

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

In re: TOM FOLOWELL, ) OEIG Case #12-01622

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (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 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, pursuant to 5 ILCS 430/20-52, 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 Tom Folowell at his last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

**FINAL REPORT**

**I. INTRODUCTION**

[The OEIG determined that allegations contained within significant portions of this report are unfounded. The Commission, exercising its authority pursuant to 5 ILCS 430/20-52(b), has redacted information related to the unfounded allegations. The next six paragraphs have consequently been redacted.]<sup>1 2 3</sup>

**II. ALLEGATION: Anonymous Complaint Submitted to the OEIG**

[This paragraph contains unfounded allegations and has been redacted.]<sup>4</sup>

---

<sup>1</sup> [Redacted.]

<sup>2</sup> [Redacted.]

<sup>3</sup> [Redacted.]

<sup>4</sup> [Redacted.]



On June 4, 2012, NIU's Office of General Counsel retained an external investigator to investigate the May 30, 2012 allegations against Mr. Gordon and [REDACTED]. The external investigation was later expanded to include NIU Employee A's grievance against Mr. Gordon.

On July 10, 2012, after interviewing individuals and reviewing documents, the external investigator reported to [REDACTED] the following preliminary results regarding Mr. Gordon:

- NIU Employee A's allegations regarding cleaning Mr. Gordon's home during her NIU work hours were credible;

[Three bullet points containing facts related to unfounded allegations redacted.]

The external investigator recommended that NIU terminate Mr. Gordon.

[Two paragraphs containing facts related to unfounded allegations redacted.]

#### **E. [REDACTED] Mr. Gordon's Resignation Agreements**

[Two paragraphs containing facts related to unfounded allegations redacted.]

On July 20, 2012, Mr. Gordon entered into a resignation and release agreement with NIU, under which he agreed to resign, effective July 31, 2012.

[Two paragraphs containing facts related to unfounded allegations redacted.]<sup>6</sup>

#### **F. [Redacted.]<sup>7</sup>**

[Three paragraphs containing facts related to unfounded allegations redacted.]

### **IV. INVESTIGATION**

#### **A. OEIG Review of NIU's Investigations**

The OEIG investigation initially reviewed the allegations NIU investigated both internally and externally involving Mr. Gordon and [REDACTED].

[REDACTED]

---

<sup>6</sup> [Redacted.]

<sup>7</sup> [Redacted.]

## **B. OEIG's Investigation of NIU Employee A's Actions**

A review of the NIU investigations, however, revealed that NIU had not fully investigated the circumstances relating to NIU Employee A's, an "extra help" employee, taking time off during her NIU work hours to clean Mr. Gordon's home. Therefore, the OEIG conducted further investigation of this issue, as detailed below. During the course of this portion of the investigation, the OEIG interviewed NIU Employee A; her supervisor, Tom Folowell; and NIU Vice President for Administration Steven Cunningham. Also interviewed was an employee in NIU's Human Resources Services Division regarding procedures applicable to extra help employees.

### **1. NIU Extra Help Employees**

Certain NIU employees referred to as "extra help" employees are "called to work for periodic appointment periods as needed to provide additional help for work of an emergent nature where such services are not regularly required on a constant, repetitive basis and cannot readily be assigned to status employees."<sup>8</sup> These extra help employees may work up to 900 hours; once they reach this threshold, they must be off work for at least 30 days before they can be rehired under a new position number. According to an NIU Human Resources employee who processed extra help employees' hours from 2006 to 2011, extra help employees are typically rehired by NIU after their 30-day period off work ends.

Each NIU department determines the work schedule of extra help employees and establishes procedures for these employees to request time off.

### **2. OEIG's Interview of NIU Employee A**

On March 21, 2013, the OEIG interviewed NIU Employee A, who said she has been employed by NIU for almost four years. NIU Employee A said she worked at the Convocation Center until January 15, 2013. At the Convocation Center, her work hours were 8:00 a.m. to 4:00 p.m. and her pay rate was \$10.50 per hour. During this time period NIU's Convocation Center Director of Operations Tom Folowell was her direct supervisor.

NIU Employee A stated that on three or four occasions between 2011 and 2012, she was directed to clean Mr. Gordon's home during work hours. The first occasion was in the Spring of 2011 when Mr. Folowell called her on the radio at about 9:00 a.m. and directed her to meet Mr. Gordon's wife at the dock. She said Mr. Folowell did not tell her why she was to meet Mrs. Gordon, and said she did not punch out. NIU Employee A said when she arrived at the dock, Mrs. Gordon introduced herself and took her to the Gordon home. Mrs. Gordon gave her instructions about what to clean in the house, and then left. When Mrs. Gordon returned, she gave NIU Employee A a \$20 "tip" and brought her back to NIU at about noon.

NIU Employee A said she later cleaned the Gordon home from approximately 9:00 a.m. to 12:00 p.m. two additional times and said that she did not punch out when she left her NIU

---

<sup>8</sup> NIU Employment Policy/Procedure (Subject: Extra Help (Non-Status) Appointments) (issued June 2012).

work location the second time. However, after the second time, Mr. Folowell talked to her about punching out when she was leaving to clean Mr. Gordon's house and based upon this conversation, she did punch out the third time.<sup>9</sup> NIU Employee A said Mrs. Gordon continued to give her \$20 "tips," or on one occasion, a \$40 tip to make up for a prior time when Mrs. Gordon had not paid her anything. Mr. Folowell was the only person who directed her to meet Mrs. Gordon when she went to clean the Gordon home.<sup>10</sup>

NIU Employee A stated that she did report to NIU's Convocation Center timekeeper and a Human Resources employee that Mr. Gordon had her clean his house. In addition, she said she felt uncomfortable from the first time she was directed to clean the Gordon home because, among other reasons, she was a stranger to Mrs. Gordon and was concerned that if items were later missing at the Gordon home, she would be blamed and would be sent to jail. NIU Employee A also felt she was losing money when she punched out and was worried she would be fired if she did not clean the Gordon home. She said she did not tell Mr. Folowell in "words" that she was uncomfortable with the situation, but said that her physical expressions when Mr. Folowell directed her to go to the Gordon home made it clear that she did not want to go there.

### **3. Interviews of NIU's Tom Folowell**

The OEIG interviewed NIU Convocation Center Director of Operations Tom Folowell on March 21 and July 23, 2013. Mr. Folowell said he previously reported to Mr. Gordon and said he was NIU Employee A's direct supervisor in 2011 and 2012.

Mr. Folowell said he set the work schedules for the two Convocation Center employees who did cleaning duties, one of whom was NIU Employee A. Mr. Folowell said that in 2011 and 2012, NIU Employee A's regular work hours were Monday through Friday, from 8:00 a.m. to 4:00 p.m., and said he assigned NIU Employee A to this work schedule because "that's when I needed the help." Mr. Folowell noted that the Convocation Center is a business, and employees cannot choose different hours than scheduled.

Mr. Folowell said he was responsible for approving the timesheets of the Convocation Center's cleaning staff and said that when employees such as NIU Employee A wanted to take time off or leave work early, they would ask him or another supervisor for permission. Mr. Folowell said he approved requests for time off from the extra help employees, such as NIU Employee A, who worked set schedules (i.e., those who were not scheduled to work Convocation Center events). Mr. Folowell said it was easier for NIU Employee A to take time off than for other Convocation Center extra help employees because NIU Employee A's work was not event-driven.

---

<sup>9</sup> NIU Employee A was unable to identify the specific dates she cleaned the Gordon home but NIU records reveal that on May 2 and 10, August 19, and September 13, 2011, she punched out an hour or an hour-and-a-half after she arrived at work, and punched back in later in the day.

<sup>10</sup> NIU Employee A also described a time when Mr. Gordon told her that he thought his wife would need her because he said "mom" was coming to town but Mrs. Gordon never picked her up that time.

Mr. Folowell acknowledged that he was aware of approximately five occasions when Mr. Gordon used NIU Employee A to clean his residence. Mr. Folowell stated that on each occasion, Mr. Gordon would tell him to let NIU Employee A know when Mr. Gordon's wife would be there, and he (Mr. Folowell) would call NIU Employee A on the radio or tell her in person. Mr. Folowell stated that NIU Employee A punched out on all of these occasions except once, when the time clock was not working. According to Mr. Folowell, on that occasion, NIU Employee A advised him in a note that she was leaving, and he and another employee "fixed" NIU Employee A's time records. Mr. Folowell stated that although he verified that NIU Employee A was punching out, he also spoke to her about it to reinforce that she needed to punch out. Mr. Folowell said no one did NIU Employee A's work when she was cleaning Mr. Gordon's home, and that NIU Employee A did not make up the time she took off.

Mr. Folowell stated that cleaning the Gordon home was not part of NIU Employee A's NIU duties, and she was not required to do it. Mr. Folowell stated that he believed that NIU Employee A "enjoyed" going to clean the Gordon home, and that she "enjoyed having the extra cash money." He stated that he did not get the feeling that she did not want to go to the Gordon home.

Mr. Folowell stated that from the time Mr. Gordon began working at the Convocation Center through April 2012, Mr. Gordon used many temporary and student employees from the Convocation Center to work at his home. In addition, Mr. Folowell said that he occasionally worked at the Gordon home after work, or while he was on vacation. According to Mr. Folowell, the employees always signed out when they went to work at the Gordon home during their NIU work hours.

Finally, Mr. Folowell stated that at some point he reported this practice to Mr. Albanese. Mr. Folowell said Mr. Albanese told him that he (Mr. Albanese) discussed the matter with NIU's Ethics Officer, and the Ethics Officer informed Mr. Albanese that it was a good thing that Mr. Gordon was helping out NIU employees and kids by giving them work. Mr. Folowell said Mr. Albanese also told him that employees could work at Mr. Gordon's home as long as they were not forced to do so, and as long as they punched out, were not paid with NIU funds, and received no special benefits.

#### **4. OEIG's Interview of Steven Cunningham**

On March 21, 2013, the OEIG interviewed former NIU Ethics Officer Steven Cunningham regarding Convocation Center employees working at Mr. Gordon's home. Mr. Cunningham, who was NIU's Ethics Officer from 2010 to 2013, denied that Mr. Albanese asked him whether it was appropriate for Mr. Gordon to use NIU Convocation Center employees to work at his home.<sup>11</sup>

Mr. Cunningham also stated that he had intended to take disciplinary action against Mrs. Gordon, who also was an NIU employee, but she went on leave after the incidents occurred, and then resigned. Mr. Cunningham stated that she will not be employed by NIU again.

---

<sup>11</sup> Mr. Folowell did not identify the Ethics Officer to whom Mr. Albanese allegedly spoke about Mr. Gordon using NIU employees to work at his house. Mr. Gordon became the Convocation Center Director in 2000.



use of her to clean his home during her work hours. Mr. Folowell admitted that he directed NIU Employee A to meet Mrs. Gordon for the purpose of allowing her to clean the Gordon home, during NIU Employee A's regular work shift, on approximately five separate occasions. Mr. Folowell also admitted that cleaning the Gordon home was not part of NIU Employee A's NIU job duties.

Allowing the use of NIU Employee A for the non-university purpose of cleaning the Gordon home during the time she was expected to clean NIU property deprived NIU of NIU Employee A's services. Mr. Folowell acknowledged that he set NIU Employee A's NIU work schedule as he did because her services were needed during those hours, that no one did her work while she was away cleaning Mr. Gordon's home, and that she did not make up the time. Despite these facts, Mr. Folowell allowed and in effect instructed NIU Employee A to punch out from work so that she could clean the Gordon home. In short, whether or not NIU Employee A appeared to "enjoy" cleaning the Gordon home, as Mr. Folowell claimed, it was wholly improper for Mr. Folowell to direct NIU Employee A to leave NIU during her regular hours to serve Mr. Gordon's private interests.<sup>15</sup>

Finally, even if Mr. Folowell reported to Mr. Albanese that Mr. Gordon used NIU employees for personal purposes, as he claims, it was improper for Mr. Folowell to continue to facilitate Mr. Gordon's personal use of NIU Employee A's services during her NIU work hours. In any event, Mr. Folowell's claim that Mr. Albanese told an NIU Ethics Officer about allowing NIU employees to work at the Gordon home and the Ethics Officer purportedly sanctioned the practice, seems unlikely. Based on the foregoing, the allegation that Mr. Folowell directed an NIU employee to violate NIU policy is **FOUNDED**.

## **VI. CONCLUSIONS AND RECOMMENDATION**

Following due investigation, the OEIG issues these findings:

- **UNFOUNDED** – [Redacted.]
- **FOUNDED** – Tom Folowell directed an NIU employee to violate NIU policy by facilitating the employee's performance of non-university-related services during NIU work hours.

The OEIG recommends that Tom Folowell be disciplined. No further investigative action is needed and this case is considered closed.

Date: August 30, 2013

Office of Executive Inspector General  
for the Agencies of the Illinois Governor  
69 West Washington Street, Suite 3400  
Chicago, IL 60602

---

<sup>15</sup> Since NIU Employee A, a low-level employee, was directed to clean the Gordon home, and she reported the same, no finding of misconduct will be made against her.

By: **Angela O. Luning**  
Assistant Inspector General

**Edward J. Doyle**  
Investigator # 159



**Office of Executive Inspector General**  
**for the Agencies of the Illinois Governor**  
www.inspectorgeneral.illinois.gov

**OEIG RESPONSE FORM**

Case Number: ~~12-01622~~ 12-01622

Return By: 9-19-2013

Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

We will implement all of the OEIG recommendations but will require additional time. We will report to OEIG within 15 days from the original return date.

We do not wish to implement any of the OEIG recommendations. Please provide details as to actions taken, if any, in response to OEIG recommendations:

James Guagliardo  
Signature

James Guagliardo  
Print Name

Northern Illinois University Ethics Officer  
Print Agency and Job Title

9-19-2013  
Date



**Office of Executive Inspector General**  
**for the Agencies of the Illinois Governor**  
www.inspectorgeneral.illinois.gov

**OEIG RESPONSE FORM**

Case Number: ~~12-01622~~ 12-01622

Return By: \_\_\_\_\_

Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

Northern Illinois University has initiated disciplinary proceedings against Tom Folowell, by proposing a suspension of seven work days without pay. The University's decision to impose this discipline is based on the University's review of the O.E.I.G.'s investigation, the University's independent investigation, and the nature Mr. Folowell's conduct (i.e. following the instructions of his supervisors). Mr. Folowell is a civil service employee. The University will notify the O.E.I.G. in the event Mr. Folowell challenges the actions of the University and there are any adjustments to his discipline.

We will implement all of the OEIG recommendations but will require additional time. We will report to OEIG within \_\_\_\_\_ days from the original return date.

We do not wish to implement any of the OEIG recommendations. Please provide details as to actions taken, if any, in response to OEIG recommendations:

Signature

James Guagliardo  
Print Name

Northern Illinois University  
Print Agency and Job Title Ethics Officer

10-15-2013  
Date



**Northern Illinois  
University**

*Office of General Counsel*

Office of General Counsel  
Altgeld Hall, Suite 330  
DeKalb, Illinois 60115-2828  
815-753-1774  
Fax 815-753-7818

January 15, 2014

Ms. Erin K. Bonales  
Office of Executive Inspector General  
Deputy Inspector General  
69 West Washington Street, Suite 3400  
Chicago, Illinois 60602

Re: OEIG Case No. 12-01622

Dear Ms. Bonales:

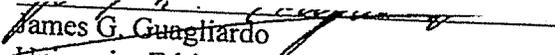
Per our correspondence of yesterday, I am writing to confirm that Mr. Tom Folowell has begun to serve his 7 day unpaid suspension. Accordingly, he has waived his internal University appeal rights. Due to the needs of management in his division, they have asked that Mr. Folowell not serve 7 consecutive work days. Management has worked out a suspension schedule with Mr. Folowell in which he will serve his 7 unpaid days as follows:

December 17, January 3, 10 (already served);

January 17, 24, 31; and

February 7.

Please don't hesitate to contact me if you have any questions. Thank you,

  
James G. Guagliardo  
University Ethics Officer  
Northern Illinois University

*Learning Today, Leading Tomorrow*

Northern Illinois University is an Equal Opportunity/Affirmative Action Institution.