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Congress of the United States
House of Representatives

January 17, 2012

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wolf.house.gov

General Eric Shinseki
Secretary
Department of Veterans Affairs
810 Vermont Ave NW
Washington DC 20420

Dear General Shinseki:

I have enclosed a letter which I received from Mr. Bill Preston, president of AFGE Local 17, regarding allegations that the employees within the Board of Veterans' Appeals (BVA) were incorrectly denied the ability to telework.

As you may know, I have been a long-time and staunch supporter of telework. My legislation, enacted in 2001, mandated a phased-in program to expand the number of federal employees who telework, with the goal of giving every eligible federal employee this workplace option by the end of 2005. When it became clear that agencies were failing to adequately implement the 2001 law, I included provisions in the FY 2005, FY 2006, and FY 2007 spending bills to withhold \$5 million from agencies that failed to meet the law.

As your staff may recall, I personally discussed the BVA telework program with former Secretary McPeake when the VA inappropriately attempted to require a greater workload from employees who teleworked. More recently, I was the lead Republican cosponsor of the Telework Enhancement Act of 2010, and am hopeful that your department will work to ensure compliance with these new requirements. There is no excuse for discouraging telework participation – either by slow implementation or disincentives, such as additional work requirements for those who telework.

I would appreciate it if you would review the enclosed correspondence and address the issues it raises. It would be helpful if you would address your response to me, to the attention of my staff member, Mira Lezell, at my Washington, D.C., office.

Thank you for your time and courtesy in being attentive to the concerns of Mr. Preston.

Best wishes.

Sincerely

Frank R. Wolf
Member of Congress

FRW:ml
Enclosure

cc: John Berry, Office of Personnel Management



*Fighting for Justice
here at VA Central Office*

American Federation of Government Employees, Local 17, AFL-CIO

The Honorable Frank R. Wolf
United States House of Representatives
241 Cannon Building
Washington, DC 20515

Dear Congressman Wolf:

We are presenting this information to you because we know from experience your keen interest in telework. As you know from your staff, with which our union local has been in contact, almost two-dozen employees we represent learned this week that the Board of Veterans' Appeals (BVA) has decided to deny them the right to telework.

The impact on some of the 23 BVA attorneys (out of 163 applicants in total) denied telework is devastating. For example, one BVA attorney now on telework, who is rated fully successful, was told his last day to participate in the program will be February 3. He is the sole available parent for his toddler while his wife will be on active duty in Afghanistan. Not only is this drastic news for him, his soon to be deployed wife has to go into an extremely dangerous mission worrying about this abrupt disruption to her family care plan.

The Master Collective Bargaining Agreement between VA and AFGE expressly recognizes the mutual benefits of telework for both the Department and its employees include "balancing work and family responsibilities." This attorney I mentioned above, who is a disabled veteran himself, is not alone in the need to balance family obligations. Other BVA attorneys who got notices denying them telework include one who has a child with autism and at least one other attorney who is a single parent. They are not trying to use telework as an alternative to or in lieu of dependent care, and clearly have been able to work successfully while supporting their families under this arrangement. It is unclear why they are denied the ability to work in an alternate setting that supports the mission of the Department and the broader Federal government goals of expanding telework.

What often gets missed in the analysis of mutual benefits of telework is there is a much more important group that benefits from this arrangement—veterans who were disabled

in service and who rely on these highly-skilled attorneys to evaluate veterans' claims for benefits. To the extent management makes it more difficult for an attorney to evaluate claims, veterans will be delayed in receiving benefits to which they are entitled.

Some of the BVA attorneys denied telework, in whom the government and by extension taxpayers have invested heavily to hone skills and experience in a very specialized area of law, veterans law, may even be forced to leave their jobs as a result of this decision. The work these employees do is vital to providing justice for veterans who incurred injuries or illnesses in service. The telework-denied employees have years, sometimes decades, of experience and development, to a point where they have expertise in this very complicated practice area. Forcing them to leave (to go, for example, into private practice representing appellants before the U.S. Court of Appeals for Veterans Claims), especially under a hiring freeze where BVA can't hire any new attorneys, will further delay benefits decisions and urgently needed services for disabled veterans.

BVA management, under the direction of Executive in Charge Steve Keller, placed a cap of 140 on the number of attorneys allowed to telework. *We have received no explanation, much less a good reason, for the existence of this cap,* despite repeated efforts by our union's representatives to obtain one from management. I believe Congress ought to ask the Secretary of Veterans Affairs exactly why this cap exists, and encourage BVA to comply with the law and expand telework opportunities. We know Congress and the Executive branch from President Obama down through the Cabinet secretaries support telework, and that Federal law, most recently the Telework Enhancement Act of 2010, directs the U.S. government to expand use of telework significantly and track progress toward the goal. To me, the limit is arbitrary and capricious and amounts to a needless imposition of traffic-creating commuting obligations that cost time, money, and add pollution to our environment. BVA's decision adds more commuters to an already congested metropolitan area during the worst weather period of the year, obviating OPM's widely-trumpeted "Snowmagedon" plans.

This wouldn't be the first time BVA tried to dodge its responsibilities on the issue. In 2008, you had to intervene personally with then Secretary James Peake in order to force BVA to let go of a greater workload requirement BVA was imposing on teleworking attorneys, which disparate treatment was not only unfair and inequitable but also violated both the letter and spirit of Federal telework law.

We believe this 140 cap violates the Telework Enhancement Act of 2010 by explicitly precluding expanded levels of telework. It harms employees and fellow commuters. And if it triggers premature retirements or resignations, then it also harms the taxpayers who paid for the development of very skilled employees, and harms the veterans we serve by delaying their just consideration for benefits.

Sincerely,
Bill Preston

President
AFGE Local 17
Washington, DC 20420
(202) 461-5457