

116TH CONGRESS
1ST SESSION

H. R. 745

To amend the Ethics in Government Act of 1978 to provide for reform in the operations of the Office of Government Ethics, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2019

Mr. RASKIN (for himself, Mr. CUMMINGS, and Mr. NADLER) introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Ethics in Government Act of 1978 to provide for reform in the operations of the Office of Government Ethics, 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 “Executive Branch
5 Comprehensive Ethics Enforcement Act of 2019”.

1 **SEC. 2. REAUTHORIZATION OF THE OFFICE OF GOVERN-**
2 **MENT ETHICS.**

3 Section 405 of the Ethics in Government Act of 1978
4 (5 U.S.C. App.) is amended by striking “fiscal year 2007”
5 and inserting “fiscal years 2019 through 2023.”.

6 **SEC. 3. TENURE OF THE DIRECTOR OF THE OFFICE OF**
7 **GOVERNMENT ETHICS.**

8 Section 401(b) of the Ethics in Government Act of
9 1978 (5 U.S.C. App.) is amended by striking the period
10 at the end and inserting “, subject to removal only for
11 inefficiency, neglect of duty, or malfeasance in office. The
12 Director may continue to serve beyond the expiration of
13 the term until a successor is appointed and has qualified,
14 except that the Director may not continue to serve for
15 more than one year after the date on which the term would
16 otherwise expire under this subsection.”.

17 **SEC. 4. DUTIES OF DIRECTOR OF THE OFFICE OF GOVERN-**
18 **MENT ETHICS.**

19 (a) IN GENERAL.—Section 402(b) of the Ethics in
20 Government Act of 1978 (5 U.S.C. App.) is amended—

21 (1) in paragraph (1)—

22 (A) by striking “developing, in consulta-
23 tion” and inserting “consulting”;

24 (B) by striking “Management, rules, and
25 regulations to be promulgated by the President
26 or the Director,” and inserting “Management

1 for input on the promulgation of rules and reg-
2 ulations to be promulgated by the Director”;
3 and

4 (C) by striking “title II” and inserting
5 “title I”;

6 (2) by striking paragraph (2) and inserting the
7 following:

8 “(2) providing mandatory education and train-
9 ing programs for designated agency ethics officials,
10 which may be delegated to each agency or the White
11 House Counsel as deemed appropriate by the Direc-
12 tor;”;

13 (3) in paragraph (3), by striking “title II” and
14 inserting “title I”;

15 (4) in paragraph (4), by striking “problems”
16 and inserting “issues”;

17 (5) in paragraph (6), by striking “problems”
18 and inserting “issues”;

19 (6) in paragraph (7)—

20 (A) by striking “, when requested,”; and

21 (B) by striking “conflict of interest prob-
22 lems” and inserting “conflicts of interest, as
23 well as other ethics issues”;

24 (7) in paragraph (9)—

1 (A) by striking “ordering” and inserting
2 “receiving allegations of violations of this Act
3 and, when necessary, investigating an allegation
4 to determine whether a violation occurred, and
5 ordering”; and

6 (B) by inserting before the semi-colon the
7 following: “, and recommending appropriate
8 disciplinary action”;
9 (8) in paragraph (12)—

10 (A) by striking “evaluating, with the as-
11 sistance of” and inserting “promulgating, with
12 input from”;

13 (B) by striking “the need for”; and

14 (C) by striking “conflict of interest and
15 ethical problems” and inserting “conflict of in-
16 terest and ethics issues”;
17 (9) in paragraph (13)—

18 (A) by striking “with the Attorney Gen-
19 eral” and inserting “with the Inspectors Gen-
20 eral and the Attorney General”;

21 (B) by striking “violations of the conflict
22 of interest laws” and inserting “conflict of in-
23 terest issues and allegations of violations of eth-
24 ics laws and regulations and this Act”; and

1 (C) by striking “, as required by section
2 535 of title 28, United States Code”;

3 (10) in paragraph (14), by striking “and” at
4 the end;

5 (11) in paragraph (15)—

6 (A) by striking “title II” and inserting
7 “title I”; and

8 (B) by striking the period at the end and
9 inserting a semicolon; and

10 (12) by adding at the end the following:

11 “(16) directing and providing final approval,
12 when determined appropriate by the Director, for
13 designated agency ethics officials regarding the reso-
14 lution of conflicts of interest as well as any other
15 ethics issues under the purview of this Act in indi-
16 vidual cases; and

17 “(17) reviewing and approving, when deter-
18 mined appropriate by the Director, any recusals, ex-
19 emptions, or waivers from the conflicts of interest
20 and ethics laws, rules, and regulations and making
21 approved recusals, exemptions, and waivers made
22 publicly available by the relevant agency available in
23 a central location on the official website of the Office
24 of Government Ethics.”.

1 (b) WRITTEN PROCEDURES.—Section 402(d) of the
2 Ethics in Government Act of 1978 (5 U.S.C. App.) is
3 amended in paragraph (1)—

4 (1) by striking “, by the exercise of any author-
5 ity otherwise available to the Director under this
6 title,”; and

7 (2) by striking “the agency is”.

8 (c) CORRECTIVE ACTIONS.—Section 402(f) of the
9 Ethics in Government Act of 1978 (5 U.S.C. App.) is
10 amended—

11 (1) in paragraph (1)—

12 (A) in clause (i) of subparagraph (A), by
13 striking “of such agency”; and

14 (B) in subparagraph (B), by inserting at
15 the end before the period the following: “and
16 determine that a violation of this Act has oc-
17 curred and issue appropriate administrative or
18 legal remedies as prescribed in paragraph (2)”;

19 (2) in paragraph (2)—

20 (A) in subparagraph (A)—

21 (i) in clause (ii)—

22 (I) in subclause (I), by inserting
23 “to the President or the President’s
24 designee if the matter involves em-
25 ployees of the Executive Office of the

President or” after “may recommend”; and

(II) in subclause (II)—

(aa) by inserting “President or” after “determines that the”; and

(bb) by adding “and” at the end;

(ii) in subclause (II) of clause (iii)—

(I) by striking “notify in writing,” and inserting “advise the President in writing or order”;

(II) by inserting “take appropriate disciplinary action including reprimand, suspension, demotion, or dismissal against the officer or employee” after “employee’s agency”;

(III) by striking “of the officer’s or employee’s noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President and Congress and”;

(IV) by striking “; and” at the end and inserting a period; and

- 1 (iii) by striking clause (iv);
- 2 (B) in subparagraph (B)(i)—
- 3 (i) by striking “subparagraph (A)(iii)
- 4 or (iv)” and inserting “subparagraph (A)”;
- 5 (ii) by inserting “(I)” before “In
- 6 order to”; and
- 7 (iii) by adding at the end the fol-
- 8 lowing:
- 9 “(II)(aa) The Director may secure directly
- 10 from any agency information necessary to en-
- 11 able the Director to carry out this Act. Upon
- 12 request of the Director, the head of such agency
- 13 shall furnish that information to the Director.
- 14 “(bb) The Director may require by sub-
- 15 poena the production of all information, docu-
- 16 ments, reports, answers, records, accounts, pa-
- 17 pers, and other data in any medium and docu-
- 18 mentary evidence necessary in the performance
- 19 of the functions assigned by this Act, which
- 20 subpoena, in the case of refusal to obey, shall
- 21 be enforceable by order of any appropriate
- 22 United States district court.”;
- 23 (C) in subparagraph (B)(ii)(I)—

1 (i) by striking “Subject to clause (iv)
2 of this subparagraph, before” and insert-
3 ing “Before”; and

4 (ii) by striking “subparagraphs (A)
5 (iii) or (iv)” and inserting “subparagraph
6 (A)(iii)”;

7 (D) in subparagraph (B)(iii), by striking
8 “Subject to clause (iv) of this subparagraph,
9 before” and inserting “Before”; and

10 (E) in subparagraph (B)(iv)—

11 (i) by striking “title 2” and inserting
12 “title I”; and

13 (ii) by striking “section 206” and in-
14 serting “section 104”;

15 (3) in paragraph (4), by striking “(iv),”; and

16 (4) by striking paragraph (5) and inserting the
17 following:

18 “(5)(A) The Office of Government Ethics shall
19 provide, on the official website of the Office, public
20 access to records made available by agencies of all
21 conflicts of interest and ethics laws, rules and regu-
22 lations, recusals, waivers and exemptions, ethics ad-
23 visory opinions, ethics agreements of senior executive
24 branch personnel and employee certificates of dives-
25 titure, financial disclosure reports, compliance re-

1 views, enforcement actions, and any other public
2 records concerning conflicts of interest and ethics
3 records for the executive branch required by law.

4 “(B) All financial disclosure reports and
5 records related to conflict of interest waivers and
6 other records of ethics determinations deemed public
7 information by the Director or by law shall be made
8 available to the public either by internet link to such
9 information if publicly available, or at no charge on
10 the website of the Office of Government Ethics in a
11 searchable, sortable, and downloadable format, and
12 at reasonable fees for reproduction of paper docu-
13 ments at the Office of Government Ethics.”.

14 (d) DEFINITIONS.—Section 402 of the Ethics in Gov-
15 ernment Act of 1978 (5 U.S.C. App.) is amended by add-
16 ing at the end the following:

17 “(g) For purposes of this title—

18 “(1) the term ‘agency’ shall include the Execu-
19 tive Office of the President; and

20 “(2) the term ‘officer or employee’ shall include
21 any individual occupying a position, providing any
22 official services, or acting in an advisory capacity, in
23 the White House or the Executive Office of the
24 President.

1 “(h) In this title, a reference to the head of an agency
2 shall include the President or the President’s designee.

3 “(i) The Director shall not be required to obtain the
4 prior approval, comment, or review of any officer or agen-
5 cy of the United States, including the Office of Manage-
6 ment and Budget, before submitting to Congress, or any
7 committee or subcommittee thereof, any information, re-
8 ports, recommendations, testimony, or comments, if such
9 submissions include a statement indicating that the views
10 expressed therein are those of the Director and do not nec-
11 essarily represent the views of the President.”.

12 **SEC. 5. AGENCY ETHICS OFFICIALS TRAINING AND DUTIES.**

13 Section 403 of the Ethics in Government Act of 1978
14 (5 U.S.C. App.) is amended by adding at the end the fol-
15 lowing:

16 “(c)(1) All designated agency ethics officials and al-
17 ternate designated agency ethics officials shall register
18 with, and report to, the Director as well as with the ap-
19 pointing authority of the official.

20 “(2) The Director shall provide ethics education and
21 training to all designated and alternate designated agency
22 ethics officials in a time and manner deemed appropriate
23 by the Director.

24 “(d)(1) The head of each agency shall ensure that
25 all records and information provided to the Director under

1 this Act shall be provided, to the greatest extent prac-
2 ticable, in a searchable, sortable, and downloadable for-
3 mat.

4 “(2) The head of each agency shall post on the offi-
5 cial website of the agency each recusal, waiver, exemption,
6 ethics advisory opinion, ethics agreement, and certificate
7 of divestiture issued by the agency under this Act and its
8 implanting regulations.”.

○