

## DEPARTMENT OF LABOR

### Office of the Secretary

[Secretary's Order 4-2000]

### Delegation of Authority and Assignment of Equal Opportunity Responsibility for Department of Labor External Programs and Conducted Programs

1. *Purpose.* To (1) assign responsibility for the enforcement of equal opportunity and nondiscrimination laws, executive orders and statutes relating to programs or activities financially assisted or conducted by the Department of Labor (DOL); (2) delegate responsibility assigned to the Department of Labor by the Department of Justice to implement subpart F of Title 28 CFR part 35;<sup>1</sup> and (3) provide notification that the Directorate of Civil Rights within OASAM is now the Civil Rights Center (CRC).

2. *Directives Affected.* Secretary's Order 2-81 is canceled. The provisions of section 5(a) of this Order supersede sections 4(a)(7), (15), (17), and (30) of Secretary's Order 4-75 and section 4(a)(7) of Secretary's Order 2-85. This directive does not affect Secretary's Order 3-96.

3. *Policy.* It is the policy of DOL to promote equal opportunity in programs or activities it financially assists or conducts, and to ensure full compliance with all constitutional, statutory, and regulatory equal opportunity and nondiscrimination provisions in all such programs or activities. Additionally, it is the policy of DOL to ensure full compliance with the statutory provisions of the Americans with Disabilities Act of 1990, as amended, and its implementing regulations among the public entities assigned to DOL by the Department of Justice.

4. *Background.* Secretary's Order 8-80, issued on October 28, 1980, established the Office of Civil Rights (OCR) within the Office of the Secretary, and gave that office responsibility for enforcing Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; and the Age Discrimination Act of 1975, as amended, in programs or activities financially assisted by DOL. Secretary's Order 2-81, issued on June 1, 1981, canceled Secretary's Order 8-80, and transferred OCR to the Office of the

Assistant Secretary for Administration and Management. On June 18, 1985, Secretary's Order 2-85 assigned to the Assistant Secretary, OASAM, working through OCR, responsibility for the enforcement of Section 167 of the Job Training Partnership Act. Effective October 14, 1986, OCR underwent an organizational change, and its name changed to the Directorate of Civil Rights. On December 10, 1995, the name of the Directorate of Civil Rights became the Civil Rights Center (CRC).

#### 5. *Delegation of Authority and Assignment of Responsibilities*

a. Through the Assistant Secretary (OASAM), the Director (CRC) is delegated authority and assigned responsibility for:

(1) Developing, implementing, and monitoring DOL's civil rights enforcement program under all equal opportunity and nondiscrimination requirements applicable to programs or activities financially assisted or conducted by DOL, including:

(a) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d *et seq.*);

(b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794);

(c) Section 508(f) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d);

(d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*);

(e) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 *et seq.*);

(f) Section 167 of the Job Training Partnership Act, as amended (29 U.S.C. 1577)<sup>2</sup>;

(g) Section 188 of the Workforce Investment Act of 1998 (29 U.S.C. 2938);

(h) Executive Order 13160 (65 Fed. Reg. 39,773 (June 23, 2000))<sup>3</sup>;

(i) Executive Order 13166 (65 Fed. Reg. 50,121 (August 11, 2000))<sup>4</sup>; and,

(j) other similarly related laws, executive orders and statutes.

(2) Implementing subpart F of Title 28 CFR part 35, which describes the compliance procedures that apply to public entities subject to Title IIA of the

Americans with Disabilities Act of 1990 for components of State and local governments that exercise responsibilities, regulate, or administer services, programs, or activities in all programs, services, and regulatory activities relating to labor and the workforce.

(3) Establishing and formulating all policies, standards, and procedures for, as well as issuing rules and regulations governing, the civil rights enforcement programs under the laws, executive orders and statutes referred to in 5.a (1) (a) through (j).

(4) Achieving compliance through pre-approval and post-approval reviews, complaint investigations and other compliance monitoring techniques, negotiations, mediations, and other alternative dispute resolution techniques, conciliation proceedings, and the application of appropriate sanctions and remedies.

(5) Cooperating and coordinating with DOL Agencies, the Office of the Inspector General, the Department of Justice, the Department of Health and Human Services, the Equal Employment Opportunity Commission, and other agencies in connection with the administration of nondiscrimination and equal opportunity laws.

(6) Developing and conducting training and providing technical assistance for CRC staff, as well as for DOL Agency program staffs, recipients of Federal financial assistance from DOL, and beneficiaries of that assistance, programs or activities conducted by DOL.

(7) Developing, implementing, and maintaining a management information and case tracking system that can be used to assess the effectiveness of the DOL Civil Rights program.

(8) Issuing subpoenas for the purpose of any investigation or hearing conducted under section 188 of WIA, as authorized by section 183(c) of WIA, and pursuant to the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49).

b. *The Assistant Secretary for Administration and Management and the Director, Civil Rights Center (CRC),* are delegated authority and assigned responsibility for:

(1) Invoking all appropriate claims of privilege, arising from the functions of the Office of the Assistant Secretary for Administration and Management or the Civil Rights Center, following his/her personal consideration of the matter and in accordance with the following guidelines:

(i) *Informant's Privilege* (to protect from disclosure the identity of any person who has provided information to

<sup>2</sup> Title 29 CFR part 34, which implements the nondiscrimination and equal opportunity provisions of the JTPA, refers to the Civil Rights Center by its previous name, the Directorate of Civil Rights (DCR).

<sup>3</sup> Executive Order 13160 forbids discrimination in Federally conducted education and training programs and activities on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent.

<sup>4</sup> The purpose of Executive Order 13166 is to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP).

<sup>1</sup> Title 28 CFR part 35 effectuates Title IIA of the Americans with Disabilities Act of 1990.

OASAM in cases arising under authority delegated or assigned to OASAM or CRC in subparagraph 5(b) of this Order): A claim of privilege may be asserted where the Assistant Secretary, OASAM or the Director, CRC has determined that disclosure of the privileged matter may: Interfere with an investigation or enforcement action taken by OASAM under authority delegated or assigned to OASAM in subparagraph 5(a) of this Order; adversely affect persons who have provided information to OASAM; or deter other persons from reporting violations of the statute or other authority.

(ii) *Deliberative Process Privilege* (to withhold information which may disclose predecisional intra-agency or inter-agency deliberations, including: the analysis and evaluation of facts; written summaries of factual evidence; and recommendations, opinions or advice on legal or policy matters; in cases arising under authority delegated or assigned to OASAM in section 5(a) of this Order): A claim of privilege may be asserted where the Assistant Secretary, OASAM or the Director, CRC has determined that disclosure of the privileged matter would have an inhibiting effect on the agency's decision-making processes.

(iii) *Privilege for Investigative Files* compiled for law enforcement purposes (to withhold information which may reveal OASAM's confidential investigative techniques and procedures): The investigative files privilege may be asserted where the Assistant Secretary, OASAM or the Director, CRC has determined that disclosure of the privileged matter may have an adverse impact upon OASAM's

enforcement of an authority delegated or assigned to OASAM in subparagraph 5(a) of this Order, by: Disclosing investigative techniques and methodologies; deterring persons from providing information to OASAM; prematurely revealing the facts of OASAM's case; or disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(iv) Prior to filing a formal claim of privilege, the Assistant Secretary, OASAM or the Director, CRC shall personally review: All the documents sought to be withheld (or, in cases where the volume is so large that all of the documents cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents); and a description or summary of the litigation in which the disclosure is sought.

(v) In asserting a claim of governmental privilege, the Assistant Secretary, OASAM or the Director, CRC shall ask the Solicitor of Labor or the Solicitor's representative to file any necessary legal papers or documents.

c. *Agency heads* are delegated authority and assigned responsibility for:

(1) Promoting and instituting measures to assure that equality of opportunity is a reality in all programs or activities financially assisted or conducted by their Agencies;

(2) Assuring that equal opportunity and nondiscrimination requirements are incorporated into all regulations, procedures, and other guidelines and references covering programs or activities financially assisted or conducted by their Agencies; and

(3) Maintaining close liaison with, and cooperating with, the Assistant Secretary, OASAM, and the Director, CRC, in all civil rights and equal opportunity matters affecting programs or activities financially assisted or conducted by their Agencies.

d. *The Solicitor of Labor* shall have the responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutory provisions, regulations, and Executive Orders listed above. The bringing of legal proceedings under those authorities, the representation of the Secretary and/or other officials of the Department of Labor, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor. The authorities established in Secretary's Order 2-90 concerning the Office of Inspector General and the representation of the Inspector General are not affected by this paragraph.

6. *Redelegation and Reassignment.* The responsibility herein assigned through the Assistant Secretary, OASAM, to the Director, CRC by section 5(a) of this Order may be further redelegated and reassigned, to the extent permitted by applicable regulations.

7. *Effective Date.* This delegation of authority and assignment of responsibility shall be effective immediately.

Dated: November 7, 2000.

**Alexis M. Herman,**

*Secretary of Labor.*

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