

116TH CONGRESS  
1ST SESSION

# S. 394

---

## AN ACT

To amend the Presidential Transition Act of 1963 to improve the orderly transfer of the executive power during Presidential transitions.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Presidential Transition  
3 Enhancement Act of 2019”.

4 **SEC. 2. PRESIDENTIAL TRANSITION ENHANCEMENTS.**

5 (a) IN GENERAL.—Section 3 of the Presidential  
6 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

7 (1) in subsection (a)—

8 (A) in the matter preceding paragraph (1),  
9 by striking “upon request,” and all that follows  
10 through “including” and inserting “upon re-  
11 quest, to each President-elect, each Vice-Presi-  
12 dent-elect, and, for up to 60 days after the date  
13 of the inauguration of the President-elect and  
14 Vice-President-elect, each President and Vice  
15 President, for use in connection with the prep-  
16 arations for the assumption of official duties as  
17 President or Vice President necessary services  
18 and facilities, including”; and

19 (B) in paragraph (2)—

20 (i) by inserting “, or an employee of  
21 a committee of either House of Congress,  
22 a joint committee of the Congress, or an  
23 individual Member of Congress,” after  
24 “any branch of the Government”; and

25 (ii) by inserting “, or in the case of an  
26 employee in a position in the legislative

1                   branch, with the consent of the supervising  
2                   Member of Congress” after “with the con-  
3                   sent of the head of the agency”;

4                   (2) by striking subsection (b) and inserting the  
5                   following:

6                   “(b) The Administrator shall expend funds for the  
7                   provision of services and facilities under this section—

8                   “(1) in connection with any obligation incurred  
9                   by the President-elect or Vice-President-elect, or  
10                  after the inauguration of the President-elect as  
11                  President and the inauguration of the Vice-Presi-  
12                  dent-elect as Vice President incurred by the Presi-  
13                  dent or Vice President, during the period—

14                  “(A) beginning on the day after the date  
15                  of the general elections held to determine the  
16                  electors of the President and Vice President  
17                  under section 1 or 2 of title 3, United States  
18                  Code; and

19                  “(B) ending on the date that is 60 days  
20                  after the date of such inauguration; and

21                  “(2) without regard to whether the President-  
22                  elect, Vice-President-elect, President, or Vice Presi-  
23                  dent submits to the Administrator a request for pay-  
24                  ment regarding services or facilities before the end  
25                  of such period.”;

1           (3) in subsection (h)(2)(B)(ii), by striking  
2 “computers” and inserting “information tech-  
3 nology”; and

4           (4) By adding at the end the following:

5           “(i) MEMORANDUMS OF UNDERSTANDING.—

6           “(1) IN GENERAL.—Not later than September  
7 1 of a year during which a Presidential election oc-  
8 curs, the Administrator shall, to the maximum ex-  
9 tent practicable, enter into a memorandum of under-  
10 standing with each eligible candidate, which shall in-  
11 clude, at a minimum, the conditions for the adminis-  
12 trative support services and facilities described in  
13 subsection (a).

14           “(2) EXISTING RESOURCES.—To the maximum  
15 extent practicable, a memorandum of understanding  
16 entered into under paragraph (1) shall be based on  
17 memorandums of understanding relating to previous  
18 Presidential transitions.

19           “(3) TRANSITION REPRESENTATIVE.—

20           “(A) DESIGNATION OF REPRESENTATIVE  
21 FOR INQUIRIES.—Each memorandum of under-  
22 standing entered into under this subsection  
23 shall designate a representative of the eligible  
24 candidate to whom the Administrator shall di-  
25 rect any inquiries or legal instruments regard-

1 ing the records of the eligible candidate that are  
2 in the custody of the Administrator.

3 “(B) CHANGE IN TRANSITION REPRESENT-  
4 ATIVE.—The designation of a new individual as  
5 the transition representative of an eligible can-  
6 didate shall not require the execution of a new  
7 memorandum of understanding under this sub-  
8 section.

9 “(C) TERMINATION OF DESIGNATION.—  
10 The designation of a transition representative  
11 under a memorandum of understanding shall  
12 terminate—

13 “(i) not later than September 30 of  
14 the year during which the inauguration of  
15 the President-elect as President and the  
16 inauguration of the Vice-President-elect as  
17 Vice President occurs; or

18 “(ii) before the date described in  
19 clause (i), upon request of the President-  
20 elect or the Vice-President-elect or, after  
21 such inauguration, upon request of the  
22 President or the Vice President.

23 “(4) AMENDMENTS.—Any amendment to a  
24 memorandum of understanding entered into under  
25 this subsection shall be agreed to in writing.

1           “(5) PRIOR NOTIFICATION OF DEVIATION.—  
2       Each party to a memorandum of understanding en-  
3       tered into under this subsection shall provide written  
4       notice, except to the extent prohibited under another  
5       provision of law, not later than 3 days before taking  
6       any action that deviates from the terms and condi-  
7       tions agreed to in the memorandum of under-  
8       standing.

9           “(6) DEFINITION.—In this subsection, the term  
10       ‘eligible candidate’ has the meaning given that term  
11       in subsection (h)(4).”.

12       (b) AGENCY TRANSITIONS.—Section 4 of the Presi-  
13       dential Transition Act of 1963 (3 U.S.C. 102 note) is  
14       amended—

15           (1) in subsection (a)—

16               (A) in paragraph (3), by striking “and” at  
17               the end;

18               (B) by redesignating paragraph (4) as  
19               paragraph (5); and

20               (C) by inserting after paragraph (3) the  
21               following:

22           “(4) the term ‘nonpublic information’—

23               “(A) means information from the Federal  
24               Government that a member of a transition team  
25               obtains as part of the employment of the mem-

1           ber that such member knows or reasonably  
2           should know has not been made available to the  
3           general public; and

4           “(B) includes information that a member  
5           of the transition team knows or reasonably  
6           should know—

7                   “(i) is exempt from disclosure under  
8                   section 552 of title 5, United States Code,  
9                   or otherwise protected from disclosure by  
10                  law; and

11                  “(ii) is not authorized by the appro-  
12                  priate government agency or officials to be  
13                  released to the public; and”;

14           (2) in subparagraphs (C) and (D) of subsection  
15           (e)(3), by inserting “serving in a career position”  
16           after “senior representative”;

17           (3) by striking subsection (f)(2) and inserting  
18           the following:

19                   “(2) ACTING OFFICERS.—Not later than Sep-  
20                   tember 15 of a year during which a Presidential  
21                   election occurs, and in accordance with subchapter  
22                   III of chapter 33 of title 5, United States Code, the  
23                   head of each agency shall ensure that a succession  
24                   plan is in place for each senior noncareer position in  
25                   the agency.”; and

1 (4) in subsection (g)—

2 (A) in paragraph (1), by striking “Novem-  
3 ber 1” and inserting “October 1”; and

4 (B) by adding at the end the following:

5 “(3) ETHICS PLAN.—

6 “(A) IN GENERAL.—Each memorandum of  
7 understanding under paragraph (1) shall in-  
8 clude an agreement that the eligible candidate  
9 will implement and enforce an ethics plan to  
10 guide the conduct of the transition beginning on  
11 the date on which the eligible candidate be-  
12 comes the President-elect.

13 “(B) CONTENTS.—The ethics plan shall  
14 include, at a minimum—

15 “(i) a description of the ethics re-  
16 quirements that will apply to all members  
17 of the transition team, including any spe-  
18 cific requirement for transition team mem-  
19 bers who will have access to nonpublic or  
20 classified information;

21 “(ii) a description of how the transi-  
22 tion team will—

23 “(I) address the role on the tran-  
24 sition team of—



1           “(aa) lobbyists registered  
2           under the Lobbying Disclosure  
3           Act of 1995 (2 U.S.C. 1601 et  
4           seq.) and individuals who were  
5           former lobbyists registered under  
6           that Act; and

7           “(bb) persons registered  
8           under the Foreign Agents Reg-  
9           istration Act of 1938 (22 U.S.C.  
10          611 et seq.), foreign nationals,  
11          and other foreign agents;

12          “(II) prohibit a transition team  
13          member with conflicts of interest simi-  
14          lar to those applicable to Federal em-  
15          ployees under section 2635.402(a)  
16          and section 2635.502(a) of title 5,  
17          Code of Federal Regulations, related  
18          to current or former employment, af-  
19          filiations, clients, or investments, from  
20          working on particular matters involv-  
21          ing specific parties that affect the in-  
22          terests of such member; and

23          “(III) address how the covered  
24          eligible candidate will address his or  
25          her own conflicts of interest during a

1 Presidential term if the covered eligi-  
2 ble candidate becomes the President-  
3 elect;

4 “(iii) a Code of Ethical Conduct,  
5 which each member of the transition team  
6 will sign and be subject to, that reflects  
7 the content of the ethics plans under this  
8 paragraph and at a minimum requires  
9 transition team members to—

10 “(I) seek authorization from  
11 transition team leaders or their des-  
12 ignees before seeking, on behalf of the  
13 transition, access to any nonpublic in-  
14 formation;

15 “(II) keep confidential any non-  
16 public information provided in the  
17 course of the duties of the member  
18 with the transition and exclusively use  
19 such information for the purposes of  
20 the transition; and

21 “(III) not use any nonpublic in-  
22 formation provided in the course of  
23 transition duties, in any manner, for  
24 personal or private gain for the mem-

1                   ber or any other party at any time  
2                   during or after the transition; and

3                   “(iv) a description of how the transi-  
4                   tion team will enforce the Code of Ethical  
5                   Conduct, including the names of the mem-  
6                   bers of the transition team responsible for  
7                   enforcement, oversight, and compliance.

8                   “(C) PUBLICLY AVAILABLE.—The transi-  
9                   tion team shall make the ethics plan described  
10                  in this paragraph publicly available on the  
11                  internet website of the General Services Admin-  
12                  istration the earlier of—

13                  “(i) the day on which the memo-  
14                  randum of understanding is completed; or

15                  “(ii) October 1.”.

Passed the Senate August 1, 2019.

Attest:

*Secretary.*

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 394**

---

**AN ACT**

To amend the Presidential Transition Act of 1963 to improve the orderly transfer of the executive power during Presidential transitions.