Listing Agency Officials

Committee on Administration and Management

Proposed Recommendation for Committee | October 18 - November 4, 2019

1 Presidential appointees and the members of the Senior Executive Service (SES) who perform significant leadership responsibilities sit at the highest levels of federal agencies. In December 2016, the federal government included 1,242 Senate-confirmed, 1 presidentially-appointed positions (PAS positions) and 472 other presidentially-appointed positions (PA positions). The SES included 8,156 individuals in 2016 (7,321 career SES, 737 noncareer SES, and 96 limited term/emergency SES). These leaders, many of whom act as agency leaders, help direct a federal workforce of more than two million employees.

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PAS officials make or advocate policy for a presidential administration and serve at the pleasure of the President. These officials at the top of federal agencies are often the most visible political appointments and require the occupant to be nominated by the President and confirmed by the Senate. PAS positions are part of the Executive Schedule, which prescribes the basic pay schedule and salaries of most presidential appointees. These officials are among the highest-paid civilian government officials, and a number of statutes and regulations establish special rules, obligations, and restrictions on their activities. These officials may be asked to resign or be dismissed at any time, “[t]hey are not covered by standard civil service removal procedures[],” and they “customarily resign at the request of the new incoming administration” during a presidential transition.

The President directly appoints PA officials, who also serve at his or her pleasure. These positions are typically located within the Executive Office of the President and multi-member boards, commissions, and committees. PA positions are not part of the General Schedule pay

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5 See, e.g., 18 U.S.C. § 207 (establishing various communications restrictions on former government officials, including additional restrictions on certain “very senior personnel” and certain restrictions relating to foreign entities); 5 U.S.C. §§ 7321 et seq. (The Hatch Act, prescribing rules regulating political activities of federal employees and establishing special provisions and exemptions applicable to PAS officials); 5 C.F.R. § 2634.202 (2019) (describing persons required to file public financial disclosure reports); 5 C.F.R. § 2636.303 (2019) (describing noncareer officials subject to fifteen-percent limitation on outside earned income); 5 C.F.R. § 2638.305 (2019) (describing additional ethics briefing required for PAS appointees within 15 days of appointment).

10 OPM, PRESIDENTIAL TRANSITION GUIDE, supra note 6, at 7, 10.

11 THE PLUM BOOK, supra note 2, at 213–16. Those PA officials within the Executive Office of the President are outside the scope of this Recommendation because the Executive Office of the President is not an agency under the APA. See, e.g., Detroit Int’l Bridge Co. v. Gov’t of Can., 883 F.3d 895, 903 (D.C. Cir. 2018) (“Presidential action is not subject to judicial review under the [APA]” because the President is not an agency within the meaning of that.

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system, and they may fall within the scope of several other pay systems, including the Executive Schedule. Similar to Senate-confirmed officials, PA officials may also be subject to special rules, obligations, and restrictions on their activities, and they also typically resign during a presidential transition.

The SES is a personnel system covering senior management, supervisory, and top-level policy positions in most federal agencies, and they are not part of the General Schedule pay system. These SES officials often direct and monitor the activities of agencies; supervise the work of federal employees; exercise “important policy-making, policy-determining, or other executive functions;” and are held accountable for the success of programs and projects.

Approximately half of SES positions are reserved for career employees, and the other half are classified as general SES positions, which may be filled by a career appointee, a political appointee, a limited-emergency appointee, or a limited-term appointee. The Office of Personnel Management (OPM) allocates and closely regulates the total number of SES positions for each agency.

By law, the number of political appointees may not exceed ten percent of government-wide SES positions and may not exceed twenty-five percent of a single agency’s total SES positions.

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12 Ochoa, supra note 4, at 7, 10.
13 OPM, PRESIDENTIAL TRANSITION GUIDE, supra note 6, at 7.
16 THE PLUM BOOK, supra note 2, at 217; Ochoa, supra note 4, at 6.
The public often learns the identities of cabinet secretaries, heads of other agencies, and a handful of other very high-ranking officials— if only through news coverage of the individuals. But the public knows far less about the next layers of the executive branch, in part because information can be difficult to locate in a centralized, updated, and comprehensive format. ¹⁹

A recent report by the U.S. Government Accountability Office concluded that “there is no single source of data on political appointees serving in the executive branch that is publicly available, comprehensive, and timely.” ¹⁰

To be sure, various resources, including United States Government Policy and Supporting Positions (the so-called “Plum Book”), ²¹ the Official Congressional Directory, ²² and the United States Government Manual, ²³ provide periodic snapshots of the occupants of certain high-level agency positions. But these publications do not cover PAS, PA serve distinct purposes and SES officials objectives and, in all events, given turnover, can quickly become out-of-date. ²⁴

Likewise, although the Office of Personnel Management (OPM) maintains extensive lists of federal employees, those lists are not readily available in any publicly accessible forum. ²⁶ to the public. ²⁶ Finally, although some agencies provide current information about high-ranking

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¹⁹ U.S. GAO’S ACCOUNTABILITY OFFICE, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA AND SOME ETHICS OVERSIGHT PROCEDURES, supra note 5, at 19 (“Interior and SBA could be improved.”)
²⁰ See Ochoa, supra note 4, at 1, 39–41, 49–50.
²¹ The Plum Book, supra note 2.
²⁴ See GAO, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA, supra note 5, at 13 (“Until the names of political appointees and their position, position type, agency or department name, start and end dates are publicly available at least quarterly, it will be difficult for the public to access comprehensive and reliable information.”); Ochoa, supra note 4, at 18–38.
²⁶ See Ochoa, supra note 4, at 45–48. OPM’s data from agencies is based on the person, rather than based on the specific position or job. As a result, the agency stops sending information about a person and their position when they separate from an agency. With respect to PAS, PA, and SES officials, OPM’s data includes information about
officials on their websites, practices vary significantly. Detailed information about appointment terms, vacant offices, acting officials, and delegated authority is often even more difficult to find.

Knowing the identities of those who help lead federal agencies is important for promoting transparency and facilitating public participation in the work of government. For instance, members of the public (including reporters and academic researchers), congressional members and staff, White House officials, and officials at other federal and state agencies, the media, academic researchers, and members of the public more generally all sometimes have reasons to know this information.

The Conference has previously addressed related issues. In 1968, the Conference recommended changes to the U.S. Government Organization Manual, specifically pointing out deficiencies with the “narrative text submitted” by agencies and encouraging agencies to improve these entries. This Recommendation goes much further, offering specific recommendations for making agency information publicly available.

the name, agency, job title, start date, end date, type of appointment, and pay system. For these data-related reasons—and because agencies are best positioned to make determinations about which SES officials perform significant leadership responsibilities—these Recommendations to OPM include all SES officials.


See GAO, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA, supra note 5, at 13; Ochoa, supra note 4, at 3.


One of this Recommendation’s purposes is to advance the Conference’s recent efforts to promote greater access to relevant agency information. This is a companion to Recommendation 2019—, Acting Agency Officials and Delegations of Authority, which ________________.

RECOMMENDATION

Recommendations Applicable to Agencies Generally

1. Agencies should prominently display on their websites updated information about each PAS and PA, position, and any SES position that is assigned significant leadership responsibilities, including the name and contact information of the current or acting official, as well as whether it is a PAS, PA, or PA SES position. Vacancies for such positions should also be prominently displayed.


Commented [ACUS1]: Committee to discuss and decide on scope and approach re: SES.

Recommendations Applicable to the Office of Personnel Management

2. The Office of Personnel Management (OPM) should publish comprehensive data about PAS, PA, and SES officials on a monthly basis on a public website and ensure the information is easily accessible.

3. OPM should include the following fields, if applicable, for each listed PAS, PA, and SES official: Agency; Name (first and last); Agency; Job Title; Start Date; End Date (if known or reasonably foreseeable); and Type of Appointment.

4. OPM should create separate lists of current and former officials.