



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH
BETHESDA, MARYLAND 20205

April 4, 1980

Dr. James W. Prescott
Bennekon Pines
11350 Query Mill Road
Darnestown, Maryland 20760

Dear Dr. Prescott:

The Director, National Institute of Child Health and Human Development, proposed your removal from your position as Health Scientist Administrator, GS-601-14, in a notice to you dated December 19, 1979. The reason for his action was stated as: ". . . your improper use of your official position and official resources in your efforts to promote research on 'developmental origins of violence' and 'child abuse and neglect,' subjects that are not within the mission of the NICHD, as part of the programs of this Institute." He charged that your behavior ". . . has violated federal law, principles of management that all employees are reasonably expected to follow, and numerous provisions of the Standards of Conduct of the DHEW." The specifications on which the proposed action is based were set forth in detail and copies of the evidence attached to the notice so that you could make your reply orally and/or in writing. You elected only the latter.

In your written reply, dated February 15, 1980, you did not deny the specifications, but justified your actions on the basis that you considered the Director had failed to comply with Public Law 89-487, and that you ". . . wrote official letters in compliance of Public Law 89-487, that apprized the public of an action that affected the public."

You also made counter charges against the Director, NICHD, referencing your grievance against him on "Obstruction of science and the National Health Interest" and "Contracts Maladministration." As you know now, the grievance examiner found this grievance to be basically a dispute between you and the Director regarding the policy or mission of the NICHD. He found that the Director believes that the Institute should concern itself with the study of normal parent-child relationships and that the study of pathological behavior such as violence and aggression is within the function of other agencies, specifically, the National Institute of Mental Health and the Department of Justice. The examiner

found that the Director had the right to determine Institute policy or mission so long as his decisions met with the approval of the Director, NIH, or other appropriate higher authority. I notified you, by my memorandum of December 26, 1979, that I had accepted the examiner's findings and recommendation.

From the material submitted in support of this proposed action, it appears that you began writing letters publicizing your dissent with NICHD policy in March 1979. This was about the time of my initial consideration of your above-mentioned grievance during which I informed you on March 21, 1979, that it appeared there were two issues to your grievances--(a) your treatment as an employee; and, (b) your perception that the mission of the NICHD was not being carried out within the full intent of higher authority. I asked if you wished to defer the processing of your grievance pending the results of the consideration of the charges you made regarding the direction of the Institute. Initially, you wished the deferment, but later you requested that there be no further delay. The whole matter was referred to a Department grievance examiner, but we continued with our local investigation regarding your allegations of contract maladministration and found nothing illegal or improper.

In my consideration of the reasons and specifications given for proposing your removal and also your written reply, I find the following:

- a. The documents you submitted with your reply indicate a national concern and a need for coordinating the efforts of the various departments and agencies to provide assistance to victims of domestic violence. However, this task is not assigned to the NICHD, as you claim. Furthermore, your official duties do not concern research that is significantly involved with destructiveness and dehumanization as you claim. The NICHD has not changed the program of the Human Learning and Behavior Branch, but it has sought to restrain your official involvement in those matters which are the prime concern of other agencies.
- b. You violated Federal Law 18 U.S.C. 1719 when you used the franking privilege reserved for official correspondence to communicate with persons outside the Federal government regarding those matters of your personal interest.
- c. You violated the Department's Standards of Conduct, Sections 73.735-101, 103(b), 305(c)(d)(e) and (f), and 602(a), when you acted in your own personal interests rather than in support of the Institute's policy and program.
- d. Scientists have the right to express their views at NIH regarding priorities given to research subjects; however, once a decision is made by the person who has the authority, as well as the

responsibility, for the direction of an Institute, that decision must prevail. To do otherwise would invite chaos--scientists would be pursuing their individual interests, albeit worthwhile, but without any direct relation to the overall mission of the particular organization and the reason for their employment.

- e. The effect of your writing in what appeared to be an official capacity to persons outside the Government involved in research in child development was misleading and the information you conveyed was incorrect. This led to confusion and concern on the part of child-development professionals throughout the country. Inquiries were received as to the position of the Institute with regard to changes in its programs. I believe all of this has been damaging to the Institute and the NIH.

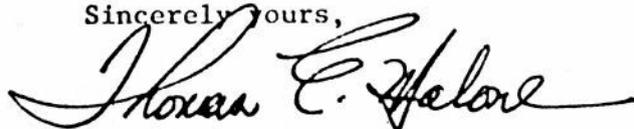
Therefore, I have sustained the reasons given for proposing your removal, and I believe your removal is for such cause as will promote the efficiency of the service. The effective date will be April 11, 1980.

You have a right to appeal this decision to the Merit Systems Protection Board (MSPB), Washington Field Office, Skyline Place No. 2, 5203 Leesburg Pike, Bailey's Crossroads, Virginia 22041. Any such appeal must be received in the MSPB office no later than 20 days after the effective date of this action. Your appeal to the MSPB should inform the Board that the records of your case may be obtained by writing to: Mrs. Gloria Riley, Acting Chief, Labor Management Branch, National Institutes of Health, Building 31, Room 1C39, 9000 Rockville Pike, Bethesda, Md. 20205. The specific requirements for an appeal are set forth in detail in Part 1201 of the Board's regulations which are attached. A copy of the MSPB appeal form is also attached.

If you wish to raise any issue of discrimination directly related to this removal you must either file a timely complaint of discrimination with Director, Division of Equal Opportunity, NIH, Building 31, Room 2B40 or appeal to the Board within 20 days after the effective date of the agency action being appealed.

Should you have any questions regarding your rights or the appeal procedures, please contact Mrs. Gloria Riley at the address mentioned above, or phone 496-4851.

Sincerely yours,



Thomas E. Malone, Ph.D.
Deputy Director, NIH

Enclosures

cc: Director, NICHD