



## The Accountability for Acting Officials Act

**Sponsors:** Rep. Katie Porter, Chairwoman Carolyn B. Maloney, Chairman Bennie G. Thompson, Chairman Adam Smith, Chairman Jerrold Nadler, Chairman Gerald E. Connolly, Chairman Adam Schiff, Chairman Raul Grijalva, Chairman Mark Takano

**Supporting Organizations and Experts:** Project on Government Oversight (POGO), Protect Democracy, Demand Progress, Open the Government, Public Citizen, American Oversight, Professor Anne Joseph O'Connell (Stanford), Public Employees for Environmental Responsibility (PEER), Citizens for Responsibility and Ethics in Washington (CREW), Democracy Fund Voice, Brennan Center for Justice, Stand Up America, National Taxpayers Union, Government Accountability Project, Niskanen Center

The Federal Vacancies Reform Act (FVRA) of 1998 authorizes the president to name an official to serve in an acting capacity until a permanent appointee is nominated or considered by the Senate. FVRA limits who can serve in these temporary roles, and for how long, creating guardrails to prevent officials without appropriate experience from being appointed.

FVRA was passed with bipartisan support in 1998, after the Republican-led Congress had concerns with then-President Bill Clinton's use of the vacancies process. Former President Donald J. Trump exposed loopholes and ambiguities in the law, placing acting officials atop agencies for unprecedented lengths of time. Prior administrations have also used the law to put acting officials in place rather than go through the Senate confirmation process. It's clear that it's time to update FVRA.

The Accountability for Acting Officials Act would amend FVRA to bring greater accountability to the process for filling vacant positions. It would promote filling vacancies with qualified acting officials, incentivizing Presidents to nominate officials for vacancies more rapidly, and close loopholes in existing law. Specifically, this important legislation would:

- Require that a deputy or other "first assistant" have served in that position—and that the position exists—before a vacancy arises;
- Require senior Inspector General staff experience for acting officials filling Inspector General vacancies and require that these individuals and certain other acting officials meet any qualification requirements that apply to permanent appointees in those positions, as supported by the Council of the Inspectors General on Integrity and Efficiency;
- Shorten the time limit for service as an acting department head, from 210-days to 120-days, while maintaining flexibility when a nomination is pending before the Senate;
- Mandate that acting officials testify at least once every 60 days before the committees of jurisdiction, except when the Chair and Ranking Member agree to waive this requirement;
- Clarify that the FVRA is superseded by any agency statute requiring different procedures; and
- Make technical clarifications to ensure prompt reporting of vacancies and greater flexibility for filling vacancies following the inauguration of a new president.

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