NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 046 - FOLDER -002

[02/27/1999 - 02/28/1999]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-FEB-1999 11:37:46.00

SUBJECT: Message Holes

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

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

TO: Gene B. Sperling (CN=Gene B. Sperling/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

TO: Thomas A. Kalil (CN=Thomas A. Kalil/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

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

Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

Leslie Bernstein (CN=Leslie Bernstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:
I think this is what we are set to do:

Sunday for Monday -- USA Today --- e-rate -- schools & the internet -- NEC has the lead and is getting this out -- It will be accompanied by a POTUS statement ----

Sunday for Monday -- POTUS letter re: ed-flex and class size --- DPC has the lead --- radio actuality done

Monday for Tuesday -- Assault Weapons Report --- w/ POTUS quotes -- Report released by Institute for Criminal Justice -- DPC has the lead --

I am following up w/ NEC and DPC to figure out whether we should do another radio actuality --

Maria is checking on possible unemployment insurance and y2k grants --

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-FEB-1999 14:29:53.00

SUBJECT: firefighters

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

TEXT:
as you know, the potus really wants to speak at the firefighters legislative conference. and we've accepted. the one issue that i know they care about is bio-terroism. apparently, the training provisions within the bio-terroism initiative speak to a variety of emergency preparedness types -- but does not speak to training for firefighters and ems workers -- could someone in dpc check this out to see if there is something we can do to make sure the training of firefighters and ems workers is targeted --- if this does not have any negative public policy implications -- it is a deliverable for the president. thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-FEB-1999 14:41:27.00

SUBJECT: Re: equal pay

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

TO: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

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

TEXT:
FYI -- this was on the Internet today. It seems that the "federal report" quoted is the AFL's report that shows that Iowa loses $2.1 billion per year because of the wage gap.

Harkin Wants To End Gender Wage Gap - (WASHINGTON, D.C.) -- Iowa Senator Tom
Harkin is trying to find a way to shorten the wage gap between men and women. Harkin says a
federal report shows that the wage gap costs Iowa families nearly two-BILLION dollars a year.
Harkin met with White House officials yesterday to talk about the issue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David Rowe (CN=David Rowe/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:27-FEB-1999 14:49:39.00

SUBJECT: IDEA Regulations memo -- final version

TO: Barry White (CN=Barry White/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

TO: Barbara Chow (CN=Barbara Chow/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Leslie S. Mustain (CN=Leslie S. Mustain/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

David Rowe (CN=David Rowe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:
FYI, attached is the final version of the IDEA Regulations memo.

Danny Werfel has already forwarded the memo to everyone on his end; I presume Rob Nabors has done the same.
==========ATTACHMENT 1 ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D43]MAIL47994336K.036 to ASCII,
The following is a HEX DUMP:

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Automated Records Management Syste-
Hex-Dump Conversion

February 27, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Jacob J. Lew
Bruce Reed

SUBJECT: Individuals with Disabilities Education Act Regulation

OMB has before it for final clearance regulations to implement the 1997 amendments to the Individuals with Disabilities Education Act (IDEA). The initial proposed rulemaking in 1997 generated substantial adverse reaction from the majority in Congress, from schools, and from States, primarily centered on the administrative burdens the draft rule would have imposed. The current version is a reflection of a lengthy process of public comment and negotiation with Congressional staff and represents substantial compromise from the earlier version. States and Congress have also complained about the delay in publication of the final rule. In response to State and Congressional concerns over delay in publication, Secretary Riley has publicly committed to publication by March 5th.

We believe the current rule offers a balance between protecting children with disabilities and mitigating burden on the States and the schools within the context of a law which all agree is highly prescriptive. Involved majority Congressional staff have given preliminary indications that they believe this version of the rule is an adequate response to their concerns, but they note that some members may still attack the rule as providing insufficient local flexibility. While the NGA and its staff did not comment on the proposed rule, there is no guarantee they will support the final version; indeed, we would not be surprised if some Governors criticize the rule as overly prescriptive. On the other side of the issue, the disability community will be unhappy with some of the compromises the Department of Education has made since the proposed rule, and would object to any further significant changes. This memorandum explains the issues in more detail, describes the improvements made to date, and at the end, summarizes the equally contentious issue of IDEA funding.

Background

In 1975, Congress passed the Education for All Handicapped Children Act, which guaranteed a "free appropriate public education" for all students with disabilities, and outlined the required procedures States and local school districts must follow in implementing their Special Education programs. That law, now known as the IDEA, has been amended several times since, most recently in 1997.

The IDEA Amendments of 1997 were the result of extensive bipartisan negotiation with Congress. The reauthorization retained the civil rights component of the law that requires States to provide all children with disabilities (also referred to as special education students) with a free appropriate public education designed to meet their individual needs. This requirement applies without regard to the cost of the services or the size of the federal appropriation. The 1997 amendments added a focus on improving educational outcomes for children with disabilities. For instance, they required States to develop educational achievement goals for children with disabilities, and to include children with disabilities on State and district-wide assessments.

IDEA has always been controversial because it imposes prescriptive and costly administrative requirements on States. Because of these statutory requirements, States want the federal government to pay a larger share of special education costs. In recent years, controversy has centered on IDEA's requirements regarding the discipline of special education students. States are not required to accept IDEA funding and its related federal mandates, but none have seriously threatened to withdraw from participation.

IDEA Regulation Generally

The regulatory development process for this rule has been lengthy and contentious. After publishing the Notice of Proposed Rulemaking (NPRM) in October 1997, the Department of Education (ED) received extensive criticism from State lawmakers, school officials, and the majority in Congress. State lawmakers and school officials complained that the proposed rule was complex and difficult to understand, limited flexibility at the local level, and created overly prescriptive and costly requirements. The majority in Congress echoed these concerns, and charged that the rules created policies inconsistent with the carefully worked out bipartisan agreements that had been struck during the enactment of the IDEA Amendments of 1997.

In response to these concerns, the Department reviewed the entire rule to find ways to ease requirements, and to make the final rule easier to understand. The Department's rewrite of the rule involved extensive consultations with the Hill and members of the public, and resulted in a significantly different document. Nonetheless, the rule remains complex and prescriptive, largely (though perhaps not entirely) because the statute itself is of this nature.

ED hopes to publish the final rule in early March. Both Hill members and school officials have put great pressure on the Department to publish the rule as soon as possible. Without the rule, schools must implement their special education programs based only on their own interpretations of the IDEA statute. The rule will help forestall litigation resulting from local disputes over statutory interpretation.

The Department believes, and we concur, that the final rule strikes an appropriate balance among the interested parties, including the disability community, school officials, State lawmakers, and members of Congress in both parties. As always, however, not all the interested parties will see things in this way. Some (mostly Republican) members of Congress and State officials will view the rule as skewed in favor of the disability community and/or as creating a need for additional IDEA funding. Conversely, the disability community will express some disappointment about changes made since the NPRM and would vehemently object to further retrenchments.

Specific Regulatory Issues

Criticism of the draft rule focused on three issues: (1) discipline of disabled students who are violent or troublesome; (2) placement of disabled students during adjudication of disputes over current placement ("pendency"); and (3) services required after graduation. In discussion on the rewrite of the final rule, a final issue emerged concerning the inclusion of special education students in regular education classrooms. Each issue is discussed below.

Discipline: The IDEA amendments allow school personnel to suspend students with disabilities for up to 10 school days before the suspension is deemed a "change in placement." The amendments further require that when a "change in placement" occurs, the school district must convene the student's special education teacher, parent, regular education teacher, and principal to: (1) reevaluate the type and extent of educational services the student should receive during his/her suspension in order to best allow the student to achieve the goals in their Individualized Education Plan (IEP); (2) establish a "behavioral assessment plan" for the student (i.e., a set of services and strategies designed to address and improve the student's behavior), if one does not already exist; and (3) determine whether the student's behavior is a manifestation of his or her disability.

The statute does not specify whether the 10-day trigger for a "change in placement" refers to 10 consecutive days (e.g., a suspension of 10 or more days in a row) or 10 cumulative days over the course of a school year (e.g., five separate two-day suspensions). Under past practice, this language was interpreted to mean that "change in placement" services were not required unless the suspension was for 10 consecutive days or there was a "pattern of short-term removals." This consecutive interpretation, of course, was favored by most school officials, who wish to provide "change of placement" services in only the most extreme cases. Under this standard, however, school officials could abuse the "10 consecutive day" trigger by repeatedly suspending a student for less than 10 days to circumvent the "change in placement" requirement. Although the "pattern of short term removal" standard was supposed to protect against such abuses, ED found that it was rarely invoked and did not provide sufficient protection.

In response to these concerns, ED defined "10 days" in the NPRM as meaning 10 cumulative days in a school year. Thus, under the NPRM, schools would have to provide "change in placement" services after 10 cumulative days of suspension, without regard to the "pattern of short term removal" concept. Not surprisingly, school officials and the majority in Congress strongly objected to this "cumulative day" definition because it would have triggered the expensive "change in placement" services more frequently.

As a compromise, the final rule requires the full panoply of "change in placement"services only after 10 consecutive days or a pattern of removals, but requires a less burdensome, streamlined set of services designed to address behavior problems after 10 cumulative days of suspension. For example, under this streamlined procedure, schools will no longer have to determine whether the student's behavior is a manifestation of their disability. This compromise results in significant cost savings to schools compared to the NPRM scheme; it does, however, impose more costs than under prior practices, because it requires some (albeit streamlined) procedures when separate suspensions total more than 10 days. Conversely, the compromise provides the disability community with some services in the 10 cumulative day case; but the streamlined services are far less extensive than the full services promised in the proposed rule and will strike the community as inadequate.

In addition to these significant changes, the final rule also clarifies the following discipline issues which were points of confusion in the proposed rule: (1) school officials can suspend disabled children for more than 10 days in a school year; and (2) school officials do not need to provide any services to disabled children during the first 10 days of a suspension.

Pendency: The IDEA statute sets up a hearing process to arbitrate between a parent and a school when they disagree over a child's placement (e.g., whether a child should be moved from a special education class to a regular education setting). Until the disagreement is settled, the statute requires the child to remain in his/her current placement unless the school and parent agree otherwise.

The contentious provision in the proposed rule would have provided the following: in the event that a parent sought to change the child's placement, and the hearing officer agreed with the parent, the child is immediately moved to the new placement. However, in the event that a school sought to change the child's placement, and the hearing officer agreed with the school, the child would remain in the original placement pending further review. Thus, hearing officer agreements with parents were to carry more weight than hearing officer agreements with schools. Proponents of this provision argued that it was needed to equalize the balance of power between schools and parents in the implementation of special education services for children; opponents argued that the asymmetrical system was inconsistent with the statutory language and in fact skewed that balance.

As a compromise, the final rule applies this asymmetrical "pendency" provision only if a child's case reaches a State (rather than district or county) hearing officer -- a level of review that occurs far less frequently. In all other cases, the child would remain in his/her original placement pending appeal, regardless of whether the child or the school won the initial decision.

High School Graduation: In the proposed rule, ED required that schools reevaluate all graduating students to determine whether additional services should be provided; ED also provided non-binding guidance that schools could terminate services only if a student graduated with a regular diploma (i.e., not a certificate of attendance). ED included these requirements because of the concern that some school districts were "graduating" students with a less-than-regular high school diploma in order to stop providing services to them. However, schools do not have to provide any services to students once they "age out" of eligibility under state law. The "age-out" threshold varies among States -- ranging from age 18 to 21.

In response to complaints about this policy, the final rule eliminates the reevaluation requirement when students graduate with a regular high school diploma. The final rule, however, continues to maintain that schools may not terminate services to students who graduate with less than a high school diploma.

"Least Restrictive Environment": A fundamental part of the IDEA statute is the belief that special education children should be placed, to the maximum extent possible, in the "least restrictive environment" -- which means in the general education environment. This requirement is designed to provide special education students with an opportunity to socialize with regular education students and to strive for the same academic goals as their nondisabled peers. At the same time, the statute reflects some understanding that placing some special education students in regular classrooms is too disruptive, because it requires teachers to spend a disproportionate amount of time with special education students. The statute requires that: (1) whenever appropriate, special education students should be placed with their nondisabled peers; (2) schools can remove special education students from general education classrooms if it is found that the student is not making satisfactory educational progress, even with supportive special education services.

To prevent abuse of the second requirement, the Department added to the final rule a provision (not in the NPRM) prohibiting schools from removing special education students from a general classroom only because teaching the student would require a modification to the standard curriculum. Majority Congressional staff initially opposed this change, but appear to have dropped their objections; minority staff support the provision.

Special Education Funding

Most of the Governors and some members of Congress argue that the federal government is failing to live up to its "commitment" to provide States with 40 percent of the average per pupil expenditure for each disabled student. In fact, however, IDEA makes no such commitment; it only limits the maximum grant a State can receive in a year to this 40 percent level. The highest percentage ever reached was 12.5 percent in 1979; 1999 funding should cover about 11.2 percent.

Federal funding for special education State Grants (the primary federal special education program) has increased by $2.2 billion or 110 percent during this Administration, from $2.1 billion in FY 1993 to $4.3 billion in FY 1999. These increases are much larger than the increases requested by this Administration. Congressional Republicans in recent years have seized on IDEA as a defining issue, which enables them to complain about "unfunded mandates" and "regulatory burdens" while supporting education funding. We believe this pattern will be repeated for FY 2000.

Whatever amount we might propose for IDEA, the Republicans will always be able to offer more, because they do not care about funding our other education and training priorities at the levels we seek. In response to Republican claims that we are underfunding IDEA, we have argued that many of our other high priority investments substantially aid children with disabilities. These children benefit, for example, from the smaller classes in our Class Size Reduction initiative, from modern school facilities in our School Modernization Bonds proposal, and from our early intervention initiatives such as America Reads and Head Start.

In the FY 2000 budget, we propose a targeted increase for special education of $116 million to expand early intervention programs and to help States take advantage of research on effective practices, but virtually no increase for the major state grant. The total budget request for all parts of IDEA is $5.4 billion, of which $4.3 billion is for the state grant.

It should also be noted that the IDEA Amendments of 1997 provided that when federal funding reached $4.1 billion, an LEA could divert up to 20 percent of the federal funds it receives in a year that exceeds the amount it received in the previous year (i.e., 20 percent of their annual increase in federal funds) away from special education. Therefore, federal IDEA increases do not increase spending on children with disabilities dollar for dollar.

Likely Reactions to Rule

As noted above, some Governors and members of Congress will criticize the final rule as overly prescriptive and/or will argue that it provides yet another reason for more Federal funding. Further substantial changes to the rule, however, would generate an equally negative reaction from disability advocates (who may already be unhappy about changes from the NPRM). Further changes also would require further delay which will generate criticism from all sides.

Recommendation

We propose to release the final rule early in the week of March 1st unless you wish to discuss it further. Secretary Riley would like to announce the rule publicly on or before March 5th.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-FEB-1999 16:25:53.00

SUBJECT: Jesse Helms introduces another anti-Gay bill

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

TO: Edward W. Correia (CN=Edward W. Correia/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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: Charles E. Kieffer (CN=Charles E. Kieffer/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

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

TO: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/OU=WHO/O=EOP @ EOP [WHO]
READ:UNKNOWN

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

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

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

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

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

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

TO: Virginia Apuzzo (CN=Virginia Apuzzo/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

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

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

TEXT:
---------- Forwarded by Richard Socarides/WHO/EOP on 02/27/99 04:26 PM ----------

Doug.Case @ sdsu.edu
02/27/99 12:41:00 AM
Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides
cc:
Subject: Jesse Helms introduces another anti-Gay bill

WASHINGTON BLADE
February 26, 1999
http://www.washblade.com

Jesse Helms introduces anti-Gay bill
Senator seeks to stop funding for executive order on discrimination

by Rhonda Smith

U.S. Sen. Jesse Helms (R-N.C.) introduced an anti-Gay bill last month that seeks to prohibit the use of federal funds to enforce an executive order that President Clinton signed last May barring discrimination based on sexual orientation in federal civilian employment.

Clinton's Executive Order 13087 added the term "sexual orientation" to an existing executive order that bars discrimination against federal civilian workers based on race, color, religion, sex, national origin, disabilities, and age. The order survived a GOP-led attempt to overturn it in August in a development that proponents described as historic, because it marked the first time either house of Congress voted to support a policy that protects Gay workers from job discrimination.

"This bill," said Helms, introducing the bill Jan. 19, "attempts to make sure that President Clinton is not allowed to do by Executive Order what Congress has declined to enact in the past two congressional sessions - namely, to treat homosexuals as a special class protected under various titles of the Civil Rights Act of 1964."

The staunchly conservative senator said Clinton's executive order infringes upon the constitutional rights of federal employees who wish to express moral and spiritual objections to "the homosexual lifestyle." In addition, he said, the order prevents federal employees who have such objections to homosexuality from expressing their beliefs "without running afoul of what amounts to a workplace speech code."

"The House has already spoken on this issue," said Rebecca Isaacs, political director at the National Gay and Lesbian Task Force. "It's more of the same from Jesse Helms. I wish he would find something new to do and quit attacking the Gay, Lesbian, bisexual, and transgendered community."

Helms entitled his bill, S.45, the "Freedom of Speech Act." The proposed bill stipulates that no federal agency, officer, or employee of the executive branch shall "issue, implement, or enforce" any policy that creates an additional class of individuals protected against discrimination in federal employment, other than those groups already identified by federal law for such protection.

The measure also calls for prohibiting the use of federal funds "to issue, implement, or enforce" Executive Order 13087. Funds to enforce the policy would come from the general operating budgets of agencies such as the U.S. Office of Personnel Management and the U.S. Office of Special Counsel, a White House official said.

In 1994, Helms offered two amendments similar to the current proposal. One called for prohibiting the U.S. Department of Agriculture from using federal funds for programs intended to present homosexuality in a positive or neutral light. (The USDA has a policy, which pre-dates the Clinton executive order, banning discrimination against employees based on their sexual orientation, and the agency's Gay, Lesbian, and Bisexual Employees organization (GLOBE) receives official recognition by the department.) The other amendment called for hearings for employees who expressed personal opinions that conflicted with the USDA's policies on homosexuality. The latter amendment was based on reports that an equal employment opportunity manager at the USDA was transferred to another position after he expressed an anti-Gay view to a television reporter.

Both measures died when a House-Senate conference committee dropped them. The following year, Helms introduced separate bills addressing the same issues but they, too, never garnered enough support.

Kitti Durham, president of the federal Gay, Lesbian, Bisexual Employees Organization (GLOBE), said Helms's current proposal continues "unfounded attacks on productive members of the federal employee community."

"I will note that there are no co-sponsors of this bill," she said, "which signals there is no support for it."

Even though Helms appears poised to use political tactics during the 106th Congress that have failed more than once in the past, Richard Socarides, a special assistant to President Clinton and his liaison with the Gay community, said the senator must be taken seriously.

"We don't know how aggressively he plans to push this," Socarides said. "It's too early to predict whether this is a mini-attack on us or a predictor of things to come. But we are still fully committed to the executive order the president issued."

Socarides also said the U.S. Office of Personnel Management is preparing to embark on an education campaign among personnel directors and administrators in the federal government shortly "to make sure everyone knows this executive order exists and what employees' rights are."

This might provoke Helms, he said, and push him and others to try to block this effort.

"But we will not be deterred," Socarides said. "President Clinton feels this will very much be part of the legacy he leaves behind."

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==========ATTACHMENT 1 ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
RFC-822-headers:
Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
 id <01J87WMDN64W001G1L@PMDF.EOP.GOV>; Sat, 27 Feb 1999 00:42:31 EST
Received: from storm.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
 with ESMTP id <01J87WMBWH740017B7@PMDF.EOP.GOV>; Sat,
 27 Feb 1999 00:42:28 -0500 (EST)
Received: from mail.sdsu.edu ([130.191.25.1]) by EOP.GOV (PMDF V5.2-29 #34437)

 with ESMTP id <01J87WLNOPEA001K43@EOP.GOV>; Sat,
 27 Feb 1999 00:41:56 -0500 (EST)
Received: from [130.191.242.121] ([130.191.242.121])
 by mail.sdsu.edu (8.8.7/8.8.7) with ESMTP id VAA18184; Fri,
 26 Feb 1999 21:41:24 -0800 (PST)
X-Sender: dcase@mail.sdsu.edu
==========END ATTACHMENT 1 ==========

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
RFC-822-headers:
Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
 id <01J87WMDN64W001G1L@PMDF.EOP.GOV>; Sat, 27 Feb 1999 00:42:31 EST
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 26 Feb 1999 21:41:24 -0800 (PST)
X-Sender: dcase@mail.sdsu.edu

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Lotus Pager Gateway (Lotus Pager Gateway [UNKNOWN])

CREATION DATE/TIME:28-FEB-1999 13:10:06.00

SUBJECT:

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

TEXT:
To: CYNTHIA (Pager) #RICE
cc:
From: Elena Kagan
Date: 2/28/1999
Time: 13:07:25
Subject:
Body:

call if you still need me. just got your page. elena 65584

Priority:

Message history for recipient CYNTHIA RICE [Pager]
Sunday 28 Feb 1999 13:08:31 Eastern Standard Time - Message received by Pager Gateway
Sunday 28 Feb 1999 13:10:08 Eastern Standard Time - Message received by Paging Service

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Lotus Pager Gateway (Lotus Pager Gateway [UNKNOWN])

CREATION DATE/TIME:28-FEB-1999 13:10:07.00

SUBJECT:

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

TEXT:
To: KAREN (SKY) (Pager) #TRAMONTANO
cc:
From: Elena Kagan
Date: 2/28/1999
Time: 13:06:48
Subject:
Body:

call if you still need me. just got your page.

Priority:

Message history for recipient KAREN (SKY) TRAMONTANO [Pager]
Sunday 28 Feb 1999 13:07:51 Eastern Standard Time - Message received by Pager Gateway
Sunday 28 Feb 1999 13:09:04 Eastern Standard Time - Message received by Paging Service

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Lotus Pager Gateway (Lotus Pager Gateway [UNKNOWN])

CREATION DATE/TIME:28-FEB-1999 13:15:50.00

SUBJECT:

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

TEXT:
To: KAREN (SKY) (Pager) #TRAMONTANO
cc:
From: Elena Kagan
Date: 2/28/1999
Time: 13:07:49
Subject:
Body:

oops. that was from elena 65584

Priority:

Message history for recipient KAREN (SKY) TRAMONTANO [Pager]
Sunday 28 Feb 1999 13:09:25 Eastern Standard Time - Message received by Pager Gateway
Sunday 28 Feb 1999 13:10:13 Eastern Standard Time - Message received by Paging Service