

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

(c) This memorandum 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.

(d) The Secretary of Education is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

### § 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 Career, Technical, 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 President, 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 Career, Technical, and Adult Education**

The Assistant Secretary for Career, Technical, 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 Career, Technical, 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; Pub. L. 113-76, div. H, title III, §307(b), Jan. 17, 2014, 128 Stat. 399.)

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

2014—Subsec. (b)(1)(C). Pub. L. 113-76, §307(b)(1), substituted “Assistant Secretary for Career, Technical, and Adult Education” for “Assistant Secretary for Vocational and Adult Education”.

Subsec. (h). Pub. L. 113-76, §307(b)(2), substituted “Assistant Secretary for Career, Technical, and Adult Education” for “Assistant Secretary for Vocational and Adult Education” in two places.

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 provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 3441(a)(3) of this title.

**(b) Compliance and enforcement reports; copies submitted to Secretary**

(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

**(c) Authority of Assistant Secretary**

In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this chapter, to obtain services as authorized by section 3109 of title 5 at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.

(Pub. L. 96-88, title II, §203, Oct. 17, 1979, 93 Stat. 673.)

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(1) of this section relating to making an annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 82 of House Document No. 103-7.

## REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

**§ 3414. Office of Elementary and Secondary Education; inclusion of Office of Migrant Education**

There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate. There shall be within the Office of Elementary and Secondary Education and directly under the supervision of the Assistant Secretary for Elementary and Secondary Education, an Office of Migrant Education, which shall be responsible for the administration of programs established by part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C.