

117TH CONGRESS  
1ST SESSION

# H. R. 5275

To establish an independent appeals process relating to assignment restrictions at the Department of State, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2021

Mr. LIEU (for himself, Mr. KIM of New Jersey, Ms. HOULAHAN, and Mr. CASTRO of Texas) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To establish an independent appeals process relating to assignment restrictions at the Department of State, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Accountability in As-  
5 signment Restrictions Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Foreign Service Act of 1980 prohibits  
9 the Department of State from discrimination on the

1 basis of race, color, religion, sex, national origin,  
2 age, handicapping condition, marital status, geo-  
3 graphic or educational affiliation within the United  
4 States, or political affiliation in all personnel actions,  
5 including assignments.

6 (2) According to a Government Accountability  
7 Office report published in 2020, the Senior Foreign  
8 Service was 69 percent male and 90 percent White.  
9 Meanwhile numerous testimonials have documented  
10 the barriers to advancement faced by non-White  
11 Foreign Service officers (FSOs).

12 (3) On April 12, 2021, Secretary Blinken ap-  
13 pointed a new Chief Diversity and Inclusion Officer,  
14 former Ambassador Gina Abercrombie-Winstanley,  
15 reflecting his stated commitment to increasing diver-  
16 sity and inclusion at the Department.

17 (4) According to the Department of State, there  
18 are approximately 1800 employees currently subject  
19 to a practice called assignment restrictions, whereby  
20 they are precluded from working in or on a par-  
21 ticular country. The top four countries to which the  
22 restrictions apply are China (196), Russia (184),  
23 Taiwan (84), and Israel (70).

24 (5) Department of State employees have repeat-  
25 edly raised concerns with Congress and the Depart-

1       ment that the practice of assignment restrictions  
2       lacks transparency and accountability, and it may  
3       disproportionately and unfairly affect Asian-Amer-  
4       ican employees.

5               (6) The Department of State lacks an inde-  
6       pendent appeals process for assignment restrictions,  
7       preventing affected employees from having their case  
8       reviewed by individuals who were not involved with  
9       the initial decision.

10 **SEC. 3. SENSE OF CONGRESS.**

11       It is the sense of Congress that—

12               (1) it is in the foreign policy interest of the  
13       United States to maintain a diplomatic corps that  
14       reflects the diversity of the country and fully utilizes  
15       the cultural and linguistic skills that stem from this  
16       diversity;

17               (2) the practice of assignment restrictions risks  
18       undermining the Department of State’s stated goals  
19       of promoting diversity and inclusion in its workforce,  
20       while potentially restricting those individuals whose  
21       cultural and linguistic skills can most benefit the  
22       work of United States diplomacy and counterintel-  
23       ligence;

24               (3) the practice of assignment restrictions lim-  
25       its the opportunities for promotion and career ad-

1 vancement of talented Department of State employ-  
2 ees who possess valuable linguistic skills and coun-  
3 try-specific knowledge;

4 (4) the establishment of an independent appeals  
5 process for assignment restrictions, whereby the  
6 panel is not made up by a majority of individuals  
7 from the same bureau that made the initial deter-  
8 mination, would help ensure fairness and trans-  
9 parency while promoting the goals of inclusion and  
10 diversity within the Department; and

11 (5) tracking and reporting data on assignment  
12 restrictions, including the race, ethnicity, and na-  
13 tional origin of those impacted individuals, will help  
14 ensure that assignment restrictions are not dis-  
15 proportionately targeting a particular group or mi-  
16 nority at the Department.

17 **SEC. 4. ESTABLISHMENT OF AN INDEPENDENT APPEALS**  
18 **PROCESS.**

19 The Secretary of State shall amend all relevant provi-  
20 sions of the Foreign Service Manual, and any associated  
21 or related policies of the Department of State, to reflect  
22 the following policies with respect to Foreign Service and  
23 civil service employees of the Department:

24 (1) Any employee subjected to an assignment  
25 restriction or preclusion shall have the same appeal

1 rights as provided by the Department regarding de-  
2 nial or revocation of a security clearance.

3 (2) Any such appeal shall be resolved not later  
4 than 60 days after such appeal is filed.

5 (3) The Bureau of Diplomatic Security shall  
6 transmit to the Assignment Restriction Appeals  
7 Panel all case files, without redaction, relating to an  
8 employee subject to an assignment restriction or pre-  
9 clusion.

10 (4) The Assignment Restriction Appeals Panel  
11 shall be comprised of the following officials of the  
12 Department:

13 (A) The Under Secretary for Management.

14 (B) The Principal Deputy Assistant Sec-  
15 retary for the Bureau of Global Talent Manage-  
16 ment.

17 (C) The Chief Diversity and Inclusion Offi-  
18 cer.

19 (D) An Assistant Secretary or Deputy, or  
20 equivalent, from a third bureau designated by  
21 the Under Secretary for Management.

22 (E) A representative from the geographic  
23 bureau to which the restriction applies.

24 (F) A representative from the Office of the  
25 Legal Adviser and a representative from the

1 Bureau of Diplomatic Security, who shall serve  
2 as non-voting advisors.

3 (5) All members of the Assignment Restriction  
4 Appeals Panel shall possess appropriate security  
5 clearances.

6 (6) If any member of the Assignment Restric-  
7 tion Appeals Panel is unable to serve, the Secretary,  
8 Deputy Secretary, or the Under Secretary for Man-  
9 agement may designate an alternate. The most sen-  
10 ior member of such a Panel shall serve as chair of  
11 the Panel.

12 **SEC. 5. ANNUAL REPORT.**

13 Not later than 90 days after the date of the enact-  
14 ment of this Act and annually thereafter, the Secretary  
15 of State shall submit to the Committee on Foreign Affairs  
16 and the Committee on Appropriations of the House of  
17 Representatives and the Committee on Foreign Relations  
18 and the Committee on Appropriations of the Senate a re-  
19 port that contains the following:

20 (1) A rationale for the use of assignment re-  
21 strictions by the Department of State, including spe-  
22 cific case studies related to cleared American For-  
23 eign Service and civil service employees of the De-  
24 partment that demonstrate country-specific restric-  
25 tions serve a counterintelligence role beyond that

1 which is already covered by the security clearance  
2 process.

3 (2) The number of such Department employees  
4 subject to assignment restrictions over the previous  
5 year, with data disaggregated by:

6 (A) Identification as a Foreign Service of-  
7 ficer, civil service employee, eligible family  
8 member, or other employment status.

9 (B) The ethnicity, national origin, and race  
10 of the precluded employee.

11 (C) Gender.

12 (D) Identification of the country of restric-  
13 tion.

14 (3) A description of the considerations and cri-  
15 teria used by the Bureau of Diplomatic Security to  
16 determine whether an assignment restriction is war-  
17 ranted.

18 (4) The number of restrictions that were ap-  
19 pealed and the success rate of such appeals.

20 (5) The impact of assignment restrictions in  
21 terms of unused language skills as measured by For-  
22 eign Service Institute language scores of such pre-  
23 cluded employees.

- 1           (6) Measures taken to ensure the diversity of
- 2           adjudicators and contracted investigators, with ac-
- 3           companying data on results.

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