

United States Senate
WASHINGTON, DC 20510

December 21, 2020

The Honorable Joseph R. Biden, Jr.
President-elect of the United States
Office of the President-elect of the United States
Biden-Harris Transition
Washington, DC 20500

Dear President-elect Biden:

We write to support executive actions you may take to enact your plan to guarantee our government works for the people, starting on day one of the Biden-Harris administration. As U.S. senators who strongly support strengthening federal ethics standards, and who have championed the *For the People Act*¹ in the U.S. Senate, a comprehensive package of legislative reforms that would end special interest corruption of our politics and make government work for the people, we are deeply heartened by your commitment to restore executive branch ethics through executive action, and we submit for your consideration the following recommendations to enact your commitment “to expand on...the Obama-Biden Administration ethics pledge.”²

The American people have endured four years of the most corrupt president and administration in modern memory. The Trump administration has allowed lobbyists and special interest to run federal agencies, even when they have been openly hostile to the agencies’ missions. It has allowed senior officials to maintain unacceptable personal and financial conflicts of interest, and allowed foreign governments to try to curry favor, as President Trump and senior White House staff abused the presidency to enrich themselves. And it has shunned basic transparency, allowing lobbyists and special interests to subvert government for their financial aims and objections. Simply put, President Trump built a government that worked for himself, his friends, and special and corporate interests, rather than for the people, critically eroding Americans’ faith in government.

That is why we are tremendously encouraged by your commitment to set a new, high ethical standard for the Biden-Harris administration, and by your embrace of the sacred charge to restore Americans’ faith in government. More importantly, we strongly support your commitment to demonstrate with your actions – not just your words – that public servants in the Biden-Harris administration will serve all Americans, not just themselves or narrow special interests. We are grateful that, in order to enact this commitment, you have pledged to, “On day one...issue an ethics pledge, building and improving on the Obama-Biden Administration’s pledge, to ensure that every member of his administration focuses day-in and day-out on the best

¹ S. 949, 116th Congress

² <https://joebiden.com/governmentreform/>

outcomes for the American people, and nothing else.”³ We strongly support this commitment and recommend the following policies to consider as you draft this executive order and pledge.

- **Padlock the revolving door between special interests and government.** We support your commitment to ensure every member of the Biden-Harris administration “focuses day-in and day-out on the best outcomes for the American people.”⁴ We believe the best way to achieve this goal is to stop special interests from profiting off of the public service of government officials and to padlock the revolving door between corporate, special interest and our government. The Obama-Biden ethics pledge took unprecedented steps to close and lock the revolving door between special interests and government by banning lobbyist from seeking employment at executive agencies they lobbied immediately prior to their appointment; by restricting what former lobbyists could work on and ensuring that all officials had to temporarily recuse from particular matters involving former employers or clients; and by restricting executive branch officials from leaving government to lobby the administration. We recommend building upon these strong standards by enacting a total ban on lobbyists employed by corporations from serving in the administration, especially at executive agencies they lobbied, and prohibiting all incoming officials from accepting Gary Cohn-like golden parachutes for federal service.⁵ We also recommend expanding the Obama-Biden recusal standard prohibiting senior officials from participating personally and substantially in any particular matter in which a former employer or former client has a financial interest. Finally, we recommend reinstating the Obama-Biden revolving door bans on officials leaving government and consider expanding them by requiring such officials to commit to not accept employment at, or compensation from, any company or special interest that lobbied them, their office, or their agency while they were in the administration, for the remainder of the Administration.
- **Reduce the improper influence of lobbyists and special interests.** In addition to closing the revolving door, we recommend additional policies for you to consider in your day one executive order and ethics pledge to enact your plan to address “the improper influence of lobbyists.”⁶ We recommend requiring more extensive public reporting of all lobbying activity aimed at the Biden-Harris administration, including the disclosure of all materials that lobbyists currently provide behind closed doors to Trump administration officials. We agree that the American public has a right to know when lobbyists meet with executive branch officials and what they share in the course of those meetings. The Biden-Harris administration could also consider requiring all executive branch agencies release monthly disclosures regarding all contacts with registered lobbyists, including the date, the name of the official the lobbyist met with, the issue upon which they lobbied, and any documents transmitted to the official during the lobbying contact, with appropriate national security safeguards. This structure would mirror with the Obama-Biden administration's restrictions on lobbying activity related to relief under the *American Recovery and Reinvestment Act of 2009*,⁷ which restricted all recovery act lobbying activity to public, written submissions and

³*Id.*

⁴ <https://joebiden.com/governmentreform/>

⁵ <https://money.cnn.com/2017/01/26/investing/gary-cohn-goldman-sachs-exit-trump/>

⁶ <https://joebiden.com/governmentreform/>

⁷ <https://www.federalregister.gov/documents/2009/03/25/E9-6754/ensuring-responsible-spending-of-recovery-act-funds>

prohibited closed door meetings and phone calls between government officials and companies seeking emergency relief. As the federal government continues to deliver COVID-19 pandemic and economic relief, now is the ideal time to reinstate this Obama-Biden standard regarding emergency relief lobbying. Finally, we recommend building upon the current administration's ban on officials leaving government to engage in any activity on behalf of any foreign entity which would require registration under the Foreign Agents Registration Act,⁸ and advancing your commitment to prohibit foreign governments' use of Washington lobbyists by prohibiting meetings between any Biden-Harris administration officials and any lobbyists working for foreign governments or foreign state owned enterprises, especially those engaged in gross human rights violations. We agree with and support your position that "if a foreign government wants to share its views with the United States or to influence its decision-making, it should do so through regular diplomatic channels."⁹

- **Eliminate Personal and Financial Conflicts of Interest.** Given the outright grift of the past four years, we strongly support your commitment to ensure every member of the Biden-Harris administration eliminate "any improper or inappropriate influence from personal, financial, and other interests," as well as your commitment that "no member of the Biden Administration will be influenced by personal financial holdings."¹⁰ We sincerely appreciate the ethical example you have set personally by committing to hold only non-conflicted assets like Treasury bonds, annuities, mutual funds, large cap mutual fund retirement accounts, and private residential real estate.¹¹ In order to eliminate both the appearance and the potential for personal and financial conflicts of interest throughout the Biden-Harris administration, we recommend requiring all senior administration officials, including agency leadership and White House officials, follow your example and divest from *all* individual stock and conflicted financial holdings. Officials should place such investments qualified blind trusts, widely held investment funds,¹² and other non-conflicted assets approved by federal ethics officials. We additionally recommend officials pledge not to trade any individual stock (besides divestment) for the duration of their time in public service, and if such officials are beneficiaries of a discretionary trust, to disclose all of the trust's holdings, which would enact your commitment to eliminate the trust loophole in existing financial disclosure law.¹³ Finally, we recommend ending the Trump administration's troubling practice of exploiting loopholes to allow senior advisors to skirt federal ethics law¹⁴ by requiring senior government advisors to comply with federal disclosure and conflicts of interest rules that other federal officials must follow.
- **Institute a new standard of transparency.** We appreciate your deep understanding that in order to rebuild Americans' trust in government, the Biden-Harris administration will need to embrace an unprecedented level of transparency. As such, we support your commitments to

⁸ <https://www.whitehouse.gov/presidential-actions/executive-order-ethics-commitments-executive-branch-appointees/>

⁹ <https://joebiden.com/governmentreform/>

¹⁰ <https://joebiden.com/governmentreform/>

¹¹ <https://joebiden.com/governmentreform/>

¹² described in section 102(f)(8) of the Ethics in Government Act

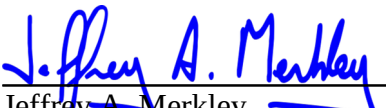
¹³ <https://joebiden.com/governmentreform/>

¹⁴ <https://www.nytimes.com/2020/07/15/us/politics/vaccine-Slaoui-coronavirus-trump.html>

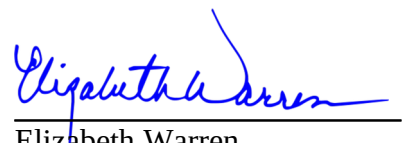
disclose any regulatory text submitted by any outside entity and to develop and disclose any access policy that governs requests for appointments.¹⁵ We recommend sharing this information in a central location and including this policy in your ethics executive order. We additionally support your commitments to ensure “an extra layer of review and scrutiny whenever policy proposals or recommendations come from a conflicted source,” and to require senior executive branch officials “develop and disclose to the public any policies that their office has instituted on when to accept or prioritize appointments.”¹⁶ As you work to include these commitments in your ethics executive order, we also recommend including your commitment to return to the Obama-Biden administration practice of disclosing visitor lists to the White House, federal agencies, and regularly traveled places (like Camp David).¹⁷ Finally, we recommend immediately making public and easily searchable all officials’ ethics agreements or agreement amendments, as well as waivers to any provisions in your ethics pledge, which should include a public justification for why the waiver is in the national interest.

These recommendations represent just a handful of ways to ensure that the incoming Biden-Harris administration fulfills your good government commitments and continues to earn and rebuild the trust of the American people. We look forward to working with you and your administration to advance legislation in Congress to restore the promise of American democracy by making it easier, not harder, to vote; ending the dominance of big money in politics; and ensuring that public officials work for the public interest. But in the meantime, we also look forward to working with you to do everything you can through executive action, without Congress, to help make the executive branch of our government work for the people.

Sincerely,



Jeffrey A. Merkley
United States Senator



Elizabeth Warren
United States Senator



Edward J. Markey
United States Senator

¹⁵ <https://joebiden.com/governmentreform/>

¹⁶ <https://joebiden.com/governmentreform/>

¹⁷ <https://joebiden.com/governmentreform/>