



# NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Affiliated with the International Association of Machinists & Aerospace Workers, AFL-CIO

June 24, 2015

Dear Representative:

On behalf of the National Federation of Federal Employees (NFFE) and the 110,000 federal employees we represent throughout the United States and abroad, including the nurses, doctors, and other healthcare professionals at 17 Department of Veterans' Affairs (VA) hospitals across the country, **I am writing to urge your opposition to H.R. 1994, a bill that would strip VA employees of critical due process rights and eliminate essential whistleblower protections. We urge you to vote "NO" on reporting the bill out of committee later this week.**

While this bill may be intended to improve the care being delivered to the American veteran, an end our organization fully supports, we believe this legislation, if enacted, would have quite the opposite effect. Eliminating due process rights and whistleblower protections of employees at the VA would deliver a tremendous blow to employee morale and would make it even more difficult to recruit and retain the talented and highly-educated healthcare providers that our veterans need and deserve. We believe abolishing critical worker rights and protections would significantly diminish veterans' care, not improve it.

Supporters of this legislation claim this measure is necessary to eliminate poor-performers. However, that is simply untrue for rank and file VA employees. In fact, the VA fired 2,247 employees for disciplinary or performance reasons in fiscal 2013 alone, more than any other Cabinet-level agency, according to data from the Office of Personnel Management. The VA does not have a problem operating within the current structure to handle, discipline and terminate poor-performers.

A key component of H.R. 1994 is extending probationary periods for employees to 18 months, while providing the Secretary unilateral discretion to extend the probationary period – severely limiting appeal rights. Extending employee probationary periods would damage workplace accountability because potential whistleblowers would not have the essential protections necessary to expose abuse early in their careers. From the onset of employment, VA employees would be subjected to a culture of fear, which already exists in many places throughout the VA. Even under current conditions, VA employees are reluctant to come forward with information that would spotlight problems and might not be supported by a VA employee's supervisor or upper management. This legislation would only serve to worsen the culture of fear, keeping employees in an unprotected status for a far greater amount of time. Veterans deserve a system where those providing care are encouraged to come forward when problems are discovered; H.R. 1994 would discourage VA employees from coming forward.

The legislation also works to erode long-standing employee due process rights by setting unrealistic and unattainable Merit Systems Protection Board (MSPB) and appeals adjudication timelines. 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 and would adopt a policy more suitable for the 19<sup>th</sup> Century rather than the 21<sup>st</sup>.



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Administration officials have also expressed their concern for the due process rights being gutted by H.R. 1994. Cathy Mitrano, Deputy Assistant Secretary for the Office of Resource Management Human Resources and Administration for the VA, during a recent hearing said that she believed the legislation goes too far in depriving VA employees' due process protections. She expressed concerns that the proposed expedited adjudication process for termination/disciplinary appeals and grievances would prevent employees from adequately defending themselves.

When similar expedited appeals language was introduced for Senior Executive Service VA employees last year, Susan Grundmann, Chairman of the MSPB, questioned the very constitutionality of the expedited process. The current due process/appeals rights of federal employees were established in an effort to reduce the risk of agency leadership arbitrarily removing employees in favor of persons loyal to political parties. The current system has been established to prevent political patronage. By essentially removing the role of independent reviewers of disciplinary decisions/appeals, H.R. 1994 potentially exposes the VA to significant future corruption.

Ultimately, H.R. 1994 would expand the growing culture of fear plaguing the VA and would have a crippling effect on employee morale – resulting in higher turnover of employees and ultimately resulting in worse standards of care for the brave men and women that served our country, and all at a far greater cost to the American taxpayer.

Again, I strongly urge you to vote 'NO' on reporting H.R. 1994 out of committee later this week. If you have any questions, please contact NFFE Legislative Director Drew Halunen at (202) 216-4458 or [dhalunen@nffe.org](mailto:dhalunen@nffe.org).

Thank you for your consideration.

Sincerely,

William R. Dougan  
National President