

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 018 - FOLDER -006**

**[10/23/1997 - 10/24/1997]**



**Rewarding Excellence in Teaching to Strengthen Our Schools**

*To have the best schools, we must have the best teachers . . . We should reward and recognize our best teachers.*

-- President Bill Clinton  
State of the Union Address, 1997

**The President Meets with 200 Master Teachers:** President Clinton met today with the National Board for Professional Teaching Standards and close to 200 Board-certified master teachers from all over the country. These teachers met rigorous standards and passed rigorous tests developed by the National Board for Professional Teaching Standards, an independent, nonfederal board comprised of teachers, businesspeople, and other leaders in education. The Board was established in 1987, and has been chaired over the past X years by Gov. James Hunt of North Carolina. To date, the board has established assessments in seven fields of specialization, including Early Childhood, middle school English, and high school mathematics and science, that cover half the teaching population, and awarded the first national board certification to 5 teachers in 1995. Today there are nearly 600 board-certified teachers, and teachers in all 50 states are able to participate in the National Board certification process.

**The President's Plan for Supporting Board Certified Teachers:** In his State of the Union Address, President Clinton proposed a plan to help 100,000 teachers seek board certification as Master Teachers. In his balanced budget plan, President Clinton requested \$105 million over 5 years to help the Board complete assessments in 25 academic areas covering the fields of 90% of the nation's teachers and to help defray the cost to teachers of taking part in the rigorous Board certification process. The President's proposal is designed to help reach the target -- set by the National Commission on Teaching and America's Future, chaired by Governor Hunt -- of certifying over 100,000 teachers within the next ten years. Today, President Clinton called on Congress to include funding for this program in the FY 1998 appropriations bill (status check)

**The President's Challenge: Every School District and Teachers Organization in the Country Should Have a Plan for Rewarding Excellence and for Removing Incompetence** Today, President Clinton will challenge every state to provide significant and meaningful rewards for master teachers. He will note that eight states and many local school districts are supplementing the salaries for National Board Certified Teachers, and that thirteen states are now paying the certification fee. And he will announce that, just this week, the New York City schools received a grant to boost the number of classrooms with Board-Certified teachers, and the Los Angeles schools have agreed to pay their National Board Certified teachers an additional 15%.

**The President's Plan for Recruiting and Preparing Teachers for High Poverty Communities.** The President will also call on Congress to approve his \$350 million initiative, announced at the NAACP convention this summer, to attract talented people of all backgrounds into teaching at low-income schools across the nation, and to dramatically improve the quality of training and preparation given to our future teachers. This new initiative will help bring nearly 35,000 outstanding new teachers into high-poverty schools in urban and rural areas over the next

five years. In addition, it will upgrade the quality of teacher preparation at institutions of higher education that work in partnership with local schools in inner city and poor rural areas. The President's initiative will help recruit and prepare teachers nationwide to help our neediest students succeed in the 21st century.

**Comprehensive reforms to improve public education.** The President will contrast his broad reform agenda, including high standards, better teaching, helping children to read better, getting more technology into the classroom, and public school choice through expanding charter schools, with the narrow Republican agenda that features vouchers that drain resources from our public schools.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William R. Kincaid ( CN=William R. Kincaid/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:23-OCT-1997 16:27:34.00

SUBJECT: Coverdell passed

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Jonathan H. Schnur ( CN=Jonathan H. Schnur/O=OVP @ OVP [ UNKNOWN ] )

READ:UNKNOWN

CC: Robert M. Shireman ( CN=Robert M. Shireman/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Tanya E. Martin ( CN=Tanya E. Martin/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Vote on final passage was 230-198, with 8 R's voting against and 15 D's voting for. Rangel substitute was defeated 224-199.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Alissa K. Brown ( CN=Alissa K. Brown/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:23-OCT-1997 19:34:53.00

SUBJECT: mtg

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Robert N. Weiner ( CN=Robert N. Weiner/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TEXT:

Rob Weiner will be holding a meeting in his office regarding Civil Rights Policy of Education Department. Norma Cantu and Kelly Saunders will be in attendance. If your schedule permits, or someone else from your office can attend, please come to room 128 at 10:00 am Friday the 24th.

Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sean P. Maloney ( CN=Sean P. Maloney/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:23-OCT-1997 14:46:17.00

SUBJECT: Teaching Standards Event

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Christa Robinson ( CN=Christa Robinson/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

Can you let us know who'll be writing the Potus briefing for tomorrow's event. Can we please get it by the deadline (i.e.,6:00 p.m.)?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:23-OCT-1997 14:50:39.00

SUBJECT: Re: Bilingual Education

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

thanks e.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sean P. Maloney ( CN=Sean P. Maloney/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:23-OCT-1997 19:47:07.00

SUBJECT: The President's trip to Chicago.

TO: Jonathan Orszag ( CN=Jonathan Orszag/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Jonathan H. Adashek ( CN=Jonathan H. Adashek/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Daniel Wexler ( CN=Daniel Wexler/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Dorian V. Weaver ( CN=Dorian V. Weaver/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Christopher Wayne ( CN=Christopher Wayne/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Kathleen M. Wallman ( CN=Kathleen M. Wallman/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Beth A. Viola ( CN=Beth A. Viola/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

TO: June G. Turner ( CN=June G. Turner/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Michael V. Terrell ( CN=Michael V. Terrell/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

TO: Jordan Tamagni ( CN=Jordan Tamagni/OU=WHO/O=EOP @ EOP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Aviva Steinberg ( CN=Aviva Steinberg/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Todd Stern ( CN=Todd Stern/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Stephen B. Silverman ( CN=Stephen B. Silverman/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jake Siewert ( CN=Jake Siewert/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Dan K. Rosenthal ( CN=Dan K. Rosenthal/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Sarah J. Reber ( CN=Sarah J. Reber/OU=CEA/O=EOP @ EOP [ CEA ] )  
READ:UNKNOWN

TO: Simeona F. Pasquil ( CN=Simeona F. Pasquil/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Peter R. Orszag ( CN=Peter R. Orszag/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Mary Morrison ( CN=Mary Morrison/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Minyon Moore ( CN=Minyon Moore/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Megan C. Moloney ( CN=Megan C. Moloney/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Andrew J. Mayock ( CN=Andrew J. Mayock/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Joseph P. Lockhart ( CN=Joseph P. Lockhart/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Ann F. Lewis ( CN=Ann F. Lewis/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Sara M. Latham ( CN=Sara M. Latham/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Joshua A. King ( CN=Joshua A. King/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Cynthia M. Jasso-Rotunno ( CN=Cynthia M. Jasso-Rotunno/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Katherine Hubbard ( CN=Katherine Hubbard/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Nancy V. Hernreich ( CN=Nancy V. Hernreich/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jason S. Goldberg ( CN=Jason S. Goldberg/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: D. Stephen Goodin ( CN=D. Stephen Goodin/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Andrew Friendly ( CN=Andrew Friendly/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Shelley N. Fidler ( CN=Shelley N. Fidler/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

TO: Anne M. Edwards ( CN=Anne M. Edwards/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jennifer D. Dudley ( CN=Jennifer D. Dudley/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Brenda B. Costello ( CN=Brenda B. Costello/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Carolyn E. Cleveland ( CN=Carolyn E. Cleveland/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Emily Bromberg ( CN=Emily Bromberg/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: David S. Beaubaire ( CN=David S. Beaubaire/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Nicholas R. Baldick ( CN=Nicholas R. Baldick/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Brenda M. Anders ( CN=Brenda M. Anders/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jon P. Jennings ( CN=Jon P. Jennings/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Cecily C. Williams ( CN=Cecily C. Williams/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Paul J. Weinstein Jr. ( CN=Paul J. Weinstein Jr./OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Christopher F. Walker ( CN=Christopher F. Walker/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Ann F. Walker ( CN=Ann F. Walker/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Michael Waldman ( CN=Michael Waldman/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Peter G. Umhofer ( CN=Peter G. Umhofer/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

TO: Barry J. Toiv ( CN=Barry J. Toiv/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Marjorie Tarmey ( CN=Marjorie Tarmey/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Stephanie S. Streett ( CN=Stephanie S. Streett/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Darby E. Stott ( CN=Darby E. Stott/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Craig T. Smith ( CN=Craig T. Smith/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Joshua Silverman ( CN=Joshua Silverman/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Laura D. Schwartz ( CN=Laura D. Schwartz/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Christa Robinson ( CN=Christa Robinson/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: John Podesta ( CN=John Podesta/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jennifer M. Palmieri ( CN=Jennifer M. Palmieri/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Elizabeth R. Newman ( CN=Elizabeth R. Newman/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Kevin S. Moran ( CN=Kevin S. Moran/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Linda L. Moore ( CN=Linda L. Moore/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Anne E. McGuire ( CN=Anne E. McGuire/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Bruce R. Lindsey ( CN=Bruce R. Lindsey/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Christopher J. Lavery ( CN=Christopher J. Lavery/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Karin Kullman ( CN=Karin Kullman/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Kirk T. Hanlin ( CN=Kirk T. Hanlin/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Phu D. Huynh ( CN=Phu D. Huynh/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Russell W. Horwitz ( CN=Russell W. Horwitz/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Julia R. Green ( CN=Julia R. Green/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Laura A. Graham ( CN=Laura A. Graham/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jeremy M. Gaines ( CN=Jeremy M. Gaines/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Karen E. Finney ( CN=Karen E. Finney/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Paul K. Engskov ( CN=Paul K. Engskov/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Suzanne Dale ( CN=Suzanne Dale/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Daniel K. Chang ( CN=Daniel K. Chang/OU=CEA/O=EOP @ EOP [ CEA ] )  
READ:UNKNOWN

TO: Laura K. Capps ( CN=Laura K. Capps/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Debra D. Bird ( CN=Debra D. Bird/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Barbara A. Barclay ( CN=Barbara A. Barclay/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Kris M Balderston ( CN=Kris M Balderston/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Lori L. Anderson ( CN=Lori L. Anderson/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Phillip Caplan ( CN=Phillip Caplan/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Carolyn E. Cleveland ( CN=Carolyn E. Cleveland/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

On Monday, October 27, 1997, the President will travel to Chicago, Illinois to attend the First Lady's birthday celebration. On Tuesday, he will attend an education event before returning to Washington.

Deadlines for the President's trip book are as follows:

Illinois Background Memos: DUE SUNDAY, OCT. 26 AT 3:00 PM

- Political Memo
- Economic 1-Pager
- CEQ Hot Issues
- Cabinet Affairs Hot Issues
- Accomplishments

Illinois Event Memos: DUE SUNDAY, OCT 26 AT 3:00 PM

- Birthday Party
- Education Event

Please call or e-mail me if you have any questions. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:23-OCT-1997 14:46:16.00

SUBJECT: Assaults Directive

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

EK:

I was thinking... If all else fails (or to reduce litigation risks) can't we add a hybrid and third component to the directive that requires Treasury to monitor the continued levels of importation and crime gun tracings of the sporterized weapons currently permitted to enter the country, and -- if Treasury finds that there are substantial increases in the number of these firearms being imported (i.e., from thousands to tens of thousand or more), or if there is an increase in the number of these firearms being recovered at crime scenes (i.e., percentage/# traced increases within the next 30 days) -- temporarily suspend existing permits, too.

Such a provision, I would think, would allow some imports to continue; not immediately result in a TRO; cover the criticism that existing permits for hundred of thousand of weapons are wide open; give us more time to establish a factual predicate to act on all permits, if necessary; and allow us -- hopefully with a stronger case -- to immediately suspend imports if their numbers balloon or their presence at crime scenes increases. This, of course, would not protect us from criticism if there were just one high-profile shooting with one of these weapons (which ATF claims has not happened to date) -- and may only be postponing the inevitable (increases in imports, legal challenges to overall action, etc.)

Just a thought...Also, Rahm mentioned to me that we should plan to sit down with the Senators and Administration lawyers -- before we finalize our decision -- to make sure their bought into our decision -- whatever it ends up being. I'll come up with a list of the usual gun suspects for meetings.

Jose'

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 12:21:52.00

SUBJECT:

TO: ELENA (Pager) #KAGAN ( ELENA (Pager) #KAGAN [ UNKNOWN ] )

READ:UNKNOWN

TEXT:

EK - HEARD FROM KPOPP THAT RUFF OPPOSES TEMP. SUSP. HAVE YOU SPOKEN TO HIM  
YET. JC3

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 19:41:13.00

SUBJECT: weekly

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

CC: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

I made a revision to the last sentence of this bullet. Thanks.

Immigration-- Central Americans: House Republicans are very close to unveiling legislative language to remedy certain problems the 1996 immigration created for Central Americans. Although we have yet to see the language, we have heard that it closely reflects the key principles already outlined by Reps. Diaz-Balart and Lamar Smith: 1) grants amnesty for Nicaraguans in the country before December 1995; 2) allows suspension of deportation claims to be heard under the older, more lenient standards for Guatemalans and Salvadorans; 3) retroactively applies tougher standards of suspension cases to all non-Central Americans; and 4) eliminates the unskilled worker category but grandfather individuals who are in the pipeline (about 70-75,000 visas). The Senate is preparing a similar bill which may provide greater relief to non-Central Americans with cases in the pipeline than the House version (see #3). Two key points are currently outstanding. First, there is disagreement between the House and Senate on elimination of the unskilled workers category. This provision is viewed as Chairman Smith's "price" for the legislation; conversely, Chairman Abraham is a strong opponent of reducing legal immigration and would be opposed to the precedent of eliminating a category. It is possible that Abraham will consider a moratorium on the category-- which does not technically eliminate the category-- with a commitment to take care of the existing backlog. Second, is a concern recently raised by the CBC regarding Haitians. None of the legislative proposals being developed afford relief for certain Haitians-- many of whom entered under circumstances similar to the Central Americans but may be removed from the country in the near future. In preliminary discussion, there seems to be White House and agency support to assist the Haitians, as long as it does not threaten passage of the overall legislation. The legislation was originally expected to move as part of the D.C. appropriations bill; however Chairman Faircloth has requested it to be inserted in the Commerce-Justice conference report.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mark D. Neschis@EOP@LNGTWY@LNGTWY ( Mark D. Neschis@EOP@LNGTWY@LNGTWY [ WHO

CREATION DATE/TIME:24-OCT-1997 18:45:46.00

SUBJECT: weekend shows final

TO: Nathan B. Naylor@ovp@eop ( Nathan B. Naylor@ovp@eop [ UNKNOWN ] )

READ:UNKNOWN

TO: Marjorie Tarmey@eop ( Marjorie Tarmey@eop [ WHO ] )

READ:UNKNOWN

TO: Brian D. Smith@eop ( Brian D. Smith@eop [ WHO ] )

READ:UNKNOWN

TO: Melissa Green@eop ( Melissa Green@eop [ OPD ] )

READ:UNKNOWN

TO: Cathy R. Mays@EOP ( Cathy R. Mays@EOP [ OPD ] )

READ:UNKNOWN

TO: Michele Jolin@EOP ( Michele Jolin@EOP [ CEA ] )

READ:UNKNOWN

TO: david t. johnson@eop ( david t. johnson@eop [ NSC ] )

READ:UNKNOWN

TO: Eleanor S. Parker@eop ( Eleanor S. Parker@eop [ WHO ] )

READ:UNKNOWN

TO: Maria Echaveste@eop ( Maria Echaveste@eop [ WHO ] )

READ:UNKNOWN

TO: Deborah Falk@eop ( Deborah Falk@eop [ WHO ] )

READ:UNKNOWN

TO: Bruce N. Reed@EOP ( Bruce N. Reed@EOP [ OPD ] )

READ:UNKNOWN

TO: Elena Kagan@eop ( Elena Kagan@eop [ OPD ] )

READ:UNKNOWN

TO: Christopher C. Jennings@eop ( Christopher C. Jennings@eop [ OPD ] )

READ:UNKNOWN

TO: Jason S. Goldberg@EOP ( Jason S. Goldberg@EOP [ WHO.] )

READ:UNKNOWN

TEXT:

Message Creation Date was at 24-OCT-1997 18:35:00

OCTOBER 24th 1997

MEMORANDUM TO MIKE MCCURRY, ANN LEWIS AND RAHM EMANUEL

FROM MARK NESCHIS

SUBJECT WEEKEND TELEVISION(final)

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FRIDAY OCTOBER 24th

WASHINGTON WEEK IN REVIEW

Part Two of Series on Campaign Finance:

Topic: Soft Money

Guest: Bob Woodward, Wash Post, David Shribman, Boston Globe, Elizabeth Arnold,  
NPR

SATURDAY OCTOBER 25TH  
EVANS & NOVAK (CNN)

Topic: IRS Reform

Guest: Rep. Bill Archer

INSIDE POLITICS WEEKEND (CNN)

Topic: GOP Agenda

Guest: former Vice President Dan Quayle

SUNDAY OCTOBER 26TH

FOX NEWS SUNDAY (FOX)

Topic: China

Guest: Former Secretary of State Henry Kissinger, Pat Buchanan

Topic: China, Campaign Finance, IRS

Guest: Sen. Orrin Hatch

Topic: Climate Change

Guest: Katie McGinty, White House Council on Environmental Quality  
Chair,  
Rep. John Paxon

Roundtable: Brit Hume, Juan Williams Wash. Post, Mara Liasson, NPR

FACE THE NATION(CBS)

Topic: Senate Campaign Finance Hearings

Guest: Sen. Fred Thompson

no roundtable

THIS WEEK (ABC)

Topic: IRS Reform

Guest: Secretary Robert Rubin

Topic: Microsoft & Justice Department

Guest: Steven Ballmer, Executive Vice President, Microsoft Corporation

Topic: The Stock Market  
Guest: Byron Wein, Morgan Stanley, Mark Mobius, Templeton Investments

Roundtable: Bill Kristol, George Stephanopoulos

MEET THE PRESS (NBC)

Topic: China  
Guest: Secretary of State Madeleine Albright (tapes Sunday at 7:45am)

Topic: Thompson Hearings  
Guest: Sen. John Glenn

Topic: China, Campaign Finance, IRS  
Guest: Former Senator Bill Bradley

Roundtable: Robert Novak, Chicago Sun Times, David Broder, Wash. Post,  
Lisa  
Myers, NBC News,

LATE EDITION (CNN)

Topic: China  
Guest: Pat Buchanan, Fmr. Secretary of State Lawrence Eagleburger, Rep.  
Nancy  
Pelosi, Sen. John Kerry

Topic: The Stock Market  
Guest: Elizabeth Mackay, Bear Stearns, Michael Sivvy, Money Magazine

Roundtable: Steven Roberts NY Daily News, Susan Page USA Today, Tony  
Blankley  
George Magazine

McLAUGHLIN GROUP (NBC)

Topics: China, IRS Reform, Vice President's "Ellen" comments, Thompson  
Hearings  
Guest: Eleanor Clift, Pat Buchanan, Fred Barnes, Mort Kondracke

McCLAUGHLIN One on One (NBC):

Topic: Florida Bible Case  
Guest: Jay Sekulow, American Center for Law & Justice, Elliot Minberg,  
People  
for the American Way

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice ( CN=Cynthia A. Rice/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 11:30:36.00

SUBJECT: Shalala told Olivia this morning re: TANF Reg

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

CC: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

To get over here ASAP -- today or Monday -- to settle the remaining issues with us (see my earlier email with the list).

They are apparently MOST concerned about our proposal to not have reasonable cause apply to time limit penalties for states giving domestic violence waivers.



October 24, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

RE: DPC Weekly Report

**Race: Staff Diversity at the Domestic Policy Council** -- As we come to closure on staff hiring at the Domestic Policy Council (DPC), I wanted to provide you with a breakdown on our staff diversity. Our staff is currently 69% women and 26% minority. We believe that these percentages will increase as we fill the last three slots over the next two weeks.

**Welfare: Letter to College Presidents on Students on Welfare and Work-Study** -- Last month, Secretaries Riley and Shalala sent a letter to all college presidents explaining how the welfare law affects college students on welfare. The letter encourages colleges to work with states to provide work opportunities that allow students to stay in school. In particular, the letter explains that work-study qualifies as work from our perspective, although the final decision rests with states. The two departments indicated their willingness to work with colleges that have questions or concerns about the impact of the law.

**Crime: Juvenile Crime Bill Update** -- It now appears very unlikely that Congress will enact a juvenile crime bill this year. A pending issue is whether new juvenile crime and prevention programs (including our prosecutors and afterschool programs) will be funded through the FY 98 Commerce, Justice, State Appropriations bill -- notwithstanding the fact that the Senate has yet to pass their juvenile crime authorizing legislation. We have recently heard that it is unlikely that the appropriators will fund these programs in the CJS appropriations conference report.

**Drugs: Crack Cocaine** -- The crack cocaine working group has been meeting to develop a long-term strategy on our proposal to revise crack and powder cocaine sentencing. After an initial round of Congressional staff contacts by the Justice Department and ONDCP, there does not appear to be any support at this time for our proposed sentencing revision. While Congress is unlikely to act on any revisions to cocaine sentencing this session, Senators Kennedy

and Biden recommend preparing to take a defensive posture since we may be faced with efforts next year to reduce the sentencing disparity solely through increasing powder cocaine penalties. To this end, the long term strategy will focus on significant and focused outreach as well as a targeted communications strategy for the remainder of this year and next year. Some of the additional outreach will include key members of Congress by Attorney General Reno and Director McCaffrey, as well as law enforcement, legal, local government, and drug treatment organizations. [Note to Elena: we should see the draft strategy sometime next week.]

**Drugs: ONDCP Reauthorization** -- This week, the House passed a two-year reauthorization bill for ONDCP by a voice vote. ONDCP has raised numerous concerns with the House bill. The legislation's most troubling provisions are numerical targets for significant drug use reduction that ONDCP would be required to meet within a specified and short period of time. While we took a position opposing the bill, our SAP did not contain a veto threat. The Senate Hatch/Biden compromise bill reauthorizes the drug office for seven years represents and does not contain the numerical targets in the House version. The Senate reauthorization bill may be considered by the full Senate next week.

**Immigration: Extension of Section 245(i)** -- A short-term extension of 245(i)-- which permits certain illegal immigrants to file here for legal status instead of at consulates abroad-- was included in the most recent continuing resolution. As you recall, the Senate Commerce-Justice appropriations bill contains a permanent extension of the provision and the House version does not contain any extension at all. Next week, the House is expected to take a vote on a motion to instruct conferees on extending the provision. WH Legislative Affairs says it is unclear whether the motion will pass.

**Immigration: Central Americans** -- House Republicans are very close to unveiling legislative language to remedy certain problems the 1996 immigration created for Central Americans. Although we have yet to see the language, we have heard that it closely reflects the key principles already outlined by Reps. Diaz-Balart and Lamar Smith: 1) grants amnesty for Nicaraguans in the country before December 1995; 2) allows suspension of deportation claims to be heard under the older, more lenient standards for Guatemalans and Salvadorans; 3) retroactively applies tougher standards of suspension cases to all *non*-Central Americans; and 4) eliminates the unskilled worker category but grandfather individuals who are in the pipeline (about 70-75,000 visas). The Senate is preparing a similar bill which may provide greater relief to non-Central Americans with cases in the pipeline than the House version (see #3). Two key points are currently outstanding. First, there is disagreement between the House and Senate on elimination of the unskilled workers category. This provision is viewed as Chairman Smith's "price" for the legislation; conversely, Chairman Abraham is a strong opponent of reducing legal immigration and would be opposed to the precedent of eliminating a category. It is possible that Abraham will consider a moratorium on the category-- which does not technically eliminate the category-- with a commitment to take care of the existing backlog. Second, is a concern recently raised by the CBC regarding Haitians. None of the legislative proposals being developed afford relief for certain Haitians-- many of whom entered under circumstances similar to the Central

Americans but may be removed from the country in the near future. In preliminary discussion, there seems to be White House and agency support to assist the Haitians, as long as it does not threaten passage of the overall legislation. The legislation is expected to move as part of D.C. appropriations in the next two weeks.

**Hate Crimes: Expanding the Hate Crimes Statute to Include Sexual Orientation, Disability, and Gender** -- In preparation for the November 10th White House Conference on Hate Crimes, the Attorney General has indicated that she will recommend that the federal hate crimes statute be expanded to include gender, sexual orientation, and disability. This option was supported by most interest groups and the Civil Rights Division of DOJ. Senator Kennedy had indicated he would introduce legislation to this effect shortly before or on the day of the Conference. This option, which only requires the broadest possible Commerce Clause nexus for the offense to fall within the federal statute, is expected to require a substantial increase of resources for both the FBI and U.S. Attorney offices. One other option presented to the Attorney General would have included gender, sexual orientation, and disability as new categories of hate crimes, but would have required a showing of animus by the criminal offender. This option was preferred by the FBI and federal prosecutors in order to address the concern that, without the animus provision, the statute would require federal review of most gender-related offenses.

**Education: 1996 NAEP Science Results** -- This week the National Assessment Governing Board (NAGB) released a performance report on the 1996 National Assessment of Educational Progress (NAEP) in science, showing that less than 30% of U.S. students reach proficient levels of scientific knowledge and understanding, with 29% reaching the proficient level at grades 4 and 8, and 21% demonstrating proficiency at grade 12. The basic level -- representing partial mastery of fundamental knowledge and skills -- was reached by 67% of students in grade 4, 61% in grade 8, and 57% in grade 12. The 1996 science NAEP was developed from a new content framework, so results cannot be directly compared to previous assessments. Numerical scores for the 1996 test had previously been released, but this week's report was based on levels for basic, proficient, and advanced performance approved by NAGB in August.

**Education: Vouchers/Coverdell** -- This week the House passed the Gingrich/Armey version of Sen. Coverdell's K-12 education savings accounts legislation. Vote on final passage was 230-198, with 8 Republicans voting against the bill and 15 Democrats voting for it. A Rangel substitute, which would have expanded a school construction bond provision enacted in the tax reform bill, was defeated 224-199. On Friday the Republicans canceled a mark-up of legislation that would have allowed ESEA Title VI funds to be used to pay for private school tuition. Evidently they were unable to muster sufficient Republican support to get the bill out of committee. However, Republicans will probably attempt to attach voucher language to the Riggs-Roemer charter schools bill on the House floor next week.

**Education: National Tests** -- Friday afternoon the AP ran a story indicating that the Republicans had decided to send the Labor HHS appropriations bill to you, including Goodling's

prohibition on developing or implementing national tests. Others in the media are picking up this story, though the only source for the story appears to be unidentified staff to Goodling or Ashcroft. Goodling has in fact drafted a new provision that would (1) continue to prohibit the development or implementation of national tests; (2) require the Education Department to cancel the current contract for test development; and (3) direct the National Academy of Sciences to conduct a study, with NGA and NCSL, of the feasibility of comparing the results from different, existing standardized tests, as an alternative to the national tests. The Republicans have forwarded Goodling's proposal to the Democrats, though it is not yet clear if this is intended as the first step in negotiations, or if it reflects a decision to force a veto before any final resolution that acceptable to you. We are working closely with Obey to determine how best to respond. In addition, we have indicated to the press that this "compromise" is unacceptable to you, and that this provision would cause you to veto the bill--as you stated clearly in your remarks to the National Board for Professional Teaching Standards.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 15:18:52.00

SUBJECT: Proposed Directive on Modified Assault Weapons

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Karen A. Popp ( .CN=Karen A. Popp/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Rajiv Y. Mody ( CN=Rajiv Y. Mody/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

CC: Peter G. Jacoby ( CN=Peter G. Jacoby/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

CC: Tracey E. Thornton ( CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

CC: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Rahm, Elena, et. al.:

Here's the final list on today's meeting with Hill folks and Handgun Control. Also, we've moved it to Rm 211 to make sure there's enough room.

1. Wilkie Green -- Feinstein
2. Chris Putala -- Biden
3. David Yasky -- Schumer
4. Sean McDonough -- McCarthy
5. Bob Walker -- Handgun Control
6. Neal Wolin -- Treasury Counsel
7. Sandr (?) -- DOJ Civil Div.
8. Mark (?) -- DOJ Civil Div.

Jose'

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 15:09:39.00

SUBJECT: DLC speech and service

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Still hoping to push a bit of service into the DLC speech, although I know main topic(s) are taken. But perhaps something like this could go in an intro, where he would presumably talk about the DLC role or his relationship with the DLC.... I will be pushing this with Silverman.

Our work together has borne fruit in many areas, including moving toward our vision of revitalizing citizen service. We had to overcome obstacles, but today members of the AmeriCorps program are making contributions all across the country.

Six months ago today, I convened a Presidents[], summit on service in Philadelphia that focused on service for children. Today I will sign an appropriations bill that will give AmeriCorps its first [significant] increase in funding since [AmeriCorps[], founding?]. Those funds will support one of my highest priorities, the America Reads initiative, the national campaign to ensure that every child can read well and independently by the third grade. They will allow us to demonstrate that service gets things done, even as the act of serving transforms the individual and contributes to a renewed sense of citizenship.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 24-OCT-1997 10:32:50.00

SUBJECT: what the President thinks too

TO: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ: UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ: UNKNOWN

TEXT:  
TRB FROM WASHINGTON: CHOOSE  
OR LOSE

By Jonathan Rauch

The trouble with Washington--oh, all right, a trouble--is that there is so little correspondence between nice ideas and nice people. My North Carolina friends tell me that if you want an amiable fishing companion for a weekend, you could hardly do better than Jesse Helms. On the other hand, every so often a flint-eyed curmudgeon gets it right. Take Congressman Charles Taylor of North Carolina. In an article not long ago, The Washington Post portrayed Taylor, a Republican who grudgingly doles out federal appropriations for the District of Columbia, as a steel-sided, cold-hearted man whose "disdain" for the District is "palpable." As if that were not enough, among his steel-sided, cold-hearted, hard-nosed suggestions was one that the District should adopt educational vouchers, so that parents "can vote with their feet and escape this abysmal system." To that end, he mischievously tucked 2,000 "scholarships" into his appropriations bill, with the noisy support of the House Republican leadership and to the predictable and continuing outrage of the White House and the Democrats.

I've always found it a little odd that liberals hand the voucher idea to Republicans like Taylor and Newt Gingrich, rather than grabbing it for themselves. It is true that in many places vouchers are a solution in search of a problem: it's hard to get excited about improving rich suburban high schools that act as feeders for Ivy League colleges. However, for poor children, trapped in execrable schools, the case is moral rather than merely educational. These kids attend schools which cannot protect their physical safety, much less teach them. To require poor people to go to dangerous, dysfunctional schools that better-off people fled years ago, and that better-off people would never tolerate for their own children--all the while intoning pieties about "saving" public education--is

worse than unsound public policy. It is repugnant public policy.

Moreover, the arguments against school choice are as intellectually flimsy as any set of arguments in public policy today. Will choice destroy the public school system? Competing with Toyota did not destroy GM, and it certainly did not do GM's customers any harm. Our higher education system is voucherized, inasmuch as you can take your federal loans and scholarships anywhere, and our public universities are none the worse for that. Interestingly, we have no gun-ridden, educationally dysfunctional state universities--not one. Imagine that.

Will choice leave the weakest students or the most ignorant parents isolated in rotten schools? The hostage-taking philosophy implicit in this argument--lock some in because others may not have the sense or ability to leave--is ethically peculiar, to say the least. But set that aside. If you believe that educational competition will make the system worse for those who cannot leave, then you should also believe that automotive competition has left millions of Americans stuck buying rattletrap Fords and Chevies that are worse than the 1978 models. Faced with the imminent flight of their customers, public schools will scream at first, and then flounder and then, as a last resort, begin to get their act together.

With choice, will taxpayers pour money into second-rate, fad-ridden, educationally dubious institutions? Will children end up in schools where history is bizarrely Afrocentric, math puts "reasoning" ahead of right answers, books are dumbed down, academics are downplayed, and standards are otherwise poor? What a shame if anything like that ever happened! It is hard to see how people will be made worse off by the chance to decide whether to keep what they have now or try something that they may like better. Some parents will pick bad schools, but surely that is better than letting bad schools pick parents.

"In the first independent evaluation of Cleveland's groundbreaking school voucher program," The New York Times reported recently, "a Harvard University study has found that the program was very popular with parents and raised the scores of those students tested at the end of the first year." Another study, reported in The Public Interest, finds that choice not only improves schools but strengthens parents' ties to them. In fact, if there is any objection that makes real sense, it comes not from the education establishment but from the libertarian right: when all students get government vouchers, all schools may gradually become government schools.

Maybe, but in the District of Columbia, now is not the time to worry about preserving the integrity of

private education. We're talking about a public school system which, as the District's financial control board reported when taking over the schools late last year, loses 40 percent of its students between grades nine and graduation; whose superintendent's budget is four times the average of neighboring districts; whose board of education budget is larger than Chicago's, though Chicago has five times as many students; which spends much more per student than the national average, though it couldn't say how much because the system did not know how many students it had. What does all that money buy? According to the control board, the longer students stay in the D.C. schools, the "less likely they are to succeed educationally." What baffles me most about vouchers is liberals' resistance to them, a fact which reflects more poorly on liberalism than any other fact I know. The case for school vouchers is the classic case of consumers against monopolies, the case that Ralph Nader and the Consumers Union taught us all in the 1970s. Vouchers are also a classic opportunity to equalize opportunity. Why should the poor be denied more control over their most important means of social advancement, when soccer moms and latte-drinkers take for granted that they can buy their way out of a school (or a school district) that abuses or annoys them?

No one, of course, expects the Democrats to reverse their position on school choice overnight. That is not how politics works. What is disturbing, though, is their adamant refusal even to entertain the idea. In a political movement or party, real corruption, as opposed to the pettifogging kind, comes when the leaders place the interests of politicians and public-service providers over the interests of their constituents, especially their poorest and weakest constituents. By embracing school choice--if not everywhere, then at least somewhere--liberals could at one stroke emancipate the District's schoolchildren while also emancipating liberalism from that basest sort of corruption. Now is a moment, one might add, when the Democratic Party could do with looking a little less corrupt.

JONATHAN RAUCH

Jonathan Rauch is author of *Demosclerosis: The Silent Killer of American Government* (Times Books).

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Table of Contents:  
The New Republic

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice ( CN=Cynthia A. Rice/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 09:16:57.00

SUBJECT: Pls review: New Waiver Proposal/Update on Reg Negotiation

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

CC: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

As the attached document shows, we've made good progress on our issues in the TANF reg negotiations so far. There are about 8-10 issues that still need to be resolved.

But first, we need as soon as possible to decide our position on waivers. Please review the new option described in the attached, which is designed to try to narrow the scope of the provision without rendering it meaningless (not an easy task, we've found).

Is it possible for us to meet this afternoon to discuss the waiver issue specifically? HHS is awaiting our position on this issue. We'd also be happy to discuss any of the other issues.

OMB's plan for the next step in the negotiation is for Sally Katzen to host an OMB-HHS-DPC meeting to try to settle the unresolved issues.

Please review the chart in preparation for a meeting to be scheduled and chaired by Sally Katzen===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D55]MAIL457443698.216 to ASCII,  
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## I. STATUTE

“Waivers in Effect on Date of Enactment of Welfare Reform”: “... if any waiver granted to a state...is in effect as of the date of enactment..., the amendments made by [PRWORA]...shall not apply with respect to the state before the expiration (determined without regard to any extension) of the waiver to the extent such amendments are inconsistent with the waiver.”

“Waivers Approved Subsequently” section says that such a waiver “shall not affect the applicability of section 407 to the state.” (Work requirements)

Legislative History: statutory language was narrowed from ‘if have a waiver, new law does not apply’ to “inconsistent” standard. Final report language added clause re: “program features of state program not specifically covered by the waiver must conform to this part.”

## II. HHS PROPOSED REG

### Legal Theory:

A provision of TANF is inconsistent with a waiver only if the State must change its waiver policy in order to comply. The definition of a waiver can include applicable provisions of prior law if their inclusion was necessary to achieve the objective of the approved waiver. For example, a state whose waiver program counted community college attendance as work did not need a waiver of AFDC law in order to do this. The reg would permit such a practice to continue, because it would require a change in state policy to do otherwise, and it’s inconsistent with TANF’s definition of work. Legally, the reg defends the decision to consider prior law as part of the waiver on the grounds that doing otherwise would allow very few waiver practices to continue (largely just time limits), rendering that section of the law meaningless.

### Policy Effect:

#### Work Requirements:

Section 407 doesn’t apply to waivers to the extent their features are inconsistent with current law. Examples given are looser definitions of work and requiring fewer hours of work per week to be counted as working. However, states may not claim inconsistencies that affect the denominator of the participation rates -- i.e., limit the universe of people to whom the participation rates are applied. The reg defends this decision by noting that HHS never granted a waiver of a participation rate, nor a waiver that granted new exemptions from work requirements.

#### Time Limits:

States whose waivers have time limits may use their waiver’s more liberal exemption and extension policies.

- Extensions -- The draft reg says that both the federal and state clocks must start ticking simultaneously but that, once the federal clock expires, the state may grant extensions in accordance with the approved waiver until the waiver expires. The reg also says that a state need not comply with the law’s 20% limit on exemptions if its waiver’s extension policies cause it to exceed 20%.
- Exemptions -- The draft reg also says that months during which a recipient is exempt from time limits because of waiver policy do not count toward the federal five-year limit.

### III. OUR PROPOSAL

The Challenge: To define “inconsistent” in a way that narrows the effect of the provision without rendering the entire provision meaningless.

#### Work Requirements:

- Argue that definitions of work activity were not necessary to achieve objective of approved waiver (objective was to put more people to work)-- thus no grandfathering of more liberal job search and vocational criteria.
- Alternative argument with the same result: Only permit specific items waived from compliance with prior law, rather than allowing states to import “provisions of prior law” into the definition of waiver. In this case, the definition of work in any waiver could not be inconsistent with the law, because in no case was the definition of work activities a “program feature...specifically covered by the waiver”. Thus more liberal definitions of job search and vocational education could not be continued under the guise of waivers. [This theory may not, however, allow the policy listed in next bullet below; thus it may result in the provision having no effect on work rates, which HHS argues it must since the statute specifically exempts “waivers granted subsequently” from having any effect on work rates.]
- Allow, as the draft reg now does, for waivers to be considered inconsistent if they specified the number of hours of work to be determined according to individual circumstances, but make explicit that these inconsistent waivers can only be continued in the same geographic areas as originally approved in the waiver and in effect at date of enactment [i.e., if a state had approval to expand a waiver statewide but had not done so yet, it could not].

#### Time Limits:

- Allow, as the draft reg now does, for exemption and extension policies to be considered inconsistent, but make explicit that these waivers can only be continued in the same geographic areas as originally approved in the waiver and in effect at date of enactment [i.e., if a state had approval to expand a waiver statewide but had not done so yet, it could not].

#### Changes Applying to Both Work Requirements and Time Limits:

- A state that continues a waiver inconsistent with PRWORA’s time limits or work requirements shall not be eligible for a high performance bonus or a caseload reduction credit.
- A state that continues a waiver inconsistent with PRWORA’s time limits or work requirements shall not be eligible to receive a reasonable cause penalty exception, to enter into a corrective action plan, or receive reduced penalties.
- In order to continue a waiver inconsistent with PRWORA’s time limits or work requirements, the state must notify the Secretary in writing in a letter signed by the governor.
- The regulation shall place the burden of proof that waivers are inconsistent with the law on the state and must collect information necessary for the Secretary to make that determination.

**IV. EFFECT ON STATES**

**Comparison of Proposals: Effect on Connecticut**

	State View of Effect of New Law	HHS Proposed Reg	Our Proposal
Under waiver, state could offer exemptions from and extensions to the time limits in conformance with its waiver	Continue	Continue	Continue, but only to extent that state had implemented this when law was passed
Definition of work that includes unlimited job search	Continue	Continue	No
Individualized employability plans that allow state to tailor hours of work	Continue	Continue	Continue, but only to extent that state had implemented this when law was passed
Exempting categories of people from work requirements and participation rates	Continue	No	No
Old control group cases from demonstration can continue all AFDC policies	Continue	Continue, as long as state maintains research group treatments for the purpose of completing an impact evaluation.	Continue, as long as state maintains research group treatments for the purpose of completing an impact evaluation.

**States with work policies that could override the law (as identified by states):**

Connecticut	Delaware
Hawaii	Illinois
Massachusetts	Minnesota
Missouri	Nebraska
New Hampshire	South Carolina
South Dakota	Tennessee
Texas	Utah
Virginia	Washington

**Also possibly:**

Georgia	Iowa
Kansas	Michigan
Montana	North Carolina
North Dakota	Oregon
Vermont	Wisconsin

**States with time limit policies that could override the law:**

Connecticut

Florida

Illinois

Louisiana

North Carolina

Oregon

Tennessee

Wisconsin

Delaware

Hawaii

Iowa

Nebraska

Ohio

South Carolina

Virginia

Automated Records Management System

Hex-Dump Conversion

<b>Proposed Change</b>	<b>Change Made</b>	<b>Partial Change Made</b>	<b>To Be Resolved</b>
<b>DOMESTIC VIOLENCE</b>			
1) HHS <u>may</u> grant reasonable cause exemptions from penalties to states that fail to meet the work participation rates due to granting of good cause domestic violence waivers.		X <sup>1</sup>	
2) States will be exempted from penalties only if they fail the work rate by no more than the number of individuals granted good cause waivers multiplied by the participation rate.	X		
3) HHS may grant reasonable cause exemptions from penalties for those good cause domestic violence waivers only for waivers that were granted <u>appropriately</u> .	X		
4) HHS may grant reasonable cause exemptions from penalties only for good cause domestic violence waivers that are temporary ( <u>less than six months long</u> ).	X		
5) HHS shall not grant reasonable cause exceptions to penalties to states for exempting more than 20 percent of the caseload from the five year time limit due to granting of good cause domestic violence waivers.			X
<b>CASELOAD REDUCTION CREDIT</b>			
1) States that have expanded eligibility shall not get credit for caseload reductions that would have happened in	X		

---

<sup>1</sup> The reg is now changed to say the the Secretary “will determine whether a State has reasonable cause based on its demonstration that its failure to meet the work participation rates is attributable to its provision of good cause domestic violence waivers. If a state fails to meet these standards to the satisfaction of the Secretary, the Secretary will not grant the exemption.”  
Is this enough?

Proposed Change	Change Made	Partial Change Made	To Be Resolved
the absence of the expansion.			
2) States shall not have a choice of applying the two parent caseload reduction or the overall caseload reduction as a credit to the two parent work participation rate.			X
3) HHS shall <u>not</u> have the option to allow states to exclude some or all families in any separate State program from the caseload reduction calculation "based on nature of benefits provided."			X
4) Fingerprinting, drug testing, and whole grant sanctions shall not be defined as eligibility changes that must be factored out of the caseload credit.		X <sup>2</sup>	
5) Individuals receiving one-time, short-term assistance, or services with no monetary value shall not be eliminated from the caseload reduction credit calculation.		X <sup>3</sup>	
6) States shall report eligibility changes on a form consistent across states and the regulation shall define a more specific set of criteria upon which the Secretary shall evaluate this information.	X		
<b>PENALTIES</b>			

<sup>2</sup> The reg now refers more generally to excluding "procedural changes that have the effect of delaying or denying eligibility" but HHS policy would be to tell states that caseload changes from fingerprinting, etc., should count in that category. This HHS policy could help prevent states from gutting the work requirements: by not allowing a state to claim a caseload credit for caseload reductions due to fingerprinting (up to 15% in some states) the policy could prevent a state from lowering its work rate from, say, 50% to 35%.

<sup>3</sup> The reg eliminates these cases from both comparison years, thus making more of an "apples to apples" comparison. For purposes of calculating the caseload credit, the TANF + MOE caseload not receiving short-term or non-monetary assistance in a given year is compared to the FY 1995 AFDC caseload without any short-time Emergency Assistance cases. The policy effect of this definition is that states that shift their services from monthly cash grants to either non-monetary services or one-time diversion grants will receive higher caseload credits.

Proposed Change	Change Made	Partial Change Made	To Be Resolved
1) In order for a state to be eligible to receive a reasonable cause penalty exception, to enter into a corrective compliance plan, or receive reduced penalties (“some or all”) or penalties based on degree of non-compliance, a state must prove that it did not divert families to a separate state program for purposes of avoiding the work participation rates or preventing the federal collection of child support.	X <sup>4</sup>		X <sup>5</sup>
2) States may not retrospectively reclassify families in TANF as “state only” in order to game the work rates.	X		
3) States shall provide quarterly data regarding how many people have been sanctioned for not working. The data reports shall include the information necessary to determine if the state imposed a pro-rata reduction required by law, and whether the state required the individual to perform work within two years.	X <sup>6</sup>		
4) HHS shall enter into a corrective	X		X <sup>7</sup>

<sup>4</sup> HHS has made the following changes: in order to be eligible for a reasonable cause penalty exception or a reduced penalty based on degree of non-compliance, a state must prove that it did not divert families to a separate state program for the purpose of avoiding work participation rates.

<sup>5</sup> HHS has not agreed to make the following changes: 1) in order to enter into corrective compliance plan or receive a reduction in penalties (“some or all”) for not correcting a failure through such a plan, a state must prove that it did not divert families to a separate state program for the purpose of avoiding work participation rates; 2) condition a state’s eligibility for any of the penalty exceptions/reductions on the state proving that it did not divert families in order to prevent the federal collection of child support; and 3) to collect data that will help determine if states are diverting individuals to separate state programs (include in the MOE data report information on whether individuals served in the separate state program were on TANF within the last six months).

<sup>6</sup> Need to confirm through change pages.

<sup>7</sup> HHS does not want to limit the compliance plan to six months. They’ve made the

Proposed Change	Change Made	Partial Change Made	To Be Resolved
action plan with a state only if such a plan: a) contains monthly process and outcome goals that the state must meet in order to continue to operate under a corrective action plan; b) contains significant new actions the state plans to take to meet the law's requirements; c) contains a letter signed by the governor outlining the need for the corrective action plan; d) <u>shall be no longer than six months.</u>	(all but six month limit)		
5) The regulations shall detail a sliding penalty scale that will be imposed based on degree of noncompliance with the work participation rates.	X <sup>8</sup>		X <sup>9</sup>
6) Eliminate the option for the Secretary to reduce the penalty on a state that has failed to correct a violation through a corrective compliance plan if a state a) expended more resources; b) made substantial progress; or c) encountered circumstances that could not have been anticipated.			X <sup>10</sup>

argument that the statute allows states up to two months to complete and file the plan, so in reality the compliance plan is in effect for 10 months. A six month time limit would give states only four months to comply.

<sup>8</sup> HHS has agreed to a sliding scale as follows: only states that met at least 75 percent of the work participation rate (e.g., 75% of 30% or 22.5%) would be eligible for a sliding penalty based on degree of non-compliance. All states falling below that standard will receive the full penalty. If a state failed both the overall and the two parent work rates, then its penalty would be reduced in direct proportion to the level of achievement above the 75 percent threshold (e.g., if a state were halfway between 22.5% and 30%, its penalty would be reduced in half). If a state failed only the two parent rate, its penalty would be first be multiplied by 10 percent and then reduced in direct proportion to the level of achievement above the 75 percent threshold.

<sup>9</sup> We proposed that the threshold be raised from 75 percent to 90 percent -- only states meeting a 90 percent of the work participation rate would be eligible for a sliding penalty based on degree of non-compliance. HHS has objected to this change.

<sup>10</sup> HHS has proposed only minor word changes to this section, such as adding "expended significantly more resources", made "substantial progress", and "encountered overriding circumstances that were beyond its control and could not have been anticipated."

Proposed Change	Change Made	Partial Change Made	To Be Resolved
7) OMB has sought to allow the Secretary to include certain child only cases in the work participation rate (denominator and, if applicable, numerator) if the Secretary determines that the state re-classified families as "child only" for purposes of avoiding the work rates (by statute, the work rates don't apply to child only cases).			X
<b>ADMINISTRATIVE COSTS</b>			
1) OMB has sought to have a federal, rather than state, definition of administrative costs, which the statute limits to 15 percent of the total block grant.		X <sup>11</sup>	X <sup>12</sup>
<b>WAIVERS</b>			HHS is awaiting our proposal.

<sup>11</sup> OMB has succeeded in getting HHS to agree to include several types of spending in a federal definition.

<sup>12</sup> OMB is still seeking to include spending on case management and eligibility determination in the federal definition of administrative costs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:24-OCT-1997 19:33:48.00

SUBJECT:

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Weekly Report did not include Health Care



**Expanding the Hate Crimes Statute to Include Sexual Orientation, Disability, and Gender.** In preparation for the November 10th White House Conference on Hate Crimes, the Attorney General has indicated that she will recommend that the federal hate crimes statute be expanded to include gender, sexual orientation, and disability. This option was supported by most interest groups and the Civil Rights Division of DOJ. Senator Kennedy had indicated he would introduce legislation to this effect shortly before or on the day of the Conference. This option, which only requires the broadest possible Commerce Clause nexus for the offense to fall within the federal statute, is expected to require a substantial increase of resources for both the FBI and U.S. Attorney offices. One other option presented to the Attorney General would have included gender, sexual orientation, and disability as new categories of hate crimes, but would have required a showing of animus by the criminal offender. This option was preferred by the FBI and federal prosecutors in order to address the concern that, without the animus provision, the statute would require federal review of most gender-related offenses.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice ( CN=Cynthia A. Rice/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 13:55:31.00

SUBJECT: Update from Barry re: Labor-HHS/Murray

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 10/24/97  
01:53 PM -----

Barry White

10/24/97 01:14:36 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc: Lisa M. Kountoupes/OMB/EOP, Keith J. Fontenot/OMB/EOP, Anil  
Kakani/OMB/EOP

Subject: Re: Has anything happened in Labor-HHS re: Murray?

I haven't been able to raise Chow yet, but here's what I'm told by House Democratic staff.

Murray continues to hold out for her language in the bill itself, not the report. Obey spoke in support of her. Republican members opposed. Senate Republican staff have been told to try to craft something "narrower" that might be considered. House D staff don't know what that might be, nor are they being asked to participate.

They don't think a bill language provision can make it through. They have been talked to by Murray staff in a manner similar to the treatment we got.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 21:23:02.00

SUBJECT: Food safety and Race

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TEXT:

O'Hara from HHS called and said DPC probably needs to call a meeting to get HHS/USTR/USDA together to get a bill out of them. If you agree, I'll go ahead and call a meeting for next week.

Richard Socrates said Sylvia is planning on sending a long race memo to the President early next week and including a few sentences on the Hate Crimes Conference basics, Richard has already drafted the logistical description.

Have a great weekend.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:24-OCT-1997 13:47:17.00

SUBJECT: higher ed

TO: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

I spoke with Stan Ikenberry (sp) and he said that he would be happy to get together. Besides Joe Duffy and Donna S. who else in the Administration has been a college President. Wofford? Others? I think that shalala mentioned someone else, but i can't remember. who from doe? thanks.



1. **Domestic Violence** - HHS shall not grant reasonable cause exceptions to penalties to states that exempt more than 20 percent of their caseload from the five year time limit due to the granting of good cause domestic violence waivers.
2. **Penalty; Diversion to Separate State Programs** -To discourage states from diverting families from TANF to state programs in order to avoid work penalties or avoid sharing child support collections with the federal government, add these provisions to the proposed reg:
  - a) In order to enter into corrective compliance plan or receive a reduction in penalties (“some or all”) for not correcting a failure through such a plan, a state must prove that it did not divert families to a separate state program for the purpose of avoiding work participation rates.
  - b) In order for a state to be eligible to receive a reasonable cause penalty exception, to enter into a corrective compliance plan, or receive reduced penalties (“some or all”) or penalties based on degree of non-compliance, a state must prove that it did not divert families to a separate state program for purposes of preventing the federal collection of child support.
  - c) Include in the MOE data report information on whether individuals served in the separate state program were on TANF within the last six months, to help the Secretary determine if diversion has occurred.
3. **Penalty** - States that achieve at least 90 percent (rather than 75 percent) of the required work participation rate shall be eligible for a reduced penalty based on degree of non-compliance.
4. **Penalty; Compliance Plan** -
  - a) Reduce the amount of time that States have to complete corrective actions from 12 to 6 months.
  - b) Eliminate the option for the Secretary to reduce the penalty on a state that has failed to correct a violation through a corrective compliance plan if a state expended more resources, made substantial progress, or encountered circumstances that could not have been anticipated.

5. **Caseload Reduction Factor** - Remove two provisions relating to the ~~Caseload Reduction~~ <sup>High Demand Education</sup> factor calculation:

- a) The first would provide states with a choice of applying the two parent caseload reduction or the overall caseload reduction as a credit to the two parent work participation rate.
- b) The second would give HHS the option to allow states to exclude some or all families in any separate State program from the caseload reduction calculation "based on nature of benefits provided."

6. **Child Only Cases** - Upon review of State classification of child only cases, if the Secretary determines that they are not legitimately classified, the Secretary will reclassify the cases to count toward the participation rates and time limits.

7. **Waivers** -

- a) Prior law definitions of work activity (e.g., job search and vocational education) may not be continued under waivers;
- b) Waivers that are inconsistent can only be continued in the same geographic areas as they were originally approved in the waiver and were in effect on date of enactment;
- c) A state that continues a waiver inconsistent with PRWORA's time limits or work requirements shall not be eligible for a high performance bonus or a caseload reduction credit;
- d) A state that continues a waiver inconsistent with PRWORA's time limits or work requirements shall not be eligible to receive a reasonable cause penalty exception, to enter into a corrective compliance plan, or receive reduced penalties;
- e) In order to continue a waiver inconsistent with PRWORA's time limits or work requirements, the state must notify the Secretary in writing in a letter signed by the governor.

8. **Administrative Costs** - Include case management and eligibility determination in the definition of administrative costs.

10/24/97 7:30pm

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William R. Kincaid ( CN=William R. Kincaid/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 19:22:25.00

SUBJECT: Congressional schedule

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Robert M. Shireman ( CN=Robert M. Shireman/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Jonathan H. Schnur ( CN=Jonathan H. Schnur/O=OVP @ OVP [ UNKNOWN ] )

READ:UNKNOWN

CC: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

This is from OMB. Looks like Wednesday is their big education day.

HOUSE:

Wednesday, October 29th, and the balance of the week  
Consider H.R. 2493 - Providing for Uniform Management of Livestock Grazing  
on Federal Lands (Subject to a Rule)

[SAP pending: Secretary of the Interior recommends veto]

H.R. 2616 - Charter Schools Amendments Act of 1997 (Subject to a Rule)

(School Vouchers bill may get attached to the bill)

[Rules SAP sent, 9/23: Administration supports House passage, but  
has concerns about provisions in the bill that would extend, from  
3 years to 5, the period for which Federal assistance  
could be provided to individual charter schools.]

(Possible) Consider H.R. \_\_ HELP Scholarships Act (i.e. School Vouchers  
bill) (Subject to a Rule)

[SAP under discussion; Secretary veto letter cleared for Committee  
action - markup postponed]

Consider H.R. 2614 - Reading Excellence Act (Subject to a Rule)

[SAP under development]

Consider remaining conference reports, as available

Message Sent

To: \_\_\_\_\_

Ann F. Lewis/WHO/EOP

Ruby Shamir/WHO/EOP

Michael Cohen/OPD/EOP

William R. Kincaid/OPD/EOP

Tanya E. Martin/OPD/EOP





**Mental Health Parity Regulations.** On Tuesday, *The New York Times* inaccurately reported on the status of the Administration's interpretation of the "1 percent" exemption provision of the mental health parity statute. This provision allows businesses/health plans to opt out of the law's requirements if the costs of coming into compliance increase premiums by more than 1 percent. The *Times* reported that the White House was likely to make a decision to allow companies to prospectively project that the costs associated with the new law would exceed the threshold.

[The mental health community strongly opposes anything other than a fully retrospective analysis, which would ensure that no business could obtain an exemption from the law until after they had to pay premiums for the first full year of implementation (1998)]. After briefing the mental health community on three implementation options, some advocates decided that the best way to kill the options they liked least was to tell the *Times*' Robert Pear that we were likely to interpret the law in an unfavorable "prospective" manner. The truth is that the Departments had not even made a preliminary decision, let alone forwarded one to Sally Katzen's (OIRA) shop at OMB. The unfortunate consequence of the publicity is that the business community, who want a prospective interpretation, are now more engaged they ever would have been on this issue. It is likely that the Departments will soon send up the regulation for OMB's review. Our flexibility in interpreting the law is unclear, but if we have some leeway, we hope to opt for a more retrospective approach.

**Dr. Satcher Reported Out of Committee.** On Wednesday, Dr. David Satcher was favorably reported out of the Senate Labor and Human Resources Committee with a 12-5 vote. Most of the members were effusive in their praise for him and their optimism for his confirmation before the whole Senate before Congress recesses for the winter. However, a few members, Senator Coats in particular, made a major push against Dr. Satcher's nomination based on his stated support for the Administration's position on the partial birth issue. The primary concern, of course, is that the Republicans may use Dr. Satcher's confirmation vote as yet another vehicle for their politicization of this issue. While we remain generally optimistic that Dr. Satcher will be confirmed, we have notified communications and legislative affairs to be prepared for a strong Administration defense.

**Preliminary Quality Commission Report on Consumer Bill of Rights.** This week the Quality Commission released its preliminary recommendations that responded to your request for them to develop a Consumer Bill of Rights. They recommended consensus recommendations of every member of this diverse commission (insurers, consumers, providers, etc.) They were generally well received, although advocates on both sides of the issue thought they went too far or not far enough. Because of the successful perception of their recommendations, there is an interest in the White House for holding an event to highlight the final recommendations in mid-November. At that event we could consider the possibility of your announcing a position that at least some aspects of the Consumer Bill of Rights should be enforced through Federal legislation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 15:48:18.00

SUBJECT: Re: Proposed Directive on Modified Assault Weapons

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

yes, she is. i didn't add the wh people. jc3

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul J. Weinstein Jr. ( CN=Paul J. Weinstein Jr./OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 24-OCT-1997 19:24:57.00

SUBJECT: DPC Diversity

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP [ OPD ] )

READ: UNKNOWN

Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP [ OPD ] )

READ: UNKNOWN

TEXT:

Female Staffers

Kagan

Robinson

Fernandes

Emmett

Mays

Washington

Balderston

Bianchi

Smith

Martin

Shimabukuro

Klein

Rabner

Rice

Fortuna

Kane

Minorities

Fernandes

Cerda

Shimabukuro

Smith

Martin

Washington

All Staff (Includes Detailees, Staff on White Payroll, and DPC Payroll. This figure includes only those individuals who meet the following criteria: 1. Bruce can hire or fire [alone or in conjunction with someone else]. 2. They report directly to Bruce [alone or in conjunction with someone else]. 3. They work in the West Wing or OEOB. 4. They are on the Office of Policy Development Budget. Using these criteria, the following employees are eliminated: Magaziner, Masten, Thurman, Whillock, Byrne, Mande, Lambrew, and Summers.)

Reed

Kagan

Weinstein

Robinson

Mays

Emmett

Jennings

Bianchi

Rice  
Fortuna  
Kane  
Cohen  
Kincaid  
Martin  
Klein  
Rabner  
Cerda  
Shimabukuro  
Washington  
Balderston  
Freedman  
Smith  
Fernandes

Open Slots

Associate Director for Policy Planning and Public Health  
Associate Director for Children's and Families (Neera Tanden)  
Policy Assistant for Welfare Reform and Health Care Teams.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 24-OCT-1997 10:36:35.00

SUBJECT: ivory towers

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ: UNKNOWN

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [ OPD ] )

READ: UNKNOWN

TO: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [ OPD ] )

READ: UNKNOWN

TEXT:

This may be a phony issue, but maybe not. In any event, it's the sort of phony issue we would normally be doing a lot about.

COLLEGE COP-OUT: CLOSING THE BOOKS ON CAMPUS CRIME

By Robyn Gearey

You're a high-school senior, or maybe the parent of one, and you're weighing an application to the University of Pennsylvania. It's Ivy League all right, but it's an urban campus--right there in the heart of Philadelphia--and, well, it doesn't have the greatest reputation for safety. So you ask the school for a copy of its crime statistics. When the university obliges, you find that there were no murders, just a handful of rapes in the past three years, and a mere eighteen armed robberies in 1995. That doesn't sound quite as bad as you thought.

But it turns out the University of Pennsylvania has neglected to inform you of a few small things. Like the fact that, according to campus police logs, the number of armed robberies in 1995 was closer to two hundred. Like the fact that these statistics do not include the shooting of Patrick Leroy, a senior who was shot on one of the main walkways through campus on September 25, 1996. Why has Penn been so circumspect? Maybe because it's trying to keep up with the competition.

Schools neglect to report as many as 75 percent of the crimes committed on their campuses, according to one recent study. A handful of watchdog groups, led by the Pennsylvania-based Security on Campus (SOC), are trying to change this: in 1990, pressure from the group helped convince Congress to pass the Student Right-to-Know and Campus Security Act (CSA). The law requires schools to compile annual crime statistics from both campus police and other school officials, and then distribute the data to students and staff--as well as

any prospective students or staff who request it. But based on interviews with activists, federal officials, and college administrators, it seems clear that only a small percentage of colleges are in full compliance with the law.

College officials complain, with some reason, that they face conflicting legal mandates: while CSA requires schools to make information about crime public, there is also the 1974 Family Educational Rights and Privacy Act (ferpa), which prevents schools receiving federal funding from releasing a student's educational record without his permission. Many college officials have interpreted that to extend to records of disciplinary proceedings concerning alleged crimes committed on campus. But two state supreme courts have ruled--quite rightly--that ferpa's privacy provisions don't preclude reporting anonymous statistics. And it's hard to believe the colleges have only the students' interests at heart when they fail to meet even the less controversial demands of the law. A 1996 study conducted by University of Cincinnati professor Bonnie Fisher and her colleague Chunmeng Lu found that just 37 percent of the 785 schools surveyed complied with the unambiguous requirement that crime statistics be made available to prospective students.

Recently the Department of Education has investigated a handful of schools accused of not complying with the law. According to the Department, Moorhead University, a Minnesota school with over 6,000 students, underestimated its annual crime rate and under reported illegal incidents at fraternities. After some back-and-forth between the school and the government, federal officials reexamined Moorhead's compliance several months later. Again, the university failed to pass muster: "We believe that the institution has not demonstrated a serious commitment to its obligations under the Campus Security Act and has discounted the seriousness of the issues raised by this office."

Soon the Education Department cited other schools: Virginia Tech had neither "accurately compiled" nor "accurately disclosed" crimes at its Blacksburg, Virginia, campus; in particular, the school had not disclosed an alleged rape in September 1994. Miami University of Ohio was cited for violating six separate CSA provisions: it had "fail[ed] to properly gather the required crime statistics from all pertinent sources," and its office of judicial affairs was not reporting crimes "as a general policy."

The University of Pennsylvania is one of two schools that remain under scrutiny (the other is Clemson University in South Carolina) and it's not hard to see why. According to The Philadelphia Inquirer, the school routinely fails to report crimes that occur on the

streets and sidewalks connecting campus buildings as well as on property the school leases to businesses. For example, there are the discrepancies, reported by the Inquirer, between university police records on robberies and Penn's 1995 crime report. And then there is the fact that Penn excluded the shooting of Patrick Leroy from its report the following year. The university's explanation for the omission: technically speaking, the shooting was on a public walkway that traverses the campus.

Penn is also awaiting another judgment: the Daily Pennsylvanian newspaper reports that a former student is suing the school on grounds that university officials neither reported nor acted on a rape charge she filed with a university police officer in November 1994. The plaintiff claims that she was dissuaded from filing criminal charges because the university assured her it would handle the matter. According to the article, the university claims the rape never occurred, despite a statement from the officer at the time that a sexual assault complaint had been made.

One can certainly sympathize with college officials struggling to balance the requirement to release crime figures and the need to protect student privacy. Indeed, representatives from the colleges under investigation counter the Education Department's charges by saying that the reporting requirements are ambiguous. For example, CSA does not explicitly say that crimes committed on public roads or walkways need to be reported--even if those paths are heavily traveled by students and within campus boundaries. And many college officials also realize that violating a student's right to privacy invites lawsuits.

But one reason to question the colleges' explanations is that many institutions actively discourage victims from reporting crimes--even to campus police. A 1992 survey of campus police and security personnel conducted by William Whitman, director of the Campus Safety and Security Institute, found that "students who were victims of reportable violent crimes" were encouraged "not to report the crimes to campus police/security. If the attacker was another student, they encouraged the victim to use the campus judicial system"--where, of course, it's easier to keep things quiet. Sheldon Steinbach, vice president and general counsel for the American Council on Education (ACE), denies that schools would do that, but Whitman reported that "several [college] Directors of Security were told they could look for a new job if they ever revealed the institution's true statistics." The Education Department hasn't always helped matters, either. According to a March General Accounting Office report, "the Department has been slow to monitor compliance" with CSA and was over a year late in submitting a required report on campus crime to Congress. More

seriously, GAO charged that, although the Department and independent auditors had identified violations at sixty-three colleges since the law's enactment, the Department failed to impose sanctions against any of the violators.

The Education Department blames these failures on a confusion over reporting requirements and difficulties getting complete data from colleges. However, Department officials have also contributed to the general confusion over what colleges are required to do under CSA. In April of 1994, the Department ruled that privacy laws should not prevent schools from releasing statistics of how many crimes occurred, so long as those statistics did not include names or other identifying details. Then, this July, the Ohio supreme court issued a broad ruling that disciplinary records do not qualify as educational records--and, thus, cannot be kept confidential. You'd think the Education Department would applaud such a ruling. Not so. Apparently alarmed that a state court had made too sweeping a rejection of the privacy provisions in ferpa, an Education Department official sent a letter to several colleges in Ohio, criticizing the court's ruling. Whatever the intent of that letter, the effect was to give colleges added credibility in their claim that ferpa laws trump crime reporting laws.

Congress may soon step in to rectify what the universities and the Department of Education have not. The reason has a lot to do with Ben Clery and his parents, Howard and Connie, who, in 1987, founded Security on Campus after Ben's sister Jeanne was beaten, raped, and murdered in her dorm room at Lehigh University. Through its sponsorship of the CSA, the group has almost single-handedly forced the issue of campus crime into the spotlight. Before CSA was passed, most colleges did not compile crime statistics at all: fewer than 5 percent submitted information to the FBI's voluntary crime reporting program.

Because many colleges still seem to be shirking their reporting responsibilities, Security on Campus is now promoting another measure: the Accuracy in Campus Crime Reporting Act (accra), introduced this February in the House by Tennessee Republican John Duncan. In theory, accra would clear up any lingering confusion over just what CSA covers. accra would say explicitly which campus officials must document criminal incidents for inclusion in the CSA-required annual report. It also would require that colleges submit these statistics to the Education Department, which would make them available to the public. The bill's more controversial provisions would require colleges to maintain open crime logs and to make campus judicial hearings open to the public. And, for the first time, violations of the law would provoke mandatory sanctions: at least 1

percent of the school's federal funding per violation.

Congress held preliminary hearings on the proposal in July, in conjunction with the reauthorization of the Higher Education Act, and more hearings are scheduled for later this month. But while the bill has fifty-nine co-sponsors in the House, it has a formidable opponent in ACE, which represents some 3,600 postsecondary schools. "Some [of the law's proposals] are highly destructive," says ACE's Steinbach. Especially in hard-to-prosecute sexual assault cases, he argues, a campus court may be the only recourse available--and many victims even prefer it. "Students often want the judicial procedure because it's a confidential setting," says Steinbach, who is similarly troubled by the open-court requirement: "Imagine this," Steinbach says ominously, "you're alleging a rape and all the guy's frat brothers show up at the hearing. How willing are people going to be to testify if they're intimidated?"

On the issue of reporting crime, Steinbach is equally skeptical. These officials "aren't trained in how to determine what is a crime." Furthermore, he points out, "Some students may want to talk to someone [about an incident] but not report it. This could discourage students from seeking counseling" and, in cases where a crime is only reported to a school counselor, "threaten the doctor-patient relationship."

ACE has been lobbying hard against the bill, as have such smaller groups as the National Association of Student Personnel Administrators. In a four-page letter to accra's sponsor, several of the measure's opponents wrote, "We are concerned that [accra] may not provide the most effective solution" to campus crime problems. The bill's reporting requirements, the letter said, would have a "chilling effect on victims" and be "unduly burdensome" for college authorities. Having the Education Department act as a central repository for annual crime reports is "a waste of taxpayer money"; and opening records of criminal activity "will have a devastating impact" on accused students.

Concern over the proposal to open campus disciplinary proceedings to the public may be plausible, but opposition to the reporting of anonymous statistics seems pretty indefensible. Students and parents have a right to know how prevalent crime on campus is. Several courts have said so, as has Congress. Steinbach scoffs that "Security on Campus is obsessed with reporting as if reporting is a panacea for campus crime." But the disclosure laws are not about reducing crime--they're about making educated choices more effective. You'd think that's a goal universities and colleges would

support.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 20:32:51.00

SUBJECT:

TO: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

EK:

Language for the weekly on the assaults directive:

Next week we will recommend that you sign a directive to study and potentially ban a new class of modified -- or "sporterized" -- assault weapons. Generally, this directive will suspend action on all pending and future permits to import these weapons until Treasury re-examines the criteria under which firearms are deemed to be sporting and, thus, allowed to be imported. While only a limited number of these firearms have come into the country over the past few years (10,000 in 1995, 25,000 in 1996, and 20,000 to date this year), applications are now pending to import as many as 900,000 of these firearms. This action mirrors the assault pistol directive you signed in 1993 when announcing the Crime Bill.

The one issue we have not resolved is whether or not the Administration should take the additional step of temporarily suspending permits that have already been granted. Gun control advocates (i.e., Senator Feinstein and Handgun Control) argue that we have the authority to do this and should. Additionally, they point out that President's Bush's action in 1989 to temporarily ban assault rifles included current permits -- and was ultimately upheld by the courts. Administration lawyers, however, believe that there is a substantial litigation risk if we do. They argue that the 1989 decision was rejected by the district court and later overturned by the appeals court in a split panel decision. More importantly, they are concerned that the factual circumstances surrounding the 1989 decision were different and are not present now.

For our part, we have two competing concerns: (1) We are concerned that, in addition to the existing permit for 2,600 Galils with which Senator Feinstein is concerned none of which have actually entered the country yet), there are existing permits for another 300,000 "sporterized" firearms, and that a large number of these firearms could be imported during the review period called for in the directive; and (2) we are less concerned about the imminent court challenge to Administration action on current permits, than we are about that short-term decision negatively impacting -- in a variety of ways -- our long-term policy on "sporterized" assault weapons once the review is completed. To address these issues, we are working with Treasury, Justice and White House Counsel to make sure we have all the facts for the strongest possible case -- as well as considering some compromise options. Also, we have met with staff from of the offices of Senators Feinstein and Biden, Representatives Schumer and

McCarthy, and Handgun Control to ensure that they have been consulted on this difficult issue.



**1996 NAEP Science Results.** This week the National Assessment Governing Board (NAGB) released a performance report on the 1996 National Assessment of Educational Progress (NAEP) in science, showing that less than 30% of U.S. students reach proficient levels of scientific knowledge and understanding, with 29% reaching the proficient level at grades 4 and 8, and 21% demonstrating proficiency at grade 12. The basic level -- representing partial mastery of fundamental knowledge and skills -- was reached by 67% of students in grade 4, 61% in grade 8, and 57% in grade 12. The 1996 science NAEP was developed from a new content framework, so results cannot be directly compared to previous assessments. Numerical scores for the 1996 test had previously been released, but this week's report was based on levels for basic, proficient, and advanced performance approved by NAGB in August.

**Vouchers/Coverdell.** This week the House passed the Gingrich/Armedy version of Sen. Coverdell's K-12 education savings accounts legislation. Vote on final passage was 230-198, with 8 Republicans voting against the bill and 15 Democrats voting for it. A Rangel substitute, which would have expanded a school construction bond provision enacted in the tax reform bill, was defeated 224-199. On Friday the the Republicans canceled a mark-up of legislation that would have allowed ESEA Title VI funds to be used to pay for private school tuition. Evidently they were unable to muster sufficient Republican support to get the bill out of committee. However, Republicans will probably attempt to attach voucher language to the Riggs-Roemer charter schools bill on the House floor next week.

**National Tests:** Friday afternoon the AP ran a story indicating that the Republicans had decided to send the Labor HHS appropriations bill to you, including Goodling's prohibition on developing or implementing national tests. Others in the media are picking up this story, though the only source for the story appears to be unidentified staff to Goodling or Ashcroft. Goodling has in fact drafted a new provision that would (1) continue to prohibit the development or implementation of national tests; (2) require the Education Department to cancel the current contract for test development; and (3) direct the National Academy of Sciences to conduct a study, with NGA and NCSL, of the feasibility of comparing the results from different, existing standardized tests, as an alternative to the national tests. The Republicans have forwarded Goodling's proposal to the Democrats, though it is not yet clear if this is intended as the first step in negotiations, or if it reflects a decision to force a veto before any final resolution that acceptable to you. We are working closely with Obey to determine how best to respond. In addition, we have indicated to the press that this "compromise" is unacceptable to you, and that this provision would cause you to veto the bill--as you stated clearly in your remarks to the National Board for Professional Teaching Standards.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul J. Weinstein Jr. ( CN=Paul J. Weinstein Jr./OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 13:44:52.00

SUBJECT: Superfund Followup

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP [ OPD ] )

READ:UNKNOWN

CC: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP [ WHO ] )

READ:UNKNOWN

TEXT:

You wrote me earlier this week concerning Superfund. Right now negotiations between Administrator Browner and the Senate are on hold. They have been unable to reach a compromise on the liability issue. Bruce and I attended a meeting with Browner, McGinty, Raines, and Hilley about two weeks ago to discuss strategy. Now, Katy is trying to reassert her control of the issue. She has called a deputies meeting for next Monday in Room 472 at 2:00 pm. I could use any assistance in trying to regain our share of the issue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson ( CN=Christa Robinson/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:24-OCT-1997 13:07:07.00

SUBJECT: Travel to Chicago

TO: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: WEINSTEIN\_P ( WEINSTEIN\_P @ A1 @ CD @ LNGTWY [ UNKNOWN ] ) (OPD)

READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

We need to figure out who, if anyone, from DPC needs to go to Chicago on Tuesday Oct. 28 for the President's education event. Rahm and Sylvia are both on the trip and could brief. The briefing would be for the President's morning education event and for the First Lady's Education speech in the afternoon. Spaces on the plane are tight b/c of guests coming along for the First Lady's birthday activities. Mike Cohen thought he could be useful, but defers to Elena b/c of her Chicago ties. I think if Elena cannot go then we should recommend Mike. Laura, please check with Elena. Thanks.

(Other factors: Sec. Riley is not going on the trip. Also, if the Elena or Mike want to stay for the First Lady's event it would mean they would have to fly commercial airlines back to D.C. )