

Union Calendar No. 348

114TH CONGRESS
2^D SESSION

H. R. 4360

[Report No. 114-454]

To amend title 5, United States Code, to provide that a Federal employee who leaves Government service while under personnel investigation shall have a notation of any adverse findings under such investigation placed in such employee's official personnel file, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2016

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

MARCH 16, 2016

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend title 5, United States Code, to provide that a Federal employee who leaves Government service while under personnel investigation shall have a notation of any adverse findings under such investigation placed in such employee's official personnel file, 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 “Official Personnel File
 5 Enhancement Act”.

6 **SEC. 2. RECORD OF INVESTIGATION OF PERSONNEL AC-**
 7 **TION IN SEPARATED EMPLOYEE’S OFFICIAL**
 8 **PERSONNEL FILE.**

9 (a) IN GENERAL.—Subchapter I of chapter ~~31~~ 33 of
 10 title 5, United States Code, is amended by inserting after
 11 section 3321 the following:

12 **“§ 3322. Voluntary separation before resolution of**
 13 **personnel investigation**

14 “(a) With respect to any ~~individual~~ *employee* occu-
 15 pying a position in the competitive service or the excepted
 16 service who is the subject of a personnel investigation and
 17 resigns from Government employment prior to the resolu-
 18 tion of such investigation, the head of the agency from
 19 which such employee so resigns shall, if an adverse finding
 20 was made with respect to such employee pursuant to such
 21 ~~investigation—~~

22 “(1) make a permanent notation in the employ-
 23 ee’s official personnel record file; and

24 “(2) make reasonable efforts to notify the em-
 25 ployee of such permanent notation. *with respect to*

1 *such employee pursuant to such investigation, make a*
2 *permanent notation in the employee’s official per-*
3 *sonnel record file. The head shall make such notation*
4 *not later than 40 days after the date of the resolution*
5 *of such investigation.*

6 ~~“(b) The notation described in subsection (a) shall~~
7 ~~be made not later than 14 days after the date of the reso-~~
8 ~~lution of such investigation.~~

9 *“(b) Prior to making a permanent notation in an em-*
10 *ployee’s official personnel record file under subsection (a),*
11 *the head of the agency shall—*

12 *“(1) notify the employee in writing within 5*
13 *days of the resolution of the investigation and provide*
14 *such employee a copy of the adverse finding and any*
15 *supporting documentation;*

16 *“(2) provide the employee with a reasonable*
17 *time, but not less than 30 days, to respond in writing*
18 *and to furnish affidavits and other documentary evi-*
19 *dence to show why the adverse finding was unfounded*
20 *(a summary of which shall be included in any nota-*
21 *tion made to the employee’s personnel file under sub-*
22 *section (d)); and*

23 *“(3) provide a written decision and the specific*
24 *reasons therefore to the employee at the earliest prac-*
25 *ticable date.*

1 “(c) An employee is entitled to appeal the decision of
2 the head of the agency to make a permanent notation under
3 subsection (a) to the Merit Systems Protection Board under
4 section 7701.

5 “(d)(1) If an employee files an appeal with the Merit
6 Systems Protection Board pursuant to subsection (c), the
7 agency head shall make a notation in the employee’s official
8 personnel record file indicating that an appeal disputing
9 the notation is pending not later than 2 weeks after the
10 date on which such appeal was filed.

11 “(2) If the head of the agency is the prevailing party
12 on appeal, not later than 2 weeks after the date that the
13 Board issues the appeal decision, the head of the agency
14 shall remove the notation made under paragraph (1) from
15 the employee’s official personnel record file.

16 “(3) If the employee is the prevailing party on appeal,
17 not later than 2 weeks after the date that the Board issues
18 the appeal decision, the head of the agency shall remove the
19 notation made under paragraph (1) and the notation of an
20 adverse finding made under subsection (a) from the employ-
21 ee’s official personnel record file.

22 “(e) (e) In this section, the term ‘personnel investiga-
23 tion’ includes—

24 “(1) an investigation by an Inspector General;
25 and

1 **“§ 3330e. Review of official personnel file of former**
2 **Federal employees before rehiring**

3 “(a) If a former Government employee is a candidate
4 for a position within the competitive service or the ex-
5 cepted service, prior to making any determination with re-
6 spect to the appointment or reinstatement of such em-
7 ployee to such position, the appointing authority shall re-
8 view and consider the information relating to such employ-
9 ee’s former period or periods of service in such employee’s
10 official personnel record file.

11 “(b) In subsection (a), the term ‘former Government
12 employee’ means an individual whose most recent position
13 with the Government prior to becoming a candidate as de-
14 scribed under subsection (a) was within the competitive
15 service or the excepted service.

16 “(c) The Office of Personnel Management shall pre-
17 scribe regulations to carry out the purpose of this sec-
18 tion.”.

19 (b) APPLICATION.—The amendment made by sub-
20 section (a) shall apply to any former Government em-
21 ployee (as described in section 3330e of title 5, United
22 States Code, as added by such subsection) appointed or
23 reinstated on or after the date that is 180 days after the
24 date of enactment of this Act.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 of subchapter I of chapter 33 of title 5, United States
3 Code, is amended by adding at the end the following:

“3330e. Review of official personnel file of former Federal employees before re-
hiring.”.

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