



NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Affiliated with the International Association of Machinists and Aerospace Workers



NFFE News Release

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Federal Union Responds to VA Accountability Bill: Low Standard for Misconduct Would Open VA Employees to Political Witch Hunts

Washington, D.C. – Today, the National Federation of Federal Employees (NFFE) strongly opposed the VA Accountability and Whistleblower Protection Act (S. 1094) introduced last week in the U.S. Senate. If enacted, this bill will lower the agency's burden of proof in cases involving employee misconduct, weakening systematic protections for employees who speak up against unsafe practices and political coercion. The lower burden of proof relieves agencies from having to demonstrate that an incident more likely occurred than not (*Preponderance of the Evidence*), to simply validating that a disciplinary action is reasonable regardless of evidence of wrongdoing or not (*Substantial Evidence*).

"If this bill passes, honest VA employees will be open to intimidation and will be deterred from coming forward as whistleblowers," stated Randy Erwin, NFFE National President. "Misconduct claims require a slightly higher burden of evidence because such claims can be charged discriminately, and they can be corroborated by a sole witness. Therefore, a higher degree of credibility and evidence is essential. The 'substantial evidence' standard is too low and is fundamentally unfair to VA employees."

The authors of the bill cite that the expanded authority to fire and demote employees is necessary to increase accountability. However, several studies available from the U.S. Merit Systems Protection Board (MSPB) and other nonpartisan organizations confirm that current law provides for the efficient removal of employees for performance or misconduct, but that managers sometimes break the rules which then results in lengthy litigation. It is the implementation of the law, not the law itself, that is the problem.

"Political witch hunts have become a serious concern for career federal employees. This is a time when we should be strengthening our civil service protections, not weakening them," Erwin continued. "Positions of public trust require protections to keep the system honest. This bill ignores 150 years of hard lessons learned, and, if passed, veterans will suffer because the VA workforce will suffer. The low standard for misconduct would open employees to political witch hunts. I would expect to see quality employees leaving the VA in droves."

"This bill sets the VA up for failure by chasing away reputable medical and administrative staff, and counter to the stated intent of the bill, blurs the lines of accountability and transparency," Erwin added. "Instead of this misguided effort, lawmakers should properly fund the VA, provide training and tools for staff to succeed, and secure the systematic protections that enable effective and efficient treatment of VA employees. Gutting workforce protections, as this bill does, would be a disaster."

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Established in 1917, the National Federation of Federal Employees is the oldest union representing civil service federal employees. NFFE represents 110,000 federal employees in 35 departments and agencies government-wide.

NFFE is affiliated with the International Association of Machinists and Aerospace Workers, AFL-CIO.

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