Senior Executives Association

Prepared for

The Senate Committee on Veterans Affairs

Hearing on Pending Legislation

March 15, 2016

Senior Executives Association

the voice of career federal executives since 1980

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Chairman Isakson, Ranking Member Blumenthal, and members of the Senate Committee on Veterans' Affairs:

Thank you for the opportunity to share the Senior Executives Association's (SEA) views on Department of Veterans Affairs (VA) Secretary Robert McDonald's proposal to move VA career executives from Title 5 to Title 38.

SEA represents the interests of career federal executives in the Senior Executive Service (SES), and those in Senior Level (SL), Scientific and Professional (ST), and equivalent positions. Our submission today includes:

1) SEA's formal position paper on the Secretary's proposal to shift all career executives from Title 5 into Title 38

2) A survey of 236 current and former VA career executives regarding the proposal

I appreciate the opportunity to provide the Association's perspective on this legislative proposal.

For additional information, or if we can be of further assistance, please reach out to SEA's Sr. Legislative and Media Coordinator, Nikki Cannon (ncannon@shawbransford.com; 202-463-8400).

Sincerely,

JASON BRIEFEL
Interim President
Senior Executives Association

POSITION PAPER

SEA

Reclassification of the Department of Veterans Affairs Title 5 Senior Executive Service Members under the Title 38 Appointment, Compensation, Performance Management, and Accountability System

I.) **Business-oriented employment authorities**
II.) **Competition with private sector for talent**
III.) **Outcome-based rewards and appraisals**
IV.) **Current accountability authorities**

SEA has significant concerns and strongly opposes the VA's proposal to move all VA career Senior Executive Service (SES) employees from Title 5 to Title 38. SEA arrived at this position because of the thinly veiled primary purpose of this proposal as a politically driven attempt to achieve the ease of firing career civil servants by making VA Senior Executives a separate class of civil servants and de facto political appointees.

Ultimately, this proposal will not improve delivery of services and benefits to our nation's veterans, nor will it allow the VA to attract and retain the exemplary career executive leadership necessary to advance the agency.

Neither SEA nor our members at the VA believe this proposal is about compensating VA Senior Executives appropriately. In the past, SEA worked with Congress and the VA to shift some executives within Veterans Health Administration (VHA) between Title 5 and Title 38 to ensure the agency was able to retain that talent and compete with the private sector, where compensation is significantly higher than what the VA pays its SES, particularly those serving as Medical Center and Network Directors. The shared goal behind those past proposals was to ensure the VA was equipped with the tools it needed to compensate and support its career executive leaders, knowing that in doing so care and services for veterans would benefit.

Yet in this case, the compensation element appears to be merely window dressing for a proposal that is really just about "accountability." It makes no sense to move non-medical VHA executives, and even less to move executives at the Veterans Benefits Administration (VBA) or National Cemetery Administration (NCA), to Title 38, a section of the U.S. Code designed for medical professionals, besides depriving executives of their Title 5 rights and making it easier to terminate or discipline them.

The denial of meaningful due process and management by fear will not garner the intended result of accountability for driving mission results and providing care and services to our veterans.

If approved, SEA believes this proposal will only serve to exacerbate the VA's career leadership challenges, as the VA will become an employer of last resort for talented government executives. It also does nothing to put the agency on even footing with industry in the war for top executive talent.

SEA urges policymakers to move beyond the talking point policy on "accountability," attempt to publicly acknowledge the real problems at the agency, and work with stakeholders to craft meaningful solutions to VA's complex, multifaceted issues. As Deputy Secretary Gibson told the House Veterans' Affairs Committee on December 9, 2015, "You can't fire your way to excellence."

I. VA needs business-oriented employment authorities

As the proposal begins with a justification using agency statistics to quantify the reality of a leadership vacuum, it is evident the VA has been derelict in meeting the congressional mandate to "develop a comprehensive management succession program, based on the agency's workforce succession plans, to fill agency supervisory and managerial positions" pursuant to 5 CFR 412.201-202.

While the VA is requesting new authorities to restructure its workforce, it appears to have made little progress meeting the government-wide succession planning standards set by Congress to prevent the exact recruitment and retention problems the agency has experienced in recent years. Instead of focusing exclusively on the 350-400 SES employees, far greater consideration and attention should be devoted to how the agency plans to develop and strengthen not only its SES corps, but its leadership talent pipeline, including considering whether this proposed executive system would be attractive to rising GS-14 and -15 employees at the agency and across government.

SEA is also concerned about balkanization of the SES via creation of a VA specific executive system, which will likely be a disincentive for talented executives from other agencies to consider employment at the VA. Making the timing of this proposal especially confusing is the fact that VA was scheduled to be on phase 1 of implementation of the President's recent Executive Order on the SES.

Lastly, in attempting to lead a "radical transformation" of the VA by altering the employment authorities of the agency only as to its very small SES career corps, the Secretary and Deputy Secretary have with this proposal succeeded in alienating the career executives that work for them - the very people expected to lead the transformation. Below are a few reactions from SEA members who work at the VA about the proposal:

> *"Demoralizing." "Betrayed." "Just bad policy." "Happy I am retirement eligible." "Obviously little here to the benefit of the executive." "Morale lowest I've seen in 33 years at the VA." "There is no interest in buy-in from employees."*

II. VA must compete with private sector employers for top leadership talent

The VA has lauded this proposal as an effort to better attract and retain qualified candidates and employees by expanding the VA's ability to more competitively compensate executives as compared to their private sector counterparts. However, the proposal cites the 2013 Healthcare Compensation Survey conducted by the Hay Group where individuals holding the position of Chief Executive Officer (CEO) in private sector health care systems received on average $731,800 annually in cash compensation and CEOs of a single facility within a system received an average of $393,100 in annual cash compensation.

If the impetus of this proposal is to allow the VA to compete on a level playing field with top healthcare systems in the country for executive talent, the newly recommended pay bands with a high of $235,000, and a total compensation cap of $400,000 – a cap that would be reached by a mere handful of executives – falls drastically short as compared to the market value of comparable healthcare executive positions. Additionally, the highest band, Pay Band 1A, would only allow for that specific base pay for 20 executives.

The realities of this proposed reform demonstrate this: the VA's proposal to move its career executives out of Title 5 into Title 38 is really just a ruse to avoid the merit system principles of Title 5 and not really about creating a business structure comparable to the private sector.

Senior executives at the VA understand they will not earn the same compensation as their counterparts in private industry, and they accept that because of their dedication to the VA's mission of serving veterans.

However, as the imbalance has continued to grow, the VA has witnessed incredible challenges filling its executive positions.

Despite the government's clearly demonstrated disadvantage in terms of competing with the private sector over executive compensation, it is hard to imagine that deserving VA executives truly will see increased compensation for their efforts. Actions by the Administration, VA leadership, and Congress in recent years to use executives as political pawns and to curtail or eliminate performance based awards for VA's senior executives have exacerbated the agency's recruitment and retention challenges. In SEA's view these actions have directly contributed to the alarming statistics the proposal highlights:

- 30% vacancy rate for the agency's SES allocations
- VHA losing 22.3% of Medical Center Directors in one fiscal year
- VHA losing 22.9% of Network Directors in one fiscal year, and
- The agency having to re-announce 37 recruitment actions because no qualified applicants were attracted by the VA

SEA also takes issue with the proposal's citing of "cumbersome administrative requirements" as one of the challenges to attracting qualified candidates. What is alluded to, but not directly named, is the Qualifications Review Board (QRB), wherein the agency submits a candidate's application package to the OPM-administered QRB for certification of executive core qualifications and to ensure the merits of the candidate. The QRB process is a key barrier to politicization of the government's career executive corps, and this proposal would eliminate QRBs for VA SES. Data, however, show the QRB process only adds two weeks to an application, and it is in fact likely internal dysfunction within the agency hiring practices that cause delays beyond that in the executive hiring process.

III. Appraise and reward executives based on outcomes

The VA's proposal is too vague and does not specify any details about the intended performance appraisal system except by saying the agency will establish such a system by regulation. The use of false and unattainable performance metrics in the past has masked the lack of substantive leadership by the VA, and it is unclear how an undefined appraisal system will address the agency's challenges.

Under existing Title 5 authority, the VA Secretary already has ultimate authority to sign-off on all SES performance appraisals. Complaints or reports from various oversight bodies are already taken into account in assessments of executive performance. Inspectors general are already consulted prior to issuance of performance awards.

The VA has recently put in place new performance appraisal policies.
VA Directive 5013/15 was issued less than a year ago on March 27, 2015, and established performance appraisal policy for both Title 5 and Title 38 employees at the agency. VA Directive and Handbook 5027, issued November 4, 2014 revised procedures for the agency's SES performance management system. Questions should be asked to determine if these directives are meeting their intended goals.

IV. Current executive accountability authorities do not support transformation

Senior Executives are already the easiest type of career federal employees to terminate or discipline, and failure of agencies to do so reflects a failure on behalf of agency leadership to understand and employ tools already established in law (or an agency practice of using those tools for improper motives), and which have been

determined to be fair and constitutional. Title 5 is not broken, but there are failures in implementing its authorities.

Regarding the Choice Act authority for VA SES, codified at 38 U.S.C. § 713, those provisions are currently subject to a constitutional challenge at the United States Court of Appeals for the Federal Circuit in *Helman v. Dept. of Veterans Affairs*, Case No. 15-3086 (Fed. Cir. 2015). Additionally, when Congress attempted to apply that same authority to the entire VA workforce with H.R. 1994, the President's advisors at the Office of Management and Budget (OMB) issued a strongly worded Statement of Administration Policy, saying the legislation "could have a significant impact on VA's ability to retain and recruit qualified professionals and may result in a loss of qualified and capable staff to other government agencies or the private sector." SEA believes the Choice Act provisions already have done so for the VA's SES.

It is clear recent outcomes from MSPB decisions made public by the VA in cases the agency utilized the Choice Act's expedited termination/demotion authority are the real reason for this proposal, which cites "third party appellate processes [that] rely too heavily on unsuitable precedent" as a challenge to "true accountability."

The MSPB was created to provide government employees an independent forum that protects them from a politically controlled system where civil servants could be battered about by political appointees who could change with the political winds. A return to the era in which the government's workforce came and went with the winning party of political elections threatens to politicize the delivery of services and benefits to the American people, and in this case, Veterans and their families.

By moving VA executives from Title 5 into Title 38, VA Senior Executives would not be afforded the current - albeit truncated - administrative review before the MSPB provided for by the Choice Act. Instead, they would be subjected to the disciplinary procedures Title 38 medical staff undergo - procedures modeled after private sector hospitals where a peer panel reviews accusations of professional misconduct or incompetence.

It makes absolutely no policy sense to move NCA or VBA executives into Title 38, other than because it gives the Secretary more power to fire them. Title 38 is for medical professionals.

The Title 38 alternative to MSPB review for major actions is it to appeal to the Federal Circuit Court - where MSPB case law and precedent would still apply. Within SEA, as it should for all, various concerns have been raised about the ramifications this will have on the third branch of government:

- Why does the VA believe the federal courts should be saddled with reviewing Federal personnel decisions when the MSPB, an independent agency skilled and dedicated to that function, already exists?

- Has the VA considered the impact on the federal judiciary to send personnel matters into its jurisdiction, particularly if this proposal for just the VA executives is expanded to the entire VA and beyond?

- What will be the cost to federal judiciary to adjudicate these appeals, and how does this compare to the costs in having the MSPB fulfill this function?

- Which arm of government will defend these appeals in the federal courts – the VA counsel which would handle MSPB appeals or the Justice Department?

Cost Benefit Analysis

After laying out on page 2 and 3 of the proposal the challenges the agency is having filling executive roles and demonstrating the disparity between private sector and VA executive pay, the proposal to only add one level to the agency's executive pay banding system (1A) that brings just 20 executives into the $205-235,000 salary range, with a pay cap for all executives at the President's salary of $400,000 that appears to fall far short of allowing the agency to compete on an equal playing field with the private sector.

Executive compensation has long been a challenge at the VA, with VHA executives working, via SEA, with the Administration and Congress many times in the past to shift between Title 5 and Title 38 to ensure an equitable system in which the agency could compete for talent and fairly compensate its executives. However, in those instances, there was mutual agreement that it was bad policy and ultimately detrimental to veterans to undercompensate the VA's SES cadre. This current situation is obviously different and SEA believes there is little intention to actually strengthen VA executive compensation, and the entire conversation around pay adjustment is a ruse to help sell the "accountability" provisions.

The agency also makes bold predictions that this new policy will reduce executive turnover and attrition, but history suggests otherwise. SEA simply does not believe, as the agency appears to, that this entire proposal "would motivate highly experienced, seasoned executives to take on leadership roles in VA most demanding positions."

SEA posits that a large part of the reason the agency has had such challenges filling its SES positions is the toxic "gotcha" atmosphere of Capitol Hill and the media, coupled with inadequate investment in the development and compensation of executives, and lack of recognition of executive accomplishments, in recent years. It is unclear how this proposal addresses those issues.

Conclusion

It is baffling that the Secretary and Deputy Secretary feel this proposal would lead the transformation they are envisioning, especially when it comes at the expense and alienation of their entire senior leadership corps. Treating the agency's problems as solely a function of less than 400 individuals, rather than examining the structural and cultural troubles plaguing the VA is a disservice to our Veterans and the American public.

It is a shame that so much taxpayer time, effort, and energy was put into a proposal that purports to help the agency address its shortcomings, but makes little effort to substantiate its recommendations. There may be a need for improvement at VA, but hastily constructed and politically motivated solutions will not help this already troubled organization.

SENIOR EXECUTIVES AT THE DEPARTMENT OF VETERANS AFFAIRS

A Survey of VA Leaders on the Proposal to Move Career Executives from Title 5 to Title 38

March 2016

Senior Executives Association

Senior Executives Association

SEA is a non-profit, non-partisan professional association that has served as the voice of the career federal executive corps since 1980. SEA's mission is to improve the efficiency, effectiveness, and productivity of the federal government; and to enhance public recognition of their accomplishments. For additional information about SEA, visit www.seniorexecs.org.

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TABLE OF CONTENTS

EXECUTIVE SUMMARY

Following the start of the Great Recession in 2007, and growing since 2010, Senior Executive Service (SES) members and equivalents across the federal government have come under enormous scrutiny. As slow-boiling issues involving access to care at the Department of Veterans Affairs (VA) exploded onto the national scene in 2014, Senior Executives within the agency became the target of wide-spread ire, proceeded by a slew of legislative proposals aimed at quelling public outrage by promising accountability for those deemed to be the root of the agency's problems.

In 2014, Congress passed a law to address access to care issues and expedite the appeals process for career executives, effectively making it easier for the VA Secretary to fire or demote SES employees. In January and February of 2016, the VA lost three successive personnel decisions under this new authority, leading the VA Secretary to propose shifting the employment jurisdiction governing all VA SES from Title 5 to Title 38 of the United States Code.

"…it is the politicians who are using and will use these new lots as political cover for events not of their liking. How can one reasonably be expected to lead in a competent fashion in that environment?"

In response to this proposal, the Senior Executives Association (SEA) conducted a survey of current and former VA SES and equivalent employees to determine their views on the Secretary's proposal and elements it purported to address, including how the agency appoints, compensates, appraises, and holds accountable career SES employees.

Approximately 400 career SES are currently employed at the VA. Our survey garnered responses from 236 current and former VA career executives, answering a multitude of questions regarding their perception of the impact this proposal would have, as well as the current climate within the Department.

"I cannot support a proposal that would remove the few job protections we currently have with essentially only a promise of more $$. Most of us are not in this business because of the $$ - we do what we do for the sake of the mission - specifically for the Veterans and the employees we serve."

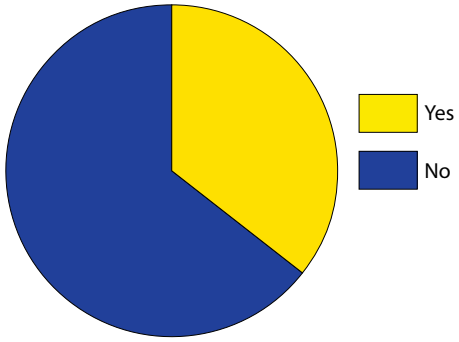
Key findings include:

• 69% said they do not believe the Secretary's proposal would improve service to veterans

• 64% do not support the proposed move to Title 38, even with the opportunity for an increase in salary

• 59% of respondents said they do not think the proposal would help the VA retain quality senior executives

Do you support the Department of Veterans Affairs' proposal to move all SES positions from Title 5 into Title 38, enabling executives to be paid up to a maximum salary of $235,000 (and up to $400,000 in salary and bonuses) but resulting in fewer job protections?



Of the respondents who opposed the Secretary's proposal, the reasons for doing so fell largely into two categories:

• A deep fear of politicization of their jobs, the SES, the federal civil service, and the distribution of services and benefits to veterans

• Skepticism that the touted benefits, such as improved salary and overall compensation, were merely a veneer; yielding few tangible benefits for employees in exchange for much greater personal and professional risk; and skepticism that the proposal would improve service to veterans

Respondents who support the Secretary's proposal did so with the caveats that the proposal be applied in a targeted manner, for appropriate medical center and VISN directors at VHA, and as long as full Title 38 due process rights came with the proposal.

Additionally, survey respondents were asked a range of questions about whether they thought the proposal would help the agency recruit and retain high caliber VA SES talent. A majority of respondents (50%) do not believe that enactment of the proposal will help the agency attract talented external candidates, and a larger majority (67%) of respondents said they do not think it would help attract high quality executive talent from inside the VA's workforce.

Unfortunately, the survey revealed many career executives feel that neither VA nor Congressional leaders are approaching the challenges at within the agency with the nuance and thoughtfulness necessary to find solutions that would help not only the agency and its employees, but the veterans the agency serves.

INTRODUCTION

On December 9, 2015 during a hearing before the House Veterans' Affairs Committee (HVAC), Deputy Secretary Sloan Gibson, the senior accountable official at the Department of Veterans Affairs (VA), told the committee members, "You can't fire your way to excellence." Shortly thereafter, the VA lost three successive executive accountability cases heard by three separate administrative judges at the independent Merit Systems Protection Board (MSPB). On February 10, 2016 – just two days after the third decision was rendered – VA Secretary Robert McDonald testified before HVAC that he intended to propose shifting all VA SES employees from Title 5 to Title 38 in order to change how the agency appoints, compensates, appraises, and holds accountable career SES employees.

In 2014, spurred by revelations that the VA was having issues with patient wait times and access to care – issues that were well documented dating back to 1999 – Congress passed the Veterans Access, Choice and Accountability Act of 2014. This new law amended Title 38 by creating Section 713, which provides an alternative expedited removal or demotion process for career Senior Executive Service (SES) positions at the VA when allegations of poor performance or misconduct are brought forth. Since its passage, the VA has opted to utilized this new authority in every appeals case to date, and Deputy Secretary Gibson has asserted it is his policy to forego previously accepted Title 5 accountability provisions and to exclusively employ the Title 38 Choice Act process.

"…I think that the legislation that limited our appeal rights before MSPB had a significant negative impact and I feel that the proposed Title 38 legislation would have an even greater negative impact. Simply put; why would anyone apply for a senior executive position in VA versus other agencies as VA executives essentially have a target painted on their back. There is no psychological safety in VA and I do not believe that this exists at other agencies in the federal government."

THE PROPOSAL

In an effort to lead a "radical transformation," the VA Secretary has proposed the development of a new Title 38 based appointment, compensation, performance management, and accountability system for career senior executives at the VA.

This proposal indicates the need for "business-oriented employment authorities to recruit and retain leaders who can transform VA's business practices to better serve veterans." In addition to these new authorities, the proposal expresses the need to better position the VA to compete for top talent – particularly for medical center and network executives – with private sector employers who can offer more generous compensation packages.

The Secretary's initial proposal cited the 2013 Healthcare Compensation Survey conducted by the Hay Group, where individuals holding the position of Chief Executive Officer (CEO) in private sector health care systems received on average $731,800 annually in cash compensation, and CEOs of a single facility within a system received an average of $393,100 in annual cash compensation.

Under this new initiative, the VA would be allowed an increase in the cap of executive base pay up to $235,000 and total overall compensation up to $400,000.

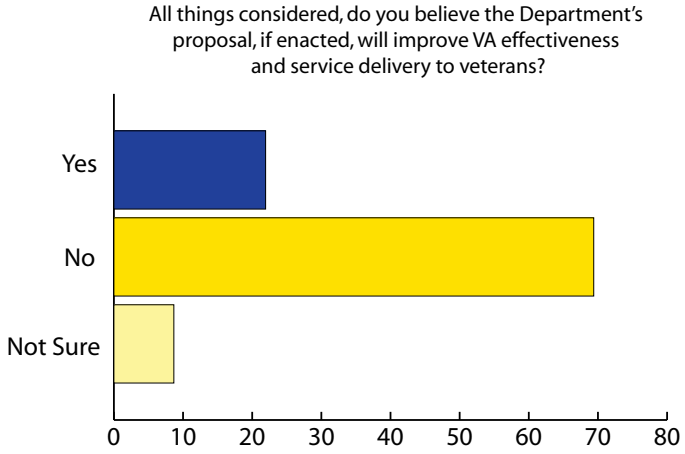
The initial proposal also stated that the "VA needs to appraise and reward executives' performance based on organization outcomes, as businesses do."

Finally, the Secretary has asserted that "current VA executive accountabilities do not support transformation." Additionally, his proposal argues that Title 38 disciplinary and appellate procedures are a better fit for executive leaders at a Department undergoing such transformations.

VA'S NEW PROPOSAL WON'T HAVE THE IMPACT THE AGENCY IS LOOKING FOR

SEA's survey received responses from 236 current and former VA SES. Respondents reflected executives with a range of career experience, with 41% of respondents having no plans to retire in the foreseeable future, 22% planning to retire in the next 4-5 years, 24% planning to retire in the next 2-3 years, and 13% planning to retire within the next year. Approximately 35% of respondents work at the Veterans Health Administration (VHA), 23% of respondents at other parts of VA, 17% at the Veterans Benefits Administration (VBA). Seventeen percent (17%) of respondents were former VA SES.

A strong majority of respondents, 69%, said they do not believe the Secretary's proposal would improve service to veterans. Sixty-four percent (64%) said they do not support a move to Title 38, even if it would provide an opportunity to increase compensation. Additionally, 59% said they do not think the proposal would help the agency retain quality career senior executives.



Recruitment & Retention

In addition to providing information on their own career plans and experiences with VA executive recruitment and retention efforts, respondents also provided their perspective on whether they felt enactment of the proposal would change their current career trajectory.

Twenty-seven percent (27%) said if the proposal was implemented, they would likely retire from the agency sooner than planned, and 51% said they were not likely to stay at the agency longer should the proposal be enacted. Additionally, if the VA proposal were to pass, 45% said they would likely not apply for a Title 38 SES job at VA.

Respondents also expressed little belief that the proposal would change many of the issues facing the VA today. Fifty percent (50%) said the proposal would not improve the recruitment of high quality external candidates, with 67% saying they were doubtful that it would improve recruitment for internal candidates.

Morale & Performance

When it comes to improving morale among career senior executives at the VA, nearly three in four (72%) do not believe this proposal would aid in that objective, nor would it create a high performance culture (71%).

"…The real issue for recruitment and retention has less to do with compensation, in my opinion, than culture. The public shaming, blaming, trashing of one's reputation without full consideration of facts and context is just one disgruntled employee call away for any VA executive at this time. There is no support for us…"

Politicization vs. Accountability

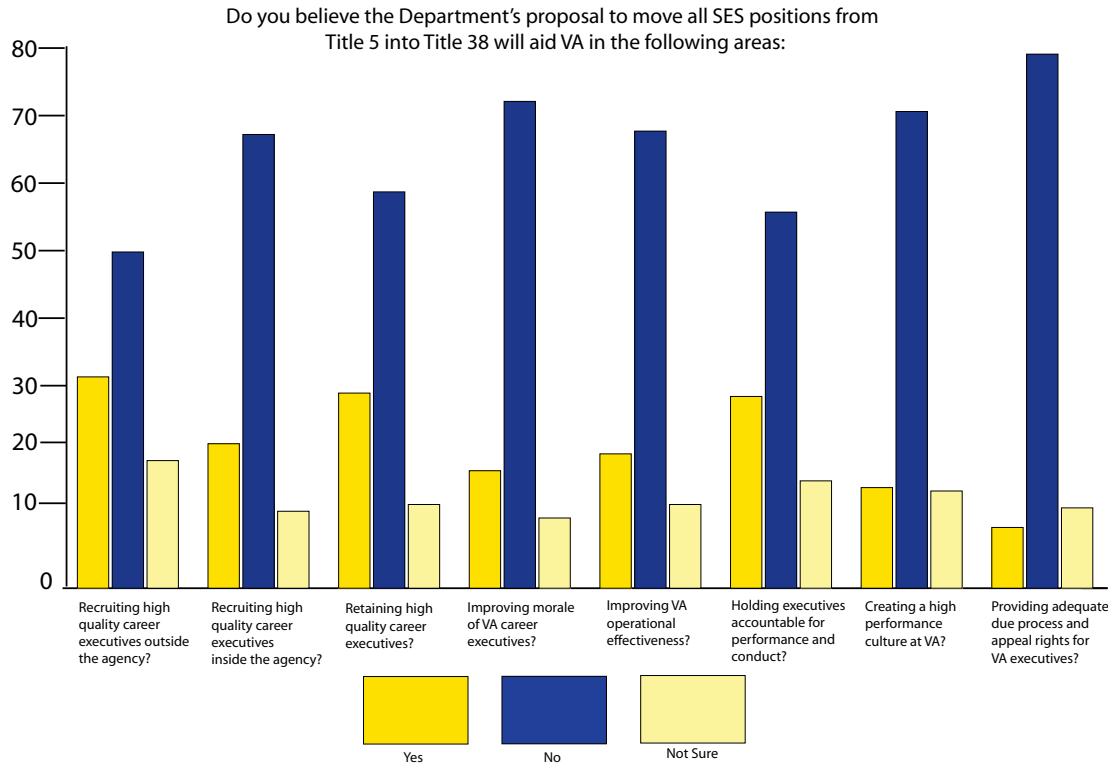
SEA has consistently expressed deep concerns that the agency's proposal to turn its career executive leaders into de facto political appointees is being driven not by the policy decisions necessary to address VA's challenges, but by politics.

The basis of many Title 5 authorities, including core values of a merit based civil service free from political influence, have been in place in the United States since the passage of the Pendleton Act of 1883. Prior to that, employment by the federal government was dictated by one's relationship with the political party in power, a process known as the "spoils system." Passage of the Civil Service Reform Act (CSRA) of 1978, which created the career SES as a keystone professional leadership cadre and barrier between political appointees and the federal workforce, was spurred by politically motivated actions of the Watergate era. A report by the MSPB released in May 2015 entitled "What is Due Process in Federal Civil Service Employment?" outlines how and why the current framework for career SES accountability, among many other factors, exists as it does.

The findings from this survey suggest that many career senior executives at the VA also are concerned that the Secretary's Title 38 proposal is politically and optically driven and does not clearly or adequately address many of the fundamental factors contributing to the agency's challenges in staffing its career executive ranks with high caliber senior executives.

As for improving accountability, more than half (56%) do not believe this proposal will accomplish that objective, though nearly eight in ten (79%) fear this will not provide adequate due process and appeals rights for career senior executives.

"This is a sham; the purpose is to be able to fire at will. Only a small handful of the ~400 SES in VA will receive higher pay. This is another step closer to the spoils system, which Civil Service was established to end. SES have few rights now and fewer rights pending. This is a nightmare and little more than pandering to Congress."



BEYOND THE PROPOSAL

Larger systemic issues were also highlighted as driving factors for current VA SES to consider leaving federal service or service at the VA. Furthermore, an environment characterized as "toxic," one of "fear," and "mistrust" is exacerbating agency leadership challenges, causing dedicated long-term employees to seek employment in other agencies or outside of government, or to downgrade out of an SES job. Respondents noted that lack of leadership support and absence of a "psychological safety" net made it difficult to do their jobs.

Congress and the Media Aren't Helping

Respondents were also asked which circumstances were contributing to their considerations of leaving federal service. Topping the list of factors that would cause executives to leave the government, a moderate to great extent of frustration with Congress (71%), fear of unfair media or Congressional scrutiny (70%), and frustration with VA political leadership (60%).

Obstructions in the Pipeline

Survey respondents reported that high quality GS-14 and GS-15 candidates had very low (34%), low (36%), and moderate (22%) interest in SES jobs at the VA.

Respondents were equally as spilt on whether they encouraged highly qualified employees to apply for SES positions. Nearly half (49%) said they did not, while 39% said they did and 13% were not sure if they would encourage current qualified GS employees to apply for vacant SES positions. However, respondents did note that they attempted to counsel those who aspired to enter the SES, and that doing so at VA brought a unique set of risks which should be known.

When encouraged to become an SES at VA, respondents said that high quality SES aspirants responded half the time (51%) with interest, and rarely with interest about a quarter of a time (28%). Respondents also noted that the risk-reward imbalance was insufficient to induce talented GS-14 and GS-15 employees to become SES at the VA. The fact that, despite the challenging environment, SES aspirants were sometimes interested in becoming a VA executive suggests that improvements to the environment is crucial in addressing this particular challenge the agency faces.

"The relentless media and congressional oversight is generally biased, usually inaccurate, and negative which is detrimental to the health of the organization making VA an increasingly unattractive agency to work in."

Additionally, while survey respondents said that the agency had a good talent pipeline, 60% of respondents expressed hesitancy that those in the pipeline were not "ready and able" to fill SES positions. Nearly nine in ten respondents (88%) rated the level of difficulty in filling executive roles at the VA as being either somewhat or very difficult, with nearly 60% saying doing so was very difficult. Ninety-seven percent (97%) of VA executives said they were concerned – to a great extent (59%), to a moderate extent (26%), somewhat (12%) – about the ability of the agency to fill SES vacancies with highly qualified candidates.

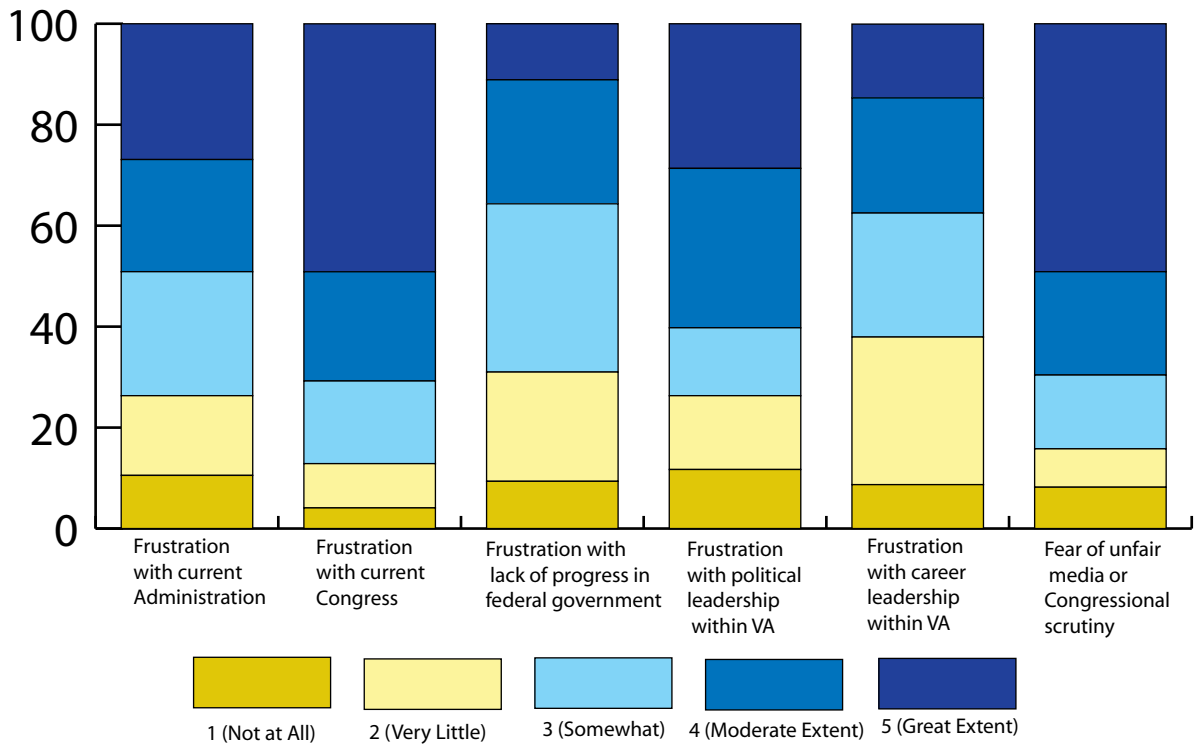
"HR Process is Broken" at VA

In written comments, several respondents voiced their concerns about VA's human resources (HR)

processes, noting that challenges with HR made filling vacancies at the agency - particularly at the executive level - difficult.

"The HR process, particularly for senior staff, is absolutely broken in VA and no one is holding them accountable (the AS for HR [Assistant Secretary, Office of Human Resources and Administration] is a political appointee)."

On a scale of 1 (Not at All)-5 (Great Extent), how much will each of these reasons impact or contribute to your decision to separate from federal service?



"Obtaining a highly qualified pool has never been a problem. The problem has been, and continues to be the slow nomination / selection / on-boarding processes. Good candidates won't wait around for months to hear back from HR."

"HR is a joke in VA."

RECOMMENDATIONS

Addressing broader, systemic issues, as well as fundamental issues such as ensuring VA has a competent human resources apparatus is seen as being a stronger driver of VA improvement than is the Secretary's proposal – the ambiguous details of which and the manner by which the details were shared left many executives feeling alienated.

Many respondents also noted that the VA is not currently utilizing Title 5 authorities to address compensation, performance, or misconduct, and therefore questioned why passage of new authorities would change the equation. SEA too, encourages Congress to conduct vigorous oversight of VA leadership, and prior to approving new authorities, better understand why the VA seems unable or unwilling to use existing authorities. Previous research by SEA demonstrated that political appointees often do not meet their obligations or use the authorities or flexibilities available to them for rewarding or holding executives accountable.

Such authorities include critical pay authority (5 U.S.C. 5377 and 5 CFR part 535), Title 5 authorities to better compensate qualified medical professionals, and recruitment, retention, and relocation incentives (3Rs), to name a few. Respondents also noted lack of support from the agency for home sales and relocation when the VA geographically reassigns executives to fill critical leadership gaps contributed to the agency's difficulty in filling those vacancies. Some respondents accused agency leadership of violating statutory authority (Chapter 43 of Title 5, USC) by artificially lowering SES performance appraisal ratings through a "forced distribution of ratings."

"The current leadership has created an atmosphere of fear and intimidation. One mistake of omission and they fire you. This hurts Veterans and forces employees to be rules based rather than values based in their actions."

"When Congress politicizes one agency, forcing its Secretary to back down on supporting every executive there, it makes us feel we don't have leadership support. Then caving in on bonuses, raises, and workplace protections synchronously as congress increasingly singles out VA employees makes VA a singularly unpleasant place to work."

Lastly, members of the career SES in the federal government are governed by Title 5 of the U.S. Code, and VA executives voiced skepticism that talented executives from other agencies would not seek employment at the VA under the terms of the Secretary's proposal. Careful consideration of whether the Secretary's new proposed VA SES system will truly help the agency attract the quality and caliber of leaders is warranted in assessing the Secretary's proposal.

CONCLUSION

As one of the largest federal agencies, VA is a complex entity with complex issues. Yet, many respondents expressed the desire to serve our nations veterans as a key motivation for continued employment at the VA. Sixty-six percent (66%) said that the ambition to pursue a position in a sector other than the private sector, such as the non-profit sector, or the private sector (57%) would not contribute to their consideration for leaving federal service.

Taken together, the quantitative and qualitative data collected in this survey demonstrates an agency career executive corps that is deeply committed to the VA mission, VA employees, and veterans. It highlights a group of individuals that is generally not driven by an excessive desire for increased compensation, but rather a desire to be adequately compensated and appropriately recognized for their contributions. Yet there is a feeling of being under near-constant siege, lacking support from Congress, agency political leaders or the White House, and suffering from a debilitating culture of fear.

This survey finds an agency already experiencing a significant leadership crisis. However, the proposal by the VA Secretary, and how it may be taken up and amended by Congress, left few respondents with positive feelings that the proposal will help the agency better recruit, hire, retain, compensate, appraise, or hold accountable career executive leaders.

Respondents largely confirmed that the VA's toxic environment is contributing to the difficulty the agency is having filling key executive leadership roles – such difficulty intended by those who seek to profit from the VA's troubles.

The environment is causing talented VA SES to leave the agency, or to seek non-executive positions at the VA, and is turning away talented GS-14 and GS-15 employees at VA and other agencies from pursuing VA SES opportunities. The current lack of support for career SES is driving employees towards bureaucratically-driven rules adherence instead of taking actions and making decisions in the best interest of the agency and the veterans it serves.

Changes related to the VA's career SES corps should be taken with great care and consideration for how those policy decisions made today will affect the quality and character of those willing to take on VA's career SES roles, and ultimately how veterans who receive services and benefits from the agency will be affected. It would be a terrible and tragic mistake to make hasty decisions now in the name of "accountability" only to have those decisions backfire on veterans in the future.

"I still encourage highly qualified GS-15 employees to apply for SES positions as I care about the agency and want competent leaders to help our organization excel. However, most of the GS-15 employees that I talk with state that they do not want to become an SES in VA due to the recent legislative initiatives."

APPENDIX I: METHODOLOGY

Between March 2 and 8, 2016, SEA conducted a survey of current and former VA SES and equivalents. The survey was sent to 791 individuals, 236 of whom responded. Three fourths (178) of the survey respondents are current VA SES. There are approximately 400 career SES employed at the VA right now. Nearly one-third (35%) of survey respondents worked for the Veterans Health Administration (VHA), 23% at other parts of VA, 17% at the Veterans Benefits Administration (VBA), and 17% were former VA SES. Both quantitative and qualitative data was collected, with comments offered by respondents.

APPENDIX II: SURVEY INSTRUMENT

Survey of Current and Former Senior Executives at the Department of Veterans Affairs

As you may well know, the Secretary of Veterans Affairs has proposed – and is in active discussion with Members of Congress regarding – moving all VA Senior Executive positions out of Title 5 and into a new Title 38-based executive system. VA leadership has touted the proposed new "business-oriented employment authorities" as a solution necessary to support agency "transformation" by changing how the agency appoints, hires, pays, and appraises executives. The proposal raises the salary cap for VA career SES to $235,000 and enables increased salaries and bonuses, reaching a total compensation cap of $400,000, while executives would lose their employment protections and rights under Title 5, including the ability to appeal disciplinary actions against them, such as removal, to the independent Merit Systems Protection Board (MSPB). Appeals would be handled internally at the VA, with limited judicial review for major personnel actions. The proposal also calls for a new, undefined, performance management and appraisal system established by the Secretary via regulation.

As the Senior Executives Association (SEA) works on Capitol Hill to educate Members regarding the impact of these proposals, we would like your input, specifically, on your 1) career plans, 2) experience with regard to filling SES vacancies, and 3) views of the Department's proposals.

SEA urges your participation in this very important survey. The survey should take no more than 10 minutes to complete and your responses will be anonymous and confidential. Thank you in advance for your timely participation!

1. Are you currently a member of the Senior Executives Association?
-Yes
-No
-Not, but I was previously
-No – never

2. Are you currently employed as a Senior Executive (or equivalent) in the Department of Veterans Affairs?
-Yes - Veterans Health Administration
-Yes - Veterans Benefits Administration
-Yes - National Cemeteries Administration
-Yes – Other
-No, but I am a former VA SES
-No

3. Are you planning to retire or resign in the foreseeable future?
-Yes, within the next year
-Yes, within the next two to three years
-Yes, within the next four to five years
-No plans to retire or resign in the foreseeable future

4. On a scale of 1 (not at all)-5 (great extent), how much will each of these reasons impact or contribute to your decision to separate from federal service? (Not At All, Very Little, Somewhat, Moderate Extent, Great Extent)
Frustration with current Administration
Frustration with current Congress
Frustration with lack of progress within the federal government as a whole
Frustration with political leadership within VA
Frustration with career leadership within VA
Fear of unfair media or Congressional scrutiny
Diminished or complete inability to receive/be considered for performance bonuses or other merit-based awards
Diminished or complete inability to receive/be considered for pay increases
Desire to pursue a position in the private sector
Desire to pursue a position in a sector other than the private sector (e.g., non-profit)
Desire for more leisure/vacation time
Desire to spend more time with family/friends
Need to care for a family member/friend
Please provide comments:

5. Please think about SES, SL and/or ST job applicants over the past two years for which you are familiar. How would you rate the quality of these applicants – both internal (i.e., from within your agency or another federal agency) and external (from outside the federal government)? (Very Low, Low, Moderate, High, Very High, Not Sure)
Internal Applicants
External Applicants

6. To what extent, if at all, has the overall quality of internal and external candidates for career SES, SL and/or ST job vacancies in your agency changed in the past two years? (Much Lower Quality Now, Slightly Lower Quality Now, About the Same, Slightly Higher Quality Now, Much Higher Quality Now, Not Sure)
Internal Applicants
External Applicants

7. Thinking specifically about job vacancies within the past two years, how would you rate the level of ease or difficulty that your agency has experienced in attracting high quality personnel to apply for career SES, SL and ST positions?
-Very Easy
-Somewhat Easy
-Neither Easy Nor Difficult
-Somewhat Difficult
-Very Difficult
-Not Sure
Please provide comments:

8. To what extent, if at all, are you concerned about the ability of your agency to fill career SES, SL and/or ST vacancies with highly qualified candidates?
-Great Extent
-Moderate Extent
-Somewhat
-Very Little
-Not At All
-Not Sure

9. How would you rate the level of interest that high quality GS-14 and GS-15 (or equivalent) employees have in applying for career SES, SL and/or ST positions in your agency?
-Very High
-High
-Moderate
-Low
-Very Low
-Not Sure

10. Given conditions in your agency, do you encourage highly qualified GS-15s (or equivalent) employees to apply for SES, SL and/or ST positions?
-Yes
-No
-Not Sure
Please provide comments:

11. When you encourage highly qualified GS-15s (or equivalent) personnel to apply for SES, SL and/or ST positions, how is your encouragement received? (choose best answer):
-Never Met With Interest
-Rarely Met With Interest
-Sometimes Met With Interest
-Often Met With Interest
-Always Met With Interest
-Not Sure
Please provide comments:

12. Generally speaking, do you believe your agency has a good pipeline of highly qualified GS-15 (or equivalent) employees who are ready and able to fill future SES, SL and/or ST positions?
-Yes
-No
-Not Sure
-Other (please specify with comments)

13. Do you support the Department of Veterans Affairs' proposal to move all SES positions from Title 5 into Title 38, enabling executives to be paid up to a maximum salary of $235,000 (and up to $400,000 in salary and bonuses) but resulting in fewer job protections?
-Yes
-No
-Other (please specify with comments):

If this proposal were to be enacted, would you be likely to:

14. Retire sooner than planned?
-Yes
-No
-Not Sure
-N/A

15. Stay on longer than planned?
-Yes
-No
-Not Sure
-N/A

16. Apply for one of the new positions?
-Yes
-No
-Not Sure
-N/A

Do you believe the Department's proposal to move all SES positions from Title 5 into Title 38 will aid VA in the following areas:

17. Recruiting high quality career executives from outside the agency?
-Yes
-No
-Not sure

18. Recruiting high quality career executives from inside the agency?
-Yes
-No
-Not sure

19. Retaining high quality career executives?
-Yes
-No
-Not sure

20. Improving morale of VA career executives?
-Yes
-No
-Not sure

21. Improving VA operational effectiveness?
-Yes
-No
-Not sure

22. Holding executives accountable for their performance and conduct?
-Yes
-No
-Not sure

23. Creating a high performance culture at VA?
-Yes
-No
-Not sure

24. Providing adequate due process and appeal rights for VA executives?
-Yes
-No
-Not sure

25. All things considered, do you believe the Department's proposal, if enacted, will improve VA effectiveness and service delivery to veterans?
-Yes
-No
-Not Sure

26. In your own words, please provide any comments, reactions and/or concerns you have regarding the Department's proposal to create a new personnel system for career SES under VA's Title 38:

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