

**AMENDMENT TO RULES COMMITTEE PRINT**

**117-20**

**OFFERED BY MS. OCASIO-CORTEZ OF NEW YORK**

Insert after section 1002 the following:

1 **Subtitle B—Strengthening Ethics**  
2 **Enforcement and Penalties for**  
3 **Federal Executive Employees**

4 **SEC. 1011. ETHICS PLEDGE.**

5 Every appointee in every executive agency appointed  
6 on or after January 20, 2021, shall sign, and upon signing  
7 shall be contractually committed to, the following pledge  
8 upon becoming an appointee:

9 “I recognize that this pledge is part of a broader eth-  
10 ics in government plan designed to restore and maintain  
11 public trust in government, and I commit myself to con-  
12 duct consistent with that plan. I commit to decision-mak-  
13 ing on the merits and exclusively in the public interest,  
14 without regard to private gain or personal benefit. I com-  
15 mit to conduct that upholds the independence of law en-  
16 forcement and precludes improper interference with inves-  
17 tigative or prosecutorial decisions of the Department of  
18 Justice. I commit to ethical choices of post-Government  
19 employment that do not raise the appearance that I have

1 used my Government service for private gain, including  
2 by using confidential information acquired and relation-  
3 ships established for the benefit of future clients.

4 “Accordingly, as a condition, and in consideration, of  
5 my employment in the United States Government in a po-  
6 sition invested with the public trust, I commit myself to  
7 the following obligations, which I understand are binding  
8 on me and are enforceable under law:

9 “(1) Lobbyist Gift Ban.—I will not accept gifts  
10 from registered lobbyists or lobbying organizations  
11 for the duration of my service as an appointee.

12 “(2) Revolving Door Ban; All Appointees En-  
13 tering Government.—I will not for a period of 2  
14 years from the date of my appointment participate  
15 in any particular matter involving specific parties  
16 that is directly and substantially related to my  
17 former employer or former clients, including regula-  
18 tions and contracts.

19 “(3) Revolving Door Ban; Lobbyists and Reg-  
20 istered Agents Entering Government.—If I was reg-  
21 istered under the Lobbying Disclosure Act, 2 U.S.C.  
22 1601 et seq., or the Foreign Agents Registration Act  
23 (FARA), 22 U.S.C. 611 et seq., within the 2 years  
24 before the date of my appointment, in addition to  
25 abiding by the limitations of paragraph 2, I will not

1 for a period of 2 years after the date of my appoint-  
2 ment:

3 “(A) participate in any particular matter  
4 on which I lobbied, or engaged in registrable ac-  
5 tivity under FARA, within the 2 years before  
6 the date of my appointment;

7 “(B) participate in the specific issue area  
8 in which that particular matter falls; or

9 “(C) seek or accept employment with any  
10 executive agency with respect to which I lob-  
11 bied, or engaged in registrable activity under  
12 FARA, within the 2 years before the date of my  
13 appointment.

14 “(4) Revolving Door Ban; Appointees Leaving  
15 Government.—If, upon my departure from the Gov-  
16 ernment, I am covered by the post-employment re-  
17 strictions on communicating with employees of my  
18 former executive agency set forth in section 207(c)  
19 of title 18, United States Code, and its imple-  
20 menting regulations, I agree that I will abide by  
21 those restrictions for a period of 2 years following  
22 the end of my appointment. I will abide by these  
23 same restrictions with respect to communicating  
24 with the senior White House staff.

1           “(5) Revolving Door Ban; Senior and Very Sen-  
2           ior Appointees Leaving Government.— If, upon my  
3           departure from the Government, I am covered by the  
4           post-employment restrictions set forth in sections  
5           207(c) or 207(d) of title 18, United States Code,  
6           and those sections’ implementing regulations, I  
7           agree that, in addition, for a period of 1 year fol-  
8           lowing the end of my appointment, I will not materi-  
9           ally assist others in making communications or ap-  
10          pearances that I am prohibited from undertaking  
11          myself by—

12                       “(A) holding myself out as being available  
13                       to engage in lobbying activities in support of  
14                       any such communications or appearances; or

15                       “(B) engaging in any such lobbying activi-  
16                       ties.

17           “(6) Revolving Door Ban; Appointees Leaving  
18           Government to Lobby.—In addition to abiding by  
19           the limitations of paragraph 4, I also agree, upon  
20           leaving Government service, not to lobby any covered  
21           executive branch official or non-career Senior Execu-  
22           tive Service appointee, or engage in any activity on  
23           behalf of any foreign government or foreign political  
24           party which, were it undertaken on January 20,  
25           2021, would require that I register under FARA, for

1 the remainder of the Administration or 2 years fol-  
2 lowing the end of my appointment, whichever is  
3 later.

4 “(7) Golden Parachute Ban.—I have not ac-  
5 cepted and will not accept, including after entering  
6 Government, any salary or other cash payment from  
7 my former employer the eligibility for and payment  
8 of which is limited to individuals accepting a position  
9 in the United States Government. I also have not ac-  
10 cepted and will not accept any non-cash benefit from  
11 my former employer that is provided in lieu of such  
12 a prohibited cash payment.

13 “(8) Employment Qualification Commitment.—  
14 I agree that any hiring or other employment deci-  
15 sions I make will be based on the candidate’s quali-  
16 fications, competence, and experience.

17 “(9) Assent to Enforcement.—I acknowledge  
18 that title XVI of the Protecting Our Democracy Act,  
19 which I have read before signing this document, de-  
20 fines certain of the terms applicable to the foregoing  
21 obligations and sets forth the methods for enforcing  
22 them. I expressly accept the provisions of that title  
23 as a part of this agreement and as binding on me.  
24 I understand that the terms of this pledge are in ad-  
25 dition to any statutory or other legal restrictions ap-

1 plicable to me by virtue of Federal Government serv-  
2 ice.”.

3 **SEC. 1012. DEFINITIONS.**

4 For purposes of this title and the pledge set forth  
5 in section 1101 of this title:

6 (1) “Executive agency” shall include each “ex-  
7 ecutive agency” as defined by section 105 of title 5,  
8 United States Code, and shall include the Executive  
9 Office of the President; provided, however, that “ex-  
10 ecutive agency” shall include the United States  
11 Postal Service and Postal Regulatory Commission,  
12 but shall exclude the Government Accountability Of-  
13 fice.

14 (2) “Appointee” shall include every full-time,  
15 non-career Presidential or Vice-Presidential ap-  
16 pointee, non-career appointee in the Senior Execu-  
17 tive Service (or other SES-type system), and ap-  
18 pointee to a position that has been excepted from  
19 the competitive service by reason of being of a con-  
20 fidential or policymaking character (Schedule C and  
21 other positions excepted under comparable criteria)  
22 in an executive agency. It does not include any per-  
23 son appointed as a member of the Senior Foreign  
24 Service or solely as a uniformed service commis-  
25 sioned officer.

1 (3) “Gift”—

2 (A) shall have the definition set forth in  
3 section 2635.203(b) of title 5, Code of Federal  
4 Regulations;

5 (B) shall include gifts that are solicited or  
6 accepted indirectly, as defined in section  
7 2635.203(f) of title 5, Code of Federal Regula-  
8 tions; and

9 (C) shall exclude those items excluded by  
10 sections 2635.204(b), (c), (e)(1) and (3), and  
11 (j) through (l) of title 5, Code of Federal Regu-  
12 lations.

13 (4) “Covered executive branch official” and  
14 “lobbyist” shall have the definitions set forth in sec-  
15 tion 1602 of title 2, United States Code.

16 (5) “Registered lobbyist or lobbying organiza-  
17 tion” shall mean a lobbyist or an organization filing  
18 a registration pursuant to section 1603(a) of title 2,  
19 United States Code, and in the case of an organiza-  
20 tion filing such a registration, “registered lobbyist”  
21 shall include each of the lobbyists identified therein.

22 (6) “Lobby” and “lobbied” shall mean to act or  
23 have acted as a registered lobbyist.

1           (7) “Lobbying activities” shall have the defini-  
2           tion set forth in section 1602 of title 2, United  
3           States Code.

4           (8) “Materially assist” means to provide sub-  
5           stantive assistance but does not include providing  
6           background or general education on a matter of law  
7           or policy based upon an individual’s subject matter  
8           expertise, nor any conduct or assistance permitted  
9           under section 207(j) of title 18, United States Code.

10          (9) “Particular matter” shall have the same  
11          meaning as set forth in section 207 of title 18,  
12          United States Code, and section 2635.402(b)(3) of  
13          title 5, Code of Federal Regulations.

14          (10) “Particular matter involving specific par-  
15          ties” shall have the same meaning as set forth in  
16          section 2641.201(h) of title 5, Code of Federal Reg-  
17          ulations, except that it shall also include any meet-  
18          ing or other communication relating to the perform-  
19          ance of one’s official duties with a former employer  
20          or former client, unless the communication applies  
21          to a particular matter of general applicability and  
22          participation in the meeting or other event is open  
23          to all interested parties.

24          (11) “Former employer” is any person for  
25          whom the appointee has within the 2 years prior to



1 the date of his or her appointment served as an em-  
2 ployee, officer, director, trustee, or general partner,  
3 except that “former employer” does not include any  
4 executive agency or other entity of the Federal Gov-  
5 ernment, State or local government, the District of  
6 Columbia, Native American tribe, any United States  
7 territory or possession, or any international organi-  
8 zation in which the United States is a member state.

9 (12) “Former client” is any person for whom  
10 the appointee served personally as agent, attorney,  
11 or consultant within the 2 years prior to the date of  
12 his or her appointment, but excluding instances  
13 where the service provided was limited to speeches or  
14 similar appearances. It does not include clients of  
15 the appointee’s former employer to whom the ap-  
16 pointee did not personally provide services.

17 (13) “Directly and substantially related to my  
18 former employer or former clients” shall mean mat-  
19 ters in which the appointee’s former employer or a  
20 former client is a party or represents a party.

21 (14) “Participate” means to participate person-  
22 ally and substantially.

23 (15) “Government official” means any employee  
24 of the executive branch.

1           (16) “Administration” means all terms of office  
2 of the incumbent President serving at the time of  
3 the appointment of an appointee covered by this  
4 title.

5           (17) “Pledge” means the ethics pledge set forth  
6 in section 1011 of this title.

7           (18) “Senior White House staff” means any  
8 person appointed by the President to a position  
9 under sections 105(a)(2)(A) or (B) of title 3, United  
10 States Code, or by the Vice President to a position  
11 under sections 106(a)(1)(A) or (B) of title 3.

12           (19) All references to provisions of law and reg-  
13 ulations shall refer to such provisions as are in effect  
14 on January 20, 2021.

15 **SEC. 1013. WAIVER.**

16           (a) The Director of the Office of Management and  
17 Budget (OMB), in consultation with the Counsel to the  
18 President, may grant to any current or former appointee  
19 a written waiver of any restrictions contained in the pledge  
20 signed by such appointee if, and to the extent that, the  
21 Director of OMB certifies in writing:—

22           (1) that the literal application of the restriction  
23 is inconsistent with the purposes of the restriction;  
24 or

1           (2) that it is in the public interest to grant the  
2           waiver. Any such written waiver should reflect the  
3           basis for the waiver and, in the case of a waiver of  
4           the restrictions set forth in paragraphs (3)(B) and  
5           (C) of the pledge, a discussion of the findings with  
6           respect to the factors set forth in subsection (b) of  
7           this section.

8           (b) A waiver shall take effect when the certification  
9           is signed by the Director of OMB and shall be made public  
10          within 10 days thereafter.

11          (c) The public interest shall include, but not be lim-  
12          ited to, exigent circumstances relating to national security,  
13          the economy, public health, or the environment. In deter-  
14          mining whether it is in the public interest to grant a waiv-  
15          er of the restrictions contained in paragraphs (3)(B) and  
16          (C) of the pledge, the responsible official may consider the  
17          following factors—

18               (1) the government's need for the individual's  
19               services, including the existence of special cir-  
20               cumstances related to national security, the econ-  
21               omy, public health, or the environment;

22               (2) the uniqueness of the individual's qualifica-  
23               tions to meet the government's needs;

24               (3) the scope and nature of the individual's  
25               prior lobbying activities, including whether such ac-

1 activities were de minimis or rendered on behalf of a  
2 nonprofit organization; and

3 (4) the extent to which the purposes of the re-  
4 striction may be satisfied through other limitations  
5 on the individual's services, such as those required  
6 by paragraph (3)(A) of the pledge.

7 **SEC. 1014. ADMINISTRATION.**

8 (a) The head of every executive agency shall, in con-  
9 sultation with the Director of the Office of Government  
10 Ethics, establish such rules or procedures (conforming as  
11 nearly as practicable to the agency's general ethics rules  
12 and procedures, including those relating to designated  
13 agency ethics officers) as are necessary or appropriate to  
14 ensure—

15 (1) that every appointee in the agency signs the  
16 pledge upon assuming the appointed office or other-  
17 wise becoming an appointee;

18 (2) that compliance with paragraph (3) of the  
19 pledge is addressed in a written ethics agreement  
20 with each appointee to whom it applies, which agree-  
21 ment shall also be approved by the Counsel to the  
22 President prior to the appointee commencing work;

23 (3) that spousal employment issues and other  
24 conflicts not expressly addressed by the pledge are  
25 addressed in ethics agreements with appointees or,

1 where no such agreements are required, through eth-  
2 ics counseling; and

3 (4) that the agency generally complies with this  
4 title.

5 (b) With respect to the Executive Office of the Presi-  
6 dent, the duties set forth in subsection (a) shall be the  
7 responsibility of the Counsel to the President.

8 (c) The Director of the Office of Government Ethics  
9 shall—

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

13 (2) in consultation with the Attorney General or  
14 the Counsel to the President, when appropriate, as-  
15 sist designated agency ethics officers in providing  
16 advice to current or former appointees regarding the  
17 application of the pledge; and

18 (3) in consultation with the Attorney General  
19 and the Counsel to the President, adopt such rules  
20 or procedures as are necessary or appropriate—

21 (A) to carry out the foregoing responsibil-  
22 ities;

23 (B) to authorize limited exceptions to the  
24 lobbyist gift ban for circumstances that do not  
25 implicate the purposes of the ban;

1 (C) to make clear that no person shall  
2 have violated the lobbyist gift ban if the person  
3 properly disposes of a gift as provided by sec-  
4 tion 2635.206 of title 5, Code of Federal Regu-  
5 lations;

6 (D) to ensure that existing rules and pro-  
7 cedures for Government employees engaged in  
8 negotiations for future employment with private  
9 businesses that are affected by the employees'  
10 official actions do not affect the integrity of the  
11 Government's programs and operations; and

12 (E) to ensure, in consultation with the Di-  
13 rector of the Office of Personnel Management,  
14 that the requirement set forth in paragraph (6)  
15 of the pledge is honored by every employee of  
16 the executive branch; and

17 (4) in consultation with the Director of OMB,  
18 report to the President on whether full compliance  
19 is being achieved with existing laws and regulations  
20 governing executive branch procurement lobbying  
21 disclosure. This report shall include recommenda-  
22 tions on steps the executive branch can take to ex-  
23 pand, to the fullest extent practicable, disclosure of  
24 both executive branch procurement lobbying and of  
25 lobbying for Presidential pardons. These rec-

1       ommendations shall include both immediate actions  
2       the executive branch can take and, if necessary, rec-  
3       ommendations for legislation; and

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

6       (d) The Director of the Office of Government Ethics  
7       shall, in consultation with the Attorney General, the Coun-  
8       sel to the President, and the Director of the Office of Per-  
9       sonnel Management, report to the President on steps the  
10      executive branch can take to expand to the fullest extent  
11      practicable the revolving door ban set forth in paragraph  
12      (5) of the pledge to all executive branch employees who  
13      are involved in the procurement process such that they  
14      may not for 2 years after leaving Government service  
15      lobby any Government official regarding a Government  
16      contract that was under their official responsibility in the  
17      last 2 years of their Government service. This report shall  
18      include both immediate actions the executive branch can  
19      take and, if necessary, recommendations for legislation.

20      (e) 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.

1 **SEC. 1015. ENFORCEMENT.**

2 (a) The contractual, fiduciary, and ethical commit-  
3 ments in the pledge provided for herein are solely enforce-  
4 able by the United States pursuant to this section by any  
5 legally available means, including debarment proceedings  
6 within any affected executive agency or judicial civil pro-  
7 ceedings for declaratory, injunctive, or monetary relief.

8 (b) Any former appointee who is determined, after  
9 notice and hearing, by the duly designated authority with-  
10 in any agency, to have violated his or her pledge may be  
11 barred from lobbying any officer or employee of that agen-  
12 cy for up to 5 years in addition to the time period covered  
13 by the pledge. The head of every executive agency shall,  
14 in consultation with the Director of the Office of Govern-  
15 ment Ethics, establish procedures to implement this sub-  
16 section, which procedures shall include (but not be limited  
17 to) providing for fact-finding and investigation of possible  
18 violations of this title and for referrals to the Attorney  
19 General for consideration pursuant to subsection (c) of  
20 this section.

21 (c) The Attorney General is authorized—

22 (1) upon receiving information regarding the  
23 possible breach of any commitment in a signed  
24 pledge, to request any appropriate Federal investiga-  
25 tive authority to conduct such investigations as may  
26 be appropriate; and



1           (2) upon determining that there is a reasonable  
2 basis to believe that a breach of a commitment has  
3 occurred or will occur or continue, if not enjoined,  
4 to commence a civil action against the former em-  
5 ployee in any United States District Court with ju-  
6 risdiction to consider the matter.

7           (d) In any such civil action, the Attorney General is  
8 authorized to request any and all relief authorized by law,  
9 including but not limited to:

10           (1) such temporary restraining orders and pre-  
11 liminary and permanent injunctions as may be ap-  
12 propriate to restrain future, recurring, or continuing  
13 conduct by the former employee in breach of the  
14 commitments in the pledge he or she signed; and

15           (2) establishment of a constructive trust for the  
16 benefit of the United States, requiring an accounting  
17 and payment to the United States Treasury of all  
18 money and other things of value received by, or pay-  
19 able to, the former employee arising out of any  
20 breach or attempted breach of the pledge signed by  
21 the former employee.

22 **SEC. 1016. GENERAL PROVISIONS.**

23           (a) If any provision of this title or the application  
24 of such provision is held to be invalid, the remainder of

1 this title and other dissimilar applications of such provi-  
2 sion shall not be affected.

3 (b) Nothing in this title shall be construed to impair  
4 or otherwise affect—

5 (1) the authority granted by law to an executive  
6 department or agency, or the head thereof; or

7 (2) the functions of the Director of the Office  
8 of Management and Budget relating to budgetary,  
9 administrative, or legislative proposals.

10 (c) This title shall be implemented consistent with ap-  
11 plicable law and subject to the availability of appropria-  
12 tions.

13 (d) This title is not intended to, and does not, create  
14 any right or benefit, substantive or procedural, enforceable  
15 at law or in equity by any party against the United States,  
16 its departments, agencies, or entities, its officers, employ-  
17 ees, or agents, or any other person.

