

Richard G. Thissen
National President



Jon Dowie
National Secretary/Treasurer

July 6, 2016

United States House of Representatives
Washington, DC 20515

Dear Representative:

On behalf of the National Active and Retired Federal Employees Association (NARFE), I urge your opposition to H.R. 4361, the Government Reform and Improvement Act. NARFE represents the interests of federal employees and retirees, as well as their spouses and survivors, and has more than 220,000 members across the country.

H.R. 4361 is mislabeled as an improvement when, under the pretext of reform, it denies federal employees rights they are currently afforded. The presumptions of wrongdoing underlying the legislation are an affront to federal employees, who serve our country faithfully and many of whom put their lives on the line every day.

We oppose three parts of the bill, all of which were previously separate pieces of legislation. First, NARFE opposes the blanket extension of the federal employee probationary period. Currently, most positions within the federal government have a one-year probationary period for new employees. During this time, employees are in an “at-will” status. Managers have time to assess the employee’s performance and ability to do the job and can terminate the employee without using the statutory performance channels.

Highly technical jobs that require several months, if not years, of training can benefit from a longer probationary period. But overall, managers do not need two years to assess the capabilities of every employee they supervise. One year should be sufficient for most positions. This legislation represents an end run around due process rights and perpetuates the myth that federal employees can’t be fired. The probationary period should be re-evaluated, but this is the wrong way. To ensure a workforce that has the abilities required to execute its mission, lawmakers should afford federal agencies the latitude to extend the probationary period beyond the current length of one year for those highly technical jobs.

Second, NARFE opposes provisions of the bill that would allow senior executives to be suspended for less than two weeks and change the removal process for senior executives. The purported rationale is to treat them the same way as the rest of the civil service. But senior executives are different from the rest of the workforce because they often report directly to political appointees. Currently, senior executives are not subject to less than 14-day suspensions because such suspensions are more prone to be politically motivated.

The legislation also would severely limit due process rights for terminated senior executives by establishing an expedited process similar to the process established by the Veterans Access, Choice, and Accountability Act of 2014 (P.L. 113-146). Limits on due process rights for senior

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executives make them more susceptible to politically motivated reprisals, undermining the goal of a merit-based civil service and hearkening back to a spoils-based system operated by political appointees. In fact, the bill's limits on due process raise serious constitutional questions that currently are being challenged in court. Given this, in addition to the strain such a requirement would place on the Merit Systems Protection Board, we object to this provision.

Third, NARFE opposes the legislation's additional and overly burdensome requirements for the Office of Personnel Management (OPM) to report on the use of "official time" – time spent by federal employees on union activities. Official time is often misunderstood. Federal employees who also are union representatives are granted official time because current law dictates that federal employee unions must represent an employee, regardless of whether they are a member of that union. In exchange for the obligation to provide representation services to those who choose not to pay dues as well as those who pay, the Civil Service Reform Act of 1978 allowed federal employee unions to bargain with agencies over official time. Under this law, federal employees who volunteer as union representatives are permitted to use official time to engage in negotiations and perform representational activities while on duty status.

Accurate and timely reporting of official time is important and crucial to wisely spending taxpayer dollars. But we question why this provision is necessary, when OPM typically already does what the bill requires. The additional reporting requirements, such as the reporting of space used for official time activities, seem arbitrary and overly burdensome, and represent an inefficient use of taxpayer dollars.

Much like previous reform efforts, this bill seems to be a solution in search of a problem, with the solution being to limit due process rights and terminate federal employees. The federal government already has in place several tools to deal with poor performers. It is incumbent on federal agencies to ensure their managers use those tools when necessary. I ask you to vote against this misguided bill.

Thank you for considering NARFE's views. If you have any questions or comments regarding this request, please contact NARFE Legislative Director Jessica Klement at 703-838-7760 or jklement@narfe.org.

Sincerely,

A handwritten signature in cursive script that reads "Richard Thissen".

Richard G. Thissen
National President