

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, pol-  
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.”.

○