

116TH CONGRESS  
1ST SESSION

# H. R. 599

To strengthen and enhance certain ethics requirements for the Federal Government, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2019

Mr. CUMMINGS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and Reform, 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

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## A BILL

To strengthen and enhance certain ethics requirements for the Federal Government, 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 Con-  
5 flict of Interest Act”.

6 **SEC. 2. RESTRICTIONS ON PRIVATE SECTOR PAYMENT FOR**  
7 **GOVERNMENT SERVICE.**

8 Section 209 of title 18, United States Code, is  
9 amended—

1 (1) in subsection (a), by striking “any salary”  
 2 and inserting “any salary (including a bonus)”; and

3 (2) in subsection (b)—

4 (A) by inserting “(1)” after “(b)”; and

5 (B) by adding at the end the following:

6 “(2) For purposes of paragraph (1), a pension,  
 7 retirement, group life, health or accident insurance,  
 8 profit-sharing, stock bonus, or other employee wel-  
 9 fare or benefit plan that makes payment of any por-  
 10 tion of compensation contingent on accepting a posi-  
 11 tion in the United States Government shall not be  
 12 considered bona fide.”.

13 **SEC. 3. REQUIREMENTS RELATING TO SLOWING THE RE-**  
 14 **VOLVING DOOR.**

15 (a) IN GENERAL.—The Ethics in Government Act of  
 16 1978 (5 U.S.C. App.) is amended by adding at the end  
 17 the following:

18 **“TITLE VI—ENHANCED RE-**  
 19 **QUIREMENTS FOR CERTAIN**  
 20 **EMPLOYEES**

21 **“SEC. 601. DEFINITIONS.**

22 “In this title:

23 “(1) COVERED AGENCY.—The term ‘covered  
 24 agency’—

1           “(A) means an Executive agency, as de-  
2           fined in section 105 of title 5, United States  
3           Code, the Postal Service and the Postal Rate  
4           Commission, but does not include the Govern-  
5           ment Accountability Office or the Government  
6           of the District of Columbia; and

7           “(B) shall include the Executive Office of  
8           the President.

9           “(2) COVERED EMPLOYEE.—The term ‘covered  
10          employee’ means an officer or employee referred to  
11          in paragraph (2) of section 207(c) of title 18,  
12          United States Code.

13          “(3) DIRECTOR.—The term ‘Director’ means  
14          the Director of the Office of Government Ethics.

15          “(4) EXECUTIVE BRANCH.—The term ‘execu-  
16          tive branch’ has the meaning given that term in sec-  
17          tion 109.

18          “(5) FORMER CLIENT.—The term ‘former cli-  
19          ent’—

20                 “(A) means a person for whom a covered  
21                 employee served personally as an agent, attor-  
22                 ney, or consultant during the 2-year period end-  
23                 ing on the date before the date on which the  
24                 covered employee begins service in the Federal  
25                 Government; and

1 “(B) does not include—

2 “(i) instances in which the service  
3 provided was limited to a speech or similar  
4 appearance by the covered employee; or

5 “(ii) a client of the former employer  
6 of the covered employee to whom the cov-  
7 ered employee did not personally provide  
8 such services.

9 “(6) FORMER EMPLOYER.—The term ‘former  
10 employer’—

11 “(A) means a person for whom a covered  
12 employee served as an employee, officer, direc-  
13 tor, trustee, or general partner during the 2-  
14 year period ending on the date before the date  
15 on which the covered employee begins service in  
16 the Federal Government; and

17 “(B) does not include—

18 “(i) an entity in the Federal Govern-  
19 ment, including an executive branch agen-  
20 cy;

21 “(ii) a State or local government;

22 “(iii) the District of Columbia;

23 “(iv) an Indian tribe, as defined in  
24 section 4 of the Indian Self-Determination

1 and Education Assistance Act (25 U.S.C.  
2 5304); or

3 “(v) the government of a territory or  
4 possession of the United States.

5 “(7) PARTICULAR MATTER.—The term ‘par-  
6 ticular matter’ has the meaning given that term in  
7 section 207(i) of title 18, United States Code.

8 **“SEC. 602. CONFLICT OF INTEREST AND ELIGIBILITY**  
9 **STANDARDS.**

10 “(a) IN GENERAL.—A covered employee may not use,  
11 or attempt to use, the official position of the covered em-  
12 ployee to participate in a particular matter in which the  
13 covered employee knows a former employer or former cli-  
14 ent of the covered employee has a financial interest.

15 “(b) WAIVER.—

16 “(1) IN GENERAL.—The head of the covered  
17 agency employing a covered employee, in consulta-  
18 tion with the Director, may grant a written waiver  
19 of the restrictions under subsection (a) prior to en-  
20 gaging in the action otherwise prohibited by sub-  
21 section (a) if, and to the extent that, the head of the  
22 covered agency certifies in writing that—

23 “(A) the application of the restriction to  
24 the particular matter is inconsistent with the  
25 purposes of the restriction; or

1           “(B) it is in the public interest to grant  
2           the waiver.

3           “(2) PUBLICATION.—The head of the covered  
4           agency shall provide a waiver under paragraph (1)  
5           to the Director and post the waiver on the website  
6           of the agency within 30 calendar days after granting  
7           such waiver.

8   **“SEC. 603. PENALTIES AND INJUNCTIONS.**

9           “(a) CRIMINAL PENALTIES.—

10           “(1) IN GENERAL.—Any person who violates  
11           section 602 shall be fined under title 18, United  
12           States Code, imprisoned for not more than 1 year,  
13           or both.

14           “(2) WILLFUL VIOLATIONS.—Any person who  
15           willfully violates section 602 shall be fined under  
16           title 18, United States Code, imprisoned for not  
17           more than 5 years, or both.

18           “(b) CIVIL ENFORCEMENT.—

19           “(1) IN GENERAL.—The Attorney General may  
20           bring a civil action in an appropriate district court  
21           of the United States against any person who vio-  
22           lates, or whom the Attorney General has reason to  
23           believe is engaging in conduct that violates, section  
24           602.

25           “(2) CIVIL PENALTY.—

1           “(A) IN GENERAL.—If the court finds by  
2 a preponderance of the evidence that a person  
3 violated section 602, the court shall impose a  
4 civil penalty of not more than the greater of—

5                   “(i) \$100,000 for each violation; or

6                   “(ii) the amount of compensation the  
7 person received or was offered for the con-  
8 duct constituting the violation.

9           “(B) RULE OF CONSTRUCTION.—A civil  
10 penalty under this subsection may be in addi-  
11 tion to any other criminal or civil statutory,  
12 common law, or administrative remedy available  
13 to the United States or any other person.

14           “(3) INJUNCTIVE RELIEF.—

15                   “(A) IN GENERAL.—In a civil action  
16 brought under paragraph (1) against a person,  
17 the Attorney General may petition the court for  
18 an order prohibiting the person from engaging  
19 in conduct that violates section 602.

20                   “(B) STANDARD.—The court may issue an  
21 order under subparagraph (A) if the court finds  
22 by a preponderance of the evidence that the  
23 conduct of the person violates section 602.

24                   “(C) RULE OF CONSTRUCTION.—The filing  
25 of a petition seeking injunctive relief under this

1 paragraph shall not preclude any other remedy  
2 that is available by law to the United States or  
3 any other person.”.

4 **SEC. 4. PROHIBITION OF PROCUREMENT OFFICERS AC-**  
5 **CEPTING EMPLOYMENT FROM GOVERNMENT**  
6 **CONTRACTORS.**

7 (a) EXPANSION OF PROHIBITION ON ACCEPTANCE  
8 BY FORMER OFFICIALS OF COMPENSATION FROM CON-  
9 TRACTORS.—Section 2104 of title 41, United States Code,  
10 is amended—

11 (1) in subsection (a)—

12 (A) in the matter preceding paragraph

13 (1)—

14 (i) by striking “or consultant” and in-  
15 sserting “attorney, consultant, subcon-  
16 tractor, or lobbyist”; and

17 (ii) by striking “one year” and insert-  
18 ing “2 years”; and

19 (B) in paragraph (3), by striking “person-  
20 ally made for the Federal agency” and inserting  
21 “participated personally and substantially in”;  
22 and

23 (2) by striking subsection (b) and inserting the  
24 following:



1           “(b) PROHIBITION ON COMPENSATION FROM AFFILI-  
 2 ATES AND SUBCONTRACTORS.—A former official respon-  
 3 sible for a Government contract referred to in paragraph  
 4 (1), (2), or (3) of subsection (a) may not accept compensa-  
 5 tion for 2 years after awarding the contract from any divi-  
 6 sion, affiliate, or subcontractor of the contractor.”.

7           (b) REQUIREMENT FOR PROCUREMENT OFFICERS  
 8 TO DISCLOSE JOB OFFERS MADE ON BEHALF OF REL-  
 9 ATIVES.—Section 2103(a) of title 41, United States Code,  
 10 is amended in the matter preceding paragraph (1) by in-  
 11 serting after “that official” the following: “, or for a rel-  
 12 ative (as defined in section 3110 of title 5) of that offi-  
 13 cial,”.

14           (c) REQUIREMENT ON AWARD OF GOVERNMENT  
 15 CONTRACTS TO FORMER EMPLOYERS.—

16           (1) IN GENERAL.—Chapter 21 of division B of  
 17 subtitle I of title 41, United States Code, is amend-  
 18 ed by adding at the end the following new section:

19 **“§ 2108. Prohibition on involvement by certain**  
 20 **former contractor employees in procure-**  
 21 **ments**

22           “An employee of the Federal Government may not  
 23 be personally and substantially involved with any award  
 24 of a contract to, or the administration of a contract award-  
 25 ed to, a contractor that is a former employer of the em-

1 ployee during the 2-year period beginning on the date on  
2 which the employee leaves the employment of the con-  
3 tractor.”.

4 (2) TECHNICAL AND CONFORMING AMEND-  
5 MENT.—The table of sections for chapter 21 of title  
6 41, United States Code, is amended by adding at  
7 the end the following new item:

“2108. Prohibition on involvement by certain former contractor employees  
in procurements.”.

8 (d) REGULATIONS.—The Administrator for Federal  
9 Procurement Policy and the Director of the Office of Man-  
10 agement and Budget shall—

11 (1) in consultation with the Director of the Of-  
12 fice of Personnel Management and the Counsel to  
13 the President, promulgate regulations to carry out  
14 and ensure the enforcement of chapter 21 of title  
15 41, United States Code, as amended by this section;  
16 and

17 (2) in consultation with designated agency eth-  
18 ics officials (as that term is defined in section  
19 109(3) of the Ethics in Government Act of 1978 (5  
20 U.S.C. App.)), monitor compliance with that chapter  
21 by individuals and agencies.

1 **SEC. 5. REVOLVING DOOR RESTRICTIONS ON EMPLOYEES**  
2 **MOVING INTO THE PRIVATE SECTOR.**

3 (a) IN GENERAL.—Subsection (c) of section 207 of  
4 title 18, United States Code, is amended—

5 (1) in the subsection heading, by striking  
6 “ONE-YEAR” and inserting “TWO-YEAR”;

7 (2) in paragraph (1), by striking “1 year” in  
8 each instance and inserting “2 years”; and

9 (3) in paragraph (2)(B), by striking “1-year”  
10 and inserting “2-year”.

11 (b) APPLICATION.—The amendments made by sub-  
12 section (a) shall apply to any individual covered by sub-  
13 section (c) of section 207 of title 18, United States Code,  
14 separating from the civil service on or after the date of  
15 enactment of this Act.

16 **SEC. 6. SEVERABILITY.**

17 If any provision of this Act or amendment made by  
18 this Act, or the application of a provision or amendment  
19 to any person or circumstance, is held to be unconstitu-  
20 tional, the remainder of this Act and amendments made  
21 by this Act, and the application of the provisions and  
22 amendment to any person or circumstance, shall not be  
23 affected by the holding.

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