



ADMINISTRATIVE
COMMUNICATIONS SYSTEM
U.S. DEPARTMENT OF EDUCATION

DEPARTMENTAL DIRECTIVE

OM:1-102

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Distribution:
All Department of Education employees

Approved by: _____/s/
Chris Marston
Acting Assistant Secretary for Management

Delegations of Authority

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For technical questions regarding this directive, please contact Naty Beetle via [e-mail](#) or at 202-260-8961.

Supersedes OM:1-102 "Delegations of Authority" dated 07/26/2005.

I. Purpose

This directive sets forth the policy and procedures governing delegations and redelegations of authority.

II. Policy

The policy of the U.S. Department of Education (ED) is to delegate decision-making authority to the lowest organizational level possible to ensure prompt and effective administration of educational programs and management activities. A delegation of authority is required for taking actions and making decisions that have legal significance. The sources of authority are: (1) delegations issued by the Secretary or his/her delegates; (2) ED directives approved by the Secretary; the Deputy Secretary; the Assistant Secretary, Office of Management (OM); or the issuing officer with authority directly from a statute; (3) classified position descriptions (see Section VII.D.); (4) approved functional statements, and (5) Personnel Manual Instructions (PMIs).

III. Authorization

Delegation authority is established in section 412 of the Department of Education Organization Act (Pub. L. 96-88, 20 U.S.C. 3472).

IV. Applicability

This directive applies to all of ED's program and administrative activities.

V. Definitions

- A. Delegation of Authority is defined as the specific written transfer of authority from one official in ED (delegator) to another official in ED (delegatee). The transfer of authority must be signed by the official authorized to delegate the authority. Examples of functions that may be exercised only by the Secretary or his/her delegates are:
1. Entering into contracts, or cooperative agreements, or making grants;
 2. Procuring supplies and services;
 3. Publishing documents in the Federal Register; and
 4. Any other functions or authority assigned by law or regulation to ED, the Secretary, or other ED officials in which the exercise of such authority has legal significance.
- B. Redelegation of Authority is a delegation of authority from the delegatee to another ED official.
- C. Administrative Delegation is a delegation of authority dealing with the administrative management of ED. These authorities are generally bound by requirements imposed on the Secretary by one of the administrative agencies of the Federal Government, such as the Office of

Management and Budget (OMB), the Office of Personnel Management (OPM), the Government Accountability Office (GAO), or the General Services Administration (GSA).

- D. Program Delegation is a delegation of authority dealing with laws that establish the program responsibilities of ED.
- E. Position Delegation is a delegation of authority to a position by title.
- F. Personal Delegation is a delegation of authority to an employee by name and may not be exercised by anyone else.
- G. Delegator is an ED official who delegates specific authorities to another ED official.
- H. Delegatee is an ED official who is granted specific authorities from a delegator.

VI. Responsibilities

- A. Assistant Secretary, OM
 - 1. Develops policies and procedures governing delegations of authority as outlined in this directive.
 - 2. Serves as Principal Delegation Control Officer and the primary delegator of administrative authority for ED.
- B. Principal Officers
 - 1. Designate a Delegation Control Contact (DCC) in the Principal Office (PO) to serve as liaison between the PO and the Departmental Delegations Control Officer (DDCO).
 - 2. Prepare new delegations and redelegations in accordance with the instructions contained in this directive.
- C. Delegation Control Contacts (DCC)
 - 1. Ensure that each PO adheres to the policies and procedures for delegating and redelegating authority. In this capacity, the DCC reviews new statutes establishing or reauthorizing programs and Executive Orders that assign responsibilities to the Secretary to determine whether a delegation of authority should be prepared to rescind, amend, or supersede the current authorities.
 - 2. Serve as advisors and a source of information for their organizations.
 - 3. Provide drafts of all delegations and redelegations to ED's DCC in OM's Executive Office for review prior to the legal review by staff in the Office of the General Counsel (OGC).

4. After reviewing the revisions requested by ED's DCC and OGC, and preparing a final copy of the proposed delegation or redelegation, obtain the signature of the delegator, and return the delegation to ED's DCO for certification.

D. Departmental Delegations Control Officer (DDCO)

1. Develops policies and provides advice to DCCs, administrative staff, and program officials on the effective administrative procedure for delegating authorities.
2. Designs and maintains a system to control all delegations; develops and distributes semi-annual reports to DCCs that are validated and returned to the DDCO to update the records and to prepare the necessary delegations.
3. Provides information, as requested, on the status and content of delegations of authority.
4. Reviews all proposed delegations for format, conformity and consistency with existing delegations, and adherence to the policies and procedures for delegating and redelegating authority.
5. Certifies delegations and redelegations of authority.
6. Maintains the delegations website on connectED at <http://connected.ed.gov/index.cfm?office=om&cid=EC1F0B5B-F95E-698F-DCC7-01C3C96875B4> by posting all current delegations and updating the website to make it easily accessible and usable by ED employees.
7. Maintains electronic and hard copies of delegations documents, and provide status reports, updates, and hardcopy documents upon request.
8. Reviews draft directives, as requested, for delegation effect.

E. Office of the General Counsel (OGC)

1. Reviews all delegations from the Secretary or Deputy Secretary for legal effect before signature by the delegator.
2. Reviews other redelegations, if requested, for legal effect.

VII. Guidelines

- A. When authority is delegated, the delegator retains the original delegated authority. For example, when the Secretary delegated authority for the administration of the Elementary and Secondary Education Act of 1965 (ESEA) to the Assistant Secretary for Elementary and Secondary Education, the Assistant Secretary received authority to administer and carry out particular activities. However, because the Secretary retains the delegated authority, either the Secretary or the Assistant Secretary may exercise authority pursuant to the ESEA.

- B. Except as provided for by law, redelegation of authority is allowed for most of the authority vested in the Secretary. However, any ED official to whom authority has been delegated by the Secretary may redelegate only in accordance with the terms of the delegation from the Secretary. Therefore, a redelegation must contain the original reservations of authority unless otherwise specified in the original delegation, and may contain additional reservations.
- C. Revisions of prior delegations or redelegations are not necessary if only the title of the delegatee changes.
- D. Position descriptions may be used to redelegate authority in cases where the supervisor of the delegatee holds the authority to be delegated and where the authority delegated is an essential part of the duties of the position. Examples include classification authority for individual classifiers and obligation authority for individual operating accountants.

VIII. Criteria for Making Delegations

- A. The decision to delegate (or redelegate) authority should be based on the following criteria:
 - 1. Legality. Is the delegation allowed under applicable laws?

Delegations of authority may need to be issued when new, reauthorized or revised legislation is passed by Congress, signed by the President, and is sent to the Secretary of Education for implementation and administration. The Secretary usually delegates functions from the legislation to Principal Officers and employees of ED. However, the delegated statute must be reviewed to ensure that there are no restrictions that would affect the delegation (for example, restrictions on what may be delegated, to whom the authority may be delegated, or procedures that must be followed in exercising the delegated authority).
 - 2. Need. Will the delegation serve the objective of prompt, effective administration?

If an existing delegation is amended, superseded, or rescinded, it is likely to affect any redelegation of authority that previously had been issued. The revisions to the delegation may even implicitly void the existing redelegation. For example, if the original source of authority for the redelegation no longer exists, or the authority originally redelegated has been reserved from the delegator in the revised delegation, then there is no need for a revised redelegation. Therefore, whenever an existing delegation is revised, redelegations of that authority should be reviewed to determine if any revision of the redelegation is necessary.
 - 3. Economy and Administration. Is the position to which the authority is to be delegated appropriate in terms of grade level and assigned responsibilities?
- B. As part of the decision-making process, the delegator must consider whether the authority should be made to a position rather than to an employee by name. Position delegations allow for persons serving in the position in an acting capacity, or on a temporary basis, to exercise the authority unless prohibited by terms of the delegation. In contrast, if the delegation is addressed to a person, the delegation is automatically voided when that person leaves the position. Position

delegations are strongly recommended unless there is a sufficiently compelling reason for a personal delegation.

IX. Content of Delegations/Redelegations of Authority

Preparation of Delegation and Redelegation Documents. A sample delegation of authority format is attached (Exhibit A). Each delegation must include the following information:

- A. Organizational Element of Delegatee. Show the official title of the position and level or organization to which the delegation is made, e.g., Director, Kindergarten Education Division. Unless the delegation is a name delegation, do not include the delegatee's name in the delegation. If the same delegation is made to more than one delegatee, indicate all position titles/organizations on one delegation document.
- B. Subject of Delegation. Clearly explain the subject of the delegation. If the delegation is amending the primary delegation, it should clearly state that fact and be identified by number (e.g., Amendment No. 1 to Primary Delegation of Authority).
- C. Rescission Information. If the delegation cancels or supersedes any previous delegations of authority, the previous delegatee and the date and control number of the delegation should be cited and the previous delegatee should be sent a copy of the new delegation by the DDCO. Note: If a given authority has been delegated previously and that record is not available, the following statement should be included: "This supersedes all previous delegations of this authority."

When a previous delegation of authority has been superseded except for closeout activities, the delegation should be carefully written to say: "Except for necessary closeout activities related to the former delegated authority within the scope of this delegation."

- D. Authority Delegated. Indicate the specific authority delegated and the legal or other source of the authority. Make sure the authority is absolutely clear and not subject to multiple interpretation. If Federal laws are cited, identify them by reference to the specific title and section of the United States Code, if possible. Add the Public Law and section number if possible. Otherwise provide sufficient information to be able to locate the authority: the Statutes at Large citation, the public law section and number, the date enacted, and any other citation information. If applicable, also refer to the appropriate ED directive, delegation of authority, or other document which vests authority in the delegator, citing the title, date and control number.

If a redelegation is "split" (e.g., when an Assistant Secretary redelegates responsibility for a law to a Division Director for program direction and policy, and to a Regional Director for administration), extreme care should be taken to ensure that both delegations contain sufficiently detailed descriptions of responsibility to ensure that no misunderstanding or confusion will occur. Attachments can be added to delegation documents, if needed, to clarify delegations. Finally, each delegatee included in a "split" delegation should be sent copies by the DDCO of all delegations referencing the same law or subject.

- E. Reservations, Exceptions or Conditions. Indicate any reservations, exceptions or conditions relating to the delegated authority. The law may require certain reservations. Also, you may

want to establish limitations on scope, duration, dollar amount or other areas relating to the overall authority. The Secretary may require certain reservations. For example, the Secretary reserves the authority to approve all reports to Congress or the President unless otherwise provided by law.

Note: If the document is a redelegation, it is mandatory to include all the reservations, exceptions or conditions included in the original delegation to the delegator, unless otherwise specified in the original delegation. If this requirement is not followed, a delegator could inadvertently redelegate an authority that he or she does not have due to an omission of a restriction in the original authority. If no reservations or exceptions exist, a statement to that effect should be included.

- F. Authority to Redelegate. You may redelegate any authority or portion thereof unless your original authority precludes redelegation. However, if you wish to redelegate authority outside of your chain of command, you must, unless otherwise specified, obtain the concurrence of an official who is above both you and the proposed delegatee. If a delegator wants to redelegate authority to another PO, this delegation must be reviewed and approved by the Chief of Staff, Office of the Secretary.
- G. Effective Date. This sentence must be included in each delegation or redelegation of authority: "This delegation [relegation] is effective on certification by the Department's Delegations Control Officer." Delegations or redelegations have no legal effect until certified.
- H. Required Signature. Each delegation forwarded to the DDCO for certification must contain an original signature of the delegator.
- I. Delegation Date. Each delegation can be dated at the time it is signed by the delegator, but the effective legal date of the delegation is the certification date.

X. Clearance Procedure for Certification of Delegations and Redelegations

Delegations/Redelegations

- A. After delegations or redelegations have been prepared in accordance with the criteria outlined in this directive, they must be forwarded to the DDCO, who reviews them for format, content, and redundancy, and for conflict with existing delegations of authority within ED.
- B. If the proposed delegation appears to be in order, the DDCO forwards it to OGC for legal review. OGC returns the cleared or revised delegation to the DDCO. If it is a redelegation, the DDCO decides whether an OGC clearance is necessary.
- C. The DDCO returns the delegation to the originating PO DCC for revision, if necessary.
- D. Upon receipt of the revised delegation, if revision was necessary, the DDCO obtains OGC's formal clearance by signature at the lower left-hand corner of the delegation memorandum.
- E. The DDCO forwards the delegation to the DDCO for signature by the delegator.

- F. After the DCC returns the signed delegation, the DDCO forwards the delegation to the Executive Secretariat, if appropriate, for the Secretary's approval and signature, and then certifies and dates the delegation or redelegation. The original of the certified delegation or redelegation is kept in a central file in OM's Executive Office and certified copies are sent to the delegatee and OGC, along with information on any voided delegations.

- G. If the delegation appoints an individual to serve as an acting Principal Officer, and that person's name has also been submitted to the United States Senate for confirmation, a copy of the certified delegation is sent to the Executive Resources Staff, Human Resources Services, to be filed in the nominee's personnel folder.

Exhibit A - Page 1 (Sample Delegation of Authority Memo)

TO: Director
Kindergarten Education Division
(Title Only)

FROM: Assistant Secretary for
Early Childhood Education

SUBJECT: Delegation of Authority for Primary Education Act, Pub. L. 99-100

I. DELEGATION

Under the authority vested in me by a delegation from the Secretary dated July 1, 1990, control number EA/ESE/1, I hereby delegate to you the authority to exercise the Department’s programmatic responsibilities under section 6, Title IV of the Primary Education Act of 1989, Pub. L. 99-100, 20 U.S.C. 0001.

II. RESERVATIONS

Unless otherwise noted in existing or future delegations of authority, the following are not delegated:

- A. Authority to promulgate regulations is reserved to the Secretary.
- B. Authority to submit reports to Congress or the President is reserved to the Secretary unless otherwise provided by law.
- C. Authority to awards contracts and discretionary grants is reserved.
- D. Authority to approve state plans is reserved to the Assistant Secretary for Early Childhood Education.

III. REDELEGATION

Subject to the reservations contained herein, you may redelegate any of the authorities delegated to you and authorize further re delegation.

(If the authority is not to be redelegated, add the following statement: “This authority may not be redelegated.”)

IV. CERTIFICATION AND EFFECTIVE DATE

This delegation is effective upon certification by the Department's Principal Delegation Control Officer and supersedes all previous delegations of authority

(Signature)

OGC Clearance
