

Department of Veterans Affairs

Memorandum

Date: July 26, 2016

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation – Alleged Prohibited Personnel Practices, Veterans Health Administration (VHA), Wm. Jennings Bryan Dorn VA Medical Center, Columbia, SC – Report No. 15-00749-338 (2015-00749-IQ-0006)

To: Director, VA Southeast Network

Purpose

On November 4, 2014, VA OIG Administrative Investigations Division received an allegation that Mr. Timothy McMurry, Wm. Jennings Bryan Dorn VA Medical Center Director, engaged in prohibited personnel practices when he transferred [REDACTED], [REDACTED], from the Iowa City VA Health Care System, Iowa City, IA, into an [REDACTED] position at the medical center. Mr. McMurry also allegedly transferred Ms. [REDACTED], a VA employee and Mr. [REDACTED] spouse, into a [REDACTED] position, after first transferring the incumbent into another position.

Objective, Scope, and Methodology

To assess these allegations, we interviewed Mr. McMurry; Mr. [REDACTED]; Ms. [REDACTED]; Mr. [REDACTED], Medical Center Assistant Director; the Human Resources (HR) Chief; the Assistant HR Officer; the Privacy Officer, and other VA employees. We also reviewed email and personnel records, Federal laws and regulations, and VA Policy.

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Federal law states:

Federal personnel management should be implemented consistent with the following merit system principles: Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. 5 USC § 2301(b)(1).

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of

improving or injuring the prospects of any particular person for employment.
5 USC § 2302(b)(6).

Federal Regulations state:

Employees shall act impartially and not give preferential treatment to any private organization or individual. 5 CFR § 2635.101(b)(8).

Results

Issue: Did Mr. McMurry Engage in Prohibited Personnel Practices?

Since September 2000, the Nebraska-Western Iowa Health Care System, Omaha, NE, has been the servicing HR for the Iowa City VA Health Care System, and personnel records reflected that Mr. McMurry and Mr. [REDACTED] both previously worked in Iowa City. Mr. McMurry told us that he was the Iowa City VA Health Care System Director when he first met Mr. [REDACTED] during a video interview for a [REDACTED] position. Personnel records reflected that Mr. [REDACTED] was selected from certificate number MPA [REDACTED], dated [REDACTED], and he began working in that position effective May 5, 2013.

Mr. [REDACTED] told us that prior to his VA position in Iowa City, he and his family lived in Alaska, and he did not know Mr. McMurry. He said that when he began working in Iowa City, his wife, Ms. [REDACTED], was a [REDACTED] at the Alaska VA Healthcare System, Anchorage, AK, and personnel records confirmed that she was a [REDACTED] working at that medical center. Mr. [REDACTED] said that once he moved to Iowa City, Ms. [REDACTED] became a virtual employee, living in Iowa City but reporting to the Anchorage VA Medical Center. Ms. [REDACTED] told us that she did not know Mr. McMurry prior to her move to Iowa City.

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Mr. McMurry said that just after Mr. [REDACTED] began working in Iowa City, he (Mr. McMurry) was detailed to the VA Central Iowa Health Care System, De Moines, IA, as the Interim Director. He said that once this detail ended, he returned to Iowa City where he supervised Mr. [REDACTED] for about 4 months before becoming the Director at the Wm. Jennings Bryan Dorn VA Medical Center, Columbia, SC. Personnel records reflected that for the 2013 performance rating period, Mr. McMurry's duties were split between the position of Associate Director of Operations for the Iowa City VA Health Care System and Acting Director for the Central Iowa VA Health Care System. Records also reflected that he became the Director at the Wm. Jennings Bryan Dorn VA Medical Center, Columbia, SC, on April 19, 2014.

Mr. McMurry told us that while waiting to relocate to Columbia, SC, he noticed that the [REDACTED] position was already announced on USAJOBS. Records reflected an announcement for a [REDACTED] at the Columbia, SC, medical center, on USAJOBS with an open period of April 7–18, 2014. He said that he asked Mr. Charles Sepich, former Director of Veterans Integrated Service Network 7, if the announcement could be terminated and re-announced after his arrival. The HR

Chief told us that the announcement was cancelled, and since the [REDACTED] worked for the Medical Center Director, and a permanent director was not in place, they felt it was better that the new Medical Center Director make the selection. Mr. McMurry said that he did not have anyone in mind for the position or know who may be interested, but he said that he wanted to make the selection himself to ensure the candidate had the needed skill sets.

The [REDACTED] position was posted to USAJOBS from May 2 to May 15, 2014. The position was open to all current VA permanent employees. Mr. [REDACTED] told us that while his wife was looking for a non-virtual position within VA she saw the [REDACTED] position advertised and told him about it. Mr. McMurry said that Mr. [REDACTED] contacted him and expressed an interest in the position, and he (Mr. McMurry) told him that he could apply for any available position for which he qualified. Mr. McMurry told us that he had no further conversations with Mr. [REDACTED] about that or any other position. Mr. [REDACTED] said that he enjoyed working under Mr. McMurry's supervision for the 4-month period in Iowa City, IA, and this vacancy presented an opportunity to work with Mr. McMurry once again.

Mr. McMurry told us that after his arrival in Columbia, SC, he conducted an assessment of the needed attributes for the [REDACTED] position and determined the position needed specific skill sets in order to be successful and meet the needs of the executive office staff. The skills included knowledge and experience of hospital operations, hospital clinical programs, physician management and communications, labor relations with unions and bargaining unit employees, and leadership experience as a supervisor over large programs. Hiring documents reflected that a total of 21 applicants were on the non-competitive certificate dated May 20, 2014, to include Mr. [REDACTED]. Mr. McMurry said he scored the applicants based on their experience and the above cited criteria. He also said that while some applicants scored well in many of the categories, Mr. [REDACTED] scored high in all of them. He said that he submitted the score sheets to the former (retired) HR Chief, and told the Chief he wanted to hire Mr. [REDACTED] based on his review of all the resumes. Mr. McMurry told us that he asked the Chief if he could make a direct selection, and she said that based on VA policy and his demonstration to consider all applicants' qualifications, he could. The selection of Mr. [REDACTED] was made from the Non-Competitive Candidate Referral List.

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Mr. McMurry said that he also learned that Mr. [REDACTED] had family in the Charleston, SC, area, which was his motivation to apply for and accept the position. Mr. [REDACTED] told us that he lived in Alaska for a long time and he and his wife wanted to move to a warmer climate and wanted to be closer to family in Columbia, SC.

Mr. McMurry told us that the first time he met Ms. [REDACTED] was in Iowa City right before he relocated to Columbia, SC. He said that he and Mr. [REDACTED] were at a volunteer appreciation day event when Mr. [REDACTED] introduced him to Ms. [REDACTED]. He said that when Mr. [REDACTED] relocated to Columbia, SC, Ms. [REDACTED] moved with him, but she was still a virtual employee for the Alaska VA Healthcare System.

Mr. McMurry told us that prior to his arrival in Columbia, SC, the medical center leadership made some organizational changes, including reassignment of the then [REDACTED]. The medical center faced two pending class action lawsuits related to lost data, Mr. McMurry explained, and he directed Mr. [REDACTED] to correct the deficiencies in the privacy program and take ownership of it, since it was his job as a leader. Mr. McMurry told us he later realigned the privacy program to fall under the supervision of the Associate Director at the VAMC.

The Assistant Director told us that he did everything he could to get someone locally to fill the position, and he “was in a borderline state of desperation.” He said that Mr. [REDACTED] approached him, “not in any kind of an influential way,” and told him that Ms. [REDACTED] might be interested in being detailed into the [REDACTED] position. Mr. McMurry told us that he agreed with detailing Ms. [REDACTED] into the position, and he called the Alaska VA Healthcare System to ask that Ms. [REDACTED] be detailed as the [REDACTED] for 30 days, until they hired someone. Personnel records reflected that Mr. McMurry sent a memorandum, dated August 4, 2014, to Ms. Susan M. Yeager, Director of the Alaska VA Healthcare System, requesting that Ms. [REDACTED] be detailed for 30 days as the Columbia, SC, [REDACTED] “to provide continuity of a critical function to medical center operations during a personnel transition.”

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Ms. [REDACTED] told us that when she was later offered the position permanently, she accepted. To accept the position, Ms. [REDACTED] voluntarily took a downgrade, and personnel records reflected that on October 5, 2014, she was downgraded from a GS-12, step 3, to a GS-11, step 10. Mr. McMurry told us that he was given assurances from HR that transferring Ms. [REDACTED] into the position permanently was legal and proper, prior to authorizing it. VA policy permits VA employees to transfer within VA from one position or facility to another, and unsolicited applications from VA employees at other facilities may be accepted. VA Handbook 5005, Part III, Chapter 2, Paragraph 11, (April 15, 2002).

Personnel records reflected that on January 10, 2016, Mr. [REDACTED] relocated to the Clement J. Zablocki VA Medical Center, Milwaukee, WI, and Ms. [REDACTED] relocated there on February 6, 2016.

Conclusion

We did not substantiate that Mr. McMurry engaged in a prohibited personnel practice when he hired Mr. [REDACTED] as his [REDACTED]. The position was announced, and after Mr. McMurry assessed all applicants, he selected Mr. [REDACTED]. We found no evidence that this was a preselection or that the selection was made because of a pre-existing relationship. Ms. [REDACTED] was already located at the facility when Mr. McMurry detailed her into the [REDACTED] position, after transferring the previous [REDACTED] out of the position. Ms. [REDACTED] then voluntarily took a downgrade to fill the position permanently, which VA policy permits. We are therefore closing this investigation with this memorandum.

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