

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001. fax	Mac Reed to Julie Norton et al [partial] (1 page)	03/24/2000	P3/b(3)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 19579

FOLDER TITLE:

Nondiscrimination in Education and Training Executive Order

2013-0436-S

rc1247

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

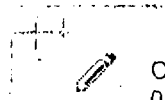
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Whitcomb - Title IX
-Mason Brennan



Carla B. Stone
04/06/2000 04:10:40 PM

Title IX - Fed. ed.

Federal civil ed.

Record Type: Record

To: Edward W. Correia/WHO/EOP@EOP, Ann O'Leary/OPD/EOP@EOP
cc: McGavock D. Reed/OMB/EOP@EOP
Subject: Race Executive Order

POTUS - Clinton

2 years ago

White House
[June 17, 1997]

Executive Order

NONDISCRIMINATION ON THE BASIS OF RACE, SEX, COLOR, NATIONAL
ORIGIN, DISABILITY, RELIGION, AGE, SEXUAL ORIENTATION,
AND STATUS AS A PARENT IN FEDERALLY CONDUCTED EDUCATION
AND TRAINING PROGRAMS

By the authority vested in me as President by the Constitution and the laws of the
United
States of America, including sections 921-932 of title 20, United States Code; section 2164 of
title 10, United States Code; section 2001 et seq., of title 25, United States Code; section 7301
of
title 5, United States Code; and section 301 of title 3, United States Code, and to achieve equal
opportunity in Federally conducted education and training programs and activities, it is hereby
ordered as follows:

Section 1. Statement of policy on education programs and activities conducted by executive
departments and agencies.

1 -101 . The Federal Government must hold itself to at least the same principles of

nondiscrimination in educational opportunities that it applies to the education programs and activities of State and local governments, and to private institutions receiving Federal financial assistance. Existing laws and regulations prohibit certain forms of discrimination in Federally conducted education and training programs and activities -- including discrimination against people with disabilities, prohibited by the Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., as

amended, employment discrimination on the basis of race, color, national origin, sex, or religion,

prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-17, as amended, discrimination on the basis of race, color, national origin or religion in educational programs receiving Federal assistance, under Title VI of the Civil Rights Acts of 1964, 42 U.S.C.

2000d, and sex-based discrimination in education programs receiving Federal assistance under Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. Through this Executive order, discrimination on the basis of race, sex, color, national origin, religion, sexual orientation, age, disability, and status as a parent will be prohibited in Federally conducted education and training programs and activities.

1-102. No individual, on the basis of race, sex, color, national origin, religion, sexual orientation, age, disability, or status as a parent, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in, a Federally conducted education or training program or activity.

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Sec. 2. Definitions.

2-201. "Federally conducted education and training programs and activities" includes

programs

and activities conducted, operated, or undertaken by an executive department or agency.

2-202. "Education and training programs and activities" include, but are not limited to, formal schools, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and

programs to train teachers.

2-203. The Attorney General is authorized to make a final determination as to whether a program

falls within the scope of education and training programs and activities covered by this order, under subsection 2-202, or is excluded from coverage, under section 3.

2-204. "Military education or training programs" are those education and training programs conducted by the Department of Defense or, where the Coast Guard is concerned, the Department of Transportation, for the primary purpose of educating or training members of the

armed forces or meeting a statutory requirement to educate or train Federal, State, or local civilian law enforcement officials pursuant to 10 U.S.C. Chapter 18.

2-205. "Armed forces" means the Armed Forces of the United States.

2-206. "Status as a parent" is defined as follows: an individual has the status of a parent, if, with regard to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, that individual has the status of :

- (a) ab a biological parent;
- (b) ab an adoptive parent;
- (c) ab a foster parent;

- (d) ab a stepparent;
- (e) ab a custodian of a legal ward;
- (f) ab a person who is actively seeking legal custody or adoption; or
- (g) ab a person who stands in loco parentis to such an individual.

Sec. 3. Exemption from coverage.

3-301. This order does not apply to members of the armed forces, military education or training programs, or authorized intelligence activities. Members of the armed forces, including students

at military academies, will continue to be covered by regulations that currently bar specified forms of discrimination which are now enforced by the Department of Defense and the individual service branches. The Department of Defense shall develop procedures to protect the

rights of and to provide redress to civilians not otherwise protected by existing Federal law from discrimination on the basis of race, sex, color, national origin, religion, sexual orientation,

disability, or status as a parent and who participate in military education or training programs or activities conducted by the Department of Defense.

3-302. This order does not apply to, affect, interfere with, or modify the operation of any otherwise lawful affirmative action plan or program.

3-303. An individual shall not be deemed subjected to discrimination by reason of his or her exclusion from the benefits of a program limited by Federal law, or a program established consistently with Federal law, to individuals of a particular race, sex, color, national origin, religion, sexual orientation, age, disability, or status as a parent different from his or her own.

3-304. This order does not apply to ceremonial or similar education or training programs or

activities of schools conducted by the Department of Interior, Bureau of Indian Affairs, that are culturally relevant to the children represented in the school. "Culturally relevant" refers to any class, program, or activity that is fundamental to a tribe's culture, customs, traditions, heritage, or religion.

3-305. This order does not apply to (a) selections based on national origin of foreign nationals to

participate in covered education or training programs, if such programs primarily concern national security or foreign policy matters; or (b) selections or other decisions regarding participation in covered education or training programs made by entities outside the Executive Branch. It shall be the policy of the Executive Branch that education or training programs or activities shall not be available to entities that select persons for participation in violation of Federal or State law.

3-306. The prohibition on discrimination on the basis of age provided in this order does not apply to age-based admissions of participants to education or training programs, if such programs have traditionally been age-specific or must be age-limited for reasons related to health or national security.

Sec. 4. Administrative enforcement.

4-401. Any person who believes himself or herself to be aggrieved by a violation of this order or its implementing regulations, rules, policies, or guidance may, personally or through a representative, file a written complaint with the agency that such person believes is in violation

of this order or its implementing regulations, rules, policies, or guidance. Pursuant to

procedures established by the Attorney General, each executive department or agency shall conduct an investigation of any complaint by one of its employees alleging a violation of this Executive order.

4-402. (a) If the office within an executive department or agency that is designated to investigate complaints for violations of this order or its implementing rules, regulations, policies, or guidance concludes that an employee has not complied with this order or any of its implementing rules, regulations, policies, or guidance, such office shall complete a report and refer a copy of the report and any relevant findings or supporting evidence to an appropriate agency official. The appropriate agency official shall review such material and determine what, if any, disciplinary action is appropriate.

(b) In addition, the designated investigating office may provide appropriate agency officials with a recommendation for any corrective and/or remedial action. The appropriate officials shall consider such recommendation and implement corrective and/or remedial action by the agency, when appropriate. Nothing in this order authorizes monetary relief to the complainant as a form of remedial or corrective action by an executive department or agency.

4-403. Any action to discipline an employee who violates this order or its implementing rules, regulations, policies, or guidance, including removal from employment, where appropriate, shall

be taken in compliance with otherwise applicable procedures, including the Civil Service Reform

Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111.

Sec. 5. Implementation and Agency Responsibilities.

5-501. The Attorney General shall publish in the Federal Register such rules, regulations, policies, or guidance, as the Attorney General deems appropriate, to be followed by all executive

departments and agencies. The Attorney General shall address:

- a. abwhich programs and activities fall within the scope of education and training programs and activities covered by this order, under subsection 2-202, or excluded from coverage, under section 3 of this order;
- b. examples of discrimination conduct;
- c. applicable legal principles;
- d. enforcement procedures with respect to complaints against employees;
- e. remedies;
- f. ab requirements for agency annual and tri-annual reports as set forth in section 6 of this order; and
- g. ab such other matters as deemed appropriate.

5-502. Within 90 days of the publication of final rules, regulations, policies, or guidance by the Attorney General, each executive department and agency shall establish a procedure to receive and address complaints regarding its Federally conducted education and training programs and activities. Each executive department and agency shall take all necessary steps to effectuate any subsequent rules, regulations, policies, or guidance issued by the Attorney General within 90 days of issuance.

5-503. The head of each executive department and agency shall be responsible for ensuring compliance within this order.

5-504. Each executive department and agency shall cooperate with the Attorney General and provide such information and assistance as the Attorney General may require in the performance of the Attorney General's functions under this order.

5-505. Upon request and to the extent practicable, the Attorney General shall provide technical advice and assistance to executive departments and agencies to assist in full compliance with this order.

Sec. 6. Reporting Requirements.

6-601. Consistent with the regulations, rules, policies, or guidance issued by the Attorney General, each executive department and agency shall submit to the Attorney General a report that summarizes the number of nature of complaints filed with the agency and the disposition of such complaints. For the first three years after the date of this order, such reports shall be submitted annually within 90 days of the end of the preceding year's activities. Subsequent reports shall be submitted every three years and with 90 days of the end of each three-year period.

Sec. 7. General Provisions.

7-701. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order 12350.

Sec. 8. Judicial Review.

8-801. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701, et seq.

THE WHITE HOUSE,

3/27/00

TO: MAC REED

GMB

Fax 395-7294

Ann
| O'Leary |

FROM MARK MORIN (DOL)

219-8005 x 104

Cover plus 1 page!

Comment on draft EO re nondiscrimination in federally conducted education and training programs

Thank you for the referral to Ed Correa. We discussed a matter not reflected in the comment -- where the order should be expanded to cover federal contractors for our programs. He indicated he is discussing that issue with other officials. He indicated he was not inclined to accept the enclosed comment, but was willing to receive it and consider it. We appreciate that and if there are any further questions please call.

DOL COMMENT TO OMB ON REVISED DRAFT EXECUTIVE ORDER REGARDING NONDISCRIMINATION IN FEDERALLY CONDUCTED TRAINING PROGRAMS

military service
The Department of Labor suggests the inclusion in sections 1-101 and 1-102 of the draft Executive Order of "prior service or current obligations as (or an application to become) a member of the uniformed services" as a prohibited basis of discrimination in Federally conducted education and training programs.

Veterans
CO.
Chairman
under
member
Two Federal statutes administered by the Department are specifically intended to protect veterans and certain service members from possible discrimination. First, the Vietnam Era Veterans Readjustment Assistance Act (VEVRAA) requires Federal contractors with contracts above \$25,000 to take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign for which a campaign badge has been authorized (38 U.S.C. 4212). Second, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) prohibits discrimination against individuals on the basis of membership, application for membership, service or obligation in a uniformed service with respect to initial employment, reemployment, retention in employment, promotion or any benefit of employment (42 U.S.C. 4311).

The Department believes that the nondiscriminatory purposes of these provisions could be further advanced by including veterans and members of the uniformed services as protected classes under this Executive Order. The Department is aware that the draft section 3-301 of the order provides that the order does not apply to "members of the armed forces, military education or training programs, or authorized intelligence activities." We believe the objective of this section is actually to exempt the military programs and not affect service members who may attend other Federally conducted programs. Therefore, we would suggest striking "members of the armed forces" from the first sentence of that section and adding "in these programs" after "military academies," in the second sentence to clarify that the exemption applies to DOD conducted programs.

Finally, a conforming change to the order would include as a new section 2-207 a definition of "uniformed services" taken from USERRA (38 U.S.C. 4303(16)) that provides:

"Uniformed services" means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

The Department believes these suggested additions would strengthen the scope of protections provided under the order.

U.S. DEPARTMENT OF JUSTICE
OFFICE OF LEGAL COUNSEL
WASHINGTON, D.C. 20530

FACSIMILE TRANSMISSION SHEET

DATE: 3/24/2000

TO: Mac Reed

OFFICE PHONE: () _____

FROM: Rosamancy Hunt
Robin Leithardt

OFFICE PHONE: () 514/1762

NUMBER OF PAGES: _____ (NOT INCLUDING COVER SHEET)

FACSIMILE NUMBER: () _____

Mac -
REMARKS: Comments on Nondiscrimination EO
are attached.

- Rae

Withdrawal/Redaction Marker

Clinton Library

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001. fax	Mac Reed to Julie Norton et al [partial] (1 page)	03/24/2000	P3/b(3)
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Domestic Policy Council
Ann O'Leary
OA/Box Number: 19579

FOLDER TITLE:

Nondiscrimination in Education and Training Executive Order

2013-0436-S

rc1247

RESTRICTION CODES

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OFFICE OF MANAGEMENT AND BUDGET
GENERAL COUNSEL'S OFFICE
FAX TRANSMITTAL SHEET

32786

TO:

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RICK CARRO
ROSEMARY HART
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COMMERCE
AGRICULTURE
VETERAN AFFAIRS
TRANSPORTATION

BRUCE REED

(b)(3)

OPD

[001]

FROM:

TELEPHONE NUMBER:

MAC REED

202-395-3563

FAX NUMBER: (202) 395-7294

TE: 3-10-2000

NO. OF PAGES (INCLUDING COVER):

COMMENTS:

Please review and advise by COB Wednesday March
15, 2000.

Shirley Mac Reed



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

GENERAL COUNSEL

March 10, 2000

MEMORANDUM FOR DESIGNATED AGENCY HEADS
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Robert G. Damus *RGD Lyrer*
General Counsel

SUBJECT: Proposed Executive Order Entitled "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs"

Attached is a proposed Executive order entitled "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs," that was prepared by White House Council's Office. This is a third revision of the order based on agency comments received pursuant to the July 15, 1999 and October 8, 1999 circulations of the draft order.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving any comments you may have concerning this proposal. If you have any comments or objections, they should be received no later than close of business Wednesday, March 15, 2000. Please be advised that agencies that do not respond by the deadline will be recorded as not objecting to the proposal.

Comments or inquiries may be submitted by telephone to Mr. Mac Reed (202-395-3563) of this office or fax to 202-395-7294.

Thank you.

Attachments - Distribution List
Proposed Executive Order

cc:	Jack Lew	Michael Deich	Dan Mendelson
	Sylvia Mathews	Wesley Warren	Dick Emery
	Josh Gotbaum	Joe Minarik	Michael Barr
	Sally Katzen	John Spotila	Anil Kakani
	Robert Kyle	Linda Ricci	Adrienne Erbach
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and Director of Presidential Personnel

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Assistant to the President for
National Security Affairs

Honorable Bruce Reed
Assistant to the President for
Domestic Policy Council

DRAFT

3-10-2000

Executive Order

NONDISCRIMINATION ON THE BASIS OF RACE, SEX, COLOR, NATIONAL
ORIGIN, DISABILITY, RELIGION, AGE, SEXUAL ORIENTATION,
AND STATUS AS A PARENT IN FEDERALLY CONDUCTED EDUCATION
AND TRAINING PROGRAMS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 921-932 of title 20, United States Code; section 2164 of title 10, United States Code; section 2001 et seq., of title 25, United States Code; section 7301 of title 5, United States Code; and section 301 of title 3, United States Code, and to achieve equal opportunity in Federally conducted education and training programs and activities, it is hereby ordered as follows:

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5-502
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Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111.

Sec. 5. Implementation and Agency Responsibilities.

5-501. The Attorney General shall publish in the Federal Register such rules, regulations, policies, or guidance, as the Attorney General deems appropriate, to be followed by all executive

departments and agencies. The Attorney General shall address:

- (a) which programs and activities fall within the scope of education and training programs and activities covered by this order, under subsection 2-202, or excluded from coverage, under section 3 of this order;
- (b) examples of discrimination conduct;
- (c) applicable legal principles;
- (d) enforcement procedures with respect to complaints against employees;
- (e) remedies;
- (f) requirements for agency annual and tri-annual reports as set forth in section 6 of this order; and
- (g) such other matters as deemed appropriate.

*Insert
former 2-203
22 5-502*
³ 5-502. Within 90 days of the publication of final rules, regulations, policies, or guidance by the Attorney General, each executive department and agency shall establish a procedure to receive and address complaints regarding its Federally conducted education and training programs and activities. Each executive department and agency shall take all necessary steps to effectuate any subsequent rules, regulations, policies, or guidance issued by the Attorney General within 90 days of issuance.

⁴ 5-502. The head of each executive department and agency shall be responsible for ensuring compliance within this order.

⁵ 5-504. Each executive department and agency shall cooperate with the Attorney General and provide such information and assistance as the Attorney General may require in the performance of the Attorney General's functions under this order.

⁶ 5-508. Upon request and to the extent practicable, the Attorney General shall provide technical advice and assistance to executive departments and agencies to assist in full compliance with this order.

Sec. 6. Reporting Requirements.

6-601. Consistent with the regulations, rules, policies, or guidance issued by the Attorney

General, each executive department and agency shall submit to the Attorney General a report that summarizes the number of nature of complaints filed with the agency and the disposition of such

complaints. For the first three years after the date of this order, such reports shall be submitted annually within 90 days of the end of the preceding year's activities. Subsequent reports shall be submitted every three years and with ⁱⁿ 90 days of the end of each three-year period.

Sec. 7. General Provisions.

7-701. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order 12350.

Sec. 8. Judicial Review.

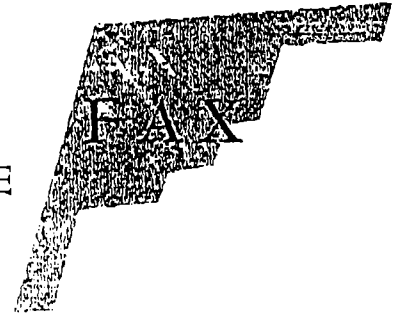
8-801. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701, et seq.

THE WHITE HOUSE,



DEPARTMENT OF DEFENSE
LEGISLATIVE REFERENCE SERVICE

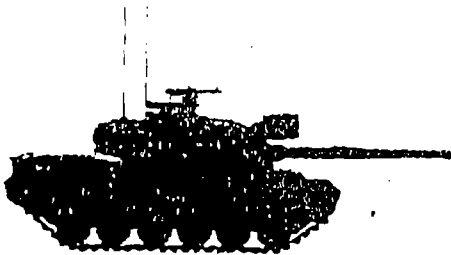
DATE/TIME: March 16, 2000



TO: MAC REED

FROM: CARL JACKSON

Pages to follow: 2



NOTE: This is in response to your March 10, 2000, request for the comments of the Department of Defense on the proposed Executive order entitled "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs." The Department is concerned about several revisions in this most recent redraft of the proposed Executive order.

V/R

Carlton L. Jackson

THE PENTAGON, ROOM 3D282
WASHINGTON, D.C. 20301-1600
TELEPHONE: (703) 697-1305
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DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

March 16, 2000

MEMORANDUM FOR MAC REED, ASSISTANT GENERAL COUNSEL
OFFICE OF MANAGEMENT AND BUDGET

FROM: S.T. BRICK, DIRECTOR, LEGISLATIVE REFERENCE
SERVICE

SUBJECT: Proposed Executive Order Entitled "Nondiscrimination on the
Basis of Race, Sex, Color, National Origin, Disability, Religion,
Age, Sexual Orientation, and Status as a Parent in Federally
Conducted Education and Training Programs"

This is in response to your March 10, 2000, request for the comments of the Department of Defense on the proposed Executive order entitled "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs." The Department is concerned about several revisions in this most recent redraft of the proposed Executive order.

The changes in section 1-101 of the current version of the proposed Executive order would have the effect of expanding the scope of the order substantially, to provide what would be, in effect, two avenues to seek redress for Federal employees who are already protected by law from discrimination based on race, color, sex, national origin, religion, disability, and marital status; and from discrimination based on sexual orientation by Executive Order 11478.

The current draft states that the covered areas will be prohibited in Federally conducted education and training programs and activities through this Executive order. The Department objects to this expansion in the scope of coverage. The Department recommends that section 1-101 of the proposed Executive order be amended to exclude specifically from its scope all persons, including current Federal employees, who already have avenues for redress against discrimination in Federally conducted education and training programs and activities under current law or Executive order.

In addition, the Department is concerned that the change to section 2-203 would have the effect of giving the Attorney General authority to overrule the Secretary of Defense in defining what programs constitute "military education and training programs" under this Executive order. This is a substantive change in the construct of the proposed administration of this Executive order to which the Department has never agreed.



Preservation of the authority of the Secretary of Defense and the Secretaries of the Military Departments, established in title 10, United States Code, to develop and administer military training and education is of paramount importance to the Department. Accordingly, the Department objects to this change and recommends a return to the previous version of section 2-203 or, in the alternative, the Department recommends that section 2-204 be modified to read as follows:

"Military education or training programs" are those education and training programs conducted by the Department of Defense, or where the Coast Guard is concerned, the Department of Transportation, which, notwithstanding the provisions of this Order have been determined by the Secretary of Defense, or where the Coast Guard is concerned, the Secretary of Transportation, to be for the primary purpose of educating or training members of the armed forces of the United States or the armed forces of a foreign government recognized by the United States or attached to an international organization, or meeting a statutory requirement to educate or train Federal, State, or local civilian law enforcement officials pursuant to Chapter 18 of title 10, United States Code."

Finally, the Department objects to the change in the definition of "armed forces" in section 2-205. The Department has consistently taken the position that this definition must address training and education programs established by the Department for the primary purpose of training members of the armed forces of foreign governments and armed forces attached to international organizations, such as NATO, as well as the armed forces of the United States. For this reason, the Department recommends a return to the previous version of section 2-205 or, in the alternative, the Department recommends adoption of revision to section 2-204 proposed above, coupled with deleting the revised section 2-205.

Jenni R. Engebretsen
05/03/2000 06:37:53 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: EXECUTIVE ORDER: ACTIONS TO IMPROVE LOW-PERFORMING SCHOOLS

THE WHITE HOUSE

Office of the Press Secretary
(Davenport, Iowa)

Immediate Release May 3, 2000 For

EXECUTIVE ORDER

- - - - -

ACTIONS TO IMPROVE LOW-PERFORMING SCHOOLS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Elementary and Secondary Education Act of 1965 (ESEA), the Department of Education Appropriations Act, 2000 (as contained in Public Law 106-113), and in order to take actions to improve low-performing schools, it is hereby ordered as follows:

Section 1. Policy. Since 1993, this Administration has sought to raise standards for students and to increase accountability in public education while investing more resources in elementary and secondary schools. While much has been accomplished -- there has been progress in math and reading achievement, particularly for low-achieving students and students in our highest poverty schools -- much more can be done, especially for low-performing schools.

Sec. 2. Technical Assistance and Capacity Building. (a) The Secretary of Education ("Secretary") shall work with State and local educational agencies ("LEAs") to develop and implement a comprehensive strategy for providing technical assistance and other assistance to States and LEAs to strengthen their capacity to improve the performance of schools identified as low performing. This comprehensive strategy shall include a number of steps, such as:

(1) providing States, school districts, and schools receiving funds from the school improvement fund established by Public Law 106-113, as well as other districts and schools identified for school improvement or corrective action under Title I of the ESEA, with access to the latest research and information on best practices, including research on instruction and educator professional development, and with the opportunity to learn from exemplary schools and exemplary State and local intervention strategies and from each other, in order to improve achievement for all students in the low-performing schools;

(2) determining effective ways of providing low-performing schools with access to resources from other Department of Education programs, such as funds from the Comprehensive School Reform Demonstration Program, the Reading Excellence Act, the Eisenhower Professional Development Program, the Class Size Reduction Program, and the 21st Century Community Learning Centers Program, and to make effective use of these funds and Title I funds;

(3) providing States and LEAs with information on effective strategies to improve the quality of the teaching force, including strategies for recruiting and retaining highly qualified teachers in high-poverty schools, and implementing research-based professional development programs aligned with challenging standards;

(4) helping States and school districts build partnerships with technical assistance providers, including, but not limited to, federally funded laboratories and centers, foundations, businesses, community-based organizations, institutions of higher education, reform model providers, and other organizations that can help local schools improve;

(5) identifying previously low-performing schools that have made significant achievement gains, and States and school districts that have been effective in improving the achievement of all students in low-performing schools, which can serve as models and resources;

(6) providing assistance and information on how to effectively involve parents in the school-improvement process, including effectively involving and informing parents at the beginning of the school year about improvement goals for their school as well as the goals for their own children, and reporting on progress made in achieving these goals;

(7) providing States and LEAs with information on effective approaches to school accountability, including the effectiveness of such strategies as school reconstitution, peer review teams, and financial rewards and incentives;

(8) providing LEAs with information and assistance on the design and implementation of approaches to choice among public schools that create incentives for improvement throughout the local educational agency, especially in the lowest-performing schools, and that maximize the opportunity of students in low-performing schools to attend a higher-performing public school;

(9) exploring the use of well-trained tutors to raise student achievement through initiatives such as "America Reads," "America Counts," and other work-study opportunities to help low-performing schools;

(10) using a full range of strategies for disseminating information about effective practices, including interactive electronic communications;

(11) working with the Department of Interior, Bureau of Indian Affairs (BIA), to provide technical assistance to BIA-funded low-performing schools; and

(12) taking other steps that can help improve the quality of teaching and instruction in low-performing schools.

(b) The Secretary shall, to the extent permitted by law, take whatever steps the Secretary finds necessary and appropriate to redirect the resources and technical assistance capability of the Department of Education ("Department") to assist States and localities in improving low-performing schools, and to ensure that the dissemination of research to help turn around low-performing schools is a priority of the Department.

Sec. 3. School Improvement Report. To monitor the progress of LEAs and schools in turning around failing schools, including those receiving grants from the School Improvement Fund, the Secretary shall prepare an annual School Improvement Report, to be published in September of each year, beginning in 2000. The report shall:

(a) describe trends in the numbers of LEAs and schools identified as needing improvement and subsequent changes in the academic performance of their students; 3

(b) identify best practices and significant research findings that can be used to help turn around low-performing LEAs and schools; and

(c) document ongoing efforts as a result of this order and other Federal efforts to assist States and local school districts in intervening in low-performing schools, including improving teacher quality. This report shall be publicly accessible.

Sec. 4. Compliance Monitoring System. Consistent with the implementation of the School Improvement Fund, the Secretary

shall strengthen the Department's monitoring of ESEA requirements for identifying and turning around low-performing schools, as well as any new requirements established for the School Improvement Fund by Public Law 106-113. The Secretary shall give priority to provisions that have the greatest bearing on identifying and turning around low-performing schools, including sections 1116 and 1117 of the ESEA, and to developing an ongoing, focused, and systematic process for monitoring these provisions. This improved compliance monitoring shall be designed to:

(a) ensure that States and LEAs comply with ESEA requirements;

(b) assist States and LEAs in implementing effective procedures and strategies that reflect the best research available, as well as the experience of successful schools, school districts, and States as they address similar objectives and challenges; and

(c) assist States, LEAs, and schools in making the most effective use of available Federal resources.

Sec. 5. Consultation. The Secretary shall, where appropriate, consult with executive agencies, State and local education officials, educators, community-based groups, and others in carrying out this Executive order.

Sec. 6. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
May 3, 2000.

#

6-6-2000

Ann,

Attached are drafts of the few names to the President and the nondiscrimination order.

Please review and advise

I've given a copy to Peter Marshall.

Thank you. (Hoe 853563)

File: EO on Nondisc.
in CW + Tmz



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DRAFT

6-6-2000

1:15 p.m.

MEMORANDUM FOR THE PRESIDENT

FROM: Jacob J. Lew
Director

SUBJECT: Proposed Executive Order Entitled "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the White House Counsel's Office. The proposed order would apply to Federally conducted education and training programs: (a) the same nondiscrimination principles that the Federal Government applies to educational programs conducted by recipients of Federal funds; and (b) three additional nondiscrimination principles: nondiscrimination on the basis of age, sexual orientation, and status as a parent..

BACKGROUND: Current law bars recipients of Federal funds for education programs from discriminating in those programs on the basis of race, sex, color, national origin, disability or religion. This means that most State and local government education and training programs and those private institutions receiving Federal financial assistance are prohibited from discriminating against participants in those programs on the basis of race, sex, color, national origin, disability or religion.

This Administration supports these statutory prohibitions and would also bar discrimination in educational programs on the basis of age, sexual orientation, and parental status. While there is currently no statutory authority to extend the age, sexual orientation, and status as a parent nondiscrimination prohibitions to educational programs conducted by recipients of Federal funds, we may, by executive order, apply these principles of nondiscrimination Federally conducted training and education programs.

The proposed Executive order, therefore, would prohibit discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in Federally conducted education and training programs and activities. Federally conducted education and training programs and activities would include programs or activities conducted, operated, or undertaken by an executive department or agency. Education and training programs

would include formal schools, extracurricular activities, academic programs, scholarships and fellowships, and programs to train teachers. The order would not encompass State and local government education and training programs or those private institutions that receive Federal financial assistance. The order would also not apply to military education training programs or to authorized intelligence activities. The Department of Justice would make the final determination as to whether a program would be covered by the order and would publish guidelines for the implementation of the order.

None of the affected agencies object to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachments

DRAFT
6-6-2000
1:15 p.m.-----

NONDISCRIMINATION ON THE BASIS OF RACE, SEX, COLOR, NATIONAL
ORIGIN, DISABILITY, RELIGION, AGE, SEXUAL ORIENTATION,
AND STATUS AS A PARENT IN FEDERALLY CONDUCTED EDUCATION
AND TRAINING PROGRAMS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 921-932 of title 20, United States Code; section 2164 of title 10, United States Code; section 2001 et seq., of title 25, United States Code; section 7301 of title 5, United States Code; and section 301 of title 3, United States Code, and to achieve equal opportunity in Federally conducted education and training programs and activities, it is hereby ordered as follows:

Section 1. Statement of policy on education programs and activities conducted by executive departments and agencies.

1-101. The Federal Government must hold itself to at least the same principles of nondiscrimination in educational opportunities that it applies to the education programs and activities of State and local governments, and to private institutions receiving Federal financial assistance. Existing laws and regulations prohibit certain forms of discrimination in Federally conducted education and training programs and activities -- including discrimination against people with disabilities, prohibited by the Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., as amended, employment discrimination on the basis of race, color, national origin, sex, or religion, prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-17, as amended, discrimination on the basis of race, color, national origin or religion in educational programs receiving Federal assistance, under Title VI of the Civil Rights Acts of 1964, 42 U.S.C. 2000d, and sex-based discrimination in education programs receiving Federal assistance under Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. Through this Executive order, discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent will be prohibited in Federally conducted education and training programs and activities.

1-102. No individual, on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in, a Federally conducted education or training program or activity.

Sec. 2. Definitions.

2-201. "Federally conducted education and training programs and activities" includes programs and activities conducted, operated, or undertaken by an executive department or agency.

2-202. "Education and training programs and activities" include, but are not limited to, formal schools, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and programs to train teachers.

2-203. The Attorney General is authorized to make a final determination as to whether a program falls within the scope of education and training programs and activities covered by this order, under subsection 2-202, or is excluded from coverage, under section 3.

2-204. "Military education or training programs" are those education and training programs conducted by the Department of Defense or, where the Coast Guard is concerned, the Department of Transportation, for the primary purpose of educating or training members of the armed forces or meeting a statutory requirement to educate or train Federal, State, or local civilian law enforcement officials pursuant to 10 U.S.C. Chapter 18.

2-205. "Armed forces" means the Armed Forces of the United States.

2-206. "Status as a parent" is defined as follows: an individual has the status of a parent, if, with regard to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, that individual has the status of:

- (a) a biological parent;
- (b) an adoptive parent;
- (c) a foster parent;
- (d) a stepparent;
- (e) a custodian of a legal ward;
- (f) a person who is actively seeking legal custody or adoption; or
- (g) a person who stands in loco parentis to such an individual.

Sec. 3. Exemption from coverage.

3-301. This order does not apply to members of the armed forces, military education or training programs, or authorized intelligence activities. Members of the armed forces, including students at military academies, will continue to be covered by regulations that currently bar specified forms of discrimination which are now enforced by the Department of Defense and the

individual service branches. The Department of Defense shall develop procedures to protect the rights of and to provide redress to civilians not otherwise protected by existing Federal law from discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent and who participate in military education or training programs or activities conducted by the Department of Defense.

3-302. This order does not apply to, affect, interfere with, or modify the operation of any otherwise lawful affirmative action plan or program.

3-303. An individual shall not be deemed subjected to discrimination by reason of his or her exclusion from the benefits of a program limited by Federal law, or a program established consistently with Federal law, to individuals of a particular race, sex, color, disability, national origin, age, religion, sexual orientation, or status as a parent different from his or her own.

3-304. This order does not apply to ceremonial or similar education or training programs or activities of schools conducted by the Department of Interior, Bureau of Indian Affairs, that are culturally relevant to the children represented in the school. "Culturally relevant" refers to any class, program, or activity that is fundamental to a tribe's culture, customs, traditions, heritage, or religion.

3-305. This order does not apply to (a) selections based on national origin of foreign nationals to participate in covered education or training programs, if such programs primarily concern national security or foreign policy matters; or (b) selections or other decisions regarding participation in covered education or training programs made by entities outside the Executive Branch. It shall be the policy of the Executive Branch that education or training programs or activities shall not be available to entities that select persons for participation in violation of Federal or State law.

3-306. The prohibition on discrimination on the basis of age provided in this order does not apply to age-based admissions of participants to education or training programs, if such programs have traditionally been age-specific or must be age-limited for reasons related to health or national security.

Sec. 4. Administrative enforcement.

4-401. Any person who believes himself or herself to be aggrieved by a violation of this order or its implementing regulations, rules, policies, or guidance may, personally or through a representative, file a written complaint with the agency that such person believes is in violation

- e. remedies;
- f. requirements for agency annual and tri-annual reports as set forth in section 6 of this order; and
- g. such other matters as deemed appropriate.

5-502. Within 90 days of the publication of final rules, regulations, policies, or guidance by the Attorney General, each executive department and agency shall establish a procedure to receive and address complaints regarding its Federally conducted education and training programs and activities. Each executive department and agency shall take all necessary steps to effectuate any subsequent rules, regulations, policies, or guidance issued by the Attorney General within 90 days of issuance.

5-503. The head of each executive department and agency shall be responsible for ensuring compliance within this order.

5-504. Each executive department and agency shall cooperate with the Attorney General and provide such information and assistance as the Attorney General may require in the performance of the Attorney General's functions under this order.

5-505. Upon request and to the extent practicable, the Attorney General shall provide technical advice and assistance to executive departments and agencies to assist in full compliance with this order.

Sec. 6. Reporting Requirements.

6-601. Consistent with the regulations, rules, policies, or guidance issued by the Attorney General, each executive department and agency shall submit to the Attorney General a report that summarizes the number of nature of complaints filed with the agency and the disposition of such complaints. For the first three years after the date of this order, such reports shall be submitted annually within 90 days of the end of the preceding year's activities. Subsequent reports shall be submitted every three years and with 90 days of the end of each three-year period.

Sec. 7. General Provisions.

7-701. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order 12250.

Sec. 8. Judicial Review.

8-801. This order is not intended, and should not be construed, to create any right or benefit.

substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701, et seq.

THE WHITE HOUSE,

Peter Kinnel
Julian Potter
Ann D'Leary
Heather Howard

Detken

Continued on page 25



sexual orientation and HIV/AIDS policies.

Reno also recounted attending a Human Rights Campaign dinner with her sister, and said Gay people possess "a magic" that can help bring America together.

"If you've been hurt before, you know how people can hurt," she said, "and you know how people can help."

The attorney general also recalled her own status as an outsider and said that as an adolescent she was much taller than most of her classmates and had "a bad complexion."

Deputy Attorney General Eric Holder also addressed the crowd, which included about 70 Gay staff members from the Justice Department. They gathered in Conference

in addition to Delia, Moosy presented a Jerry Roemer Community Service Award to openly Gay Assistant Attorney General Robert Raben. Roemer was a founding member of DOJ Pride who was known for his devotion to volunteerism and community service. He died from AIDS-related complications.

The Justice Department's Civil Rights Division received the James R. Douglass Award for its work on behalf of Gay people. Douglass died from AIDS-related complications in 1996.

Raben said Roemer, for whom the award he received is named, once took an ethics course Raben taught in Virginia and was brave enough to come out to him after

Barney Frank (D-Mass.) and now the Justice Department's Assistant Attorney General for Legislative Affairs. His responsibilities include lobbying Congress to gain passage of the Employment Non-Discrimination Act and the Hate Crimes Prevention Act.

"Laws are not going to change the fact that you cannot safely hold your lover's hands in most places," he said.

Raben also said too many Gay employees still "flip pronouns" when they talk about their partners at work. "We tell lies about who we are," he said, "and extraordinary numbers of us turn to alcohol and drugs."

"Stay focused," he said. "We won't be marginalized forever."▼

Clinton order bans bias in federal training programs

Continued from page 1

school systems throughout the nation to ban sexual orientation discrimination through their own actions.

The order covers "programs and activities conducted, operated, or undertaken by [a federal government] executive department or agency." Among the programs covered, the order states, are "formal schools, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and teacher training programs."

Federal GLOBE President Len Hirsch said the order will cover dozens of federal government training and education programs, many of which, Hirsch said, enroll citizens who do not work for the government. Among them, Hirsch said, are a wide variety of farm training programs offered by the Department of Agriculture and business-related programs offered by the Department of Commerce and Small Business Administration.

Most Gay federal employees are believed to be protected from discrimination in federally run training and education programs under a separate executive order that President Clinton issued in 1998. That order bars employment discrimination against all civilian Gay federal workers.

Many of the federal government's training and education programs are carried out by private contractors, and details on how

the order will affect those contractors — and whether the 1998 executive order covers those contractors — are expected to be hashed out in implementing rules that the Justice Department is responsible for developing.

Hirsch said he considers Clinton's June 23 order to be "extraordinarily important," even though its scope may be limited.

"The president is raising the standard by saying federal agencies must take into consideration actions that may discriminate, and that they must eradicate that type of discrimination," Hirsch said.

"This sends a statement to other levels of government," said M.K. Cullen, public policy director for GLSEN. "We're pleased whenever the president issues an executive order that includes sexual orientation."

Cullen said GLSEN will use the order to boost its ongoing lobbying campaign for anti-discrimination policies for Gays in the nation's local and state school programs.

The Clinton order states that it does not apply to "members of the armed forces, military education and training programs, or authorized intelligence activities."

"Members of the armed forces, including students at military academies, will continue to be covered by regulations that currently bar specified forms of discrimination that are now enforced by the Department of Defense and the individual service branches," the order states. Those regulations prohibit Gays from serving

openly in the military.

But the order leaves open the possibility that the DOD might put in place a policy to bar discrimination in educational programs for Gay civilians.

The order authorizes the U.S. attorney general to issue rules and regulations to implement the order and authorizes the attorney general to make a "final determination" on which federal education or training programs are covered by the order.

The order also requires all federal agencies and departments, during the next three years, to prepare an annual report summarizing the "number and nature of complaints filed with the agency and the disposition of such complaints" pertaining to discrimination in federally conducted education and training programs.

Clinton announced he had issued his executive order during a June 23 speech before athletes and visitors at the U.S. Olympic Training Center Community in Chula Vista, Calif. Clinton said he issued his order on the anniversary of the 1972 passage of Title IX of the U.S. civil rights code, which bans discrimination against women in public school athletic programs.

White House sources familiar with the order said Clinton initially had planned to limit the order to the type of gender-related discrimination covered under Title IX. But after further consideration, the sources said, the president decided to add nine more categories to the order, including the category of sexual orientation.

The president did not mention in his June 23 speech that the order included the category of sexual orientation, although a White House press release did mention the sexual orientation clause. Despite the press release, most of the general press as well as the Gay press did not pick up on the fact that the order included a provision on sexual orientation.

White House Gay liaison Julian Potter and the Democratic National Committee Gay liaison Mark Spengler, who normally are assigned to publicize Clinton's actions pertaining to Gays, did not issue any statements or comments on the order. Potter and Spengler could not be reached by *Blade* deadline.

Another White House source familiar with the order said some Clinton administration officials were concerned that widespread publicity of the order's sexual orientation clause would prompt conservative members of Congress to take steps to overturn the order. Congress has the authority to pass laws overturning a presidential executive order.

Beth Reis, chairperson of the Safe Schools Coalition of Washington State, which lobbies for non-discrimination policies for Gay public school students, said she fears that a lack of publicity about the order could have an equally harmful effect by preventing those who would benefit from it from learning that it exists.

"The potential good can't happen," she said, "if this gets no publicity."▼

*File EO on
non-discrimination*

 Mary L. Smith
07/14/2000 09:26:38 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Conference Call on executive order



sexeo.wpd Thanks to Susan and Rosemary we have a new draft of the executive order which would prohibit federal contractors from discriminating on the basis of sexual orientation. If this works for everyone, could we have a conference call at 1pm on Monday, July 17 to discuss the new draft? Let me know, Mary

Message Sent To:

Paul Oetken/WHO/EOP@EOP
Ann O'Leary/OPD/EOP@EOP
Heather H. Howard/OPD/EOP@EOP
Elizabeth J. Potter/WHO/EOP@EOP
Susan E. Alesi/OMB/EOP@EOP
paxton-sally@dol.gov @ inet
Helen.norton@usdoj.gov @ inet
rosemary.hart@usdoj.gov @ inet

*discrimination - against individuals
needed explicit aspects*

*Contractors - anti-discrimination
in place to ask to get
the contract*

DRAFT EXECUTIVE ORDER

Wally Gault,
- Whitehouse -
- DOFCUP

11046
W. Clinton
Dr. Miller

**Non discrimination in Employment by
Federal Contractors and Subcontractors**

It is the policy of the Federal government to secure goods and services, to complete Federal contracts, and to see federally assisted construction contracts completed in the most economical and efficient manner possible. Employment non-discrimination directly promotes efficient performance and productivity. The Federal Government has a vital interest in assuring that the largest pool of qualified workers be available for the fulfillment of its procurement needs. When Federal contractors engage in discrimination unrelated to work performance, the unavoidable consequence is a labor pool that excludes quality workers, which in turn results in a serious adverse impact upon the economy and efficiency of Federal Government procurement. In order to operate as effectively as possible, the Federal Government must ensure that the entities with which it has contractual relations not discriminate on the basis of sexual orientation.

Now therefore, to ensure the economical and efficient administration and completion of Federal Government contracts, and the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 486(a) and 3 U.S.C. 301, it is hereby ordered as follows:

Section 1. It is the policy of the Executive Branch to oppose all forms of discrimination, including discrimination on the basis of sexual orientation.

Section 2. It is the finding of the Executive Branch that discrimination on the basis of sexual orientation interferes with the economical and efficient administration and completion of Federal contracts.

Section 3. All Federal contractors are hereby forbidden to engage in discrimination on the basis of sexual orientation.

Section 4. Within 120 days of the date of this order, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to implement the following:

- (a) Prohibit non discrimination on the basis of sexual orientation by Federal contractors.
- (b) Require Federal contractors to develop a policy of equal employment opportunity under Federal contracts. This policy shall include, but not be limited to, the posting of notices to employees of the equal employment opportunity policies of this Order and the

fostering of a work environment of non discrimination on the basis of sexual orientation.

(c) The provision of remedies for violation of the terms of this Order to include termination of the contract, and debarment/suspension from government contracting.

Section 5. For the purposes of this Order, it shall be considered “discrimination on the basis of sexual orientation” for a Federal contractor, or any organizational unit thereof,

(a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual’s sexual orientation;

(b) To limit, segregate, or classify the employees or applicants for employment of the employee in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee because of the individual’s sexual orientation; or

(c) To discriminate against any individual because of the sexual orientation of the individual in admission to, employment in, any program established to provide apprenticeship or other training.

Section 6. For purposes of this Order, “sexual orientation” means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.

Section 7. This Order does not, and the implementing regulations shall not, authorize or require:

(a) Adoption or implementation of a quota on the basis of sexual orientation;

(b) Preferential treatment for any individual on the basis of sexual orientation;

(c) Entering into an order or consent decree that includes a quota, or preferential treatment to an individual based on sexual orientation; or

(d) Collection of statistics on sexual orientation.

Section 8. The fact that an employment practice has a disparate impact, as that term is used in section 703(k) of the Civil Rights Act of 1964, on the basis of sexual orientation does not establish a prima facie violation of this Order, or the implementing regulations.

Section 9. This Order does not:

- (a) Repeal or modify any federal, State, territorial, or local law, creating a special right or preference concerning employment or an employment opportunity for a veteran;
- (b) Prohibit the enforcement of rules regarding non private sexual conduct, if the rules of conduct are designated for, and uniformly applied to, all individuals regardless of sexual orientation; or
- (c) Require the provision of employee benefits to an individual for the benefit of the domestic partner of such individual.

Section 10. This Order shall not apply to a Federal contractor that is a religious organization, except that this Order shall apply to employment or an employment opportunity for an employment position of a Federal contractor that is a religious organization if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511 (a) of the Internal Revenue Code of 1986.

Section 11. Nothing in this order shall be construed to prohibit a covered entity from enforcing rules regarding non private conduct, if the rules of conduct are designated for, and uniformly applied to, all individuals regardless of sexual orientation.

Section 12. This Order shall apply only to contracts in excess of the Simplified Acquisition Threshold as defined in the Office of Federal Procurement Policy Act, 41 U.S.C. Section 403.

Section 13. This Order is effective for contracts resulting from solicitations issued on or after the effective date of final regulations promulgated pursuant to this Order.

Section 14. This order is intended only to improve the internal management of the Executive Branch, and does not create any rights or benefits, substantive or procedural, enforceable by law by a party against the United States, its agencies, its offerors, or any other person.