

116TH CONGRESS
1ST SESSION

S. 1990

To amend title 5, United States Code, to provide additional authority to the Office of Special Counsel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2019

Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 5, United States Code, to provide additional authority to the Office of Special Counsel, 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 “Presidential Appointee
5 Accountability Act of 2019”.

6 **SEC. 2. OFFICE OF SPECIAL COUNSEL.**

7 Section 1215 of title 5, United States Code, is
8 amended—

9 (1) in subsection (a)(3)—

1 (A) in subparagraph (A), in the matter
2 preceding clause (i), by striking “A final” and
3 inserting “Except as provided in subparagraph
4 (C), a final”; and

5 (B) by adding at the end the following:

6 “(C) In a case brought under paragraph (1) in-
7 volving disciplinary action against an employee in a
8 confidential, policy-making, policy-determining, or
9 policy-advocating position appointed by the Presi-
10 dent, by and with the advice and consent of the Sen-
11 ate (other than an individual in the Foreign Service
12 of the United States or an employee serving in a po-
13 sition at level I of the Executive Schedule under sec-
14 tion 5312), a final order of the Board—

15 “(i) may impose an assessment of a civil
16 penalty in an amount that is not more than
17 \$10,000 for each violation committed by the
18 employee; and

19 “(ii) may not impose any other disciplinary
20 action.”; and

21 (2) by striking subsection (b) and inserting the
22 following:

23 “(b)(1) In this subsection, the term ‘covered indi-
24 vidual’—

1 “(A) means an employee in a confidential, poli-
2 icy-making, policy-determining, or policy-advocating
3 position appointed by the President, by and with the
4 advice and consent of the Senate (other than an in-
5 dividual in the Foreign Service of the United
6 States); and

7 “(B) includes an employee serving in a position
8 at level I of the Executive Schedule under section
9 5312.

10 “(2) If the Special Counsel determines under sub-
11 section (a) that disciplinary action should be taken against
12 a covered individual—

13 “(A) the Special Counsel shall prepare a writ-
14 ten complaint against the employee containing the
15 determination of the Special Counsel, which—

16 “(i) shall include—

17 “(I) a written statement of supporting
18 facts; and

19 “(II) the recommendation of the Spe-
20 cial Counsel regarding the specific discipli-
21 nary action that should be taken against
22 the covered individual; and

23 “(ii) the Special Counsel shall present to
24 the President and make publicly available; and

1 “(B) not later than 30 days after the date on
2 which the President receives the complaint sub-
3 mitted under subparagraph (A), the President
4 shall—

5 “(i) submit to the Special Counsel a writ-
6 ten response that contains—

7 “(I) an explanation of whether the
8 President is taking the disciplinary action
9 against the covered individual rec-
10 ommended by the Special Counsel under
11 subparagraph (A)(i)(II); and

12 “(II) if the President is not taking the
13 action described in subclause (I), the rea-
14 son that the President is not taking that
15 action; and

16 “(ii) make the response required under
17 clause (i) publicly available.

18 “(3) With respect to a covered individual who is an
19 employee in a confidential, policy-making, policy-deter-
20 mining, or policy-advocating position appointed by the
21 President, by and with the advice and consent of the Sen-
22 ate (other than an individual in the Foreign Service of
23 the United States or an employee serving in a position
24 at level I of the Executive Schedule under section 5312),
25 the action required under this subsection with respect to

- 1 the individual shall be in addition to any action required
- 2 under subsection (a) with respect to the individual.”.

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