NSF’s Acting Chief Facing Legal Limit on Tenure

Time is running out for Arden Bement, the acting director of the U.S. National Science Foundation (NSF). Unless the White House acts promptly—which it promises to do—Bement could be sent packing later this month because of an obscure law designed to encourage timely presidential appointments.

Bement was already serving as the presidentially chosen director of the National Institute of Standards and Technology (NIST) when he was tapped earlier this year as a temporary successor to Rita Colwell, who left NSF before the end of her 6-year term (Science, 20 February, p. 1116). The 72-year-old materials engineer took office on 21 February, and that’s when the clock started ticking.

Under the 1998 Federal Vacancies Reform Act, a presidentially appointed stand-in cannot serve for more than 210 days. For Bement, time runs out on 18 September. Acting officials can’t be reappointed or have their terms extended, according to the law, and any official duties performed after the deadline are null and void.

There is one relevant exception. If the president formally nominates someone, the clock is suspended until the Senate acts on the nomination. A rejection or withdrawal of the nominee restarts the 210-day clock.

Bement said in February that he expected to return to NIST quickly, and presidential science adviser John Marburger said in April that a nomination was imminent. Although no name has surfaced, last week Office of Science and Technology Policy spokesperson Robert Hopkins said that “the Administration intends to nominate a permanent NSF director prior to the end of the current acting director Bement’s temporary appointment.”

That silence is making the scientific community increasingly anxious. “We are very concerned,” says Warren Washington, chair of the National Science Board, which oversees NSF. He says that Bement “has done an excellent job. Arden is due to leave on the 19th, and it’s not clear what will happen after that. You’d think [the White House] would be able to find someone during that [210-day] time.”

Federal agencies are occasionally run by acting officers, of course. But the 1998 law is intended to prevent a president from sidestepping the U.S. Constitution with acting officials who don’t have to be approved by the Senate.

So far, however, the little-known law is struggling to gain the respect of the Executive Branch. A 2001 study by the Government Accountability Office (GAO), which is responsible for enforcing the law, found that agencies hadn’t even reported a quarter of their acting officials.

Once GAO detects a violation, its authority is limited to notifying both the agency and Congress that the law has been broken. GAO’s database, for example, shows that Ruth Kirschstein twice exceeded her 210-day authority as acting National Institutes of Health (NIH) director after succeeding Harold Varmus in January 2000. In the first instance, NIH’s parent agency, the Department of Health and Human Services, changed Kirschstein’s title but said she could continue to act as NIH’s boss.

The second time, after a new 210-day stint triggered by a change in administration also ran out, Congress added language to an NIH spending bill that gave Kirschstein the right to remain acting director until her successor was in place. Her interim reign finally ended in July 2002, when the Senate confirmed her successor, Elias Zerhouni.

A senior congressional aide says there are no plans to address the situation at NSF when Congress returns next week from its summer recess, and NSF General Counsel Lawrence Rudolph speculated that it would be difficult for legislators to act by the 18th. In the meanwhile, Bement continues to shuttle between NIST and NSF, doing both jobs and waiting for his political bosses to clarify his status.

——JEFFREY MERVIS

Neuroscientist Named MIT President

A neurobiologist from Yale University has been named president of the Massachusetts Institute of Technology (MIT). The appointment of Susan Hockfield to succeed Charles Vest in December reflects the growing importance of the life sciences at MIT, which for the first time in its 142-year history will be led by a woman.

“I think they are slightly redefining MIT” by choosing Hockfield, says James Watson, a Nobel laureate who hired her as a junior investigator at New York’s Cold Spring Harbor Laboratory in 1980. “They haven’t chosen someone from the military-academic-industrial complex.” Her selection, he adds, “is great for neuroscience at MIT.”

This year, for example, MIT for the first time will receive more research dollars from the National Institutes of Health than from the Pentagon.

Hockfield is currently provost at Yale, which she joined as a faculty member in 1985. She has also served as dean of the graduate school of arts and sciences.

She possesses “a rare combination of scientific achievement, outstanding managerial talent, and an extremely engaging personal style,” says James Champy, who chaired the presidential search committee. All of MIT’s previous 15 presidents have been male engineers or physicists, and the institution’s prominence has made them national spokespersons for the science and engineering communities. Vest, a mechanical engineer, certainly played that role during his 14 years at the helm. Although Hockfield lacks that experience, her boss, Yale president Richard Levin, predicts that she “will take a leading role in shaping national science policy.”

Hockfield’s research has focused on brain tumors, and her work using monoclonal antibody technology led to the discovery of a protein that regulates changes in neuron structure. She also found a gene and proteins that may help researchers battle the spread of particularly deadly brain cancers. Yale colleagues cite her efforts to increase the number of women faculty members, a contentious issue at MIT since a 1999 report that was harshly critical of its treatment of women.

——ANDREW LAWLER

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