



ADMINISTRATIVE  
COMMUNICATIONS SYSTEM  
U.S. DEPARTMENT OF EDUCATION

# DEPARTMENTAL DIRECTIVE

OM: 1-102

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Distribution:  
All Department of Education  
Employees

Signed by: Andrew Jackson  
Assistant Secretary for Management

## Delegations of Authority

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For technical questions regarding this directive, please contact Jim Clemmens at (202) 205-3957.

Supersedes OM: 1-102 "Delegations of Authority, dated 03/27/2012.

## I. Purpose

This Directive sets forth the policy and procedures governing delegations and re-delegations of authority.

## II. Policy

The policy of the U.S. Department of Education (ED) is to delegate decision-making authority to the lowest organizational level possible to ensure prompt and effective administration of educational programs and management activities. A delegation of authority is required for taking actions and making decisions that have legal significance. The sources of authority are:

- 1 Delegations issued by the Secretary or his/her delegates;
- 2 ED Directives approved by the Secretary; the Deputy Secretary; the Assistant Secretary, or the Office of Management (OM);
- 3 Classified position descriptions (see Section VII.C.);
- 4 Approved functional statements;
- 5 Human Capital Policy (HCP) formerly Personnel Manual Instructions; and
- 6 Human Capital Memorandum (HCM) formerly Personnel Manual Bulletins.

## III. Authorization

Delegation authority is established in section 412 of the Department of Education Organization Act, Pub. L. 96-88, as amended (20 U.S.C. 3472).

## IV. Applicability

This Directive applies to all of ED's program and administrative activities, except for delegations of authority that are exclusively within the Office of Inspector General.

## V. Definitions

A. **Delegation of Authority** is defined as the specific written transfer of authority from one official in ED (delegator) to another official in ED (delegatee). The transfer of authority must be signed by the official authorized to delegate the authority. Examples of functions that may be exercised only by the Secretary or his/her delegates are:

1. Entering into contracts, or cooperative agreements, or making grants;

2. Procuring supplies and services;
  3. Publishing documents in the Federal Register; and
  4. Any other functions or authority assigned by law or regulation to ED, the Secretary, or other ED officials in which the exercise of such authority has legal significance.
- B. **Re-delegation of Authority** is a delegation of authority from the delegatee to another ED official.
- C. **Administrative Delegation** is a delegation of authority dealing with the administrative management of ED. These authorities are generally bound by requirements imposed on the Secretary by one of the administrative agencies of the Federal Government, such as the Office of Management and Budget (OMB), the Office of Personnel Management (OPM), the Government Accountability Office (GAO), or the General Services Administration (GSA).
- D. **Program Delegation** is a delegation of authority dealing with laws that establish the program responsibilities of ED.
- E. **Position Delegation** is a delegation of authority to a position by title.
- F. **Personal Delegation** is a delegation of authority to an employee by name and may not be exercised by anyone else.
- G. **Delegator** is an ED official who delegates specific authorities to another ED official.
- H. **Delegatee** is an ED official who is granted specific authorities from a delegator.
- I. **Human Capital Memorandum (HCM)** is a Departmental issuance which provides overall guidance for carrying out Human Resources (HR) operational procedures and HR program activities. HCMs do not constitute the development of a Human Capital Policy.
- J. **Human Capital Policy (HCP)** is an official Departmental issuance which serves as ED's overarching HR policy containing what is required by legislation, the President, the Office of Personnel Management (OPM) or the Secretary of Education to initiate, govern, or regulate actions/conduct by the Principal Offices.

These documents establish or describe policies, programs, and organizations; define missions; provide authority; and assign responsibilities.

## **VI. Responsibilities**

### **A. Assistant Secretary, OM**

1. Develops policies and procedures governing delegations of authority as outlined in this directive.
2. Serves as Principal Delegation Control Officer and the primary delegator of administrative authority for ED.

### **B. Principal Officers**

1. Designate a Delegation Control Contact in the Principal Office (PO) to serve as liaison between the PO and the Departmental Delegations Control Officer (DDCO).
2. Prepare new delegations and re-delegations in accordance with the instructions contained in this directive.

### **C. Delegation Control Contacts (DCC)**

1. Ensure that each PO adheres to the policies and procedures for delegating and re-delegating authority. In this capacity, the DCC reviews new statutes establishing or reauthorizing programs and Executive Orders that assign responsibilities to the Secretary to determine whether a delegation of authority should be prepared to rescind, amend, or supersede the current authorities.
2. Serve as advisors and a source of information for their organizations.
3. Provide drafts of all delegations and re-delegations to the DDCO in OM's Human Capital Policy and Accountability Division for review prior to the legal review by staff in the Office of the General Counsel (OGC).
4. After reviewing the revisions requested by ED's DCC and OGC, and preparing a final copy of the proposed delegation or re-delegation, obtain the signature of the delegator, and return the delegation to ED's DDCO for certification.

### **D. Departmental Delegations Control Officer (DDCO)**

1. Develops policies and provides advice to DCCs, administrative staff, and program officials on the effective administrative procedure for delegating authorities.

2. Designs and maintains a system to control all delegations; develops and distributes semi-annual reports to DCCs that are validated and returned to the DDCO to update the records and to prepare the necessary delegations.
3. Provides information, as requested, on the status and content of delegations of authority.
4. Reviews all proposed delegations for format, conformity and consistency with existing delegations, and adherence to the policies and procedures for delegating and re-delegating authority.
5. Certifies delegations and re-delegations of authority.
6. Maintains the [Delegations website](#) on connectED, which contains all current delegations, and is responsible for posting Principal Office delegations on ED.Gov.
7. Maintains electronic and hard copies of delegations documents, and provide status reports, updates, and hard copy documents upon request.
8. Reviews draft directives, as requested, for delegation effect.

#### **E. Office of the General Counsel (OGC)**

1. Reviews all delegations from the Secretary or Deputy Secretary for legal effect before signature by the delegator.
2. Reviews other re-delegations, if requested, for legal effect.

### **VII. Guidelines**

- A. When authority is delegated, the delegator retains the original delegated authority. For example, when the Secretary delegated authority for the administration of the Elementary and Secondary Education Act of 1965, as amended (ESEA) to the Assistant Secretary for Elementary and Secondary Education, the Assistant Secretary received authority to administer and carry out particular activities. However, because the Secretary retains the delegated authority, either the Secretary or the Assistant Secretary may exercise authority pursuant to the ESEA.

Except as provided for by law, re-delegation of authority is allowed for most of the authority vested in the Secretary. However, any ED official to whom authority has been delegated by the Secretary may re-delegate only in accordance with the terms of the delegation from the Secretary. Therefore, a re-delegation must contain the original reservations of authority unless

- otherwise specified in the original delegation, and may contain additional reservations.
- B. Revisions of prior delegations or re-delegations are not necessary if only the title of the delegatee changes.
  - C. Position descriptions may be used to re-delegate authority in cases where the supervisor of the delegatee holds the authority to be delegated and where the authority delegated is an essential part of the duties of the position.
  - D. Examples include classification authority for individual classifiers and obligation authority for individual operating accountants.

## VIII. Criteria for Making Delegations

- A. The decision to delegate (or re-delegate) authority should be based on the following criteria:

- 1. **Legality.** Is the delegation allowed under applicable laws?

Delegations of authority may need to be issued when new, reauthorized or revised legislation is passed by Congress, signed by the President, and is sent to the Secretary of Education for implementation and administration. The Secretary usually delegates functions from the legislation to Principal Officers and employees of ED. However, the delegated statute must be reviewed to ensure that there are no restrictions that would affect the delegation (for example, restrictions on what may be delegated, to whom the authority may be delegated, or procedures that must be followed in exercising the delegated authority).

- 2. **Need.** Will the delegation serve the objective of prompt, effective administration?

If an existing delegation is amended, superseded, or rescinded, it is likely to affect any re-delegation of authority that previously had been issued. The revisions to the delegation may even implicitly void the existing re-delegation. For example, if the original source of authority for the re-delegation no longer exists, or the authority originally re-delegated has been reserved from the delegator in the revised delegation, then there is no need for a revised re-delegation. Therefore, whenever an existing delegation is revised, re-delegations of that authority should be reviewed to determine if any revision of the re-delegation is necessary.

- 3. **Economy and Administration.** Is the position to which the authority is to be delegated appropriate in terms of grade level and assigned responsibilities?

- B. As part of the decision-making process, the delegator must consider whether the authority should be made to a position rather than to an employee by name. Position delegations allow for persons serving in the position in an acting capacity, or on a temporary basis, to exercise the authority unless prohibited by terms of the delegation. In contrast, if the delegation is addressed to a person, the delegation is automatically voided when that person leaves the position. Position delegations are strongly recommended unless there is a sufficiently compelling reason for a personal delegation.

## IX. Content of Delegations/Re-delegations of Authority

**Preparation of Delegation and Re-delegation Documents.** A sample delegation of authority format is attached (Exhibit A). Each delegation must include the following information:

- 1 **Organizational Element of Delegatee.** Show the official title of the position and level or organization to which the delegation is made, e.g., Director, Kindergarten Education Division. Unless the delegation is a name delegation, do not include the delegatee's name in the delegation. If the same delegation is made to more than one delegatee, indicate all position titles/organizations on one delegation document.
- 2 **Subject of Delegation.** Clearly explain the subject of the delegation. If the delegation is amending the primary delegation, it should clearly state that fact and be identified by number (e.g., Amendment No. 1 to Primary Delegation of Authority).
- 3 **Rescission Information.** If the delegation cancels or supersedes any previous delegations of authority, the previous delegatee and the date and control number of the delegation should be cited and the previous delegatee should be sent a copy of the new delegation by the DDCO.

**Note:** If a given authority has been delegated previously and that record is not available, the following statement should be included. "This supersedes all previous delegations of this authority."

When a previous delegation of authority has been superseded except for closeout activities, the delegation should be carefully written to say: "Except for necessary closeout activities related to the former delegated authority within the scope of this delegation."

- 4 **Authority Delegated.** Indicate the specific authority delegated and the legal or other source of the authority. Make sure the authority is absolutely clear and not subject to multiple interpretations. If Federal laws are cited, identify them by reference to the specific title and section of the United States Code, if

possible. Add the Public Law and section number if possible. Otherwise provide sufficient information to be able to locate the authority: the Statutes at Large citation, the public law section and number, the date enacted, and any other citation information. If applicable, also refer to the appropriate ED directive, delegation of authority, or other document which vests authority in the delegator, citing the title, date and control number.

If a re-delegation is "split" (e.g., when an Assistant Secretary re-delegates responsibility for a law to a Division Director for program direction and policy, and to a Regional Director for administration), extreme care should be taken to ensure that both delegations contain sufficiently detailed descriptions of responsibility to ensure that no misunderstanding or confusion will occur. Attachments can be added to delegation documents, if needed, to clarify delegations. Finally, each delegatee included in a "split" delegation should be sent copies by the DDCO of all delegations referencing the same law or subject.

- 5 **Reservations, Exceptions or Conditions.** Indicate any reservations, exceptions or conditions relating to the delegated authority. The law may require certain reservations. Also, you may want to establish limitations on scope, duration, dollar amount, or other areas relating to the overall authority. The Secretary may require certain reservations. For example, the Secretary reserves the right of authority to approve all reports to Congress or the President unless otherwise provided by law.

**Note:** If the document is a re-delegation, it is mandatory to include all the reservations, exceptions or conditions included in the original delegation to the delegator, unless otherwise specified in the original delegation. If this requirement is not followed, a delegator could inadvertently re-delegate an authority that he or she does not have due to an omission of a restriction in the original authority. If no reservations or exceptions exist, a statement to that effect should be included.

- 6 **Authority to Re-delegate.** You may re-delegate any authority or portion thereof unless your original authority precludes re-delegation. However, if you wish to re-delegate authority outside of your chain of command, you must, unless otherwise specified, obtain the concurrence of an official who is above both you and the proposed delegatee. If a delegator wants to re-delegate authority to another PO, this delegation must be reviewed and approved by the Chief of Staff, Office of the Secretary.
- 7 **Effective Date.** This sentence must be included in each delegation or re-delegation of authority: "This delegation [re-delegation] is effective on certification by the Department's Delegations Control Officer." Delegations or re-delegations have no legal effect until certified.

- 8 **Ratification.** If a delegation will not become effective until after the delegatee has already started performing the delegated authority, then the delegation should include the following sentence: "I hereby ratify actions within the scope of this delegation taken by you prior to the date of certification."
- 9 **Required Signature.** Each delegation forwarded to the DDCO for certification must contain an original signature of the delegator.
- 10 **Delegation Date.** Each delegation can be dated at the time it is signed by the delegator, but the effective legal date of the delegation is the certification date.

## **X. Clearance Procedure for Certification of Delegations and Re-delegations**

- A. After delegations or re-delegations have been prepared in accordance with the criteria outlined in this directive, they must be forwarded to the DDCO, who reviews them for format, content, and redundancy, and for conflict with existing delegations of authority within ED.
- B. If the proposed delegation appears to be in order, the DDCO forwards it to OGC for legal review. OGC returns the cleared or revised delegation to the DDCO. If it is a re-delegation, the DDCO decides whether an OGC clearance is necessary.
- C. The DDCO returns the delegation to the originating PO DCC for revision, if necessary.
- D. Upon receipt of the revised delegation, if revision was necessary, the DDCO obtains OGC's formal clearance by signature at the lower left-hand corner of the delegation memorandum.
- E. The DDCO forwards to the PO DCC, for signature by the delegator.
- F. After the DCC returns the signed delegation, the DDCO forwards the delegation to the Executive Secretariat, if appropriate, for the Secretary's review and approval. The DDCO works with the Executive Secretariat and OGC to revise the delegation, as needed. After approval and signature by the Secretary, the DDCO certifies and dates the delegation or re-delegation. The original of the certified delegation or re-delegation is kept in a central file in OM's Office of Human Resources, Human Capital Policy and Accountability Division and certified copies are sent to the delegatee and OGC, along with information on any voided delegations.
- G. If the delegation appoints an individual to serve as an acting Principal Officer, and that person's name has also been submitted to the United States Senate

for confirmation, a copy of the certified delegation is sent to the Executive Resources Division, Office of Human Resources, to be filed in the nominee's personnel folder.

## Exhibit A - Page 1 (Sample Delegation of Authority Memo)

TO: Director  
Office of Early Learning (Title Only)

FROM: Assistant Secretary for Elementary and Secondary Education

SUBJECT: Delegation of Authority to Administer Preschool Development Grants Under the Every Student Succeeds Act, Pub. L. 114-95

### I. DELEGATION

Under the authority vested in me by a delegation from the Secretary dated February 3, 2012, control number EA/ES/87 and a delegation from the Director of Risk Management Service dated April 11, 2008, control number EAR/ES/77, I hereby delegate to you the authority to administer the Department's programmatic responsibilities under title IX, section 9212 of the Every Student Succeeds Act, Pub. L. 114-95 (42 U.S.C. 9831 note).

### II. RESERVATIONS

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

- A. Authority to promulgate regulations is reserved to the Secretary.
- B. Authority to submit reports to Congress or the President is reserved to the Secretary unless otherwise provided by law.
- C. Authority to award contracts and discretionary grants is reserved.
- D. Authority to approve state plans is reserved to the Assistant Secretary for Elementary and Secondary Education.

### III. REDELEGATION

Subject to the reservations contained herein, you may re-delegate any of the authorities delegated to you and authorize further re-delegation.

(If the authority is not to be re-delegated, add the following statement: "This authority may not be re-delegated.")

**IV. CERTIFICATION AND EFFECTIVE DATE**

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

(Signature)

OGC Clearance