

116TH CONGRESS
1ST SESSION

H. R. 209

To amend the Ethics in Government Act of 1978 to require political appointees to sign an ethics pledge, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

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 political appointees 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 subtitle may be cited as the “Ethics in Public
5 Service 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 full-time,
12 noncareer Presidential or Vice-Presidential ap-
13 pointee, noncareer appointee in the Senior Executive
14 Service (or other SES-type system), or appointee to
15 a position that has been excepted from the competi-
16 tive service by reason of being of a confidential or
17 policymaking character (Schedule C and other posi-
18 tions excepted under comparable criteria) in an exec-
19 utive agency, but does not include any individual ap-
20 pointed as a member of the Senior Foreign Service
21 or solely as a uniformed service commissioned offi-
22 cer.

23 “(3) The term ‘gift’ means anything having
24 monetary value.

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

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

12 “(6) The term ‘lobby’ and ‘lobbied’ mean to act
13 or have acted as a registered lobbyist.

14 “(7) The term ‘former employer’ is any person
15 for whom the appointee has within the 2 years prior
16 to the date of his or her appointment served as an
17 employee, officer, director, trustee, or general part-
18 ner, except that ‘former employer’ does not include
19 any executive agency or other entity of the Federal
20 Government, State or local government, the District
21 of Columbia, Native American tribe, or any United
22 States territory or possession.

23 “(8) The term ‘former client’ is any person for
24 whom the appointee served personally as agent, at-
25 torney, or consultant within the 2 years prior to the

1 date of his or her appointment, but excluding in-
2 stances where the service provided was limited to a
3 speech or similar appearance. It does not include cli-
4 ents of the appointee’s former employer to whom the
5 appointee did not personally provide services.

6 “(9) The term ‘directly and substantially re-
7 lated to my former employer or former clients’
8 means matters in which the appointee’s former em-
9 ployer or a former client is a party or represents a
10 party.

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

13 “(11) The term ‘post-employment restrictions’
14 includes the provisions and exceptions in section
15 207(c) of title 18, United States Code, and the im-
16 plementing regulations.

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

19 “(13) The term ‘Administration’ means all
20 terms of office of the incumbent President serving at
21 the time of the appointment of an appointee covered
22 by this title.

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

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

4 **“SEC. 202. ETHICS PLEDGE.**

5 “Each appointee in every executive agency appointed
6 on or after the date of enactment of this section shall be
7 required to sign an ethics pledge upon appointment. The
8 pledge shall be signed and dated within 30 days of taking
9 office and shall include at least the following elements, in
10 addition to other requirements:

11 ““As a condition, and in consideration, of my employ-
12 ment in the United States Government in a position in-
13 vested with the public trust, I commit myself to the fol-
14 lowing obligations, which I understand are binding on me
15 and are enforceable under law:

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

19 “(2) Revolving Door Ban; Entering Govern-
20 ment.—

21 “(A) All Appointees Entering Govern-
22 ment.—I will not, for a period of 2 years from
23 the date of my appointment, participate in any
24 particular matter involving specific party or
25 parties that is directly and substantially related

1 to my former employer or former clients, in-
2 cluding regulations and contracts.

3 “(B) Lobbyists Entering Government.—If
4 I was a registered lobbyist within the 2 years
5 before the date of my appointment, in addition
6 to abiding by the limitations of subparagraph
7 (A), I will not for a period of 2 years after the
8 date of my appointment:

9 “(i) participate in any particular
10 matter on which I lobbied within the 2
11 years before the date of my appointment;

12 “(ii) participate in the specific issue
13 area in which that particular matter falls;
14 or

15 “(iii) seek or accept employment with
16 any executive agency that I lobbied within
17 the 2 years before the date of my appoint-
18 ment.

19 “(3) Revolving Door Ban; Appointees Leaving
20 Government.—

21 “(A) All Appointees Leaving Govern-
22 ment.—If, upon my departure from the Govern-
23 ment, I am covered by the post-employment re-
24 strictions on communicating with employees of
25 my former executive agency set forth in section

1 207(c) of title 18, United States Code, I agree
2 that I will abide by those restrictions for a pe-
3 riod of 2 years following the end of my appoint-
4 ment.

5 “(B) Appointees Leaving Government to
6 Lobby.—In addition to abiding by the limita-
7 tions of subparagraph (A), I also agree, upon
8 leaving Government service, not to lobby any
9 covered executive branch official or noncareer
10 Senior Executive Service appointee for the re-
11 mainder of the Administration.

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

16 “(5) Assent to Enforcement.—I acknowledge
17 that title II of the Ethics in Government Act of
18 1978, which I have read before signing this docu-
19 ment, defines certain of the terms applicable to the
20 foregoing obligations and sets forth the methods for
21 enforcing them. I expressly accept the provisions of
22 that title as a part of this agreement and as binding
23 on me. I understand that the terms of this pledge
24 are in addition to any statutory or other legal re-

1 restrictions applicable to me by virtue of Federal Gov-
2 ernment service.’”.

3 **“SEC. 203. WAIVER.**

4 “(a) The President or the President’s designee may
5 grant to any current or former appointee a written waiver
6 of any restrictions contained in the pledge signed by such
7 appointee if, and to the extent that, the President or the
8 President’s designee certifies (in writing) that—

9 “(1) the literal application of the restriction is
10 inconsistent with the purposes of the restriction; or

11 “(2) it is in the public interest to grant the
12 waiver.

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

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

21 **“SEC. 204. ADMINISTRATION.**

22 “(a) The head of each executive agency shall, in con-
23 sultation with the Director of the Office of Government
24 Ethics, establish such rules or procedures (conforming as
25 nearly as practicable to the agency’s general ethics rules

1 and procedures, including those relating to designated
2 agency ethics officers) as are necessary or appropriate to
3 ensure—

4 “(1) that every appointee in the agency signs
5 the pledge upon assuming the appointed office or
6 otherwise becoming an appointee;

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

10 “(3) that spousal employment issues and other
11 conflicts not expressly addressed by the pledge are
12 addressed in ethics agreements with appointees or,
13 where no such agreements are required, through eth-
14 ics counseling; and

15 “(4) compliance with this title within the agen-
16 cy.

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

20 “(c) The Director of the Office of Government Ethics
21 shall—

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

1 “(2) in consultation with the Attorney General
2 or the Counsel to the President, when appropriate,
3 assist designated agency ethics officers in providing
4 advice to current or former appointees regarding the
5 application of the pledge;

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

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

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

13 “(C) to authorize limited exceptions to the
14 lobbyist gift ban for circumstances that do not
15 implicate the purposes of the ban;

16 “(D) to make clear that no person shall
17 have violated the lobbyist gift ban if the person
18 properly disposes of a gift;

19 “(E) to ensure that existing rules and pro-
20 cedures for Government employees engaged in
21 negotiations for future employment with private
22 businesses that are affected by their official ac-
23 tions do not affect the integrity of the Govern-
24 ment’s programs and operations; and

1 “(F) to ensure, in consultation with the
2 Director of the Office of Personnel Manage-
3 ment, that the requirement set forth in para-
4 graph (4) of the pledge is honored by every em-
5 ployee of the executive branch;

6 “(4) in consultation with the Director of the
7 Office of Management and Budget, report to the
8 President on whether full compliance is being
9 achieved with existing laws and regulations gov-
10 erning executive branch procurement lobbying disclo-
11 sure and on steps the executive branch can take to
12 expand to the fullest extent practicable disclosure of
13 such executive branch procurement lobbying and of
14 lobbying for presidential pardons, and to include in
15 the report both immediate action the executive
16 branch can take and, if necessary, recommendations
17 for legislation; and

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

20 “(d) All pledges signed by appointees, and all waiver
21 certifications with respect thereto, shall be filed with the
22 head of the appointee’s agency for permanent retention
23 in the appointee’s official personnel folder or equivalent
24 folder.”.

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