Dear Speaker Boehner, Leader Pelosi, Chairman Sessions, and Ranking Member Slaughter:

As organizations concerned with openness and accountability in all parts of government, we urge the Rules Committee to make in order Congresswoman Speier’s amendment (Amendment #12) to H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016. This amendment provides overdue reforms for military whistleblowers, as well as members of the Public Health Service, to create credible whistleblower protection rights for members of the Armed Forces.

Over the past 27 years, the Military Whistleblower Protection Act has been periodically updated to provide greater protections for whistleblowers. However, these changes have not kept pace with similar increases in protections in civilian whistleblower statutes, and as a result, servicemembers are more likely to face retaliation for reporting illegal activities. That is unacceptable.

This amendment does not expand the contexts for legally-protected whistleblowing. Rather, it is a comprehensive overhaul of existing law so that its due process structure for enforcement is on parity with other whistleblower laws. A recently released Government Accountability Office report found significant due process deficiencies for military whistleblowers, with the average reprisal investigation taking 526 days, nearly three times the Department of Defense’s internal 180-day requirement. This amendment addresses this deficiency by providing a temporary remedy to military whistleblowers when the Department of Defense Inspector General has a reasonable belief that an illegal reprisal has occurred by allowing a 90-day “stay” of alleged retaliation that provides undue hardship until an investigation is complete. In addition, this amendment:

- permits legal challenges to retaliatory investigations;
- guarantees an administrative due process hearing at the Board of Correction of Military Records for fully investigated whistleblower claims;
- strengthens independence by allowing servicemembers to have an investigation by the Department of Defense Office of Inspector General (OIG), instead of by a Service Inspector General;
- requires OIG investigative reports to consider discipline for retaliation; and

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establishes general military administrative justice due process reforms.

These reforms are critical and long overdue. Our servicemembers should not live in fear of retaliation for speaking out. We hope you will make this amendment in order to provide them the credible whistleblower protections they deserve.

Sincerely,

ACORN 8
American Civil Liberties Union (ACLU)
Center for Science and Democracy at the Union of Concerned Scientists
Federally Employed Women Legal Education Fund (FEW-LEF)
Government Accountability Project
Human Rights Watch
International Association of Whistleblowers
Liberty Coalition
MuckRock
National Taxpayers Union
National Whistleblowers Center
OpenTheGovernment.org
Project On Government Oversight (POGO)
Public Citizen
Rural Coalition/Coalición Rural
Sunlight Foundation
Taxpayers Protection Alliance
Kevin R. Downing, former Captain, US Army Reserves