



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

March 7, 2023

The Honorable Kevin McCarthy
Speaker, U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader, U.S. House of Representatives
2433 Rayburn House Office Building
Washington, DC 20515

Re: Letter of Opposition to H.R. 140

Dear Speaker McCarthy and Minority Leader Jeffries,

My organization, Citizens for Responsibility and Ethics in Washington (CREW), is writing to you today in opposition to H.R. 140, which, if passed, would place limits on the free speech of government employees.¹ The ironically titled Protecting Speech from Government Interference Act purports to prevent federal government officials from using their authority to engage in online "censorship."² In reality, the bill would increase the very type of government censorship it claims to prevent.

H.R. 140 would place broad limitations on federal government conduct by restricting most government employees from using their legal authority to moderate online speech. These new restrictions would significantly complicate the government's ability to fight foreign propaganda, terrorist recruiting, misinformation, and other forms of harmful conduct taking place online. Crucially, the bill creates cumbersome exceptions for government officials using their authority to pursue "legitimate law enforcement" aims.³ The bill's morass of burdensome restrictions would create a situation where members of the national security apparatus could risk debarment and civil fines for attempting to, for example, ask a social media platform to remove a video recruiting civilians to join foreign militias.

Additionally, although H.R. 140 carves out law enforcement activity, it requires employees to report any plans to pursue such activities to Congress 72 hours in advance. This would effectively prohibit law enforcement from executing their duties for three days, far too long a period when it comes to the spread of dangerous information online. This measure also requires federal agencies to report the name of the relevant employee who is involved in attempts to censor online content as well as their supervisor to several congressional committees, regardless of whether the topic at hand is within the committees'

¹ H.R. 140, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-bill/140>.

² *Id.*

³ *Id.*

jurisdiction.⁴ These provisions are clearly designed to intimidate federal employees in the course of their official duties and will have the effect of hindering key law enforcement activities.

Moreover, although H.R. 140 introduces a new sweeping prohibition on government conduct, ironically, it does so only selectively. By adopting the definition of “employee” in 5 U.S.C. §7322 this legislation, by its very terms, does not apply to members of Congress or their staff--leaving the very legislators who are concerned about so-called censorship free to do the exact activities that this legislation seeks to prohibit.⁵

If the proponents of H.R. 140 were really concerned about government censorship, they might use their oversight authorities to examine Florida Governor Ron DeSantis's efforts to effectively censor the speech of teachers by rejecting a plan for a new Advanced Placement class on African American studies, forcing the College Board to purge the names of several Black scholars from their curriculum and removing instruction on contemporary racism, or the ban placed by a Tennessee school district on a graphic novel about the Holocaust for “inappropriate language.”⁶ But proponents of H.R. 140 have not expressed similar concerns about these examples.⁷

H.R. 140 is not truly about government censorship, but rather about a political dispute between conservatives and social media companies over the propriety of posts that violate their terms of service.⁸ H.R. 140 pulls federal employees into this political battle without regard for their privacy, security, and freedom of speech. Moreover, it builds upon this Congress' battle against federal employees which was codified in the House Rules package - a package that includes a provision to allow lawmakers to reduce or eliminate federal agency programs and slash the salaries of individual federal workers.⁹ The passage of H.R. 140 would be especially harmful within this context and at a time in which attracting new federal employees is urgent, as a significant portion of the federal workforce is expected to retire soon.¹⁰

⁴ *Id.*

⁵ *Id.*

⁶ Nick Anderson, *DeSantis threatens to rid Florida of Advanced Placement classes*, Washington Post (Feb. 14, 2023), <https://www.washingtonpost.com/education/2023/02/14/desantis-florida-ap-classes-college-board/>; Anderson, *College Board faces storm of criticism over AP African American studies*, Washington Post (Feb 2, 2023), <https://www.washingtonpost.com/education/2023/02/02/college-board-ap-african-american-studies-criticism/>; *Holocaust novel 'Maus' banned in Tennessee school district*, AP (Jan. 27, 2023), <https://apnews.com/article/holocaust-novel-maus-banned-tennessee-school-0029d5d105bca869cbc7b1b38a9642e0>.

⁷ Rep. Tim Burchett (@RepTimBurchett), Twitter (Feb. 27, 2023 5:18 pm), <https://twitter.com/RepTimBurchett/status/1630331440859684864>.

⁸ Melina Delkic, *Trump's banishment from Facebook and Twitter: A timeline.*, New York Times (May 10, 2022), <https://www.nytimes.com/2022/05/10/technology/trump-social-media-ban-timeline.html>; Aimee Picchi, *Twitter Files: What they are and why they matter*, CBS (Dec. 14, 2022), <https://www.cbsnews.com/news/twitter-files-matt-taibbi-bari-weiss-michael-shellenberger-elon-musk/>.

⁹ Eric Yoder, *GOP revives rule allowing lawmakers to target federal agencies, staffers*, Washington Post (Jan. 10, 2023), <https://www.washingtonpost.com/politics/2023/01/10/gop-holman-rule-unions-biden-congress/>.

¹⁰ Lisa Rein and Jacqueline Alemany, *Emboldened by its majority, House GOP turns up heat on federal workers*, Washington Post (Feb. 27, 2023), <https://www.washingtonpost.com/politics/2023/02/27/house-gop-federal-workers-jim-jordan>.

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We strongly urge members of Congress to reject this attack on federal employees and vote against H.R. 140.

Sincerely,

A handwritten signature in blue ink, appearing to read "Noah Bookbinder". The signature is stylized and cursive.

Noah Bookbinder
President and Chief Executive Officer

cc:

The Honorable James Comer,
Chair, House Committee on Oversight and Accountability

The Honorable Jamie Raskin,
Ranking Member, House Committee on Oversight and Accountability