



United States
General Accounting Office
Washington, D.C. 20548

Office of Special Investigations

B-279626

March 31, 1998

The Honorable Charles T. Canady
Chairman, Subcommittee
on the Constitution
Committee on the Judiciary
House of Representatives

Subject: U.S. Commission on Civil Rights: Circumstances Surrounding the Teaching of Out-of-Town University Courses by General Counsel

Dear Mr. Chairman:

This letter responds to your October 24, 1997, request that GAO's Office of Special Investigations investigate the circumstances surrounding the teaching of courses at the University of Pennsylvania, during the 1996-97 academic year, by the General Counsel for the U.S. Commission on Civil Rights. These courses had previously been taught by the Commission Chair, who was on sabbatical leave from the University of Pennsylvania during the 1996-97 academic year. Specifically, you asked us to determine (1) how much authority the Commission Chair, Mary Frances Berry, had in deciding who would teach the university courses, (2) whether Dr. Berry had the authority to discontinue the teaching assignment before all responsibilities were fulfilled, (3) whether other Commission employees had been denied permission to teach, and (4) what, if any, impact the absence of the General Counsel had on the backlog of projects at the Commission. We briefed your office on our investigative findings on March 19, 1998, at which time it was agreed that we would close our investigation and provide you a letter summarizing our findings to date.

During July 17, 1997, oversight hearings before your Subcommittee, Dr. Berry stated that upon learning that she was seeking a replacement to teach classes during the 1996-97 academic year, the General Counsel—Stephanie Moore—had expressed a desire to again teach at the University of Pennsylvania. (Ms. Moore had previously taught at the university during a portion of the 1995-96 academic year.) Dr. Berry also stated that she had

told Ms. Moore that she would recommend her for the teaching position if approval to teach was granted by the Commission's then Staff Director but would terminate the assignment if it interfered with Ms. Moore's duties for the Commission.

The Chair of the History Department, University of Pennsylvania, confirmed that professors who choose to take sabbatical leave have full control over their replacements and can terminate such assignments at any time. Our interview with Dr. Berry developed no information that conflicted with the statements made by the university official.

Further, we found no evidence that Ms. Moore's absences for the outside teaching position contributed to the backlog of Commission projects. Similarly, we identified no other Commission employees who had been denied—or, indeed, who had even requested—permission to teach.

In the course of conducting our investigation, we learned that Ms. Moore had not requested an alternative work schedule to accommodate her need to be absent from the Commission to teach; nor had she charged annual leave for the hours she was absent. In defense of her actions, Ms. Moore's attorney indicated in a letter to us that Ms. Moore had worked on Commission matters for more than 40 hours per week, often on the train while traveling to and from Philadelphia and at her office at the university. He told us that Ms. Moore had worked nights and weekends and typically would go directly to the Commission upon her return to Washington, D.C., at about 2:00 p.m. on the days that her classes ended at noon and at about 6:00 p.m. on the days her classes ended at 4:30 p.m.¹

The Commission's Administrative Manual clearly states that employees must charge leave for absences that occur between 9:15 a.m. and 4:00 p.m. Although the manual permits employees to have some limited scheduling flexibility, it does not allow them to perform work at alternative work sites or to accumulate hours for work performed outside the Commission's flexitime hours of 7:15 a.m. through 6:00 p.m., Monday through Friday. Any time that Ms. Moore may have spent working on the train, at her university office, or at the Commission outside the Commission's flexitime hours should not be used in calculating the total number of hours Ms. Moore worked during the week. Therefore, Ms. Moore's failure to rearrange her work schedule or to use leave is in apparent conflict with the requirements of the manual.

¹During the fall semester, Ms. Moore taught at the university from 10:30 a.m. to noon on Tuesdays and from 10:30 a.m. to 4:30 p.m. on Thursdays. Her teaching schedule for the spring semester was reversed for Tuesdays and Thursdays. Ms. Moore traveled to and from Philadelphia by way of Amtrak, the travel time being approximately 2 hours each way.

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We conducted our investigation in Washington, D.C., and Philadelphia, Pennsylvania, between August 7, 1997, and February 24, 1998. We reviewed the Commission's Administrative Manual, University of Pennsylvania documents regarding appointment of guest lecturers, and the General Counsel's personnel file. We interviewed a University of Pennsylvania official; the Commission Chair; a Commissioner; the Commission's Deputy General Counsel and current Staff Director; and Commission employees, including eight of the nine staff attorneys. Our investigation was limited, however, because (1) the General Counsel declined a face-to-face interview with us, causing us to submit our questions, in writing, through her attorney and (2) the former Staff Director did not acknowledge our repeated requests to interview her, preventing us from obtaining her perspective on the matter.

As agreed with your office, we plan no further investigation of this matter at this time. We will send copies of this letter to the Chair and the General Counsel, U.S. Commission on Civil Rights and will make copies available to others on request. If you have any questions or need additional information, please contact Assistant Director Barney Gomez of my staff on (202) 512-7414.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Eljay B. Bowron', with a stylized, flowing script.

Eljay B. Bowron
Assistant Comptroller General
for Special Investigations

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