



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

MEMORANDUM

TO: ADDRESSEES

SUBJECT: Delegation of Authority

Under the authority vested in me by the Ethics in Government Act, as amended, and by Executive Order 12674 of April 12, 1989, as amended by Executive Order 12731 of October 17, 1990, I hereby delegate the authority described below.

I. DELEGATION OF DETERMINATION AUTHORITY

Subject to the reservations described in Section IV, I hereby delegate to you the authority to make determinations under the Department's Supplemental Standards of Ethical Conduct with respect to requests for approval of outside activities and employment (5 CFR Part 6301).

I hereby delegate authority with respect to these determinations as follows:

- A. To the Deputy Secretary: Authority to make such determinations for: (a) all Principal Officers, listed below, and (b) all personnel working within the office of, assigned to programs and activities under the jurisdiction of, or reporting directly to the Deputy Secretary.
- B. To the Principal Officers, except for the Deputy Secretary: Authority to make such determinations for: (a) all personnel working within the office headed by, assigned to programs and activities under the jurisdiction of the office headed by, or reporting directly to the respective Principal Officer, (b) all advisory committee personnel appointed by the Secretary and working for an advisory committee whose "Designated Federal Official" under 5 U.S.C. App. 2 reports to the respective Principal Officer.
- C. To the Chairpersons of advisory committees with their own statutory appointment authority: Authority to make such determinations for the Executive Director, the Staff Director, and other personnel of your advisory committee if the personnel were appointed under the advisory committee's statutory appointment authority.

II. DELEGATION OF REVIEW AND FINAL DECISION AUTHORITY

With respect to determinations made by your subordinate supervisors, to whom the authority to make initial determinations must be redelegated pursuant to Section V below, I hereby delegate to you the authority to review these determinations, if requested by the employee concerned, and make final decisions. Reviews and final decisions shall be made in accordance with the attached Memorandum of Understanding, on which the latest signature is dated November 16, 1994. This authority may not be redelegated.

IV. RESERVATIONS

The authorities delegated herein may not be exercised without concurrence by the Office of the General Counsel (OGC).

V. REDELEGATION

The authority to make initial determinations regarding employees' requests for approval of outside activities and employment must be redelegated immediately to your subordinate supervisors. The redelegation may be done informally through a blanket memorandum. A draft memorandum to be used for this purpose is attached to this delegation.

VI. CERTIFICATION AND EFFECTIVE DATE

This delegation is effective upon certification by the Department's Principal Delegations Control Officer and supersedes all previous delegations of these authorities.

_____/s/_____
Richard W. Riley

OGC Clearance: /s/ Ted Sky 11/04/99

Date: 11/23/99

Departmental Delegations Control Officer: /s/ Naty G. Beetle

Control No.: EA/GEN/3

Page 3 - Delegation of Authority ADDRESSEES:

Principal Officers: (EA/ EN/3)

Deputy Secretary

Under Secretary

Assistant Secretary for Civil Rights

Inspector General

General Counsel

Assistant Secretary for Special Education and Rehabilitative Services Chief Information Officer

Assistant Secretary for Legislation and Congressional Affairs Assistant Secretary for Intergovernmental and Interagency Affairs Chief Financial Officer

Director of Management

Chief Operating Officer for Student Financial Assistance Programs Assistant Secretary for Postsecondary Education Assistant Secretary for Elementary and Secondary Education

Assistant Secretary for Educational Research and Improvement Director of Bilingual Education and Minority Languages Affairs Assistant Secretary for Vocational and Adult Education

Other Addressees:

Chairperson, Advisory Committee on Student Financial Assistance (EA/EYEA/3)

Chairperson, National Educational Research Policy and Priorities Board (EA/EYER/i)

Chairperson, Web-Based Education Commission (EA/EPYW/1) Chairperson, Advisory

Council on Education Statistics (EA/ERYEM/ 1) Chairperson, National Institute for Literacy Advisory Board (EA/EXYPL/1)

cc: Executive Officers

AMENDMENT TO THE MARCH 2, 1989, MEMORANDUM OF UNDERSTANDING

This amendment to the agreement between the American Federation of Government Employees, National Council of Department of Education Locals, Council 252 (Union) and the United States Department of Education (Management), dated March 2, 1989, is made for the purpose of memorializing the Parties' understandings regarding Management's *implementation* of the Department of Education supplemental Standards of Conduct regulation (attached) which will be jointly issued by Management and the U.S. Office of Government Ethics. The Parties agree to the following implementation procedures and arrangements, which supersede the provisions contained in the original agreement dated March 2, 1989. This amendment will remain in effect for the life of these regulations, or until changes in these regulations or the law require conforming changes to this agreement.

Management will ensure that all bargaining unit employees receive a copy of this agreement, the supplemental Standards of Conduct regulations, including the regulatory preamble, and an explanatory memorandum when the regulations are implemented, or as soon thereafter as practicable. The explanatory memorandum will include a discussion of the term "prohibited source."

(2) Management will ensure that *training on* the new regulations is available to all employees as part of Management's 1995 ethics training program. Additionally, Management will ensure that all new employees receive training *on* these regulations.

(3) The principal deputy to the principal officer, or other designated Agency official (hereinafter referred to as the principal deputy), has 45 days to approve or disapprove a request for approval of outside employment or activity. That period is calculated from the date a completed form is submitted by the employee to his or her supervisor on forms provided by Management.

(4) If no decision is made by the principal deputy within this time period, the employee is not barred solely by the advance approval requirement from proceeding to engage in the outside activity or employment. Management subsequently may disapprove, the request, which disapproval would apply prospectively.

(5) If the principal deputy disapproves the request, the employee has a right to obtain review of that decision by the principal officer if the employee files a request for review within five days of receiving the disapproval of the principal deputy. The principal officer shall render a final decision within 15 days of review.

See 11/16/94
RM 11-16-94
11/16/94

(6) If an employee is already involved in ongoing outside employment or activity subject to advance approval -- but has not previously obtained advance approval -- the employee is not barred by the advance approval requirement from continuing in that activity for a temporary period after the effective date of the revised regulations pending review of the employee's request *in* accordance with the other provisions of this agreement, provided that the employee must submit a request for approval within 5 days after they receive a copy of the Supplemental Standards of Conduct_ regulations as described *in* paragraph (1).

(7) The procedure described in paragraph 5 of this agreement is the exclusivet"medns for resolving disputes regarding the merit of requests for approval of outside employment and activities. Provisions of the Collective Bargaining Agreement concerning grievances and arbitration do not apply. The foregoing is not intended to preclude the Union or employees from seeking judicial review of Management's final decisions under paragraph 5. It is also not intended to preclude employees from filing a grievance under the negotiated grievance procedure concerning a breach of the terms of this agreement.

(8) An employee may consult with an "agency ethics official" concerning the proper application or interpretation of the executive branch-wide Standards of Conduct on an anonymous basis and may raise issues on a hypothetical basis. Such _consultation may occur through direct telephone calls to an agency ethics official or by raising issues with an agency ethics official through the Union or an employee in a Departmental office designated by Management as an intermediary.: Service by a union official as intermediary shall be deemed as representational for official time purposes. The intermediary, maintaining the employee's anonymity, may schedule direct telephone discussion between an agency ethics. official and the employee or may obtain oral or written information from the employee and convey that information to an agency ethics official. The intermediary will use *information* supplied by the employee pursuant to this section for the. sole purpose of *obtaining* advice for the employee,. and will return to the employee any written information furnished by the employee once the advice is rendered.

RM 11-16-94
DET 11/16/94

Signed for the Union: Marvin C. Farmer 11/16/94

Signed for the Union: Rogers Mills - 11/16/94

Signed for Management:

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DRAFT REDELEGATION MEMORANDUM MEMORANDUM

TO: All Supervisors FROM:

RE: Delegation of Authority to Review and Approve Requests for Approval of Outside Activities and Employment

The Department's Supplemental Standards of Ethical Conduct, at 5 CFR Subpart 6301, require employees to obtain prior approval for certain outside activities and employment. The authority to approve such requests has been delegated to me by the Secretary. That delegation requires that the authority to make initial determinations on such requests be redelegated to subordinate supervisors, and provides that such redelegation may be done informally through a blanket memorandum.

The purpose of this memorandum is to delegate to you the authority to make initial determinations with respect to requests for approval of outside activities and employment submitted by employees who are under your direct supervision. Pursuant to the Secretary's delegation, the authority to make initial determinations on these requests may not be exercised without concurrence by the Office of the General Counsel. Therefore, in accordance with the delegation, all requests must be forwarded to OGC.

With respect to your initial determinations, the delegation reserves to me the authority to review and make final decisions when requested to do so by the employee who has requested approval of an outside activity or employment.

If you have questions about this delegation, you may call the Ethics Division in the Office of the General Counsel at 202/401-8309.

Attachments:

Delegation of Authority dated _____

Request for Approval of an Outside Activity or Employment Form