



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

August 12, 2022

MEMORANDUM FOR VALERIE WILLIAMS

FROM: Marcella Goodridge-Keiller, Designated Agency Ethics Official
U.S. Department of Education 

SUBJECT: Limited Waiver of Executive Order 13989 for Valerie Williams

Executive Summary

Pursuant to Section 3 of Executive Order 13989 (January 20, 2021) (“Executive Order”), and for the reasons stated below, I hereby grant a limited waiver of the requirements of Section 1, Paragraph 3 of the Executive Order for Valerie Williams. I have determined this waiver is necessary and it is in the public interest to grant this waiver to enable Ms. Williams to effectively carry out her duties as Director of the Office of Special Education Programs (OSEP) within the Office of Special Education and Rehabilitative Services (OSERS) at the U.S. Department of Education (Department).

The Executive Order requires all covered political appointees in the Biden-Harris Administration to abide by several commitments. In particular, Section 1, Paragraph 3 imposes a two-year ban on registered lobbyists, barring them from (1) working at any executive branch agency they lobbied in the past two years before the date of appointment at an executive branch agency, and (2) participating in a particular matter in which they lobbied, or the specific issue area in which a particular matter falls if the political appointee lobbied on that particular matter in the past two years. A waiver of the Executive Order’s restrictions may be granted when the literal application of the restriction is inconsistent with the restriction’s purpose or when it is in the public interest to grant a waiver.

Ms. Williams serves as the Director of OSEP. OSEP is dedicated to improving results for infants, toddlers, children, and youth with disabilities by providing leadership and financial support to assist states and local districts. In this role, Ms. Williams is responsible for overseeing administration of the Individuals with Disabilities Education Act (IDEA), which authorizes formula grants to states and discretionary grants to institutions of higher education and other nonprofit organizations to support research, demonstrations, technical assistance and dissemination, technology and personnel development, and parent-training and parent-information centers.

Absent this waiver, Ms. Williams would be restricted from working at the Department for two years after her lobbying activities before the Department ended. She would also be restricted for two years following her appointment at the Department from participating in any particular matter on which she lobbied for her former employer, the National Association of State Directors of Special Education (NASDSE), in the two years before her appointment, or from participating in the specific issue area in which that particular matter falls. For instance, because she lobbied the Department on issues related to IDEA implementation, she would not be able to work on this critically important issue in her role at the Department.

In addition, managing an ongoing recusal for Ms. Williams would negatively impact the Department's and Administration's mission to support all stakeholders and engage the community in the areas of special education, vocational rehabilitation, and research. The successful accomplishment of this mission relies on extensive, open, and collaborative communications within the Department; with other federal government agencies; with special education communities, organizations, and leaders; and with the general public. Without this waiver, the recusal would preclude the efficiencies of the Department and impose severe limitations.

Background

Prior to her appointment as Director of OSEP on December 13, 2021, Ms. Williams served as Senior Director of Government Relations and External Affairs at NASDSE. NASDSE is a 501(c)(3) organization that supports state leaders of special education. According to publicly available information, NASDSE provides services that guide positive systemic change and results, ensuring students with disabilities will live, learn, work, and participate in their communities. Ms. Williams has also worked for the U.S. Senate Health, Education, Labor and Pensions (HELP) Committee; she was the Marchand Public Policy Associate with The Arc of the United States, an organization that serves people with disabilities; and she has a history of community service with organizations centered around improving the lives of individuals with disabilities.

In Ms. Williams's most recent role with NASDSE as Senior Director of Government Relations and External Affairs, she collaborated with internal and external stakeholders on key issues to advance NASDSE's government relations agenda on matters directly and tangentially related to special education and the health and well-being of students with disabilities. She led stakeholder efforts to oppose work to diminish Least Restrictive Environment (LRE) placements and on current COVID-19 initiatives to determine the needs of state-level leaders to create an ongoing and meaningful educational experience for students with disabilities. She collaborated with national partners, external stakeholders, and advocates to address problems arising from navigating virtual, hybrid, and in-person instruction. She also worked on issues related to assessments, personnel shortages, professional development, school infrastructure upgrades, mental health support for students and staff, and other critical matters.

During her time at NASDSE, Ms. Williams lobbied the Department and the U.S. Congress (Congress). Specifically, she analyzed federal education legislation, monitored education-related issues, and wrote comments to and attended meetings with the Department, Congress, and

Administration officials. She represented NASDSE before Congress and the Department on such topics as the IDEA, the Every Student Succeeds Act, the Higher Education Act, school-based Medicaid, and other issues that impact special education practice and state implementation. Further, she engaged with Congressional staff to negotiate, develop, and advance bills on topics such as restraint and seclusion, IDEA funding, appropriations, school climate, and school safety.

On behalf of NASDSE, Ms. Williams attended monthly meetings with OSEP. She also periodically attended meetings or sent emails to OSEP to discuss upcoming guidance; on education matters related to the coronavirus such as school closures and openings, virtual schooling, continuity of services for students with disabilities, safety for students, personnel shortages, implementation of IDEA during the coronavirus, ChildFind duties, lack of transition services, and compensatory education; on new and ongoing initiatives on matters such as restraint and seclusion, discipline, and the LRE; and on state needs, emerging state trends, state direct turnover, and general guidance in the field.

Analysis

In accordance with Section 3 of the Executive Order, it is in the public interest to grant Ms. Williams a limited waiver of the of the requirements of Section 1, Paragraph 3 of the Executive Order to enable her to effectively carry out her duties as Director of OSEP at the Department.

In making this assessment, I have considered the factors set forth in Section 3 of the Executive Order, which include: (i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the environment; (ii) the uniqueness of the individual's qualifications to meet the government's needs; (iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were *de minimis* or rendered on behalf of a non-profit organization; and (iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services.

Government Need

The government has a critical need for Ms. Williams's expertise, and for her services as Director of OSEP. This position is crucial for the administration of the IDEA. The IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 7.5 million eligible infants, toddlers, children, and youth with disabilities. The IDEA authorizes formula grants to states to support special education services, early intervention services, and other related services. It also authorizes discretionary grants to state educational agencies, institutions of higher education, and other nonprofit organizations to support research, demonstrations, technical assistance and dissemination, technology development, personnel preparation and development, and parent-training and parent-information centers. Ms. Williams's background with disability policies and legislation, and with the IDEA in particular, provide her with the skills necessary to carry out her duties for overseeing the administration of the IDEA through her position as Director of OSEP. Further, Ms. Williams also has extensive experience with how the coronavirus is impacting students with disabilities, and this expertise is crucial for her role. The success and accomplishment of the Department's mission relies on

extensive, open, and collaborative communication between all staff, and Ms. Williams will provide essential advice and direction to OSEP and OSERS.

Unique Qualifications

Ms. Williams is uniquely well-qualified for this position with the Department. Her vital experience in policy and advocacy, especially with respect to the IDEA and students with disabilities, make her particularly adept at navigating the role of Director of OSEP. Through her professional experiences, she has developed an expertise in disability policies and legislation. With The Arc of the United States, Ms. Williams worked to advance the interests of people with intellectual and developmental disabilities and their families. Ms. Williams expanded her expertise when she joined the HELP Committee, where she was responsible for advising senior HELP Committee staff on policy for disability-related issues on health, labor, pensions, and education teams. Ms. Williams then joined NASDSE, where continued to grow her portfolio and analyze the IDEA. Further, her proven ability to collaborate and network within the public, private, and non-profit sectors will support OSEP's ability to oversee the administration of the IDEA.

Prior Non-Profit Lobbying Activity

Ms. Williams's prior lobbying activity for NASDSE is not the type of business-orientated, prior client relationship the Executive Order intended to reach in protecting the public trust, as NASDSE is a non-profit organization. With NASDSE, Ms. Williams primarily lobbied Congress, with only about 25 percent of her lobbying activity directed towards the Department. However, while Ms. Williams attended monthly meetings with OSEP and periodically attended meetings or sent emails to OSEP to discuss upcoming guidance, she did not (i) personally lobby the Department, (ii) lobby on behalf of paying clients, or (iii) receive additional fees beyond her NASDSE salary. Rather, Ms. Williams lobbied on behalf of a non-profit organization to increase the resources and educational experience of students with disabilities.

Other Limitations: As noted above, we anticipate that recusals would result in serious limitations and inefficiencies for OSEP and OSERS, rendering Ms. Williams unable to capably and effectively perform the duties of her position. For example, Ms. Williams would be incapable of overseeing the implementation of the IDEA, which is crucial to her role as Director of OSEP and OSEP's mission.

Conclusion

The significant public interest in OSERS's ability to accomplish its mission requires that Ms. Williams be able to fully perform her duties as Director of OSEP. Due to the scope of Section 1, Paragraph 3 of the Executive Order, a broad application of this prohibition would be detrimental to the Department. Without a waiver, Ms. Williams would be precluded from working at the Department for two years after her lobbying activities before the Department ended and from participating in any particular matter on which she lobbied for NASDSE in the two years prior to the date of her appointment, or from participating in the specific issue area in which that particular matters falls. Further, Ms. Williams's lobbying activities on behalf of a non-profit

organization is not the type of business-orientated, prior client relationship that the Executive Order intended to reach in protecting the public trust.

For the foregoing reasons, I grant Ms. Williams a limited waiver of the restrictions in Section 1, Paragraph 3 of the Executive Order to enable her to effectively carry out her duties as Director of OSEP.

Pursuant to this waiver, Ms. Williams may work at the Department, participate in any particular matter on which she lobbied for NASDSE within the two years before her appointment, and participate in the specific issue area in which that particular matter falls. This waiver does not otherwise affect Ms. Williams's obligation to comply with all other applicable government ethics rules and provisions of the Executive Order. Specifically, this waiver does not permit Ms. Williams to participate in any party-specific matter directly affecting the financial interests of NASDSE, including but not limited to contracts or grants.

CC: Stuart Delery, Counsel to the President, Office of the White House Counsel