

114TH CONGRESS
2D SESSION

H. R. 5908

To amend title 5, United States Code, to provide agency heads with additional authority to discipline Federal employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. YOHIO (for himself, Mr. GOHMERT, Mr. WEBER of Texas, and Mr. KING of Iowa) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend title 5, United States Code, to provide agency heads with additional authority to discipline Federal 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employee Ac-
5 countability Act of 2016” or “FEAA”.

1 **SEC. 2. REDUCTION IN GRADE OR PAY OR REMOVAL FOR**
2 **MISCONDUCT OR PERFORMANCE OF EM-**
3 **PLOYEES IN THE CIVIL SERVICE.**

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

7 “SUBCHAPTER VI—REDUCTION IN GRADE OR
8 PAY OR REMOVAL FOR MISCONDUCT OR
9 PERFORMANCE

10 **“§ 7551. Definitions**

11 “For purposes of this subchapter—

12 “(1) ‘employee’ means an individual occupying
13 a position within the civil service, but does not in-
14 clude any individual—

15 “(A) employed in a position described
16 under sections 5312 through 5316 (relating to
17 the Executive Schedule);

18 “(B) employed as a limited term appointee,
19 limited emergency appointee, or noncareer ap-
20 pointee in the Senior Executive Service, as de-
21 fined under paragraphs (5), (6), and (7), re-
22 spectively, of section 3132(a); or

23 “(C) employed in a position of a confiden-
24 tial or policy-determining character under
25 schedule C of subpart C of part 213 of title 5
26 of the Code of Federal Regulations;

1 “(2) ‘grade’ means a level of classification
2 under a position classification system;

3 “(3) ‘misconduct’ includes neglect of duty, mal-
4 feasance, or failure to accept a directed reassign-
5 ment or to accompany a position in a transfer of
6 function; and

7 “(4) ‘pay’ means the rate of basic pay fixed by
8 law or administrative action for the position held by
9 an employee.

10 **“§ 7552. Actions covered**

11 “This subchapter applies to a reduction in grade or
12 pay or removal, but does not apply to—

13 “(1) a reduction in grade or pay or removal
14 under section 7512;

15 “(2) a reduction in grade or pay or removal
16 under section 7521;

17 “(3) a removal under section 7532;

18 “(4) a removal under section 3592, 3595, or
19 7543; or

20 “(5) a removal from the Senior Executive Serv-
21 ice under section 713 of title 38.

22 **“§ 7553. Cause and procedure**

23 “(a) Notwithstanding any other provision of law,
24 under regulations prescribed by the Office of Personnel
25 Management, the head of an agency may—

1 “(1) remove an employee of the agency from
2 the civil service;

3 “(2) reduce the grade of an employee of the
4 agency; or

5 “(3) reduce the pay of an employee of the agen-
6 cy.

7 “(b) An employee subject to a reduction in grade
8 under subsection (a)(2) shall, beginning on the date that
9 the reduction takes effect, receive the annual rate of pay
10 applicable to such grade.

11 “(c)(1) Subject to paragraph (2) and subsection (d),
12 any reduction in grade or pay or removal under this sub-
13 chapter may be appealed to the Merit Systems Protection
14 Board under section 7701.

15 “(2) An appeal under paragraph (1) may only be
16 made if such appeal is made not later than seven days
17 after the date of such reduction in grade or pay or re-
18 moval.

19 “(d)(1) Upon receipt of an appeal under subsection
20 (c), the Merit Systems Protection Board shall refer the
21 appeal to an administrative judge pursuant to section
22 7701(b)(1). The administrative judge shall expedite any
23 such appeal under such section and, in any such case, shall
24 issue a decision not later than 45 days after the date that
25 the Board receives the appeal.

1 “(2) To the maximum extent practicable, the agency
2 shall provide to the Merit Systems Protection Board, and
3 to any administrative judge to whom an appeal under this
4 section is referred, such information and assistance as
5 may be necessary to ensure an appeal under this sub-
6 section is expedited.

7 “(3) Notwithstanding any other provision of law, in-
8 cluding section 7703, the decision of an administrative
9 judge under paragraph (1) shall be final and shall not be
10 subject to any further appeal.

11 “(4) In any case in which the administrative judge
12 cannot issue a decision in accordance with the 45-day re-
13 quirement under paragraph (3), the reduction in grade or
14 pay or removal is final. In such a case, the Merit Systems
15 Protection Board shall, within 14 days after the date that
16 such reduction in grade or pay or removal is final, submit
17 to Congress a report that explains the reasons why a deci-
18 sion was not issued in accordance with such requirement.

19 “(5) The Merit Systems Protection Board or admin-
20 istrative judge may not stay any reduction in grade or pay
21 or removal action under this section.

22 “(6) During the period beginning on the date on
23 which an employee appeals a removal from the civil service
24 under this subsection and ending on the date that the ad-
25 ministrative judge issues a final decision on such appeal,

1 such employee may not receive any pay, awards, bonuses,
 2 incentives, allowances, differentials, student loan repay-
 3 ments, special payments, or benefits.

4 “(e) In the case of an employee seeking corrective ac-
 5 tion (or on behalf of whom corrective action is sought)
 6 from the Office of Special Counsel based on an alleged
 7 prohibited personnel practice described in section 2302(b),
 8 the head of the agency may not reduce the grade or pay
 9 or remove such employee under this subchapter without
 10 the approval of the Special Counsel under section
 11 1214(f).”.

12 (b) APPLICATION.—The authority provided by sub-
 13 section (a) shall apply to any employee hired before, on,
 14 or after the date of enactment of this Act.

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

“SUBCHAPTER VI—REDUCTION IN GRADE OR PAY OR REMOVAL FOR
 MISCONDUCT OR PERFORMANCE

“7551. Definitions.

“7552. Actions covered.

“7552. Cause and procedure.”.

19 (d) CONFORMING AMENDMENTS.—Title 5, United
 20 States Code, is amended—

21 (1) in section 4303(f)—

1 (A) by striking “or” at the end of para-
2 graph (2);

3 (B) by striking the period at the end of
4 paragraph (3) and inserting “, or”; and

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

6 “(4) the reduction in grade or removal of an
7 employee under subchapter VI of chapter 75.”;

8 (2) in section 7512—

9 (A) by striking “or” at the end of subpara-
10 graph (D);

11 (B) by striking the period at the end of
12 subparagraph (E) and inserting “, or”; and

13 (C) by adding at the end the following:

14 “(F) a reduction in grade or pay or removal
15 under subchapter VI of this chapter.”;

16 (3) in section 7521(b), in the matter following
17 paragraph (5)—

18 (A) by striking “or” at the end of subpara-
19 graph (B);

20 (B) by striking the period at the end of
21 subparagraph (C) and inserting “, or”; and

22 (C) by adding at the end the following:

23 “(D) a reduction in grade or pay or removal
24 under subchapter VI of this chapter.”; and

1 (4) in section 7542, by striking “or to a re-
2 moval under section 3592 or 3595 of this title” and
3 inserting “to a removal under section 3592 or 3595
4 of this title, to an action under section 713 of title
5 38, or to a reduction in grade or pay or removal
6 under subchapter VI of this chapter”.

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