



**UNITED STATES DEPARTMENT OF EDUCATION**  
THE SECRETARY

MEMORANDUM

TO: Assistant Secretary for Management

FROM: The Secretary

SUBJECT: Delegation of Authority for the Department of Education's Personnel Security and Suitability Programs

I. DELEGATION

Under the authority vested in me by Section 412 of the Department of Education Organization Act, 20 U.S.C. 3472, I hereby delegate to you, and to anyone serving for you in an acting capacity, the authority to direct and administer the personnel security and suitability programs for all positions within the Department of Education. These programs are authorized by 5 U.S.C. Sections 3301, 3571, 7531, and 7532; Executive Orders 12968, 10450, and 10577, as amended; Public Law 100-235, Computer Security Act of 1987, as amended; OMB Circular A-130, Appendix III; 5 CFR Parts 302, 315, 731, 732, and 736; and Homeland Security Presidential Directive 12, "Policy for a Common Identification Standard for Federal Employees and Contractors." This authority must be exercised in accordance with the above authorities and their implementing guidance.

This delegated authority includes, but is not limited to, the following responsibilities:

- A. The authority to approve the waiver of the pre-appointment background investigation requirement for appointments to critical-sensitive and non-critical sensitive national security positions.
- B. The authority to establish procedures to prevent unnecessary access to classified information, including procedures that: (1) require that a need for access to classified information is established before initiating administrative clearance procedures; and (2) ensure that the number of persons granted access to classified information is limited to the minimum consistent with operational and security requirements and needs.
- C. The authority to grant clearances for access to Classified National Security Information on an as-needed basis, for any individual employed by the Department, including all non-Federal employees working on a Department of Education contract, including all subcontractors.

- D. The authority to make determinations of suitability for employment of applicants for, or appointees to, competitive service or career Senior Executive Service (SES) positions, in accordance with 5 CFR Part 731 and Office of Personnel Management guidance. An applicant is a person being considered for employment, and an appointee is a person who has entered on duty and is in the first year of a “subject to investigation” appointment.
- E. The authority to make determinations of suitability for employment of applicants for, or appointees to, positions in the Excepted Service in accordance with Office of Personnel Management (OPM) regulations and guidance, and Department of Education policies and procedures.
- F. The authority to determine the acceptability for employment of all non-Federal employees working on a Department of Education contract, including all subcontractors.
- G. The authority to impose a period of debarment of up to one year from all or specific competitive service positions, and other appropriate positions within the Department of Education, in accordance with OPM regulations and guidance and Department of Education policies and procedures, and impose a cancellation of pending applications in any case in which an ineligible or removal decision has been made under 5 CFR Part 731.
- H. The authority to take a suitability action against an applicant, appointee, or employee in accordance with 5 CFR Part 731 or 315, and in consultation with Human Resources Services and the Principal Office involved.

Unless otherwise specified in future delegations of authority, amendments to these delegated authorities are included within the scope of this delegation.

## II. RESERVATIONS

Unless otherwise noted in existing or future delegations of authority, the following are not delegated:

- A. The authority to suspend or remove an employee for security reasons is reserved to the Secretary or to any Appeals Panel appointed by the Secretary pursuant to Section 5.2(6) of Executive Order 12968, 60 Federal Register 40245, 40252 (August 7, 1995);

- B. The authority to restore to duty an employee who was suspended or removed under 5 U.S.C. Section 7532 is reserved to the Secretary; and
- C. The authority to make suitability determinations for Schedule C or Non-Career SES applicants or appointees is reserved to the Secretary.

III. REDELEGATION

The authority to approve the waiver of the pre-appointment background investigation requirement for appointments to critical-sensitive and non-critical sensitive national security positions may not be redelegated. However, you may redelegate the other authorities delegated to you to the Director of Security Services for the Department of Education, and you may authorize further redelegation. Redelegations must be done in accordance with the Administrative Communications System directive, OM:1-102, Delegations of Authority, dated July 26, 2005.

IV. CERTIFICATION AND EFFECTIVE DATE

This delegation is effective upon certification of the Department's Delegations Control Officer and supersedes delegation EA/EM/272. It also supersedes delegation issued to Principal Officers certified on September 29, 1997.

I hereby ratify actions within the scope of this delegation taken by you prior to certification of this delegation.

/s/

---

Margaret Spellings

OGC Clearance and Date: /s/ David Berthiaume, 2/6/2006

Certified on: 2/14/2006

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

Control Number: EA/EM/307