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Vote No on H.R. 1994 The VA Accountability Act *Opposed by the Senior Executives Association*

- 1) HR 1994 represents a series of unnecessary legislative “fixes” to a system that already provides the VA and every other federal agency the power to fully address performance and conduct problems in its workforce. The system that exists today is fair and reasonable, but may not be used to its greatest potential. Congress should not pass another mean spirited piece of legislation designed to promote more anti-public worker sentiment and further demoralize the federal workforce. *Rather, SEA asks Congress to focus agencies on using the legal authorities that already exist to the fullest potential under the law.*
- 2) Under Section 715, career non-SES employees could be removed by the Secretary for performance or misconduct and given an expedited review at the MSPB of 45 days, with no further review beyond an MSPB administrative Judge. Section 715 resembles the draconian MSPB review process imposed by “The Veterans Access, Choice, and Accountability Act of 2014” for career senior executives. Through its 2014 legislation, Congress only provided SESers 21 days of review time before the MSPB, but would give non-SESers 45 days through this legislation, double the amount of processing time for the same types of offenses in the very same forum with absolutely no explanation or justification. When taking a federal employee’s job through stigmatizing charges of wrongdoing, all federal employees should be entitled to a process that is sufficiently fulsome to ensure that this government taking of their job is the product of a correct and fair decision. If Congress believes that 45 days is required to achieve this democratic principle then it should extend the 45 day process to career senior executives.
- 3) HR 1994 provides new internal rights and process to whistleblowers without explanation why VA workers should receive additional protections beyond what is currently available to most Executive Branch agencies. SEA believes in the current set of rights and process available to the entire federal workforce under the Whistleblower Protection Act. The additional internal rights and processes under HR 1994 would add unnecessary complications and bureaucracy to the management of VA’s internal disciplinary proceedings in an era of complaints about big, overreaching government. These provisions are burdensome work on supervisors and managers and will detract from private sector talent entering the VA workforce. In sum, *these provisions seem targeted at criticisms that the VA’s internal disciplinary proceeding is rife with managers retaliating against employees, claims which are unsubstantiated by real data.*
- 4) Mandatory penalties in a newly imposed severely limited internal process for supervisors accused of whistleblower reprisal is legislating to the minutiae. A full statutory set of powers and process already exists to deal with those accused of whistleblower reprisal and Congress offers us no reason why this new process is needed. It limits all discretion to the agency, and in doing so, Congress unreasonably interferes with the exercise of power by the Executive Branch.
- 5) HR 1994 would subject Senior Executives within the VA to mandatory reassignment at least once every five years. This sets an arbitrary requirement on the VA that could cost tax payers millions of dollars in relocation expenses Also, many Senior Executives who hold position in the VA health care system are Fellows of the American College of Healthcare Executives. Requiring such a rotation without regard to business purpose or the requirements of the position serves no useful purpose.
- 6) HR 1994 sets arbitrary limits within the performance appraisal system for Senior Executives by only allowing 10% of individuals to receive the “outstanding” level and 20% to receive the “exceeds fully successful” level, irrespective of actual performance. By setting these limits, Congress creates a process that prevents even any semblance of an accurate or fair rating system. This is one more way to drive out talented managers and foreclose interest from those in the private sector from entering VA management.