



National Institute of Diabetes and
Digestive and Kidney Diseases
Bethesda, Maryland 20892

Date: October 26, 2005

To: Ned Feder, M.D., Medical Officer (Research), GS-602-15, Chartered
Subcommittees Review Section, NIDDK

From: Francisco O. Calvo, Ph.D., Chief, Review Branch, NIDDK

SUBJECT: Official Reprimand

I am issuing you this Official Reprimand for your failure to follow management instructions.

Specifically, you failed to follow instructions provided directly to you during this year from me, Dr. Griffin Rodgers, and Dr. Raynard Kington, to omit any reference to your NIH affiliation in signature blocks for your personal publications. You are aware that you may publish your opinion as an OpEd or letter to the Editor without seeking NIH prior approval as long as you do not use your title, office, position, or NIH affiliation. In the September 29, 2005 issue of "Nature", Volume 437, page 620, there is a letter by you entitled, "Public disclosure could deter conflicts of interest". The signature block lists your name, followed by "National Institutes of Health, Two Democracy Plaza, Bethesda, Maryland 20817, USA".

In a memo from Dr. Kington, dated February 17, 2005, he informed you, "NIH employees are free to publish their opinions as an outside activity whether they agree with published NIH policies or not, provided they comply with applicable standards of conduct. Furthermore, you may seek to publish your opinions as either an Op/Ed piece or a Letter to the Editor, neither of which require prior approval from the NIH. I caution you, however, that the limitations on reference to official title or position in connection with outside writings apply to Op/Ed pieces as well."

In the March 17, 2005 issue of "Nature" (Volume 434, Issue No. 7029), there was a letter from you entitled, "NIH must tell the whole truth about conflicts of interest". The signature block listed your name, followed by your NIH address. I met with you on March 28, 2005, cited this publication in "Nature", and gave you explicit instructions to not include your affiliation with NIH in the address block for letters such as this. I advised you that the NIH work address implied that you were publishing the letter with the endorsement of the NIH and its leadership. In this meeting, I reviewed with you the February 17th memo you received from Dr. Kington, which provided you with the guidance, cited above, regarding your publications.

Additionally, in the March 28th meeting, I informed you that if you failed to follow these instructions in the future you may be disciplined. You stated that you would continue to publish using your NIH address because NIH should be more concerned with the Conflict of Interest rules rather than prohibiting any NIH employee from publishing as an NIH employee. Your statement indicated that you fully understood the instructions provided to you and that you purposefully chose to ignore them. Three months later,

there was a letter from you in "The Scientist" (June 20, 2005, Volume 19, Issue 12) listing NIH and your work email address along with your name.

In a memo to you from Dr. Rodgers, dated August 15, 2005, you were told, "I want to repeat what has been told to you several times. You are free to publish your comments and articles as a private citizen. In addition, I want to reiterate that in your official government capacity, using your position title, address, email address or any affiliation with NIH or NIDDK, to express your personal opinion is prohibited". Despite the information provided to you in Dr. Kington's memo, in the verbal counseling session with me on March 28th, and in the August 15th memo from Dr. Rodgers, you failed to follow the instructions provided to you. In fact, in a memo from you to Dr. Elias Zerhouni, dated September 30, 2005, you stated, "NIH leaders should be concerned about the actual problems described in my letters to the editor – not about the fact that I have chosen to describe these problems publicly while stating the relevant point that I work at NIH".

Management instructions are to be followed even though you may not agree with them. You do not have the right to ignore your supervisor's instructions because you do not like what is being directed. You must comply first and then discuss or pursue via appropriate grievance channels. To condone an employee's failure to follow instructions would unnecessarily impede the organization's ability to effectively carry out its mission.

Based on this misconduct that has continued despite previous counseling and warning, I am left with no other choice but to issue you this Official Reprimand, which is effective on the date that you receive it. A copy of this letter will be filed in your Official Personnel Folder for a period of two years, until October 25, 2007. More severe disciplinary action, up to and including removal, may be taken if further offenses occur.

You may grieve this reprimand within 30 calendar days after your receipt of this letter under the administrative grievance procedure set forth in HHS Instruction 771-3, Employee Grievances. Your grievance must be in writing and specifically state that you are making a Stage 1 grievance under the departmental grievance procedures. The grievance must contain sufficient detail to clearly identify the matter being grieved, specify the personal relief requested, and justification to support your request. Your grievance should be addressed to me as the Stage 1 official.

You have the right to review the material relied upon to support the reasons for this Official Reprimand. You should contact Ms. Susan Reider, Human Resource Specialist, Employee and Labor Relations Team, Bldg. 31C, Room B3C08, telephone 301-402-9203, to make arrangements for this review.

The NIH has a variety of resources available to assist employees who may be experiencing personal and work-related difficulties. If you have not already been in contact with a consultant from one or more of these resources, you are encouraged to do so. Consults are free and completely confidential. Among the resources are: the Work Life Center (301-435-1619) which provides guidance and advice on balancing work and family and career development needs; the Employee Assistance Program (301-496-3164) which offers confidential consultation services to help address difficult situations that may be affecting work, personal or family interactions; and the Center for Cooperative Resolution (301-594-7231) which extends confidential and informal assistance in resolving work-related conflicts or concerns.

If you have any questions about your rights or the procedures related to this action, please contact Ms. Susan Reider in the Office of Human Resources on (301) 402-9203.

Francisco O. Calvo

Francisco O. Calvo, Ph.D.

Ned Fedes

I acknowledge receipt of this letter.

Date:

Oct. 27, 2005

cc:
Official Personnel Folder
Ms. Susan Reider, OHR