

115TH CONGRESS  
2D SESSION

# H. R. 6376

To amend title 5, United States Code, to provide for certain reforms to disciplinary procedures applicable to members of the Senior Executive Service, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2018

Mr. WALBERG introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To amend title 5, United States Code, to provide for certain reforms to disciplinary procedures applicable to members of the Senior Executive Service, 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 “Senior Executive Serv-  
5 ice Accountability Act”.

6 **SEC. 2. ACTIONS AGAINST SENIOR EXECUTIVES FOR PER-**  
7 **FORMANCE OR CONDUCT.**

8 (a) REPEAL OF PAY RETENTION FOR CAREER AP-  
9 POINTEES REMOVED FROM THE SENIOR EXECUTIVE

1 SERVICE.—Section 3594(c)(1)(B) of title 5, United States  
2 Code, is amended to read as follows:

3 “(B)(i) any career appointee placed under sub-  
4 section (a) or (b)(2) of this section shall be entitled  
5 to receive basic pay at the highest of—

6 “(I) the rate of basic pay in effect for the  
7 position in which placed;

8 “(II) the rate of basic pay in effect at the  
9 time of the placement for the position the ca-  
10 reer appointee held in the civil service imme-  
11 diately before being appointed to the Senior Ex-  
12 ecutive Service; or

13 “(III) the rate of basic pay in effect for  
14 the career appointee immediately before being  
15 placed under subsection (a) or (b) of this sec-  
16 tion; and

17 “(ii) any career appointee placed under sub-  
18 section (b)(1) of this section shall be entitled to re-  
19 ceive basic pay at the rate of basic pay in effect for  
20 the position in which placed; and”.

21 (b) APPRAISAL SYSTEM REQUIREMENTS.—Section  
22 4314(b) of title 5, United States Code, is amended—

23 (1) in paragraph (3), by adding at the end be-  
24 fore the semicolon the following: “or, as warranted,  
25 from the civil service”; and

1           (2) in paragraph (4), by adding at the end be-  
2           fore the semicolon the following: “or, as warranted,  
3           from the civil service”.

4           (c) SUSPENSION FOR 14 DAYS OR LESS.—Paragraph  
5 (1) of section 7501 of title 5, United States Code, is  
6 amended to read as follows:

7           “(1) ‘employee’ means—

8                   “(A) an individual in the competitive serv-  
9                   ice who is not serving a probationary period or,  
10                   except as provided in section 1599e of title 10,  
11                   trial period under an initial appointment or who  
12                   has completed 1 year of current continuous em-  
13                   ployment in the same or similar positions under  
14                   other than a temporary appointment limited to  
15                   1 year or less; or

16                   “(B) a career appointee in the Senior Ex-  
17                   ecutive Service who—

18                           “(i) has completed the probationary  
19                           period prescribed under section 3393(d); or

20                           “(ii) was covered by the provisions of  
21                           subchapter II of this chapter immediately  
22                           before appointment to the Senior Executive  
23                           Service; and”.

1 (d) MODIFICATION OF CAUSE AND PROCEDURE FOR  
2 SUSPENSION AND TERMINATION.—Section 7543 of title  
3 5, United States Code, is amended—

4 (1) by striking subsections (a), (b), and (c) and  
5 inserting the following:

6 “(a) Under regulations prescribed by the Office of  
7 Personnel Management, an agency may take an action  
8 covered by this subchapter against an employee only for  
9 such cause as would promote the efficiency of the service.

10 “(b) An employee against whom an action is proposed  
11 is entitled to—

12 “(1) written notice 15 business days in advance,  
13 unless there is reasonable cause to believe the em-  
14 ployee has committed a crime for which a sentence  
15 of imprisonment can be imposed, stating specific  
16 reasons for the proposed action;

17 “(2) a reasonable time, but not greater than 7  
18 business days, to answer orally and in writing and  
19 to furnish affidavits and other documentary evidence  
20 in support of the answer;

21 “(3) be represented by an attorney or other  
22 representative; and

23 “(4) a written decision and the specific reasons  
24 therefor.

1 “(c) An agency shall issue the decision not later than  
2 15 business days after the agency provides notice, includ-  
3 ing a file containing all the evidence in support of the pro-  
4 posed action, to the employee affected.”;

5 (2) in subsection (d), by inserting before the pe-  
6 riod the following: “, but only if such appeal is made  
7 not later than 10 business days after the effective  
8 date of the action”; and

9 (3) in subsection (e), by striking “and to the  
10 employee affected upon the employee’s request” and  
11 adding at the end after the period the following:  
12 “Upon the affected employee’s request, copies of the  
13 documents described in the previous sentence shall  
14 be furnished to the employee, to the extent those  
15 documents were not provided pursuant to subsection  
16 (c).”.

17 (e) CONFORMING AMENDMENTS.—Title 5, United  
18 States Code, is amended—

19 (1) in section 3592(b)(2)(B), by striking “any  
20 disciplinary action” and inserting “any action under  
21 section 7543”;

22 (2) in section 3593(a)(2), by striking “mis-  
23 conduct, neglect of duty, malfeasance,” and insert-  
24 ing “a removal under section 7543”;

1           (3) in section 3594, by adding at the end the  
2 following:

3           “(d) This section shall not apply to any career ap-  
4 pointee who is subject to a personnel action under sub-  
5 chapter V of chapter 75.”; and

6           (4) in section 7542, by striking “or to a re-  
7 moval under section 3592 or” and inserting the fol-  
8 lowing: “to a removal from the Senior Executive  
9 Service under section 3592 of this title, or to a re-  
10 duction in force or a transfer of function as defined  
11 in subsections (d) and (e) of section”.

12          (f) APPLICATION.—The amendments made by this  
13 Act shall not apply to any personnel action under sub-  
14 chapter V of chapter 75 of title 5, United States Code,  
15 commenced before the date that is 1 year after the date  
16 of the enactment of this Act.

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