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DEPARTMENT OF VETERANS' AFFAIRS

Introduction

Effective workforce policies are critical for the Department of Veterans Affairs to deliver the exemplary health care and other services that veterans have earned through their sacrifice and service. Rapid workforce reductions, hostile management practices that ignore collective bargaining rights, and unsafe working conditions are eroding this essential safety net for veterans.

In 2026, AFGE and its National VA Council (NVAC) will work to ensure that the VA fully use all available tools to recruit and retain a strong workforce. AFGE will continue to fight to reinstate employees' rights to due process, improve employee benefits, restore collective bargaining and official time, and prevent further erosion of civil service protections.

We will take an unwavering stand against attacks on union rights, dangerous staff reductions, and privatization. AFGE will also seek comprehensive Congressional oversight of VA spending and operations in the Veterans Health Administration (VHA), Veterans Benefits Administration (VBA), Board of Veterans Appeals (BVA), National Cemetery Administration (NCA), and other VA components.

THE VA'S STAFFING AND WORKFORCE POLICIES ARE EXACERBATING COSTLY AND UNACCOUNTABLE PRIVATIZATION

Staff Reductions

VHA has always had to compete with other healthcare employers for physicians, nurses, psychologists and others working in clinical shortage occupations. Even prior to staff reductions implemented in 2025 by the Trump Administration, VHA has been terribly understaffed. In 2023, 96% of surveyed VHA employees reported a need for more frontline clinical staff and three-quarters reported a need for additional administrative staff to meet increasing demand from veterans.

To make matters worse, the Trump Administration's massive and indiscriminate staff reductions and unreasonable workforce policies are destroying morale and will ultimately reduce veterans' access to their preferred choice of care, which is in-house care at VA facilities. In January of 2025 the Trump Administration announced a hiring freeze. In March 2025 the administration announced an 80,000 worker Reduction in Force and then subsequently reduced to 30,000 in the face of public backlash. In December, the VA revealed that it still intends to pursue the deeper

cuts that it had initially envisioned when it announced that it would indiscriminately cut 35,000 positions that were vacant largely due to its own policies. According to VA, its workforce decreased from 484,000 employees on January 1, 2025, to 467,000 by June 1, 2025—a reduction of nearly 17,000 positions. At that time, VA projected a total reduction of 30,000 positions and said that the remaining 13,000 would be achieved through attrition rather than further layoffs. As of November 30, 2025, VA reports 439,822 onboards including 392,116 at VHA and 31,204 at VBA. This is a reduction of over 44,000 from the beginning of 2025. It is not clear what baseline the 35,000 further position cuts will be measured against and what the total Full-time Equivalent positions (FTE) reduction will be relative to current onboard FTE.

Concerns persist regarding the accuracy of the VA's internal hiring data, as evidenced by a previous turnaround under the Biden administration where the VA initially said it over hired by 10,000, and would need reductions to reduce a budget shortfall, and later revised its workforce estimates and said it would need to add 5,000 FTEs. Furthermore, reports from AFGE locals indicate that healthcare workforce shortages and VA's punitive workplace policies, such as eliminating telework and telemedicine, are making it difficult to fill even positions exempted from the hiring freeze.

Congressional and Administration Requests

VA should restore the 30,000 positions eliminated thus far and stop plans to further eliminate 35,000 vacant positions.

VA should be transparent about how much care is being pushed out to expensive private care as a result of these cuts and the impact on the quality of care veterans are receiving and enormous and unnecessary extra cost to taxpayers.

VA should improve the accuracy of vacancy, turnover, and recruitment data and be transparent about the number, type and location of staff reductions, ongoing increases in demand for health care services from veterans, and health outcome comparisons between in-house and privatized care for veterans.

LEGISLATIVE PROPOSALS ADDRESSING PRIVATIZATION

The legislative team is actively opposing ongoing congressional efforts to further privatize the VA. In January 2025, Senator Jerry Moran (R-KS) and Representative Mike Bost (R-IL), chairmen of the Senate and House Veterans' Affairs Committees, respectively, introduced S. 275/H.R. 740, the "Veterans' Assuring Critical Care Expansions to Support Servicemembers (ACCESS) Act of 2025." AFGE strongly opposes several provisions within this bill:

Codifying access standards: This would write into law current administrative regulations that push veterans into private care even when higher quality, lower-cost in-house care is available.

Making a veteran's preference for private care a "best medical interest" criterion: This redefines what constitutes optimal care for veterans.

Creating a three-year pilot program for direct access to private mental health and substance use services: This bypasses crucial referral and preauthorization processes and has not been shown to produce outcomes either equal to or better than in-house care.

The ACCESS Act was marked up in the House on July 23, and in the Senate on July 30. The majority intends to advance this bill during the current session. AFGE worked in coalition with ally groups to analyze and propose changes to the bill and propose amendments and provide information to be used to present to the Congressional Budget Office (CBO) to ensure that privatization provisions were adequately scored. AFGE also worked with the House and Senate Veterans' Affairs Committee minority staff and other committee member staff to modify the bill prior to the House and Senate markups. A provision that would make permanent the ability of veterans to seek private care at their preference was scored as costing \$12 billion dollars over 10 years making it too expensive to retain in the House version of the bill because of House budget rules requiring offsets for new spending. AFGE has worked with SVAC staff to make the Senate version of this provision somewhat less problematic—for example, language that passed SVAC limits veterans' preference to situations where the veteran is unlikely to use VA care and requires VA to consider all the relevant factors related to best medical interest. We remain hopeful this provision will fall out entirely because of House budget rules. AFGE is also working to remove language that would allow veterans who skip their appointments with VA to bypass VA care, a provision added at the HVAC markup. Senate minority staff indicate that they will oppose the bill if it includes the mental health pilot program, and they continue to push for changes AFGE and allied organizations have suggested to improve the bill, including requiring VA telehealth to count toward meeting the access standards.

Senator Blumenthal, Ranking Member of SVAC, has introduced an alternative to the ACCESS Act, S. 2623, the "Honor our Promises to Veterans Act of 2025 (the Honor Act)." AFGE has helped write several provisions that would help create a more even playing field between direct care and private care by removing the bias against VA telehealth, making telework the default for all positions that do not require employees to be onsite, and requiring private care to meet standards expected of VA. The Honor Act would also ensure that VA police receive law enforcement pensions and expand reimbursement for continuing professional education for clinicians. AFGE will work with Sen. Blumenthal to continue to improve and refine this important legislation.

Specific Honor Act provisions requiring private care to meet same standards as VA include:

- Requiring publicly accessible information on available providers, wait times, and drive times for both VA and private care.

- Barring private care providers who have felony connections or a history of poor care from VA's list of authorized providers.

- Ensuring that private providers meet the training and quality standards required of VA providers.

- Codifying VA OIG's oversight authority for private providers and facilities so OIG can audit and investigate private providers as it can VA providers.

Requiring private practitioners to provide data on the quality, safety, and timeliness of the care they are providing veterans.

Congressional Requests

Reject provisions in the ACCESS Act and other legislation that would undermine VA's authorizing authority.

Enact provisions in the Honor Act that restore VA telework.

Enact provisions in the Honor Act that require community care providers to meet the same reporting and quality standards as VA.

Enact the Honor Act's provision that would allow VA telehealth to meet the Access Standards and make VA telehealth the default telehealth option when it is available as long as the veteran agrees to telehealth.

ENSURING A SAFE HEALTHCARE WORKPLACE

Background

On January 14, 2024, AFGE submitted comments strongly supporting OSHA's proposed rule on *Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings*. This rule is critical to protecting workers from dangerous heat exposure.

From June 16 to July 2, 2025, OSHA held virtual informal public hearings—the next step in the rulemaking process. On June 17, a panel of AFGE-NVAC members presented oral testimony in support of the proposed rule.

In both written comments and testimony, AFGE and NVAC emphasized the need for a comprehensive heat standard that includes:

Acclimatization – allowing workers time to adjust to heat conditions

Clear heat triggers – defining when protective measures must be implemented

Mandatory rest breaks – ensuring recovery during high-heat periods

Weaker standards fail because “water, rest, and shade” alone are not enough. Strong, enforceable protections save lives.

The NVAC panel included a cemetery worker, an HVAC specialist who serves as a local health and safety representative, and a national representative covering high-heat states. They shared real-world experiences to underscore why an enforceable standard is essential.

Congressional and Administration Requests

Finalize a comprehensive heat standard rule requiring acclimatization, clear heat triggers and mandatory rest breaks

Reject H.R. 6213, the House-proposed legislation that would prevent the standard from being finalized

COLLECTIVE BARGAINING FOR VA EMPLOYEES

President Trump's Executive Order 14251 on "Exclusions from Federal Labor-Management Relations Programs" has caused significant harm to the VA workforce. In addition to AFGE's advocacy for H.R. 2550/S. 2387, the "Protecting America's Workforce Act," which would nullify the Executive Order for the entire workforce, AFGE has pursued other legislation that would achieve the same goal specifically for the VA workforce. Senate Veterans' Affairs Committee Ranking Member Richard Blumenthal (D-CT) and House Veterans Affairs Committee Oversight and Investigations Subcommittee Ranking Member Delia Ramirez (D-IL) have introduced S. 3174/H.R. 6015, the "VA Care and Benefits Accountability Act," that would nullify the Executive Order for the VA workforce. This bill was offered as an amendment to bill in the House Veterans Affairs Committee in 2025, but it failed 12-11 with two Republican absences.

Beyond legislation designed to reverse the Executive Order on collective bargaining, AFGE has taken steps to legislate portions of now ignored collective bargaining agreements into statute. One of these bills is S. 3196/H.R. 6014, the "Right to Representation for Department of Veterans Affairs Workers Act of 2025." This legislation, introduced by Sen. Blumenthal and Rep. Ramirez respectively, would codify Weingarten Rights, specifically the right for an employee to have a representative present if the individual believes the meeting may result in disciplinary action, into statute and not be subject to protection from a collective bargaining agreement.

AFGE will continue to advocate for these bills, and introduce others, to attempt to restore collective bargaining and the protections that were previously granted by the NVAC Master Collective Bargaining Agreement.

Congressional Requests

Gather co-sponsors for S. 2387, the "Protecting America's Workforce Act" (as H.R. 2550 has passed the House of Representatives, no more co-sponsors can be added).

Gather co-sponsors for H.R. 6014/S. 3196, the "Right to Representation for Department of Veterans Affairs Workers Act of 2025."

THE VA ACCOUNTABILITY ACT: A LAW THAT WEAKENS CIVIL SERVICE PROTECTIONS

Background

On June 23, 2017, the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 (the Accountability Act) was signed into law (P.L 115-182). This law, pitched as a remedy to hold bad managers accountable and give employees the chance to report wrongdoing, has failed spectacularly to achieve its stated goal. Instead, the VA wielded its powers under the Accountability Act to fire relatively low-graded employees, many of whom were veterans themselves and dutifully served their fellow veterans at the VA, for minor infractions that did not merit termination, resulting in thousands of employees either being terminated or preemptively resigning from the VA since the law's enactment.

Critical Problems with the Law

While several provisions of the statute have worked against VA employees and in turn interfered with their ability to best serve veterans, there are two critical provisions of the law that are the most glaring and used by the VA to unnecessarily discipline and terminate employees. These two provisions are the change in the standard of evidence used to sustain discipline that is appealed to a neutral, third party and the elimination of the ability of the Merit Systems Protection Board (MSPB) and arbitrators to mitigate (or lessen) a punishment.

Standard of Evidence

Prior to the enactment of the Accountability Act, the VA's burden of proof at both internal proceedings and at the appellate level was that the employee's misconduct met the "preponderance of evidence" standard, meaning that the majority, or at least 50 percent of the evidence is on the VA's side. When the Accountability Act was enacted, the law implemented a "substantial evidence" standard, meaning "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." (Richardson v. Perales, 402 U.S. 389 (1971).) The "substantial evidence" standard is a considerably lower bar to meet than the "preponderance of evidence" standard and can allow a case where the balance of evidence is on the employee's side to still result in termination. Court cases were filed challenging the use of this standard, with the decision in *Rodriguez v. Dept. of Veterans Affairs*, 8 F.4th 1290 (Fed. Cir. 2021), resulting in the court striking down the VA's use of this standard at the internal discipline stage, as the law as drafted only allowed for the lower standard to be used on the appellate level. Although the current VA administration has ceased trying to use the legally infirm Section 714 authority, including the "substantial evidence" standard, the provision remains on the books and could be used to harm VA employees in the future.

Ability to Mitigate

Prior to the passage of the Accountability Act, the MSPB had the power to mitigate a sentence when an employee is disciplined for misconduct, allowing the MSPB to agree with the VA's determination that the employee had committed misconduct under the preponderance of the evidence standard, but that the discipline chosen by the VA was too severe given the nature of the infraction. The Accountability Act removed the MSPB's and arbitrators' ability to mitigate in these misconduct cases, making the MSPB either accept the totality of the VA's determination, or rule that it was too severe, and allow the employee to receive no punishment. This paradigm led the VA to charge more aggressively and punitively than when the MSPB had the ability to mitigate, knowing that the MSPB is more likely to uphold a harsher sentence than overturn a punishment entirely. This has been a severe detriment to employees and unnecessarily resulted in an uptick in terminations. However, in the case *Connor v. Dept. of Veterans Affairs*, 8 F.4th 1319 (Fed. Cir. 2021), this practice was found to be a violation of precedent, concluding that the VA had to continue to use the "Douglas Factors" when determining the appropriateness of a punishment.

Renewed Push for Accountability Legislation

As a result of the rulings in *Ariel Rodriguez v. Department of Veterans Affairs*; *Stephen Connor*

v. Department of Veterans Affairs; Richardson v. Department of Veterans Affairs, and several other opinions, legal rulings and determinations, the VA announced on March 5, 2023, that the VA will prospectively “cease using the provisions of 38 U.S.C. § 714 to propose new adverse actions against employees of the Department of Veterans Affairs (VA), effective April 3, 2023.”

In response to the VA’s decision to suspend the use of the Accountability Act towards bargaining unit employees, Republicans on the House and Senate Veterans’ Affairs Committee held hearings and introduced the “Restore Department of Veterans Affairs Accountability Act of 2023.” This bill, had it been enacted, would have effectively reversed the court decisions that weakened the original 2017 Accountability Act, and have gone further than the original law in making it easier to fire employees. Specifically, the bill would allowed for the abrogation of collective bargaining agreements, reinforced the use of the “Substantial Evidence Standard,” restated the prohibition on the Merit Systems Protection Board to mitigate penalties, limited the use of the “Douglas Factors,” and allowed the bill to apply retroactively to the time when the original 2017 Accountability Act was enacted.

AFGE led a coalition of other unions that represent VA employees in opposition to the bill, including the American Federation of State, County, and Municipal Employees (AFSCME), American Federation of Teachers (AFT), International Brotherhood of Teamsters (IBT), International Association of Firefighters (IAFF), Laborers’ International Union of North America (LIUNA), National Association of Government Employees, SEIU (NAGE), National Federation of Federal Employees (NFFE), National Nurses United (NNU), and Service Employees International Union (SEIU). AFGE also worked closely with the Fraternal Order of Police (FOP) which specifically opposed the proposed abrogation of collective bargaining agreements. Separately, AFGE advocated for certain amendments to the bill to highlight its many problems. Because of this advocacy, AFGE was successful in holding all Democratic members of the House VA Committee in opposition to the bill. This organized opposition prevented Republican from bringing the bill up for vote in the last Congress. Additionally, the Senate companion bill was never considered for a vote in the 118th Congress.

On January 16, 2025, Congressional Republicans reintroduced H.R. 472/S. 124 the “Restore VA Accountability Act,” for the 119th Congress. Following President Trump’s Executive Order 14251, “Exclusions from Federal Labor-Management Relations Programs,” the VA announced on January 23, 2026, that VA intends to resume its use Section 714 of the Accountability Act. This has further halted momentum for the passage of the “Restore VA Accountability Act.”

Congressional Requests

Oppose the “Restore Department of Veterans Affairs Accountability Act” (H.R. 472/ S. 124 in the 118th Congress) when it is considered during the 119th Congress.

IMPROVING RIGHTS AND BENEFITS FOR VA WORKERS

Title 38 Collective Bargaining Rights

VA Employees appointed under 38 U.S.C. 7401(1), (exclusive to “physicians, dentists, podiatrists, chiropractors, optometrists, registered nurses, physician assistants, and expanded- function dental auxiliaries”) are subject to different collective bargaining laws than other VA employees. Specifically, this group is subject to the Title 38 collective bargaining rights law, 38 U.S.C. 7422 (“7422”). This law, enacted in 1991, excludes “compensation,” “professional conduct or competence” or “peer review” from the scope of collective bargaining and grievance procedures for covered VA employees. For over 30 years, the VA has interpreted and applied this section in an arbitrary and expansive manner. As a result, the employees covered by 7422 have not been able to bargain or grieve over a wide range of routine workplace issues that are subject to bargaining by other VA employees and health care professionals at other agencies, including the Defense Department. All too often, the VA weaponizes its use of its 7422 power to nullify valid and binding arbitration decisions or other administrative judicial decisions, and to challenge contractually bargained provisions that have survived Agency Head Review. These 7422 determinations are often unreasonably late and follow extensive litigation before arbitrators, administrative agencies, and federal courts. Finally, the 7422 determinations unreasonably expand the scope of statutory exclusions well into peripheral matters.

In both 2003 and 2017, the White House voided a commonsense VA policy based on a Memorandum of Understanding (MOU) that had expanded Title 38 collective bargaining rights and improved labor management relations. The Biden Administration did not negotiate a new MOU or institute a new policy.

The “VA Employee Fairness Act”

In the 117th Congress, H.R. 1948 and S. 771, the “VA Employee Fairness Act,” was re-introduced by Rep. Mark Takano (D-Calif.) and Sen. Sherrod Brown (D-Ohio) to eliminate the three exceptions in current law that VA has applied to deny every labor request to grieve, arbitrate or negotiate over workplace matters, including schedules, fixing incorrect paychecks, overtime pay, professional education and many other matters.

At the end of 2022, H.R. 1948 had 218 co-sponsors, including two Republicans, more than the bill had ever received in any prior Congress. On December 15, 2022, the bill passed the House of Representatives by a vote of 219-201, including four Republican votes in support. Additionally, the White House issued a Statement of Administration Policy in favor of the bill, which stated “[t]he Administration supports House passage of H.R. 1948, the VA Employee Fairness Act of 2022, to expand collective bargaining opportunities for covered Federal employees.” The statement went further by explaining that “[t]he Biden-Harris Administration supports worker organizing and empowerment as critical tools to grow the middle class and build an inclusive economy. The Federal government, consistent with its obligations to serve the public, can be a model employer in this regard.”

In the 119th Congress, the “VA Employee Fairness Act” was reintroduced in both the House and Senate as H.R. 3261 and S. 1650 respectively. The House version has so far gathered 93 co-sponsors, and the Senate bill has gathered nine co-sponsors.

Despite the implementation of President Trump’s Executive Order 14251, “Exclusions from Federal Labor-Management Relations Programs” which effectively limits the applicability of 7422, AFGE still supports this legislation and will push for its passage.

The “VA Correct Compensation Act”

In the 2022 congressional debate over the “VA Employee Fairness Act” it became clear that there was strong disagreement over changes to certain parts of 7422. However, the debate also demonstrated that there was bipartisan agreement on reform for part of the statute, including compensation as it relates to paycheck accuracy.

After extensive collaboration with Democrats and Republicans on the House Veterans Affairs Committee, on November 30, 2023, Ranking Member Mark Takano (D-CA) and Chairman Mike Bost (R-IL) together introduced H.R. 6538, the “VA Correct Compensation Act of 2023” (VACCA). This bipartisan bill would have defined what compensation is under 7422 and specifically stated that compensation “does not include a grievance challenging whether an employee described in section 7421(b) of this title has received the correct compensation as required by law, rule, regulation, or binding agreement.” This commonsense bill would have directly addressed one of the most common problems for Title 38 employees and helped the VA with recruitment and retention.

This bill has not yet been introduced in the 119th Congress, but AFGE continues to work with sponsors to find an opportunity to pass it into law.

Congressional Requests

- Gather co-sponsors for H.R. 9855/S. 4046, the “VA Employee Fairness Act.”
- Reform and strengthen pay-setting processes for VA physicians, dentists and podiatrists including restoration of an independent, transparent market pay panel, and a fair process for setting performance pay criteria and determining performance pay awards.
- Conduct oversight into the workload and work hours of VA providers (physicians, nurse practitioners, dentists, physician assistants, therapists) and the leave policies affecting them.
- Enact legislation to ensure that VA physicians and dentists on alternative work schedules are covered by fair leave accrual policies that recognize all their hours of work.

Increasing Continuing Professional Education Benefits for VA Clinicians

Many VA clinicians are required to have a professional license as a condition of employment within the VHA. In order to maintain these licenses, many of these employees are required to complete what is known as “Continuing Professional Education” (CPE), depending on their profession and the state in which they are licensed. In the private sector, many employers reimburse employees for the costs associated with CPE to maintain their licenses. However, opportunities in the VA are significantly more limited.

In 1991, Congress enacted a law that allowed “Board Certified Physicians” and “Board Certified Dentists” to be reimbursed up to \$1,000 annually for CPE. This law has not been updated in over 30 years and is extremely limited. The current statute also ignores a large swath of practicing physicians and dentists who work at the VA but are not “Board Certified” and ignores the entirety of other professions that have CPE requirements. Additionally, \$1,000 a year in CPE may have been adequate 30 years ago, but costs for CPE have only gone up, and the VA has failed to keep pace with escalating costs and inflation. Beyond this narrow and small benefit, Medical Center Directors have the authority on an ad hoc basis to reimburse their clinicians for CPE costs, but this practice is haphazard and not evenly distributed within a medical center, and even less so at the VISN or national level.

To address this issue, in the 118th Congress, Congresswoman Julia Brownley (D-CA), Ranking Member of the House Veterans’ Affairs Committee Subcommittee on Health re-introduced H.R. 543, an amended version of the original the “VA CPE Modernization Act.” If enacted this bill would have significantly expanded the CPE benefit throughout the VA. Specifically, the bill would have reimbursed certain clinicians up to \$2,000 annually. The bill also creates a mechanism that gives the Secretary discretion to increase the amounts for clinicians based on inflation.

In the 119th Congress, the “CPE Modernization Act” was reintroduced in the House as H.R. 657 and has so far gathered nine co-sponsors. Additionally, similar language exists in Sen. Blumenthal’s bill S. 2623, the “Honor Act.”

Congressional Requests

Co-sponsor H.R. 657, the “VA CPE Modernization Act.”

Enact legislation to expand eligibility and amounts for Continuing Professional Education Reimbursement for the Title 38 and Hybrid Title 38 Workforce.

VETERANS BENEFITS ADMINISTRATION

Performance Standards and the National Work Queue

Performance standards exist to measure employee performance against a specific set of written criteria, so that managers and employees have a consistent understanding of what is expected on the job. These standards should be fair and attainable for all employees and be flexible enough to adjust for changing circumstances in an employee’s workload. While this should be the case, VBA management has over the years altered or mishandled performance standards in ways that negatively impact employees and veterans. One of the biggest ways that VBA manipulates the work that employees are required to process and that in turn affects performance standards is the National Work Queue (NWQ)

The NWQ was created with the intention of relieving the claims backlog and improving the pace of claims processing. However, its implementation has had a negative impact on veterans and frontline VA workers. One of the most damaging elements of the NWQ is that it has limited “specialization” that allows proper attention to claims that are complex and sensitive in

nature. The VA Inspector General's (IG) highlighted this point in its analysis of the NWQ noting that prior to the implementation of the NWQ:

The Segmented Lanes model required Veteran Service Representatives (VSRs) and Rating Veteran Service Representatives (RVSRs) on Special Operations teams to process all claims VBA designated as requiring special handling, which included [Military Sexual Trauma (MST)]-related claims. By implementing the NWQ, VBA no longer required Special Operations teams to review MST-related claims. Under the NWQ, VSRs, and RVSRs are responsible for processing a wide variety of claims, including MST-related claims. However, many VSRs and RVSRs do not have the experience or expertise to process MST-related claims. (VA OIG 17-05248-241).

Because of the level of difficulty in processing MST claims, AFGE was and remains supportive of the VBA's changes that now send MST claims to a specialized team of claims processors, though problems remain. Claims processors who develop and rate MST claims now get additional "bumper" credit to account for the complexity and time intensiveness of these claims, but the amount of credit should be increased. AFGE also urges that claims processors assigned to MST cases also receive other types of cases in their workload to avoid compassion fatigue.

Based on these changes with MST claims, AFGE supports sending other former "Special Operations" cases including Traumatic Brain Injury, Amyotrophic Lateral Sclerosis (ALS), Camp Lejeune Contaminated Water, and Radiation to specialized Claims Processors, with a corresponding increase in performance credits, beyond "bumper" credits, for more difficult work. Additionally, AFGE urges VBA to modify the NWQ so that cases remain within the same regional office while they are being processed, and that VSRs and RVSRs are more clearly identified on each case file. This will allow for better collaboration between VSRs and RVSRs (as was done prior to the implementation of the NWQ).

On October 29, 2025, the Senate Veterans Affairs Committee held a hearing "Putting Veterans First: Is the Current VA Disability System Keeping Its Promise?" AFGE submitted a Statement for the Record and again outlined many of the problems facing the claims process and offered solutions previously offered by AFGE members to the House and Senate Veterans Affairs Committees, that would better enable employees to serve veterans.

Congressional Requests

- Conduct oversight of the National Work Queue and the challenges it creates for veterans and the VBA workforce including a study of the impact of transferring cases between Regional Offices while they are being processed.

- Conduct vigorous oversight and possible legislation to implement the recommendations made by the reports that study if VBA claims processors are getting fair credit for the work they perform.

- Increase oversight on the status of VBA performance standards and if they are fair to employees and are serving veterans' best interests.

BOARD OF VETERANS' APPEALS

On November 29, 2023, the House VA Subcommittee on Disability Assistance and Memorial Affairs held a hearing titled “Examining the VA Appeals Process: Ensuring High-Quality Decision-Making for Veterans’ Claims on Appeal.” This wide-ranging hearing examined a number of issues facing the Board of Veterans’ Appeals, and what changes should be made to improve the Board. During the hearing, AFGE Local 17 President Douglas Massey testified on AFGE’s behalf, raising the issues below and highlighting the need to improve conditions for frontline Board Attorneys and listen to their concerns. This testimony has become critical to Congress’s oversight of the Board and will continue to reverberate into the future.

Workload and Performance

The workload and performance metrics for attorneys in the Board of Veterans Appeals are a major factor harming the Board’s recruitment and retention efforts. Several factors contribute to this problem, including:

Workload: The Board has made significant changes over the past several years regarding the number of cases and issues a Board attorney must complete annually. Prior to the implementation of the Appeals Modernization Act (AMA), Board attorneys were expected to complete 125 cases a year, a pace that averaged 2.4 cases per week. Each case, regardless of the number of issues decided, carried the same weight towards an attorney’s production quota. In FY 2018, the Board increased its production standards from 125 to 169 cases per annum, (or 3.25 cases per week), a 35% increase in production requirements which was overwhelming for Board attorneys. In FY 2019, the Board created an alternative measure of production for Board attorneys which evaluated the total number of issues decided by an attorney, regardless of the number of cases completed, setting that number at 510 issues decided. AFGE supports the creation of this alternative metric as it better accounts for the work required to complete each case. However, AFGE cautions that measuring the number of issues can also be manipulated to create unfair metrics. Unfortunately, this manipulation appeared in FY 2020, the first year the AMA was fully implemented, because while the case quota remained at 169, the issue quota was raised to 566. Finally in FY 2021, the quota was changed to a more manageable but still difficult 156 cases or 491 issues. Following the termination of the NVAC Collective Bargaining Agreement, the Board has unilaterally imposed new standards that eliminated the issue track entirely, making all cases regardless of issues or complexity worth equal credit. Additionally, the quota is now based on the GS level of the employees, with GS 11 attorneys remaining at 156 cases, but GS-12 and GS-13 rising to 169, and GS-14 rising to 182. These unrealistic quotas will reduce decision quality, increase attrition for Board Attorneys, and will result in veterans waiting longer to receive decisions on their appeals.

Staffing: The Board is also facing the consequences of a shrinking staff. Per OPM, the number of individuals employed by the Board broke 1,000 for the first time in 2018, reaching 1,043. That number generally increased (with a slight dip in 2021), and peaked in 2024 with 1,468 employees. Unfortunately, due to attrition, incentives to leave government, and a hiring freeze, that number dipped to 1318 in 2026. The net loss of 150 Board employees (more than 10% of the Board workforce) will cause veterans to wait longer for decisions to be processed/dispatched and for hearings to be conducted.

Judicial Sign Off: A Board attorney may only receive credit for a case once a judge signs off on the work. While this requirement may appear reasonable, delays caused by overburdened judges can cause attorneys to miss their quotas through no fault of their own. When attorneys are adjudged to be performing poorly based on such missed quotas, it violates Article 27, Section 8, Subsection E of AFGE's collective bargaining agreement with the VA, which states "When evaluating performance, the Department shall not hold employees accountable for factors which affect performance that are beyond the control of the employee." The VA should adhere to the terms of the collective bargaining agreement.

Training: BVA has provided inadequate training for Board Attorneys, including only two hours of mandatory training required by the PACT Act. In response to a plethora of complaints and inaction by management, Local 17 initiated a union led program aimed at providing tools, support, and efficiency strategies to ensure the success of decision-writing attorneys. While upper management has taken notice of this successful initiative, there has been no effort to institute an analogous program on their part. Unfortunately, and predictably, the impacts of minimal training include decreased quality of decisions. Insufficiently trained attorneys are more likely to require additional time to research and understand the new law, leading to delays in claims processing and a backlog of cases. This inefficiency further delays veterans' access to benefits. Faced with the challenge of applying complex legal changes with minimal training, attorneys may experience moral and professional dilemmas, contributing to low morale, burnout, and high attrition at the Board. It is imperative that the Board revises its training protocols either on its own or through a statutory mandate, ensuring that our attorneys are not only well-versed in the intricacies of new legislation but are also fully prepared to uphold the rights and entitlements of our veteran population.

Congressional Requests

- Increase oversight on the current status of Board attorney performance standards and assess if they are best serving veterans.
- Increase funding for the Board to hire more attorneys.
- Encourage the VA to eliminate the judicial sign off requirement for Board attorneys' performance measures.
- Require the Board to improve training for attorneys.

Recruitment and Retention

The Board of Veterans' Appeals is a place where attorneys should have a path to work for their entire careers. To accomplish this goal, the Board needs to re-establish a standard career ladder for GS-14 Board Attorney positions which had until recently existed for new hires. Eliminating this level of growth and compensation for attorneys is a direct way of dissuading qualified applicants from joining the Board of Veterans Appeals or choosing to stay long term. The VA should reverse this shortsighted policy and attract the best candidates to the Board's ranks.

To accomplish this, in the 118th Congress AFGE worked with Congressman Morgan McGarvey (D-KY) and Gus Bilirakis (R-FL) to introduce H.R. 9046, the "Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act." This bipartisan bill would

authorize the creation of a journeyman non-supervisory GS-15 Board Attorney position. Currently, Board attorney grades range from GS-11 to GS-14. Of the approximately 871 attorneys currently at the Board, 439 attorneys are at the GS-14 level. While not all attorneys would qualify or choose to advance to a GS-15 position, creating the possibility for 100 to 200 GS-15 attorneys would help with long-term recruitment and retention. It is also important to note that there are non-supervisory journeyman GS-15 attorneys within the VA Office of General Counsel, thus setting a precedent. As Board attorneys are in the Excepted Service, it is within the Secretary's discretion to create and fill these new positions. AFGE has encouraged the Secretary to create this advancement opportunity and has asked Congress to voice its support for this change or pass legislation establishing its creation. On July 10, 2024, Nick Keogh the 2nd Vice President of AFGE Local 17 and a NVAC National Representative testified at a House Veterans Affairs Committee Subcommittee on Disability Assistance and Memorial Affairs hearing on "Pending Legislation" in support of this bill. In the 119th Congress, Rep. McGarvey, now the Ranking Member of the Disability Assistance and Memorial Affairs Subcommittee that has jurisdiction over this legislation, reintroduced as H.R. 2303, the "Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act," which is now pending a markup in the House Veterans Affairs Committee.

The Board has also over the past several years hired Veteran Law Judges ("Board Members") who have little to no experience in veterans law. In the past, Board Members were required to have seven years' experience in veterans law but now are chosen for "leadership skills." This is a disservice to veterans who now have claims before judges who are learning on the job, and whose inexperience is causing delays that veterans cannot afford. A request for information from the Board confirmed that the least productive Board Member who was appointed from within the Board was more efficient at moving cases than the most productive Board Members chosen from outside the board. This inefficiency, specifically new Board Members being slow in signing off on decisions, has negative impacts on the performance metrics for Board attorneys, and is another driver for Board attorneys' fleeing. Additionally, by eliminating the experience requirement for Board Members and not promoting knowledgeable Board attorneys to these positions, the Board is eliminating a natural path for promotion and harming recruitment and retention. AFGE urges the Congress to amend Title 38 to require that Board Members have substantial experience in veterans law. To address this issue, Rep. Julia Brownley introduced H.R. 659, the "Veterans Law Judge Experience Act of 2025," which would require that when "recommending individuals to the Secretary to serve as members of the Board, the Chairman shall give priority to individuals with three or more years of legal professional experience in areas that pertain to the laws administered by the Secretary." This legislation was approved by committee on July 23, 2025, by voice vote, and passed the full House of Representatives on January 20, 2026, by voice vote.

Congressional Requests

Gather co-sponsors and pass H.R.2303, the "Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act."

Ask Senators to pass H.R. 659, the "Veterans Law Judge Experience Act of 2025."