

**Suspend the Rules and Pass the Bill, H. R. 2131, With an  
Amendment**

**(The amendment strikes all after the enacting clause and inserts a  
new text)**

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2131

To amend the Homeland Security Act of 2002 to direct the Chief Human Capital Officer of the Department of Homeland Security to improve consistency regarding discipline and adverse actions in the Department's workforce, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2017

Mr. HIGGINS of Louisiana (for himself and Mr. McCAUL) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To amend the Homeland Security Act of 2002 to direct the Chief Human Capital Officer of the Department of Homeland Security to improve consistency regarding discipline and adverse actions in the Department's workforce, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fixing Internal Re-  
3 sponse to Misconduct Act” or the “DHS FIRM Act”.

4 **SEC. 2. DHS POLICY ON DISCIPLINE AND ADVERSE AC-**  
5 **TIONS.**

6 (a) IN GENERAL.—Section 704 of the Homeland Se-  
7 curity Act of 2002 (6 U.S.C. 344) is amended—

8 (1) in subsection (b)—

9 (A) in paragraph (9), by striking “and” at  
10 the end;

11 (B) in paragraph (10), by striking the pe-  
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following new  
14 paragraph:

15 “(11) implement a Department-wide policy re-  
16 lated to discipline and adverse actions described in  
17 subsection (e).”;

18 (2) by redesignating subsection (e) as sub-  
19 section (f); and

20 (3) by inserting after subsection (d) the fol-  
21 lowing new subsection:

22 “(e) POLICY ON DISCIPLINE AND ADVERSE AC-  
23 TIONS.—

24 “(1) IN GENERAL.—Not later than 90 days  
25 after the date of the enactment of this subsection,  
26 the Chief Human Capital Officer, in accordance with

1 any established Department-wide policy that deals  
2 with discipline and adverse actions, shall provide—

3 “(A) guidance to the senior human re-  
4 sources official overseeing discipline and adverse  
5 actions for headquarters personnel and non-  
6 component entities, as identified by the Chief  
7 Human Capital Officer, and relevant component  
8 heads regarding informing the public about how  
9 to report employee misconduct;

10 “(B) guidance on how Department employ-  
11 ees should report employee misconduct;

12 “(C) guidance on the type, quantity, and  
13 frequency of data regarding discipline and ad-  
14 verse actions to be submitted to the Chief  
15 Human Capital Officer by the senior human re-  
16 sources official overseeing discipline and adverse  
17 actions for headquarters personnel and non-  
18 component entities, as identified by the Chief  
19 Human Capital Officer and component heads  
20 for the purposes of paragraph (3)(C);

21 “(D) guidance on how to implement any  
22 such Department-wide policy in a manner that  
23 promotes greater uniformity and transparency  
24 in the administration of such policy across the  
25 Department; and

1           “(E) guidance and appropriate training on  
2 prohibited personnel practices, employee rights,  
3 and procedures and processes related to such.

4           “(2) TABLE OF OFFENSES AND PENALTIES.—

5           “(A) PRE-EXISTING TABLES.—If a table of  
6 offenses and penalties exists for a component of  
7 the Department as of the date of the enactment  
8 of this subsection, the Chief Human Capital Of-  
9 ficer shall review and, if appropriate, approve  
10 such table and any changes to such table made  
11 after such date of enactment. In cases in which  
12 such tables do not comply with Department pol-  
13 icy, the Chief Human Capital Officer shall in-  
14 struct component heads on corrective measures  
15 to be taken in order to achieve such compliance.

16           “(B) NEW COMPONENT TABLES.—If a  
17 table of offenses and penalties does not exist for  
18 a component of the Department as of the date  
19 of enactment of this subsection, a component  
20 head may, in coordination with the Chief  
21 Human Capital Officer, develop a table of of-  
22 fenses and penalties to be used by such compo-  
23 nent. The Chief Human Capital Officer shall  
24 review and, if appropriate, approve such table  
25 and any changes to such table made after such

1 date of enactment. In cases in which such ta-  
2 bles or changes do not comply with Department  
3 policy, the Chief Human Capital Officer shall  
4 instruct the component head on corrective  
5 measures to be taken in order to achieve such  
6 compliance.

7 “(3) COMPONENT RESPONSIBILITIES.—Compo-  
8 nent heads shall comply with Department-wide pol-  
9 icy (including guidance relating to such) regarding  
10 discipline and adverse actions for the Department’s  
11 workforce, including—

12 “(A) providing any current table of of-  
13 fenses and penalties or future changes to a  
14 component’s table to the Chief Human Capital  
15 Officer for review in accordance with paragraph  
16 (2)(A);

17 “(B) providing any new table of offenses  
18 and penalties or future changes to a compo-  
19 nent’s table to the Chief Human Capital Officer  
20 for review in accordance with paragraph (2)(B);  
21 and

22 “(C) providing to the Chief Human Capital  
23 Officer any data regarding discipline and ad-  
24 verse actions in accordance with paragraph  
25 (1)(C).

1           “(4) OVERSIGHT.—

2                   “(A) IN GENERAL.—Not later than 180  
3 days after the date of the enactment of this  
4 subsection, the Chief Human Capital Officer  
5 shall implement a process to oversee component  
6 compliance with any established Department-  
7 wide policy regarding discipline and adverse ac-  
8 tions referred to in paragraph (1), including—

9                           “(i) the degree to which components  
10 are complying with such policy; and

11                           “(ii) at a minimum, each fiscal year,  
12 a review of component adjudication of mis-  
13 conduct data to—

14                                   “(I) ensure consistent adherence  
15 to such policy and any Department-  
16 wide table of offenses and penalties or  
17 any component-specific table of of-  
18 fenses and penalties approved by the  
19 Chief Human Capital Officer pursu-  
20 ant to paragraph (2); and

21                                   “(II) determine whether em-  
22 ployee training regarding such mis-  
23 conduct policy or adjustment in such  
24 misconduct policy is appropriate.

25           “(B) WORKING GROUPS.—

1                   “(i) IN GENERAL.—The Chief Human  
2                   Capital Officer may establish working  
3                   groups, as necessary, to address employee  
4                   misconduct within the Department. If the  
5                   Chief Human Capital Officer establishes  
6                   such a working group, the Chief Human  
7                   Capital Officer shall specify a timeframe  
8                   for the completion of such group’s work.

9                   “(ii) FUNCTION.—A working group  
10                  established pursuant to clause (i) shall  
11                  seek to identify any trends in misconduct  
12                  referred to in such subparagraph, review  
13                  component processes for addressing mis-  
14                  conduct, and, where appropriate, develop  
15                  possible alternate strategies to address  
16                  such misconduct.

17                  “(iii) PARTICIPATION.—If a working  
18                  group is established pursuant to clause (i),  
19                  the relevant component head shall partici-  
20                  pate in such working group and shall con-  
21                  sider implementing, as appropriate, any  
22                  recommendations issued by such working  
23                  group.

24                  “(iv) FOLLOW-UP REVIEWS.—The  
25                  Chief Human Capital Officer shall conduct

1           annual, or on a more frequent basis as de-  
2           termined by the Chief Human Capital Offi-  
3           cer, follow-up reviews of components re-  
4           garding implementation of working group  
5           recommendations. In consultation with the  
6           Chief Human Capital Officer, the Sec-  
7           retary may request the Inspector General  
8           of the Department to investigate any con-  
9           cerns identified through the oversight proc-  
10          ess under this subsection that components  
11          have not addressed.

12           “(5) INSPECTOR GENERAL FUNCTIONS.—The  
13          Inspector General of the Department shall, as the  
14          Inspector General determines necessary to carry out  
15          obligations of the Inspector General under the In-  
16          spector General Act of 1978, issue management  
17          alerts regarding misconduct to the Secretary.”.

18          (b) REVIEW.—Not later than 60 days after the devel-  
19          opment of the oversight process required under subsection  
20          (e) of section 704 of the Homeland Security Act of 2002  
21          (6 U.S.C. 344) (as added by subsection (a) of this sec-  
22          tion), the Chief Human Capital Officer of the Department  
23          of Homeland Security shall provide to the Committee on  
24          Homeland Security of the House of Representatives and  
25          the Committee on Homeland Security and Governmental



1 Affairs of the Senate information on such oversight proc-  
2 ess, including component compliance with any policy re-  
3 garding discipline and adverse actions, data collection ef-  
4 forts, and information on the development of any working  
5 groups under such subsection (e).

6 (c) PROHIBITION ON NEW FUNDING.—No additional  
7 funds are authorized to carry out the requirements of this  
8 Act and the amendments made by this Act. Such require-  
9 ments shall be carried out using amounts otherwise au-  
10 thorized