

# Union Calendar No. 325

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 745

**[Report No. 116–403, Part I]**

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.

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## 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

FEBRUARY 21, 2020

Reported from the Committee on Oversight and Reform with an amendment  
[Strike out all after the enacting clause and insert the part printed in *italie*]

FEBRUARY 21, 2020

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed  
[For text of introduced bill, see copy of bill as introduced on January 24, 2019]

# **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 Com-*  
5 *prehensive Ethics Enforcement Act of 2019”.*

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

8 *Section 405 of the Ethics in Government Act of 1978*  
9 *(5 U.S.C. App.) is amended by striking “fiscal year 2007”*  
10 *and inserting “fiscal years 2019 through 2023.”.*

11 **SEC. 3. TENURE OF THE DIRECTOR OF THE OFFICE OF GOV-**  
12 **ERNMENT ETHICS.**

13 *Section 401(b) of the Ethics in Government Act of*  
14 *1978 (5 U.S.C. App.) is amended by striking the period*  
15 *at the end and inserting “, subject to removal only for inef-*  
16 *iciency, neglect of duty, or malfeasance in office. The Direc-*  
17 *tor may continue to serve beyond the expiration of the term*  
18 *until a successor is appointed and has qualified, except that*  
19 *the Director may not continue to serve for more than one*  
20 *year after the date on which the term would otherwise ex-*  
21 *pire under this subsection.”.*

22 **SEC. 4. DUTIES OF DIRECTOR OF THE OFFICE OF GOVERN-**  
23 **MENT ETHICS.**

24 *(a) IN GENERAL.—Section 402(a) of the Ethics in*  
25 *Government Act of 1978 (5 U.S.C. App.) is amended by*

1 *striking “, in consultation with the Office of Personnel*  
2 *Management,”.*

3 (b) *RESPONSIBILITIES OF THE DIRECTOR.*—Section  
4 *402(b) of the Ethics in Government Act of 1978 (5 U.S.C.*  
5 *App.) is amended—*

6 (1) *in paragraph (1)—*

7 (A) *by striking “developing, in consultation*  
8 *with the Attorney General and the Office of Per-*  
9 *sonnel Management, rules and regulations to be*  
10 *promulgated by the President or the Director”*  
11 *and inserting “developing and promulgating*  
12 *rules and regulations”; and*

13 (B) *by striking “title II” and inserting*  
14 *“title I”;*

15 (2) *by striking paragraph (2) and inserting the*  
16 *following:*

17 “(2) *providing mandatory education and train-*  
18 *ing programs for designated agency ethics officials,*  
19 *which may be delegated to each agency or the White*  
20 *House Counsel as deemed appropriate by the Direc-*  
21 *tor;”;*

22 (3) *in paragraph (3), by striking “title II” and*  
23 *inserting “title I”;*

24 (4) *in paragraph (4), by striking “problems”*  
25 *and inserting “issues”;*

1           (5) *in paragraph (6)—*

2                   (A) *by striking “issued by the President or*  
3 *the Director”;* and

4                   (B) *by striking “problems” and inserting*  
5 *“issues”;*

6           (6) *in paragraph (7)—*

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

8                   (B) *by striking “conflict of interest prob-*  
9 *lems” and inserting “conflicts of interest, as well*  
10 *as other ethics issues”;*

11           (7) *in paragraph (9)—*

12                   (A) *by striking “ordering” and inserting*  
13 *“receiving allegations of violations of this Act or*  
14 *regulations of the Office of Government Ethics*  
15 *and, when necessary, investigating an allegation*  
16 *to determine whether a violation occurred, and*  
17 *ordering”;* and

18                   (B) *by inserting before the semi-colon the*  
19 *following: “, and recommending appropriate dis-*  
20 *ciplinary action”;*

21           (8) *in paragraph (12)—*

22                   (A) *by striking “evaluating, with the assist-*  
23 *ance of” and inserting “promulgating, with*  
24 *input from”;*

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

1           (C) by striking “conflict of interest and eth-  
2           ical problems” and inserting “conflict of interest  
3           and ethics issues”;

4           (9) in paragraph (13)—

5           (A) by striking “with the Attorney General”  
6           and inserting “with the Inspectors General and  
7           the Attorney General”;

8           (B) by striking “violations of the conflict of  
9           interest laws” and inserting “conflict of interest  
10          issues and allegations of violations of ethics laws  
11          and regulations and this Act”; and

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

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

16          (11) in paragraph (15)—

17               (A) by striking “, in consultation with the  
18               Office of Personnel Management,”;

19               (B) by striking “title II” and inserting  
20               “title I”; and

21               (C) by striking the period at the end and  
22               inserting a semicolon; and

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

24               “(16) directing and providing final approval,  
25               when determined appropriate by the Director, for des-

1        *ignated agency ethics officials regarding the resolu-*  
2        *tion of conflicts of interest as well as any other ethics*  
3        *issues under the purview of this Act in individual*  
4        *cases; and*

5                *“(17) reviewing and approving, when deter-*  
6        *mined appropriate by the Director, any recusals, ex-*  
7        *emptions, or waivers from the conflicts of interest and*  
8        *ethics laws, rules, and regulations and making ap-*  
9        *proved recusals, exemptions, and waivers made pub-*  
10        *licly available by the relevant agency available in a*  
11        *central location on the official website of the Office of*  
12        *Government Ethics.”.*

13        *(c) WRITTEN PROCEDURES.—Paragraph (1) of section*  
14        *402(d) of the Ethics in Government Act of 1978 (5 U.S.C.*  
15        *App.) is amended—*

16                *(1) by striking “, by the exercise of any author-*  
17        *ity otherwise available to the Director under this*  
18        *title,”;*

19                *(2) by striking “the agency is”; and*

20                *(3) by inserting after “filed by” the following: “,*  
21        *or written documentation of recusals, waivers, or eth-*  
22        *ics authorizations relating to,”.*

23        *(d) CORRECTIVE ACTIONS.—Section 402(f) of the Eth-*  
24        *ics in Government Act of 1978 (5 U.S.C. App.) is amend-*  
25        *ed—*

1           (1) in paragraph (1)—

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

4                 (B) in subparagraph (B), by inserting be-  
5 fore the period at the end “and determine that  
6 a violation of this Act has occurred and issue ap-  
7 propriate administrative or legal remedies as  
8 prescribed in paragraph (2)”;

9           (2) in paragraph (2)—

10                 (A) in subparagraph (A)—

11                         (i) in clause (ii)—

12                                 (I) in subclause (I)—

13   (aa) by inserting “to the  
14 President or the President’s des-  
15 ignee if the matter involves em-  
16 ployees of the Executive Office of  
17 the President or” after “may rec-  
18 ommend”;

19   (bb) by striking “and” at the  
20 end; and

21                                 (II) in subclause (II)—

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



1                                    (bb) by adding “and” at the  
2                                    end;

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

4                                   (I) by striking “notify, in writ-  
5                                   ing,” and inserting “advise the Presi-  
6                                   dent or order”;

7                                   (II) by inserting “to take appro-  
8                                   priate disciplinary action including  
9                                   reprimand, suspension, demotion, or  
10                                  dismissal against the officer or em-  
11                                  ployee (provided, however, that any  
12                                  order issued by the Director shall not  
13                                  affect an employee’s right to appeal a  
14                                  disciplinary action under applicable  
15                                  law, regulation, collective bargaining  
16                                  agreement, or contractual provision).”  
17                                  after “employee’s agency”; and

18                                  (III) by striking “of the officer’s  
19                                  or employee’s noncompliance, except  
20                                  that, if the officer or employee involved  
21                                  is the agency head, the notification  
22                                  shall instead be submitted to the Presi-  
23                                  dent; and”; and

24                                  (iii) by striking clause (iv);

25                                  (B) in subparagraph (B)(i)—

1                   (i) by striking “subparagraph (A)(iii)  
2                   or (iv)” and inserting “subparagraph (A)”;

3                   (ii) by inserting “(I)” before “In order  
4                   to”; and

5                   (iii) by adding at the end the fol-  
6                   lowing:

7                   “(II)(aa) *The Director may secure directly*  
8                   *from any agency information necessary to enable*  
9                   *the Director to carry out this Act. Upon request*  
10                   *of the Director, the head of such agency shall fur-*  
11                   *nish that information to the Director.*

12                   “(bb) *The Director may require by sub-*  
13                   *poena the production of all information, docu-*  
14                   *ments, reports, answers, records, accounts, pa-*  
15                   *pers, and other data in any medium and docu-*  
16                   *mentary evidence necessary in the performance*  
17                   *of the functions assigned by this Act, which sub-*  
18                   *poena, in the case of refusal to obey, shall be en-*  
19                   *forceable by order of any appropriate United*  
20                   *States district court.*”;

21                   (C) in subparagraph (B)(ii)(I)—

22                   (i) by striking “Subject to clause (iv)  
23                   of this subparagraph, before” and inserting  
24                   “Before”; and

1                   (ii) by striking “subparagraphs (A)  
2                   (iii) or (iv)” and inserting “subparagraph  
3                   (A)(iii)”;

4                   (D) in subparagraph (B)(iii), by striking  
5                   “Subject to clause (iv) of this subparagraph, be-  
6                   fore” and inserting “Before”; and

7                   (E) in subparagraph (B)(iv)—

8                   (i) by striking “title 2” and inserting  
9                   “title I”; and

10                   (ii) by striking “section 206” and in-  
11                   serting “section 106”; and

12                   (3) in paragraph (4), by striking “(iv),”.

13                   (e) *DEFINITIONS.*—Section 402 of the *Ethics in Gov-*  
14 *ernment Act of 1978 (5 U.S.C. App.) is amended by adding*  
15 *at the end the following:*

16                   “(g) For purposes of this title—

17                   “(1) the term ‘agency’ shall include the *Executive*  
18 *Office of the President; and*

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

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

1       “(i) *The Director shall not be required to obtain the*  
2 *prior approval, comment, or review of any officer or agency*  
3 *of the United States, including the Office of Management*  
4 *and Budget, before submitting to Congress, or any com-*  
5 *mittee or subcommittee thereof, any information, reports,*  
6 *recommendations, testimony, or comments, if such submis-*  
7 *sions include a statement indicating that the views ex-*  
8 *pressed therein are those of the Director and do not nec-*  
9 *essarily represent the views of the President.”.*

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

11       (a) *IN GENERAL.*—Section 403 of the *Ethics in Gov-*  
12 *ernment Act of 1978 (5 U.S.C. App.) is amended—*

13             (1) *in subsection (a), by adding a period at the*  
14 *end of the matter following paragraph (2); and*

15             (2) *by adding at the end the following:*

16       “(c)(1) *All designated agency ethics officials and alter-*  
17 *nate designated agency ethics officials shall register with*  
18 *the Director as well as with the appointing authority of*  
19 *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       “(3) *Each designated agency ethics official and each*  
25 *alternate designated agency ethics official shall biannually*

1 *attend ethics education and training, as provided by the*  
2 *Director under paragraph (2).*

3       “(d) *Each Designated Agency Ethics Official, includ-*  
4 *ing the Designated Agency Ethics Official for the Executive*  
5 *Office of the President—*

6               “(1) *shall provide to the Director, in writing, in*  
7 *a searchable, sortable, and downloadable format, all*  
8 *approvals, authorizations, certifications, compliance*  
9 *reviews, determinations, directed divestitures, public*  
10 *financial disclosure reports, notices of deficiency in*  
11 *compliance, records related to the approval or accept-*  
12 *ance of gifts, recusals, regulatory or statutory advi-*  
13 *sory opinions, waivers, including waivers under sec-*  
14 *tion 207 or 208 of title 18, United States Code, and*  
15 *any other records designated by the Director, unless*  
16 *disclosure is prohibited by law;*

17               “(2) *shall, for all information described in para-*  
18 *graph (1) that is permitted to be disclosed to the pub-*  
19 *lic under law, make the information available to the*  
20 *public by publishing the information on the website*  
21 *of the Office of Government Ethics, providing a link*  
22 *to download an electronic copy of the information, or*  
23 *providing printed paper copies of such information to*  
24 *the public; and*

1           “(3) may charge a reasonable fee for the cost of  
2           providing paper copies of the information pursuant  
3           to paragraph (2).

4           “(e)(1) For all information that is provided by an  
5           agency to the Director under paragraph (1) of subsection  
6           (d), the Director shall make the information available to  
7           the public in a searchable, sortable, downloadable format  
8           by publishing the information on the website of the Office  
9           of Government Ethics or providing a link to download an  
10          electronic copy of the information.

11          “(2) The Director may, upon request, provide printed  
12          paper copies of the information published under paragraph  
13          (1) and charge a reasonable fee for the cost of printing such  
14          copies.”.

15          (b) *REPEAL*.—Section 408 of the *Ethics in Govern-*  
16          *ment Act of 1978 (5 U.S.C. App.) is hereby repealed.*



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**H. R. 745**

[Report No. 116-403, Part I]

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**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.

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