

Exhibit 11

Third, the delicacy of this matter is underscored by the fact that two independent fact finders reviewed the issue and came to differing conclusions. The administrative law judge hearing the EPA whistle blower case concluded that there was insufficient evidence of discrimination while the school board's hearing examiner concluded that you should be reinstated with back pay. At the time MOSH's investigation was concluded only the latter decision was rendered. Though the matter was clearly one on which reasonable people can disagree, it is of great concern that the investigator dismissed the only independent decision she had before her at the time she closed her file, that is the decision of the school board's own hearing examiner. The rationale for ignoring that decision was that the respondent employer - the School Board itself - chose to override the decision of its hearing examiner. This reason for dismissal again raises issues concerning the fairness of MOSH's conclusion.

Second, we are concerned that in this case MOSH should have at least considered requesting the assistance of this office to address the investigation. We fully recognize that MOSH and no one else has jurisdiction over discrimination cases filed against State agencies. But that very relationship - one State agency investigating another - can lead a disappointed party to conclude that any investigation was not free from bias.

First the investigative case file does not show that the witnesses you identified to this office in our EPA whistle blower case were interviewed by the State investigator. The witnesses you furnished to us provided persuasive information that, in the context of the entire investigation, led us to conclude that the EPA whistle blower statute had been violated. We in no way imply that our conclusion had to be the State's, but to avoid any appearance of bias MOSH's investigator should have at least reviewed our evidence before coming to any conclusion, especially one at variance with ours.

We have completed our investigation of a Complaint Against State Plan Administration (CASPA) you filed regarding MOSH's investigation of your discrimination complaint against the Baltimore City Public School System. Our review disclosed several items which I feel must be addressed in future discrimination investigations and I have advised the Maryland Division of Labor and Industry essentially as follows:

Dear Ms. Williams:

Ms. Diana Williams
1311 North Ellwood Avenue
Baltimore, Maryland 21213

July 10, 2002

Occupational Safety and Health Administration
The Curtis Center, Suite 740 West
170 S. Independence Mall West
Philadelphia, Pennsylvania 19106-3309
Reply to the Attention of: Richard D. Solian
Telephone: (215) 861-4900



U.S. Department of Labor

Exhibit 1
Exhibit 19

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Exhibit 5

Lastly you were not informed of your right to file with the Federal program under the EPA whistle blower statutes for some nine months after your initial filing with MOSH. It appears that the investigator was unaware of the cognate whistle blower statutes that OSHA administers. In order to promptly and fully ensure that all future complainant's rights are protected we suggest that MOSH avail itself of training from the Region in this regard.

If you have any questions please do not hesitate to contact me.

Sincerely,

James A. Cassidy
Richard D. Soltan
Regional Administrator