

Congress of the United States

House of Representatives

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Opening Statement Ranking Member Elijah E. Cummings

H.R. 702, Federal Employee Antidiscrimination Act of 2017

January 31, 2017

I thank you, Mr. Chairman, as well as Representatives Norton, Sensenbrenner, and Jackson-Lee, for working with me on this measure.

The bill before us is essentially identical to H.R. 1557 considered in the last Congress. That legislation passed the House by a vote of 403 to 0. Unfortunately, the bill did not pass the Senate before the clock ran out.

The provisions in this bill will strengthen the management of federal Equal Employment Opportunity programs. They will also make clear that agencies cannot impose any nondisclosure agreement on federal employees that would prohibit employees from disclosing fraud or illegal actions to Congress, the Office of Special Counsel, or an Inspector General.

These programs exist to uphold the guarantee of equal opportunity that is the right of every citizen in this nation and to ensure that any barriers impeding fairness in personnel decisions are identified and eliminated.

While the vast majority of federal agencies comply with current requirements, some still have not met the standards of a model EEO program set forth by the Equal Employment Opportunity Commission. Sadly, we saw this first-hand during the bi-partisan investigations we conducted last year of sexual harassment and discrimination at the National Park Service and the Forest Service. We also saw how employees suffer when their complaints of discrimination are not handled in a fair and timely manner and when appropriate steps are not taken to prevent the disclosure of complaints and complainants' personal information.

My bill would require that EEO programs operate independently of an agency's human resources or general counsel offices. It also would require that the head of the program report directly to the head of an agency.

This would ensure that effective implementation of the EEO program is prioritized at the highest level of an agency and that it operates with the sole purpose of ensuring equal

opportunity for all employees. This bill would also strengthen the accountability mechanisms that are central to the effectiveness of the EEO process.

In addition, the bill would prohibit policies, forms, or agreements that seek to prevent an employee from disclosing to Congress, the OSC, or an Office of the Inspector General information about violations of law or regulations, or instances of waste, fraud, or abuse.

According to the 2014 Federal Employee Viewpoint Survey, only 60% of federal employees agreed that they could, quote, “disclose a suspected violation of any law, rule or regulation without fear of reprisal.”

The Federal Employee Antidiscrimination Act will help ensure that federal employees can report discrimination without suffering retaliation and that such reports will be thoroughly, fairly, and timely investigated and adjudicated.

Finally, as I close, I want to address some of the issues that arose during consideration of this measure in the Senate Homeland Security Committee last year. I want to be crystal clear that I believe that supervisors who engage in discriminatory or retaliatory action must be held accountable. However, this can be accomplished without curtailing any existing due process rights for federal employees, and I will continue to oppose all efforts to roll back any due process right.

Mr. Chairman, I thank you again for working with me on this legislation. I also thank Tanya Ward Jordan, Paulette Taylor, and all the members of the Coalition 4 Change – C4C – for their work on this and their perseverance.

I urge all Members to support H.R. 702. And I hope that in this Congress, we can finally enact it into law.

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