



SENIOR EXECUTIVES ASSOCIATION

The voice of career federal executives since 1980

July 10, 2023

The Honorable Jen Kiggans
Chairwoman
Subcommittee on Oversight and Investigations
Committee on Veterans' Affairs
Washington, DC 20515

The Honorable Frank Mrvan
Ranking Member
Subcomm. on Oversight and Investigations
Committee on Veterans' Affairs
Washington, DC 20515

RE: H.R. 4278, Restore Department of Veterans Affairs Accountability Act

Dear Chairwoman Kiggans, Ranking Member Mrvan, and Members of the Subcommittee:

On behalf of the Senior Executives Association (SEA) – which represents the interests of career federal executives in the Senior Executive Service (SES), those in Senior Level (SL), Scientific and Professional (ST) and equivalent positions and other senior career federal leaders, including our members at the Department of Veterans Affairs (VA) – I write to provide SEA's comments on H.R. 4278 which will be considered during the subcommittee's July 12 legislative hearing.

It is our view that some members of Congress are using veterans as political pawns to erode the VA's capacity and the American people's trust in its workforce. While accountability issues exist at the VA and across the federal workforce, H.R. 4278 is not the answer. SEA views this proposed legislation as completely unnecessary for holding career VA employees accountable. In fact, it is very likely this legislation will have a significant adverse effect on the VA's ability to attract, recruit, and retain quality supervisors, managers, and executives, as have the 2014 and 2017 laws.

There are real accountability issues across the federal workforce, but talking-point reforms based on cherry picked VA anecdotes will not solve them. This proposed legislation selectively picks anecdotes that admittedly look, sound, and seem bad, such as the situation at the Loma Linda VA Medical Center, but uses them as justification for extraordinary broad and far-reaching policy proposals such as this overreaching legislation.

Over the last decade, Congress has twice passed VA Accountability reform measures, in 2014 and 2017. In both instances, the VA Secretary solicited Congress for more authority to manage the workforce; the same is not true today. SEA had the foresight and resolve to oppose those earlier efforts because it was clear the proposals were constitutionally suspect, and thus unworkable in promoting greater accountability to those who have sacrificed so much for our country.

Our concerns were validated as the VA Office of Inspector General, the U.S. Merit Systems Protection Board (MSPB), the U.S. Office of Special Counsel (OSC), the Federal Labor Relations Authority (FLRA), and federal courts found repeated abuses of power and authority by the VA in implementing these laws. The result was perverse—personnel actions were overturned and employees who were fired were reinstated, with back pay.

While opposing those bills, SEA never disagreed with the bipartisan recognition that managing the federal workforce is entirely too complex and cumbersome; indeed, SEA has championed civil service reforms for the Association's entire 40+ year history.

Sadly, some of the rhetoric surrounding this bill irresponsibly foments distrust of the other co-equal branches of government, including the federal judiciary and executive administrative agencies including the MSPB and FLRA.

Our American system of government is a system of checks and balances, a genius design of our nation's founders. Recent decisions by federal courts and administrative agencies that have [disrupted elements of the Accountability law](#) are proof that this constitutional system of checks and balances work—a system of rule of law that servicemembers and veterans have fought and died to protect. While it may be frustrating to some members of Congress that the courts have acted, it is equally important for Congress to respect the rule of law and learn lessons from these episodes. Congress must listen to the VA about what it says are the barriers and opportunities to managing a workforce of over 425,000 employees and an ever-expanding mandate to provide benefits and services to veterans.

For a decade, SEA has consistently expressed to Congress that the VA cannot fire its way to excellence. The association has never shied away from assisting agencies, congress, and administrations explore constitutional, good government solutions to enhance agencies' effectiveness.

Recent actions by Congress to positively support and strengthen the VA workforce, for example through passage of the PACT Act, this committee's advancing of the Veterans Health Administration Leadership Transformation Act (H.R. 1256), and bipartisan consideration of the VA Clinician Appreciation, Recruitment, Education, Expansion, and Retention Support (CAREERS) Act of 2023, are notable, as is the positive rhetoric that has come with them. These actions address real impediments. The VA workforce is the key to achieving consistent, mission excellence that Congress, the VA, and veterans expect. The ability to attract, recruit, and retain exceptional talent are paramount to this effort.

Congress must take action to ensure VA is an attractive and welcoming employer for supervisors, managers, and executives who are critical to its operations, rather than constantly denigrating these dedicated professionals.

SEA continues to hear concern from our members, both at the VA and other agencies, that Punitive accountability laws do not work. They harm the ability of the VA to attract, recruit, and retain talent. This challenge is particularly acute for the VA's Senior Executive Service (SES) employees, who Congress excluded from having any whistleblower protections whatsoever (38

U.S.C. § 713). Members of Congress persisting to push legislation to address a false accountability narrative will continue to discourage excellent leaders from considering VA employment.

As the past decade has demonstrated, agency-specific reforms such as “VA Accountability” that do not address root causes, adopt lessons learned, and engage the expertise of committees of primary jurisdiction—in this case the Oversight Committee’s expertise on federal personnel laws—are simply a recipe for mediocrity and wasting taxpayer money.

SEA strongly believes that the current processes for managing the federal workforce are too cumbersome and time consuming and need to be streamlined. SEA is eager to work with Congress to enact civil service modernization for all of the federal government that is constitutional, backed by empirical evidence, and responsive to the American people. Advancing punitive talking point legislation that fails to address agency needs will not benefit VA, its workforce, nor veterans.

Politically motivated, under the auspices of better serving veterans, this proposed legislation represents a solution in search of a problem. SEA encourages members to **oppose H.R. 4278**, the Restore Department of Veterans Affairs Accountability Act, which is an unnecessary distraction.

If you wish to further discuss SEA’s views, please contact SEA Director of Policy & Outreach Jason Briefel at Jason.Briefel@seniorexecs.org.

Sincerely,

A handwritten signature in dark ink, appearing to read "ML Hill", with a stylized flourish at the end.

Marcus L. Hill
President