



National Association of Government Employees

AFFILIATED WITH THE SERVICE EMPLOYEES INTERNATIONAL UNION

June 25, 2015

Dear Representative:

On behalf of the National Association of Government Employees and thousands of Veterans Affairs employees we represent across the country including doctors, nurses, other healthcare professionals, and support staff who serve our veterans every day at Veterans Affairs hospitals, outpatient clinics, pharmacies, and cemeteries, I urge you to oppose H.R. 1994. This bill, if enacted, would strip VA employees of due process rights and essentially eliminate whistleblower protections creating a culture of fear within the Agency. If your intent is to protect and best serve our nation's veterans, we urge you to vote "NO" on reporting the bill out of committee.

Every day our members, many of whom are veterans themselves, work to deliver the best health care possible to veterans serving them with dignity and respect. If this bill is enacted, already low morale within the VA will sink to new depths. If employees are forced to serve an extended probationary period while at the same time having no real appeal rights, the VA will be unable to retain and recruit top talent and that will eventually negatively impact the veterans even further.

The rank and file employees at issue in this bill did not cause the delays and other issues related to the recent scandals at the VA and Congress should not react punitively toward them. Extending probationary periods and limiting appeal rights will not resolve any patient care or wait time issues that may exist. The VA regularly uses the tools currently available to remove employees who have poor performance or engage in misconduct. If appealed, the Merit Systems Protection Board (MSPB) overturns these actions only in extremely limited circumstances where the Agency has not acted in accordance with the law.

H.R. 1994's provision to extend probationary periods for employees to 18 months and providing the Secretary the discretion to extend the probationary period even further severely limits the rights of employees. There is nothing that a reasonable and effective manager can learn in 18 months or more that he or she could not have learned in 12 months with regard to whether or not an employee is suitable for his or her position. Instead, employees will work in an atmosphere where managers are not held accountable and whistleblowers would not feel free to report fraud, waste or abuse because they are essentially unprotected from retaliation. Rather than focusing on veterans, employees will come to work in fear of losing their jobs.

This bill essentially eliminates real due process rights concerning adverse actions by the Agency as it sets unreasonable restrictions on the MSPB. The current system was established to prevent agency leadership from arbitrarily removing employees and rewarding appointments as a means of political patronage. H.R. 1994 would result in a significant step backwards in preventing abuse by VA leadership. Even the VA believes that the proposed restrictions go too far. During a recent hearing, Cathy Mitrano, Deputy Assistant Secretary for the Office of Resource Management Human Resources

and Administration for the VA, testified that she believed the legislation unreasonably deprive VA employees' due process protections. She expressed concerns that the proposed expedited adjudication process for termination appeals would prevent employees from adequately defending themselves.

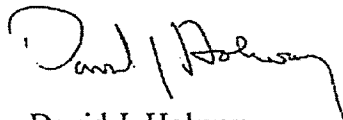
Currently the MSPB has an average processing time of 93 days for initial appeals. Since Congress restricted appeal rights for VA Senior Executive Service (SES) employees and limited the processing time, the MSPB has found that no party benefits as neither side is unable to prepare for the case. In the high profile case of Phoenix VA Director Sharon Helman, the Agency failed to answer discovery in the shortened time frames and was unable to prove its case with regard linking Helman to the wait time issues. With regard to the SES cases, MSPB Chairman Susan Grundmann has stated that for complex cases, the shortened timeframe isn't enough. Furthermore Grundmann has questioned the constitutionality of the expedited process and limited appeal rights. NAGE believes that in essentially removing the role of independent reviewers of adverse actions, H.R. 1994 potentially exposes the VA to significant future corruption.

H.R. 1994 does nothing to support our nation's veterans and unfairly targets the rank and file employees who provide patient care and support every day. Instead, this legislation will result in incredibly low morale within the VA. If enacted, the VA will not be able to recruit and maintain employees who are in the best position to meet the special needs of our veterans.

I urge you to vote "NO" on reporting H.R. 1994 out of committee, in recognition that this legislation will not meet its intended purpose. If you have any questions please contact NAGE Federal Director, Sarah Suszczyk at (703) 519-0300 or ssuszczyk@nage.org.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Holway". The signature is written in a cursive style with a vertical line separating the first and last names.

David J. Holway
National President