



CONGRESSIONAL TESTIMONY

STATEMENT FOR THE RECORD

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

PROVIDED TO THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

HEARING ON

“PENDING LEGISLATION”

MARCH 26, 2025

Chairman Luttrell, Ranking Member McGarvey, and Members of the Subcommittee:

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 hearing on "Pending Legislation." AFGE represents more than 750,000 federal and District of Columbia government employees, nearly 320,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. These include front-line providers at the Veterans Health Administration (VHA) who provide exemplary specialized medical and mental health care to veterans, the Veterans Benefits Administration (VBA) workforce responsible for the processing veterans' claims, the Board of Veterans' Appeals (Board) employees who shepherd veterans' appeals, and the National Cemetery Administration employees (NCA) who honor the memory of the nation's fallen veterans every day.

With this firsthand and front-line perspective, we offer our observations on the following bills being considered at today's hearing:

Discussion Draft of the "Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act"

AFGE strongly supports Ranking Member McGarvey's (D-KY) and Rep. Bilirakis's (R-FL) draft legislation, the "Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act." This legislation will help the Board with retention of its attorney workforce by making the full performance level for non-supervisory Board staff attorneys Grade 15 on the General Schedule (GS-15).

As AFGE Local President Doug Massey testified to the DAMA Subcommittee in November 2023, for many decades, the Board has had a GS-14 career path for attorneys. However, in November 2021, Board leadership downgraded the career path to GS-13, which is counterintuitive from a management perspective and does not help the VA's and this subcommittee's goal of recruitment and retention of talent. Any competent executive understands the importance of competitively remunerating the highest qualified candidates for any job based on their work and abilities. Eliminating this level of growth and compensation for

attorneys dissuades qualified applicants from joining the Board or from choosing to stay long-term. Instead of attempting to remain minimally competitive with the private sector, Board management has effectively lowered the career path salary for attorneys, widening the pay gap faced by public employees. AFGE firmly believes that this Committee shares AFGE's commitment to ensuring that disability claims for veterans and their families receive the highest level of attention, and that this policy change is contrary to that goal.

At the same hearing, Mr. Massey provided additional testimony outlining the extraordinary and uncredited work that senior non-supervisory Board attorneys take upon themselves to train newer attorneys in the absence of suitable training from Board leadership, which has helped dozens of employees improve and now thrive at the Board.

From this testimony and additional conversations with subcommittee members and staff, it is clear that members of the subcommittee do not agree with Board leadership's penny-wise and pound-foolish treatment of Board attorneys, especially considering the critical role the Board plays for veterans, the relatively small size of the Board, and the nuanced expertise required of Board attorneys. To help reverse this trend, AFGE applauds Rep. McGarvey and Rep. Bilirakis for drafting the "Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act." If enacted, this bill will authorize the Board to promote non-supervisory attorneys to the GS-15 level, when appropriate. With this authority, the Board can fulfill the committee's goal of retaining senior attorneys at the Board who have institutional knowledge of the Board and expertise in veterans' law. This will encourage senior attorneys to stay at the Board and not look for other GS-15 jobs elsewhere within the government, including within the VA Office of General Counsel, where these jobs do exist, and potentially delay retirement. Furthermore, by making the full performance level for Board attorneys GS-15, it will also undo the Board's promotional cap on new attorneys at GS-13 and allow attorneys who meet qualifications to be eligible for promotion to GS-14. This increased retention will also benefit the Board financially by reducing expenditures on recruitment of new attorneys by reducing turnover. Most

importantly, this will help keep the most experienced and productive Board attorneys at the Board to continue serving veterans.

In 1994, Congress took legislative action to place Board Members and Veterans Law Judges on the Administrative Law Judge pay scale. By enhancing the compensation levels of the adjudicators signing Board decisions, retention levels for Board members significantly increased and the issue was resolved. Today, this legislation could also resolve the retention issues caused by highly qualified decision writing attorneys leaving the Board for the VA Office of General Counsel and to other agencies for greater compensation and a better work environment.

The “Best Places to Work in the Federal Government” rankings issued by the Partnership for Public Service and Boston Consulting Group in May 2024, have the Board of Veterans’ Appeals ranked at 444 out of 459 federal agency subcomponents. The Board is by far the worst rated component at all of VA. No other agency subcomponent of VA is ranked worse than 256. The VA Office of General Counsel is rated at 81. The dismal ranking at the Board reflects rock-bottom morale for Board attorneys due to unreasonable workloads, pay that is not commensurate with the complexity of veterans’ law, and a disengaged and incompetent senior management team. Indeed, while the Board’s ranking is 444, the effectiveness of Board senior leadership was ranked an abysmal 447 out of 458 subcomponents. In the Best Places to Work rankings released in March 2025, the Board was ranked at 130 out of 154 midsize agency subcomponents, and once again has the lowest engagement scores of any organizational component at VA. The effectiveness of the Board’s senior leadership is rated at 151 out of 154 midsize agency subcomponents, which is in the bottom 2 percent. By contrast, in these rankings, the Veterans Benefits Administration is ranked 9 out of 30 large subcomponent agencies and the effectiveness of its senior leadership is at as 5 out of 30. Employee engagement scores are significantly higher across in all categories at the Veterans Benefits Administration than the Board of Veterans’ Appeals.

This legislation, by establishing a career path to GS 15, will fix the compensation issues which have made recruitment and retention such a challenge at the Board and will accordingly

help reduce the nearly 200,000 case backlog by incentivizing highly proficient and productive attorneys to stay at Board rather than leave for better opportunities.

Discussion Draft of the “Veterans Claims Education Act”

The “Veterans Claims Education Act,” is draft legislation authored by Rep. Peters (D-CA) that will raise awareness among veterans of the resources available to them to assist in the preparation of their claims. In particular, the bill will highlight Veteran Service Organizations which may represent claimants at no charge to help navigate the complex veterans claims process. AFGE supports this bill and wants to highlight that the assistance VSOs provide helps veterans receive the benefits they have earned and assists VBA claims processors and Board of Veterans’ Appeals attorneys to be more efficient in their work. Simply put, more complete and accurate claims mean fewer deferrals, appeals, and remands.

Discussion Draft of the “Improving VA Training for Military Sexual Trauma Claims Act”

The “Improving VA Training for Military Sexual Trauma Claims Act” is draft legislation authored by Rep. Kim (R-CA) that will improve training to VA Claims Processors and Contract Compensation and Pension Examiners related to Military Sexual Trauma (MST). AFGE supports the intent of this legislation and has suggestions and comments that we hope are considered by the committee.

AFGE strongly supports Section 2 Subsection (a) of the bill, which requires training for claims processors working on MST claims. MST claims are nuanced and highly sensitive and require the utmost care and understanding of both the veterans’ needs and VBA’s internal processes. However, as AFGE has previously noted to the subcommittee, VBA seldom if ever considers frontline claims processors’ input when designing such training. AFGE hopes that the

subcommittee uses this legislation as an opportunity to mandate that VBA consult with AFGE, as the union representative of claims processors, to identify common problems that workers have encountered while working MST claims, to address these issues, and to recommend best practices for claims processors who get assigned to the MST Special Operations Center. Absent that, AFGE believes that VBA will again create training that meets its bare legal obligations but does not meet the intent of Rep. Kim and the subcommittee.

AFGE also understands the intent of Section 2 Subsection (c) to train contract disability examiners conducting MST examinations to improve sensitivity and quality and prevent additional trauma. If contractors are going to perform these exams, veterans will benefit from this training. Over 90% of disability exams are currently performed by contractors. Exams performed by contractors cost more than exams performed by VA employees, and the contractors, irrespective of additional training, do not have the same familiarity and understanding of veterans and their specific needs as VA employees do. Considering the sensitive nature of MST claims and exams, AFGE would urge the committee that disability exams, particularly specialty exams such as MST exams, should be performed exclusively by VA examiners, which will also reduce the number of remands due to inadequate medical opinions provided by contracted examiners.

Discussion Draft of the “Review Every Veterans Claims Act”

AFGE supports the draft of the “Review Every Veterans Claims Act” authored by Chairman Luttrell (R-TX). This legislation would ensure that no veteran’s claim is denied for failing to attend a disability exam requested by the VA. While the VA allows veterans to provide reasons for missing exams that are often accepted, failure to provide a response can be

used for an automatic denial of a claim. Additionally, the VA will also not accept the excuse that the veteran never received notice from the VA to attend the exam, which is a common reason given by veterans for missing VA exams. Denying benefits on the basis of missing a VA examination that the veteran may not have known was scheduled is deeply unfair and concerning.

Changing this statute and preventing VA from denying claims simply for missing an exam will help prevent the VA from wrongly denying veterans the benefits they have rightly earned. This will in turn better allow VBA claims processors and Board of Veterans' Appeals attorneys to perform their duties and make sure veterans receive their benefits, instead of being forced to deny their claims for administrative reasons.

Discussion Draft of the “Veterans Appeals Transparency Act”

The “Veterans Appeals Transparency Act” is draft legislation authored by Rep. Self (R-TX) with the intent of increasing transparency at the Board of Veterans' Appeals, and in turn allowing veterans to better track the status of their appeal. AFGE supports the spirit of this legislation and giving veterans more information while they wait for their appeal to be adjudicated.

However, AFGE also has concerns with the way the Board will carry out this law, and the additional administrative burden it will place on Board personnel, especially given the current hiring freeze and potential for Reductions in Force at the Board. With the Board processing between two and three thousand appeals every week, AFGE fears that the amount of time required to comply with this law may require Board employees to focus on this compliance

instead of working on cases. In turn, we welcome the opportunity to work with Rep. Self to amend the bill to provide the desired transparency, with the most efficient and least administrative burden.

AFGE thanks the House Veterans' Affairs Committee Subcommittee on Disability Assistance and Memorial Affairs for the opportunity to submit a Statement for the Record for today's hearing. AFGE stands ready to work with the committee on this legislation and find solutions that will enable VA employees to better serve our nation's veterans.