

112TH CONGRESS
2D SESSION

H. R. 6016

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2012

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To amend title 5, United States Code, to provide for investigative leave requirements with respect to Senior Executive Service employees, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Government Employee
3 Accountability Act”.

4 **SEC. 2. SUSPENSION FOR 14 DAYS OR LESS FOR SENIOR EX-**
5 **ECUTIVE SERVICE EMPLOYEES.**

6 Paragraph (1) of section 7501 of title 5, United
7 States Code, is amended to read as follows:

8 “(1) ‘employee’ means—

9 “(A) an individual in the competitive serv-
10 ice who is not serving a probationary or trial
11 period under an initial appointment or who has
12 completed 1 year of current continuous employ-
13 ment 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;”.

1 **SEC. 3. INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE**
2 **SERVICE EMPLOYEES.**

3 (a) IN GENERAL.—Chapter 75 of title 5, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR
7 SENIOR EXECUTIVE SERVICE EMPLOYEES

8 “§ 7551. Definitions

9 “For the purposes of this subchapter—

10 “(1) ‘employee’ has the meaning given such
11 term in section 7541; and

12 “(2) ‘investigative leave’ means a temporary ab-
13 sence without duty for disciplinary reasons, of a pe-
14 riod not greater than 90 days.

15 “§ 7552. Actions covered

16 “This subchapter applies to investigative leave.

17 “§ 7553. Cause and procedure

18 “(a)(1) Under regulations prescribed by the Office of
19 Personnel Management, an agency may place an employee
20 on investigative leave, without loss of pay and without
21 charge to annual or sick leave, only for misconduct, ne-
22 glect of duty, malfeasance, or misappropriation of funds.

23 “(2) If an agency determines that such employee’s
24 conduct is serious or flagrant, the agency may place such
25 employee on investigative leave under this subchapter
26 without pay.

1 “(b)(1) At the end of each 45-day period during a
2 period of investigative leave implemented under this sec-
3 tion, the relevant agency shall review the investigation into
4 the employee with respect to the misconduct, neglect of
5 duty, malfeasance, or misappropriation of funds.

6 “(2) Not later than 5 business days after the end of
7 each such 45-day period, the agency shall submit a report
8 describing such review to the Committee on Oversight and
9 Government Reform of the House of Representatives and
10 the Committee on Homeland Security and Governmental
11 Affairs of the Senate.

12 “(3) At the end of a period of investigative leave im-
13 plemented under this section, the agency shall—

14 “(A) remove an employee placed on investiga-
15 tive leave under this section;

16 “(B) suspend such employee without pay; or

17 “(C) reinstate or restore such employee to duty.

18 “(4) The agency may extend the period of investiga-
19 tive leave with respect to an action under this subchapter
20 for an additional period not to exceed 90 days.

21 “(c) An employee against whom an action covered by
22 this subchapter is proposed is entitled to, before being
23 placed on investigative leave under this section—

1 “(1) at least 30 days’ advance written notice,
2 stating specific reasons for the proposed action, un-
3 less—

4 “(A) there is reasonable cause to believe
5 that the employee has committed a crime for
6 which a sentence of imprisonment can be im-
7 posed; or

8 “(B) the agency determines that the em-
9 ployee’s conduct with respect to which an action
10 covered by this subchapter is proposed is seri-
11 ous or flagrant as prescribed in regulation by
12 the Office of Personnel Management;

13 “(2) a reasonable time, but not less than 7
14 days, to answer orally and in writing and to furnish
15 affidavits and other documentary evidence in sup-
16 port of the answer;

17 “(3) be represented by an attorney or other
18 representative; and

19 “(4) a written decision and specific reasons
20 therefor at the earliest practicable date.

21 “(d) An agency may provide, by regulation, for a
22 hearing which may be in lieu of or in addition to the op-
23 portunity to answer provided under subsection (c)(2).

1 “(e) An employee against whom an action is taken
 2 under this section is entitled to appeal to the Merit Sys-
 3 tems Protection Board under section 7701.

4 “(f) Copies of the notice of proposed action, the an-
 5 swer of the employee when written, and a summary there-
 6 of when made orally, the notice of decision and reasons
 7 therefor, and any order effecting an action covered by this
 8 subchapter, together with any supporting material, shall
 9 be maintained by the agency and shall be furnished to the
 10 Merit Systems Protection Board upon its request and to
 11 the employee affected upon the employee’s request.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 at the beginning of chapter 75 of title 5, United States
 14 Code, is amended by adding after the item relating to sec-
 15 tion 7543 the following:

“SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE SERVICE
 EMPLOYEES

“7551. Definitions.

“7552. Actions covered.

“7553. Cause and procedure.”.

16 **SEC. 4. SUSPENSION OF SENIOR EXECUTIVE SERVICE EM-**
 17 **PLOYEES.**

18 Section 7543 of title 5, United States Code, is
 19 amended—

20 (1) in subsection (a), by inserting “misappro-
 21 priation of funds,” after “malfeasance,”; and

1 (2) in subsection (b), by amending paragraph
2 (1) to read as follows:

3 “(1) at least 30 days’ advance written notice,
4 stating specific reasons for the proposed action, un-
5 less—

6 “(A) there is reasonable cause to believe
7 that the employee has committed a crime for
8 which a sentence of imprisonment can be im-
9 posed; or

10 “(B) the agency determines that the em-
11 ployee’s conduct with respect to which an action
12 covered by this subchapter is proposed is seri-
13 ous or flagrant as prescribed in regulation by
14 the Office of Personnel Management;”.

15 **SEC. 5. MISAPPROPRIATION OF FUNDS AMENDMENTS.**

16 (a) REINSTATEMENT IN THE SENIOR EXECUTIVE
17 SERVICE.—Section 3593 of title 5, United States Code,
18 is amended—

19 (1) in subsection (a)(2), by inserting “mis-
20 appropriation of funds,” after “malfeasance,”; and

21 (2) in subsection (b), by striking “or malfea-
22 sance” and inserting “malfeasance, or misappropria-
23 tion of funds”.

24 (b) PLACEMENT IN OTHER PERSONNEL SYSTEMS.—
25 Section 3594(a) of title 5, United States Code, is amended

- 1 by striking “or malfeasance” and inserting “malfeasance,
- 2 or misappropriation of funds”.

Passed the House of Representatives December 19,
2012.

Attest:

KAREN L. HAAS,
Clerk.