

fices as the President may subsequently designate. Senior officials shall be designated by the heads of their respective agencies and offices.

(3) The Initiative's Executive Director may establish subgroups of the Working Group to focus on different aspects of the educational system (such as early childhood education, K–12 education, higher education (including HBCUs and PBIs), career and technical education, adult education, or correctional education and reengagement) or educational challenges facing particular populations of African Americans (such as young men, disconnected or out-of-school youth, individuals with disabilities, children identified as gifted and talented, single-parent households, or adults already in the workforce).

(d) *Administration.* The Department shall provide funding and administrative support for the Initiative and the Working Group, to the extent permitted by law and within existing appropriations. To the extent permitted by law, other agencies and offices represented on the Working Group may detail personnel to the Initiative, to assist the Department in meeting the objectives of this order.

(e) *Collaboration Among White House Initiatives.* The Initiative may collaborate with the White House Initiatives on American Indian and Alaska Native Education, Educational Excellence for Hispanics, Asian-American and Pacific Islanders, and (consistent with section 3(c) of this order) Historically Black Colleges and Universities, whenever appropriate in light of their shared objectives.

SEC. 3. *President's Advisory Commission on Educational Excellence for African Americans.* (a) *Establishment.* There is established in the Department the President's Advisory Commission on Educational Excellence for African Americans (Commission).

(b) *Commission Mission and Scope.* The Commission shall advise the President and the Secretary on matters pertaining to the educational attainment of the African American community, including:

(1) the development, implementation, and coordination of educational programs and initiatives at the Department and other agencies to improve educational opportunities and outcomes for African Americans of all ages;

(2) efforts to increase the participation of the African American community and institutions that serve the African American community in the Department's programs and in education programs at other agencies;

(3) efforts to engage the philanthropic, business, nonprofit, and education communities in a national dialogue on the mission and objectives of this order; and

(4) the establishment of partnerships with public, private, philanthropic, and nonprofit stakeholders to meet the mission and policy objectives of this order.

The Commission shall meet periodically, but at least twice a year.

(c) *Commission Membership and Chair.*

(1) The Commission shall consist of not more than 25 members appointed by the President. The President shall designate one member of the Commission to serve as Chair. The Executive Director of the Initiative shall also serve as the Executive Director of the Commission and administer the work of the Commission. The Chair of the Commission shall work with the Executive Director to convene regular meetings of the Commission, determine its agenda, and direct its work, consistent with this order.

(2) The Commission may include individuals with relevant experience or subject-matter expertise that the President deems appropriate, as well as individuals who may serve as representatives of a variety of sectors, including the education sector (early childhood education, elementary and secondary education, higher education (including HBCUs and PBIs), career and technical education, and adult education), labor organizations, research institutions, the military, corporate and financial institutions, public and private philanthropic organizations, and nonprofit and community-based organizations at the national, State, regional, or local levels.

(3) In addition to the 25 members appointed by the President, the Commission shall also include two members from the President's Board of Advisors on Historically Black Colleges and Universities (Board), designated by the President. In turn, the Board will henceforth include two members from the Commission, designated by the President. This reciprocal arrangement will foster direct communication and vital consultations that will benefit both bodies.

(4) The Executive Director of the Commission and the Executive Director of the Board shall convene at least one annual joint meeting between the Commission and the Board for the purpose of sharing information and forging collaborative courses of action designed to fulfill their respective missions. Such meetings shall be in addition to other prescribed meetings of the Commission or Board.

(5) The Executive Director of the Commission shall be a non-voting, ex officio member of the Board and shall be the Commission's liaison to the Board; and the Executive Director of the Board shall be a non-voting, ex officio member of the Commission and shall be the Board's liaison to the Commission.

(d) *Commission Administration.* The Department shall provide funding and administrative support for the Commission, to the extent permitted by law and within existing appropriations. Members of the Commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707). Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the administration of the Commission, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary, in accordance with the guidelines issued by the Administrator of General Services.

SEC. 4. *General Provisions.* (a) The heads of agencies shall assist and provide information to the Initiative as may be necessary to carry out the functions of the Initiative, consistent with applicable law.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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## § 3412. Principal officers

### (a) Deputy Secretary of Education

(1) There shall be in the Department a Deputy Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

(2)(A) The Deputy Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i)

that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Deputy Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Deputy Secretary determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the Deputy Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

**(b) Assistant Secretaries and General Counsel**

(1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Vocational and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Civil Rights; and

(F) a General Counsel.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(3) There shall be in the Department, a Special Assistant for Gender Equity who shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate gender equity programs, including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to gender equity.

(4) There shall be in the Department a Director of the Institute of Education Sciences who shall be appointed in accordance with section 114(a) of the Education Sciences Reform Act of 2002 [20 U.S.C. 9514(a)] and perform the duties described in that Act [20 U.S.C. 9501 et seq.].

**(c) Inspector General**

There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978.

**(d) Under Secretary of Education**

There may be in the Department an Under Secretary of Education who shall perform such functions as the Secretary may prescribe. The Under Secretary shall be appointed by the Presi-

dent, by and with the advice and consent of the Senate.

**(e) Additional officers**

There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

**(f) Statements of functions of nominees**

Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

**(g) Supervision by Secretary**

Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

**(h) Coordination of literacy related functions by Assistant Secretary for Vocational and Adult Education**

The Assistant Secretary for Vocational and Adult Education, in addition to performing such functions as the Secretary may prescribe, shall have responsibility for coordination of all literacy related programs and policy initiatives in the Department. The Assistant Secretary for Vocational and Adult Education shall assist in coordinating the related activities and programs of other Federal departments and agencies.

**(i) Liaison for Community and Junior Colleges**

(1) There shall be in the Department a Liaison for Community and Junior Colleges, who shall be an officer of the Department appointed by the Secretary.

(2) The Secretary shall appoint, not later than 6 months after July 23, 1992, as the Liaison for Community and Junior Colleges a person who—

(A) has attained an associate degree from a community or junior college; or

(B) has been employed in a community or junior college setting for not less than 5 years.

(3) The Liaison for Community and Junior Colleges shall—

(A) serve as principal advisor to the Secretary on matters affecting community and junior colleges;

(B) provide guidance to programs within the Department dealing with functions affecting community and junior colleges; and

(C) work with the Federal Interagency Committee on Education to improve coordination of—

(i) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

(ii) collaborative business education partnerships; and

(iii) education programs located in, and regarding, rural areas.

(Pub. L. 96–88, title II, §202, Oct. 17, 1979, 93 Stat. 671; Pub. L. 99–145, title XII, §1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 101–509, title V, §529 [title I, §112(a)(3)(B)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 102–73, title I, §101, July 25, 1991, 105 Stat. 334; Pub. L. 102–103, title II, §201, Aug. 17, 1991, 105 Stat. 498; Pub. L. 102–325, title XV, §1553(a), July 23, 1992, 106 Stat. 838; Pub. L. 103–227, title IX, §913, Mar. 31, 1994, 108 Stat. 223; Pub. L. 103–382, title II, §271(b), Oct. 20, 1994, 108 Stat. 3929; Pub. L. 107–110, title X, §1072(e)(2), Jan. 8, 2002, 115 Stat. 2089; Pub. L. 107–279, title IV, §402(1), Nov. 5, 2002, 116 Stat. 1984; Pub. L. 112–166, §2(d)(1), Aug. 10, 2012, 126 Stat. 1284.)

#### REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (b)(4), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, which is classified generally to subchapter I (§9501 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The Inspector General Act of 1978, referred to in subsec. (c), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### AMENDMENTS

2012—Subsec. (e). Pub. L. 112–166, in introductory provisions, inserted “Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate.”

2002—Subsec. (b)(4). Pub. L. 107–279 added par. (4) and struck out former par. (4) which read as follows: “There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

“(A) appointed by the President, by and with the consent of the Senate; and

“(B) selected (giving due consideration to recommendations from the National Educational Research Policy and Priorities Board) from among individuals who—

“(i) are distinguished educational researchers or practitioners;

“(ii) have proven management ability; and

“(iii) have substantial knowledge of education within the United States.”

Subsec. (b)(3), (4). Pub. L. 107–110 redesignated par. (3), relating to Assistant Secretary for Educational Research and Improvement, as (4).

1994—Subsec. (b)(1)(E) to (G). Pub. L. 103–227, §913(1), redesignated subpars. (F) and (G) as (E) and (F), respectively, and struck out former subpar. (E) which read as follows: “an Assistant Secretary for Educational Research and Improvement;”.

Subsec. (b)(3). Pub. L. 103–382 added par. (3) relating to Special Assistant for Gender Equity.

Pub. L. 103–227, §913(2), added par. (3) relating to Assistant Secretary for Educational Research and Improvement.

1992—Subsec. (i). Pub. L. 102–325 added subsec. (i).

1991—Subsecs. (d), (e). Pub. L. 102–103 added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (h). Pub. L. 102–73 added subsec. (h).

1990—Subsec. (a). Pub. L. 101–509 substituted “a Deputy Secretary” for “an Under Secretary” in first sentence of par. (1) and “Deputy Secretary” for “Under Secretary” wherever appearing elsewhere in pars. (1) and (2).

1985—Subsec. (e). Pub. L. 99–145 struck out subsec. (e) which provided for presence in the Department of Education of an Administrator of Education for Overseas Dependents.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–103, title II, §203, Aug. 17, 1991, 105 Stat. 499, provided that:

“(a) IN GENERAL.—This Act [probably should be “this title”, meaning title II of Pub. L. 102–103, amending this section and section 5314 of Title 5, Government Organization and Employees] shall take effect on the first day of the first Department of Education pay period that begins on or after the date of enactment of this Act [Aug. 17, 1991].

“(b) SPECIAL RULE.—An incumbent in a position within the Department of Education on the day preceding the day that this Act takes effect who has been appointed by the President to a position within the Department of Education with the advice and consent of the Senate may serve as the Under Secretary at the pleasure of the President after the day preceding the day that this Act takes effect.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Education, see section 529 [title I, §112(e)] of Pub. L. 101–509, set out as a note under section 3404 of this title.

### § 3413. Office for Civil Rights

#### (a) Establishment; administration; delegation of functions

There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 3412(b) of this title. Notwithstanding the