



December 17, 2012

Dear Representative:

The Senior Executives Association (SEA) represents the interests of career federal executives in the Senior Executive Service (SES), and those in Senior Level (SL), Scientific and Professional (ST), and equivalent positions. On behalf of SEA's members, we urge you to oppose H.R. 6016 – the Government Employee Accountability Act – which would significantly alter the basis and process for what is commonly called administrative leave.

Current law (5 U.S.C. 7543) allows agencies to take action against Senior Executives for misconduct, neglect of duty, malfeasance, or failure to accept a reassignment or transfer of function. Regulations prescribed by the Office of Personnel Management (OPM) further clarify reasons for adverse actions and also list the ways in which an agency must provide notice of a proposed action. The regulation also includes options for leaving an employee in duty status during the adverse action or placing them in a paid, non-duty status.

Over the years this law has worked well and has allowed agencies to take action and hold employees accountable. However, in the wake of the scandal involving the General Services Administration, Members of Congress have felt pressure to try to address the issue through changing the adverse action language currently in place for Senior Executives. H.R. 6016 has been proposed as one such change that would prevent the scandal from happening again.

As written the bill is extremely impractical from the perspective of agency administration of ongoing and pending matters. H.R. 6016 allows agencies to place a Senior Executive on "investigative leave" without pay if an agency determines an employee's conduct is "serious and flagrant." This action could happen at any point during an investigation without any formal finding of wrongdoing. Regardless of the status of an investigation, this action upends the belief of innocent until proven guilty. Placing a Senior Executive on leave without pay confers a sense of guilt prior to any formal finding.

Additionally, requiring agencies to report to Congress during the course of an on-going investigation could have the unintended consequence of publicly releasing sensitive information that interferes with the investigation. Furthermore, for those Senior Executives who are investigated and later cleared of wrongdoing, this reporting requirement represents an unfair invasion of privacy.

Finally, the deadlines contained within the bill regarding when an agency must make a final decision about the status of a Senior Executive under investigation may push agencies to rush investigations and make judgments about employees before an investigation is complete.

Put bluntly, H.R. 6016 is bad policy. On its face it might seem reasonable to make the changes suggested in the bill. In practice, the changes proposed by H.R. 6016 are unnecessary and could lead agencies to be more reluctant to hold employees accountable rather than strengthening their disciplinary toolbox. Further, H.R. 6016 appears to be legislation aimed at a particular individual or agency in response to one occurrence and has not received the thorough examination and consideration that is necessary to ensure any modifications to existing law are necessary and correct.

We urge you to vote no on H.R. 6016.

Please do not hesitate to contact SEA if we can answer any questions on H.R. 6016 or other issues affecting the federal workforce.

Sincerely,



CAROL A. BONOSARO  
President



WILLIAM L. BRANSFORD  
General Counsel