AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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367320

March 10, 2017

U.S. House of Representatives
Washington, DC 20515

Re: AFGE Opposition to H.R. 1259

Dear Representative:

I am writing on behalf of nearly 700,000 federal employees represented by the American Federation of Government Employees, AFL-CIO (AFGE), including 230,000 employees of the Department of Veterans Affairs (VA) to urge you to oppose H.R. 1259, a bill introduced by Representative Phil Roe (R-TN) to eliminate collective bargaining rights and significantly cut the due process rights of employees facing a proposed removal, demotion, or suspension (adverse action).

H.R. 1259 is a direct assault on the union rights of every VA employee, including more than 120,000 veterans within the VA workforce. This bill also makes it easier to fire people for good reasons **and for bad reasons.** This bill will hurt, not fix, the VA. It will reverse the significant improvements made over the past two years, and will make it harder for veterans to get the veteran-centric medical care and benefits on which they rely.

In addition to punitive, counterproductive due process attacks recycled from earlier bills, H.R. 1259 breaks new ground by union-busting. The bill destroys the right of every VA front line employee to use union grievance procedures to efficiently and fairly address proposed adverse actions. The grievance procedure is not only part of the law but also part of the contract negotiated between labor and management. The only avenue that VA front line employees will have left is a rushed management-run appeals process that does not allow good employees enough time to gather the evidence they need to defend their jobs. For medical professionals facing proposed adverse actions related to professional conduct or competence, the reductions in the timeframe for the agency review process are more severe, even though their cases typically involve complex medical issues.

In addition, all front-line employees **and** managers will have weaker rights to appeal to the Merit System Protection Board (MSPB), their first chance at an independent review. They will only have seven days to appeal to the MSPB after they are fired (and off the payroll), and the bill ties the hands of the MSPB Administrative Judge (AJ) with the recycled "one-size-fits-all" prohibition against mitigating the penalty, regardless of the facts of the individual case.

When the employee loses at the MSPB (which happens in 80% of cases now), he would have only seven days to prepare an appeal to the United States Court of Appeals for the Federal Circuit.

How does this impact the life of a veteran working in a VA? What if a veteran working in a regional office processing claims is trying to do his job in the face of unfair allegations of poor performance by a manager who did not want to hire a veteran and did not train him properly before rushing him onto the job? It means that he only has ten days to gather all the evidence he needs to

respond to a proposed removal and his manager only has five days to decide whether to go ahead and fire him. Therefore, 15 days after learning that he may be fired, he has no job and no paycheck. Then he has one week to get his appeal to the MSPB, during which he must hire an attorney if he can afford one, where the AJ cannot give him a suspension or demotion even if the judge believes that the facts dictate a less severe punishment than removal. When the MSPB upholds the decision to fire him, he has just one week to prepare his appeal to a federal appeals court (and again, hire an attorney if he can afford one), while he is without a job and without a paycheck

Congressman Roe and other proponents of bills to strip VA employees of basic rights to fight for their jobs claim that employees sit around for years doing nothing on paid administrative leave while their appeals are pending. This is patently untrue. Last December, Congress placed a 14-day cap on paid administrative leave for all VA employees (Public Law 114-315). After the agency makes its final decision, you're fired" means no job and no paycheck while you pursue appeals to the MSPB or court.

Just last month, Congressman Roe stated that "the men and women who have fought for our great nation should never have to struggle to find a job," but his bill attacks every option that veterans in the VA workforce have to save their jobs in the face of unjustified firings regularly.

Congressman Roe has also expressed his intentions to reduce mismanagement at the VA, but his bill weakens the critical protections that VA employees need to speak up against mismanagement and patient harm. Every day, employees throughout the VA report concerns to management that directly impact patient safety, health care access, processing of disability claims, and many other functions essential to the agency mission.

Congressman Roe opposes the hiring freeze because he understands how critical it is for veterans who depend on the VA to have a "robust clinical workforce." Yet his bill singles out VA employees, including every clinician caring for veterans, for worse treatment than other federal employees through recoupment of compensation already earned, including pensions, relocation bonuses, and performance bonuses. These provisions are unnecessary and violate due process. There are already ample safeguards in the law against retention of improper relocation and performance bonuses, and the VA has already dismantled the relocation bonus program that was the subject of abuse allegations. In addition, this bill directly contradicts private sector law that forbids the recoupment of pensions.

Thank you for considering the views of AFGE. If you need more information, please contact Marilyn Park of my staff at mpark@afge.org or 202-639-6456.

Sincerely,

J. David Cox, Sr.
National President