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THE WHITE HOUSE
WASHINGTON

April 10, 1997

'97 APR 10 PM 6:53

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Katie McGinty

SUBJECT: Executive Order to Protect Children
From Environmental Health Risks and Safety Risks

You are tentatively scheduled to announce on April 16 an Executive Order, attached to this memo, directing agencies to enhance their efforts to protect children from environmental health and safety risks. Announcement of the Executive Order would immediately precede the White House Conference on Early Childhood Learning and Development.

There is broad consensus among agencies on the broad policy objectives of the proposed Executive Order, but three agencies -- Treasury, Commerce, and HHS -- have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. DPC and CEQ strongly support issuing the Executive Order in its current form. In addition, all White House offices working on the Conference on Early Childhood Learning and Development would like you to issue the order in its current form, as part of a set of executive actions showing your commitment to protecting children. OMB's OIRA (Sally Katzen) also endorses the order because it advances the Administration's efforts to protect children, but believes that the decision to go forward must recognize that the order will impose additional burdens on agencies and inevitably lead to more stringent regulatory standards over time. NEC favors a compromise proposal discussed in the last section of this memo.

BACKGROUND

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health risks and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more in proportion to their weight, exposing them to greater amounts of

contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (*e.g.* navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health risks and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

In many areas, your Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, which has been the subject of extensive discussion with affected agencies, would fill this gap with provisions to address each of these areas.¹

Policy: The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

Research Coordination: The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to communicate with the public regarding these efforts.

Federal Regulatory Analysis: Most notably, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. It is this part of the Order to which Treasury, Commerce, and HHS have objected -- perhaps not surprisingly, given that it imposes additional analytic requirements on agency rulemaking.

¹ This Executive Order would supersede President Reagan's Executive Order on Families, replacing it with a policy that better reflects the priorities of your Administration.

ISSUE FOR DECISION

Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children when deciding on major regulations.

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, if the regulation is economically significant and the agency has reason to believe that it may have a disproportionate impact on children. Agencies would have to: 1) evaluate the effects of the planned regulation on children; 2) similarly assess the effects of reasonably feasible alternatives to the planned regulation; and 3) explain why the planned regulatory action is preferable to these other options.

Arguments For Inclusion of Section 5

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health. It makes concrete and gives effect to the overall policy of the Order to identify and assess risks to children.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link regulatory decisions to available data and, where there is a lack of data, to a research agenda. Section 5 is the provision of the order that best ensures that agencies will make this link.
- Section 5 provides the structure and enforcement mechanism (through OMB oversight) necessary to ensure that agencies adhere to the general policy of the Executive Order. Without Section 5, the Executive Order's terms are largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

Arguments Against Inclusion of Section 5

- Section 5 imposes a novel requirement on major rulemakings, with unpredictable consequences. The task force created by the proposed Executive Order should consider over time and with the benefits of experience the appropriateness of regulatory standards.
- Requiring agencies to acknowledge that a proposed regulation is not the most child-protective is likely to have a distorting effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- There is only limited experience with analyzing regulations in terms of risks to children, and this approach is not always well-received. Critics may cite costly Superfund cleanups based on the potential exposure of children to toxic waste sites, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- In cases where the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a basis on which to criticize the agency’s decision. (Some agencies characterize this as a “kick-me” requirement.) Requiring this analysis also may strengthen legal challenges to agency regulations, as requiring any regulatory analysis does.
- The regulatory resources of many agencies are already stretched thin, and blanket application of a new regulatory requirement could divert already tight resources and delay ongoing programs.
- Regulatory agencies have made important strides in this area and should have the opportunity to demonstrate this progress to the interagency task force before any regulatory requirements go into effect.

POSSIBLE ALTERNATIVE

The only compromise available is to retain Section 5, but include only the general requirement that agencies analyze the effects of a proposed regulation on children. This proposal would delete the explicit requirements that agencies undertake a comparative analysis and provide a justification for their decision. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

DECISION

- ☐ Approve the Executive Order as drafted
- ☐ Modify Section 5 of the Executive Order
- ☐ Omit Section 5 of the Executive Order

ATTACHMENT

Proposed Executive Order

DRAFT

Executive Order

3-27-97

10:30 a.m.

Protection of Children from Environmental
Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features, and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate and consistent with the agency's mission, each federal agency:

- (a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and
- (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this Executive order and comply with its provisions.

Sec. 2. Definitions. The following definitions shall apply to this order.

2-201. Federal agency means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C.

3502(5). For purposes of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. Covered regulatory action means any substantive action in a rulemaking initiated after the date of this Executive order, or for which a Notice of Proposed Rulemaking is published within one year of the date of this order, that is likely to result in a rule that may:

- (a) be "economically significant" under Executive Order 12866 (a rulemaking that has an annual effect on the economy of \$100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and
- (b) { concern an environmental health risk or safety risk } *the agency has reason to believe that may disproportionately affect children.*

2-203. Environmental health risks and safety risks mean risks to health or to safety that are attributable to products or substances which the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Chair of the Council;
- (b) Administrator of the Environmental Protection Agency, who shall serve as a Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Director of the Office of Management and Budget;
- (k) Chair of the Council on Environmental Quality;
- (l) Chair of the Consumer Product Safety Commission;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Assistant to the President and Director of the Office of Science and Technology Policy;
- (p) Chair, Council of Economic Advisers; and
- (q) Such other officials of Executive departments and agencies as the President may, from time to time, designate. Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. Functions. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

- (a) statements of principles, general policy, and targeted annual priorities to guide the federal approach to achieving the goals of this order;
- (b) a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

- (c) recommendations for appropriate partnerships among Federal, State, tribal and local governments and the private, academic, and non-profit sectors;
- (d) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;
- (e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and
- (f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The White House Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of four years from the first meeting. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. Research Coordination and Integration.

4-401. Within six months of the date of this order, the Task Force shall develop or direct to be developed a review of

existing and planned data resources and a proposed plan for ensuring that researchers and federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all federal agencies.

Sec. 5. Agency environmental health risk or safety risk regulations.

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs ("OIRA") for review pursuant to Executive Order 12866, the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process, unless prohibited by law:

- (a) an evaluation of the environmental health or safety effects of the planned regulation on children;
- (b) an assessment of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agency or the public, that provide different degrees of protection to children; and
- (c) an explanation of why the planned regulation is preferable to the identified potential alternative(s).

5-502. In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 6. Interagency Forum on Child and Family Statistics.

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum is to produce an annual compendium ("Report") of the most important indicators of the health and well-being of children.

6-602. The Forum shall determine the indicators to be included in the Report and identify the sources of data to be used for the indicators. The Forum shall provide an ongoing review of Federal activity in the collection of data on children and families, and shall make recommendations to improve the coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in consultation with the National Institute for Child Health and Human Development. The Forum shall issue the first annual report to the President, through the Director, by July 31, 1997. The report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. General provisions.

7-701. This order is intended only for internal management of the Executive Branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Executive Order 12606 of September 2, 1987 is
revoked.

THE WHITE HOUSE,

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Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 5-2 ACTION/CONCURRENCE/COMMENT DUE BY: 5-5

SUBJECT: Religious Expression in Federal Workplace

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RUFF	☐	☐
MATHEWS	☒	☐	SMITH	☐	☐
RAINES	☐	☐	REED	☒	☐
BAER	☐	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	LEWIS	☐	☐
EMANUEL	☒	☐	YELLEN	☐	☐
GIBBONS	☐	☐	STREETT	☐	☐
HALE	☐	☐	SPERLING	☐	☐
HERMAN	☐	☐		☐	☐
HIGGINS	☐	☐	VERVEER	☒	☐
HILLEY	☐	☐	RADD	☒	☐
KLAIN	☒	☐	TARULLO	☐	☐
BERGER	☐	☐	<u>KAGAN</u>	☒	☐
LINDSEY	☐	☐		☐	☐

REMARKS: Please advise;

RESPONSE: _____

Staff Secretary
Ext. 6-2702

97 MAY 1 PM 5:24

THE WHITE HOUSE
WASHINGTON

May 1, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES F.C. RUFF 
Counsel to the President

SUBJECT: RELIGIOUS EXPRESSION IN THE FEDERAL WORKPLACE

We are preparing to put into final form a Presidential Memorandum and accompanying Guidelines addressing the issue of religious expression in the federal workplace. These documents reflect the principles that led to your issuance of guidelines on religious expression in the public schools two years ago. Before the documents are presented to you for approval, however, we wanted to solicit your reactions on the substance of the proposal and the process we have followed.

BACKGROUND

For the past year the Counsel's Office, in conjunction with representatives from the Christian Legal Society, People for the American Way, the American Jewish Congress and the Department of Justice, has worked on developing guidelines governing religious expression in the federal workplace. Representatives from the National Catholic Conference, the National Council of Churches, the Baptist Joint Committee on Public Affairs, the Union of American Hebrew Congregations, the National Association of Evangelicals, the Equal Opportunity Commission, and the Office of Personnel Management have also, from time to time, been involved in these discussions.

The idea for this project originated with the Steve MacFarlane of the Christian Legal Society, Marc Stern of the American Jewish Congress, and Eliot Minberg of People for the American Way in response to the 1995 proposed EEOC guidelines addressing harassment in the workplace. The sections of the proposed EEOC guidelines addressing religious harassment were controversial and generated wide-ranging opposition from religious groups who believed that the EEOC guidelines might be construed by employers as prohibiting all religious activity in the workplace. MacFarlane, Stern, and Minberg believed that a set of guidelines dealing with religious expression in the workplace could be drafted which would be acceptable to most, if not all, religious organizations.

Accordingly, MacFarlane, Stern, and Minberg drafted a set of proposed guidelines which they circulated to various religious groups in the hopes that these guidelines could be issued as the product of a broad alliance of religious organizations. The Counsel's Office, however, suggested that it might be possible to issue the guidelines as a joint project of the White House and the religious groups if the guidelines were modified to meet certain objections and if they were narrowed to apply only to the federal workplace. The religious groups agreed and a draft entitled "Guidelines on Religious Exercise and Religious Expression in the Federal Workplace" was completed earlier this month. In its final form, the draft sets forth general principles and offers hypothetical examples illustrating the appropriate application of the principle involved.

The federal agencies that have been involved in the process, the Department of Justice, the Office of Personnel Management and the Equal Employment Opportunity Commission have signed off as to the basic propriety of issuing of the Guidelines. DOJ has also signed off on the constitutionality and legal validity of the principles and hypotheticals set forth in the Guidelines. DOJ and OPM, however, have raised policy objections to the Guidelines. These objections are discussed in Section V. below.

RELIGIOUS EXPRESSION IN THE WORKPLACE - GENERAL PRINCIPLES

The basic principle underlying the guidelines is that religious expression in the federal workplace should be entitled to the same level of protection accorded non-religious expression. For example, if a federal employee is allowed to display a poster with a non-religious message in her office, she should be allowed to display a poster with a religious message. Similarly, if employees are allowed to use space for non-religious meetings they should be allowed to use the same space for religious meetings.

The Guidelines also reflect that special restriction upon religious speech may be required in some circumstances. This would occur when an employee's private speech is perceived as an official endorsement of religion, thus violating Establishment Clause prescriptions, or when the religious speech in question constitutes religious harassment or is coercive. The Guidelines also make clear that religious speech, like non-religious speech, can be restricted when it unduly interferes with workplace efficiency.

RESOLUTION OF ISSUES ARISING UNDER THE GUIDELINES

The Guidelines state that they are not intended to create any new right, benefit, or responsibility enforceable by any party against the United States, its agencies, its officers, or any person. Rather persons with questions regarding interpretations of the Guidelines are directed to bring those questions to the Office of the General Counsel in their department or agency. There are no other enforcement provisions.

PROPOSED ISSUANCE OF THE GUIDELINES

The Guidelines would be distributed by OPM as an attachment to a Presidential Memorandum announcing your support for the principles contained in the Guidelines and directing the heads of all agencies to comply with its provisions. The religious groups envision an announcement ceremony similar to the one surrounding the issuance of guidelines addressing religious expression in the public schools.

AGENCY OBJECTIONS

As noted previously, DOJ and OPM have raised policy objections to the Guidelines. Specifically, both agencies have questioned the need for the issuance of the Guidelines on grounds that accommodating religious expression has not been a significant problem in the federal workplace and issuing the Guidelines, accordingly may raise more problems than it solves. OPM is additionally concerned with the potential impact of some of the hypotheticals contained in the document. Of particular concern to OPM is the Guidelines' use of controversial and potentially divisive examples of expression, such as religious proselytization or the advocacy of pro-life positions, as illustrations of what is legally permissible. The agency argues that these illustrations may be read by federal personnel, including supervisors, as an active invitation to engage in the potentially divisive conduct (rather than as a mere illustration of their rights to engage in that conduct) with the result being a dramatic increase in divisive expression in the federal workplace and a subsequent harm to federal workplace morale. For similar reasons, OPM also objects to the hypothetical which indicates that an applicant for federal employment can not be compelled to take a religiously objectionable oath as a condition of employment. OPM asserts that this example may actively encourage persons to avoid the oath requirement.

There are, however, strong counter arguments to DOJ's and OPM's positions. First, while it may be true that accommodation of religious expression in the federal workplace has not yet been a significant problem, these issues will likely become more common as religious organizations direct their attention to workplace issues. As noted in Section I, guidelines on religious expression in the workplace would have been issued and disseminated by religious organizations with, or without, our participation. The process leading to the development of these Guidelines thus has arguably only allowed us to get out front on a difficult issue.

Second, OPM's objection to the use of hypotheticals involving controversial religious expression may be descriptively accurate but it misses the fundamental point that examples involving controversial expression are absolutely necessary to illustrate the first amendment principle at stake. The principle that is at the heart of the Guidelines is that speech may not proscribed simply because it might be found offensive. This principle, by definition, can not be demonstrated by examples using non-controversial speech. OPM is correct that offensive speech or proselytization by supervisors raises a special set of concerns, particularly when the

activity approaches coercion or harassment, but the Guidelines recognize the specific problems associated with the speech of supervisors and address them directly.

Finally, OPM's objection to the loyalty oath hypothetical may be addressed on a number of counts. First, the conclusion that this hypothetical will encourage persons to avoid the oath requirement seems unlikely as a practical matter. Second, the right to forego loyalty oaths on religious grounds is protected under the Religious Freedom Restoration Act if not the constitution and the argument as to why people should not be informed of their rights is not readily apparent. Third, the religious groups have made clear that any changes in the existing document could easily lead to an unraveling of the agreement as a whole.

RECOMMENDATIONS

Given your support for the policies and principles contained in the Presidential Memorandum and Guidelines, we recommend that we finalize the documents and prepare them for your execution. Draft copies of the documents are attached for your reference.

_____ Prepare Presidential Memorandum and Guidelines for Execution

_____ Explore agency objections further

_____ Discuss

(May 1 Draft)

MEMORANDUM FOR ALL HEADS OF AGENCIES

SUBJECT: Religious Exercise and Religious Expression in the Federal Workplace

Religious freedom is central to the American system of liberty. Our nation's founders erected the twin pillars of this freedom, guaranteeing the free exercise of religion and prohibiting the establishment of religion by the state, in the very First Amendment to the Constitution. Throughout our history, men and women have come to this nation to escape religious persecution and secure this precious freedom. They and others have built a nation in which religious practices and religious institutions have thrived -- exactly because each individual has been able to choose for himself or herself whether and, if so, how to worship.

In the four years I have served as President, nothing has given me greater joy than the efforts of this Administration, in tandem with a broad coalition of individuals and organizations, to support freedom of religion. In 1993, I was proud to reaffirm the rightful and historic place of religion throughout our society when I signed the Religious Freedom Restoration Act, which protects the exercise of religion from being inappropriately burdened. In 1995, I was similarly proud to protect appropriate religious expression in the public schools when I directed the Secretary of Education to issue guidance to public school districts on the extent of permissible prayer and other speech of a religious character.

Today I focus on the federal workplace, directing all heads of federal agencies to comply with Guidelines on Religious Exercise and Religious Expression in the Federal Workplace to be distributed today by the Office of Personnel Management. All civilian executive branch agencies, officials, and employees must follow these Guidelines carefully. Strict adherence to these Guidelines will ensure that federal employers will respect the rights of those who engage in religious practices or espouse religious beliefs, as well as those who reject religion altogether. In particular, it establishes the following principles:

First, federal employers shall permit employees to engage in personal religious expression (as they must permit other constitutionally valued expression) to the greatest extent possible, consistent with interests in workplace efficiency and requirements of law. Of course, work is for work, and an agency may restrict any speech that truly interferes with its ability to perform public services. In addition, the agency may have a legal obligation to restrict certain forms of speech that intrude unduly on the legitimate rights of others. But when an agency allows non-religious speech, because that speech does not impinge on these interests, the government also usually must allow otherwise similar speech of a religious nature. The one exception to this principle of neutrality -- an exception mandated by the Establishment Clause -- is when religious speech would lead a reasonable observer to conclude that the government is endorsing religion. Subject to this exception, an agency may not typically subject religious speech to greater restrictions than other speech entitled to full constitutional protection, and therefore shall allow much of this speech to go forward.

Second, federal employers may not discriminate in employment on the basis of religion. This means that an agency may not hire or refuse to hire, promote or refuse to promote, or otherwise favor or disfavor a potential, current, or former employee because of his or her religion or religious beliefs. It means that an agency, or any supervisor within the agency, may not coerce an employee to participate in religious activities (or to refrain from participating in otherwise permissible religious activities) by offering better (or threatening worse) employment conditions. And it means that an agency shall prevent any supervisor or any employee from engaging in religious harassment or creating, through the use of intimidation or pervasive or severe ridicule or insult, a religiously hostile environment.

Third, an agency must reasonably accommodate employees' religious practices. The need for accommodation arises in many circumstances -- for example, when work schedules interfere with Sabbath or other religious holiday observances or when work rules prevent an employee from wearing religiously compelled dress. Once again, governmental interests in workplace efficiency may be at stake in such cases. But an agency, as specified in greater detail in the Guidelines, must always accommodate an employee's religious practice in the absence of non-speculative costs and may need to accommodate even when doing so will impose some hardship.

All of these principles are related. All are but variants or applications of a single rule of neutrality and fairness -- that federal employers shall treat employees with the same respect and consideration, regardless of their religious beliefs. Whether by allowing religious speech, preventing religious coercion or harassment, or making accommodations to religious practice, the government must act to ensure that the federal workplace is generous to followers of all religions, as well as to followers of none. The Guidelines will advance this goal. Although they doubtless will leave unresolved many difficult questions, arising from specific factual contexts and circumstances, they will clarify the obligations and appropriate commitments of the government, acting as an employer, to protect and enhance religious freedoms.

William Jefferson Clinton