

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

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JUL 25 2012

EXECUTIVE
ETHICS COMMISSION

RICARDO MEZA, in his capacity as)
EXECUTIVE INSPECTOR GENERAL for)
AGENCIES OF THE GOVERNOR, State)
Of Illinois,)
Petitioner,)
v.)
DEBRA HOPGOOD,)
Respondent.)
No. 11-EEC-007

DECISION

This cause is before the Executive Ethics Commission following an evidentiary hearing on November 29, 2011.

Petitioner filed a verified complaint with the Commission on October 1, 2010. Respondent filed objections on December 27, 2010, and on January 6, 2011, petitioner filed a motion for leave to file a first amended complaint. On February 23, 2011, respondent filed an answer to the first amended complaint. On March 28, 2011, the Commission granted petitioner's motion for leave to file a first amended complaint and determined that the first amended complaint was sufficient to proceed.

On November 2, 2011, respondent filed a waiver of rights, acknowledging that she has the right to participate in an evidentiary hearing, to present evidence and cross-examine witnesses, but declines to do so. Consequently, an evidentiary hearing was held on November 29, 2012, at which petitioner introduced evidence, which was unchallenged by respondent. Both parties have filed briefs in support of their positions concerning an appropriate fine, if any.

Petitioner is represented by Assistant Attorney General Scott Sievers. Respondent is represented by Roger Webber.

FINDINGS OF FACT

A copy of the record of proceedings has been reviewed by the members of the Executive Ethics Commission. Based upon this record, the Commission makes the following findings of fact:

1. Respondent Debra Hopgood was employed by the Eastern Illinois University as head of the Office of Academic Assessment and Testing at all times relevant to

this complaint until she resigned on June 30, 2010 (First Amended Complaint, pars. 2 and 3).

2. The Office of Academic Assessment and Testing administers a variety of examinations to students and respondent always served as Chief Test Administrator (CTA) (Tr. 103-4). Respondent and other EIU employees who administered or proctored examinations received payment in addition to their university salaries (Tr. 131-2).
3. Respondent frequently designated her husband, who was not an EIU employee, to be Assistant Chief Test Administrator (ACTA) (Tr. 135), even though he lacked the certification to be the ACTA (Tr. 71).
4. By administering examinations on the side, respondent and her husband were able to supplement their income in addition to the amount of respondent's salary by more than \$19,000 over two years (Tr. 154).
5. On March 3, 2009 and April 2, 2009, employees the Office of the Executive Inspector General interviewed respondent related to an investigation they were conducting (Tr. 10-11).
6. During those interviews, respondent intentionally and knowingly made several statements that were later demonstrated to be false, including:
 - a. that the assignment of an ACTA was not within her discretion (Tr. 139).
 - b. that despite her repeated requests, no one else on staff wanted to serve in the ACTA position (Tr. 139-40).
 - c. that respondent and her husband administered and were present at an August 8, 2008 exam (Tr. 141-2).
 - d. that she never used her university credit card (P-Card) to purchase non-work related items (Tr. 23).
7. Testimony from OEIG investigators and respondent's former colleagues establishes by a preponderance of evidence:
 - a. that the selection of respondent's husband to serve as an ACTA was within the sole control and authority of respondent (Tr. 16).
 - b. that the ACTA position was a sought-after position among staff at the Office of Academic Assessment and Testing (Tr. 15) and there were others who were willing and qualified to serve (Tr. 49-50, 75, 80).

- c. that the August 8, 2008 exam was administered by other staff members and respondent and her husband were not present (Tr. 141).
- d. that staff observed respondent purchase food items with her P-Card, drive to her home, and leave some of the items purchased at her home. (Tr. 56).

CONCLUSIONS OF LAW

1. Respondent Debra Hopgood was at all times relevant to this complaint a State employee, as “employee” is defined in the State Officials and Employees Ethics Act (“Act”) to include regular employees and appointees. 5 ILCS 430/1-5.
2. The Executive Ethics Commission has jurisdiction over respondent in the matter of her alleged failure to cooperate in an investigation undertaken pursuant to the Act (5 ILCS 430/20-70) and in the matter of her alleged obstruction and interference with an investigation conducted under the Act (5 ILCS 430/50-5(e)).
3. Petitioner has demonstrated by a preponderance of evidence that respondent violated Section 20-70 of the State Officials and Employees Ethics Act when she failed to cooperate in an investigation undertaken pursuant to the State Officials and Employees Ethics Act by answering falsely several questions during an interview. 5 ILCS 430/20-70.
4. Petitioner has demonstrated by a preponderance of evidence that respondent violated Section 50-5(e) of the State Officials and Employees Ethics Act when she intentionally obstructed or interfered with an investigation conducted under the State Officials and Employees Ethics Act by answering falsely several questions during an interview. 5 ILCS 430/50-5(e).
5. The Executive Ethics Commission may levy an administrative fine of up to \$5,000 for a violation of the State Officials and Employees Ethics Act. 5 ILCS 430/50-5(e).

ANALYSIS

Respondent Debra Hopgood violated Sections 20-70 and 50-5(e) of the State Officials and Employees Ethics Act (5 ILCS 430/20-70 and 50-5(e)) when she intentionally and knowingly made a series of false statements to investigators conducting an investigation pursuant to the State Officials and Employees Ethics Act.

Testimony from the OEIG investigators and Hopgood’s former colleagues went unchallenged at hearing and supplied sufficient evidence to allow the Commission to conclude that respondent intentionally failed to cooperate and attempted to obstruct and interfere with an OEIG investigation.

The Commission must determine an appropriate sanction. Petitioner seeks a substantial fine of up to \$5000.00 and respondent suggests a fine of \$500.00. In mitigation, respondent did cooperate in the prosecution of this matter in that she did not challenge the accusations against her at hearing. Also, there is no evidence of prior disciplinary actions against respondent.

In aggravation, respondent was in a position of considerable authority. She possessed a doctorate and led an office at a State university. Furthermore, the scope of her obstruction and interference, measured by the number and degree of falsehoods respondent told to OEIG investigators, is significant.

WHEREFORE, for the foregoing reasons, the Commission finds that respondent Debra Hopgood violated Sections 20-70 and 50-5(e) of the State Officials and Employees Ethics Act (5 ILCS 430/20-70 and 50-5(e)).

IT IS FURTHER ORDERED that an administrative fine of \$1,500.00 is levied against respondent Debra Hopgood in accordance with her violation of Sections 20-70 and 50-5(e) of the State Officials and Employees Ethics Act (5 ILCS 430/20-70 and 50-5(e)).

This is a final administrative decision and subject to the Administrative Review Law.