

AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 745

OFFERED BY MR. Cummings of Maryland

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Executive Branch
3 Comprehensive Ethics Enforcement Act of 2019”.

4 **SEC. 2. REAUTHORIZATION OF THE OFFICE OF GOVERN-
5 MENT ETHICS.**

6 Section 405 of the Ethics in Government Act of 1978
7 (5 U.S.C. App.) is amended by striking “fiscal year 2007”
8 and inserting “fiscal years 2019 through 2023.”.

9 **SEC. 3. TENURE OF THE DIRECTOR OF THE OFFICE OF
10 GOVERNMENT ETHICS.**

11 Section 401(b) of the Ethics in Government Act of
12 1978 (5 U.S.C. App.) is amended by striking the period
13 at the end and inserting “, subject to removal only for
14 inefficiency, neglect of duty, or malfeasance in office. The
15 Director may continue to serve beyond the expiration of
16 the term until a successor is appointed and has qualified,
17 except that the Director may not continue to serve for

1 more than one year after the date on which the term would
2 otherwise expire under this subsection.”.

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

5 (a) IN GENERAL.—Section 402(a) of the Ethics in
6 Government Act of 1978 (5 U.S.C. App.) is amended in
7 paragraph (1) by striking “, in consultation with the Of-
8 fice of Personnel Management,”.

9 (b) RESPONSIBILITIES OF THE DIRECTOR.—Section
10 402(b) of the Ethics in Government Act of 1978 (5 U.S.C.
11 App.) is amended—

12 (1) in paragraph (1)—

13 (A) by striking “developing, in consultation
14 with the Attorney General and the Office of
15 Personnel Management, rules and regulations
16 to be promulgated by the President or the Di-
17 rector” and inserting “developing and promul-
18 gating rules and regulations”; and

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

21 (2) by striking paragraph (2) and inserting the
22 following:

23 “(2) providing mandatory education and train-
24 ing programs for designated agency ethics officials,
25 which may be delegated to each agency or the White

1 House Counsel as deemed appropriate by the Direc-
2 tor;”;

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

5 (4) in paragraph (4), by striking “problems”
6 and inserting “issues”;

7 (5) in paragraph (6)—

8 (A) by striking “issued by the President or
9 the Director”; and

10 (B) by striking “problems” and inserting
11 “issues”;

12 (6) in paragraph (7)—

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

14 (B) by striking “conflict of interest prob-
15 lems” and inserting “conflicts of interest, as
16 well as other ethics issues”;

17 (7) in paragraph (9)—

18 (A) by striking “ordering” and inserting
19 “receiving allegations of violations of this Act or
20 regulations of the Office of Government Ethics
21 and, when necessary, investigating an allegation
22 to determine whether a violation occurred, and
23 ordering”; and

1 (B) by inserting before the semi-colon the
2 following: “, and recommending appropriate
3 disciplinary action”;

4 (8) in paragraph (12)—

5 (A) by striking “evaluating, with the as-
6 sistance of” and inserting “promulgating, with
7 input from”;

8 (B) by striking “the need for”;

9 (C) by striking “conflict of interest and
10 ethical problems” and inserting “conflict of in-
11 terest and ethics issues”;

12 (9) in paragraph (13)—

13 (A) by striking “with the Attorney Gen-
14 eral” and inserting “with the Inspectors Gen-
15 eral and the Attorney General”;

16 (B) by striking “violations of the conflict
17 of interest laws” and inserting “conflict of in-
18 terest issues and allegations of violations of eth-
19 ics laws and regulations and this Act”; and

20 (C) by striking “, as required by section
21 535 of title 28, United States Code”;

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

24 (11) in paragraph (15)—

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

3 (B) by striking “title II” and inserting
4 “title I”; and

5 (C) by striking the period at the end and
6 inserting a semicolon; and

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

8 “(16) directing and providing final approval,
9 when determined appropriate by the Director, for
10 designated agency ethics officials regarding the reso-
11 lution of conflicts of interest as well as any other
12 ethics issues under the purview of this Act in indi-
13 vidual cases; and

14 “(17) reviewing and approving, when deter-
15 mined appropriate by the Director, any recusals, ex-
16 emptions, or waivers from the conflicts of interest
17 and ethics laws, rules, and regulations and making
18 approved recusals, exemptions, and waivers made
19 publicly available by the relevant agency available in
20 a central location on the official website of the Office
21 of Government Ethics.”.

22 (c) WRITTEN PROCEDURES.—Paragraph (1) of sec-
23 tion 402(d) of the Ethics in Government Act of 1978 (5
24 U.S.C. App.) is amended—

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

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

5 (3) by inserting after “filed by” the following:
6 “, or written documentation of recusals, waivers, or
7 ethics authorizations relating to,”.

8 (d) CORRECTIVE ACTIONS.—Section 402(f) of the
9 Ethics in Government Act of 1978 (5 U.S.C. App.) is
10 amended—

11 (1) in paragraph (1)—

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

14 (B) in subparagraph (B), by inserting at
15 the end “and determine that a violation of this
16 Act has occurred and issue appropriate admin-
17 istrative or legal remedies as prescribed in para-
18 graph (2)”;

19 (2) in paragraph (2)—

20 (A) in subparagraph (A)—

21 (i) in clause (ii)—

22 (I) in subclause (I)—

23 (aa) by inserting “to the
24 President or the President’s des-
25 ignee if the matter involves em-

1 ployees of the Executive Office of
2 the President or” after “may rec-
3 ommend”;

4 (bb) by striking “and” at
5 the end; and

6 (II) in subclause (II)—

7 (aa) by inserting “President
8 or” after “determines that the”;
9 and

10 (bb) by adding “and” at the
11 end;

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

13 (I) by striking “notify, in writ-
14 ing,” and inserting “advise the Presi-
15 dent or order”;

16 (II) by inserting “to take appro-
17 priate disciplinary action including
18 reprimand, suspension, demotion, or
19 dismissal against the officer or em-
20 ployee (provided, however, that any
21 order issued by the Director shall not
22 affect an employee’s right to appeal a
23 disciplinary action under applicable
24 law, regulation, collective bargaining

1 agreement, or contractual provision)”
2 after “employee’s agency”; and

3 (III) by striking “of the officer’s
4 or employee’s noncompliance, except
5 that, if the officer or employee in-
6 volved is the agency head, the notifi-
7 cation shall instead be submitted to
8 the President and Congress and”; and
9 (iii) by striking clause (iv);

10 (B) in subparagraph (B)(i)—

11 (i) by striking “subparagraph (A)(iii)
12 or (iv)” and inserting “subparagraph (A)”;

13 (ii) by inserting “(I)” before “In
14 order to”; and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(II)(aa) The Director may secure directly
18 from any agency information necessary to en-
19 able the Director to carry out this Act. Upon
20 request of the Director, the head of such agency
21 shall furnish that information to the Director.

22 “(bb) The Director may require by sub-
23 poena the production of all information, docu-
24 ments, reports, answers, records, accounts, pa-
25 pers, and other data in any medium and docu-

1 mentary evidence necessary in the performance
2 of the functions assigned by this Act, which
3 subpoena, in the case of refusal to obey, shall
4 be enforceable by order of any appropriate
5 United States district court.”;

6 (C) in subparagraph (B)(ii)(I)—

7 (i) by striking “Subject to clause (iv)
8 of this subparagraph, before” and insert-
9 ing “Before”; and

10 (ii) by striking “subparagraphs (A)
11 (iii) or (iv)” and inserting “subparagraph
12 (A)(iii)”;

13 (D) in subparagraph (B)(iii), by striking
14 “Subject to clause (iv) of this subparagraph,
15 before” and inserting “Before”; and

16 (E) in subparagraph (B)(iv)—

17 (i) by striking “title 2” and inserting
18 “title I”; and

19 (ii) by striking “section 206” and in-
20 serting “section 106”; and

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

22 (e) DEFINITIONS.—Section 402 of the Ethics in Gov-
23 ernment Act of 1978 (5 U.S.C. App.) is amended by add-
24 ing at the end the following:

25 “(g) For purposes of this title—

1 “(1) the term ‘agency’ shall include the Execu-
2 tive Office of the President; and

3 “(2) the term ‘officer or employee’ shall include
4 any individual occupying a position, providing any
5 official services, or acting in an advisory capacity, in
6 the White House or the Executive Office of the
7 President.

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

10 “(i) The Director shall not be required to obtain the
11 prior approval, comment, or review of any officer or agen-
12 cy of the United States, including the Office of Manage-
13 ment and Budget, before submitting to Congress, or any
14 committee or subcommittee thereof, any information, re-
15 ports, recommendations, testimony, or comments, if such
16 submissions include a statement indicating that the views
17 expressed therein are those of the Director and do not nec-
18 essarily represent the views of the President.”.

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

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

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

24 (2) by adding at the end the following:

1 “(c)(1) All designated agency ethics officials and al-
2 ternate designated agency ethics officials shall register
3 with the Director as well as with the appointing authority
4 of the official.

5 “(2) The Director shall provide ethics education and
6 training to all designated and alternate designated agency
7 ethics officials in a time and manner deemed appropriate
8 by the Director.

9 “(3) Each designated agency ethics official and each
10 alternate designated agency ethics official shall biannually
11 attend ethics education and training, as provided by the
12 Director under paragraph (2).

13 “(d) Each Designated Agency Ethics Official, includ-
14 ing the Designated Agency Ethics Official for the Execu-
15 tive Office of the President—

16 “(1) shall provide to the Director, in writing, in
17 a searchable, sortable, and downloadable format, all
18 approvals, authorizations, certifications, compliance
19 reviews, determinations, directed divestitures, public
20 financial disclosure reports, notices of deficiency in
21 compliance, records related to the approval or ac-
22 ceptance of gifts, recusals, regulatory or statutory
23 advisory opinions, waivers, including waivers under
24 section 207 or 208 of title 18, United States Code,

1 and any other records designated by the Director,
2 unless disclosure is prohibited by law;

3 “(2) shall, for all information described in para-
4 graph (1) that is permitted to be disclosed to the
5 public under law, make the information available to
6 the public by publishing the information on the
7 website of the Office of Government Ethics, pro-
8 viding a link to download an electronic copy of the
9 information, or providing printed paper copies of
10 such information to the public; and

11 “(3) may charge a reasonable fee for the cost
12 of providing paper copies of the information pursu-
13 ant to paragraph (2).

14 “(e)(1) For all information that is provided by an
15 agency to the Director under paragraph (1) of subsection
16 (d), the Director shall make the information available to
17 the public in a searchable, sortable, downloadable format
18 by publishing the information on the website of the Office
19 of Government Ethics or providing a link to download an
20 electronic copy of the information.

21 “(2) The Director may, upon request, provide printed
22 paper copies of the information published under para-
23 graph (1) and charge a reasonable fee for the cost of print-
24 ing such copies.”

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

