

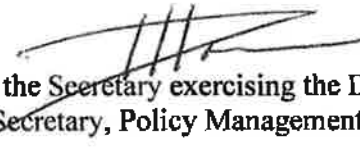


# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

## MEMORANDUM: ADMINISTRATIVELY RESTRICTED

**To:** Anthony Irish  
Associate Solicitor for General Law  
Office of the Solicitor

**From:** Tyler L. Hassen   
Senior Advisor to the Secretary exercising the Delegated Authority of the  
Assistant Secretary, Policy Management and Budget

**Date:** April 4, 2025

**Subject:** Advance Written Notice of Proposed Removal

Through this memorandum, I provide you with advance written notice of my proposal to remove you from your SES position of Associate Solicitor for General Law within the Office of the Solicitor with the United States Department of the Interior ("DOI" or "Department"), and from the Federal Service, for the reasons described below. This proposal is made in accordance with 5 U.S.C. Chapter 75, Subchapter V, including the provisions of 5 U.S.C. § 7543; 5 C.F.R. Part 752 Subpart F, including the provisions of 5 C.F.R. § 752.603; and the U.S. Department of the Interior Manual at 370 DM 752, which authorize the Department to discipline SES employees for misconduct, neglect of duty, malfeasance, or failure to accept directed reassignment or to accompany a position in a transfer of function.

This *Advance Written Notice of Proposed Removal* notifies you of the reasons why I am proposing your removal, including the facts relevant to your misconduct and my assessment of the reasonableness of the penalty, as well as your right to answer the charges described in this notice to the Deciding Official, either orally and in writing (or both), as well as to furnish affidavits and other documentary evidence in support of your answer. Your removal, if sustained in writing by the Deciding Official, will become effective no sooner than thirty (30) calendar days from your receipt of this Advance Written Notice of Proposed Removal.

## **FACTUAL BACKGROUND**

You hold the important position of Associate Solicitor for General Law in the Office of the Solicitor. You have served in the Federal Government continuously for over twenty (20) years since 2004 with no prior discipline.

The Report of Investigation (Attachment A) recounts the following findings of the investigation into the facts of this matter.

Acting Chief Human Capital Officer, Stephanie Holmes ("Holmes"), advised that this matter involves the request that she, Advisor to the Secretary Katrine Trampe ("Trampe"), and Senior Advisor to the Secretary Tyler Hassen ("Hassen") had made to obtain access to several Departmental systems, most notably the Federal Personnel Payroll System (FPPS) and the credentialing systems to allow the ability to create, suspend and decommission email accounts.<sup>1</sup>

Holmes stated that since late February, she had been seeking to obtain complete administrator access to FPPS to allow her to view, request, approve and process actions in FPPS for herself, Trampe and Hassen. Holmes noted that her request was in fulfillment of an Executive Order<sup>2</sup> authorizing such systems access. The request was approved by Jarrod Agen, Senior Advisor to the Secretary, on February 27, 2025.

Email exchanges provided by Holmes show that she initiated her request for such access on February 24, 2025. Initially, her communications were with the Office of Human Capital (OHC). At some point in March, 2025, Holmes and Trampe began interacting with the Office of the Chief Information Officer (OCIO), the Interior Business Center (IBC) and the Office of the Solicitor (SOL) (through you) as the access being sought could only be provided through those two offices. There are several email exchanges including OCIO and IBC officials and there were several conference calls as well to discuss.

Holmes advised that in working with OCIO and IBC, it became clear to her that Chief Information Officer Darren Ash ("Ash"), Chief Information Security Officer Stanley Lowe ("Lowe"), you, and Senior Advisor Julie Bednar ("Bednar") did not support providing the requested access. Holmes formed the opinion that they collectively sought to subvert, obstruct and delay the process to provide access to FPPS. Holmes stated that she had no concerns with any individuals asking questions or explaining systems risks, but she believed the four employees' action went beyond this into the realm of subversion, obstruction and delay.

Specifically, Holmes noted that Ash, as the Chief Information Officer, did not speak much during the calls and there are no emails expressly from/to Ash. Holmes stated that she holds Ash

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<sup>1</sup> Most of the concerns noted in the Report of Investigation relate to FPPS access, but Ms. Holmes noted that they also sought, and encountered difficulty obtaining the ability to create/suspend/delete user accounts in the DOI network.

<sup>2</sup> *Establishing and Implementing the President's "Department of Government Efficiency"*, available at <https://www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency/>.

accountable for the obstruction and delays given his role and that the referenced Executive Order very clearly authorized her, Trampe and Hassen to have the requested FPPS access.

Holmes advised that Lowe was an active participant on the calls with OCIO, IBC and you and she found you to be particularly obstructionist. According to Holmes, Lowe raised repeated objections to providing the requested access and he did not seek to facilitate their access to FPPS but was, instead, a hindrance to obtaining such access.

You, also and similar to Lowe, appeared to be obstructing their request for FPPS access rather than helping facilitate the access. You also were responsible for providing an objectionable memo (the "Memo") for the Secretary's signature (discussed further below).

Bednar, according to Holmes, also played a role in what Holmes perceived as delay and obstructionist tactics. As described by Holmes, rather than providing the requested access as quickly as possible, Bednar appeared to contribute to the delays. As an example, there is an email from Bednar dated March 10, 2025 in which she explains the next steps to be taken to provide Holmes, Trampe and Hassen FPPS access. However, there was no follow-up before March 24, 2025 when Holmes reached out via email on that date for an update.

At some point towards late March, 2025, Holmes and Trampe were advised that they had been provided the requested access and participated in FPPS training. However, during the training, they realized that not all functions were available to them and that they had not actually been provided the full administrator rights that had been requested by them. This initiated additional discussion on March 25 and 26, culminating with a conference call on Thursday, March 27 with Holmes, Trampe, OCIO (including Ash and Lowe), IBC (including Bednar) and you.

During the March 27 call, Holmes stated that you raised the numerous concerns that had been discussed previously and advised that he would provide a decision memo for the Secretary's signature. With the Secretary's signature, you advised, the full administrator access to FPPS could be provided.

Holmes confirmed that she is aware of the articles that have appeared in the *New York Times*, *Wired* and other publications concerning the issues surrounding the request for FPPS access. Holmes further advised that she did not discuss the matter with any journalist nor provide any journalist access to the Memo.

Trampe corroborated all of the above (with exception to the contents of the Memo as she stated she was not provided a copy of it and has not seen it). Trampe further advised that, when initially seeking FPPS and credentialing access, she also sought access to the systems housing contracts and grants and had no difficulty obtaining this access. Trampe viewed the various phone calls and email exchanges as tactics to deny and obstruct the request for FPPS access. Trampe stated that she did not understand why OCIO and IBC continued to cite to Department policy when, as she understood it, the Executive Order superseded any policy restrictions. Trampe noted that she perceived the calls as "set-ups," meaning that she saw the calls as a way to obtain information from her and Holmes regarding the requested access so as to be able to provide

justifications for further delay and obstruction.

Trampe also mentioned a phone conversation sometime in the last full week of March that included Bednar and other IBC individuals. During the call, Trampe asked Bednar to provide Trampe the name and contact information of the IBC employee with whom Trampe could discuss payroll data. According to Trampe, Bednar refused to provide this information.

Lowe advised that he became familiar with the requests for access by Holmes and Trampe in mid to late March 2025 when he was requested to review a risk assessment memo that had been prepared by IBC. Lowe made some contributions to the risk assessment memo and did not express any concerns with providing the requested access.

On March 27, Lowe attended a meeting with, based on his recollection, Holmes, Trampe, himself, Ash, Bednar, you, Christopher Lawson, Jennifer Ackerman, Cynthia Piper, Quan Boatman, Karen Matragrano and perhaps others. This meeting was the first time Lowe says he understood that Holmes and Trampe were seeking complete access to FPPS.

According to Lowe, you kicked-off the meeting and asked Holmes and Trampe questions to understand their requirements. Matragrano also provided information regarding how systems access worked and the process that involved human resources and personnel security.

Lowe advised that you asked a number of questions and discussed various statutory authorities. Holmes and you discussed the authority provided by an Executive Order upon which Holmes based her request. Lowe said that he provided some information on the reasons that certain risk mitigation measures existed with the various network systems.

Lowe's impression from the meeting was that Holmes and Trampe were frustrated by their interactions with you. Lowe also advised that there was no discussion of a memorandum for the Secretary's approval during this meeting.

At a subsequent meeting, attended by many of the same individuals from the earlier meeting but not including Holmes or Trampe, there was discussion on how to best meet the requirements expressed by Holmes and Trampe. You did not believe it was within Lowe or Ash's authority to approve the requested access. Accordingly, it was decided that the earlier risk assessment memorandum, which was 16 pages long, could be modified into what became the Memo.

Lowe said that he took the lead in crafting the Memo that was to be provided to the Secretary to authorize the requested access. Lowe provided the draft to you and then you shared it with Ash for review. Lowe believes that once final, you were going to facilitate transmittal to the Secretary; however, Lowe is not aware that the Memo got signed.

Lowe had no discussions on this topic on Friday, March 28.

Lowe advised that he has told several close friends about what happened but no one else

outside of the Department. Lowe noted that he does not possess a copy of the Memo and has not shared it with anyone outside of the Department.

Ash said he first learned of Holmes' and Trampe's request for systems access in early March when Hassen verbally told him that he, Holmes and Trampe needed access to various network systems. A meeting over Teams soon followed this conversation that included Ash, Bednar, you, Hassen, Holmes and Trampe and potentially others. Hassen advised at this meeting that they were "behind" and needed the various network systems access. Hassen and Holmes explained that one of the President's Executive Orders authorized them to have all the access they were requesting.

Ash advised that after this meeting, he had a minimal role in addressing the requirements identified in the above meeting. Ash said that Bednar had the immediate role to research and determine if the requested access could be provided to FPPS and how that could be accomplished. In addition, Bednar took the lead on creating a risk assessment memorandum to discuss the various risks associated with providing Holmes and Trampe the requested access. Ash, others within the OCIO and you contributed to the memorandum, in addition to Bednar and her team.

The memorandum was a 16-page document. According to Ash, after the risk assessment memorandum was signed, Holmes and Trampe were granted certain rights within FPPS. It was not until a March 27 meeting involving Holmes and Trampe that Ash learned they were seeking access elevated beyond what had been provided.

According to Ash, he attended the March 27 meeting under the belief that Matrigrano had requested it to discuss Holmes' and Trampe's request to have the ability to create, suspend, and delete email accounts. Attending this meeting, as Ash could recall, in addition to Ash, Holmes and Trampe were Lowe, Bednar, you, Jennifer Ackerman, Cindy Piper, Martha Eichenbaum, Matrigrano and Lawson. Ash noted that Holmes and Trampe were late to the meeting and the meeting ended after about 20 minutes.

The meeting was led by you with much of the meeting consumed by you and Holmes discussing and debating the Executive Order noted previously, statutes that impacted the requests for access and the risks associated with their requests. Matrigrano also provided an explanation of how the systems work and the requirement for a human resources action before an email account can be created or other actions taken.

Ash's impression of the meeting was that everyone on the call was seeking ways to meet Holmes' and Trampe's needs but Holmes and Trampe were not accepting the guidance. Ash perceived that Holmes and Trampe were not satisfied with the information provided by you.

Subsequent to the above meeting, a second meeting was held that did not include Holmes and Trampe. At this meeting, based on Ash's recollection, were Ash, Lowe, Bednar, you, June Hartley and Robyn Rees. This meeting was held to discuss what had been discussed at the earlier meeting and develop a path forward.

In addition to Bednar, others in IBC, OCIO and CISO offices and OHC contributed to the risk assessment memorandum. The memorandum was researched and drafted in mid-March and sometime thereafter Holmes and Trampe were provided the requesting office role.

In early March, Bednar discussed the request with Holmes and understood from this discussion that Holmes wanted the ability to initiate personnel actions in FPPS across the Department. Such a role did not exist within FPPS; accordingly, Bednar had to research whether the role could exist (what Bednar called a "requesting office" role and generally is the role that a supervisor has within FPPS) and the risk associated with creating such a role. Bednar testified that OCIO recommended that she draft a risk assessment memorandum to identify these issues.

Bednar advised that the request for the access being sought was unusual as Holmes and Trampe already had viewing access with in FPPS. Viewing access provided them the ability to see any actions processed within FPPS.

Bednar noted that in her role, she cannot provide FPPS access nor is she a decision-maker with respect to who may be granted access. Rather, IBC only manages FPPS on behalf of their 53 client agencies.

Bednar advised that she learned several weeks ago, she could not be more specific than that, of the request from Holmes and Trampe for access to FPPS. She said she received this information from Lawson, Ackerman and Rees either on a call or via email.

Ash stated that he did not share any of the information concerning this matter with anyone outside the Department. Ash also stated that he did not share the Memo with anyone of the Department.

Ash's understanding was that you would then discuss the Memo further within the Office of the Solicitor before the Memo would be moved forward for transmittal to the Secretary. Ash did not receive any further information on whether the Memo had been reviewed or approved by the Secretary. Ash recalls a Teams chat on March 28 in which someone requested a status update and his recollection is that you stated that he had nothing to share.

Ash was on leave after 1pm on March 27 but recalls receiving and reviewing the Memo around 4pm on his mobile phone. On the email were you and Lowe and others may also have received the Memo but Ash does not recall. Ash does recall responding via email that he had no concerns with the Memo.

Lowe took the lead on crafting the Memo by taking the prior 16-page risk assessment memorandum and distilling it down to a 1 or 2-page document. Ash believes that Lowe worked with you on the Memo.

Ash testified that, on your advice, Ash could provide the access being requested only if the Secretary so authorized. You suggested that a memorandum be drafted to apprise the Secretary of the risks in granting such access so that the Secretary could grant or deny the request.

On March 25, 2025, Don Garcia, an employee on Bednar's team, was providing FPPS training to Holmes and Trampe. During the training, Garcia relayed to Bednar that Holmes and Trampe asked about further access within the system (what Bednar referred to as the "servicing personnel office (SPO)" role). The SPO role allows someone to approve a personnel action requested by someone with the requesting office role. Bednar cannot recall if she discussed this with Holmes and Trampe prior to March 27, 2025 but does believe there were internal calls to discuss the matter prior to March 27.

On March 27, 2025, a call occurred that was attended by Bednar, Ash, Lowe, you, Harold Watkins, Office of Human Capital personnel, Quan Boatman, Steve Brand and O'Neil to discuss the request for SPO access. Bednar does not recall participating in a meeting on March 27, 2025 that included Holmes, Trampe and some of these other individuals.

At the March 27 meeting recalled by Bednar, the participants discussed the issues associated with providing Holmes and Trampe SPO access. Usually, one person does not have requesting office and SPO roles for the same organization as was requested here. It was determined that, because Hassen also would be provided the similar access, a memorandum would need to be provided to the Secretary for approval.

Bednar advised that she began drafting an updated risk assessment memorandum to which others on the call provided input. Bednar believes that the Office of the Solicitor worked separately on a decision memorandum for the Secretary and that her risk assessment memorandum would be an attachment. It was her understanding from the March 27 meeting that the Office of the Solicitor would facilitate transmittal to the Secretary.

As of March 28, 2025, Bednar believed the decision memorandum was being crafted but she did not see it or know what happened with it. Bednar denied discussing this matter with anyone outside of the Department. Bednar also denied providing the Memo to anyone outside of the Department.

The investigator asked Bednar if she participated in a call with Trampe on which Trampe requested contact information for an employee on Bednar's team and, if so, whether Bednar refused this request. Bednar stated that on March 28, she participated on a call with Trampe, Hassen, Gavin Kliger with the Department of the Treasury, and IBC employees Boatman, O'Neil, Doug Pokorney and Christine Zertuche-Rocha (and possibly one or two individuals).

During this call, Kliger advised that he wished to speak with Robert Crest, an employee on Bednar's team who is the system owner for FPPS. Bednar asked that Kliger proceed through her since she is Crest's supervisor; however, Kliger noted that he wished to go directly to Crest. At that point, Bednar advised that she sought to provide Kliger with Crest's contact information. Bednar stated that she did not receive a request from Trampe for Crest's contact information.

You advised that you first learned of Holmes' and Trampe's request for elevated systems access about three to four weeks ago from Ackerman. You recommended further engagement on

the matter with Matragrano, Bednar and OCIO. After this engagement, you understood that Holmes and Trampe had been provided read access in FPPS.

Sometime later, you and officials with OCIO, IBC and OHC met to discuss how Holmes and Trampe could be provided further access within FPPS. There was discussion/work done to assess the risks of granting such access and appropriate mitigation measures. After this review, you understood that Holmes and Trampe would be provided the ability to initiate an action in FPPS but not to approve an action.

Early on in the last full week of March 2025, you learned – you do not recall how you learned – that Holmes and Trampe wanted access to all capabilities in FPPS. This led to a call on March 27, 2025 involving you, Holmes, Trampe, Ash, Lowe, Matragrano, Eichenbaum, Ackerman, and possibly others.

The meeting involved discussion on Holmes' and Trampe's request to have the ability to create, suspend and delete users email accounts. There were explanations of the security risks in providing a person with this access and questions were asked regarding the precise need associated with this access. There also was discussion about the FPPS access and how Holmes' and Trampe's needs could be met through alternative means.

You noted that he had a substantial role in the meeting. He is not an information technology or human resources expert and so, he helped facilitate the discussion on those topics. There also was discussion regarding the Executive Order that Holmes and Trampe noted authorized them to have the access being sought. You advised that the Executive Order applied to established DOGE teams within an agency and no such team had been established at the Department. Additionally, you expressed his view that the Executive Order cannot supersede existing statutes, such as the Privacy Act.

You stated that the meeting ended abruptly and that Holmes and Trampe clearly wanted to have the accesses as they had requested.

A subsequent meeting was held with many of the same participants, less Holmes and Trampe. The participants broadly discussed security risk levels, how to meet Holmes and Trampe's requirements and whether more training under the Privacy Act would help facilitate providing them the access they desired. It was decided that they would take an existing risk assessment memorandum and turn it into a shorter document for the Secretary so that he could grant the requested access. The Secretary's input was desired as the request was unprecedented and beyond Ash's authority to approve. In the late morning of March 27, 2025, You stated that you spoke with Tim Murphy and Greg Zerzan about the approach that had been discussed in the second meeting. According to you, Zerzan concurred with the approach.

According to Ash, OCIO developed a draft which you refined to make "less aggressive." You stated that towards the end of the day on March 27, 2025, you shared the Memo with Zerzan and Murphy and they each provided input. You left work around 5pm to attend a family event but understood that Zerzan would socialize the Memo (Attachment B) with Holmes, Trampe and



Hassen that evening. You communicated with Zerzan later that evening and further learned from Zerzan that, although Holmes and Trampe had noted previously that they needed the requested access no later than Friday, the actual deadline was the following Monday.

You did not discuss the Memo with Zerzan, Holmes, Trampe or Hassen on March 28 and continued to await word from Zerzan about whether the Memo would be provided to the Secretary or perhaps needed revisions. There was email traffic, however, from OCIO, IBC and perhaps other officials – you only specifically recalled O'Neil being on the emails – on March 28 about concerns with repercussions if the requested access was not provided that day. You provided assurances that the matter was being addressed and that they should not provide the access until they had been advised of approval. You recommended that they may wish to set up the training previously discussed for Holmes and Trampe to demonstrate the matter was being handled by them. You also added that, shortly prior to being placed on administrative leave, you verbally briefed Jackie Jones on the situation and suggested that a weekly call be established to address this and other cross-cutting matters.

You denied discussing this matter with anyone outside of the Department. You denied providing access to the Memo to anyone outside of the Department.

## **BASIS FOR PROPOSED REMOVAL**

Based on the facts discussed above, I find it appropriate to charge you with the following.

### **Charge 1: Misconduct**

**Specification 1:** You sought to subvert, obstruct and delay the process to provide Acting Chief Human Capital Officer Stephanie Holmes, Advisor to the Secretary Katrine Trampe, and Senior Advisor to the Secretary Tyler Hassen, access to FPPS when you were responsible for providing an objectionable Memo (Attachment B) for the Secretary's signature.

## **PENALTY ANALYSIS**

In *Curtis Douglas v. Veterans 11, Administration*, 5 M.S.P.R. 280 (1981), the Merit Systems Protection Board articulated twelve factors that provide guidance when deciding on an appropriate penalty for employee misconduct. In proposing your removal from federal service, I considered the following *Douglas factors*:

**(1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional, technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated**

Your actions are fundamentally incompatible with the duties of your position. You were involved in discussions about, and processes for, granting access to the FPPS system. By now, it had become clear that you did not support providing the requested access and instead were subverting, obstructing, and delaying the process to provide the requested access.

Furthermore, your contribution to a Memorandum outlining risks and requesting approval by the Secretary to grant Ms. Holmes access to FPPS played a role in what Holmes perceived as delay and obstructionist tactics. Preparing this Memorandum and then insisting that Ms. Holmes obtain the signature of the Secretary of the Interior before proceeding to grant FPPS access was, as Ms. Holmes explained, unnecessary because the referenced Executive Order very clearly authorized her and others to have the requested FPPS access. Therefore, the Memorandum was unnecessary and was more evidence of obstruction.

All of this leads me to conclude that the seriousness of this misconduct requires a commensurately serious penalty. Taking all of these specifications of misconduct together, I find that the seriousness of all of the offenses charged cumulatively support a penalty of removal in this case.

**(2) The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position**

Your misconduct is serious enough considered on its own. It is more egregious when considering that you are a member of the Senior Executive Service. As a member of the Senior Executive Service, you are held to a higher standard to comport yourself in a manner befitting one of the top executives in the Federal Government. I want to emphasize that your misconduct was particularly egregious in light of the position that you hold. As a member of the Senior Executive Service, you hold a high-profile position of authority that is delegated with the responsibility to make critical, spontaneous, and highly impactful decisions that could easily have a direct effect on a tremendous number of employees and individuals. You hold the trust of your chain of command to represent the Department in a highly professional non-biased way. By becoming subversive and obstructionist, you have damaged the trust bestowed upon your position.

As such, I consider this factor to strongly aggravate the seriousness of the offense and militate heavily in favor of a higher penalty. In light of these facts, I cannot conclude that any discipline short of removal from your position and from federal service is appropriate in light of the facts of your case.

**(3) The employee's past disciplinary record**

I also considered your past disciplinary record. My review of the administrative record indicates that there are no existing disciplinary actions in your record. Although this may be a mitigating factor, I find that your clean record is substantially outweighed by the seriousness of your misconduct.

**(4) The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability**

You have been employed with the Federal Government for over twenty (20) years with no disciplinary history and have performed in a manner that you have been promoted to the highest ranks of the Federal Government. I have considered your prior work record, including your length of service, to be a mitigating factor. However, I find that the mitigating effect of this factor is completely outweighed by the seriousness of your offenses. Therefore, I find that removal from your position and from federal service remains appropriate here.

**(5) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties**

Fundamentally, if I cannot trust you to behave professionally, I have no confidence in your ability to continue to perform your duties. Your misconduct has destroyed my trust in you; has irreparably damaged your reputation as a Department or Federal employee. In light of your serious misconduct, I have no confidence in your ability to perform your duties at a satisfactory level. Therefore, incorporating this factor into my analysis, I find that removal is the appropriate penalty.

**(6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses**

To ensure consistency and fairness with similar cases, I have discussed this matter with HR to ensure consistency of the proposed adverse action in relation to discipline imposed on other employees with whom you are similarly situated. I have not been made aware of any other employees who have been found to have done quite what you have done. Given the unique circumstances around your case, I do not consider this factor to aggravate or mitigate the proposed penalty and will continue to evaluate a reasonable penalty based upon the particular facts of this case.

**(7) Consistency of the penalty with any applicable agency table of penalties**

The Department Manual's Table of Offenses and Penalties (Attachment xxx, DOI Table of Penalties), 370 DM 752, Appendix B, (December 22, 2006) provides guidance in settling upon an appropriate penalty to facilitate consistency across the Agency. However, the DOI Table of Penalties does not speak to every type of misconduct and in any case, merely "serve[s] as a guide to discipline, not a rigid standard, and deviations are allowable for a variety of reasons." Therefore, I find that removal remains appropriate for your offenses.

**(8) The notoriety of the offense or its impact upon the reputation of the agency**

To the best of my knowledge and awareness, the circumstances surrounding your actions has attracted media attention, even if that media attention has not been directly attributed to you. Even this level of media attention, however, may negatively impact the reputation of the Department. Given all of the circumstances around your case, I do not consider this factor to aggravate or mitigate the proposed penalty and will continue to evaluate a reasonable penalty based upon the particular facts of this case.

**(9) The clarity with which the employee was on notice of any rules violated in committing the offense, or had been warned about the conduct in question**

The wrongfulness of your actions should have been clear to you either due to advanced notice that your actions were wrongful or because any reasonable person should know that such behavior is wrongful. This is particularly so given the significance of your position. Quite simply, you should not need written notice to know that being subversive, obstructionist, and causing delay is highly inappropriate misconduct. Given the seriousness of the offense, I find that removal remains appropriate for your offenses.

**(10) Potential for the employee's rehabilitation**

After careful consideration of the possibility of your rehabilitation, I find that the facts, including your misconduct, give me no confidence in the possibility of your rehabilitation. Therefore, I find that this removal warranted and this factor to further support the penalty.

**(11) Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter**

I am aware of no mitigating circumstances which excuse your offense or justify your misconduct. Your misconduct was a product of your own actions, and I am unaware of any unusual job tension, personality problems, or bad faith, malice or provocation on the part of any other person(s) involved in this matter. After considering and weighing potential mitigating factors, I conclude that this factor does not reduce the reasonable penalty. The seriousness of the offense strongly outweighs any mitigating factors, and removal remains the appropriate penalty in this case.

**(12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others**

I carefully considered and rejected all alternative, lesser sanctions for the purposes of this proposed adverse action. Specifically, I considered a lengthy suspension, a demotion, and a permanent reassignment to other duties. However, I rejected them all after determining that any proposed discipline other than removal would lead you, other Department employees, and members of the public, to the impermissible conclusion that I, on the Department's behalf, condone your misconduct. In addition, I rejected alternative sanctions because I have found your misconduct to be so harmful to your trustworthiness and dependability that nothing short of removal will sufficiently deter you and others from engaging in such misconduct in the future. I will not tolerate your misconduct and I refuse to employ you in any capacity as part of the Department. As a result, I have proposed your removal in this Advance Written Notice of Proposed Adverse Action.

## **CONCLUSION**

Having considered all the facts available to me and after weighing all of the *Douglas* factors as described above, I conclude that removal is the most appropriate penalty for your serious misconduct, for all of the reasons described above. Your actions as described in this document are detrimental to the United States Department of the Interior and the Federal Service as a whole. Therefore, I propose your removal from your official position and from the Federal Service, for misconduct, as it would improve the efficiency of the Federal Service. Please read the next section carefully to understand the next steps in the process.

## **EMPLOYEE RIGHTS AND PROCEDURES**

### **A. Reply**

You have the right to reply to this *Advance Written Notice of Proposed Removal* orally, in writing, or both orally and in writing, and to submit affidavits in support of your reply, showing why this notice is inaccurate and any other reasons why this proposed action should not be effected to the Deciding Official, Senior Advisor to the Secretary, JoDee M. Hanson. If you believe personal, medical, or other problems are reasons for your actions, you may provide documentation of a medical condition or raise these issues in your written and/or oral reply(s). **You will be allowed fourteen (14) calendar days from the date of receipt of this Advance Written Notice of Proposed Removal to submit your replies.**

If you choose to submit a written reply, the written reply must be submitted to Supervisory HR Specialist Matthew N. Freed at [matthew.freed@bsee.gov](mailto:matthew.freed@bsee.gov) by no later than **fourteen (14) days from the date of receipt of this Advance Written Notice of Proposed Removal.**

If you wish to deliver an oral reply, please contact Matthew Freed by **no later than five (5) calendar days from the date of receipt of this Advance Written Notice of Proposed Removal** (so that your oral reply may be scheduled in time).

During the reply process, you have the right to represent yourself, be represented by an attorney, a Union representative (if applicable and covered), or other representative of your choice at all stages of this matter, up to and including the issuance of the decision. If you elect to use an attorney or other representative, you **must identify and designate the individual(s) in writing** to Human Resources, who will communicate that information to the Deciding Official. You must designate your representative(s) in writing by providing her or his or their name(s), address(es), and phone number(s). The Department may disallow as your representative any individual whose activities as representative would cause a conflict of interest or position, or a Department employee whose release from his or her official position would give rise to unreasonable costs or whose priority work assignments preclude his or her release.

Upon request, you or your designated representative will be granted reasonable amount of official time to review the materials replied upon to support this proposed action, to secure affidavits or other written statements, and to prepare a reply, should you chose to do so. Arrangements for the use of official time should be made with your immediate supervisor. The documentary material on which this action is proposed is attached to this memorandum. Upon request, digital copies of any document(s) or materials in the evidence file will be provided to you and your designated representative.

Consideration by the Deciding Official will be given to extend the reply period if you submit a written request stating your reasons for desiring additional time to reply during the outlined reply period.

You are not obligated to submit an oral or written reply, but if you do, the Deciding Official will receive your replies, or will designate an official to receive it, and give full consideration to your reply or replies and the evidence submitted in support of your reply or replies. If you decline to reply to this *Advance Written Notice of Proposed Removal*, the Deciding Official will evaluate the proposed action based upon the information in this *Advance Written Notice of Proposed Removal* and attached evidence. Whether or not you submit a reply, the Deciding Official will consider your case carefully.

#### **B. Your Duty Status During the Notice Period (Notice Leave)**

Because I find that your presence in the workplace during the response period and throughout the notice period will jeopardize legitimate Agency interests, I have determined that you will be placed immediately in a paid, non-duty status referred to as administrative leave (notice) (Code 064), or “notice leave,” until the deciding official has issued a decision in this matter. Before placing you on paid administrative leave notice as authorized and provided at 5 U.S.C. § 6329b, I considered (1) assigning you to other duties through telework, (2) allowing you to take leave for which you are eligible, and (3) curtailing the notice period because I have reasonable cause to believe that you have committed a crime for which a sentence of imprisonment may be imposed. I find that options (1) and (3) are not appropriate. Your placement on administrative leave (notice) is not a disciplinary action. While on administrative leave, you will be in a non-duty status while continuing to receive pay and benefits. However, if you wish to utilize leave for which you are eligible instead of paid administrative leave (notice) (Code 064), I will grant your request to utilize otherwise appropriate leave.

You must comply with all conditions associated with your paid notice leave. You may use your paid notice leave time to review the evidence, prepare a written reply, secure affidavits, and prepare an oral reply. For the duration of your paid notice leave, you are instructed to not communicate with any individual in your official capacity as a DOI employee, except in connection with responding to this Proposed Indefinite Suspension, or as otherwise instructed by me. Throughout the period of your paid notice leave, you should not report to work, but you must remain available to return to the workplace as directed and authorized by me. In addition, you must request sick and annual leave in the normal manner.

If you have any questions regarding the processes outlined above, please contact the Supervisory Servicing Human Resources Officer, Matthew N. Freed, at [matthew.freed@bsee.gov](mailto:matthew.freed@bsee.gov) or 571-393-4711.

#### **C. Employee Assistance Program**

If you believe that personal, medical, or other problems are a reason for your misconduct, you may seek assistance by contacting the Employee Assistance Program (EAP), provided by Espyr, at 1-800-869-0276 or via their website at <https://www.espyr.com/> (use DOI’s password: *interioreap*). Counselors are available 24 hours a day to offer assistance. Any contact with EAP is voluntary and strictly confidential. No information is released without your express written consent.



#### **D. Written Decision**

This *Advance Written Notice of Proposed Removal* describes a proposed personnel action, which is presented to the Deciding Official to consider along with any testimony and/or evidence that you choose to submit in your reply, if any, to the Deciding Official. After giving full and impartial consideration to the content of this *Advance Written Notice of Proposed Removal*, including any attachments, as well as your reply and any submitted evidence, if you choose to submit a reply, the Deciding Official will determine whether any of the charges described in this notice are supported by preponderant evidence and, if any charge is sustained, what penalty, if any, is appropriate.

Once the Deciding Official has reached a decision, you will be provided written notice of that decision and the reasons for the decision. If the decision is made to sustain the proposed action to remove you from your position, your removal will not be effective until after thirty (30) days following the date of receipt of this *Advance Written Notice of Proposed Removal*.

#### **E. Appeal Rights**

As discussed above, this *Advance Written Notice of Proposed Removal* does not memorialize a personnel action, but rather presents cause why the Deciding Official should sustain a proposed personnel action. Accordingly, this proposal does not constitute an adverse action appealable to the U.S. Merit Systems Protection Board (MSPB), nor does this proposal constitute an adverse employment action for the purposes of U.S. Equal Employment Opportunity (EEO) procedures.

If you believe that this action constitutes a prohibited personnel practice under 5 U.S.C. § 2302(b), including but not limited to, whether the Department took one or more covered personnel actions against you in retaliation for making protected whistleblowing disclosures or engaging in protected activity, you may seek corrective action before the U.S. Office of Special Counsel, which you may contact at [www.osc.gov](http://www.osc.gov). If your complaint concerns retaliation under 5 U.S.C. § 2302(b)(8) or (b)(9), and OSC dismisses your claim, you may have the right to file an Individual Right-of-Action (IRA) appeal with the MSPB within sixty-five (65) days of OSC's determination. However, in accordance with 5 U.S.C. § 7121(g)(2), if you elect to file a complaint with OSC prior to filing a complaint with the MSPB, you will be deemed to have elected to pursue corrective action under Subchapters II and III of 5 U.S.C. Chapter 12, and may be required to exhaust administrative procedures before OSC prior to filing an IRA appeal with the MSPB. For further information regarding your right to seek corrective action, please refer to 5 U.S.C. § 1221 and 5 C.F.R. §§ 1209.2 & 1209.5.

If you have any questions about the procedures applicable to this action, you may contact the Supervisory Servicing Human Resources Officer, Matthew N. Freed, at [matthew.freed@bsec.gov](mailto:matthew.freed@bsec.gov) or 571-393-4711.

## **ATTACHMENTS**

- A.) Report of Investigation
- B.) Draft Memorandum, *Request for Access to Departmental HR, Payroll, and Credentialing Systems*

### **ACKNOWLEDGEMENT OF RECEIPT**

Please sign and date the acknowledgement copy of this *Advance Written Notice of Proposed Removal* as evidence that you have received it. Your signature does not mean that you agree or disagree with the contents of this notice and, by signing, you will not forfeit any of the rights to which you may have entitlement. However, your failure to sign will not void the contents of the attached memorandum.

I acknowledge receipt of this notice advising me of the Department's *Advance Written Notice of Proposed Removal*.

Receipt Acknowledged: \_\_\_\_\_  
Anthony Irish Date