



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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May 3, 2018

Honorable Johnny Isakson, Chair
U.S. Senate Committee on Veterans' Affairs
412 Russell Senate Office Building
Washington, D.C. 20510

Honorable Jon Tester, Ranking Member
U.S. Senate Committee on Veterans' Affairs
825A Hart Senate Office Building
Washington, D.C. 20510

Honorable Phil Roe, M.D., Chair
U.S. House Committee on Veterans' Affairs
335 Cannon House Office Building
Washington, D.C. 20515

Honorable Tim Walz, Ranking Member
U.S. House Committee on Veterans' Affairs
333 Cannon House Office Building
Washington, D.C. 20515

Dear Chairmen Isakson and Roe and Ranking Members Tester and Walz:

I am writing on behalf of the more than 250,000 VA employees represented by the American Federation of Government Employees, AFL-CIO, and its National VA Council (AFGE) to express our concern about the overreach and abuse of power from the leadership of the Department of Veterans Affairs, specifically within the Veterans Benefits Administration (VBA). In the wake of the passage of the "Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017," (the Accountability Act), VBA has used the changes in the law to target frontline employees, many of whom are veterans themselves, and who are essential for veterans to receive the benefits they earned. VBA's latest tactics to speed up the removal of employees reveals the administration's true colors and requires increased oversight from the Congress.

The greatest abuse of the powers bestowed on the VA with the passage of the Accountability Act has been the removal of frontline employees without adequate opportunity to defend their jobs or improve their performance. Since the passage of the Accountability Act, the VA has been unresponsive in providing demographic and other relevant information on employees who have been removed, demoted, or suspended under the Accountability Act, and only recently responded to an October 2017 AFGE Freedom of Information Act request with incomplete information. According to AFGE's analysis of published VA data on terminations occurring after the passage of the Accountability Act, 1,646 employees have been removed through February of 2018, with only 18 of those individuals being supervisors.

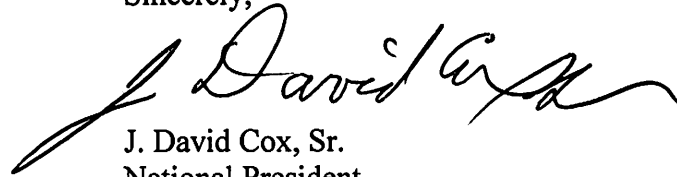
While these terminations are bad enough in their own right, the VBA has recently found a way to exacerbate the problem. Prior to the passage of the Accountability Act, under the negotiated agreement between the VA and AFGE, VA employees were to be placed under 90-day Performance Improvement Plans (PIPs) to give employees the chance to improve and remain in the workforce. After the passage of the Accountability Act, the Office of Field Operations



(OFO) unilaterally imposed guidance overriding the negotiated PIP process, giving VBA employees serving in particular positions up to eight weeks to improve their performance, or be subject to immediate termination (OFO Letter 20F-18-01). After AFGE filed a grievance about the OFO Letter, VBA rescinded the guidance associated with it, and instead of returning to the more reasonable and consistent policy, unilaterally imposed a more chaotic requirement (via Human Resources Management Letter No. 05-17-06) that is devoid of any fixed timeframes for performance improvement. Even Diana Rubens, Director of the Philadelphia and Wilmington VA Regional Offices acknowledged “We no longer have specific timeframes to use to guide progress on performance actions.” In turn, employees now fear they can be fired at will with little reason or recourse. As Ranking Member Tester and minority members of the committee pointed out in their February 26, 2018 joint letter to Secretary Shulkin, referencing the elimination of PIPs and progressive discipline, that “this is unacceptable and runs counter to congressional intent and your [Sec. Shulkin] previous comments.”

The situation is rapidly devolving, and with the absence of a Secretary of Veterans' Affairs who is committed to protecting employees, it becomes more dire every day. As a result, we respectfully request that the Senate and House Committees on Veterans' Affairs conduct an oversight hearing to fully examine and rectify this problem, and immediately call on the interim leadership at the VA to stop this egregious and irresponsible behavior that is hurting our nation's veterans.

Sincerely,

A handwritten signature in black ink, appearing to read "J. David Cox, Sr.", with a long, sweeping underline that extends to the left and then curves under the name.

J. David Cox, Sr.
National President