Investigation



Illinois
Department of
Corrections

Pat Quinn
Governor

S.A. Godinez
Director

Tamms Correctional Center / 8500 Supermax Road / Tamms, IL 62988 / Telephone: (618) 747-2042 / TDD: (800) 526-0844

DATE: May 9, 2011
 TO: [redacted]
 FROM: [redacted]
 SUBJECT: **EMPLOYEE REVIEW HEARING – Brian Adams, Educator
 (Standards of Conduct/Ethics/Misuse of State Equipment – October 23, 2009)**

An Employee Review Hearing for the above individual was held on Tuesday, April 19, 2011, at approximately 10:00 AM. in the Warden's Conference Room with the following persons present:

Brian Adams, Employee
 [redacted]
 [redacted]
 [redacted]

The hearing was conducted in accordance with A.D. 03.01.120, Employee Review Hearings.

Charges: Educator Brian Adams is in violation of 5/ ILCS 430 Sections 1-5 and 5-15; DR 120 Sections 120.30 and 120.40; AD 03.02.108 Standards of Conduct, Sections I.B, II.G.1.a, II.G.1.d, II.G.1.e, and II.G.1.f; and AD 01.05.105 Use of Microcomputers, Section II.F.4..

Management's Statement: [redacted] presented the charges by review of the documentation issued as part of the Notice of Hearing. In essence, he stated that management stands by the hearing packet, which states that: "Based on direct evidence and witness statements as a result of OEIG Investigation 09-01090, it has been concluded that Educator Brian Adams used his State email account to engage in prohibited political activity during working hours. Mr. Adams authored and distributed an email to numerous staff members encouraging readers of the email to "vote a straight Republican ticket."

Mr. Adams violated the State Ethics Act by engaging in prohibited political activity on compensated time and by misappropriating State resources for prohibited political purposes. Additionally, Mr. Adams violated the Illinois Department of Corrections' Administrative Directives of Standards of Conduct and Use of Microcomputers.

Educator Brian Adams' actions are a violation of and a complete disregard for procedures and laws of this agency and the State of Illinois."

Union Representative [redacted] **Response:** [redacted] provided the Hearing Officer with a typed response to the charges presented against Educator Brian Adams. The contents of the typed response will not be recreated in its entirety in this format, but will remain on file for future reference.

[redacted] stated that the charges presented against Mr. Adams for misuse of the State's email system is irrelevant because Adams sent the message to coworkers only – not everyone at IYC Harrisburg as initially reported. The email system for the Education Department at IYC Harrisburg is separate from the rest of the facility and is only shared amongst the Education Department.

Union Representative [Redacted] stated that the OEIG Office chose not to pursue ethics charges against Brian Adams. [Redacted] stated that the Union cannot question or condone the DJJ's policies in this case, but they must follow them and act accordingly. Mr. Adams' actions were not politically motivated. Adams acted out of frustration with the policies of IYC Harrisburg and the Department of Juvenile Justice overall in regards to the working environment and atmosphere.

Educator Brian Adams' Response: When questioned, Mr. Adams stated that at the time of the incident, he was using a State computer. Adams noted that this was nothing political, just a one time occurrence and a knee jerk reaction. There have not been and will not be any recurrences of the same behavior. Adams currently does not have access to or a need for Outlook.

When questioned by the Hearing Officer, Mr. Adams acknowledged using the State computer system to type letters of a personal nature on behalf of the Grace United Methodist Church. Adams stated that he prepared these letters during his break and/or lunch period and that it did not interfere with his work.

Union Representative [Redacted] Response: [Redacted] stated she has known Brian Adams personally for many years. He is not a politically involved person and was not rallying votes for one particular person or party.

Management's Rebuttal: [Redacted] offered no further comment.

Summary: The Union and Mr. Adams contend that Mr. Adams did not utilize the "State" email account to send his message to coworkers. It is agreed that Mr. Adams did not use the "Outlook" messaging system that is accessible to most IDOC and IDJJ employees. However, the Union's assertion that the method utilized by Mr. Adams was not a "State" account is incorrect. As stated by Mr. Adams when questioned during the hearing, he used a State computer to send the message. The system used was established by the State and/or IDJJ for use within the IYC Harrisburg facility amongst staff members in the Education Department. Just because those employees are not part of the broad reaching Outlook program does not mean that the system is not managed by the State and/or IDJJ. Further, it is understood by this hearing officer that the system utilized by the Education Department at IYC Harrisburg is to foster better communication among the employees, however, that usage should be limited to work related topics, and not used for "water cooler" talk, as indicated by the Union.

Not only is the State email system to be used for work related communication only, but the State computers are not to be utilized for personal reasons either. According to the OEIG Investigation, and by his own admission during the hearing, Mr. Adams authored at least two (2) letters on behalf of Grace United Methodist Church. Mr. Adams claims that these memos were written during his break and/or lunch period. However, the fact that they were made using a State computer system constitutes misuse of State equipment for personal benefit.

The Union noted in their response to the charges that the Office of Executive Inspector General elected to not pursue ethics charges against Mr. Adams. According to the Union, there was no proof of ethics violations and therefore the charges should be dismissed. According to the OEIG Final Report, Section IV, Analysis and Section V, Recommendations, Mr. Adams was found to have violated the Ethics Act by using State resources for personal gain, soliciting political votes on compensated time, as well as engaging in prohibited political activity on compensated time and with State resources. However, the OEIG chose not to pursue a complaint with the Illinois Executive Ethics Commission because of the resources (time, money, man hours) that would have been required to follow through with the complaint. Even though the Office chose not to pursue further action, Mr. Adams' conduct and violations of the policies and procedures are not excused.

It is unclear if Mr. Adams was soliciting votes for or representing one particular candidate. It is believed that his message was sent out of anger and frustration with his job environment at the time. Nevertheless, the message was sent with the intent to influence fellow coworkers to vote in a particular manner for political reasons based on Mr. Adams' personal experience and beliefs. Whether Mr. Adams sent his message to one coworker or thirty-five coworkers, the message and intent was the same. His solicitation for votes for a particular political party were disrupting to the day to day operations of the facility, as well as a complete disregard for the policies and procedures of the Department and State of Illinois.

The Union also makes claim that the process for this ERB Hearing was not handled correctly in that a DOC employee should not be involved in the hearing process for a DJJ employee. Although the agencies are separate in title, many of the same policies and procedures still coexist between the two. The charges presented against Mr. Adams include violations from Department Rule 120, Administrative Directive 03.02.108, and Administrative Directive 01.05.105. All of these policies are recognized by both agencies with no variation between the two. Further, Administrative Directive 03.01.120 Employee Review Hearings, which outlines the hearing process, serves as the written authority for both agencies to adhere to. Additionally, the Hearing Officer is a State employee (IDOC) and every right to a fair hearing and union representation was afforded to Mr. Adams, allowing a representative from IDOC – Shawnee CC (current employer) and IDJJ – IYC Harrisburg (employer at time of incident) to appear at the hearing and represent Mr. Adams. Both agencies fall under the auspice of the Central Management Services (CMS) and must abide by any existing policies, procedures, and agreed upon labor agreements. Therefore, it is the opinion of this Hearing Officer that the Union's claim that IDOC does not have jurisdiction to hold hearing over a current IDOC employee's past conduct is nonsensical.

Based on the information and documentation provided, the charges presented against Educator Brian Adams for violations to the State's Ethics Act, Departmental Rule and Administrative Directive for Conduct, and Misuse of State Equipment and Resources, are substantiated.

Considerations: Educator Brian Adams began his career with I.D.O.C. on December 1, 2006. Mr. Adams has no prior discipline on file.

Conclusions: Based upon the evidence, documentation and testimony presented at this hearing, this Employee Review Hearing Officer finds that Educator Brian Adams is in violation of 5/ ILCS 430 Sections 1-5 and 5-15; DR 120 Sections 120.30 and 120.40; AD 03.02.108 Standards of Conduct, Sections I.B, II.G.1.a, II.G.1.d, II.G.1.e, and II.G.1.f; and AD 01.05.105 Use of Microcomputers, Section II.F.4.

Recommendation: This Employee Review Hearing Officer recommends that Educator Brian Adams receive the discipline listed below.

Ten (10) Days Suspension without pay

[Redacted] _____
Employee Review Hearing Officer

Date

I Concur I Do Not Concur with the recommendation of the Employee Review Hearing Officer.

[redacted]
Adult Education and Vocational Services

Date 5/9/11

I Concur I Do Not Concur with the above recommended Disciplinary Action.

Salvador A. Godinez, Director
Illinois Department of Corrections

Date

cc: Employee
Union representative
Personnel File
Employee Review Hearing File

Brian R. Adams
Educator

I concur with the recommendation a 10 day suspension .

I do not concur with the recommendation of a 10 day suspension .

Recommendation: _____

S. A. Godinez, Director

5-12-11
Date