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THE WHITE HOUSE
WASHINGTON

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September 19, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Education -- Labor-HHS-Ed Appropriations: The Labor-HHS-Ed appropriations conferees are expected to meet next week. In addition to securing adequate funding for your priorities, we are working to make sure that the final bill rejects block granting and provides the funds and authority to proceed with national testing. We believe it will be relatively easy to remove the block grant provision from the Senate bill, given the failure of a similar amendment in the House to generate support. To win on our testing initiative, we must cast the House vote on the Goodling Amendment as yet another indication of the Republican Party's indifference to improving public education. Your radio address and charter schools event on Saturday were key steps in that strategy; we are now developing additional events involving the Vice President, Secretary Riley, and others. We are also urging business leaders and opinion leaders (e.g., Checker Finn and Diane Ravitch) to help make the case for the national tests as authorized by the Senate (i.e., with NAGB as overseer). Finally, we are continuing to look for ways to reduce the opposition of the Black and Hispanic Caucuses, either through adjustments to the testing proposal or agreements on other issues, such as school construction.

2. Education -- Vouchers: The District of Columbia Appropriations bill, as passed by a House subcommittee last week, includes a provision authorizing funds for private school tuition vouchers. (The bill would provide vouchers worth \$3,500 to about 2,000 parents.) We sent a SAP to Congress last week saying that senior advisors would recommend a veto if the bill comes to you with this provision. Republican supporters of the voucher proposal may make use of a new Harvard University study of Cleveland's voucher program. The study, which received significant press attention last week, found high levels of student achievement and parental satisfaction among those receiving vouchers. The Education Department argued, in response to press inquiries, that (1) the study examined students in only two of the forty-one schools participating in Cleveland's voucher program, and (2) the Administration's basic case against voucher programs rests on the harm they do to children who do not use vouchers and remain in public schools. Later in the year, the Ohio Department of Education will release the results of a state-commissioned evaluation of the Cleveland voucher program, which will cover all participating schools. We do not know what this study will show.

3. Education -- Proposition 209 and Hopwood: A University of California Task Force charged with examining declines in minority enrollment in the wake of Proposition 209 has

recommended dropping the SAT as an admission requirement. The group based its recommendation on projections that continued use of the test would cause Hispanic enrollment to decline by as much as 70% at the system's flagship campuses, and lead to similar declines in African-American enrollment. Governor Wilson denounced the Task Force's recommendation, which probably will not be voted on until the spring. Earlier this year, Texas responded to the Hopwood decision by taking action similar to the UC Task Force's recommendation. A new law, signed by Governor Bush, requires automatic admission of students in the top 10% of their high school classes to the state university of their choice; these students need not provide any standardized test scores.

Our efforts to develop policy responding to Proposition 209 and Hopwood have focused not on changing university admissions standards (we do not think the federal government usefully can do much in this area), but on getting universities to partner with high schools and middle schools in economically deprived areas to provide mentoring and academic support. (The University of California Task Force also has recommended establishing such mentoring programs.) Our efforts in this direction seemed to us to dovetail with NEC's work on the Chaka Fattah proposal, and we are now encouraging NEC to make this partnering initiative a significant part of the revised Fattah proposal.

4. Health -- Children's Health Implementation: The DPC is pushing HHS to move quickly to disseminate information and guidance to states regarding implementation of the new children's health initiative. In the past two weeks, the Department has published state funding allotments and has issued a document showing what information states will have to supply in their applications for funding. In addition, HHS has given detailed briefings on the program to the NGA, members of Congress, and interest groups. But much more needs to be done. We are working to distribute additional materials to the states, providers, consumers, and other interested parties in October -- the first month the program goes into full effect. In addition, we are developing events for you and/or the First Lady to highlight the program and provide information about it.

5. Health -- FDA Reform: After months of delay, the Senate is scheduled to pass an FDA reform bill next week. At the same time, the House version of the bill will come before the full Commerce Committee. There is great interest in enacting an FDA reform bill this year because failure to do so will result in the expiration of the Prescription Drug User Fee Act (PDUFA), which has significantly expedited the FDA's review of new drugs. The Administration has two principal concerns about the Senate version of the bill. First, the bill would prevent user fees from going into effect unless the FDA receives "full funding" -- a triggering mechanism that may interfere with the Administration's future budget decisions. Second, the bill would preclude the FDA from reviewing new medical devices for uses other than the manufacturer's intended use. We believe these issues can be resolved prior to the bill coming to you for signature.

6. Health -- AZT Trials: An editorial in *The New England Journal of Medicine* this week criticized U.S.-funded clinical trials designed to discover ways to reduce maternal-infant transmission of HIV in developing countries. The article, which received significant press coverage, compared the trials to the Tuskegee syphilis test because some participants in the trials receive placebos, while others receive a drug with proven benefits (AZT). HHS officials (including Drs. Varmas and Satcher) believe that the criticism is misguided, as does Dr. Harold Shapiro, the Chair of the National Bioethics Advisory Commission, and many other well-respected ethicists and scientists. In addition, international experts convened by the World Health Organization -- and ethical review boards in each of the countries in which the studies are occurring -- have determined that the studies are scientifically well-founded, ethical, and essential to the fight against AIDS. The studies are designed to find effective AZT treatments that are simple and affordable enough to use in developing countries, given poor economies and low standards of public health care. Giving placebos to some participants -- which is equivalent to the local standard of care -- is necessary to obtain reliable and timely information about these experimental AZT regimens.

7. Health -- Dr. Satcher: Your nomination of Dr. Satcher to be Surgeon General has been well received. Dr. Satcher made many successful courtesy visits on the Hill last week. Many members, including Senators Frist and Jeffords, issued supportive statements. Most important, Senator Lott said that he saw no reason why Dr. Satcher should not be confirmed. We will continue to seek endorsements from members and advocacy organizations. We are hopeful that the confirmation hearings will begin in the next couple of weeks.

8. Welfare -- Fair Labor Standards Act: In the wake of Speaker Gingrich's pledge to fix what he called the Administration's effort "to undermine and destroy welfare reform" by applying the minimum wage and other labor protections to welfare participants, Rep. Clay Shaw is trying to garner bipartisan support for a bill to address state concerns about the cost of work programs. Shaw's latest version (1) provides an exemption from FICA and FUTA that seems to cover not only welfare participants, but other working welfare recipients, including those in subsidized private sector jobs; (2) contains a set of definitions that could be read to suggest that working welfare recipients are not regular employees for purposes of other labor laws (although Shaw insists that this is not his intent); and (3) limits required work hours -- again, apparently for all working welfare recipients, not just welfare participants -- to the sum of the welfare grant and food stamps, less any child support collected by the state, divided by the minimum wage.

Although this draft legislation appeals to a bipartisan group of governors (Governors Carper and Chiles like it), it is not attracting much support in the House. Blue Dog Democrats are criticizing the draft on the ground that it significantly weakens work requirements; in low-benefit states, the bill would result in welfare recipients working less than 20 hours each week, with the remaining hours spent in activities such as job search. Liberal democrats (and unions) are criticizing the draft on the ground that it weakens labor protections for welfare recipients. And the Republican leadership is criticizing the draft on the ground that it does not sufficiently

weaken labor protections for welfare recipients. Given this criticism, Shaw may well go back to the drawing board.

9. Welfare -- Privatization of Food Stamps and Medicaid: The Department of Agriculture has received a waiver request from Arizona to privatize food stamp and Medicaid operations in Eastern Maricopa County (representing 13% of the state's caseload). Under the welfare law, USDA must act on a request to privatize food stamp operations -- either by approving it, denying it, or seeking additional information -- within 60 days. This 60-day clock will run on October 3. Even apart from broader concerns about privatization, Arizona's demonstration proposal suffers from a serious defect: because the state wants to test many aspects of the social service system in Maricopa county (essentially creating a mini-replica of Wisconsin Works), it will be very difficult to isolate the effects of privatization on social service delivery. At a meeting last week, USDA, DPC, and OMB agreed that USDA should meet the October 3 deadline by asking Arizona for further information addressing this issue. Congressional Republicans have not resurrected the privatization issue this fall, and we should not do anything to provoke them before November.

10. Welfare -- Child Support Computer Systems: As you know, as many as eight states (California, Michigan, Illinois, Pennsylvania, Ohio, Maryland, D.C., Nevada, and Hawaii) will not meet the October 1 deadline -- established in the 1988 Family Support Act and already extended from 1995 to 1997 -- for putting in place a statewide child support computer system. California is probably two to three years away from meeting this goal. Under current law, any state failing to meet this deadline loses both federal child support funds and TANF funds.

You recently asked whether the Administration should endorse Senator Feinstein's proposed approach to this problem: a six-month moratorium on imposing penalties on states that are not in compliance with the computer systems requirement. We and Secretary Shalala agree that supporting this proposal would signal to states that we are not serious about enforcing child support rules and might slow state progress toward completing computer systems. In addition, the Feinstein proposal does not actually accomplish anything because even under current law, states have until December 31 to inform HHS that they have failed to meet the October 1 deadline and the ensuing process for imposing penalties will take several additional months.

We do think, however, that some change in current law is necessary. Rep. Shaw has asked us to work with him on a bipartisan basis to develop legislation providing HHS with additional penalty options -- e.g., the loss of 5-15% of federal funds -- so that HHS can sanction states for noncompliance while not depriving them of all TANF and child support funds. We believe a proposal of this kind can be enacted before HHS has to withhold TANF and child support funds from any state under the current law.

11. Welfare -- Children's SSI Terminations: Rep. Shaw and other House Republicans held a press conference last Wednesday to rebut claims by advocates that the children's SSI cuts are too severe. They released a new GAO report that validates SSA's new childhood disability

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standard, judging it to be consistent with the welfare reform law, not overly strict, and fairly administered. They also praised a recent random sample study by SSA of 40 children whose benefits were terminated, arguing that it showed the new standard is fair. Advocates have attacked the SSA study. SSA continues to tell the press that the disability standard it adopted is consistent with congressional intent and that it is working hard to make sure the standard is administered fairly. At his confirmation hearing, Ken Apfel committed to a "top-to-bottom" review of the SSA's administration of the new standard within 30 days of his confirmation; this promise echoed the one you recently made to disability advocates. Some press stories have reported erroneously that Apfel committed to reviewing the standard itself, and not just SSA's administration of it.

12. Crime -- Brady Law: The Center to Prevent Handgun Violence released a study on Friday showing that the Brady Law has helped to disrupt illegal gun trafficking patterns. According to the study, states that did not require background checks for handgun purchases prior to the Brady Law became less important as source states for gun traffickers after enactment of the law. The study suggests that the few jurisdictions that have stopped doing background checks in the wake of the Supreme Court's decision may be inviting gun traffickers to locate in their communities. We issued a statement from you highlighting the study and its findings.