



CONGRESSIONAL

TESTIMONY

STATEMENT FOR THE RECORD

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

PROVIDED TO THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

AND WOMEN VETERANS TASK FORCE

OVERSIGHT HEARING ON

"SAFETY FOR ALL: ENDING SEXUAL HARASSMENT

IN THE DEPARTMENT OF VETERANS AFFAIRS"

JULY 22, 2020

Chairman Pappas, Ranking Member Bergman, Women Veterans Task Force Chairwoman Brownley, Members of the House Committee on Veterans' Affairs Subcommittee on Oversight and Investigations, and the Women Veterans Task Force (Task Force), the American Federation of Government Employees, AFL-CIO (AFGE) and its National Veterans Affairs Council (NVAC) appreciate the opportunity to submit a statement for the record on today's oversight hearing entitled "Safety for All: Ending Sexual Harassment in the Department of Veterans Affairs."

AFGE represents more than 700,000 federal and District of Columbia government employees, 270,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. These include thousands of employees who are also veterans and who receive VA health care and other VA services on a regular basis. AFGE also represents many employees who specialize in treating women veterans and other veterans at risk of sexual and gender harassment, including both Military Sexual Trauma (MST) coordinators and MST therapists who work in VHA Women's Programs, PTSD clinics, and other specialty units.

Our comments identify ways to make the VA a safer and more welcoming environment for all, including veterans, their family members, and the front-line workers who provide health care and other critical services to our nation's veterans. We hope that you find our recommendations constructive and reasonable, and we stand ready to work with the members of the Committee to improve the VA in the future.

AFGE is proud of its long history of working with management to reduce sexual and gender harassment in VA workplaces. Under prior Administrations, AFGE maintained an ongoing dialogue with management on working conditions including ensuring a safer and more welcoming workplace. We addressed these issues with management through a labor-management partnership, joint training programs, joint task forces, and collective bargaining.

Our joint efforts with management to reduce harassment have improved not only the work environment but also the experiences and outcomes of veterans receiving services. Unfortunately, most of the avenues we have used to offer input and improve the environment for VA patients and employees are no longer utilized by the VA.

This missed opportunity is especially disappointing in light of the recent findings of the GAO's new report on sexual harassment in the workplace, "*GAO, Sexual Harassment: Inconsistent and Incomplete Policies and Information Hinder VA's Efforts to Protect Employees,*" GAO-20-387 (Washington, D.C.: July 15, 2020). The report states that that up to 27 percent of VA employees recently experienced some sexual harassment in the workplace. It is equally disappointing that a number of GAO's recommendations address problems that could be partly remedied through labor-management collaboration such as improving incomplete policy documents and weak training programs that currently fail to properly guide the workforce about how to respond to harassment.

The Department's ongoing attacks on our contract have further undermined the ability of front-line employees and the union to reduce sexual and gender harassment. For example, the VA is specifically seeking to prohibit union representation of employees who file Equal Employment Opportunity (EEO) complaints for sexual harassment or other discrimination. As we stated in our recent rebuttal to the Federal Service Impasses Panel (FSIP) in connection with litigation about negotiations to renew our contract, "The VA wrongly claims that VA Office of Resolution Management and Diversity Inclusion ("ORMDI") staff are available to "advise and assist" employees with processing complaints; thereby alleviating the need for a representative (calling it "redundant representation") . . . There is only one reason the VA would seek to deny employees representation on the substance of their EEO complaint and that reason is to illegally coerce employees into dropping their complaints."

The Department is also attacking the grievance procedure negotiated through our contract. They do not want harassment cases going to arbitration, which forces them to be filed with the Equal Employment Opportunity Commission (EEOC) where complainants face a three-year backlog. Such a process delays decisions on harassment cases and keeps victims unnecessarily waiting for resolution.

The union has already lost a significant amount of official time through a 2018 Executive Order and the Secretary's repudiation of current official time contract provisions. Now

the Department is trying to prohibit union officials from using official time for EEO cases. This will prevent representation, including informal representation, in harassment cases.

Almost everything in the VA's extreme contract proposal (which it is trying to impose on the union unilaterally through FSIP) will allow harassment to continue. The VA ultimately wants "maximum flexibility" for all conditions of employment, e.g., awards, reassignments, step increases, promotions, and telework. They want to eliminate all the Union's proposals that put parameters on their discretion. Unfettered discretion is a breeding ground for harassment and manipulation.

Current management practices have worsened the work environment and, in some cases, have reversed progress already made. Staffing is one of many factors that undermine efforts to create a better work environment. As a local president reported from one VISN 23 medical center, the Medical Center Director has not filled its vacant EEO manager position for over a year. Now, two facilities are forced to share one EEO manager who is unable to make timely reports when complaints are filed and who has treated the AFGE local president with hostility.

VA leadership fails to hold management accountable for sexual and gender harassment at many facilities across the country, despite the enactment of the 2017 VA Accountability and Whistleblower Protection Act which had the stated purpose of holding bad managers accountable. In cases involving supervisor-to-employee

harassment, employee-to-patient harassment, and patient-to-employee harassment, it is too often the case that managers do not take prompt or appropriate action.

Employees are told that the harassment-filled culture in the VA is unchangeable and benign and they should just learn to live with it. Some employees prevail in EEO complaints against their managers but still must keep working for them. One of our VISN 10 union officers represented a female employee who had been sexually harassed by a patient for a long time without any intervention by management despite multiple reports. At that time, employees were subjected to an intimidating local policy that stated, "Therefore false accusations will result in the same severe disciplinary actions applicable to one found guilty of sexual harassment." The VA Central Office eventually required that posting to be removed.

RECOMMENDATIONS

First and foremost, the Department's unending attacks on VA bargaining unit employees' contractual rights have diminished the ability of front-line employees and their representatives to prevent and respond to sexual and gender harassment. The union's past role in addressing harassment in the work environment will remain in the past if this Administration is allowed to continue to silence frontline workers and decimate the union's ability to participate in agency initiatives that improve conditions for patients and employees.

AFGE supports GAO's recommendation that the Department realign its EEO Program Manager under the Office of Resolution Management. In addition, we support GAO's recommendation for expansion of a mandatory training program, and it should be required for all managers and rank and file employees. Annual online Talent Management System (TMS) training on sexual harassment is not sufficient. The Department's campaign to pledge to stop sexual harassment was not effective or very memorable in the views of frontline employees. AFGE strongly urges the Department to resume labor-management partnership and collaboration about training for this critical need as well as others. We also recommend the Office of Diversity and Inclusion provide expanded training and programs on safe work environments.

More generally, the Department's ability to effectively address longstanding problems with sexual and gender harassment at its facilities that adversely affect patients and employees will be improved by restoring a positive labor-management dialogue.

We encourage the Committee to also consider an expanded role for the Employee Assistance Program to provide a more effective, timely response to harassment reports and participate along with other agency efforts to secure a culture change. We also urge the Committee to consider a change to the VA Accountability and Whistleblower Protection Act to allow terminations and other adverse actions to be held in abeyance pending an investigation by the EEOC of harassment similar to the exception under the Act for whistleblowers.

AFGE stands ready to work with the Committee on all the steps needed to reduce sexual and gender harassment at VA facilities and ensure that both veterans and employees feel safe there. Thank you.