



OFFICE OF THE INDEPENDENT INSPECTOR GENERAL

Patrick M. Blanchard, Inspector General

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October 15, 2020

Transmittal via electronic mail

Honorable Peter N. Silvestri
Cook County Board of Commissioners
Chairman, Litigation Sub-committee of the
Finance Committee
118 North Clark Street, 5th Floor
Chicago, Illinois 60602

Re: Notification of Non-Compliance (IIG18-0344 - Board of Review)

Dear Chairman Silvestri:

This letter is written in accordance with the Office of the Independent Inspector General (OIIG) Ordinance, Cook County Code, Section 2-285(e) to notify you of an incident of non-compliance with section 2-285(e), which states, in relevant part:

If the Independent Inspector General issues a recommendation of corrective action to the head of a County department or bureau, that department or bureau head must respond to that recommendation If a department head, bureau chief, or separately elected official fails to meet the 45 day [response] requirement or, if approved, the 30-day extension the Independent Inspector General shall notify the Chair of the Litigation Sub-Committee and the President when there is a failure to reply. The Chair of the Litigation Sub-Committee may then call the department head, bureau chief, or representative of the separately elected official to appear before the Litigation Sub-Committee to explain the lack of response.

By way of background, please be aware that this office received information suggesting that the Board of Review (BOR) maintains a custom and practice of reliance on political factors in making hiring decisions involving non-management level positions. The information also involved assertions that BOR superiors organize political support by relying on BOR employees who routinely perform political work on behalf of the BOR Commissioners. Accordingly, this office initiated an investigation to ascertain whether political reasons or factors were considered in the BOR hiring process for all or only certain BOR exempt positions. Additionally, this office sought to determine whether a nexus existed between the activities of the political organizations of BOR officials and BOR employees that have been found to be hallmarks of unlawful political activity wherein government employment is leveraged to support the political activities of favored political organizations. Evidence of such activity may represent a violation of the First and Fourteenth Amendments of the kind that ultimately spawned protracted and costly litigation such

as the *Shakman*¹ and *Rutan*² class actions. On June 30, 2020, this office issued Summary Report No. IIG18-0344 to the BOR outlining the findings, conclusions and recommendations of the investigation. The investigation included the following specific recommendations for remedial action:

OIIG Recommendations

1. A written employment plan which creates standard and transparent procedures for employment actions within the BOR while proscribing the use of impermissible political factors;
2. A written list that is made public, utilizing the *Branti* standard, designating which BOR positions the BOR believes are properly exempt from First Amendment protections;
3. Procedures within the employment plan for the following:
 - a. Use of public online postings for all non-exempt positions;
 - b. Use of Taleo for the purpose of receiving, processing and tracking all postings, applications and subsequent screening, interviewing, selection and onboarding procedures;
 - c. An audit trail be required documenting any changes to the *Branti* list of exempt positions that is available to the public;
 - d. BOR protocols which require all BOR employees, exempt or otherwise, to report to the OIIG if they have reason to suspect the following have occurred:
 - i. Political factors were considered in making any employment decision concerning a non-exempt employee;
 - ii. Political activity is taking place in the workplace or during work hours;
 - iii. Any BOR employee is contacted by a political person concerning any prospective or pending employment action involving any non-exempt employee or non-exempt position (now known as a Political Contact Log);
4. Written job descriptions, including minimum qualifications, for all BOR positions, including positions designated as exempt under *Branti*;
5. Regular public disclosure of BOR activities and efforts related to implementing these recommendations;

¹ *Shakman v. Democratic Party of Cook County*, 69 C 2145 (N.D. Ill. 1969).

² *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990).

6. A prohibition on after work socials as documented above and any direct or indirect solicitation of political support from BOR employees (not otherwise designated as exempt under *Branti*) that was not requested by the subject individual outside of the employer-employee relationship.
7. In consideration of the wide-spread belief that all BOR positions are exempt from First Amendment protections, we recommended an office-wide training to both educate staff to the establishment of new practices and procedures and the rationale supporting their implementation in order to safeguard First Amendment rights of BOR employees.

See OIG Quarterly Report, July 15, 2020, pages 2-15 (attached). The BOR issued a response on August 13, 2020 providing general information about the office but failed to respond to the specific OIG recommendations. (August 13, 2020 correspondence is attached). On September 3, 2020, the OIG notified the BOR that the response provided on August 13, 2020 required supplement. (September 3, 2020 correspondence is attached). The BOR issued a supplemental response (dated September 17, 2020) although no further substantive additional information in response to each of the OIG recommendations was provided (attached). Specifically, the BOR failed to respond to the specific OIG recommendations regarding establishing an employment plan (Recommendation 1), the creation of a public exempt list (Recommendation 2), employment plan procedures (Recommendation 3), minimum qualifications (Recommendation 4), public disclosure of OIG recommendations implemented by the BOR (Recommendation 5), prohibiting solicitation of political support from BOR employees (Recommendation 6), and training regarding First Amendment rights of BOR employees (Recommendation 7).

The issues raised as a result of this investigation are important and deserve careful consideration. Thank you for your time and consideration to these issues. Of course, should you have any questions, please do not hesitate to contact me.

Very truly yours,



Patrick M. Blanchard
Independent Inspector General

encl.

cc: Hon. Toni Preckwinkle
Hon. Larry R. Rogers, Jr.
Hon. Dan Patlak
Hon. Michael Cabonargi
Ms. Lanetta Haynes Turner, Chief of Staff, Office of the President
Ms. Laura Lechowicz Felicione, Special Legal Counsel to the President