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THE WHITE HOUSE  
WASHINGTON

March 27, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

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VP  
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SUBJECT: DPC Weekly Report

**1. Education -- Ed-Flex Legislation:** As a result of activity last week, we are now in a very strong position to ensure that the Republican amendment undermining your class size initiative is dropped from Ed-Flex legislation. Over 200 House members voted in favor of a motion to instruct conferees to drop this provision, and at least 35 Senators have signed a letter (not yet released) recommending that you veto the Ed-Flex bill if this provision remains in it. We are working with OMB on a letter to the Ed-Flex conference committee to convey a veto threat on the class size issue and express support for the strongest possible accountability provisions. As you know, we made good progress in both the House and the Senate on accountability; now our challenge is to combine these somewhat different accountability provisions to ensure that waivers are tied to gains in student achievement.

**2. Education -- Charter Schools and Desegregation:** We are working with the Education and Justice Departments on issues relating to the relationship between charter schools and desegregation orders. An op-ed by Clint Bolick in the Wall Street Journal this week attacked Bill Lann Lee for "waging a war" against charter schools because of his efforts to prevent proposed charter schools from changing the racial balance called for in existing desegregation orders. The op-ed made special reference to actions the Department has taken in Louisiana to block the creation of new charter schools and /or to insist that the schools or school boards involved take new steps to ensure continued racial balance in the community. The issues involved in these cases are very tricky. The Justice Department notes that new charter schools can undermine hard-won desegregation orders that ensure racial balance in school systems. Charter school advocates, on the other hand, argue that a rigid enforcement strategy in this area will prevent many communities -- including predominantly minority communities -- from gaining the benefits of charter schools. (The proposed charter schools involved in the Louisiana cases, for example, are in largely minority communities; Justice is fearful that these schools either will siphon white students from other schools in the system or will lead minority parents to take their children out of more integrated schools in the system to enroll them in the new charters.) The Education Department is now in the process of developing draft guidance on these issues.

**3. Education -- Social Promotion Policy:** We are attempting, though not with any great success, to make the civil rights community comfortable with your no-social-promotion policy. As currently drafted, your proposal would insist that states have plans to prevent social promotion

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by requiring students to meet performance standards (as measured by multiple indicators, including a valid test) at three key transition points and providing qualified teachers and intensive support and intervention services for children in danger of failing. In a speech last week, Hugh Price called for postponing any no-social-promotion policies until states could prove that they are providing equal educational opportunities to all students. Wade Henderson and several other civil rights leaders expressed similar views to us yesterday, complaining in particular that our rhetoric on social promotion lends itself to being appropriated and misused by people who share none of our interest in giving children the tools they need to meet high standards. We are continuing to explore ways of responding to the civil rights community's concern on this issue, including by incorporating measures that the National Council of La Raza proposed to strengthen Governor Bush's social promotion legislation. These ideas focus principally on staging the various timetables in the bill and insisting on independent assessments of the adequacy of support and intervention services. We are not terribly hopeful, however, that these ideas will convince the civil rights community to support this aspect of our ESEA proposal (they strongly support the other accountability measures in the bill), and at some point futile attempts to win this support may become counterproductive.

**4. Education -- Detroit School Reform:** Governor Engler is expected to sign a bill today to give Mayor Archer authority to oust the existing locally-elected school board and replace it with a new "reform board" made up of six of the Mayor's appointees plus the State Superintendent -- effectively giving Archer the same kind of power over the Detroit school system that Mayor Daley has in Chicago. The reform board will run the city's schools for five years, after which Detroit residents will vote on whether to keep it. Earlier versions of the proposal would have given effective control of the board to Engler rather than Archer, provoking general outrage among Detroit residents. Even as enacted, the bill remains controversial, although Archer strongly supports it.

**5. Children and Families -- Child Care:** The Senate last week passed an amendment to the Republican budget resolution increasing mandatory funding for the child care block grant by \$5 billion over five years and \$10 billion over ten years, with a corresponding decrease in any proposed tax cut. This action represents a significant step forward for your proposal to boost child care subsidies for low-income families (funded in your budget at \$7.5 billion over five years). The amendment, pushed hard by Senator Dodd with the help of Senator Jeffords, also includes a non-binding provision stating that tax relief for child care (through, for example, expansion of the Child and Dependent Care Tax Credit), should benefit all working families (presumably by making the credit refundable) as well as assist stay-at-home parents who care for an infant. Twelve Republicans -- Senators Abraham, Campbell, Chafee, Collins, Dewine, Frist, Hatch, Jeffords, Roberts, Snowe, Specter, and Warner -- voted with all Democrats to pass the amendment. The challenge now will be to ensure that the conference committee on the budget resolution retains this provision. We are looking for ways for you, the Vice President, and/or the First Lady to highlight this issue as the conference committee begins to meet.

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 We showed that  
 the bill is worse  
 than your proposal  
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**6. Health Care -- Medicare Reform:** We and the NEC are developing options for the new Medicare plan that you recently promised, taking into account both new projections on solvency and political demands from Democrats in the House and Senate. As you know, we expect the Medicare trustees to project on Tuesday that the fund will remain solvent beyond 2008 (perhaps until 2015 or so) as a result of increased revenues and curbed spending. These new projections will diminish the urgency of using the surplus to extend solvency; they also will make legislators in both parties reluctant to support additional provider cuts, as providers will argue that they already have made a major contribution to the health of the trust fund. (An AARP letter issued yesterday praised the Republican budget proposal for, among other things, not proposing such cuts.) Without significant provider cuts as offsets and with the near-term solvency of the program apparently assured, proponents of a generous prescription drug benefit will gravitate toward using more and more of the surplus for this purpose. One of the questions we will have to answer in developing our new Medicare plan is whether (and, if so, by how much) we want to fund a drug benefit through the surplus.

More generally, we were reminded this week that we will have to navigate some treacherous political shoals in putting together a plan. While Senator Daschle made it clear that Senate Democrats need a credible plan as soon as possible, Congressmen Gephardt, Dingell, Stark, and McDermott made it equally clear that they have no use for an alternative plan and wished we had not agreed to do one. We will be pushed from the Senate side to include serious reforms in our plans, while being pushed from the House side to abjure such reform proposals. The challenge will be to balance the need to offer credible reforms with the need to keep base Democrats on board our proposal.

**7. Health Care -- Organ Donation:** Organ donation rates increased by six percent last year -- a big improvement from the one percent increases we saw in the previous two years. The jump is attributable in part to our new regulation on the issue; it is also attributable to recent media attention given to public figures needing organ transplants, such as retired NFL football star Walter Payton. The organ donation advocacy community would like you to highlight this issue sometime soon. If you are interested, we could put together an event at which you could announce a \$5 million grant program to increase organ donations, as well as some major private-sector commitments from the AFL-CIO, UAW, Aetna Health Plans, and Kaiser Permanente.

**8. Health Care -- Physical Restraints in Institutional Settings:** In the wake of a new legislative proposal, we are preparing administrative action to prevent the inappropriate use of physical restraints in institutional settings. Senators Lieberman and Dodd announced on Thursday that they will introduce a Freedom From Restraint Act to prohibit hospitals and mental health facilities participating in the Medicare or Medicaid program from using physical restraints on patients except when necessary to ensure the physical safety of the patient or other patients and upon the written order of a physician. Dodd and Lieberman began working on this legislation after reports last fall that several mentally ill children in psychiatric institutions in Connecticut died as a result of the improper use of restraints by facility staff. Similar abuses have occurred in other parts of the nation. While expressing support for the Dodd-Lieberman bill, we are also

directing HHS to expedite a regulation that will go a long way toward achieving the statute's objective. The regulation will prevent the improper use of physical restraints in all facilities covered by the Dodd-Lieberman bill except hospices and residential care facilities for children. (Applying protections in these excepted facilities does require new statutory authority.) If you are interested, you can announce release of this regulation when it becomes final in the summer.

**9. Tobacco -- Medicaid Recoupment:** As you know, the conference committee on the supplemental bill will include a battle over Senator Hutchison's provision to waive all federal claims to tobacco settlement money. Assuming the whole bill does not simply die, House conferees will be inclined to keep this rider off the bill, while Senate conferees will point to the overwhelming vote in the Senate and insist on its inclusion. We can expect the Governors to weigh in heavily with the House leadership and conferees during the recess. Public health advocates are going to attempt to use the recess to urge elimination of the Hutchison provision, but we doubt they will be particularly effectual. In the meantime, Congressmen Waxman, Dingell, Rangel, and John Lewis introduced a bill last week requiring the expenditure of 25 percent of tobacco settlement funds on tobacco control and farmers (with a portion of this money going to a federal fund for a national education campaign and prevention efforts targeted at minority smokers) and another 25 percent on other public health activities. The bill also would require tobacco product manufacturers to purchase a set amount of domestically grown tobacco each year. Our best hope on this issue is still to get the Hutchison provision stripped from the supplemental and then to go back to the governors and persuade them that in the absence of any other obvious vehicle for this provision, their best interest lies in reaching an agreement.

**10. Tobacco -- Florida Teen Smoking:** Cigarette smoking in Florida declined in every grade since the state began its anti-smoking campaign last year, according to a study released last week. The state-sponsored survey found cigarette use declined 19 percent among middle school students and 8 percent among high schoolers. Florida spent \$71 million of its tobacco settlement dollars on this campaign last year (about 13 percent of the total), one-third on a counteradvertising campaign and the rest on community and school based programs. Nine out of ten youth surveyed were aware of the state's counteradvertisements, which the CDC has made available to other states. Notwithstanding the program's success, funding for it will go down next year: the Governor's budget requested \$61.5 million for the program, but the Republican House appropriated no funds and the Democratic Senate included \$50 million.

**11. Welfare Reform -- Urban Caseloads:** You recently asked us whether we could do more to strengthen welfare-to-work efforts in cities with relatively small caseload declines. Two new initiatives will help to do so. First, the Department of Labor just launched a two-year technical assistance initiative to help ten large cities (Boston, Houston, Detroit, Philadelphia, Chicago, Los Angeles, New York, Seattle, New Orleans, and Minneapolis) to develop strategies to move hard-to-employ welfare recipients into good jobs; the initiative will promote close coordination between the welfare and workforce systems and emphasize job retention and advancement. Second, the Welfare to Work Partnership is starting a targeted effort in 30 cities

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with high poverty rates and large concentrations of welfare recipients, including Atlanta, Baltimore, Chicago, Los Angeles, Miami, New Orleans, New York, Philadelphia, and Washington, D.C. The Partnership will hold a major convention in Chicago this summer for delegations from these cities, and Eli would very much like you to participate.

You also asked whether the slower rate of caseload decline in some cities is related to unemployment. In general, cities with slower rates of caseload decline did have higher unemployment rates. For example, El Paso, Los Angeles, New York, and Philadelphia had the slowest caseload declines and three of the four had central city unemployment rates above 7 percent -- compared to the national average of 4.5 percent -- when the caseload decline was measured. (The fourth city, Philadelphia, had an unemployment rate of 5.9 percent.) The correlation, however, is by no means perfect; for example, Baltimore and Cleveland also had high unemployment, but significantly larger caseload declines.

**12. Welfare Reform -- Economist Article:** We thought you might like to see the attached Economist article highlighting the Welfare to Work Partnership's success and chronicling the progress of welfare reform.