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 Daniels/OU=R10/O=USDAFS@FSNOTES,CN=Denny
 Bschor/OU=R10/O=USDAFS@FSNOTES,CN=Karlene K Hale/OU=HCM/O=USDAFS@FSNOTES
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Ronald:

Not to have too many folks in this email. Share with whomever you think should see this.

We need to put closure to this case. Either we proceed with the proposed adverse action (removal). Or, we drop the case.

USDA

We've gotten a reading from the Department regarding the ethics issue. I'm told the employee "could (or may) have" violated the fundraising regulations. Further, he "could have" released a draft document without prior authorization.

OSC

The employee has gone to OSC to seek protection from the agency's adverse

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action. And, OSC asks if we're receptive to mediation. We said we are.

However, there is nothing to mediate because we have not taken adverse action against the employee. So what's there to mediate? We have not even made a decision to take adverse action. If we did, OSC would have imposed a stay on the effective date of the action pending its investigation into whether the adverse action is retaliatory to some protected disclosure.

We have cooperated with OSC's request for information. But we sit with no one knowing what to do. No one seems to know in whose court the ball is.

Action Plan

I recommend Forrest issue the decision letter and force the matter to some resolution. Whether we mediate the matter of an adverse action allegedly tainted by a WB complaint, or OSC issues a finding of no taint.

Or, we remove the employee (if that's Forrest's decision) and do battle in the MSPB arena. Or, we go the grievance/arbitration route. Or, we reverse the proposed action altogether and return the employee to work with no restrictions.

Harmful Effects of Doing Nothing

We have to do something, else the employee continues on administrative leave for which there is no end. This matter has gone on long enough and the toll of waiting for someone to do something threatens to doom this case. (Stale charges get increasingly difficult to defend.)

Prolonging decision does the parties no good. OGC is reluctant to give blessings. Their reluctance is noted. But the Region should not be paralyzed by OGC's hesitance. If Forrest is prepared to make decision, he should be allowed to act. We've asked the Department for a reading on the ethics side and they gave us a definite maybe.

We've gotten input from everyone and now it's up to Forrest. He's prepared to decide. I'm for letting him. The decision letter has been with him for months and it does neither the agency nor the employee any good to allow this matter to fester.

I ask for your thoughts (and anyone else who wants to weigh in on this).

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