

117TH CONGRESS  
1ST SESSION

# H. R. 4448

To restore administrative law judges to the competitive service, and for  
other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2021

Mr. CONNOLLY (for himself and Mr. FITZPATRICK) introduced the following  
bill; which was referred to the Committee on Oversight and Reform

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## A BILL

To restore administrative law judges to the competitive  
service, 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Administrative Law  
5       Judges Competitive Service Restoration Act”.

6       **SEC. 2. APPOINTMENT OF ADMINISTRATIVE LAW JUDGES.**

7       (a) IN GENERAL.—Section 3105 of title 5, United  
8       States Code, is amended to read as follows:

1 **“§ 3105. Appointment of administrative law judges**

2       “(a) SELECTION; EXAMINATION.—Administrative  
3 law judges shall be appointed by the head of an Executive  
4 agency from a list of eligible candidates provided by the  
5 Office of Personnel Management based upon successful  
6 examination and approval of the qualifications of the indi-  
7 vidual by the Office.

8       “(b) MINIMUM QUALIFICATIONS AND CONDITIONS  
9 OF EMPLOYMENT.—

10           “(1) LICENSURE.—At the time of application  
11 for a position, the individual must possess a profes-  
12 sional license to practice law under the laws of a  
13 State, the District of Columbia, the Commonwealth  
14 of Puerto Rico, or any territorial court.

15           “(2) QUALIFYING EXPERIENCE.—To be eligible  
16 to serve as an administrative law judge, an indi-  
17 vidual shall have not less than 7 years of experience  
18 as a licensed attorney preparing for, litigating, adju-  
19 dicating, participating in, or reviewing formal hear-  
20 ings or trials involving civil, criminal, or administra-  
21 tive law at the Federal, State, or local level.

22       “(c) COMPETITIVE SERVICE.—Administrative law  
23 judge positions shall be positions in the competitive serv-  
24 ice.

25       “(d) ASSIGNMENT.—Administrative law judges shall  
26 be assigned to cases in rotation as far as practicable, and

1 may not perform duties inconsistent with their duties and  
 2 responsibilities as administrative law judges.

3 “(e) AUTHORITY AND ROLE OF ADMINISTRATIVE  
 4 LAW JUDGES IN RELATION TO EXECUTIVE AGENCY  
 5 HEADS.—

6 “(1) CHIEF ALJ.—A chief administrative law  
 7 judge shall report directly to the head of the Execu-  
 8 tive agency at which the chief is appointed.

9 “(2) ALJ.—An administrative law judge (in  
 10 this paragraph referred to as an ‘ALJ’) shall report  
 11 directly to the chief administrative law judge (if any)  
 12 of the Executive agency at which the ALJ is ap-  
 13 pointed. If there is no chief administrative law  
 14 judge, the ALJ shall report directly to the head of  
 15 such Executive agency.

16 “(3) CLARIFICATION.—Nothing in this sub-  
 17 section shall be construed to limit or otherwise miti-  
 18 gate the ability or independence of an administrative  
 19 law judge in carrying out his or her duties and re-  
 20 sponsibilities as an administrative law judge.”.

21 (b) EXEMPTION FROM PROBATIONARY PERIOD.—  
 22 Section 3321(c) of title 5, United States Code, is amended  
 23 to read as follows:

24 “(c) Subsections (a) and (b) of this section shall not  
 25 apply with respect to appointments in the Senior Execu-

1 tive Service, the Federal Bureau of Investigation and  
 2 Drug Enforcement Administration Senior Executive Serv-  
 3 ice, any individual covered by section 1599e of title 10,  
 4 or any individual appointed to an administrative law judge  
 5 position.”.

6 (c) CLARIFICATION OF APPLICATION OF DISCIPLI-  
 7 NARY PROCEDURES.—Notwithstanding the amendments  
 8 made by this Act that classify administrative law judges  
 9 within the competitive service, an administrative law judge  
 10 shall not be subject to subchapter I or II of chapter 75  
 11 of title 5, United States Code, and shall be subject to the  
 12 requirements of subchapter III of such chapter.

13 (d) CONVERSIONS.—

14 (1) IN GENERAL.—Except as provided in para-  
 15 graph (2), with respect to any individual serving on  
 16 the date of the enactment of this Act in an excepted  
 17 service position as an administrative law judge ap-  
 18 pointed under section 3105 of title 5, United States  
 19 Code, as in effect on the day before the date of the  
 20 enactment of this Act, not later than 30 days after  
 21 such date of enactment the head of an Executive  
 22 agency (as that term is defined in section 105 of  
 23 such title) employing the individual shall non-  
 24 competitively convert such individual to a career ap-

1 pointment in the competitive service in the Executive  
2 agency.

3 (2) EXCEPTION.—Paragraph (1) shall not  
4 apply to any individual serving on the date of the  
5 enactment of this Act in an excepted service position  
6 as an administrative law judge and who was ap-  
7 pointed under such section 3105, as in effect on the  
8 day before the date of the enactment of this Act,  
9 during the period beginning on July 11, 2018, and  
10 ending on such date of enactment.

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