

117TH CONGRESS
1ST SESSION

H. R. 1077

To amend the Ethics in Government Act of 1978 to require senior executive branch employees to sign an ethics pledge, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2021

Mr. SCHNEIDER introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To amend the Ethics in Government Act of 1978 to require senior executive branch employees to sign an ethics pledge, 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 “Ethics in Public Serv-
5 ice Act”.

6 **SEC. 2. ETHICS PLEDGE REQUIREMENT FOR SENIOR EXEC-**
7 **UTIVE BRANCH EMPLOYEES.**

8 The Ethics in Government Act of 1978 (5 U.S.C.
9 App. 101 et seq.) is amended by inserting after title I the
10 following new title:

1 **“TITLE II—ETHICS PLEDGE**

2 **“SEC. 201. DEFINITIONS.**

3 “For the purposes of this title, the following defini-
4 tions apply:

5 “(1) The term ‘executive agency’ has the mean-
6 ing given that term in section 105 of title 5, United
7 States Code, and includes the Executive Office of
8 the President, the United States Postal Service, and
9 Postal Regulatory Commission, but does not include
10 the Government Accountability Office.

11 “(2) The term ‘appointee’ means any noncareer
12 Presidential or Vice-Presidential appointee, non-
13 career appointee in the Senior Executive Service (or
14 other SES-type system), or appointee to a position
15 that has been excepted from the competitive service
16 by reason of being of a confidential or policymaking
17 character (Schedule C and other positions excepted
18 under comparable criteria) in an executive agency,
19 but does not include any individual appointed as a
20 member of the Senior Foreign Service or solely as
21 a uniformed service commissioned officer.

22 “(3) The term ‘gift’—

23 “(A) has the meaning given that term in
24 section 2635.203(b) of title 5, Code of Federal
25 Regulations (or any successor regulation); and

1 “(B) does not include those items excluded
2 by sections 2635.204(b), (c), (e)(1), (e)(3), (j),
3 (k), and (l) of such title 5.

4 “(4) The terms ‘covered executive branch offi-
5 cial’ and ‘lobbyist’ have the meanings given those
6 terms in section 3 of the Lobbying Disclosure Act of
7 1995 (2 U.S.C. 1602).

8 “(5) The term ‘registered lobbyist or lobbying
9 organization’ means a lobbyist or an organization fil-
10 ing a registration pursuant to section 4(a) of the
11 Lobbying Disclosure Act of 1995 (2 U.S.C.
12 1603(a)), and in the case of an organization filing
13 such a registration, ‘registered lobbyist’ includes
14 each of the lobbyists identified therein.

15 “(6) The terms ‘lobby’ and ‘lobbied’ mean to
16 act or have acted as a registered lobbyist.

17 “(7) The term ‘former employer’—

18 “(A) means a person or entity for whom
19 an appointee served as an employee, officer, di-
20 rector, trustee, partner, agent, attorney, con-
21 sultant, or contractor during the 2-year period
22 ending on the date before the date on which the
23 covered employee begins service in the Federal
24 Government; and

25 “(B) does not include—

1 “(i) an agency or instrumentality of
2 the Federal Government;

3 “(ii) a State or local government;

4 “(iii) the District of Columbia;

5 “(iv) an Indian tribe, as defined in
6 section 4 of the Indian Self-Determination
7 and Education Assistance Act (25 U.S.C.
8 5304); or

9 “(v) the government of a territory or
10 possession of the United States.

11 “(8) The term ‘former client’ means a person
12 or entity for whom an appointee served personally as
13 agent, attorney, or consultant during the 2-year pe-
14 riod ending on the date before the date on which the
15 covered employee begins service in the Federal Gov-
16 ernment, but does not include an agency or instru-
17 mentality of the Federal Government;

18 “(9) The term ‘directly and substantially re-
19 lated to my former employer or former clients’
20 means matters in which the appointee’s former em-
21 ployer or a former client is a party or represents a
22 party.

23 “(10) The term ‘participate’ means to partici-
24 pate personally and substantially.

1 “(11) The term ‘post-employment restrictions’
2 includes the provisions and exceptions in section
3 207(c) of title 18, United States Code, and the im-
4 plementing regulations.

5 “(12) The term ‘Government official’ means
6 any employee of the executive branch.

7 “(13) The term ‘Administration’ means all
8 terms of office of the incumbent President serving at
9 the time of the appointment of an appointee covered
10 by this title.

11 “(14) The term ‘pledge’ means the ethics
12 pledge set forth in section 202 of this title.

13 “(15) All references to provisions of law and
14 regulations shall refer to such provisions as in effect
15 on the date of enactment of this title.

16 **“SEC. 202. ETHICS PLEDGE.**

17 “Each appointee in every executive agency appointed
18 on or after the date of enactment of this section shall be
19 required to sign an ethics pledge upon appointment. The
20 pledge shall be signed and dated within 30 days of taking
21 office and shall include, at a minimum, the following ele-
22 ments:

23 “‘As a condition, and in consideration, of my employ-
24 ment in the United States Government in a position in-
25 vested with the public trust, I commit myself to the fol-

1 lowing obligations, which I understand are binding on me
2 and are enforceable under law:

3 ““(1) Lobbyist Gift Ban.—I will not accept
4 gifts from registered lobbyists or lobbying organiza-
5 tions for the duration of my service as an appointee.

6 ““(2) Revolving Door Ban; Entering Govern-
7 ment.—

8 ““(A) All Appointees Entering Govern-
9 ment.—I will not, for a period of 2 years from
10 the date of my appointment, participate in any
11 particular matter involving specific party or
12 parties that is directly and substantially related
13 to my former employer or former clients, in-
14 cluding regulations and contracts.

15 ““(B) Lobbyists Entering Government.—If
16 I was a registered lobbyist within the 2 years
17 before the date of my appointment, in addition
18 to abiding by the limitations of subparagraph
19 (A), I will not for a period of 2 years after the
20 date of my appointment:

21 ““(i) participate in any particular
22 matter on which I lobbied within the 2
23 years before the date of my appointment;

1 “(ii) participate in the specific issue
2 area in which that particular matter falls;
3 or

4 “(iii) seek or accept employment with
5 any executive agency that I lobbied within
6 the 2 years before the date of my appoint-
7 ment.

8 “(3) Revolving Door Ban; Appointees Leaving
9 Government.—

10 “(A) All Appointees Leaving Govern-
11 ment.—If, upon my departure from the Govern-
12 ment, I am covered by the post-employment re-
13 strictions on communicating with employees of
14 my former executive agency set forth in section
15 207(c) of title 18, United States Code, I agree
16 that I will abide by those restrictions for a pe-
17 riod of 2 years following the end of my appoint-
18 ment.

19 “(B) Appointees Leaving Government to
20 Lobby.—In addition to abiding by the limita-
21 tions of subparagraph (A), I also agree, upon
22 leaving Government service, not to lobby any
23 covered executive branch official or noncareer
24 Senior Executive Service appointee for the re-
25 mainder of the Administration.

1 “(4) Employment Qualification Commit-
2 ment.—I agree that any hiring or other employment
3 decisions I make will be based on the candidate’s
4 qualifications, competence, and experience.

5 “(5) Assent to Enforcement.—I acknowledge
6 that title II of the Ethics in Government Act of
7 1978, which I have read before signing this docu-
8 ment, defines certain of the terms applicable to the
9 foregoing obligations and sets forth the methods for
10 enforcing them. I expressly accept the provisions of
11 that title as a part of this agreement and as binding
12 on me. I understand that the terms of this pledge
13 are in addition to any statutory or other legal re-
14 strictions applicable to me by virtue of Federal Gov-
15 ernment service.’”.

16 **“SEC. 203. WAIVER.**

17 “(a) The President or the President’s designee may
18 grant to any current or former appointee a written waiver
19 of any restrictions contained in the pledge signed by such
20 appointee if, and to the extent that, the President or the
21 President’s designee certifies (in writing) that, in light of
22 all the relevant circumstances, the interest of the Federal
23 Government in the employee’s participation outweighs the
24 concern that a reasonable person may question the integ-
25 rity of the agency’s programs or operations.

1 “(b) Any waiver under this section shall take effect
2 when the certification is signed by the President or the
3 President’s designee.

4 “(c) For purposes of subsection (a)(2), the public in-
5 terest shall include exigent circumstances relating to na-
6 tional security or to the economy. De minimis contact with
7 an executive agency shall be cause for a waiver of the re-
8 strictions contained in paragraph (2)(B) of the pledge.

9 “(d) For any waiver granted under this section, the
10 individual who granted the waiver shall—

11 “(1) provide a copy of the waiver to the Direc-
12 tor not more than 48 hours after the waiver is
13 granted; and

14 “(2) publish the waiver on the website of the
15 applicable agency not later than 30 calendar days
16 after granting such waiver.

17 “(e) Upon receiving a written waiver under sub-
18 section (d), the Director shall—

19 “(1) review the waiver to determine whether the
20 Director has any objection to the issuance of the
21 waiver; and

22 “(2) if the Director so objects—

23 “(A) provide reasons for the objection in
24 writing to the head of the agency who granted

1 the waiver not more than 15 calendar days
2 after the waiver was granted; and

3 “(B) publish the written objection on the
4 website of the Office of Government Ethics not
5 more than 30 calendar days after the waiver
6 was granted.

7 **“SEC. 204. ADMINISTRATION.**

8 “(a) The head of each executive agency shall, in con-
9 sultation with the Director of the Office of Government
10 Ethics, establish such rules or procedures (conforming as
11 nearly as practicable to the agency’s general ethics rules
12 and procedures, including those relating to designated
13 agency ethics officers) as are necessary or appropriate to
14 ensure—

15 “(1) that every appointee in the agency signs
16 the pledge upon assuming the appointed office or
17 otherwise becoming an appointee;

18 “(2) that compliance with paragraph (2)(B) of
19 the pledge is addressed in a written ethics agree-
20 ment with each appointee to whom it applies;

21 “(3) that spousal employment issues and other
22 conflicts not expressly addressed by the pledge are
23 addressed in ethics agreements with appointees or,
24 where no such agreements are required, through eth-
25 ics counseling; and

1 “(4) compliance with this title within the agen-
2 cy.

3 “(b) With respect to the Executive Office of the
4 President, the duties set forth in subsection (a) shall be
5 the responsibility of the Counsel to the President.

6 “(c) The Director of the Office of Government Ethics
7 shall—

8 “(1) ensure that the pledge and a copy of this
9 title are made available for use by agencies in ful-
10 filling their duties under subsection (a);

11 “(2) in consultation with the Attorney General
12 or the Counsel to the President, when appropriate,
13 assist designated agency ethics officers in providing
14 advice to current or former appointees regarding the
15 application of the pledge;

16 “(3) adopt such rules or procedures as are nec-
17 essary or appropriate—

18 “(A) to carry out the responsibilities as-
19 signed by this subsection;

20 “(B) to apply the lobbyist gift ban set
21 forth in paragraph 1 of the pledge to all execu-
22 tive branch employees;

23 “(C) to authorize limited exceptions to the
24 lobbyist gift ban for circumstances that do not
25 implicate the purposes of the ban;

1 “(D) to make clear that no person shall
2 have violated the lobbyist gift ban if the person
3 properly disposes of a gift;

4 “(E) to ensure that existing rules and pro-
5 cedures for Government employees engaged in
6 negotiations for future employment with private
7 businesses that are affected by their official ac-
8 tions do not affect the integrity of the Govern-
9 ment’s programs and operations; and

10 “(F) to ensure, in consultation with the
11 Director of the Office of Personnel Manage-
12 ment, that the requirement set forth in para-
13 graph (4) of the pledge is honored by every em-
14 ployee of the executive branch;

15 “(4) in consultation with the Director of the
16 Office of Management and Budget, report to the
17 President, the Committee on Oversight and Reform
18 of the House of Representatives, and the Committee
19 on Homeland Security and Governmental Affairs of
20 the Senate on whether full compliance is being
21 achieved with existing laws and regulations gov-
22 erning executive branch procurement lobbying disclo-
23 sure and on steps the executive branch can take to
24 expand to the fullest extent practicable disclosure of
25 such executive branch procurement lobbying and of

1 lobbying for presidential pardons, and to include in
2 the report both immediate action the executive
3 branch can take and, if necessary, recommendations
4 for legislation; and

5 “(5) provide an annual public report on the ad-
6 ministration of the pledge and this title.

7 “(d) All pledges signed by appointees, and all waiver
8 certifications with respect thereto, shall be filed with the
9 head of the appointee’s agency for permanent retention
10 in the appointee’s official personnel folder or equivalent
11 folder.”.

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