

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 014 - FOLDER 001

[7/26/1998 - 9/28/1998]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Laura Emmett re: party (3 pages)	08/04/1998	Personal Misfile
002. email	Elena Kagan to Laura Emmett re: party (4 pages)	09/08/1998	Personal Misfile
003. email	Elena Kagan to Laura Emmett re: party (7 pages)	09/09/1998	Personal Misfile
004. email	Elena Kagan to Maria Echaveste re: thanks (1 page)	09/28/1998	Personal Misfile

COLLECTION:

Clinton Presidential Records
 Automated Records Management System [Email]
 WHO ([From Elena Kagan])
 OA/Box Number: 500000

FOLDER TITLE:

[7/26/1998 - 9/28/1998]

2009-1006-F
ry943

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-JUL-1998 17:18:29.00

SUBJECT: Re: Country of Origin Labeling

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

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

TEXT:

Produce too, I think. What you're suggesting sounds right. I suspect that after you do some groundwork, we will have to hold a meeting at a higher level (deputies and/or principals) to make a decision. I'd be surprised if USTR didn't put up a fight.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-JUL-1998 20:29:57.00

SUBJECT: Re:

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

TEXT:

you bet. i've passed your name on to jose cerda, who's running it for our
shop. it would be great if you would give him a call at 65568

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JUL-1998 17:16:40.00

SUBJECT: Re: Senate passed Fed. Employee Child Care Bill

TO: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

sounds right to me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JUL-1998 16:56:13.00

SUBJECT: Re: Title X -- DC Appropriations Vote

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

CC: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

CC: Neera Tanden (CN=Neera Tanden/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: Cynthia Dailard (CN=Cynthia Dailard/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

agree with both jen and cynthia. we should not be against this; we should not take part in efforts to derail it.

Jennifer L. Klein
07/28/98 12:49:08 PM
Record Type: Record

To: Cynthia Dailard/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Re: Title X -- DC Appropriations Vote

I think it's hard for us to be against that. I also tend to think that we shouldn't get involved in second order amendments, but I could be convinced otherwise.

Message Copied

To: _____
Elena Kagan/OPD/EOP
Laura Emmett/WHO/EOP
Peter G. Jacoby/WHO/EOP
Nicole R. Rabner/WHO/EOP
Neera Tanden/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JUL-1998 16:12:28.00

SUBJECT: Re: proposed EO

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

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

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

CC: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP @ EOP [OPD])
 READ:UNKNOWN

TEXT:

I confess to feeling somewhat baffled by this -- an executive order on children saying what?? I'm going to ask Jen to call Lynn to find out what she wants and why, but I have to say that I'd oppose an executive order on "children's lives." We have many different initiatives that focus on children -- we have education policies, child care polcies, health policies, etc. We shouldn't trivialize our work in this area by issuing an executive order telling everybody to everything they can for every child.

Maria Echaveste
 07/28/98 11:09:23 AM
 Record Type: Record

To: Phillip Caplan/WHO/EOP, Elena Kagan/OPD/EOP, Jennifer L. Klein/OPD/EOP
 cc:
 Subject: proposed EO

How did you all respond to this? didn't we do something re children--or was it just the order directing issuance of data re children? do I need to follow up here?

----- Forwarded by Maria Echaveste/WHO/EOP on 07/28/98
 11:09 AM -----

Lynn G. Cutler
 07/24/98 01:32:10 PM
 Record Type: Record

To: Phillip Caplan/WHO/EOP
 cc: See the distribution list at the bottom of this message
 Subject: proposed EO

There are requests for an EO on children--Indian children, Asian children, other minority children. Some of us have been talking and while we agree that an initiative on children's health, education and other aspects of their lives is timely, we would like to do just one document. I would

assume that you agree with this. My proposal is that we meet internally, come to a decision, and then work with the outside groups to ensure that the major needs are covered. Do you want to convene such a meeting--we could tell you who would need to be at the table from our side of the perspective. Let me know.

Message Copied

To:

Christopher C. Jennings/OPD/EOP

Mary L. Smith/OPD/EOP

Doris O. Matsui/WHO/EOP

Minyon Moore/WHO/EOP

Maria Echaveste/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JUL-1998 16:15:29.00

SUBJECT: Re: Welfare policy coordination

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

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

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

TEXT:
sounds fine to me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 3-AUG-1998 18:49:21.00

SUBJECT: Re: parental notification and the Castle-Greenwood amendment

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

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

CC: Jacob J. Lew (CN=Jacob J. Lew/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

CC: Daniel N. Mendelson (CN=Daniel N. Mendelson/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

TEXT:
This is AOK with me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 4-AUG-1998 08:43:27.00

SUBJECT: Party

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

READ:UNKNOWN

TEXT:

schedule

----- Forwarded by Elena Kagan/OPD/EOP on 08/04/98 08:43
AM -----

Melissa G. Green

08/03/98 10:53:41 PM

Record Type: Record

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

CC:

Subject: Party

Please Join the NEC As We Wish Russell Horwitz Goodluck at the SEC.

Date: March 7, 1998 Friday, August 7, 1998

Time: 12:00 Midnight 5:00-7:00pm

Place: Room 231 in the OEOB

Please Provide Clearence Information to Melissa Green at
456-5385.

Message Sent

To:

Lori L. Anderson/WHO/EOP
Brenda M. Anders/WHO/EOP
Kris M Balderston/WHO/EOP
David S. Beaubaire/WHO/EOP
Phillip Caplan/WHO/EOP
Laura K. Capps/WHO/EOP
Cheryl M. Carter/WHO/EOP
Steven A. Cohen/WHO/EOP
Brenda B. Costello/WHO/EOP
Michelle Crisci/WHO/EOP
Daniel D. Heath/OMB/EOP
Christopher C. Jennings/OPD/EOP
Elena Kagan/OPD/EOP
Thomas A. Kalil/OPD/EOP
Jonathan A. Kaplan/OPD/EOP
Charles Konigsberg/OMB/EOP
Karin Kullman/WHO/EOP

Jeanne Lambrew/OPD/EOP
Julie E. Mason/WHO/EOP
Cathy R. Mays/OPD/EOP
Anne E. McGuire/WHO/EOP
Joseph J. Minarik/OMB/EOP
Linda L. Moore/WHO/EOP
Kevin S. Moran/WHO/EOP
Christa Robinson/OPD/EOP
Dorothy Robyn/OPD/EOP
Laura D. Schwartz/WHO/EOP
Jake Siewert/OPD/EOP
Jordan Tamagni/WHO/EOP
Barry J. Toiv/WHO/EOP
Michael Waldman/WHO/EOP
Paul J. Weinstein Jr./OPD/EOP
Sara M. Latham/WHO/EOP
Thomas D. Janenda/WHO/EOP
Charles R. Marr/OPD/EOP
Beverly J. Barnes/WHO/EOP
Cynthia A. Rice/OPD/EOP
Aviva Steinberg/WHO/EOP
William H. White Jr./WHO/EOP
Lisa J. Levin/WHO/EOP
Christopher J. Lavery/WHO/EOP
Jeffrey A. Forbes/WHO/EOP
Virginia N. Rustique/WHO/EOP
Elizabeth R. Newman/WHO/EOP
Emil E. Parker/OPD/EOP
Robert M. Shireman/OPD/EOP
Robin J. Bachman/WHO/EOP
Darby E. Stott/WHO/EOP
Michael V. Terrell/CEQ/EOP
Ruby Shamir/WHO/EOP
Neera Tanden/WHO/EOP
Glen M. Weiner/WHO/EOP
Paul E. Begala/WHO/EOP
Noa A. Meyer/WHO/EOP
Laura Emmett/WHO/EOP
Mark D. Neschis/WHO/EOP
Stacie Spector/WHO/EOP
Joshua Gotbaum/OMB/EOP
Brian A. Barreto/OPD/EOP
Amy W. Tobe/WHO/EOP
Todd Stern/WHO/EOP
Cathy R. Mays/OPD/EOP
Jennifer A. DeMarco/WHO/EOP
Nicole R. Rabner/WHO/EOP
Peter A. Weissman/OPD/EOP
Sarah Rosen/OPD/EOP
Sally Katzen/OPD/EOP
Shannon Mason/OPD/EOP
David H. Morrison/OMB/EOP
Dawn L. Smalls/WHO/EOP
Carole A. Parmelee/WHO/EOP
Jessica L. Gibson/WHO/EOP
Paul K. Engskov/WHO/EOP

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Laura Emmett re: party (3 pages)	08/04/1998	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[7/26/1998 - 9/28/1998]

2009-1006-F
ry943

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-AUG-1998 13:39:27.00

SUBJECT: BURTON, DONENFELD & GONZALES ARE HITTING THE ROAD!

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

READ:UNKNOWN

TEXT:

please schedule

----- Forwarded by Elena Kagan/OPD/EOP on 08/05/98 01:39 PM -----

To: Barbara D. Woolley/WHO/EOP, Joshua Gotbaum/OMB/EOP, Daniel N. Mendelson/OMB/EOP, Richard J. Turman/OMB/EOP, Bruce N. Reed/OPD/EOP, Cathy R. Mays/OPD/EOP, Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Cynthia Dailard/OPD/EOP, Sarah A. Bianchi/OPD/EOP, Christopher C. Jennings/OPD/EOP, Mary L. Smith/OPD/EOP, Christa Robinson/OPD/EOP, Thomas L. Freedman/OPD/EOP, Sandra Thurman/OPD/EOP, William H. White Jr./WHO/EOP, Sally Katzen/OPD/EOP, Walker F. Bass/WHO/EOP, Jonathan A. Kaplan/OPD/EOP, Jonathan Orszag/OPD/EOP, Todd A. Summers/OPD/EOP, Kris M Balderston/WHO/EOP, Anne E. McGuire/WHO/EOP, Beth A. Viola/CEQ/EOP, Fred DuVal/WHO/EOP, Emory L. Mayfield/WHO/EOP, Lowell A. Weiss/WHO/EOP, Julia M. Payne/WHO/EOP

cc:

From: Jim Kohlenberger/OVP @ OVP

Date: 08/05/98 12:13:57 PM

Subject: BURTON, DONENFELD & GONZALES ARE HITTING THE ROAD!

----- Forwarded by Jim Kohlenberger/OVP on 08/05/98 12:10 PM -----

To: Bill F Althoff/OVP, Eric R. Anderson/OVP, Doug Babcock/OVP, Gayle Bauer/OVP, Debbie B Bengtson/OVP, Lisa A. Berg/OVP, Lee Ann Brackett/OVP, Michael J. Burton/OVP, Peggy Cusack/OVP, Marc R D'Anjou/OVP, Toby Donenfeld/OVP, Philip G Dufour/OVP, Joseph D Eyer/OVP, Michael B. Feldman/OVP, Lucia F. Gilliland/OVP, Sue R. Greenberg/OVP, Bruce Harding/OVP, Elizabeth Harrington/OVP, Wendy Hartman/OVP, Gordon Heddell/OVP, Paul Hegarty/OVP, Bonnie Houchen/OVP, Phillip J. Humnicky/OVP, Ansley Jones/OVP, Vivian Jones/OVP, Elaine C. Kamarck/OVP, Joe Keohan/OVP, Ron Klain/OVP, Jim Kohlenberger/OVP, Heidi Kukis/OVP, Heather M. Marabeti/OVP, Rhonda Melton/OVP, MOTOR_1/OVP, Wendy C. New/OVP, Ellen L. Ochs/OVP, Mary M. Overbey/OVP, Eric L. Schnure/OVP, Callie Shell/OVP, Caren L. Solomon/OVP, Jonathan Spalter/OVP, Elisabeth S. Steele/OVP, John Stoner/OVP, David R Thomas/OVP, Cindy Trutanic/OVP, Kimberly H Tilley/OVP, Christopher R. Ulrich/OVP, Moe Vela/OVP, Lorraine A. Voles/OVP, Jonathan Weiss/OVP, Alberta A. Winkler/OVP, Cheryl Anderson at gore-dc @ CCMAIL, Nancy Hoit at NPR @ CCMAIL, Elizabeth Katze at gore-dc @ ccmail, David Ligon at gore-dc @ ccmail, Aimee Malnati at gore-dc @ ccmail, Bill Mason at GORE-DC @ ccmail, Clark Ogilvie at gore-dc @ CCMAIL, Rhonda Melton at gore-dc @ CCMAIL, Neil Blecher at gore-dc @ CCMAIL, Andy Dryden at gore-dc @ CCMAIL, Virginia M. Terzano/OVP, Joanne M. Hilty/OVP, Elisabeth Stock/OVP, Linda B. Paris/OVP, Jalair Y. Flynn/OVP, Trooper Sanders/OVP, Roger V. Salazar/OVP, Susan M. Liss/OVP, Charles W. Burson/OVP, Kimberly M. Harold/OVP, Donald H. Gips/OVP, Bobbie J. Bauman/OVP, Paul J. Cusack/OVP, Lisa M. Brown/OVP, Matthew I. Fraidin/OVP, Leigh A. Apple/OVP, Michael B. Waitzkin/WHO/EOP @ EOP, Steven

W. Adamske/OVP, Todd H. Dennett/OVP, Mary A. Dixon/OVP, Maurice Daniel/OVP, Dan J. Taylor/OVP, Andrei H. Cherny/OVP, Nathan B. Naylor/OVP, Jonathan H. Schnur/OVP, Karen E. Skelton/WHO/EOP @ EOP, Kay Casstevens/OVP, Miguel M. Bustos/OVP, Lisa M. Brown/OVP, Matthew L. Bennett/OVP, Lisa M. Mallory/OVP, Steve L. Kwast/OVP, Rachael E. Sullivan/OVP, Scott R. Hynes/OVP, Paul A. Tuchmann/OVP, Elizabeth V. Katze/OVP, Thurgood Marshall Jr/WHO/EOP @ EOP, Elisabeth Steele/WHO/EOP, Janet Murguia/WHO/EOP @ EOP, Jessica L. Gibson/WHO/EOP @ EOP, Mindy E. Myers/WHO/EOP, Charles M. Brain/WHO/EOP, Dario J. Gomez/WHO/EOP, Alphonse J. Maldon/WHO/EOP @ EOP, Broderick Johnson/WHO/EOP, Lisa M. Kountoupes/OMB/EOP @ EOP, Elisa Millsap/WHO/EOP @ EOP, Jade L Riley/WHO/EOP, Tracey E. Thornton/WHO/EOP @ EOP, Janelle E. Erickson/WHO/EOP, Jeffrey A. Forbes/WHO/EOP @ EOP, Peter G. Jacoby/WHO/EOP @ EOP, Roger S. Ballentine/WHO/EOP, Virginia N. Rustique/WHO/EOP @ EOP, Marty J. Hoffmann/WHO/EOP, Peter D. Greenberger/WHO/EOP, Eli P. Joseph/WHO/EOP, Martha Foley/WHO/EOP @ EOP, Lawrence J. Stein/WHO/EOP, Julie A. Fernandes/OPD/EOP, Heather M. Marabeti/WHO/EOP

cc:

From: Matthew J. Bianco/OVP

Date: 08/04/98 12:43:55 PM

Subject: BURTON, DONENFELD & GONZALES ARE HITTING THE ROAD!

Mike, Toby and Rick are hittin' the road to hit the books! As many of you know, our three colleagues are leaving OVP to either sit in a classroom come fall, or stand in front of one. In order to wish them well and all of the success they deserve, we will be bidding them a fond farewell this Thursday, August 6th at 5 pm on Mrs. Gore's balcony! There will be food, folks and fun and maybe even a surprise visitor. Please mark your calendars and we'll see you there!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-AUG-1998 19:54:31.00

SUBJECT: Re: gannett reporter for story

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

READ:UNKNOWN

TEXT:

it has now.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-AUG-1998 11:37:25.00

SUBJECT: Re: gannett reporter for story

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

TEXT:

what emotion was she seconding??

----- Forwarded by Elena Kagan/OPD/EOP on 08/06/98 11:37
AM -----

Laura Emmett
08/06/98 08:50:55 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: Re: gannett reporter for story

----- Forwarded by Laura Emmett/WHO/EOP on 08/06/98 08:51
AM -----

Amy W. Tobe
08/06/98 08:50:20 AM
Record Type: Record

To: Julia M. Payne/WHO/EOP
cc: Laura Emmett/WHO/EOP, Barry J. Toiv/WHO/EOP, Beverly J. Barnes/WHO/EOP
Subject: Re: gannett reporter for story

I second that emotion! And, I did enjoy reading the email traffic on this...it seemed uncertain, but, as always, Elena pulled through! Pls thank her for us. This stuff really helps. And we know how busy she is. Thanks again!

WELFARE-TO-WORK HIGH PERFORMANCE BONUS ISSUES

	DOL/OMB Proposal	TANF Guidance	DPC Proposal
Definition of Employment	Unsubsidized (excludes wage subsidies and OJT paid with <u>WTW</u> funds). NOTE: DOL agreed that subsidies paid w/ TANF funds would not be excluded.	Unsubsidized and partially subsidized (excludes workfare and fully subsidized employment)	Same as TANF (include subsidies paid with either TANF or WTW funds)
Job Entry Measures(s)	1) "Job Entry Rate" (any job) 2) "Substantial Job Entry Rate" = jobs of least 20 hours per week (includes people who are counted in 1) and increase to >20 hours)	1) "Job Entry Rate" (any job)	Can live w/ two measures, but change 2) to 30 hours and rename it (so that there's an explainable difference between the two).
Weighting	<p>A: original proposal 35% Job Entry <u>20%</u> Subst Job Entry 55% 30% Retention <u>15%</u> Earnings Gain 45%</p> <p>B: revised proposal 15% Job Entry <u>20%</u> Subst Job Entry 35% 50% Retention <u>15%</u> Earnings Gain 65%</p> <p>Bottom line: at least 50% should be for Retention and Earnings.</p>	<p>40% Job Entry <u>20%</u> Job Entry--Improvement 60%</p> <p>25% Success in Workforce (Retention & Earnings) <u>15%</u> Success in Wkfrce--Impr. 40%</p>	<p>40% Job Entry <u>20%</u> Subst Job Entry 60%</p> <p>25% Retention <u>15%</u> Earnings Gain 40%</p> <p>Similar to TANF, and to DOL's original proposal.</p>

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-AUG-1998 11:52:52.00

SUBJECT: Meeting with Minyon

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

READ:UNKNOWN

TEXT:

please schedule

----- Forwarded by Elena Kagan/OPD/EOP on 08/11/98 11:52 AM -----

Jocelyn Neis

08/11/98 11:10:35 AM

Record Type: Record

To: Christa Robinson/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Meeting with Minyon

Minyon would like to meet with you to discuss outreach efforts and coordination with OPL. How does next Wednesday, August 19, at 10:00 work?

Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-AUG-1998 13:15:34.00

SUBJECT: Re: Book Dinner

TO: Leslie Bernstein (CN=Leslie Bernstein/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

sure

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-AUG-1998 15:23:20.00

SUBJECT: Re: Food Disaster

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

READ:UNKNOWN

TEXT:

what is this???

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-AUG-1998 15:29:01.00

SUBJECT: Re: Food Disaster

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

READ:UNKNOWN

TEXT:

it did. it was very funny.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-AUG-1998 11:21:15.00

SUBJECT: Re: Welfare Talking Points

TO: Joseph C. Fanaroff (CN=Joseph C. Fanaroff/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

looks good.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-AUG-1998 12:48:01.00

SUBJECT: Re: next steps

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

TEXT:

Eddie -- have you had any further meetings? where are we on all this?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-AUG-1998 13:46:48.00

SUBJECT: Telemarketing Fraud

TO: Fred DuVal (CN=Fred DuVal/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

jose cerda. thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 08/24/98 01:46
PM -----

Fred Duval 08/24/98 12:22:33 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Mickey Ibarra/WHO/EOP, Lynn G. Cutler/WHO/EOP

Subject: Telemarketing Fraud

I have now collected a lot of materials on state regulation of telemarketing fraud and Atty Gen enforcement measures. Who will be the lead on any event we do on this topic?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-AUG-1998 13:46:18.00

SUBJECT: Women's Accomps Document - Updated

TO: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TEXT:
could one of you deal with this? thanks.
----- Forwarded by Elena Kagan/OPD/EOP on 08/24/98 01:46
PM -----

Paul J. Weinstein Jr.
08/24/98 12:39:48 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Elena Kagan/OPD/EOP
Subject: Women's Accomps Document - Updated

Please review and give your comments to Robin.
----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on
08/24/98 12:38 PM -----

Robin J. Bachman
08/24/98 10:55:35 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Paul J. Weinstein Jr./OPD/EOP
Subject: Women's Accomps Document - Updated

Attached please find a revised version of our Women's accomplishments doc
(it was last updated in January). I haven't heard back from DPC. The
Women's Office has a big meeting tomorrow and would really like to
distribute an updated version.

Please get back to me today if you have any changes.

Thanks!

Robin
66237
----- Forwarded by Robin J. Bachman/WHO/EOP on 08/24/98
10:49 AM -----

Robin J. Bachman

08/12/98 07:06:16 PM

Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP, Jonathan Orszag/OPD/EOP, Ann F. Lewis/WHO/EOP
cc: Kelley L. O'Dell/WHO/EOP, Thomas D. Janenda/WHO/EOP, Ruby Shamir/WHO/EOP
Subject: Women's Accomps Document - Updated

Here is an updated version of a Womens' Accomplishments document we distributed in January. Please look it over. I'd like, if possible, to get edits by midday Friday. Additions are fine, but I don't want to add too much more. Suggested deletions are OK, too.

Paul: Do you mind running it by your guys, or should I go to the various teams individually?

We (research) are also revising the African American, Latino and Asian sheets. They will be forwarded to you hopefully by COB Friday, more likely next week.

Thanks. If you have questions, please call.

Robin
66237

Message Sent

To: _____
Sarah A. Bianchi/OPD/EOP
Leanne A. Shimabukuro/OPD/EOP
Jose Cerda III/OPD/EOP
Jonathan H. Schnur/OPD/EOP
Tanya E. Martin/OPD/EOP
Jennifer L. Klein/OPD/EOP

Message Sent

To: _____
Jennifer L. Klein/OPD/EOP
Nicole R. Rabner/WHO/EOP
Neera Tanden/WHO/EOP
Leanne A. Shimabukuro/OPD/EOP
Michael Cohen/OPD/EOP
Tanya E. Martin/OPD/EOP
Christopher C. Jennings/OPD/EOP
Sarah A. Bianchi/OPD/EOP

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

PRESIDENT CLINTON AND VICE PRESIDENT GORE:

Supporting Women and Families

EXPANDING ECONOMIC OPPORTUNITIES:

- **Protecting Families.** The Family & Medical Leave Act (FMLA) enables workers to take up to 12 weeks unpaid leave to care for a new baby or ailing family member without jeopardizing their job. Approximately fifteen million workers have already benefited from FMLA since its enactment. The President also proposed expanding the Family & Medical Leave Act to allow workers up to 24 hours per year of unpaid leave for parent-teacher conferences or routine medical care for a child.
- **Cutting Taxes for 15 Million Working Families** by extending the Earned Income Tax Credit.
- **Increasing the Minimum Wage from \$4.25 to \$5.15**, giving 6 million women a raise.
- **Narrowing the Wage Gap.** Last year, the median earnings of women working full-time increased 2.4 percent. In 1996, the median earnings of women represented 74 percent of the median earnings for men, the narrowest gap ever.
- **Fighting for Paycheck Equity.** Called on Congress to pass legislation to strengthen laws prohibiting wage discrimination.
- **Signed the Bipartisan Workforce Investment Act** reforming America's job training system for the 21st Century.
- **Highest Home Ownership Rate in History.** There are more than 68 million American families who own homes, more than 6 million new homeowners since the President took office. Women's home ownership is increasing at a faster rate than the rest of the country -- up five percent since the first quarter of 1994.
- **Increasing Pension Security.** Fought for legislation that has expanded pension coverage, made pensions more secure for 40 million American workers and retirees, and simplified pension plan administration. Promoting new efforts to encourage retirement savings.
- **Saving Social Security First.** In 1999, nearly 60 percent of all Social Security beneficiaries will be women. President Clinton is committed to save Social Security for the 21st Century and has urged that budget surpluses should be reserved pending Social Security reform.

MAKING OUR HOMES AND COMMUNITIES SAFER:

- **Putting 100,000 More Police on the Streets.** Because of President Clinton's Crime Bill, over 77,000 officers are -- or soon will be -- keeping our neighborhoods and communities safe, on the way to 100,000. And violent crime has dropped six years in a row - the longest period of decline in 60 years.
- **Signed the Assault Weapons Ban** into law as well as **the Brady Bill**, which has already kept handguns away from 250,000 felons, fugitives and individuals under restraining orders related to domestic harassment. The President also signed into law an extension of the Brady Law, which prohibits anyone convicted of a domestic violence offense --

- misdemeanor or felony -- from owning or possessing a firearm.
- **Signed Megan's Law** allowing community-notification of sex offenders.
- **Championed the Violence Against Women Act**, the cornerstone of the President's efforts to fight domestic violence, and created an office at the Department of Justice dedicated to combating violence against women.
- **More than Tripled Funding to Domestic Violence Shelters** and instituted new penalties against men who stalk, threaten or abuse women across state lines.
- **Established Nationwide 24-Hour Domestic Violence Hotline.** The hotline (1-800-797-SAFE) provides immediate crisis intervention, counseling and referrals for those in need. Since the hotline opened, there have been 229,000 calls -- averaging 8,000 calls a month -- from all 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

INVESTING IN EDUCATION AND TRAINING:

- **Largest Investment in Education in 30 Years.** Maintaining his longtime commitment to education, the President enacted the largest investment in education in 30 years -- and the largest investment in higher education since the G.I. Bill -- by signing the 1997 Balanced Budget Act.
- **Providing Early Education to More than 830,000 Children with Head Start.** 200,000 more children are enrolled in Head Start today than in 1992.
- **Promoting National Service** and educational opportunities through AmeriCorps.
- **Teaching Every Child to Read by the 3rd Grade.** The America Reads Initiative will provide tutors after school, improve teaching, and help parents help their children learn to read.
- **Striving for Excellence with National Education Standards.** Seeking high national standards for all students, the President has proposed a first-ever national test in 4th grade reading and 8th grade math.
- **Expanding Choice and Accountability in Public School.** Supported increase of public charter schools, from only one charter school in the nation in 1993 to more than 1,000 charter schools this year.
- **Fighting for Critical Education Investments.** The President has called on Congress to pass critical education priorities included in his FY99 Budget that include initiatives to recruit quality teachers, rebuild crumbling schools and reduce class size.
- **Fought for passage of education tax breaks to promote lifelong learning.** Representing the largest single increase in higher education since the G.I. Bill, the Balanced Budget includes a \$1,500 Hope Scholarship to make the first two years of college universally available, and a 20-percent tuition tax credit for college juniors, seniors, graduate students, and working Americans pursuing lifelong learning.

CARING FOR OUR CHILDREN:

- **Imposed Strict Measures to Keep Cigarettes out of the Hands of Our Children** by restricting youth-targeted advertising; and the FDA made 18 the minimum age to purchase tobacco products nationwide, requiring photo I.D.s for anyone under the age of 27. Fighting to enact comprehensive tobacco legislation.
- **Took Steps to Ensure Children Have Safe Medications.** Unveiled an FDA regulation that protects children by requiring manufacturers to study appropriate dosage levels of

- drugs for pediatric populations.
- **Held First-Ever White House Conference on Child Care and White House Conference on Early Child Development and Learning.** In April 1997, the President and First Lady held the White House Conference on Early Child Development and Learning to highlight the benefits of early nurturing by parents. And in October 1997, the White House Conference on Child Care began a dialogue on the child care challenges facing parents today -- availability, affordability, and assuring safety and quality.
- **Proposed the Largest Single Investment in Child Care in the Nation's History.** Between FY93 and FY97, federal funding for child care increased by nearly 79 percent, providing child care services for over one million children. The President's new \$20 billion child care proposal will double the number of children receiving child care subsidies to more than two million and increases tax credits for three million working families to help them pay for child care.
- **Extended Health Care to Millions of Children with the Children's Health Initiative,** the single largest investment in Health Care for children since 1965. The President fought to ensure that the Balanced Budget included \$24 billion to provide meaningful health care coverage to millions of uninsured children.
- **Fought for and Won \$500 Child Tax Credit for 27 Million Families with 45 Million Children under Age 17.** Thirteen million children from families with income below \$30,000 will receive the child tax credit as a result of the President's efforts.
- **Signed Landmark Adoption and Safe Families Act.** This law will help thousands of children waiting in foster care move more quickly into safe and permanent homes.
- **Signed the Comprehensive Childhood Immunization Initiative.** Thanks to President Clinton, immunization rates among two-year-olds have reached historic highs.
- **Launched New Strategies to Reduce the High Rate of Teen Pregnancies.** Teen (aged 15 to 19 years) births have fallen six years in a row, by 12 percent from 1991 to 1996.

IMPROVING OUR NATION'S HEALTH:

- **Protected and Strengthened Medicare Benefiting the 22 Million American Women Enrolled in Medicare.** The Balanced Budget Act extended the life of the Medicare Trust Fund until at least 2010; expanded choices in health plans; and provided beneficiaries new preventive benefits, including more affordable annual mammograms for all beneficiaries, cervical cancer screening, and tests to help detect osteoporosis. The President has also put forth a new proposal that will help older women. The new options will help Americans ages 55 to 65 to access health insurance, including buying into Medicare.
- **Increased Funding for Breast Cancer Research.** Since the President took office, funding for breast cancer research, prevention and treatment has nearly doubled, from about \$276 million in FY 1993 to \$513 million in the President's FY 1998 budget. Implemented the Mammography Quality Standards Act to ensure the quality of mammograms; women can find a certified mammography facility by calling 1-800-4-CANCER.
- **Providing Greater Control and Protection with the Patients' Bill of Rights.** The President is calling on Congress to pass Federally enforceable consumer health care protections that include: guaranteed access to needed health care specialists including direct access to an OB-GYN; access to emergency room services when and where the need arises; continuity of care protections to ensure that patients' care will not abruptly

change if their provider is dropped; access to a timely internal and independent external appeals process for consumers to resolve their differences with their health plans; a limit on financial incentives to doctors to limit care and assurances that doctors and patients can openly discuss treatment options. Women are particularly vulnerable without these health care protections because they are greater users of health care services, they make three-quarters of the health care decisions for their families, and they have specific health care needs that are directly addressed by a patients' bill of rights.

- **Preventing Discrimination Based on Genetic Information Both by Health Plans and Employers.** Urging Congress to pass bipartisan legislation to prohibit health plans from inappropriately using genetic screening information to deny coverage, set premiums, or to distribute confidential information. The President also has supported legislation that ensures that employers do not use genetic information to discriminate against employees.
- **Fought for Greater Health Security for America's Families.** The President signed into law the Health Insurance Portability and Accountability Act which helps millions of Americans who move from one job to another, who are self-employed, or who have pre-existing medical conditions keep their health insurance.
- **Endorsed Legislation That Would Ban Drive-thru Mastectomies,** allowing women to stay in the hospital at least 48 hours following a mastectomy.
- **Ended Drive-Thru Deliveries.** Proposed and signed into law legislation requiring insurers to cover at least 48 hours of a post-natal hospital stay (72 hours for a Cesarean).

PROMOTING REPRODUCTIVE HEALTH SERVICES FOR WOMEN:

- **Reversed the "Gag Rule"** limiting the information federally funded family planning clinics could give to women.
- **Increased Funding for Title X.** The President's FY99 proposal will increase Title X Family Planning grants by \$15 million -- a 46 percent increase since FY92.
- **Signed the Freedom of Access to Clinic Entrances Act,** establishing a safety-zone around women's health clinics.

GENERATING MORE BUSINESS OPPORTUNITIES FOR WOMEN:

- **Women Are Starting Businesses at Twice the Rate of All Businesses.** Women own nearly 40 percent of all firms in the U.S. These eight million women-owned firms employ 18.5 million —one in every five U.S. workers — and contribute \$2.3 trillion to the economy. The Small Business Administration's Office of Women's Business Ownership is working to foster this growth.
- **Tripled the Number of Small Business Loans to Women Entrepreneurs.** Between 1993 and 1997 the SBA approved nearly 50,000 loans to women entrepreneurs under the 7(a) and 504 loan programs. Last year alone, the Small Business Administration granted more than 10,000 loans, worth \$1.67 billion, to women small business owners, triple the number of loans granted in 1992.

WOMEN AS PARTNERS IN DECISION MAKING:

- **Appointed More Women than Any Other President** -- 41 percent of Administration appointees are women.
- **Women Hold 29 Percent of the Top Positions** -- 29 percent of the positions requiring Senate confirmation (PAS) are held by women. Additionally,
 - 34 percent of the presidential appointments, including boards and commissions, are held by women.
 - 39 percent of non-career Senior Executive Service positions are held by women.
 - 58 percent of Schedule C positions are held by women.
- **Appointed the First Women Ever to Serve as Attorney General, Janet Reno, and Secretary of State, Madeleine Albright.** Including the Attorney General and Secretary of State, women make up 27 percent of the Clinton Cabinet: Alexis Herman, Secretary of Labor; Donna Shalala, Secretary of Health and Human Services; Carol Browner, Administrator of the Environmental Protection Agency; Janet Yellen, Chair of the Council of Economic Advisors; and Charlene Barchevsky, United States Trade Representative.
- **30 Percent of All of the President's Judicial Nominees Are Women.**
- **Nominated the Second Woman to Serve on the Supreme Court.** During his first year in office, President Clinton nominated Ruth Bader Ginsburg to the United States Supreme Court. Justice Ginsburg is only the second woman to serve on the nation's highest court.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-AUG-1998 14:23:36.00

SUBJECT: Agenda

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

TEXT:

you bet; please call laura to put something on my schedule. thanks.
----- Forwarded by Elena Kagan/OPD/EOP on 08/24/98 02:23
PM -----

Maureen T. Shea
08/24/98 02:02:06 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: Agenda

Would you be free this week to discuss fall agenda for women - I'm trying to put together a calendar of events/opportunities and your input would be very helpful. Any day but Tuesday is good for me. Many thanks - I'm on X67396.

DPC -- Food Safety Council. Secretaries Glickman and Shalala and Director Lane briefed the press this afternoon on the Executive Order you signed to establish a new Council on Food Safety. As you know, the Council is charged with improving coordination among the various federal agencies that deal with food safety issues by developing a comprehensive food safety plan and a unified food safety budget. The Council also is charged with reviewing the National Academy of Science's recent recommendation that Congress pass legislation establishing a single food safety agency. Consumer groups generally praised the Executive Order. For example, the Center for Science in the Public Interest said that the Council "represents an important improvement of the existing food safety system," and the Safe Food Coalition stated that "the creation of the Council is a productive step toward improving the safety of America's food supply." At the same time, all these groups called on the Council to support the NAS's call for legislation establishing a single food safety agency. We suspect that HHS and USDA will resist this proposal, in part for turf reasons.

DPC -- Food Safety Council. Secretaries Glickman and Shalala and Director Lane briefed the press this afternoon on the Executive Order you signed to establish a new Council on Food Safety. As you know, the Council is charged with improving coordination among the various federal agencies that deal with food safety issues by developing a comprehensive food safety plan and a unified food safety budget. The Council also is charged with reviewing the National Academy of Science's recent recommendation that Congress pass legislation establishing a single food safety agency. Consumer groups generally praised the Executive Order. For example, the Center for Science in the Public Interest said that the Council "represents an important improvement of the existing food safety system," and the Safe Food Coalition stated that "the creation of the Council is a productive step toward improving the safety of America's food supply." At the same time, all these groups called on the Council to support the NAS's call for legislation establishing a single food safety agency.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-AUG-1998 11:40:39.00

SUBJECT: Re: next steps

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

TEXT:

me either. maybe civil rights work for edley's book???

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-AUG-1998 16:32:01.00

SUBJECT: Tobacco Memos

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

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

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

CC: Melissa M. Murray (CN=Melissa M. Murray/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D74]MAIL41342793T.226 to ASCII,
The following is a HEX DUMP:

FF575043AB040000010A0201000000002050000000E21D000000002000007D6BA8984C3CBE4E22F29D
6CD341C6A76BB0152B8140B2B46C25B4C91D886844E5C2674A985CE9A7B3F0428FFB4B2DA9624F
5CF29013F59976607C66AE476A6BB862A5DD08516667E245B70DE0E7A90820DA526D0CC97F260B
3A9DF820E43A60474B303BE1E17EB86E9AF9019346EF99E8ABCD82F6610E0681B04E2C1420AE73
F15F330886CBCA458F236C9FFCD823E23EE4324DFB4926544AA614BC5656B7B045A19049F9D50A
210D06D893E8B5741FA8D82305E26D8A35545034E187DFC59283FB11AE8F511FC7F2133FE8A5FC
247B239486E05CDA9B62C9EEFF8646F70DA8FD08E4257B7A9077863E4F29E8D275F2C319057731
DBEB59850DD5D80CB52D4AE0966547C4A7EB341B7C512DED4C672DE10075C6669E06EBEE332054
45FF18015CDDCEC968C169933D4BA44E780499992B40D5A5B3E075D016624E8CFBAC5F40899128
F5D7EAA23F396E7ABB64EB5C858F332594EE21F02F67C8EB0826308A6846C5ABE484584B50195D
D6C5F2D0D7259A19205D4B7A60C649180685D139F2C66114217D10E9742B6393E762C586D9DCE8
40BEF7AD8C5C56D3ACDBECB7E67F1F27AEC2A7F9DD112682C94B33A67DAD43747F94FC30133933
AC1E9E627EC031EA2B3CD6AE03DC4736660F150568470A0C50A60AE47E76056627C1F35D1C2BDC
012DDE8CB202000A000000000000000000000000082301000000B0100008C02000000550100000
4E0000009703000009250100000006000000E50300000B300200000028000000EB030000087701
000000400000001304000008340100000014000000530400000802010000000F000000067040000
0608010000002D0000007604000008050100000008000000A304000000984C006F00630061006C
0020004800500034005000
00
C800C8002C012C012C012C01C800C8003000
00
00
00
00
0B010000103600540069006D006500730020004E0065007700200052006F006D0061006E002000
52006500670075006C0061007200
00
7D02010002007E02020065817F0202004500800202000200810201000200820201004500830202
0045008402030002008502010045005697562400000000000000000000000000000000000000
780000020000850200000301000A00000023000000D10323008001000016009601010000580203
FFFF000000000000000000006400002300D10100040002000000DD0A100083010400030002002110
00DDDD0B0B00030000040B00DDF1027E02F19BF1037E02F1D1151100800108000400EF48010011
00D1CCCCCCCCD3050C0000010002000C00D34175677573748032322C8031393938CCCCD3050C00
00010000020C00D34D454D4F52414E44554D80464F528054484580505245534944454E54CCCC54
48524F5547483AE0110C0000000060090C00E0E0110C00000000B80B0C00E0808080804572736B

August 22, 1998

MEMORANDUM FOR THE PRESIDENT

THROUGH: Erskine Bowles

FROM: Bruce Reed
Elena Kagan

SUBJECT: Tobacco Idea

Dick Scruggs called us yesterday with an idea for how to achieve our goals on tobacco without legislation. We have discussed this idea with Erskine, and all of us believe that it is very interesting. If you agree that Scruggs's suggestion is worth pursuing, Erskine will take the steps necessary to do so. Until he does, we should not raise this idea with anyone else.

Scruggs proposes that the federal government enter into a consent decree with the tobacco companies to settle our claims for Medicare costs. As a matter of mechanics, we probably would do this by filing two documents simultaneously with a court: a complaint against the companies and a proposed settlement agreement.

Under Scruggs's proposed consent decree, the companies would make the payments called for in the June 20th settlement agreement -- i.e., \$368 billion plus capped industry-wide lookbacks. About \$200 billion of this amount would go to states settling their own suits against the companies, with the remainder going to the federal government. Any state that wished to continue its suit against the companies could do so, but the state's share of the money then would revert to the federal government. Scruggs had no view on whether the states should have to use some portion of their money for specified purposes (e.g., child care). He did note that the federal government would have to leave the full \$200 billion with the states, rather than seek to recapture its usual share of Medicaid recoveries.

In addition to containing these monetary provisions, the consent decree would require the companies to drop their legal challenge to the FDA rule and to accept the FDA's assertion of jurisdiction over tobacco products. The decree also would mandate that the companies adhere to all the youth access and advertising restrictions contained in the June 20th settlement agreement.

The consent decree of course could not give the companies the liability protections contemplated in the June 20th agreement; for that, an act of Congress is necessary. Scruggs suggests, however, that the decree contain some kind of set-off or credit for punitive damages. Under the scheme he proposes, a company could subtract from its required payment to a state any

punitive damages awarded against the company in that state's courts, up to the full amount of the required payment. Scruggs believes that the states will go along with this provision, even though it appears to put everything they get out of the settlement at some risk (at least if their courts award punitive damages).

Scruggs also proposes that the consent decree give the settling companies some kind of protection against new entrants to the tobacco market (or existing companies with tiny market shares). This protection, according to Scruggs, is necessary to alleviate the fear of the companies that agreeing to this settlement will allow new companies to undercut them. Although Scruggs is uncertain about precisely how to provide this protection, he suggests that the FDA agree to regulate settling companies somewhat differently from other companies -- for example, by agreeing not to ban products manufactured by settling companies, but retaining authority to ban products manufactured by all others.

Erskine and we believe that as outlined here and putting aside all legal questions, the settlement is deficient in two respects. First, the settlement does not include any protection for farmers. We could solve this problem by insisting that the companies agree to purchase a set amount of tobacco leaf each year from American farmers. Second, the settlement seems slightly underfunded. We need to get something -- even if not much -- more than the original \$368 billion (perhaps the \$428 in Senator Hatch's bill) to sell this settlement as a huge victory.

Even more important, we will have to address a number of legal issues before we can enter into this kind of settlement. First, we will have to figure out a legal way of giving about \$200 billion in settlement monies to the states; this provision potentially conflicts with the federal government's obligation to place legal awards in the U.S. Treasury for later appropriation by Congress or with the federal government's obligation to recoup a portion of state Medicaid recoveries. Second, we will have to find a sure way to protect the FDA rule; the settling companies' agreement to drop their suit is insufficient if other parties (e.g., retailers, advertisers, other manufacturers) can continue the suit, or bring a very similar suit the next morning. Third, we will have to inspect very closely any proposals to give a competitive advantage to settling companies, in light of both our antitrust policies and our regulatory objectives.

All that said, we think this approach presents us with an exciting opportunity. According to Scruggs, key Wall Street analysts have told him that the industry might well be interested in this kind of deal. (Scruggs claims not to have talked with industry officials.) We think you should give Erskine the go-ahead to send out some feelers.

Scruggs Proposal

What the companies give:

- \$368+ billion (\$428?), of which about \$200 billion goes to states (less if some states opt out); money to states is free and clear of all federal recoupment claims
- Industry-wide lookbacks
- All advertising and access restrictions in June 20th agreement
- Withdrawal of legal challenge to FDA rule; action to prevent other parties from continuing current suit or bringing new one (but how?)
- Undetermined protection for or payment to tobacco farmers

What the companies get:

- Settlement of federal suit and state suits (unless state opts out of money)
- Credit for punitive damages against payments to states -- e.g., if Mississippi court grants private plaintiff \$10 million in punitive damages, companies pay \$10 million less to Mississippi
- Undetermined market protection against non-settling companies (including new entrants) -- e.g., distinctions in way FDA regulates settling and non-settling parties

August 26, 1998

MEMORANDUM FOR ERSKINE BOWLES

FROM: Elena Kagan

SUBJECT: Tobacco

Attached is a one-pager to give to the Attorney General. As you can see, I have labeled the proposed agreement the "Scruggs Proposal"; if you would prefer me to describe it differently, please let me know.

Two further thoughts occurred to me as I was writing up the one-pager. First, we must figure out whether our trade obligations prevent us from entering into certain kinds of agreements to protect farmers (e.g., an agreement by the companies to buy a set amount from American farmers). Second, we should consider whether the punitive damage set-off suggested by Scruggs will lead states to adopt laws prohibiting the award of punitive damages against tobacco companies, thus providing the companies with the protection they long have wanted against punitive damages.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-AUG-1998 13:37:01.00

SUBJECT: Re:

TO: Phillip Caplan (CN=Phillip Caplan/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

jeanne works for gene.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Elena Kagan to Laura Emmett re: party (4 pages)	09/08/1998	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[7/26/1998 - 9/28/1998]

2009-1006-F
ry943

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-SEP-1998 13:58:56.00

SUBJECT: Re: DETAILS FOR TOMORROW'S DATE ---- to get our groove back...

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

READ:UNKNOWN

TEXT:

sorry i missed this; i had he good luck to be out all last week. i'd love to be included when you next meet.

Welfare Caseload Analysis

9/4/98

	<u># of recipients (in millions)</u>	<u># change from prior mo</u>	<u>% change from prior mo</u>	<u># change from prior yr</u>	<u>% change from prior yr</u>
Jan 96	12.877				
Aug 96	12.202				
Oct 96	11.895				
Jan 97	11.36			-1.517	-11.8%
Feb 97	11.262	-0.098	-0.9%		
Mar 97	11.156	-0.106	-0.9%		
April 97	10.969	-0.187	-1.7%		
May 97	10.748	-0.221	-2.0%		
June 97	10.494	-0.254	-2.4%		
July 97	10.258	-0.236	-2.2%		
Aug 97	9.995	-0.263	-2.6%	-2.207	-18.1%
Sep 97	9.804	-0.191	-1.9%		
Oct 97	9.668	-0.136	-1.4%	-2.227	-18.7%
Nov 97	9.447	-0.221	-2.3%		
Dec 97	9.345	-0.102	-1.1%		
Jan 98	9.132	-0.213	-2.3%	-2.228	-19.6%
Feb 98	9.026	-0.106	-1.2%	-2.236	-19.9%
Mar 98	8.91	-0.116	-1.3%	-2.246	-20.1%
April 98	8.758	-0.152	-1.7%	-2.211	-20.2%
May 98	8.572	-0.186	-2.1%	-2.176	-20.2%
June 98	8.38	-0.192	-2.2%	-2.114	-20.1%

	Absolute	% change
Drop Mar to June 97	-0.662	-5.93%
Drop Mar to June 98	-0.53	-5.95%
Difference	-20%	0.24%

USA Today used absolute change, which makes no sense when base is falling. In fact, rate of change has held steady at nearly 6%, and has actually accelerated slightly (by one quarter of a percent).

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Elena Kagan to Laura Emmett re: party (7 pages)	09/09/1998	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[7/26/1998 - 9/28/1998]

2009-1006-F
ry943

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

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

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

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

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-SEP-1998 08:51:05.00

SUBJECT: INS reform -- legislative strategy

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

we all decided that veto threat language was not appropriate.

----- Forwarded by Elena Kagan/OPD/EOP on 09/09/98 08:50
AM -----

Julie A. Fernandes
09/08/98 08:18:49 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP, Steven M. Mertens/OMB/EOP, Michael
Deich/OMB/EOP

cc: Elena Kagan/OPD/EOP, Marjorie Tarmey/WHO/EOP

Subject: INS reform -- legislative strategy

Maria,

Elena held a meeting with Peter Jacoby, Michael Deich, Steve M., Ingrid Schroeder and Chuck Kieffer this afternoon to decide our legislative strategy re: INS reform. We decided that Peter would ask Justice to write a letter (from the AG) strongly opposing the Rogers legislation for two reasons: (1) the appropriations process is not the right vehicle for doing this; we have made good progress toward a bi-partisan bill and we should pursue that; etc.; and (2) the bill has substantive problems; e.g., it needs to include an equivalent office for immigration benefits and someone to coordinate the two halves of immigration policy. According to Peter, the mark-up for the Rogers bill will likely be put off until next week, but we still want DOJ to draft the letter as soon as they can. Also, Peter is going to suggest to DOJ that Eric Holder make calls to some Republican members on the House Judiciary committee, asking them to support not reporting the Rogers bill out of committee.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 19:33:10.00

SUBJECT: weekly report

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 09/10/98 07:33
PM -----

Michael Cohen

09/10/98 06:33:57 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: weekly report

Charter schools legislation. The Administration is continuing discussions with Senate staff to reach agreement to bring a charter school bill to the Senate floor. The bill was approved by full committee with bipartisan support last month, and is generally similar-- with a few important differences that would need to be resolved in conference -- to a bipartisan charter school bill approved by the House last year. The final obstacle to approval by the full Senate appears to be a demand from Senator Harkin permitting a small portion of funds from the charter school program to support "innovative" non-charter schools, in states that do not permit charter schools. Senate Republicans (and Senator Kennedy's office) oppose this provision because it undermines one purpose of the bill--to provide incentives to states to enact charter schools legislation. In order to keep the bill moving forward, we are attempting to broker a compromise, either by helping Sen. Harkin find ways of directing funds to innovative schools outside the framework of charter schools legislation, or by including in the charter schools bill a small demonstration program to support schools with most features of charter schools (i.e., a public school of choice with flexibility and a performance contract) but that are not located in a state with a charter school law. It is unclear whether either Harkin or the Republicans will accept this compromise.

MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM: JULIE FERNANDES AND CECILIA ROUSE

SUBJECT: ASSESSMENT OF H-2A "IDEAS INVENTORY"

DATE: April 24, 2009

Attached is our assessment of the positions of USDA and DOL regarding the proposals put forth in DOL's "ideas inventory." The shaded boxes indicate important proposals for which there is agency disagreement and thus should be discussed at today's meeting. We have also attached a list of the current program requirements that includes definitions of the most important terms.

In order to better understand the agencies' positions, it is useful to understand the underlying policy tensions. Growers see themselves as having a choice between three categories of workers: legal U.S. workers, illegal workers, and H-2A workers. Which category they draw from is almost exclusively determined by total cost. For example, if the total cost of hiring a U.S. worker (including wages, taxes, housing, etc.) is higher than the total cost of hiring an H-2A worker, the grower will hire the H-2A worker. Therefore, the total compensation offered by the H-2A program becomes the effective total compensation ceiling for U.S. workers. In addition, the presence of large numbers of illegal farmworkers distorts the labor market such that the growers' response to an inability to find sufficient legal U.S. workers is to hire illegal workers, rather than increase wages or improve working conditions. Thus, though we may want to require fair wages and working conditions in the H-2A program, if the cost of using the program is too high, the growers will hire undocumented workers.

USDA's goal is to provide a steady, reliable source of farmworkers for U.S. growers. USDA believes that the domestic labor force can never completely satisfy the labor needs of agriculture, particularly during peak times, and therefore there will always be a need for temporary foreign agricultural workers. In a world in which the INS is increasingly cracking down on the employment of undocumented workers, the USDA (and the growers) would prefer that the foreign workers that they employ be authorized to work. Their goal is thus to set a wage (or total compensation) floor that is low enough that growers will readily use the H-2A program (rather than hire undocumented workers), but that is high enough to continue to attract existing U.S. farmworkers. However, they believe that an H-2A program that would set the wage (or total compensation) floor high enough to attract many more U.S. workers would drive growers into the illegal labor market.

DOL is concerned that a low wage (or total compensation) floor becomes a low ceiling for U.S. workers and therefore hurts these already impoverished workers. They are not as convinced that the domestic labor force could never satisfy growers needs at a reasonable wage; rather, they argue that agricultural wages have been kept artificially low because of the large presence of undocumented workers. Labor believes that if agricultural wages were allowed to rise, additional

U.S. workers would be willing to work in agriculture. They also assert that we can do a better job of facilitating matches between workers and employers that would give domestic farm workers more stable employment and growers access to a steady supply of workers.

As you read through the following list of proposals, you will notice that in many areas (e.g., wages, housing, transportation) the issue is whether the proposal increases the total cost to the employer or shifts those costs to the government or the farmworker. USDA generally opposes reforms that would increase grower costs. The Labor Department generally opposes reforms that transfer costs to the government or the farmworker, and favors reforms that aim at improving labor conditions or wages for U.S. and foreign farmworkers. Because the focus is on total costs (with wages and housing being the most significant areas of concern) we cannot decide on individual reform components in isolation.

Requirements (and Definitions) under the Current H-2A Program

- **Recruitment:** The agricultural employer must engage in independent positive (i.e., active) recruitment of U.S. workers, including newspaper and radio advertising in areas of expected labor supply. Such recruitment must be at least equivalent to that conducted by non-H-2A agricultural employers to secure U.S. workers.
- **Wages:** Employers must pay H-2A workers the “**adverse effect wage rate**” (AEWR), the applicable prevailing wage rate, or the statutory minimum wage rate, whichever is higher. The AEWRs are the minimum wage rates which the DOL has determined must be offered and paid to U.S. and H-2A workers, and they are established for each state. The region- or state-wide AEWR for all agricultural employment for which H-2A certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the USDA.¹ The AEWRs are designed to prevent the employment of these nonimmigrant alien workers from adversely affecting the wages of similarly employed U.S. agricultural workers.
- **Housing:** The employer must provide free and approved housing to all workers, both foreign and domestic, who are not able to return to their residences the same day.
- **Meals:** The employer must provide either three meals a day to each worker or furnish free and convenient cooking/kitchen facilities. If meals are provided, then the employer may charge each worker a certain amount per day for these meals.
- **Transportation:** The employer is responsible for the following types of transportation for workers: 1) After a worker has completed fifty percent of the work contract period, the employer must reimburse the worker for the cost of transportation and subsistence from the place of recruitment to the place of work; 2) The employer must provide free transportation between any required housing site and the work site for any worker who is eligible for such housing; 3) Upon completion of the work contract, the employer must pay return transportation to the worker’s prior residence or transportation to the next job.
- **Workers’ Compensation Insurance:** The employer must provide Workers’ Compensation or equivalent insurance for all workers, both foreign and domestic.

¹Some 1998 AEWRs: California, \$6.87; Florida, \$6.77; Georgia, \$6.30; Hawaii, \$8.83; Kentucky, \$5.92; and Ohio, \$7.18.

- **Three-fourths Guarantee:** The employer must guarantee to offer each worker employment for at least three-fourths of the workdays in the work contract and any extensions. In applying this guarantee and determining any additional wages due, the following facts must be established: 1) The beginning and ending dates of employment; 2) The number of workdays between the established beginning and ending dates of the guarantee period; and 3) The hours of worktime for the guarantee. The guarantee is then established by computing seventy-five percent of the established total hours of work time in the contract period. Note that the employer may not count any hours offered on such days in which the worker refused or failed to work.
- **Fifty Percent Rule:** The employer must employ any qualified U.S. worker who applies for an available job until fifty percent of the contract period has elapsed.
- **Tools and Supplies:** The employer must furnish at no cost to the worker all necessary tools and supplies, unless it is common practice for the worker to provide certain items.
- **Labor Dispute:** The employer must ensure that the available job for which the employer is requesting H-2A certification is not vacant due to a strike or lockout.
- **Certification Fee:** A fee will be charged to an employer granted temporary alien agricultural labor certification. The fee is \$100, plus \$10 for each available job certified, up to a maximum fee of \$1,000 for each certification granted.
- **Farm Labor Contractors (Crewleaders):** A farm labor contractor is an organization or entity that either supervises, recruits, transports, houses, or solicits farm labor other than the owner of the work site. Bona fide registered farm labor contractors may be eligible to apply for and receive H-2A certification, although they generally deal with domestic laborers. Farm labor contractors would be required, as employers, to provide all the minimum benefits specified by the H-2A regulations, including the three-fourths guarantee and the fifty percent rule.

<u>Reform Proposal</u>	<u>WH</u>	<u>USDA</u>	<u>DOL</u>
Worker Recruitment			
Require "positive recruitment" of U.S. farmworkers by growers only in areas where DOL finds that there are a significant number of qualified workers willing to make themselves available for employment at the time and place	Y	okay	DOL implemented this administrative change.

needed.			
Count as "available" for employment only those U.S. workers who are identified by name, address, and SSN	Y	okay	DOL implemented this administrative change.
Post employers' H-2A job orders on America's job bank	Y	USDA would not oppose.	DOL proposal; requires job order simplification.
Strengthen the MSPA program of registering farm labor contractors to require bonding; allow H-2A employers to require bonding as a condition of employing a farm labor contractor.	Y	DOL and USDA agree to support this.	
Allow H-2A growers to include a bonding requirement for FLCs they employ.	Y	DOL and USDA agree to support this (essentially the same as the previous proposal).	
Eliminate the requirement that farm labor contractors must be used by H-2A growers if the use is the prevailing practice in the area.	N	USDA generally wants more flexibility for growers, however they are unlikely to strongly oppose DOL's opposition.	DOL strongly opposes because the goal is for the H-2A program to track prevailing practices in areas of labor protection.
Provide an exception from current program requirement to use FLCs for any FLC who has a demonstrated history of employing illegal workers or other serious labor abuses.	Y	USDA agrees.	DOL regulatory initiative.
Require use of FLCs as recruitment mechanism whenever use is "common" or "normal" (not prevailing) in an area.	N	USDA will likely oppose because grower regulations should involve the highest standard.	DOL generally supports prevailing practice. This is not likely an issue about which DOL will take a strong position.
Require payment of competitive rates for FLC services.			
Employment Eligibility Verification			
DOL work with Congress and other affected agencies to develop a reliable means of verifying individual's authorization to work as they are hired.	Y	USDA would likely agree because of their goal to decrease growers' dependence on undocumented workers as long as growers had increased access to H-2A workers.	DOL agrees.

Create a national employment eligibility verification system so that employers can check on the legal status of domestic workers who are hired during the H-2A process.	Y	INS currently has a pilot program to do just that which we support and has encouraged growers to participate in the pilot.	
Require growers using the H-2A program to use INS pilot employment eligibility verification system.	Y	USDA would likely agree as part of an overall package.	DOL would likely agree.
Growers only responsible for recruiting and hiring farm workers in the U.S. through the DOL-administered Registries (and contacting former employees); Registries are responsible -- and have only 14 days -- to locate, contact, verify employment eligibility, and refer U.S. workers to growers seeking foreign farm workers; failure to refer timely or to refer sufficient workers allows direct application for workers to Secy of State.	N	USDA likely supports this provision because it reduces the burden on employers.	DOL hates this provision because it leaves the burden of recruitment entirely to the Federal government.
Secy of State authorizes additional H-2A workers if Registry-referred workers fail to report; are "not ready, willing, able, or qualified" to do the work; or, abandon or are terminated from employment.	N	USDA likely supports this provision because it provides growers with quick access to H-2A workers if they have cannot recruit U.S. workers through the registry.	DOL would likely hate this provision because, again, it centralizes all recruitment through the Registry and absolves growers of any additional recruitment before applying for H-2A workers.
Pilot test new Registry of available U.S. farm workers; growers share responsibility for positive recruitment of U.S. farm workers.	Y	USDA would likely support a pilot of a mechanism to facilitate the hiring of U.S. workers for growers.	DOL supports a pilot of such a registry (as long as growers continue to share part of the responsibility for recruitment).
Require employers' "positive recruitment" to include: providing an 800 contact telephone number and accepting "collect" calls from worker job applicants; contacting other potential employers to link a series of job opportunities; and developing a long-term recruitment plan to reduce dependence on foreign guestworkers.	N	USDA would likely oppose such positive recruitment measures because it increases the costs to employers.	DOL would likely support these measures, but are unlikely to require that they be part of a final package.
H-2A workers covered by the MSPA, but disclosure only required at time of visa issuance.	N	USDA likely supports this measure.	DOL supports having H-2A workers covered by MSPA but likely believes that the workers should be informed of their rights when recruited rather than at the time of visa issuance (which could be after the worker has

			incurred significant costs).
DOL rulemaking regarding possible consolidation of agricultural job orders in the Interstate Clearance System.	Y	USDA agrees.	DOL agrees
Productivity Standards			
H-2A employers allowed to set minimum production standards after a "3-day break-in period."	?		
Employer-established productivity standards and quality requirements should be permitted only if they are the prevailing practice among non-H-2A employers, are bona fide, objective, justifiable, fully disclosed and implemented on a fair and equitable basis.		USDA generally opposes any additional regulations or restrictions on growers and would therefore likely oppose this idea.	DOL would likely support this idea as it is aimed at protecting U.S. workers.
Experience (and related) Requirements			
H-2A employers should be allowed to specify "agricultural experience" as a condition for hiring U.S. farm workers.		USDA would likely support because it ultimately gives the growers more flexibility in who they hire.	DOL would likely oppose arguing that it gives growers too much discretion for jobs that generally do not require substantial experience.
Disallow job qualifications, experience and reference requirements unless they are the prevailing practice among non-H-2A employers and are otherwise job-related and bona fide.		USDA would likely oppose for the same reasons that they would support specifying "agricultural experience."	DOL would likely support for the same reasons they would oppose specifying "agricultural experience."
Allow H-2A workers to move from one certified H-2A employer to another, with the final employer responsible for return transportation costs.	Y		According to DOL, this is current law.
Prohibit H-2A job orders that consolidate seasons and different crops.		USDA would likely oppose because consolidation would potentially decrease costs to growers by allowing them to group together and reduce the number of individual	DOL would likely support because it protects U.S. farm workers by requiring growers to submit individual applications.

		applications.	
Prohibit use of the H-2A program in designated labor surplus areas.	N	USDA may not disagree in theory but would likely be concerned that the designation of a labor surplus areas would not necessarily reflect the short-term labor needs of particular growers with particular crops.	DOL would support this in theory, however it would likely have concerns about how areas are designated.
Wages and Costs			
Revise H-2A regulations regarding the 3/4 guarantee to remove incentives to growers to overestimate the contract period.	Y	Agrees.	Agrees.
Consider applying the 3/4 guarantee incrementally during the contract period.	N	Oppose.	Opposes.
Eliminate the 3/4 guarantee	N	Doesn't like the 3/4 guarantee b/c wants growers not to have to pay workers if their crop is disappointing (less work in fact than they anticipated). However, they understand that this is a <u>more</u> generous rule than under the MSPA (the statute that governs non-H2A farmworkers) and thus agrees that this reform is no good.	Opposes the elimination of the 3/4 guarantee (b/c protects farmworkers by ensuring that the work that they are promised in the contract is provided, thus allowing them to make fairer judgments when choosing between jobs). However, not sure that 3/4 is a magic number.
Modify the 3/4 guarantee to allow H-2A growers to limit the contract period to "duration of crop activity" and terminate the contract period offered due to changes in market conditions.	N	Agree that effectively eliminates the 3/4 guarantee.	Agree that effectively eliminates the 3/4 guarantee.
Eliminate AEWR and instead require payment of 105% of prevailing wage for crop in the area.		Yes. They are in favor of eliminating the AEWR b/c it provides a wage higher than the prevailing wage for some H2A workers. USDA does not agree that the prevailing wage is depressed by the presence of illegals in the	No. The AEWR is calculated to compensate for the presence of illegals that depress the prevailing wage rate. It calculates the required wage as the state-wide average of all non-managerial farmworkers, thus dispersing the

		workforce, but does not object to a small sweetener to the prevailing wage to replace the AEW (like the 105% proposed by Wyden)	<p>impact of illegals. If the wage is calculated based on 105% of prevailing, it will still be a depressed wage in those industries or areas where the presence of illegals is large. However, DOL agrees that the AEW is a bit of an odd way to calculate, and that there is no magic to it.</p> <p>They want some way to calculate the wage that compensates both for the presence of illegals (wage depression) and for the fact that growers do not pay H2A workers FICA/FUDA (approx. 8%). AEW may not be magic, but 105% of prevailing does not even get the wage = to that of non-H2A workers.</p>
Eliminate AEW and require payment of the prevailing wage for the crop in the area.		USDA likes this option. They want the H2A wages to be the same as the prevailing wage in the crop and area. They dispute that wages are depressed b/c of the presence of illegals. In addition, they maintain that if the program requires a higher wage than what is being paid locally, the growers will not use the H2A program and will access the undocumented workforce.	Labor hates this idea, for the reasons above. The wage paid to H2A workers should be a fair wage -- defined as one that compensates for the wage depression caused by the presence of illegals. Labor believes that growers should have to go to the U.S. market first, offer a fair wage and good conditions, and if not successful, access an H2A market that compels them to pay a fair wage under good conditions.
Only require payment of federal minimum wage (not AEW) as a "training wage" for inexperienced workers during a training period (in the K).		Another way to undercut the AEW that USDA likes.	Another way to undercut the AEW that Labor hates.
Require increases in piece rates to reflect increases in the AEW.	Y	USDA would likely not like. This would raise the total wage cost.	Labor would like. Most farmworkers are paid by the piece, so a conversion of the piece rate to the AEW is consistent with their desire to keep or strengthen the AEW.
Prohibit H-2A employers from increasing productivity	Y	USDA would likely not like b/c this would raise the total wage cost and require farmers to	Labor would like this. It discourages the farmers from changing productivity levels in

requirements to offset increases in the AEW		set productivity levels early in the season and not allow conditions to change expectations.	ways designed to keep the wage low.
Change AEW methodology to set at 90th percentile of local market wage or 80th percentile of regional market wage.		They are generally opposed to any change that would increase the overall wage cost. However, they may be open to setting the wage at some modest percentage higher than the local prevailing wage. Thus, though these numbers are high, there may be room to work here.	Labor is generally in favor of calculations that result in a higher wage, though they see no magic in the AEW. The conflict with USDA would be over how high to set the percentile.
Apply AEW to shepherders.	?	Opposed. Shepherders are different.	They want more for the shepherders.
Disallow any wage deductions by H-2A employers that reduce earnings below the highest required wage.		USDA would favor changes along these lines. They want to consider total cost of employing an H2A worker and compare that to total cost of hiring a non-H2A worker (legal or illegal).	Oppose. Though Labor is open to discussions that take into account total cost to growers to use the program, they do not want the farmworker wages to be too low.
Prohibit H-2A employers from fixing uniform wage rates across large areas -- states or regions.	?		
Reforms to the 50% rule as recommended by OIG.	Y	USDA agrees.	Labor agrees.
Modify existing 50% rule to only require hiring of local workers (that reside within commuting distance) but extend this obligation to the entire period of the contract.	N	Oppose. Blocks out of state U.S. crews from work.	Oppose. same reason.
Eliminate 50% rule except for workers referred through the registries <i>unless</i> there are other substantially similar job opportunities in the area.	Y	Would agree to apply the 50% rule only where equivalent jobs are not available in the area. This is currently the rule where the association in the employer. Also agrees that the 50% rule is good for U.S. workers.	Agrees.
H-2A workers should be covered under the State Unemployment Insurance System	Y	This could increase grower cost, but unlikely that they would oppose this.	Likely favor, though there is a question of whether this would only apply where U.S. farmworkers are covered under state law.
H-2A employers expressly authorized to pay hourly wage,	N	USDA might like this b/c it gives flexibility to	Labor will hate this, b/c they have asserted that

piece rate, task rate, or "other incentive payment method, including a group rate," irrespective of the prevailing payment method.		growers.	the task rate is too variable to be susceptible to a prevailing wage determination. There are also likely problems with the "group rate."
H-2A employers are in compliance with the wage requirements if "the average of the hourly earnings of the workers, taken as a group," equals the required hourly wage.	N	USDA may like this, but fairness concerns weigh against it.	Labor will not like this b/c it allow the growers to pay some workers less than the required hourly wage.
Prohibit payment by "task rate" or other variable rate method of payment.	Y	May not like b/c like grower choice.	Would likely favor. Have spoken out against the task rate.
Protect earnings level when employers convert from a piece rate to an hourly rate.	Y	USDA likely would not oppose, b/c it only holds the rate the same.	Protecting wage rates would seem a good thing to Labor.
For employers converting from hourly rate to piece rate, set piece rate to assure earnings at least 30% above AEW.		This is another way to sweeten the wage that USDA will likely oppose.	This is another way to sweeten the wage that DOL will like, but it is -- in a way -- difficult to defend (unless you assume that growers are setting piece rates at levels well below the AEW conversion).
H-2A workers apply for transportation reimbursement to the government (rather than the employer).		This is a shift of cost from the grower to the government. USDA will like this.	Labor does not like, for the same reason. However, as long as the cost to the grower remains the same for a U.S. worker (working under fair wages and good conditions) and an H2A worker, DOL will not fight if some overall costs are picked up by the government (as long as the cost is not coming out of their budget!).
H-2A workers may apply to the employer for transportation reimbursement, but employer not obligated to provide such reimbursement.	N	USDA may like this, b/c lowers cost for the grower. However, growers are used to paying transportation costs in this program. This cost is just part of the overall cost, and thus would go into the overall cost calculation (which, according to USDA, determines whether a grower will participate or hire illegals).	DOL will oppose. They want H2A workers to have transportation paid for. However, as noted, they may be amenable to a system that has the government assume some of this cost.

H-2A workers not eligible for transportation reimbursement if distance traveled is less than 100 miles.	?	This is part of the cost calculation. USDA may think that this is a small step in the right direction.	Labor would likely oppose as eroding the transportation guarantee. Not likely a big issue for either side.
Pilot program for transportation advances for U.S. farmworkers.	Y	USDA would likely be open to this.	DOL would also likely be open to this (a <i>small</i> pilot).
Require H-2A employers to provide travel advances to U.S. farmworkers.			
Charge fee = FICA/FUDA taxes to finance certain program activities (housing; admin. costs; transportation)	Y	USDA is in favor. The question is how high is the fee.	Labor is not opposed to a fee that would fund certain activities. The question is how high is the fee (more than FICA/FUDA?)
Impose user fees that reflect the cost of the H-2A program.		First, we are not sure how to calculate this cost (particularly, the cost of housing). Even if we could, USDA would be concerned that it would be too high (and thus cost prohibitive for growers to use). They are open, though, to a modest user fee.	As noted, Labor is also open to a user fee. However, it is not clear that they would want to push for a fee that was a total reimbursement (making it cost neutral for the government). That would surely make it too expensive for growers to use.
Allow H-2A workers to opt out of the employer-provided meal plans.		Unclear how they would react to this.	Labor would likely think this is o.k., b/c under the current system the cost of meals is deducted from the farmworker wages. However, there is some concern about making sure that workers don't opt out and then not have adequate food for the harvest.
Require first time H-2A employers to maintain wages and working conditions previously offered.		USDA would oppose this as restricting grower flexibility.	Labor would likely favor, but it could be hard to administer.
Housing			
Apply local or state (rather than federal) housing standards to housing provided by H-2A growers.		USDA would likely favor (local laws could give more flexibility) , but it is just a race to the bottom. They could be convinced that federal	Labor would likely oppose. Would want federal standards to apply in this federal program. Also, would assume that federal

		standards should apply in a federal program.	standards are stricter.
H-2A employers permitted to charge workers up to fair market value for the cost of maintenance and utilities provided.		USDA likes as a way to reduce cost.	Labor hates as a way to erode wages.
H-2A employers can charge workers reasonable amounts (up to \$25 per week) for the cost of maintenance, utilities, repair and clean-up of housing provided.		Same	Same
H-2A employers can charge a security deposit (up to \$50) to protect against "gross negligence or willful destruction of property."		USDA likes as a way to share some costs with farmworkers and make them responsible for taking care of grower-provided housing.	Labor in general would not like, but likely some compromise could be struck on this one.
H-2A employers may require reimbursement (wage deduction) from responsible worker of reasonable cost of repairing damage to housing provided that is "not the result of normal wear and tear."	Y	According to DOL and USDA, this is current law.	
Reduced user fee to H-2A growers providing housing.		This is just another way to think about total cost to growers. If we have a user fee, we have to think about what we want it to pay for.	
H-2A employers may provide a "minimum housing allowance" in lieu of housing, unless (no earlier than 8 years after enactment) a state Governor certifies that there is not adequate farm worker housing available.		USDA would like as a cheaper way to meet the housing requirement.	Labor hates this. First, there is a shortage of affordable housing generally (which is particularly acute in rural areas). Second, it is unreasonable to expect a migrant worker from another country to be able to rent any housing on his own with a federal voucher.
H-2A employers may provide a "minimum housing allowance" in lieu of housing, but must also arrange for decent housing at the allowance level.		USDA would like this as affording choice to the grower on how to comply with the housing requirement.	This is better than above, but does not address the fact of great shortages of decent, affordable housing in rural areas. Under this system, what happens if housing is not available?
Require growers to provide free housing to all U.S. farm workers (including local workers).		USDA would not like this additional cost burden on the growers.	Labor would like as an ideal, but unrealistic to add this additional burden on growers (unless heavily subsidized by the federal government).

Require H-2A growers to make their housing available for U.S. workers who arrive early.		Can't see the objection to this one.	Labor likely is in favor.
Enforcement			
Extend to Wage & Hour the authority to debar violating employers who commit serious labor standards or H-2A program violations.	Y	USDA and DOL agreed to this during our earlier process. Will be part of upcoming rulemaking.	
Issue final H-2A regulations.	Y	DOL has agreed to this.	
Narrow DOL enforcement to only allow investigations only pursuant to a complaint.	N	USDA may like this, but not sure. It would be difficult for them to argue in favor of less enforcement, when there is so little already.	DOL would hate this. They need more not less enforcement money and tools.
Institute a 12-mo. statute of limitations on complaints		USDA likely would favor.	DOL may think this is o.k.
Provide a "reasonable cause" threshold for investigations.		USDA would likely favor.	DOL may want to reserve the right to do random inspections.
Limit penalties to certain types of violations.		Unclear what this recommendation means.	
Institute a three-year and permanent debarment period for repeat violations.		USDA would likely favor.	DOL would likely favor, unless this is substantially less than current law.
Require hiring of former H-2A workers (where allowed) to offset disincentives to complain about labor violations.		USDA would oppose. This too greatly limits grower flexibility in hiring.	Not sure if DOL would see this as an effective tool to offset disincentives to complain about labor violations.
Require disclosure of terms and conditions of employment to be given to workers in their native language in plain language.		Can't imagine opposition, unless it costs a lot.	Labor would likely favor.
More timely initiation and completion of DOL enforcement		We are all in favor of timeliness.	

actions.			
Immigration Management			
H2A worker ineligible for continued participation in the program if, during the prior 5 years, the worker violates the terms of admission to the U.S.		USDA would not likely have an opposition to this in theory.	DOL would not likely have an opposition to this in theory.
H2A workers admitted to the U.S. have 14 days after termination of employment contract to search for other legal work in the U.S.	Y	USDA would not likely have an objection.	DOL would not likely have an objection.
H2A workers admitted must be issued fraud-resistant identification/work authorization documents.	Y	USDA would not likely have an objection.	DOL would not likely have an objection.
An employer may file for extension of stay to employ an H2A worker already in the country and may legally employ such a worker from the date application is made.		USDA would likely support this idea because it provides growers with easy and quick access to H-2A workers.	DOL would likely oppose this idea because it would allow growers to get around the recruitment requirement.
AG study whether H2A workers timely depart the U.S. after period of authorized employment.	Y		
Legalization for H2A workers who complete at least 6 months employment in the U.S. under the H2A program for 4 consecutive years in compliance with program requirements.	N	USDA would not likely oppose this idea. However, it does not advance their goals because they believe that growers need a ready supply of foreign workers to meet short-term labor needs. Once legalized these foreign farmer workers would likely move into other sectors of the labor market.	DOL is opposed because it a) it gives the employers additional leverage over the workers by empowering them to hold the promise of a green card out to the foreign worker and b)it undercuts our immigration policy.
Require withholding of percentage of H2A workers wages, deposited in accounts reclaimable within limited time period in home country, as incentive to repatriate.	N	USDA supports incentives to repatriate and if they believed that if this would work they would support it.	DOL would likely oppose this because 1) there is no guarantee that the workers would actually receive these wages and 2) there is no evidence that this amount of money would be an incentive to repatriate.
User fee offsetting FICA/FUDA advantage used as			

repatriation incentive	N	Same position as above.	Same position as above.
Require entry-exit control system for all H2A workers.	Y	If this were possible, USDA and DOL would support it. However, at this time INS is unable to operate an effective exit and entry control system on the land borders.	
Other issues			
Expand scope of the H2A program to include agricultural -- meat/poultry -- processing employment.			
Secretary authorized to establish cap on number of H2A visas issued pursuant to application from "independent contractors, agricultural associations and such similar entities."	Y	USDA would likely support this as long as it was a high cap.	DOL supports this provision since 80% of all H-2A applications are from independent contractors or agricultural associations.
Comprehensive report by AG and Secretaries of Labor and Agriculture.	Y		
All H2A employers non-wage practices and benefits should be subject to prevailing practice standards.		USDA will want more flexibility for growers.	DOL would likely favor tying all practices and benefits to prevailing practice standards.
Assure that U.S. and H2A workers are truly allowed to choose their employer			
Cap the number of visas available under the H2A program.		See above.	See above.
Administrative Processes			
Consolidate DOL certification and INS petition approval into one process administered by DOL	Y		
Consolidate responsibility within DOL in Wage & Hour for post-application examination and enforcement of employer	Y		

compliance with H2A program requirements.			
Government -- not employer -- responsible for reimbursing transportation costs of eligible workers.	Y		
Require employers' H2A labor certification applications to be submitted 45 (rather than 60) days before the employer "date of need."	Y		
Reduce lead time for employer applications to 30 (rather than 60) days before "date of need."	Y		
Consistently meet 7 day deadline -- after initial receipt of employer's labor certification application -- to give written notification to the employer of deficiencies precluding adjudication of the application.	Y		
Consistently meet existing 20 day deadline -- prior to employer's date of need -- to issue approved certifications	Y		
After consolidation of certification and petition adjudication process in DOL, change the law to set deadline for DOL approval of employers' application to 7 days before date of need.	Y		
Reduce the deadline for employer-provided housing to be available for inspection to 15 (rather than 30) days before the date of need.	Y		
Change the current labor certification to one based on employers' attestations to comply with program requirements.	?	Unsure how this changes employer obligations.	

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-SEP-1998 18:29:52.00

SUBJECT: Re: new draft of race speech; suggestions for cuts greatly appreciated

TO: June Shih (CN=June Shih/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

In a meeting yesterday, the President specifically brought up Chicago and said that the best thing that could happen to k-12 education was for every school district to do what Chicago had done. I suspect that the President will say something like this regardless whether we put it into the speech (so taking it out would be a false savings). But even if that's not right, I'd argue for keeping it in because the President really does believe that this is the approach most likely to lead to racial equality.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-SEP-1998 18:46:48.00

SUBJECT: Re: Chiles

TO: Fred DuVal (CN=Fred DuVal/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

very odd -- is that what he's always like.

i hope you weren't insulted -- it's ok not to have as much clout as the deputy chief of staff.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. email	Elena Kagan to Maria Echaveste re: thanks (1 page)	09/28/1998	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[7/26/1998 - 9/28/1998]

2009-1006-F
ry943

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]