

**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 text], [redacted text], [redacted text], and [redacted text]. We found that [redacted text], [redacted text], and [redacted text] 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 text], was transferred within the agency after printing out a copy of one of the [redacted text] 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 text], Investigator	Signature
Approving Official/Title [redacted text]	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 text]. 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 text] and the [redacted text] 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 text] or management were either punished or demoted and subsequently left the agency. We later learned that the employees being referred to were [redacted text], [redacted text], [redacted text], and [redacted text]. 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 text], the [redacted text], the [redacted text], and the [redacted text]. Additionally, we interviewed the EAC Inspector General, his staff, and eight former EAC employees, including [redacted text]. Former employees [redacted text] and [redacted text] 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 text] and the [redacted text], 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 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.

[redacted text], [redacted text], said [redacted text] 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,” [redacted text] 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.” [redacted text] also said [redacted text] 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, [redacted text], while still [redacted text]; [redacted text], [redacted text]; and [redacted text] 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.

[redacted text], [redacted text], who thought of the idea to purchase the shirts, questioned the Inspector General’s audit (**Attachment 26**). “It doesn’t even make any sense,” [redacted text] 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 [redacted text] has created tension between the OIG and EAC management. Some senior managers, including [redacted text] and [redacted text], felt that [redacted text] hiring by the OIG created a conflict of interest (**Attachments 27 & 28**). Additionally, [redacted text] and [redacted text] alleged that [redacted text] had been heard saying that [redacted text] wanted revenge for not being [redacted text] by the Commission.

According to the Inspector General, the Commissioners opposed his hiring [redacted text] because they were concerned about confidentiality on matters that [redacted text] had rendered a legal opinion while [redacted text] (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 [redacted text] from being hired. Protocols were established, however, to recuse [redacted text] from those matters where [redacted text] rendered a legal opinion. The OIG also provided a memorandum to the Commission that identified those matters that [redacted text] would have to recuse [redacted text].

Still, the matter of [redacted text] 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 text] 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 text], [redacted text], [redacted text], and [redacted text], [redacted text] and [redacted text] (**Attachment 61**). [redacted text], [redacted text], and [redacted text] subsequently resigned from the agency, and [redacted text] was not [redacted text].

Senior management alleged that [redacted text], [redacted text], and [redacted text] 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 text], [redacted text], [redacted text], and [redacted text]. In 2008, [redacted text]; [redacted text], [redacted text]; [redacted text], [redacted text]; and [redacted text], [redacted text], joined forces to develop a Certification Program Manual. [redacted text] named the group the “[redacted text],” taking the name from the military where the name is used to identify an interdisciplinary group. The “[redacted text]” evolved into a lunch group that ate, carpooled, and socialized together. Other employees associated with the group included [redacted text], [redacted text], and [redacted text], former [redacted text], among others.

While the “[redacted text]” 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 text]” as the “white boys, club” (See Attachment 47).

According to [redacted text], [redacted text], the “[redacted text]” 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 text]” issue.

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

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

[redacted text]

[redacted text] said [redacted text] was [redacted text] as the EAC's [redacted text] on September 7, 2004 (**Attachment 63**). [redacted text] held that position for 4 years, during which [redacted text] duties involved providing advice and legal counsel to EAC employees. During [redacted text] tenure as [redacted text], [redacted text] said [redacted text] relationship with [redacted text] deteriorated after [redacted text] provided legal advice with which senior management did not agree. [redacted text] said [redacted text] felt it was [redacted text] 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 text] said.

[redacted text] said [redacted text] felt that [redacted text] and the [redacted text] had at times exposed the agency to risk when handling procurements and appropriations, and [redacted text] began to document those issues, which later caused [redacted text] problems with management. In September 2008, [redacted text], [redacted text], and [redacted text] 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 text] said.

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

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

the commissioners no. [redacted text] said [redacted text] considered filing a complaint with the Office of Special Counsel but did not believe [redacted text] would have succeeded and did not want to continue working for the EAC. [redacted text] was subsequently hired by the [redacted text] in November 2008.

[redacted text]

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

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

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

[redacted text] acknowledged that [redacted text] performance did not improve while [redacted text] was the [redacted text], but [redacted text] continued to give [redacted text] 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 text] Division into the [redacted text] Division and [redacted text] Division. [redacted text], who was partially responsible for developing the organizational change, explained that EAC senior management "wasn't high on [redacted text] running the [redacted text] Division," and [redacted text] was "a little bit out of [redacted text] depth in that position" (**Attachment 65**). [redacted text] said [redacted text] agreed that [redacted text] would like to work on policy, and [redacted text] had a background in elections, so [redacted text] could better serve the agency in the [redacted text] Division. At that time, there were only two employees in the [redacted text] Division, [redacted text] said, including the Division Director, and certain legal mandates were not being accomplished. Despite the transfer, [redacted text] salary did not change.

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

[redacted text], however, saw [redacted text] transfer as management's way of retaliating against [redacted text] for reporting the potential Anti-Deficiency Act violation to [redacted text], among other concerns. [redacted text] said that approximately one month after [redacted text] transfer, [redacted text] submitted a request for travel to [redacted text], [redacted text]. [redacted text] said [redacted text] called [redacted text] into [redacted text] office and told [redacted text] [redacted text] did good work, but management did not like [redacted text] "tone." [redacted text] also said [redacted text] told [redacted text] that [redacted text], [redacted text], and [redacted text] felt that [redacted text] did not know [redacted text] place, and [redacted text] was subsequently denied travel. [redacted text] again attributed this to [redacted text] role in reporting the Anti-Deficiency Action violation as well as [redacted text] criticism of [redacted text].

[redacted text] resigned on August 4, 2009. In [redacted text] exit interview questionnaire, [redacted text] 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**).

[redacted text]

We attempted to interview [redacted text] to determine the circumstances surrounding [redacted text] leaving the EAC. [redacted text] refused our request for an interview, but during an October 22, 2009 telephone conversation, [redacted text] stated that [redacted text] resigned from the EAC after [redacted text] duties there had been minimized (**Attachment 67**). We also attempted to address [redacted text] separation from the EAC with [redacted text]; however, [redacted text] refused to discuss it because it was an administrative matter. While [redacted text] would not discuss the circumstances surrounding [redacted text] departure from the agency, [redacted text] 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 [redacted text], we did obtain a memorandum for record, prepared by [redacted text], documenting a meeting with [redacted text] on August 20, 2009 (**Attachment 68**). The meeting reportedly occurred in [redacted text] office, and no one else was present. At the time, [redacted text] was the [redacted text].

[redacted text] wrote that on August 20, 2009, [redacted text] met with [redacted text] at [redacted text]

request to discuss four issues, the first of which was that the EAC Office of [redacted text] was no longer informed of, or allowed to attend senior staff briefings with the commissioners in which [redacted text] issues were discussed. Additionally, [redacted text] criticized what [redacted text] characterized as “unprofessional, demeaning, and insulting” behavior by [redacted text], the [redacted text], toward [redacted text]. [redacted text] also complained that [redacted text] “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 text], [redacted text], and [redacted text] had reported to management. According to [redacted text], [redacted text] complained that [redacted text] had taken these actions without consulting the EAC-OGC and alleged that [redacted text] was practicing law without a license and potentially harming the agency. Lastly, [redacted text] voiced [redacted text] concerns about the appropriateness of a meeting with [redacted text], the [redacted text], and the [redacted text].

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

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

Several EAC employees, including [redacted text], said they were in close proximity to [redacted text] office during the August 20, 2009 meeting and confirmed that they could hear [redacted text] yelling (See Attachment 25). [redacted text] said [redacted text] was walking down the hall to talk to [redacted text] and [redacted text] could hear yelling. [redacted text] said, “I was very concerned about it,” and [redacted text] informed [redacted text]. Additionally, [redacted text] 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 text], the [redacted text], also witnessed the incident and recalled that [redacted text] was walking by [redacted text] closed office door when [redacted text] heard [redacted text] talking loudly inside (**Attachment 69**). [redacted text] noted that [redacted text] frequently did so when [redacted text] got excited and said [redacted text] had seen similar behavior from other members of the [redacted text] staff. Similar behavior had been tolerated in the past and [redacted text] felt that it was normal.

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

[redacted text] said [redacted text] called a meeting with [redacted text] and [redacted text], where [redacted text] told [redacted text] that [redacted text] felt threatened by the outburst. [redacted text] said [redacted text] appeared confused and began asking questions. [redacted text] said [redacted text]

asked [redacted text] to leave the room so [redacted text] could talk in private with [redacted text], and [redacted text] admitted to talking loudly. [redacted text] also told [redacted text] that [redacted text] had received a job offer from another agency. [redacted text] was, however, concerned that [redacted text] would be leaving [redacted text] caseload to the only remaining [redacted text] in the [redacted text]. [redacted text] and [redacted text] negotiated the terms of [redacted text] resignation and agreed that [redacted text] could remain for 60 days, and if [redacted text] left within that time, nothing would be placed in [redacted text] personnel file concerning the incident. [redacted text] subsequently resigned from the agency.

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

[redacted text]

[redacted text] was employed by the EAC in January 2008 (See Attachment 61). From October 2008 until May 2009, [redacted text] was the [redacted text]. As the [redacted text], [redacted text] had access to [redacted text] computer and e-mail. In April 2009, [redacted text] intercepted an e-mail to the [redacted text] from a former employee that encouraged [redacted text] to “push other people out of the agency.” According to [redacted text], 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, [redacted text] said [redacted text] printed a copy of it without [redacted text] knowledge and later shared it with fellow employees [redacted text], [redacted text], and [redacted text], [redacted text], with whom [redacted text] carpooled.

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

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

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, [redacted text] resigned from the EAC, and the agency held a farewell luncheon with a Hispanic theme. They said that at the luncheon, [redacted text] 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.

[redacted text] said [redacted text] was surprised by the Hispanic theme of the farewell luncheon but was not offended (**Attachment 72**). [redacted text] 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 [redacted text] from associating with [redacted text] since [redacted text] worked for the [redacted text].

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 text] and [redacted text], 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 text]
10. Anonymous E-Mail Complaint received by the EAC-OIG, [redacted text]
11. Anonymous E-Mail Complaint received by the EAC-OIG, [redacted text]
12. Anonymous E-Mail Complaint received by the EAC-OIG, [redacted text]
13. Anonymous E-Mail Complaint received by the EAC-OIG, [redacted text]
14. EAC-OIG, Memorandum to File, Confidential Telephone Conversation with [redacted text], [redacted text].
15. EAC- OIG, Memorandum to File, Meeting with [redacted text], [redacted text]
16. EAC- OIG, Memorandum to File, Meeting with [redacted text], [redacted text]

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17. EAC- OIG, Memorandum to File, Meeting with [redacted text], [redacted text]
18. EAC-OIG, Memorandum to File, Meeting with [redacted text], [redacted text]
19. EAC-OIG, Memorandum to File, Meeting with [redacted text], [redacted text]
20. Anonymous IG Complaint, received [redacted text]
21. Anonymous IG Complaint, received [redacted text]
22. Anonymous IG Complaint, received [redacted text]
23. Anonymous IG Complaint, received [redacted text]
24. Complaint Spreadsheet prepared by the EAC- OIG
25. IAR – Interview of [redacted text], October 2, 2009
26. IAR – Interview of [redacted text], [redacted text], September 22, 2009
27. IAR – Interview of [redacted text],
28. IAR – Interview of [redacted text],
29. IAR – Interview of [redacted text], October 1, 2009
30. IAR – Interview of [redacted text], October 1, 2009
31. IAR – Interview of [redacted text], October 6, 2009
32. IAR – Interview of [redacted text], October 1, 2009
33. IAR – Interview of [redacted text], October 1, 2009
34. IAR – Interview of [redacted text], October 5, 2009
35. IAR – Interview of [redacted text], October 1, 2009
36. IAR – Interview of [redacted text], October 1, 2009
37. IAR – Interview of [redacted text], October 1, 2009
38. IAR – Interview of [redacted text], October 1, 2009
39. IAR – Interview of [redacted text], October 7, 2009
40. IAR – Interview of [redacted text], October 6, 2009
41. IAR – Interview of [redacted text], October 1, 2009
42. IAR – Interview of [redacted text], October 2, 2009
43. IAR – Interview of [redacted text], October 1, 2009
44. IAR – Interview of [redacted text], October 1, 2009
45. IAR – Interview of [redacted text], October 2, 2009
46. IAR – Interview of [redacted text], October 1, 2009
47. IAR – Interview of [redacted text], September 29, 2009
48. IAR – Interview of [redacted text], October 1, 2009
49. IAR – Interview of [redacted text], October 1, 2009
50. IAR – Interview of [redacted text], October 7, 2009
51. IAR – Interview of [redacted text], October 1, 2009
52. IAR – Interview of [redacted text], October 6, 2009
53. IAR – Interview of [redacted text], October 1, 2009
54. IAR – Interview of [redacted text], October 1, 2009
55. IAR – Interview of [redacted text], October 1, 2009
56. IAR – Interview of [redacted text], October 1, 2009
57. IAR – Interview of [redacted text], October 7, 2009
58. IAR – Interview of [redacted text], October 6, 2009
59. IAR – Interview of [redacted text], October 1, 2009
60. IAR – Interview of [redacted text], October 6, 2009
61. IAR – Interview of [redacted text], September 29, 2009
62. IAR – Interview of [redacted text], September 21, 2009
63. IAR – Interview of [redacted text], September 30, 2009
64. IAR – Interview of [redacted text], October 19, 2009
65. IAR – Interview of [redacted text], November 2, 2009

66. Exit Interview Questionnaire of [redacted text], August 7, 2009
67. IAR – Telephone Conversation with [redacted text], October 22, 2009
68. Memorandum for Record prepared by [redacted text], “Meeting with [redacted text]” August 27, 2009.
69. IAR – Interview of [redacted text], November 20, 2009
70. Memorandum for Record prepared by [redacted text], “Administrative Leave” August 27, 2009.
71. IAR – Interview of [redacted text], October 20, 2009
72. IAR – Interview of [redacted text], January 4, 2010.