

May 3, 2021

The Honorable Katie Porter
United States House of Representatives
1117 Longworth House Office Building
Washington, DC 20515

Dear Congresswoman Porter:

As nonpartisan organizations with an interest in good governance, we write to offer our strong support for the Accountability for Acting Officials Act, which would help to ensure the timely nomination and confirmation of qualified leadership across the Executive Branch by closing increasingly problematic loopholes in the Federal Vacancies Reform Act of 1998 (FVRA).

While our organizations represent broad-based communities with diverse priorities, we are united in our belief that an overreliance on acting leadership under any administration is damaging to the interests of taxpayers and all who rely on effective government.

The nominations process works best when the President and Senate act in partnership, with the President nominating officials for positions in a timely manner and the Senate considering those nominations in a timely manner. When needed, however, it is critical to have a structure set up to temporarily fill the leadership vacuum upon a vacancy, and ensure that our government can continue to function. That structure for temporary, acting officials should, however, only be used as a stopgap measure while awaiting a qualified nominee to be confirmed.

Excessive use of acting or non-confirmed leadership unconstitutionally circumvents the Senate's Advice and Consent, leaving those agency officials less accountable both to Congress and to the American people. Unfortunately, if a president relies more heavily on the use of acting leadership, there is a risk the president can appoint someone based on their loyalty, rather than based on his or her qualifications and ability to do the job. Further, acting officials whose position depends upon loyalty rather than ability may not feel empowered to make big but necessary decisions, potentially crippling agency operations and undermining their ability to "take care" that our laws are executed.

The Accountability for Acting Officials Act would take major strides in solving long-standing problems with the Federal Vacancies Reform Act of 1998 by closing problematic loopholes. For example, your legislation would require a "first assistant" to have served in that position prior to a vacancy to be eligible to serve as the acting official

and would clarify how the FVRA interacts with agency-specific statutes that prescribe different procedures in the event of a vacancy.

Many of the reforms you include would further the original intent of the FVRA by encouraging timely nomination of qualified individuals from the White House and ensuring that a plan is in place to appoint permanent leadership. Importantly, your bill would address the unique circumstances facing vacant inspectors general offices to ensure that these critical watchdogs can operate effectively and ethically while waiting for a permanent inspector general to be confirmed.

Thank you for your leadership in introducing the Accountability for Acting Officials Act. We urge bipartisan, bicameral support for these critical reforms in this unprecedented time of crisis to ensure that our executive branch agencies are led by qualified, vetted leadership.

Sincerely,

American Oversight
Brennan Center for Justice
Citizens for Responsibility and Ethics in Washington
Demand Progress
Democracy Fund Voice
Government Accountability Project
National Taxpayers Union
Open the Government
Project on Government Oversight
Protect Democracy
Public Citizen
Public Employees for Environmental Responsibility
Stand Up America