

CONCERNED VETERANS FOR AMERICA PRESERVE ACCOUNTABILITY AND CIVIL SERVICE REFORMS



OUR VIEW

The bipartisan VA Accountability and Whistleblower Protection Act, which became law in 2017, made it easier to discipline and fire VA employees found guilty of misconduct. Congress should ensure this law continues to be properly implemented and resist efforts to repeal or weaken its core provisions.

BACKGROUND

Under increased scrutiny following the Phoenix VA scandal in 2014, stories emerged across the country detailing VA staff whose behavior endangered veterans. When asked why employees were not held accountable for their actions, VA leaders told Congress their hands were tied due to bureaucratic personnel policies. In 2015, the Government Accountability Office found it took on average six months to a year to fire a federal employee. Terminating bad employees who reinforced a toxic culture at the VA proved to be near impossible. In 2017, the bipartisan VA Accountability and Whistleblower Protection Act was signed into law. This law gave the VA new authority to fire bad actors and poorly performing employees and was supported by 18 veterans organizations.

MYTH VS. FACT

Myth: Congress should repeal the legislation because implementation has been flawed.

Fact: The Inspector General report released in October 2019 is rightfully concerning. The VA Office of Accountability and Whistleblower Protection (OAWP) was the subject of an extensive investigation, however, during much of that period the office was without permanent leadership and lacked clear direction regarding statutory authority. Oversight hearings were held in late 2019 and a series of positive steps have been taken since the IG's initial investigation to correct the improper implementation of the law. Ongoing oversight is necessary, but if implemented correctly, the law provides VA leadership valuable tools to protect whistleblowers and hold poor performing employees accountable.

Myth: The VA is using the law to target lower level staff instead of using it to discipline poorly performing senior staff.

Fact: The 2018 annual report from the VA's Office of Accountability and Whistleblower Protection (OAWP) found the percentage of disciplinary actions issued to general workforce employees before

and after enactment of the Accountability Act remains constant. Additionally, out of over 374,000 VA employees, the VA employs fewer than 400 Senior Executive Service staff.

Myth: This law removes whistleblower protections for VA employees.

Fact: The law bars the VA from using the new removal authority if an employee has an open whistleblower complaint.

Myth: Due process is denied to VA employees facing disciplinary actions.

Fact: The evidentiary standard required to remove a VA employee remains unchanged. The new law shortens the length of time for removal once the burden of proof has been met, while still ensuring VA employees have access to due process.

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