

DOD Civilian Personnel Reform

Mar 23, 2017

Statement of

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For the Record

Subcommittee on Personnel
Committee on Armed Services
United States Senate

With Respect To
DOD Civilian Personnel Reform

WASHINGTON, D.C.

Chairman Tillis, Ranking Member Gillibrand, and distinguished members of the Personnel Subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, I thank you for the opportunity to provide the VFW's views on the Department of Defense (DOD) civilian personnel reforms. We appreciate the work this subcommittee has done in the past to improve programs and policies for our service members and their families.

Section 1101 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016 required DOD to develop a new Reduction in Force (RIF) policy wherein, should civilian employees be required to be let go from service, determination of who will be released from employment "shall be made primarily on the basis of performance." In January 2017, DOD released its new policy, which it claims meets this requirement. Upon review, however, the VFW believes the new policy not only fails to meet the NDAA requirement, but it also disadvantages veterans by reducing the value of veterans preference, particularly for transitioning service members who gave years of honorable service to our country but lack enough tenure in post-military federal service to have received a performance rating.

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Under DOD's previous RIF policy which continues to apply to the rest of the federal government, the order of retention was:

- 1) tenure of employment;
- 2) veterans preference;
- 3) length of service; and
- 4) performance.

DOD's new policy claims to adhere to the following order of precedence:

- 1) performance;
- 2) tenure;
- 3) average score;
- 4) veterans preference; and
- 5) service computation date.

However, this is inaccurate, as the new policy requires DOD to divide employees by tenure group and number of months of assessed performance before performance is even considered.

Therefore, the true order of precedence is as follows:

- 1) tenure group;
- 2) months of assessed performance;
- 3) performance rating of record;
- 4) tenure group;
- 5) average score;
- 6) veterans preference; and
- 7) service computation date.

This means civilian employees are protected by two rounds of tenure before their performance is even considered which is counter to the intent of the NDAA mandate and more tenure-centered than the previous policy. Not only does this new order unfairly weight the system towards tenure, as opposed to the stated performance, it also undervalues the service veterans performed for their country.

Under the previous system, if two individuals were hired on the same day -- one a civilian who had worked six months for another federal agency before transferring to DOD, and the other a veteran with ten years of honorable military service -- and a RIF was then implemented, the veteran would be retained above the civilian. The previous policy recognized that veterans, while absent from the civilian workforce, have valuable experience worth considering. Therefore, in situations where individuals were in the same tenure group, the veteran's service was the deciding factor in who was retained.

According to the new policy, if DOD has not yet rated either employee, the transferred civilian will be retained before the veteran, simply because that individual would have a rating of record, whereas the veteran would not, despite the veteran's ten years of honorable military service. This is true even if the civilian's rating of record reflected below average performance.

This is because DOD's performance management system does not provide appraisals until after an employee has served more than 90 days. In instances where DOD has not yet evaluated an individual's performance, they will accept a rating from another federal agency. They will not, however, accept a military performance rating in a similar circumstance. Therefore, a recently transitioned veteran with ten years of honorable military service will be given no performance value and, instead, will be cut based on lack of tenure. Meanwhile, a non-veteran with a poor performance rating from another federal agency and as little as three months of service to DOD is retained.

Additionally, when asked why it cannot include a performance factor for veterans that recognizes their honorable service, DOD responded in a letter to the VFW that it has "remained consistent with the government-wide regulations, which do not allow consideration of performance assessed using military...ratings of record." The VFW finds this statement to be disingenuous, as the rest of the government is providing a value for military performance by using veterans preference as the second highest factor in RIF proceedings. However, DOD has reduced veterans preference while providing no comparable evaluation of military performance.

DOD has repeatedly stated that they believe their new system will better benefit "high performing veterans." However, it is clear that many veterans may never make it to the "high performing" category, as they will be eliminated before their performance can ever be evaluated. Meanwhile, underperforming civil servants will be retained at the expense of

veterans who honorably served the very department that now casts them out. This is particularly concerning for veterans who received high performance marks during military service and are now on a RIF short list simply because they have less than 90 days of civilian work experience.

Congress has continually tried to ensure that time spent serving our Nation in the Armed Services is valued when veterans move into the civilian workforce. When passing the Jobs for Veterans Act (Public Law 107-288) in 2002, which revised and improved employment, training and placement services furnished to veterans, Senator Rockefeller said, “As we ask the young men and women of this Nation to prepare themselves to take up arms in its defense, we must ensure that we will be able to help them find productive careers upon their return as we did for the previous generations that defended our freedoms.”

This protection for those who have returned from the battlefield is no less needed now, after fifteen years of war and its associated demands, than it was at the beginning of the war. As such, the VFW calls on Congress and the Department of Defense to recognize the service and sacrifice of this Nation’s veterans by correcting the injustice done by DOD’s new RIF policy. Specifically, we call on the Department of Defense to meet the true intent of the 2016 NDAA by limiting tenure consideration to a single instance, as opposed to the multiple considerations it is currently being given, and restoring veterans preference to its proper place in the RIF factors in order that the performance of veterans be properly reflected.