



**Department of Veterans Affairs
Office of Inspector General**

**Veterans Benefits Administration
Administrative Investigation
Misuse of Official Time
Denver Regional Office
Lakewood, CO**

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DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington, DC 20420

TO: Director, Veterans Benefits Administration (VBA), Continental District

SUBJECT: Administrative Investigation - Misuse of Official Time, Denver VA Regional Office (VARO), Lakewood, CO (2015-02560-IQ-0012)

Purpose

In February 2015, the Chairman of the House Committee on Veterans' Affairs, after receiving a complaint letter, asked VA's Office of Inspector General (OIG) to investigate allegations that Ms. Melanie Murphy, Director of the Denver VARO, was habitually absent from work during her designated duty hours and submitted incorrect timecards.

Summary

We substantiated that Ms. Murphy misused her official time when she arrived to her duty station late without taking the appropriate leave; when she was absent without leave; and when she improperly split her workday between her duty station, a non-VA location, and teleworking from home. We also found that she maintained an improper credit hour system for herself and her office staff. We did not substantiate an allegation that she was absent for several weeks at a time without taking sick leave, and we administratively closed that allegation. We discovered that VA's Office of Accountability Review (OAR) began an investigation concurrent to ours. To avoid any duplicative efforts, we accepted the misuse of time and timecard allegations, and OAR accepted all others to investigate.

Background

The VA Office of Inspector General Administrative Investigations Division investigated allegations that Ms. Murphy was absent for several weeks without taking the appropriate sick leave and frequently came to work late. In May 2014, Ms. Murphy became the Denver VARO Director with the responsibility of managing an office that provided benefits to nearly 447,000 veterans in both Colorado and Wyoming. To assess the allegations, we interviewed Ms. Murphy and other VA employees. We also reviewed email, personnel, travel, electronic time and attendance (ETA), telework, Government-owned vehicle (GOV), and Physical Access Control (PAC) records, relevant Federal laws and regulations, and VA policy.

Results

Issue: Did Ms. Murphy Misuse Her Official Time?

Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall put forth an honest effort in the performance of their duties and that an employee shall use official time in an honest effort to perform official duties. 5 CFR §§ 2635.101(b)(5) and 2635.705.

VA policy states that all employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave and to observe the opening and closing of hours established for their tours of duty. VA Handbook 5011, Part II, Chapter 2, Section 1(a), Paragraph 7. Absence without leave (AWOL) is an unauthorized absence from duty, and an employee receives no pay for the period of time they were absent without authorization. VA Handbook 5011, Part III, Chapter 2, Section 15(a).

VA policy defines a modified flexitour as a flexitime where an employee selects a starting time, but the employee is given 15 minutes of flexibility on either side of the selected arrival time. Arrival and departure times will be recorded for each employee, including supervisors, in any work unit using flexible work schedules, and a Time and Attendance Report (VA Form 5631 or an ETA system authorized for use in VA) must be used as the official means to record, certify, and report employees' time and attendance, including credit hours. VA Handbook 5011, Part II, Chapter 2, Section 12c and 12f.

The VARO Chief of Support Services Division told us that the VARO installed a PAC system in 2010 to secure the perimeter and interior doors of the building and that the PAC system utilized 50 personal identity verification (PIV) card readers that restricted access into the building and internal work areas. He said that a database recorded each card swipe through a real time log that displayed the name of the employee and that the PAC system produced ad-hoc reports that showed an employee's name, dates, times, and the location of each door accessed by the employee.

Ms. Murphy told us that her official tour of duty start times varied over the years between 8:00 a.m. and 8:30 a.m., but as of April 20, 2015, her official tour of duty was 8:30 a.m. to 5:00 p.m. She said that ETA records accurately reflected her official start time and that she arrived at her duty station within the allowed flexitime of 15 minutes, using the facility's first floor entrance daily. A Management Analyst, who is also the timekeeper responsible for time and attendance in the Executive Office, said that the ETA recorded official tours of duty and changes to those tours.

We reviewed PAC records dated from January 1, 2011, to December 31, 2014, related to Ms. Murphy's use of her PAC card to gain access to the building and the Director's suite. In our analysis of Ms. Murphy's PAC and ETA records, we excluded workdays that she was on leave or travel to another location. Although we found email records reflecting

that she sent email messages outside of her duty hours, we were unable to determine whether she worked sufficient time outside of her official tours of duty to compensate for the times she arrived late. We were also unable to determine if she worked past the end of her workday to compensate for flexing her start time; however, if she did flex her tour of duty for any particular day, it was not recorded within her ETA.

ETA, PAC, and Travel Records (2011–2014)

The below table reflects, with reasonable certainty, the number of days, based on ETA, PAC, and travel records, that Ms. Murphy was at the facility, out of 250 workdays per year, and entered the building after the start of her official start time.

Year	Days Onsite	< 15 Minutes	16-30 Minutes	31-60 Minutes	> 60 Minutes	Total
2014	193	77	46	9	6	138 (72%)
2013	193	59	29	19	5	94 (49%)
2012	204	40	68	37	2	147 (72%)
2011	168	57	60	5	7	129 (77%)
Total	758	233	203	70	20	508

Below are a few examples:

- February 27, 2014 – ETA records reflected that Ms. Murphy’s official tour of duty was 8:30 a.m. to 5:00 p.m. PAC records reflected that she entered the building at 9:15 a.m. ETA records reflected no leave for those 45 minutes.
- January 17, 2013 – ETA records reflected that Ms. Murphy’s official tour of duty was 8:00 a.m. to 4:30 p.m. PAC records reflected that she entered the building at 8:37 a.m., and ETA records reflected no leave for those 37 minutes.
- February 23, 2012 – ETA records reflected that Ms. Murphy’s official tour of duty was 8:30 a.m. to 5:00 p.m. PAC records reflected that she entered the building at 9:15 a.m., and ETA records reflected no leave for those 45 minutes.

- July 19, 2011 – ETA records reflected that Ms. Murphy’s official tour of duty was 8:00 a.m. to 4:30 p.m. PAC records reflected that she entered the building at 8:40 a.m., and ETA records reflected no leave for those 40 minutes.

Absent Without Leave

We found 22 individual workdays between January 1, 2011 and December 31, 2014 for which there were no records reflecting Ms. Murphy entered the building or Director’s suite, was on travel, or took leave. When asked about these days, Ms. Murphy told us that she was issued a second PAC card and that she occasionally used that card to enter the building. She said that she was also issued a master key that accessed all building doors, which she occasionally used, and no records were maintained for the key usage. The Chief of Support Services Division confirmed that Ms. Murphy was assigned two PAC cards; however, he said that both cards were registered to her account and that the system recorded her name, dates used, and points of entry no matter which PAC card she used. Ms. Murphy also said that employees gathering at a designated smoking section near the door she used from the parking lot, and they would occasionally open the door for her. However, smoking is banned within 25 feet of a doorway on GSA-controlled properties, and even if these employees opened the door for her, there would be PAC records reflecting her entry to the Director’s suite a few minutes later.

We gave Ms. Murphy the list of the 22 workdays for which there were no records of her being at her duty station, and we asked her to provide us evidence that she actually worked those days. She said that she did not keep a personal calendar, but she provided one that was maintained by a staff member for her and other employees. She said she is referenced as either “00” or “001” on the calendar. Subsequent to her interview, she amended her ETA to change her status as on leave for 2 of the days in question, 7 partial days not related to the 22 days, and we discovered that she was in training for 5 days. We also eliminated another day that the calendar and an email Ms. Murphy sent us reflected that she was in Colorado Springs, CO for a site visit.

That resulted in 14 days for which there were no records of Ms. Murphy entering the building or Director’s suite, being on travel, or taking leave. For 5 of the 14 days, there were no entries in PAC, ETA, calendar, email, GOV, or travel records. Calendar records contained notations for 9 of the days, but there were no other records to reflect that Ms. Murphy was required to attend or in attendance at those scheduled events. The timekeeper’s log reflected that Ms. Murphy was on annual leave for one of the 14 days, but there was no record of leave in ETA.

We gave Ms. Murphy ample opportunity, on more than one occasion, to provide supporting documents to show that she worked the 14 days. For 5 of the 9 days with calendar notations, Ms. Murphy produced a single email or email chain for each day to support her assertion that she worked those days, but her emails did not reflect a full day’s work for each of the 5 days. Further, Ms. Murphy emailed us two computer screen

shots showing four separate documents were modified on 3 of the 14 days. One was from a staff shared drive, and they also did not reflect a full day's work for these days.

The below table reflects the 14 workdays in question, based on PAC, ETA, calendar, email, GOV, and travel records, as well as Ms. Murphy's provided evidence, and the timekeeper's log.

Date	PAC	ETA	Staff Calendar	Email Pull	GOV/TDY	Murphy Evidence	Time-keeper Log
01/14/2011	None	None	None	None	None	Screen Shot	None
02/02/2011	None	None	None	None	None	None	None
04/20/2011	None	None	None	None	None	None	None
05/03/2011	None	None	None	None	None	None	None
07/12/2011	None	None	None	None	None	Screen Shot	None
08/01/2011	None	None	(001/28) 9-9:30	None	None	Screen Shot	None
08/09/2011	None	None	(00/001) 9-930 (00/001) 1-1:30 (001) 2-230	None	None	None	None
08/24/2011	None	None	(23/24) 11-1100	None	None	None	None
12/20/2011	None	None	(001)1030	None	None	email/chain	None
12/19/2012	None	None	(00) AL (12/19-31)	None	None	email/chain	None
06/06/2013	None	None	Conference Calls	None	None	email/chain	None
06/19/2013	None	None	(00) 10-1100	None	None	email/chain	None
09/23/2013	None	None	(00) 11-1200	None	None	email/chain	None
05/27/2014	None	None	(001) 830-900	None	None	None	Annual Leave

Improper Telework

VA policy states that employees are responsible for maintaining productivity and for fulfilling their obligation to account for their scheduled daily tour of duty. Participants may be permitted to work at home or other telework worksites full days or a portion of a day. Leave may be requested for the period of time not worked. VA Handbook 5011/26, Part II, Chapter 4, Section 4(e). Telework is not intended to serve as a substitute for dependent or elder care, and arrangements involving the employee providing dependent or elder care to any individual shall not be authorized. Teleworkers and their immediate supervisors must receive training designed to provide the employee and supervisor with a smooth transition to telework. *Id.*, at Section 6(o) and Section 7(3).

Ms. Murphy signed a Telework Proposal on February 28, 2013, but she told us that she did not take the required VA required telework training. She said that she experienced a family situation of limited duration, so she requested permission to telework about 2 hours per day. Her request to telework was approved the same day she signed it. As noted above, VA telework policy does not allow its use to care for family members. If Ms. Murphy was unable to report for duty because she needed to care for a family member, the U.S. Office of Personnel Management (OPM) allows an employee a total of 12 administrative workweeks of unpaid leave during any 12-month period for the care of a spouse, son, daughter, or parent. 5 CFR § 630.1203(a).

Ms. Murphy told us that for about 6 months (equivalent to 125 workdays) in 2013, she split her workday to care for a family member. She worked a portion of her day at her duty station, traveled to her family member's location to provide care, and then teleworked from her home for the rest of the day. An online mapping website reflected that the total travel time from the Denver VARO to her family member's location and back to her residence was about 2 hours. Ms. Murphy told us that her travel time was accounted for through leave, lunch breaks, and when she worked after her tour of duty ended; however, ETA records reflected only 23 occasions when she took leave for a portion of her workday during that time period, and we have no way to determine how much time she worked beyond her tour of duty on any given day.

Improper Informal Credit Hours Policy

VA Policy states that credit hours may be earned at the option of employees with supervisory approval. Employees on flexible work schedules may work them to shorten the length of another workday or workweek, but they may be used only after approval by the appropriate approving official. Fulltime employees may carry over no more than 24 credit hours into the next pay period, and credit hours are not applicable to [Senior Executive Service] employees. VA Handbook 5011, Part II, Chapter 2, Section 12.

Ms. Murphy told us that when she became the Assistant Director in 2010, the former VARO Director told her of the informal credit hour policy used by the Director's staff,

started under the former Director's predecessor. Staff members included Ms. Murphy, the Assistant Director, the Timekeeper, and a Management Analyst, and they were required to stay until their work was completed, tracking—outside of the official ETA system—the extra hours they worked and subsequently used.

Denver Regional Office Circular No. 25-10-05, dated November 15, 2010, signed by the former Director, allowed for identified employees to earn and use credit hours, excluding supervisors such as Ms. Murphy. Contrary to VA policy, it said that the credit hours would be recorded on a spreadsheet or other system rather than on the ETA, and supervisors were responsible for maintaining accurate records for their employees. This Circular stated that it remained in effect for 3 years, expiring on November 15, 2013. Ms. Murphy gave us a memorandum, dated May 26, 2015, written by the former VARO Director that continued the “long-standing policy...that rewarded the front office staff for often working longer than their core hours, including weekends.” Although the expired 2010 Circular excluded supervisors, the 2015 version extended the use of credit hours to the Director and Assistant Director. Ms. Murphy told us that she earned and used credit hours as the Assistant Director and as the Director.

The Assistant Director and Management Analyst told us that since they did not have funding and were not authorized for paid overtime, they instead used the informal credit hours system, and Ms. Murphy said that the use of the credit hour policy for the Director's staff was to compensate employees for working overtime. The staff was then permitted to use the credit hours in lieu of leave; it was based on the honor system, which was contrary to VA policy; and employees were not required to notify supervisors or seek their approval prior to accruing credit hours. The Director's staff recorded credit hours on an electronic spreadsheet located in a folder on Ms. Murphy's electronic drive, and anyone on her staff could access and make changes to the spreadsheet. There was no supervisory oversight for the spreadsheet, and the credit hours were not recorded in ETA, which is contrary to VA policy. Ms. Murphy told us that this informal credit hours program was in place since at least 2010; however, she was in the process of revising the VARO credit hour policy so that it was compliant with VA policy.

Conclusion

We concluded that Ms. Murphy misused her official time by frequently arriving late to her duty station between January 1, 2011, and December 31, 2014. Although she was permitted to flex her day by up to 15 minutes, we were unable to determine if she worked later to compensate for her late arrivals, whether 15 or more minutes. Further, this time was not entered into her ETA. As a senior leader, Ms. Murphy is held to a higher standard and should set the tone for her subordinates to follow, and arriving late to work over 70 percent of her workdays diminishes her position and authority as a senior leader.

We also found no or insufficient records to support her arrival at the facility or that she worked the entire day for 14 identified workdays. Subsequent to our interview with her,

Ms. Murphy amended her ETA to retroactively take leave for 2 full days and 7 partial days not related to these 14 days. We gave Ms. Murphy ample opportunity to provide evidence that she worked these unaccounted for days, and the most she provided us was one email or email chain for 5 of the days in question. Although she may have worked extended hours to compensate for these days, she failed to properly record her time through the use of VA Form 5631 or in the ETA as required by VA policy.

Additionally, we found that Ms. Murphy improperly teleworked for about 6 months. She not only failed to take the required training, she split her workday to care for a family member and did not take the appropriate paid and/or unpaid leave to cover her personal travel time and the time she spent caring for the family member. Ms. Murphy, as the most senior leader within that facility, has a duty and responsibility to set the highest possible example for her workforce by adhering to Federal laws and regulations, as well as VA policy. Unfortunately, she failed to establish a culture of accountability for time and attendance, and time and attendance recordkeeping was too lax to provide an accurate accounting of the time she worked.

Moreover, we found that Ms. Murphy and her staff improperly used a local credit hour policy which was contrary to VA Policy. Employees maintained an off-the-books credit hour spreadsheet, did not notify supervisors in advance when credit hours were accrued, and did not record these hours as required in ETA. In addition, the former VARO Director, Ms. Murphy, and the Assistant Director failed to establish a culture of time and attendance accountability, which is a primary responsibility of senior management.

We discovered that OAR began an investigation concurrent to ours. In coordinating with OAR and to avoid any duplicative efforts, we accepted the misuse of time and incorrect timecards allegation, and OAR investigated all other allegations.

Recommendation 1. We recommend that the Director, VBA Continental District, confer with the Offices of General Counsel (OGC), Human Resources (OHR), and Accountability Review to determine the appropriate administrative action to take, if any, against Ms. Murphy.

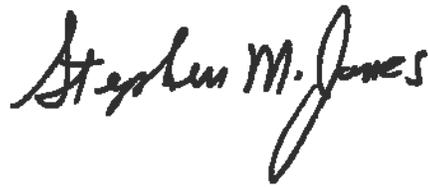
Recommendation 2. We recommend that the Director, VBA Continental District, review whether the privilege of credit hours and telework should be revoked and ensure that Ms. Murphy receives refresher training on VA's policy for time and attendance, credit hours, and telework.

Recommendation 3. We recommend that the Director, VBA Continental District, confer with OGC and OHR concerning the 14 days in which Ms. Murphy was unable to fully account for her activities, determine whether she was absent without approved leave, and initiate action to recover pay she received when she was not present for duty.

Recommendation 4. We recommend that the Director, VBA Continental District, ensure that any VARO local policy for credit hours complies with VA policy and that employees use VA Form 5631 or the ETA system as the official means to record, certify, and report their time and attendance, to include any compensatory or credit hours earned or used.

Comments

VBA's Continental District Director was responsive. Her comments are in Appendix A. We will follow up to ensure that the recommendations are implemented.



STEPHEN M. JONES
Deputy Assistant Inspector General
for Investigations

Director's Comments

**Department of
Veterans Affairs**

Memorandum

Date: June 15, 2016

From: Director, VBA Continental District

Subject: **Administrative Investigation - Misuse of Official Time,
VBA, Denver VARO, Lakewood, CO**

To: Assistant Inspector General for Investigations (51)

We will confer with OGC and OHR and take any appropriate action.

Sandra D. Flint

**Director's Comments
to Office of Inspector General's Report**

The following Director's comments are submitted in response to the recommendations in the Office of Inspector General's Report:

Recommendation 1. We recommend that the Director, VBA Continental District, confer with OGC, OHR, and OAR to determine the appropriate administrative action to take, if any, against Ms. Murphy.

Comment: No Comment

Recommendation 2. We recommend that the Director, VBA Continental District, review whether the privilege of credit hours and telework should be revoked and ensure that Ms. Murphy receives refresher training on VA's policy for time and attendance, credit hours, and telework.

Comment: No Comment

Recommendation 3. We recommend that the Director, VBA Continental District, confer with OGC and OHR concerning the 14 days in which Ms. Murphy was unable to fully account for her activities, determine whether she was absent without approved leave, and initiate action to recover pay she received when she was not present for duty.

Comment: No Comment

Recommendation 4. We recommend that the Director, VBA Continental District, ensure that any VARO local policy for credit hours complies with VA policy and that employees use VA Form 5631 or the ETA system as the official means to record, certify, and report their time and attendance, to include any compensatory or credit hours earned or used.

Comment: No Comment

OIG Contact and Staff Acknowledgments

OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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