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The Senior Executive Service: Overview and Recent Developments

May 1, 2026

Congressional Research Service

<https://crsreports.congress.gov>

R48932



R48932

May 1, 2026

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The Senior Executive Service: Overview and Recent Developments

The Senior Executive Service (SES) was established in the Civil Service Reform Act (CSRA) of 1978 as a centralized personnel system of government managers. The vast majority of members of the SES are career appointees who generally comprise the highest levels of leadership within federal agencies, often reporting directly to the Senate-confirmed agency leadership. As a result of the SES's position within the federal government, senior executives often play a large role in the implementation of federal programs and management of the civil service. According to the Office of Personnel Management (OPM), as of April 2026, the SES had 6,647 members.

Congress created the SES to encourage productivity and efficiency in government administration and to establish sturdy and continuous leadership that would remain in place across presidential Administrations. Several aspects of the SES's statutorily established organization, structure, and operations were meant to contribute to these outcomes. For example, the SES is primarily (around 85%-90%) career appointees who have protections against politically motivated removal. Certain aspects of the SES performance management system were established in law; for example, senior executives receive performance appraisals based on their own performance as well as their organization's performance. The SES has a performance-based pay system that includes basic pay and potential eligibility for performance awards. The SES hiring process prioritizes applicants' executive qualifications and includes a shared responsibility between agencies and OPM to ensure that the individuals selected for appointment are adequately qualified for membership in the SES and the position for which they may be hired.

The Trump Administration has made several changes that have advanced a stronger view of presidential control over the SES. On January 20, 2025, President Trump issued a presidential memorandum entitled "Restoring Accountability for Career Senior Executives." The memorandum instructed OPM and agency heads to take several actions to increase control and accountability over the SES. The memorandum required OPM to issue a new SES performance plan for senior executives that agencies were required to adopt, instructed agencies to reassign senior executives to ensure more optimal implementation of the President's policy agenda, called for a larger role for noncareer senior executives in the hiring process and overall executive management within agencies, instructed agencies to ensure individuals involved in performance reviews are fully committed to the President's vision for the SES, and required agencies to immediately "take all appropriate actions, up to and including removal" of senior executives whose "performance or continued occupancy of the position is inconsistent with either the principles reaffirmed in this Order or their duties to the Nation under section 3131 of Title 5, United States Code."

OPM has taken several actions to implement the policies included in the President's memorandum. For example, OPM directed agencies to redesignate certain types of positions so that they may be filled through noncareer (political) appointment instead of remaining reserved for career appointment; these positions include chief information officers and chief human capital officers. OPM created a new, standardized performance appraisal system that all agencies were required to adopt for senior executives beginning in October 2025. OPM also changed its regulations on performance appraisals to limit the number of senior executives who can receive high-level performance ratings and to remove language relating to diversity, equity, and inclusion from performance appraisals.

Congress could consider enacting legislation in response to the changes made during the Trump Administration, including by amending Title 5 of the *U.S. Code*.

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Introduction

The Senior Executive Service (SES) was established in the Civil Service Reform Act (CSRA)¹ of 1978 as a centralized personnel system of government managers.² Members of the SES generally comprise the highest levels of leadership within the federal civil service, often reporting directly to the Senate-confirmed agency leadership. Accordingly, senior executives often play a large role in the implementation of federal programs and management of federal personnel. Congress established the SES to provide steady leadership for the executive branch across presidential Administrations and ensure productivity and efficiency within the government. By law, the vast majority—approximately 90%—of SES members are career appointees who are selected through a competitive hiring process for their leadership and managerial qualifications. According to the Office of Personnel Management (OPM), as of April 2026, the SES had 6,647 members.³

On January 20, 2025, President Trump issued a presidential memorandum entitled “Restoring Accountability for Career Senior Executives.”⁴ The memorandum and its implementing guidance made changes to the operations of the SES, including altering its performance appraisal system to “deliver enhanced accountability” and ensure faithful administration of the President’s policy agenda.⁵ Other changes included instructing agency heads to redesignate certain types of positions in the SES, including agency chief information officers (CIOs) and chief human capital officers (CHCOs), away from career reserved status, so that they may be filled by noncareer (political) appointment.⁶

This report provides an overview of various operational aspects of the SES, with a brief discussion of some of the policy changes made by the second Trump Administration.

¹ P.L. 95-454.

² For a brief overview of the Senior Executive Service (SES), see CRS In Focus IF11743, *The Senior Executive Service: An Overview*, by Maeve P. Carey.

³ Data obtained on April 8, 2026, from the Office of Personnel Management’s (OPM’s) Federal Workforce Data website at <https://data.opm.gov/>.

⁴ White House, “Restoring Accountability for Career Senior Executives,” presidential memorandum of January 20, 2025, 90 *Federal Register* 8481, January 30, 2025, <https://www.federalregister.gov/documents/2025/01/30/2025-02042/restoring-accountability-for-career-senior-executives>.

⁵ Memorandum from Charles Ezell, Acting Director, OPM, to heads and acting heads of departments and agencies, “New Senior Executive Service Performance Appraisal System and Performance Plan, and Guidance on Next Steps for Agencies to Implement *Restoring Accountability for Career Senior Executives*,” February 25, 2025, <https://www.opm.gov/chcoc/transmittals/2025/New%20Senior%20Executive%20Service%20Performance%20Appraisal%20System%20and%20Performance%20Plan,%20and%20Guidance%20on%20Next%20Steps%20for%20Agencies%20to%20Implement%20Restoring%20Accountability%20for%20Career%20Senior%20Executives%20FINAL.pdf>.

⁶ Memorandum from Charles Ezell, Acting Director, OPM, to heads and acting heads of departments and agencies, “Guidance on Career Reserved SES Positions and Agency Redesignation Requests,” February 24, 2025, <https://www.opm.gov/chcoc/transmittals/2025/Guidance%20on%20Career%20Reserved%20SES%20Positions%20and%20Agency%20Redesignation%20Requests%20FINAL.pdf>; memorandum from Charles Ezell, Acting Director, OPM, to heads and acting heads of departments and agencies, “Guidance Regarding Redesignating SES CIO Positions,” February 4, 2025, <https://www.opm.gov/chcoc/transmittals/2025/OPM%20Memo%20Guidance%20Regarding%20Redesignating%20SES%20CIO%20Positions%202-4-2025%20FINAL.pdf>; and memorandum from Charles Ezell, Acting Director, OPM, to heads and acting heads of departments and agencies, “Guidance Regarding Redesignating CHCO Positions,” March 6, 2025, <https://www.opm.gov/chcoc/transmittals/2025/OPM%20Memo%20Redesignating%20CHCO%20Positions%20FINAL.pdf>.

Historical Background of the SES

Congress established the SES following various proposals over several decades to create a centralized executive personnel system.⁷ Prior to the creation of the SES, agencies used a fragmented set of hiring authorities to fill positions in the “supergrades”—positions on the General Schedule (GS) above GS-15.⁸ These authorities included at least 60 different executive personnel systems, and the process used to fill those positions was often considered time-consuming and inefficient. Agencies usually had limited tools to manage performance and undertake adverse actions against individuals in those positions, and pay was largely perceived as being more related to seniority than job performance.⁹

In 1977, President Jimmy Carter established the Personnel Management Project (PMP) to study the federal personnel system and make recommendations to Congress on potential changes. The PMP was led by the chair of the Civil Service Commission (now OPM) and the associate director of the Office of Management and Budget (OMB).¹⁰ One of the PMP’s task forces examined issues related to the federal government’s most senior civil service personnel, most of whom were in the supergrades—GS-16, GS-17, and GS-18.

The task force made a number of legislative recommendations based on its findings. Relating to the establishment of the SES, the task force recommended

- creating a more centrally managed cadre of senior executives, which would include executive personnel from agencies all across the executive branch;
- reserving some positions that “should be administered on a strictly non-partisan basis” to be filled only through career (competitive) appointment and capping the number of positions that may be filled through noncareer appointment;
- creating a robust performance management system that is directly tied to compensation;
- protecting career senior executives against politically or otherwise improperly motivated personnel actions, such as removal; and
- establishing standards for managerial qualifications for entry to the SES.¹¹

All of these features of the SES, as well as others from the PMP’s recommendations relating to other aspects of civil service reform, were ultimately included in the CSRA.

The SES was seen by Congress and President Jimmy Carter as a central tenet of the civil service reform. The Senate Committee report on the CSRA stated the following:

⁷ Mark W. Huddleston and William W. Boyer, *The Higher Civil Service in the United States: Quest for Reform* (University of Pittsburgh, 1996).

⁸ For more information on the General Schedule (GS), see CRS Report R47033, *Federal Pay: General Schedule (GS) Pay Adjustment Process, Amounts Provided Since 2010, and Issues for Congress*, by Barbara L. Schwemle.

⁹ Statement of Alan K. Campbell, Chairman, U.S. Civil Service Commission, in U.S. Congress, House Post Office and Civil Service Committee, *Civil Service Reform*, hearings on H.R. 11280, a bill to reform the civil service laws, 95th Cong., 2nd sess., March 14, 1978, Serial No. 95-65 (GPO, 1978), p. 40; see also James L. Perry and Theodore K. Miller, “The Senior Executive Service: Is It Improving Managerial Performance?” *Public Administration Review*, vol. 51, no. 6 (November-December 1991), pp. 554-555.

¹⁰ President’s Reorganization Project: Personnel Management Project, *Volume 1: Final Staff Report*, December 1977, and President’s Reorganization Project: Personnel Management Project, *Volume 2: Appendices to the Final Staff Report*, December 1977.

¹¹ Personnel Management Project, *Volume 2: Appendices to the Final Staff Report*, December 1977, pp. 183-200.

The greatest asset and strength of any government is its top leadership. This is particularly true for the U.S. Government, which is the largest employer in the Nation. Its programs are far-reaching and complex, and they must be conducted with great sensitivity to conflicting public and private interests and with impartiality and compassion. Meeting this great responsibility requires strong executive leadership, which can respond to rapidly changing conditions and circumstances surrounding Federal programs and still chart a course which takes into account the national interest, the achievement of presidential and congressional goals, and simultaneously maintains the soundest management techniques.

The committee believes that the establishment of a Senior Executive Service represents a major step toward the achievement of a goal of the most highly motivated and highly competent Federal service leadership possible.¹²

Similarly, the House committee report on the CSRA stated that “perhaps more than any other provision in this bill, the Senior Executive Service can provide the framework to meet the Government’s management needs.”¹³ President Carter stated in his message to Congress proposing an initial draft bill of the CSRA that “a critical factor in determining whether Federal programs succeed or fail is the ability of the senior managers who run them.”¹⁴ In 1978, President Carter signed the CSRA into law, and the SES was constituted in 1979.¹⁵

SES Management, Structure, and Pay

Several key features of the SES that Congress established in law are (1) shared responsibility for management of the SES between agencies and OPM, (2) a structure that guaranteed certain positions would be filled through career appointment but allowed some flexibility for filling other types of positions, and (3) performance-based pay that was meant to incentivize efficiency and success of federal programs.

Management of the SES

The CSRA divided responsibility for managing the SES between agencies and OPM.

Agencies are primarily responsible for hiring, managing individual senior executives’ performance and pay, and removals. Agencies are responsible for convening Executive Resources Boards (ERBs), which conduct the merit staffing process by reviewing the qualifications of each eligible candidate and making recommendations to the appointment authority.¹⁶ Agencies are also

¹² U.S. Congress, Senate Committee on Governmental Affairs, *Civil Service Reform Act of 1978*, report to accompany S. 2640 to reform the civil service laws, 95th Cong., 2nd sess., July 10, 1978, S.Rept. 95-969 (GPO, 1978), p. 67.

¹³ U.S. Congress, *Civil Service Reform Act*, report of the House Committee on Post Office and Civil Service on H.R. 11280 to reform the civil service laws, 95th Cong., 2nd sess., July 31, 1978, H.Rept. 95-1403 (GPO, 1978), p. 5.

¹⁴ U.S. Congress, House Post Office and Civil Service Committee, *Message from the President of the United States Transmitting a Draft of Proposed Legislation to Reform the Civil Service Laws*, 95th Cong., 2nd sess., March 3, 1978, H.Doc. 95-299 (GPO, 1978), p. 2.

¹⁵ P.L. 95-454; 92 Stat. 1111. Congress has statutorily excluded several agencies from the SES. Those generally include agencies in the intelligence community (e.g., Central Intelligence Agency, Office of the Director of National Intelligence, Defense Intelligence Agency, National Geospatial-Intelligence Agency), several financial regulatory agencies (e.g., Comptroller of the Currency in the Department of the Treasury, Federal Housing Finance Agency, National Credit Union Administration, Securities and Exchange Commission, Commodity Futures Trading Commission), the Federal Bureau of Investigation, Drug Enforcement Administration, the Federal Election Commission, and others (5 U.S.C. §3132).

¹⁶ 5 U.S.C. §3393(b).

to convene Performance Review Boards (PRBs) as part of the performance management process, which is described later in this report.¹⁷

OPM issues regulations and provides guidance to agencies on these and other topics. OPM also administers Qualifications Review Boards (QRBs) to provide final review of individuals the agencies have selected for SES positions.¹⁸ OPM also allocates position and appointment authorities to ensure the distribution of SES positions across agencies and to comply with statutory caps on certain types of hiring within the SES.

SES Structure: Position and Appointment Types

The SES has two types of positions: career reserved and general. Approximately half of SES positions fall within each of these two categories. The type of position determines what type of appointment must be used to fill the position. Career reserved positions may be filled only through career appointment, and general positions may be filled through career or noncareer appointment.

Career Reserved Positions

Congress created the category of career reserved positions and permitted them to be filled only through a career appointment “to ensure impartiality, or the public’s confidence in the impartiality, of the Government.”¹⁹ Career appointment entails selection of an individual through a competitive merit staffing process.

The purpose of career reserved positions was described by the PMP:

Some executive positions are concerned primarily with managing ongoing programs and have limited policy involvement. Others, by the nature of their responsibilities, are highly sensitive and should be administrated in a non-partisan way. For example, the public must be assured that the tax laws are applied fairly, that contracts are let without favor, and that regulations are enforced equitably. For the sake of efficiency in the first instance and of public confidence in the second, these types of managerial positions should be reserved for career employees.²⁰

The CSRA required OPM to “prescribe the criteria and regulations governing the designation of career reserved positions.”²¹ Accordingly, in 1980, OPM issued regulations identifying some of the principal daily duties of positions that would be designated as career reserved, including adjudication and appeals, audit and inspection, civil or criminal law enforcement, contract administration and procurement, grants administration, investigation and security matters, and tax liability.²²

¹⁷ 5 U.S.C. §4314(c)(1).

¹⁸ 5 U.S.C. §3393(c).

¹⁹ 5 U.S.C. §3132(b)(1).

²⁰ Personnel Management Project, *Volume 1: Final Staff Report*, p. 192.

²¹ 5 U.S.C. §3132(b)(1).

²² OPM, “Competitive Service and Competitive Status; Excepted Service; Senior Executive Service; Appointment, Reassignment, Transfer and Reinstatement in the Senior Executive Service,” 45 *Federal Register* 62413-62415, September 19, 1980; 5 C.F.R. §214.402.

The CSRA required OPM to issue a regulation setting a minimum number of career reserved positions at the number of positions “authorized to be filled only through competitive civil service examination” at the time the SES was created.²³ OPM determined the number to be 3,571.²⁴

General Positions

General positions may be filled through career appointment or noncareer appointment.²⁵ Noncareer appointment does not entail a competitive selection process, though the agency head must certify that the appointee meets the qualifications for the position.²⁶ Because of this noncompetitive selection process, noncareer appointment is considered a type of political appointment.

The CSRA established a 10% government-wide cap on noncareer appointments.²⁷ As was stated in a House hearing on the CSRA, “The proposed Executive Service would be [composed] of the present ratio of 90 percent career to 10 percent noncareer executives—with the ratio fixed in legislation. This is a significant protection against the possibility of political manipulation of the Senior Executive Service.”²⁸ Within individual agencies, noncareer appointees may hold up to 25% of the total number of SES positions.²⁹

By having SES positions primarily be filled through career appointment, but nevertheless allowing some SES positions to be filled through political appointment, presidential Administrations have some flexibility to identify leadership positions where they would like to be able to more directly influence changes in policy—but the large majority of senior executives would still be career appointees, contributing to the overall stability and long-term expertise Congress wanted to ensure.

In some rare circumstances, agencies may occasionally use limited appointment authorities to fill general positions. Congress established two types of limited appointment authorities: limited term appointees and limited emergency appointees. Limited term appointees serve up to three years, and limited emergency appointees serve up to 18 months “to meet a bona fide, unanticipated, urgent need.”³⁰ Congress capped the total number of limited term and limited emergency appointees at 5% of the total number of SES positions across all agencies.³¹ Like noncareer appointments, limited term and limited emergency appointments are considered to be a type of political appointment because appointees to those positions are not hired through a merit staffing

²³ “The number of positions required by this subsection to be career reserved positions shall not be less than the number of the positions then in the Senior Executive Service which, before the date of such Act, were authorized to be filled only through competitive civil service examination” (5 U.S.C. §3133(e)(1)).

²⁴ OPM, “Competitive Service and Competitive Status; Excepted Service; Senior Executive Service; Appointment, Reassignment, Transfer and Reinstatement in the Senior Executive Service,” 45 *Federal Register* 62414, September 19, 1980; 5 C.F.R. §214.402(e).

²⁵ 5 U.S.C. §3132(a)(9).

²⁶ 5 U.S.C. §3394(a).

²⁷ 5 U.S.C. §3134(b).

²⁸ Statement by James McIntyre, Director of the Office of Management and Budget, in U.S. Congress, House Post Office and Civil Service Committee, *Civil Service Reform*, hearings on H.R. 11280, a bill to reform the civil service laws, 95th Cong., 2nd sess., March 14, 1978, Serial No. 95-65 (GPO, 1978), p. 5.

²⁹ 5 U.S.C. §3134(d).

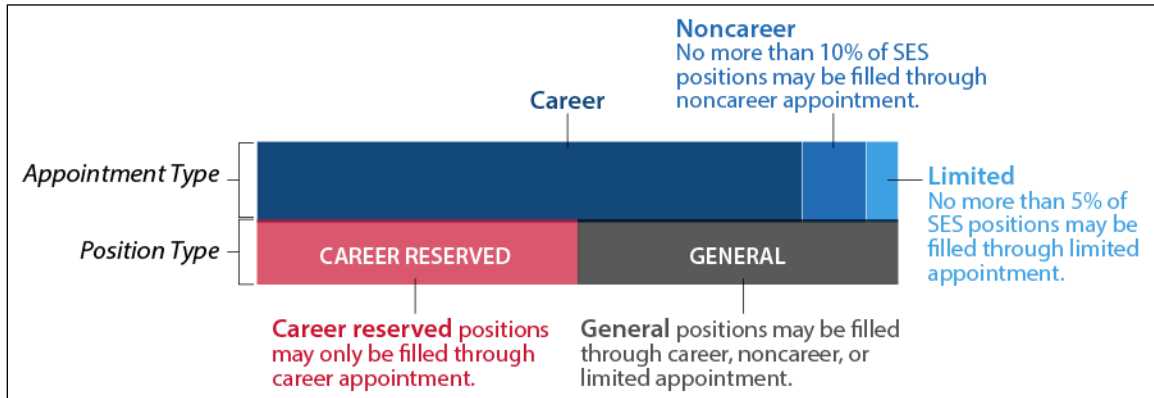
³⁰ 5 U.S.C. §3132(a)(5), (a)(6).

³¹ 5 U.S.C. §3134(e).

process. Limited term and limited emergency appointees must meet the qualifications of the position to which they are appointed.³²

Figure 1 provides a visual of the two types of SES positions (career reserved and general) and the appointment types that may be used to fill them (career, noncareer, limited term, and limited emergency).

Figure 1. Appointment Types and Position Types in the Senior Executive Service (SES)



Source: Congressional Research Service.

Allocation and Designation of Positions

Under the CSRA, OPM is responsible for allocating SES positions and appointment authorities among agencies. OPM allocates SES positions pursuant to agency requests made on a biennial cycle.³³

By law, agency heads are to determine which positions should be career reserved,³⁴ though OPM may order an agency to classify a position as career reserved.³⁵ Per OPM regulations, once a position is designated as career reserved or general, the agency may not change the designation without written approval from OPM.³⁶

Recent Developments

The Trump Administration took several actions beginning in 2025 that would result in the redesignation of some positions from career reserved to general. Shifting more positions from career reserved to general allows agency heads to use noncareer appointment authority, which provides greater flexibility for filling those positions with political appointees. Noncareer appointees are easier to hire, as they are not subject to the merit staffing process, and they are also easier to remove: Noncareer appointees do not have the same procedural protections against removal that career appointees have (see “Removals from the SES”).

³² 5 U.S.C. §3394(a).

³³ 5 U.S.C. §3133.

³⁴ 5 U.S.C. §3132(b)(1).

³⁵ 5 U.S.C. §3132(B)(2).

³⁶ 5 C.F.R. §214.403.

Some of the Trump Administration’s actions with regard to designation of positions as career reserved or general targeted specific types of positions: For example, OPM issued a memorandum on February 4, 2025, instructing agencies to request that OPM redesignate any career reserved CIO positions as general positions, thereby allowing them to be filled through noncareer appointment. The memorandum stated that “the role of agency CIOs has changed dramatically in recent years,” and “the modern agency CIO role demands policy-making and policy-determining capabilities across a range of controversial political topics.”³⁷ OPM issued a similar memorandum on March 6, 2025, recommending that agencies redesignate career reserved CHCO positions as general. The memorandum stated that an Administration should have the option of installing a noncareer official in a CHCO position because “[human resources] policy has become intensely politicized in recent years,” and it pointed to the diversity, equity, inclusion, and accessibility human resources policies established in the Biden Administration as evidence of this shift.³⁸

In memoranda issued on February 5, 2025, and February 24, 2025, OPM more broadly instructed agencies to conduct a general review of SES positions and encouraged converting positions from career reserved to general, citing recent increases in career reserved designations and stating that agency leadership should have “maximum flexibility in opting for non-career officials to carry out presidential priorities.”³⁹

In his January 20, 2025, memorandum on the SES, President Trump instructed agencies to terminate their existing ERB and “assign senior noncareer officials to chair and serve on the board as a majority alongside career members.” As noted above, ERBs primarily conduct the merit staffing process for the hiring of career appointees, and they often have other responsibilities relating to the general management of the SES, such as advising the agency head on matters related to personnel development and pay for senior executives.⁴⁰ In subsequent memoranda, OPM provided additional guidance to agencies on ERBs’ composition and identifying some expanded responsibilities.⁴¹

Mobility and Reassignments

The SES was envisioned to be a highly mobile corps of individuals who would benefit from service in different positions across agencies, honing leadership skills that they could then bring to a variety of challenges across the government. Mobility was intended to offer a broader set of learning opportunities. To encourage mobility, Title 5, Section 3396, of the *U.S. Code* states that OPM “shall encourage and assist individuals to improve their skills and increase their

³⁷ Ezell, “Guidance Regarding Redesignating SES CIO Positions.”

³⁸ Ezell, “Guidance Regarding Redesignating CHCO Positions.” For more on these Biden-era policies, see CRS Report R48080, *Executive Order 14035 Implementation: Diversity, Equity, Inclusion, and Accessibility (DEIA) in the Federal Workforce*, by Taylor N. Riccard.

³⁹ Ezell, “Guidance on Career Reserved SES Positions and Agency Redesignation Requests.” See also memorandum from Charles Ezell, Acting Director, OPM, to heads and acting heads of departments and agencies, “Maintaining the Integrity of the Career Senior Executive Service,” February 5, 2025, <https://www.opm.gov/chcoc/transmittals/2025/OPM%20Memo%20Maintaining%20the%20Integrity%20of%20the%20Career%20Senior%20Executive%20Service%202-5-2025%20final.pdf>.

⁴⁰ See 5 U.S.C. §3393(b) and OPM, “Executive Resources Management,” in *OPM Senior Executive Service Desk Guide*, <https://www.opm.gov/policy-data-oversight/senior-executive-service/ses-desk-guide/ch-1-executive-resources-management/>.

⁴¹ Ezell, “New Senior Executive Service Performance Appraisal System and Performance Plan, and Guidance on Next Steps for Agencies to Implement *Restoring Accountability for Career Senior Executives*”; and memorandum from Charles Ezell, Acting Director, OPM, to heads and acting heads of departments and agencies, “Hiring and Talent Development for the Senior Executive Service,” May 29, 2025, <https://www.opm.gov/chcoc/latest-memos/hiring-and-talent-development-for-the-senior-executive-service.pdf>.

contribution by service in a variety of agencies as well as by accepting temporary placements in State or local governments or in the private sector.”⁴²

To facilitate mobility, Congress gave agency heads authority to reassign senior executives.⁴³ An agency may reassign a senior executive to a different position in the same agency, subject to notification requirements: If a senior executive is reassigned within the same commuting area, they must be provided written notice of the reassignment at least 15 days before it is to be effective.⁴⁴ If the senior executive is reassigned outside the commuting area, they must be given at least 60 days’ notice.⁴⁵ Congress also gave agency heads transfer authority, where a senior executive may be transferred to another agency with the appointee’s and recipient agency’s consent.⁴⁶

To protect against reassignment before a career appointee has a chance to get acquainted with the incoming political leadership of an agency, Congress established a 120-day moratorium on involuntary reassignments following the appointment of a new agency head or a new noncareer supervisor.⁴⁷

If a senior executive does not accept the reassignment, such “failure to accept a directed reassignment” is a basis for removal under the adverse action procedures of Section 7543, Title 5, of the *U.S. Code*.

Recent Developments

The Trump Administration has encouraged robust use of the reassignment authority. In his January 20, 2025, memorandum, President Trump stated that “each agency head shall, as necessary and appropriate and consistent with the procedural requirements of section 3395 of title 5, United States Code, reassign agency SES members to ensure their knowledge, skills, abilities, and mission assignments are optimally aligned to implement my agenda.”⁴⁸ In a memorandum on December 1, 2025, OPM reiterated this objective and encouraged agencies “to review their current executive corps and consider SES reassignments to ensure effective implementation of President Trump’s priorities and agency missions.”⁴⁹

Compensation

The compensation system for career senior executives is a pay-for-performance system that includes salary (basic pay) and performance awards (bonuses). The current pay system was established in 2003.⁵⁰

⁴² 5 U.S.C. §3396(d)(1).

⁴³ 5 U.S.C. §3395.

⁴⁴ 5 U.S.C. §3395(a)(2)(A).

⁴⁵ 5 U.S.C. §3395(a)(2)(B).

⁴⁶ 5 U.S.C. §3395(a)(1)(B).

⁴⁷ 5 U.S.C. §3395(e); see OPM, *Guide to the Senior Executive Service*, March 2017, p. 11, <https://www.opm.gov/policy-data-oversight/senior-executive-service/reference-materials/guidesesservices.pdf>.

⁴⁸ White House, “Restoring Accountability for Career Senior Executives,” 90 *Federal Register* 8481.

⁴⁹ Memorandum from Scott Kupor, Director, OPM, to heads of departments and agencies, “Guidance on Senior Executive Service Reassignments,” December 1, 2025, <https://www.opm.gov/chcoc/latest-memos/guidance-on-senior-executive-service-reassignments.pdf>.

⁵⁰ P.L. 108-136.

SES basic pay ranges are established in law and are tied to the pay for the GS and Executive Schedule. The minimum rate of basic pay for the SES is 120% of the rate of basic pay for GS-15, step 1.⁵¹ The maximum rate depends on whether the agency has an OPM-certified performance appraisal system and has a cap of either Level II or Level III of the Executive Schedule.⁵² Senior executives do not receive locality pay. Current (2026) basic pay rates are displayed in **Table 1**.

Table 1. Rates of Basic Pay for the Senior Executive Service (SES), 2026

Structure of the SES Pay System	Minimum	Maximum
Agencies with a certified SES performance appraisal system	\$151,661	\$228,000
Agencies without a certified SES performance appraisal system	\$151,661	\$209,600

Source: U.S. Office of Personnel Management, “Salary Table No. 2026-ES,” <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/26Tables/exec/html/ES.aspx>.

Career appointees may also be eligible for performance awards.⁵³ Each agency head approves performance awards following recommendations by the agency’s PRB. Most performance awards are typically between 5% and 20% of the executive’s basic pay.⁵⁴ Career executives can also be nominated for Presidential Rank Awards to recognize sustained (Meritorious Executive) and sustained extraordinary (Distinguished Executive) accomplishments. These award recipients are entitled to a payment of 20% or 35% of their annual basic pay, respectively.⁵⁵

Performance Management

OPM guidance states that “performance management incorporates planning, monitoring, developing, evaluating, and rewarding both individual and organizational performance” and is key to achieving the goal of ensuring accountability for individual SES members and overall organizational performance.⁵⁶ One scholar noted that the SES performance appraisal system was “considered the ‘heart and soul’ of the SES program.”⁵⁷

Accordingly, the SES performance management system is central to many of its operations. A senior executive’s performance rating can affect their compensation: An individual’s performance and contribution to the agency’s performance determines in part the senior executive’s basic pay.⁵⁸ Career appointees who had a “fully successful” rating or higher may be eligible for a

⁵¹ 5 U.S.C. §§5376, 5382.

⁵² To obtain OPM certification, the agency must have “a performance appraisal system [that], as designed and applied, makes meaningful distinctions based on relative performance” (5 U.S.C. §5382(b)).

⁵³ 5 U.S.C. §5384.

⁵⁴ 5 U.S.C. §5384(b)(2).

⁵⁵ 5 U.S.C. §4507(e). Meritorious Executive may be awarded to up to 5% of senior executives, and Distinguished Executive may be awarded to up to 1% of senior executives (5 U.S.C. §4507(d)). Senior executives may also be eligible for other awards based on a special act or service, suggestion, invention, superior accomplishment, or productivity gain.

⁵⁶ OPM, “Performance Management,” in *OPM Senior Executive Service Desk Guide*, <https://www.opm.gov/policy-data-oversight/senior-executive-service/ses-desk-guide/ch-4-performance-management/>.

⁵⁷ Bruce Buchanan, “The Senior Executive Service: How We Can Tell If It Works,” *Public Administration Review*, vol. 41, no. 3 (May-June 1981), p. 350.

⁵⁸ 5 U.S.C. §5382(a).

performance award.⁵⁹ A performance rating also factors into an agency's ability to remove a senior executive.⁶⁰

SES Performance Appraisal System

By law, each agency is to develop one or more performance appraisal systems “in accordance with standards established by [OPM].”⁶¹ Among other elements, performance appraisal systems are to “permit the accurate evaluation of performance in any position on the basis of criteria which are related to the position and which specify the critical elements of the position.”⁶²

In statute, Congress identified six criteria on which SES performance appraisals must be based. Those criteria are

- individual and organizational performance, including factors such as improvements in efficiency, productivity, and quality of work;
- cost efficiency;
- timeliness of performance;
- effectiveness, productivity, and performance quality of the senior executive's employees;
- accomplishment of affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under Section 2301, Title 5, of the *U.S. Code*; and
- protection of whistleblowers.⁶³

OPM is to review agencies' performance appraisal system to ensure compliance with the requirements established by Congress.⁶⁴ OPM regulations further specify certain standards that must be included in SES performance management systems, such as the number of performance levels (five).⁶⁵

In 2012, OPM issued a model performance appraisal system in an attempt to “promote greater clarity, transferability, and equity in the development of performance standards, the delivery of feedback, the derivation of ratings, and the link to compensation.”⁶⁶ Agencies were encouraged,

⁵⁹ 5 U.S.C. §5384(b).

⁶⁰ For example, under 5 U.S.C. §4314(b)(3), any senior executive receiving an unsatisfactory rating is to be reassigned, transferred, or removed from the SES, and any senior executive who receives two unsatisfactory ratings in any period of five consecutive years is to be removed from the SES. Performance ratings also factor into agencies' reduction in force (RIF) determinations (5 U.S.C. §3595(a); see the “Reduction in Force” section).

⁶¹ 5 U.S.C. §4312(a).

⁶² 5 U.S.C. §4312(a)(1); see also 5 U.S.C. §§4321(a)(2)-(4).

⁶³ 5 U.S.C. §4313.

⁶⁴ 5 U.S.C. §4312(c)(1).

⁶⁵ 5 C.F.R. §430.305.

⁶⁶ Memorandum from John Berry, Director, OPM, and Jeffrey Zients, Deputy Director for Management and Chief Performance Officer, Office of Management and Budget, to heads of executive departments and agencies, “Senior Executive Service Performance Appraisal System,” January 4, 2012, https://www.opm.gov/chcoc/transmittals/2012/senior-executive-service-performance-appraisal-system_508.pdf; see Senior Executive Service Performance Management System at https://obamawhitehouse.archives.gov/sites/default/files/microsites/03302012_ses_performance_appraisal_form.pdf.

but not required, to adopt the model system.⁶⁷ This model appraisal system and accompanying guidance was superseded by guidance issued in 2025, as discussed below.

Performance Appraisal Process

Individual performance plans are to be developed in consultation with the executive and provided to the individual on or before the beginning of each rating period.⁶⁸ The senior executive's supervisor provides an initial summary rating of the executive's performance and provides the summary rating to the agency's PRB.⁶⁹ Each agency must establish at least one PRB, whose primary function is to make recommendations on performance ratings. PRBs also may be involved in other matters related to performance, such as determining performance-based pay adjustments and performance awards.⁷⁰

The senior executive is provided a copy of the appraisal and has an opportunity to respond in writing and to seek review at a higher level in the agency before the rating is made final. The PRB is to review any response provided by the senior executive to the initial appraisal and conduct further review if needed. The PRB is then to make recommendations to the appointing authority (typically the agency head) relating to the performance of the senior executive. Ultimately, the appointing authority is responsible for the final rating, though they must take into consideration any recommendation of the PRB.⁷¹ For performance ratings of career senior executives, Congress required that more than half of the members of the PRB must consist of career appointees.⁷²

Recent Developments

The Trump Administration has made several changes to the performance management system for senior executives. President Trump's January 20, 2025, memorandum on the SES directed agencies to take several steps regarding SES performance management, including directing OPM and OMB to issue a new standardized SES performance plan that agencies must adopt. The memorandum also directed agencies to terminate their existing PRB membership and "re-constitute membership with individuals committed to full enforcement of SES performance evaluations that promote and assure an SES of the highest caliber."⁷³

On February 25, 2025, as instructed, OPM issued a memorandum providing an SES performance plan that all agencies were required to adopt beginning with the FY2026 performance rating cycle.⁷⁴ Among other changes, the new performance plan required agencies to include "faithful administration of the law and the President's policies" as one of the critical elements of senior executives' performance plans, requiring that factor to be assigned a weight of at least 25% in each senior executive's rating. The February 25 memorandum also provided guidance to agencies on reconstituting their PRBs, per President Trump's directive.

⁶⁷ U.S. Government Accountability Office, *OPM Needs to Do More to Ensure Meaningful Distinctions Are Made in SES Ratings and Performance Awards*, GAO-15-189, January 2015, p. 5, <https://www.gao.gov/assets/gao-15-189.pdf>.

⁶⁸ 5 U.S.C. §4312(b).

⁶⁹ 5 U.S.C. §4314(c)(2).

⁷⁰ 5 U.S.C. §4314(c).

⁷¹ 5 U.S.C. §4314(c).

⁷² 5 U.S.C. §4314(c)(4).

⁷³ White House, "Restoring Accountability for Career Senior Executives," 90 *Federal Register* 8481.

⁷⁴ Ezell, "New Senior Executive Service Performance Appraisal System and Performance Plan, and Guidance on Next Steps for Agencies to Implement *Restoring Accountability for Career Senior Executives*."

Later in 2025, OPM changed its regulations to remove a prohibition on forced distribution ratings for senior executives.⁷⁵ In its February 25, 2025, memorandum, OPM had stated that “for agencies with five or more executives, no more than 30% of total ratings shall be Level 4 or Level 5, unless the President waives this provision by certifying that the performance of the agency’s executives was outstanding during the relevant time period.” The memorandum acknowledged that this was in conflict with underlying regulations that had prohibited such a cap, stating “OPM will revise and finalize the necessary rulemaking before issuing final guidance for implementation.”⁷⁶ On May 2, 2025, OPM issued a notice of proposed rulemaking (NPRM) that would eliminate the prohibition of forced distribution rankings; OPM issued its final rule instituting the change on September 15, 2025.⁷⁷

The September 15 rule also removed language from OPM’s regulations governing performance appraisals stating that agencies should take into account “leadership effectiveness in promoting diversity, inclusion, and engagement.”⁷⁸ The rule also removed language from OPM’s regulations encouraging agency heads “to consider diversity and inclusion in establishing their PRBs.”⁷⁹

Removals from the SES

Career senior executives may be removed from the SES only for reasons specified in law.⁸⁰ The provisions of law that permit removal from the SES primarily pertain to unacceptable performance; disciplinary reasons, which include misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function; and reductions in force (RIFs).⁸¹ A senior executive may also be removed from their position during the one-year probationary period under specified circumstances.

In general, Congress intended to provide career senior executives with strong protections against removal because they often report directly to the politically appointed leadership of an agency and are often responsible for the administration of federal programs, making them a potential target for removal if a new Administration has different policy priorities. To protect against at-will removal of career senior executives, Congress created a set of statutory removal procedures, including notification requirements, a moratorium on certain removals within the first 120 days of the appointment of a new agency head, fallback rights, and appeal rights. Which of these procedures and protections applies in any individual circumstance depends on the reason for the individual’s removal.

⁷⁵ OPM, “Assuring Responsive and Accountable Federal Executive Management,” 90 *Federal Register* 44291, September 15, 2025. OPM’s underlying regulations on forced distribution ratings were at 5 C.F.R. §430.305(a)(5).

⁷⁶ Ezell, “New Senior Executive Service Performance Appraisal System and Performance Plan, and Guidance on Next Steps for Agencies to Implement *Restoring Accountability for Career Senior Executives*.”

⁷⁷ For the notice of proposed rulemaking, see OPM, “Assuring Responsive and Accountable Federal Executive Management,” 90 *Federal Register* 18820, May 2, 2025; for the final rule, see OPM, “Assuring Responsive and Accountable Federal Executive Management,” 90 *Federal Register* 44291, September 15, 2025.

⁷⁸ This provision, formerly 5 C.F.R. §430.308(d)(7), was deleted in the final rule. See OPM, “Assuring Responsive and Accountable Federal Executive Management,” 90 *Federal Register* 44291, September 15, 2025.

⁷⁹ OPM, “Assuring Responsive and Accountable Federal Executive Management,” 90 *Federal Register* 44291, September 15, 2025.

⁸⁰ According to 5 U.S.C. §3393(g), “a career appointee may not be removed from the Senior Executive Service or civil service except in accordance with the applicable provisions of sections 1215, 3592, 3595, 7532, or 7543 of this title.”

⁸¹ Under 5 U.S.C. §7532, a senior executive in specified agencies may be removed for national security concerns.

Statutory requirements differ between removal for performance and removal for discipline, which are substantively and procedurally distinct. To assist agencies in understanding the distinction between the two types of removal, OPM guidance states the following:

An agency may find it difficult at times to distinguish between unacceptable performance and misconduct, neglect of duty, or malfeasance. Each may result in the appointee's failure to carry out significant duties and responsibilities of the position. Unacceptable performance generally results from the appointee's inability to perform due to a lack of managerial competence or technical knowledge. Misconduct, neglect of duty, and malfeasance, on the other hand, denote intentional wrongdoing on the part of the appointee.⁸²

The statutory removal procedures discussed below apply solely to career members of the SES. Noncareer, limited term appointees and limited emergency appointees "may be removed from the service at any time" and do not have the same kind of procedural protections.⁸³

Removal for Performance

Under Section 4314(b), Title 5, of the *U.S. Code*, a senior executive is to be removed from the SES in the case of poor performance: A senior executive who receives an unsatisfactory rating is to be "reassigned or transferred within the [SES], or removed from the [SES], but any senior executive who receives 2 unsatisfactory ratings in any period of 5 consecutive years shall be removed from the [SES]; and ... any senior executive who twice in any period of 3 consecutive years receives less than fully successful ratings shall be removed from the [SES]."⁸⁴

The agency must give the executive at least 30 days' notice before the effective date of the removal. The notice must include specific information, such as the basis for the removal action, the appointee's placement rights, and the effective date of the removal action.⁸⁵

The high-level nature of SES positions makes senior executives potential targets for leadership changes when a new Administration enters office. To protect against significant turnover in the SES across Administrations, Congress established in statute a temporary ban on the removal of career appointees when a new President takes office. Specifically, an agency may not remove a senior executive, including for performance-related reasons, during the 120-day period following (1) a change in leadership at the head of the agency or (2) a change in the career appointee's most immediate supervisor, provided the supervisor is a noncareer appointee and has the authority to remove the career appointee.⁸⁶ As OPM has stated, the purpose of this moratorium is "to prevent peremptory actions during transition periods when the agency head or noncareer supervisor does not have adequate knowledge of an SES career appointee."⁸⁷

If an individual is removed from the SES for performance, the individual has guaranteed placement, also known as fallback rights, under which they may be placed into another position outside the SES.⁸⁸ Under Section 3594, Title 5, of the *U.S. Code*, a career appointee who is removed from the SES for performance "shall be entitled to be placed in a civil service position

⁸² OPM, *Guide to the Senior Executive Service*, p. 24.

⁸³ 5 U.S.C. §3592(c).

⁸⁴ 5 U.S.C. §4314(b).

⁸⁵ 5 C.F.R. §359.502(a).

⁸⁶ 5 U.S.C. §3592(b)(1).

⁸⁷ OPM, "Removals and Suspensions." in *OPM Senior Executive Service Desk Guide*, <https://www.opm.gov/policy-data-oversight/senior-executive-service/ses-desk-guide/ch-8-removals-and-suspensions/>.

⁸⁸ 5 U.S.C. §3594.

(other than a Senior Executive Service position)” at a GS-15 level or higher.⁸⁹ Congress established these fallback rights to preserve a senior executive’s ability to remain in the civil service, recognizing that individuals who joined the SES were likely to have demonstrated an exceptional level of competency and ability in order to be chosen for appointment in the SES.⁹⁰

If a senior executive is removed for less than fully successful performance, they are entitled to an informal hearing before an official at the Merit Systems Protection Board (MSPB) at least 15 days prior to the removal.⁹¹

Disciplinary Removal

Under Section 7543, Title 5, of the *U.S. Code*, a senior executive may be removed for misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or accompany a position in a transfer of function. The agency must give an employee at least 30 days’ written notice in most cases and an opportunity to respond orally and in writing.⁹² Removal of a senior executive for disciplinary reasons results in outright removal from the civil service, without fallback rights.

Following an adverse action under Section 7543, Title 5, of the *U.S. Code*, a senior executive is entitled to appeal to the MSPB.⁹³

Reduction in Force

Under certain circumstances described in law, an agency may conduct a RIF when a position or function has been abolished. OPM guidance states that RIFs are “not a tool for dealing with performance issues” and are “usually the last resort.”⁹⁴

Congress established SES-specific RIF procedures that are distinct from general RIF procedures used for most other positions in the federal government.⁹⁵ Under Section 3595(a), Title 5, of the *U.S. Code*, the determination of who shall be removed from the SES in a RIF is made through competitive procedures based primarily on performance. Additionally, a senior executive who is removed as the result of a RIF has fallback rights: In most cases, a senior executive is entitled to be assigned within their agencies to a vacant SES position for which they are qualified, or, if no such position exists, OPM may place the individual in any vacant SES position in any agency. OPM is to “take all reasonable steps to place a career appointee” under this provision.⁹⁶

⁸⁹ 5 U.S.C. §3594(b), (c).

⁹⁰ The Personnel Management Project stated that “individuals who are approved to enter the Executive Service will have been among the best performers at lower grade levels in positions with different responsibilities. It is in the best interests of both the Government and these individuals to provide the option of reassignment to appropriate career positions outside the Executive Service for those career employees who are not as successful as managers as they have been as specialists.” Personnel Management Project, *Volume 1: Final Staff Report*, p. 196.

⁹¹ 5 U.S.C. §3592(a)(2).

⁹² 5 U.S.C. §7543(b).

⁹³ 5 U.S.C. §7543(d).

⁹⁴ OPM, *Guide to the Senior Executive Service*, p. 22.

⁹⁵ For an overview of RIF procedures, see CRS In Focus IF12908, *Reductions in Force (RIFs): An Overview*, by Taylor N. Riccard.

⁹⁶ 5 U.S.C. §3595(b).

Removal for Probationary Career Senior Executives

Career members of the SES generally are to serve a one-year probationary period.⁹⁷ A career appointee may be removed from the SES during the probationary period for a number of reasons, including unacceptable performance, misconduct, conditions arising before appointment, and a RIF.⁹⁸ The procedures by which a probationary senior executive is removed, as well as the placement rights to which they are entitled, depend on the basis for the removal action and the individual's appointment status just before entering the SES—for example, a career appointee who is removed from the SES for reasons other than discipline has guaranteed placement rights in a civil service position.⁹⁹

Recent Developments

The Trump Administration has stated plans to downsize the federal workforce and has used several different types of removal authority to accomplish this policy goal.¹⁰⁰ Many of its most significant implementing actions have been broadly applicable to the executive branch workforce, including the SES. For example, members of the SES were included in the Administration's deferred resignation program (also referred to as the "fork in the road").¹⁰¹ It is unclear how many senior executives participated in the deferred resignation program, but the program likely resulted in some reduction in the size of the SES.¹⁰² Additionally, the use of RIFs and agency reorganization plans have resulted in elimination of SES positions.¹⁰³

Some of the Trump Administration's changes to the SES performance management system discussed above seemed to be intended to promote accountability, at least in part, by facilitating the removal of senior executives. President Trump's January 20, 2025, memorandum on "Restoring Accountability for Career Senior Executives" cited a court case regarding presidential removal of certain high-level federal officials and stated that senior executives "must serve at the pleasure of the President."¹⁰⁴ The memorandum further required that "any agency head who becomes aware of an SES official whose performance or continued occupancy of the position is inconsistent with either the principles reaffirmed in this Order or their duties to the Nation under section 3131 of title 5, United States Code, shall immediately take all appropriate actions, up to

⁹⁷ 5 U.S.C. §3393(d).

⁹⁸ 5 U.S.C. §3592(a)(1).

⁹⁹ 5 U.S.C. §3594. See also OPM, "Removals and Suspensions."

¹⁰⁰ See, for example, Executive Order 14210 of February 11, 2025, "Implementing the President's 'Department of Government Efficiency' Workforce Optimization Initiative," 90 *Federal Register* 9669-9671, February 14, 2025; and memorandum from Russell T. Vought, Director, Office of Management and Budget, and Charles Ezell, Acting Director, OPM, to heads of executive departments and agencies, "Guidance on Agency RIF and Reorganization Plan Requested by Implementing the President's 'Department of Government Efficiency' Workforce Optimization Initiative," February 26, 2025, <https://www.chcoc.gov/content/guidance-agency-rif-and-reorganization-plans-requested-implementing-president%E2%80%99s-%E2%80%9Cdepartment>.

¹⁰¹ OPM's original "fork in the road" email is available on its website: <https://www.opm.gov/about-us/fork/original-email-to-employees/>. See also CRS Legal Sidebar LSB11277, *Deferred Resignation or "Fork in the Road": Selected Relevant Legal Challenges and Considerations for Congress*, by Jimmy Balsler and Jon O. Shimabukuro.

¹⁰² According to OPM's website, 138,541 federal employees took the deferred resignation offer, but it is unclear how many of these employees were in the SES (see OPM, "Workforce Changes," accessed April 8, 2026, <https://data.opm.gov/explore-data/analytics/workforce-changes>).

¹⁰³ Eric Katz and David Dimolfetta, "NSF Slashes Most Career Executive Roles After Shedding One-Third of Staff," *Government Executive*, July 29, 2025, <https://www.govexec.com/management/2025/07/nsf-slashes-most-career-executive-roles-after-shedding-one-third-staff/407066/>.

¹⁰⁴ White House, "Restoring Accountability for Career Senior Executives," 90 *Federal Register* 8481.

and including removal of that official.”¹⁰⁵ Subsequent guidance from OPM has echoed this emphasis on “enhanced accountability.”¹⁰⁶

At least in part as a result of these policies, the size of the SES has grown smaller over the course of the Trump Administration. According to OPM data, as of September 2024 (the most recent data prior to the start of the second Trump Administration), the SES had approximately 8,780 members.¹⁰⁷ As of April 2026, it had 6,647 members.¹⁰⁸

Considerations for Congress

The Constitution provides for a great deal of congressional control and influence over the executive branch. Congress establishes and designs federal agencies, empowers agencies to issue rules and take other actions through statutory delegation, establishes procedural requirements for agency action, and funds agencies through annual appropriations or other means.¹⁰⁹ As discussed throughout this report, Congress has also established a statutory framework, primarily in Title 5 of the *U.S. Code*, for the federal workforce within the executive branch, including the SES.¹¹⁰

Accordingly, Congress could use its legislative power to make changes to the structure and/or operations of the SES, within the constraints of the Constitution as interpreted by the Supreme Court. For example, Congress may consider whether the SES’s current framework is achieving the goals that Congress intended at the outset. Congress could also consider whether the changes instituted by the Trump Administration are in alignment with Congress’s original vision for the SES as established by the CSRA. If Congress were to view these developments as inconsistent with congressional intent, it could consider a variety of legislative actions, such as limiting the amount of discretion OPM has over the implementation of the statutory framework of the SES or making other changes to aspects of the SES in Title 5. On the other hand, if Congress determines that the changes the Trump Administration has made to the SES are aligned with congressional intent and are likely to improve the SES’s functioning, Congress could codify those changes in statute.

The Trump Administration has stated that the changes it has made to the SES are driven primarily by a desire for more accountability and increased presidential control. In his January 20, 2025, memorandum on the SES, for example, President Trump stated that senior executives “must serve at the pleasure of the President. Only that chain of responsibility ensures that SES officials are properly accountable to the President and the American people.”¹¹¹

¹⁰⁵ White House, “Restoring Accountability for Career Senior Executives,” 90 *Federal Register* 8481.

¹⁰⁶ Ezell, “New Senior Executive Service Performance Appraisal System and Performance Plan, and Guidance on Next Steps for Agencies to Implement *Restoring Accountability for Career Senior Executives*,” p. 1.

¹⁰⁷ Data obtained on September 16, 2025, from OPM’s FedScope database at <https://www.fedscope.opm.gov/>. OPM replaced the FedScope database with a new site in January 2026 called Federal Workforce Data.

¹⁰⁸ Data obtained on April 8, 2026, from OPM’s Federal Workforce Data website at <https://data.opm.gov/>.

¹⁰⁹ See CRS Report R45442, *Congress’s Authority to Influence and Control Executive Branch Agencies*, by Todd Garvey and Sean Stiff.

¹¹⁰ See CRS Report R45635, *Categories of Federal Civil Service Employment: A Snapshot*, by Jon O. Shimabukuro and Jennifer A. Staman.

¹¹¹ White House, “Restoring Accountability for Career Senior Executives,” 90 *Federal Register* 8481. The Trump Administration has also asserted a desire for more accountability and presidential control in other changes to the civil service; for example, see OPM, “Improving Performance, Accountability, and Responsiveness in the Civil Service,” 91 *Federal Register* 5580, February 6, 2026.

Also in the January 20 memorandum, the Trump Administration took the position that the procedural protections from removal for members of the SES have inherent constitutional problems that interfere with the President's ability to control the executive branch:

As the Constitution makes clear, and as the Supreme Court of the United States has reaffirmed, “the ‘executive Power’—all of it—is ‘vested in a President,’ who must ‘take Care that the Laws be faithfully executed.’” *Seila Law LLC v. Consumer Financial Protection Bureau*, 591 U.S. 197, 203 (2020). “Because no single person could fulfill that responsibility alone, the Framers expected that the President would rely on subordinate officers for assistance.” *Id.* at 203-04.

The President's power to remove subordinates is a core part of the Executive power vested by Article II of the Constitution and is necessary for the President to perform his duty to “take Care that the Laws be faithfully executed.” Because SES officials wield significant governmental authority, they must serve at the pleasure of the President.¹¹²

The Trump Administration has also raised constitutional concerns over these statutory removal protections in litigation pertaining to the removal of some senior executives.¹¹³

Some legal scholars have argued that Presidents are entitled by the Constitution to full control over the executive branch, including unfettered removal powers.¹¹⁴ Under this view, some have argued, Presidents must be able to exercise full control over their subordinates in the executive branch, and Congress is limited in its ability to place restrictions on the President's appointment and removal powers.¹¹⁵

On the other hand, increased presidential control over the SES and the civil service more broadly could raise questions about the degree to which the executive branch is committed to carrying out programs and statutory mandates established by Congress. Some scholars have argued that to the degree a President's policy preferences are further from Congress's, Presidents exercising greater control over the executive branch may more easily be able to move policy further toward their own preferences and away from Congress's.¹¹⁶ Furthermore, some academics have argued that a

¹¹² White House, “Restoring Accountability for Career Senior Executives,” 90 *Federal Register* 8481. For additional legal context on the President's removal power, see CRS Legal Sidebar LSB11292, *Supreme Court Grants Emergency Motion on President's Removal Power*, by Benjamin M. Barczewski and Todd Garvey.

¹¹³ For further discussion, including some examples in which the Trump Administration has raised this argument in litigation involving individual senior executives, see Nick Bednar and Peyton Baker, “A Primer on the Senior Executive Service,” *Lawfare*, September 2, 2025, <https://www.lawfaremedia.org/article/a-primer-on-the-senior-executive-service>; and Peyton Baker, “Are Senior Executive Service Officials Officers?,” *Yale Journal on Regulation* (blog), February 23, 2026, <https://www.yalejreg.com/nc/are-senior-executive-service-officials-officers/>.

¹¹⁴ See Steven G. Calabresi and Kevin H. Rhodes, “The Structural Constitution: Unitary Executive, Plural Judiciary,” *Harvard Law Review*, vol. 105, no. 6 (April 1992), stating that “unitary executive theorists read [the Vesting] clause, together with the Take Care Clause, as creating a hierarchical, unified executive department under the direct control of the President. They conclude that the President alone possesses *all* of the executive power and that he therefore can direct, control, and supervise inferior officers or agencies who seek to exercise discretionary executive power” (p. 1165, internal citations omitted).

¹¹⁵ See Steven G. Calabresi and Saikrishna B. Prakash, “The President's Power to Execute the Laws,” *Yale Law Journal*, vol. 104, no. 3 (December 1994), stating that “structural reasons and a host of historical and textual arguments persuade us that the President must also have a removal power so that he will be able to maintain control over the personnel of the executive branch” (p. 597). See also Steven G. Calabresi, “Some Normative Arguments for the Unitary Executive,” *Arkansas Law Review*, vol. 48, no. 1 (1995). For an overview of the legal arguments involved in the debate over presidential control of the civil service specifically, see Aaron L. Nielson and Christopher J. Walker, “Article II and the Civil Service,” *Virginia Law Review*, vol. 113 (forthcoming), <https://doi.org/10.2139/ssrn.6474398>.

¹¹⁶ As noted by Ryan J. Barilleaux and Christopher S. Kelley, “Introduction: What Is the Unitary Executive?,” in *The Unitary Executive and the Modern Presidency*, ed. Ryan J. Barilleaux and Christopher S. Kelley (Texas A&M University Press, 2010): “Because the Congress cannot monitor everything that happens inside the executive branch, (continued...)”

greater, more politicized amount of presidential control may undermine administrative capacity.¹¹⁷ Hampering administrative capacity may reduce the ability of agencies to achieve their statutory goals.¹¹⁸ Other scholars have argued that greater presidential control over the executive branch may necessarily come at the expense of Congress's authority to make choices about how to structure the bureaucracy, potentially casting doubt on Congress's ability to address such issues legislatively.¹¹⁹

and because the give and take of the legislative process often leaves important policy vague or undefined, the 'take care' clause gives Presidents a great deal of room to pull important policy closer to their own position" (p. 4).

¹¹⁷ See, for example, Nicholas R. Bednar, "Presidential Control and Administrative Capacity," *Stanford Law Review*, vol. 77, no. 823 (2025); and Chris Piper, "The Politicization of Federal Leadership: Record Non-Senate Confirmed Presidential Appointments and the Hollowing Out of Career Leadership," Partnership for Public Service, 2026, <https://ourpublicservice.org/publications/the-politicization-of-federal-leadership-record-non-senate-confirmed-presidential-appointments-and-the-hollowing-out-of-career-leadership/>.

¹¹⁸ See J. Edward Kellough, *The Fragility of Merit: Presidential Power and the Civil Service Under Trump* (Routledge, 2025); and David L. Noll, "Administrative Sabotage," *Michigan Law Review*, vol. 120, no. 5 (2022).

¹¹⁹ Lawrence Lessig and Cass R. Sunstein, "The President and the Administration," *Columbia Law Review*, vol. 94, no. 1 (January 1994).

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