

115TH CONGRESS
2D SESSION

S. 2919

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 SENATE OF THE UNITED STATES

MAY 22, 2018

Mr. BLUMENTHAL (for himself, Ms. HASSAN, Mr. WHITEHOUSE, Mr. UDALL, Ms. DUCKWORTH, Ms. KLOBUCHAR, Ms. CORTEZ MASTO, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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”.

6 **SEC. 2. 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 inserting after the

1 first sentence the following: “The Director shall be subject
2 to removal only for inefficiency, neglect of duty, or malfea-
3 sance in office. The Director may continue to serve beyond
4 the expiration of the term until a successor is appointed
5 and has qualified, except that the Director may not con-
6 tinue to serve for more than 1 year after the date on which
7 the term would otherwise expire under this subsection.”.

8 **SEC. 3. DUTIES OF DIRECTOR OF THE OFFICE OF GOVERN-**
9 **MENT ETHICS.**

10 (a) DUTIES GENERALLY.—

11 (1) IN GENERAL.—Section 402(b) of the Ethics
12 in Government Act of 1978 (5 U.S.C. App.) is
13 amended—

14 (A) in paragraph (1)—

15 (i) by striking “developing, in con-
16 sultation with the Attorney General and
17 the Office of Personnel Management,” and
18 inserting “(A) developing”;

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

21 (iii) by adding “and” after the semi-
22 colon; and

23 (iv) by adding at the end the fol-
24 lowing:

1 “(B) before promulgating rules or regulations
2 under subparagraph (A), consulting with the Attor-
3 ney General;”;

4 (B) by striking paragraph (2) and insert-
5 ing the following:

6 “(2) providing mandatory education and train-
7 ing programs for agency ethics counselors and other
8 responsible officials, which may be delegated to each
9 agency or the Counsel to the President, as deter-
10 mined appropriate by the Director;”;

11 (C) by redesignating paragraph (14) as
12 paragraph (3) and transferring such paragraph,
13 as so redesignated, to after paragraph (2);

14 (D) by redesignating paragraph (3) (relat-
15 ing to monitoring and investigating compliance)
16 and paragraphs (4) through (13) as paragraphs
17 (4) through (14), respectively;

18 (E) in paragraph (3), as redesignated and
19 transferred by subparagraph (C) of this para-
20 graph, by striking “and” at the end;

21 (F) in paragraph (4), as so redesignated,
22 by striking “title II” and inserting “title I”;

23 (G) in paragraph (5), as so redesignated—

24 (i) by striking “violations of applicable
25 conflict of interest laws or regulations”

1 and inserting “conflicts of interest or other
2 ethics issues”;

3 (ii) by striking “recommending” and
4 inserting “directing”; and

5 (iii) by striking “problems” and in-
6 serting “issues”;

7 (H) in paragraph (7), as so redesignated,
8 by striking “problems” and inserting “issues”;

9 (I) in paragraph (8), as so redesignated—

10 (i) by striking “, when requested,”;

11 and

12 (ii) by striking “conflict of interest
13 problems” and inserting “conflicts of inter-
14 est and other ethics issues”;

15 (J) in paragraph (10), as so redesignated,
16 by inserting “, except that the Director may not
17 order the President to take corrective action”
18 before the semicolon;

19 (K) in paragraph (12), as so redesignated,
20 by striking “conflict of interest laws” and in-
21 serting “laws, rules, and regulations relating to
22 conflicts of interest and other ethics issues”
23 after “conflict of interest laws”;

24 (L) in paragraph (13), as so redesign-
25 nated—

1 (i) by striking “evaluating” and in-
2 serting “promulgating”;

3 (ii) by striking “the need for”; and

4 (iii) by striking “conflict of interest
5 and ethical problems” and inserting “con-
6 flicts of interest and other ethics issues”;

7 (M) in paragraph (14), as so redesign-
8 nated—

9 (i) by striking “violations of the con-
10 flict of interest laws” and inserting “con-
11 flicts of interest and other ethics issues”;
12 and

13 (ii) by striking “, as required by sec-
14 tion 535 of title 28, United States Code”;
15 (N) in paragraph (15)—

16 (i) by striking “title II” and inserting
17 “title I”; and

18 (ii) by striking the period at the end
19 and inserting a semicolon; and

20 (O) by adding at the end the following:

21 “(16) determining whether employees of an
22 agency have violated this Act and issuing appro-
23 priate administrative penalties;

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

1 agency ethics counselors and other responsible offi-
2 cials regarding the resolution of conflicts of interest
3 and other ethics issues under the purview of this Act
4 in individual cases; and

5 “(18) reviewing and, when determined appro-
6 priate by the Director, approving any recusals be-
7 cause of, exemptions from, or waivers of the laws,
8 rules, and regulations relating to conflicts of interest
9 and other ethics issues and making approved
10 recusals, exemptions, and waivers publicly avail-
11 able.”.

12 (2) TECHNICAL AND CONFORMING AMEND-
13 MENTS.—

14 (A) Section 402(e) of the Ethics in Gov-
15 ernment Act of 1978 (5 U.S.C. App.) is amend-
16 ed, in the matter preceding paragraph (1), by
17 striking “subsection (b)(10)” and inserting
18 “subsection (b)(11)”.

19 (B) Section 402(f) of the Ethics in Gov-
20 ernment Act of 1978 (5 U.S.C. App.) is amend-
21 ed by striking “subsection (b)(9)” each place it
22 appears and inserting “subsection (b)(10)”.

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

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

4 (2) by striking “the agency is”.

5 (c) CORRECTIVE ACTION.—Section 402(f) of the Eth-
6 ics in Government Act of 1978 (5 U.S.C. App.) is amend-
7 ed—

8 (1) in paragraph (1)—

9 (A) in subparagraph (A)—

10 (i) in clause (i)—

11 (I) by inserting “(or, with respect
12 to the President, recommend)” after
13 “order” the first place it appears; and

14 (II) by striking “of such agency”;
15 and

16 (ii) in clause (ii), by inserting “(or,
17 with respect to the President, rec-
18 ommend)” after “order”; and

19 (B) in subparagraph (B), by striking “no-
20 tify the President” and all that follows through
21 “may provide)” and inserting “determine that a
22 violation of this Act has occurred and (except
23 with respect to the President) issue appropriate
24 administrative or legal remedies as prescribed
25 in paragraph (2)”;

1 (2) in paragraph (2)—

2 (A) in subparagraph (A)—

3 (i) in clause (ii)(II)—

4 (I) by striking “shall notify the
5 President in writing”;

6 (II) by striking “such action;”
7 and inserting “such action—”; and

8 (III) by adding at the end the
9 following:

10 “(aa) shall notify the President in
11 writing; and

12 “(bb) may conduct a formal investiga-
13 tion and hearing in accordance to the pro-
14 cedures described in subparagraph (B);
15 and”;

16 (ii) in clause (iii)—

17 (I) in the matter preceding sub-
18 clause (I), by inserting “or has vio-
19 lated” after “is violating”;

20 (II) in subclause (II)—

21 (aa) by striking “notify, in
22 writing,” and inserting “order
23 (or, with respect to the Presi-
24 dent, recommend), in writing,
25 that”; and

1 (bb) by striking “of the offi-
2 cer’s or employee’s noncompli-
3 ance,” and all that follows and
4 inserting “take appropriate dis-
5 ciplinary action, including rep-
6 rimand, suspension, demotion, or
7 dismissal against the officer or
8 employee.”; and

9 (iii) by striking clause (iv); and

10 (B) in subparagraph (B)—

11 (i) in clause (i)—

12 (I) by inserting “(I)” before “In
13 order to”;

14 (II) by striking “(iii) or (iv)”;
15 and

16 (III) by adding at the end the
17 following:

18 “(II)(aa) In conducting an investigation, the Director
19 may, if necessary, apply to a judge or clerk of a court
20 of the United States to issue a subpoena for a witness
21 or witnesses to appear at a time or place stated in the
22 subpoena before an individual authorized to take deposi-
23 tions to be used in the courts of the United States, to
24 give full and true answers to written interrogatories and
25 cross-interrogatories as may be submitted with the appli-

1 cation, or to be orally examined or cross-examined on the
2 subject of the claim.

3 “(bb) The Director may secure directly from any
4 agency information necessary to enable the Director to
5 carry out this Act. Upon request of the Director, the head
6 of such agency (except in the case of the President) shall
7 furnish that information to the Director.”;

8 (ii) in clause (ii)(I)—

9 (I) by striking “Subject to clause
10 (iv) of this subparagraph, before” and
11 inserting “Before”; and

12 (II) by striking “subparagraphs
13 (A) (iii) or (iv)” and inserting “sub-
14 paragraph (A)(iii)”;

15 (iii) in clause (iii), by striking “Sub-
16 ject to clause (iv) of this subparagraph, be-
17 fore” and inserting “Before”; and

18 (iv) in clause (iv)—

19 (I) by striking “title 2” and in-
20 serting “title I”; and

21 (II) by striking “section 206”
22 and inserting “section 104”;

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

24 (4) by striking paragraph (5) and inserting the
25 following:

1 “(5)(A) The Office of Government Ethics shall be the
2 central repository, by maintaining data or referencing data
3 by internet link that is maintained by agencies or other-
4 wise made publicly available, of all laws, rules and regula-
5 tions relating to conflicts of interest and other ethics
6 issues, recusals, waivers, and exemptions of such laws,
7 rules, and regulations, ethics advisory opinions, ethics
8 agreements of senior executive branch personnel and em-
9 ployee certificates of divestiture, financial disclosure re-
10 ports as required under title I of this Act, compliance re-
11 views, enforcement actions, and any other public records
12 concerning conflicts of interest and other ethics issues for
13 the executive branch required by law.

14 “(B) All financial disclosure reports and records re-
15 lating to conflicts of interest and other ethics issues deter-
16 mined to be public information by the Director or by law
17 shall be made available to the public—

18 “(i)(I) by a link to such information if publicly
19 available on a website other than the website of the
20 Office of Government Ethics; or

21 “(II) at no charge on the website of the Office
22 of Government Ethics in a searchable, sortable, and
23 downloadable format; and

1 “(ii) subject to a reasonable fee, for reproduc-
2 tion of paper documents at the Office of Government
3 Ethics.”.

4 (d) DEFINITIONS.—Title IV of the Ethics in Govern-
5 ment Act of 1978 (5 U.S.C. App.) is amended by adding
6 at the end the following:

7 “SEC. 409. DEFINITIONS.—For purposes of this
8 title—

9 “(1) the term ‘agency’ includes the Executive
10 Office of the President;

11 “(2) the term ‘officer or employee’ includes any
12 individual occupying a position, providing any offi-
13 cial services, or acting in an advisory capacity in the
14 White House or the Executive Office of the Presi-
15 dent, regardless of whether the individual receives
16 pay; and

17 “(3) the term ‘head of an agency’ includes the
18 President or a designee of the President, for pur-
19 poses of applying this title to the White House and
20 the Executive Office of the President.”.

21 (e) SUBMISSION OF INFORMATION AND VIEWS.—Sec-
22 tion 402 of the Ethics in Government Act of 1978 (5
23 U.S.C. App.) is amended by adding at the end the fol-
24 lowing:

1 “(g)(1) Upon request by any committee or sub-
2 committee of Congress, the Director shall provide to Con-
3 gress, by report, testimony, or otherwise, information and
4 the views of the Director on functions, responsibilities, or
5 other matters relating to the Office of Government Ethics.

6 “(2) Information and views provided to Congress
7 under paragraph (1) shall be transmitted concurrently to
8 the President and any other appropriate executive agen-
9 cy.”.

10 **SEC. 4. AGENCY ETHICS OFFICIALS TRAINING AND DUTIES.**

11 Section 403 of the Ethics in Government Act of 1978
12 (5 U.S.C. App) is amended by adding at the end the fol-
13 lowing:

14 “(c)(1) All designated agency ethics officials and al-
15 ternate designated agency ethics officials shall register
16 with, and report to, the Director and with the appointing
17 authority of the official.

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

22 “(3) The Director shall have final authority over the
23 designee of the President for purposes of this title and
24 all designated and alternate designated agency ethics offi-
25 cials and other ethics counselors in the executive branch

- 1 in the interpretation and implementation of all rules and
- 2 regulations relating to conflict of interest and other ethics
- 3 issues promulgated by the President or the Director.”.

