

10/10/79 [2]

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THE WHITE HOUSE

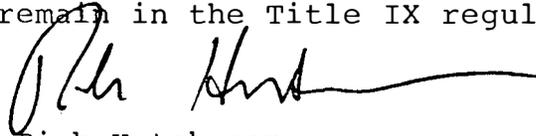
WASHINGTON

10 October 1979

MEMORANDUM FOR
THE HONORABLE PATRICIA HARRIS
Secretary of Health, Education and Welfare

Re: Your October 4 Memorandum
on Title IX

The President has reviewed your memorandum on the above-referenced subject and has no objection to your proposal that the proscription "discrimination against any person in the application of any rules of appearance" remain in the Title IX regulation.



Rick Hutcheson
Staff Secretary

cc: Sarah Weddington
Stu Eizenstat



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

OCT 4 1979

*I don't care
one way or the
other -
J*

MEMORANDUM FOR THE PRESIDENT

Earlier this year Secretary Califano sent you a proposal to delete from the Title IX regulations the proscription of "discrimination against any person in the application of any rules of appearance." Before changes in Title IX regulations can become effective, the law requires that you approve the change and that it be submitted to the Congress for a 45-day review period. At Secretary Califano's behest, you approved the proposed deletion.

The proposed regulatory change has now come to me for transmission to the Federal Register and the Congress. I believe that the change ought not to be made. I view the existing rule as an important protection against sex stereotyping in the public schools. Moreover, this regulation serves as a protection against dress code rules which can have a disproportionate effect on Hispanics and on the poor.

For these reasons, I recommend that the proposed deletion not be forwarded to the Congress and the Federal Register. If you concur, I will instruct the Office for Civil Rights to begin enforcement of the Title IX regulation on rules of appearance.

Patricia Roberts Harris

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for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

10/9/79

Mr. President:

Stu Eizenstat and Sarah
Weddington concur with
Secretary Harris' attached
recommendation.

Previous memos on this
same subject from earlier
this year are attached.

Rick/Bill

DATE: 09 OCT 79

FOR ACTION: STU EIZENSTAT concur

SARAH WEDDINGTON concur

INFO ONLY: THE VICE PRESIDENT

LLOYD CUTLER

JODY POWELL

SUBJECT: HARRIS MEMO RE TITLE IX REGULATIONS

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: 1200 PM THURSDAY 11 OCT 79 +

+++++

ACTION REQUESTED: ~~YOUR COMMENTS~~

STAFF RESPONSE: I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

(New memo not necessary; just indicate whether concur or not)

Enthusiastically

1100

1100

1100

1100

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
FOR APPROPRIATE HANDLING
LAST DAY FOR ACTION

*HARRIS
memo*

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

ACTION
FYI

<input checked="" type="checkbox"/>	VICE PRESIDENT	<input type="checkbox"/>	MILLER
<input type="checkbox"/>	JORDAN	<input type="checkbox"/>	VANCE
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<input type="checkbox"/>	MCDONALD		CAMPBELL
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<input type="checkbox"/>	WATSON		CRUIKSHANK
<input checked="" type="checkbox"/>	WEDDINGTON		FIRST LADY
<input type="checkbox"/>	WEXLER		FRANCIS
<input type="checkbox"/>	BRZEZINSKI		HARDEN
<input type="checkbox"/>	MCINTYRE		HERTZBERG
<input type="checkbox"/>	SCHULTZE		HUTCHESON
<input type="checkbox"/>			KAHN
<input type="checkbox"/>	ANDRUS		LINDER
<input type="checkbox"/>	ASKEW		MARTIN
<input type="checkbox"/>	BERGLAND		MILLER
<input type="checkbox"/>	BROWN		MOE
<input type="checkbox"/>	CIVILETTI		PETERSON
<input type="checkbox"/>	DUNCAN		PRESS
<input type="checkbox"/>	GOLDSCHMIDT		SANDERS
<input type="checkbox"/>	HARRIS		SPETH
<input type="checkbox"/>	KREPS		STRAUSS
<input type="checkbox"/>	LANDRIEU		TORRES
<input type="checkbox"/>	MARSHALL		VOORDE
<input type="checkbox"/>			WISE

*new memos
not re. - just
indicate
author or
concern of
PAT Harris*

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

4 October 1979

TO: AL MCDONALD
FROM: RICK HUTCHESON *Rick*
SUBJECT: Title IX Regulations

Please see the attached memo from Secretary Harris, and the attached file.

Briefly, the President approved a recommendation from Secretary Califano (with OMB and DPS concurring) to repeal that portion of Title IX regulations dealing with hair length.

Sarah Weddington, who had not been consulted on the decision, was extremely concerned about it; she asked the President to reverse his decision. The President decided to let the decision stand, and HEW was instructed to make public the decision. Evidently, HEW never did so.

Now the new Secretary of HEW has reversed Califano's position, and wants the President to reverse his decision. I am reluctant to bring this minor issue to the President for a third time. Yet Secretary Harris' view should not be treated lightly; this is an HEW issue.

Both Sarah Weddington and Stu Eizenstat have strongly held views on this matter (especially Sarah), disagreeing. What is your guidance?

*You are right -- it is regrettable that this issue needs to go again to the President, but that is the price of a cabinet change in mid-stream of implementation - Since the Secretary insists it is a Presidential issue, let's send it back in _____
Og*

7/18/79 MEMOS

THE WHITE HOUSE
WASHINGTON

7/21/79

Sarah Weddington

The attached was returned
in the President's outbox
today and is forwarded to
you for appropriate handling.

Rick Hutcheson

cc: Stu Eizenstat
Frank Moore
Jody Powell

TITLE IX RULES

*Rich Cotton has called
245-9098*

7-23

*Box - 44 will not announce - let HOW
Rich Cotton notified of final
decision; HOW will put it out*

THE WHITE HOUSE
WASHINGTON

7/18/79

Mr. President:

Stu's comments are attached.

Lipshutz and McKenna do not believe you should reverse your prior decision. They note that since most of the cases involve the length of a student's hair, it would be "a misallocation of resources" to deal with these complaints.

They also add that the women's groups feel strongly about this because they feel that Title IX is being slowly chipped away. Bob and Margaret believe that the decision to delete this provision is the right one, but will receive a negative reaction from the women's groups. Further, there are other decisions to make which are more important to women's groups.

Rick/Bill

THE WHITE HOUSE
WASHINGTON

July 2, 1979

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*Sarah -
Let the decision
stand
J*

MEMORANDUM TO THE PRESIDENT

FROM: SARAH WEDDINGTON *SW*

SUBJECT: Request For Reversal On Prior Decision
Pertaining To Title IX Rules of Appearance

I. Prefatory Comment

Because I am asking that a prior decision be reversed, this memo is longer than I would otherwise write.

II. Background

On December 17, 1978, HEW published a proposal in the Federal Register which would delete the Title IX provision barring discrimination on the basis of sex in rules of appearance (45 CFR 86.31 (b) (5)).

Paragraph (b) of 45 CFR 86.31 currently reads as follows:

(b) *Specific prohibitions.* Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment.

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

Only the language highlighted is proposed for deletion by HEW.

During the last week of May, 1979, the attached memo from Secretary Califano was approved by you. Unfortunately because of the wording of the memo, Rick Hutcheson did not realize that women are very interested in this issue and so did not circulate the memo to me nor did I hear of it from another source; as a result I had no opportunity to comment on the proposal before you considered it.

III. Statement

A. The HEW proposal should not be approved for the following reasons:

1. The dress code provision has served primarily to prevent schools from prohibiting girls from wearing slacks and from expelling primarily minority students based on hair length.

For example, there is a current case pending in the 6th Circuit where a girl brought suit against a school district for refusing to allow her to attend school in dungarees. Other cases revolve around Chicanos and American Indians whose hair is longer than the school prefers.

As a matter of policy students should not be prevented from getting an education for these reasons.

2. Arguments articulated by others in their comments to HEW included the following:

- Restrictive dress codes interfere with the family's right to determine, along with the child, how their children can express their individuality.
- Dress codes promote sex stereotyping by applying school authorities' vision of what boys and girls should look like (and, therefore, act like) to the students.
- Discrimination against the poor results from these dress codes. Poorer children cannot always afford specific types of clothing, for example, coat and tie or pants which are not blue jeans.

3. Women's groups, as well as minority groups and civil liberties advocates, oppose a change in the regulation.

Groups in support of the status quo and against deleting the regulation are:

- President's Advisory Committee for Women
- American Personnel & Guidance Association
- Federation of Organizations for Professional Women
- Intercollegiate Association for Women Students
- LULAC: National Educational Service Centers
- Mexican American Women's National Association
- National Association for Women Deans, Administrators and Counselors
- National Council of Administrative Women in Education
- National Council of Jewish Women
- National Council of Negro Women
- National Education Association
- National Organization for Women
- Project on Equal Education Rights, NOW Legal Defense and Education Fund
- Resource Center on Sex Roles in Education, National Foundation for the Improvement of Education
- Sociologists for Women in Society
- Women's Equity Action League
- WEAL Educational and Legal Defense Fund
- Coalition of Indian Controlled School Boards
- Migrant Services Foundation
- SACRRW-Secretary's Advisory Committee on the Rights and Responsibilities of Women
- Department of Education, State of Vermont
Robert A. Withey, Commissioner
- Office of Equal Educational Opportunity, State of New Hampshire, Dept. of Education, Andrew T. Stewart, Director
- The League of Women Voters

It is interesting to note that the HEW memo says that only about 50 letters were received about the proposed regulations, about half for and half against -- but HEW evidently counted as "one" a letter signed by sixteen national organizations against the proposal and counted as for it letters from 18 Baltimore grade schoolers who thought that the Federal government was going to write a new dress code.

4. HEW is reserving its authority to bar school appearance rules that discriminate based on race or national origin. HEW's proposal suggests a Departmental attitude that if it is race discrimination, it is a serious matter, while sex discrimination is not.

5. Title IX is especially sensitive at this time because of the various threats to its continued enforcement in Congress and the fact that HEW has not yet sought to enforce the provisions pertaining to athletics. To repeal this one sentence would be read as a signal that the Administration's support for Title IX is less than firm.

6. I am told second-hand that the Office of Civil Rights in HEW recommended that the language be retained.

B. Those who favor elimination of the ban on dress codes which discriminate on the basis of sex do so for the following reasons:

1. They feel that the Federal government should not interfere in local community standards of appearance.

2. They feel the government should not interfere with a school's ability to prevent disruptive behavior which may be reflected or caused by dress which is not "ladylike" or "suitable."

The National Association of Secondary School Principals supports Secretary Califano's position.

IV. Other Comments

Although it is not directly related to this issue, it is important to note that many of us on White House staff have been working diligently to keep women's organizations from opposing the Department of Education Bill; they are very worried about the various anti-civil rights amendments.

I believe that an announcement of a decision by you to delegate the prohibition against sex discrimination in dress codes from Title IX would be such a disappointment to those same organizations that it might negatively influence their consideration of the Education Bill at an unfortunate time.

V. Options

HEW has had instructions not to release the decision. Therefore, the original options are still available.

- A. Retain the current language.
- B. Allow deletion of the language.

VI. Recommendation

That you reject HEW's proposed elimination of 45 CFR 86.31 (b) (5) and that the current prohibition against sex discrimination in dress codes be retained.

Approve _____ Disapprove _____

Comments:

THE WHITE HOUSE
WASHINGTON

2836
3073 312)
3019

Date: July 2, 1979

MEMORANDUM

FOR ACTION:

Stu Eizenstat - wed.
BOB LIPSHUTZ
attached ~~activity from 11/16~~

FOR INFORMATION:

The Vice President
Jim McIntyre
Jack Watson
Jerry Rafshoon
Jody Powell
LOUIS MARTIN

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Weddington Memo Re Request For Reversal On Prior
Decision Pertaining to Title IX Rules of Appearance

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00 P.M.

DAY: Wednesday

DATE: July 4, 1979

ACTION REQUESTED:

Your comments

Other:

STAFF RESPONSE:

I concur.

No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

THE WHITE HOUSE
WASHINGTON

SARAH SAYS DPS IS WAITING TO
COMMENT UNTIL AFTER DEPT OF
EDUCATION ISSUE IS SETTLED -
OK WITH HER.

RICK
7/16/79



THE WHITE HOUSE

WASHINGTON

July 18, 1979

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
BETH ABRAMOWITZ

SUBJECT: Weddington Request for Reversal of HEW Decision on Title IX Rules of Appearance

On May 22, 1979 you signed a decision memorandum from Secretary Califano authorizing HEW to delete regulations dealing with dress and personal appearance codes in schools from enforcement of Title IX - anti-sex discrimination provisions.

In Sarah Weddington's memorandum of July 2, 1979, you are asked to reverse this decision. Sarah points out that women's groups fear that the proposed HEW action signals a general retreat of the Administration to Title IX -- anti-sex discrimination -- enforcement.

In May, HEW requested the change in regulation so that they would not be forced to investigate dress code complaints. HEW pointed out that only 75 such complaints have been filed in the last two years. HEW pointed out that the weight of judicial opinion and greater acceptance of new styles of dress by local communities have greatly diminished the need for federal attention. According to the National School Board Association and the Council of Chief State School Officers, most states treat dress codes as a local matter, and require that if a dress code is developed by a local school board, there must also be grievance procedures with due process guarantees. Actual limits on dress and personal appearance are usually based on (a) clear and present danger to the educational process or (b) the health and safety of the student.

Your decision allowing HEW to delete dress code and personal appearance from the Title IX regulations means parents and students will still have the following remedies available:

- Local school board policy including grievance procedures,

- Possible state Constitutional guarantees for due process and against sex and race discrimination,
- Federal HEW action for race-related dress and appearance code complaints, and
- Private legal action.

Political Analysis

Title IX is an extremely emotional issue for women's groups whether the issue is employment or dress codes. Title IX dress code policy cannot be easily linked to support for the Department of Education. If you reverse your earlier decision thus requiring HEW to investigate dress code complaints, this will not be sufficient to overcome basic opposition of major women's groups to the Department of Education bill. Moreover, reversing your earlier decision may produce an unintended negative reaction, exposing the proposed Department of Education to charges of an overreaching federal presence into local matters.

Recommendation

Do not reverse your earlier decision; allow HEW to delete dress codes from Title IX anti-sex discrimination enforcement.

THE WHITE HOUSE
WASHINGTON

July 11, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT LIPSHUTZ
MARGARET MCKENNA

SUBJECT: Title IX Rules of Appearance

We do not believe your prior decision should be reversed. Most of the cases under this provision involve the length of a student's hair. It seems a misallocation of resources to deal with the approximately 100 complaints now pending at HEW.

The women's groups do feel strongly about this, basically because they feel that Title IX is being slowly chipped away. We have several other decisions to make which are more important to women's groups.

Overall, I believe the decision to delete this provision of Title IX is the right one, but you should be aware that women's groups will react negatively.

5/22/79 CALIFANO
MEMO

THE WHITE HOUSE
WASHINGTON

6/5/79

Mr. President:

No objection from OMB
or DPS.

Subject to your approval,
Jody plans to announce
this rule change from
the White House.

Rick



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

MAY 22 1979

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*Joe:
Let's do more
of this
J*

MEMORANDUM FOR THE PRESIDENT

As you know, one of the most controversial provisions of the Title IX sex discrimination regulations we inherited deals with dress and personal appearance codes in schools. Prompted by several ludicrous situations around the country in which we had to get involved in local dress codes and rules concerning hair length, the Department published a Notice in the Federal Register last Winter indicating our intention to repeal that portion of the Title IX regulation.

The Department received less than 50 comments, approximately half of which supported our pending action and the other half wanting the Federal Government to retain supervision of local school dress codes and personal appearance requirements.

I would like to now publish a final regulation which would return responsibility for dress codes and hair length to the local level where these issues are best handled.

Before this change can become effective, I am required by law to have it approved by you and submitted to the Congress for a 45-day review period. Attached at Tab A is the final rule for your approval. Once I hear from you I will have the final regulation published in the Federal Register and transmitted to the Congress.

We have previously announced this and it was very well received. You might wish to announce your approval from the White House.

Joseph A. Califano, Jr.
Joseph A. Califano, Jr.

approve disapprove

J

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of the Secretary

TITLE 45: PUBLIC WELFARE

SUBTITLE A: DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
GENERAL ADMINISTRATION

PART 86: NONDISCRIMINATION ON THE BASIS OF SEX IN
EDUCATION PROGRAMS AND ACTIVITIES RECEIVING
OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

AGENCY: Office of the Secretary, HEW

ACTION: Final Rule

SUMMARY: The Department of Health, Education, and Welfare hereby revokes a subparagraph of its Title IX Regulation that lists codes of personal appearance as an example of sex discrimination in education over which the Department takes jurisdiction.

EFFECTIVE DATE: This regulatory change has been signed by the Secretary of Health, Education, and Welfare and approved by the President. It will be transmitted to the Congress pursuant to the General Education Provisions Act,

20 USC 1232. The regulatory change will become effective on _____, 1979.

SUPPLEMENTARY INFORMATION: In the Federal Register of Monday, December 11, 1978 (43 Fed. Reg. 58076), the Department of Health, Education, and Welfare gave notice of its proposal to delete one subparagraph (45 CFR §86.31(b)(5)) from the Departmental regulation implementing Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.).

The purpose of the revocation is to remove local rules relating to personal appearance from Departmental review under Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.). The legislative history of Title IX gives no indication that the Congress intended the Executive Branch to regulate in the area of personal appearance. Issues of sex discrimination pertaining to hair length and other aspects of appearance are properly resolved at the local level. Moreover, by deleting the subparagraph concerning codes of appearance, the Department can more effectively use its resources for enforcing other parts of the regulation, thus fulfilling more completely the intent of the Congress in enacting Title IX.

The deletion of this subparagraph is not intended to alter the Department's authority to prohibit codes of appearance that discriminate against individuals in federally funded programs on the basis of national origin or race under Title VI of the Civil Rights Act of 1964 (42 USC 2000d, et seq.).

Interested persons were given until February 20, 1979, to submit written comments, suggestions, or objections regarding the proposed deletion. The Department received 66 letters regarding the deletion, mostly from private citizens. Among the commentators, 25 favored retaining the regulation, 20 favored revocation, and 21 either did not express a clear opinion or misunderstood the nature of the proposal. None of the letters appeared to be from current Title IX complainants.

The major theme of those who favored retaining the regulation was that it is important for the Federal Government to protect the rights of students and their parents against local schools that discriminate or otherwise limit personal freedom. In these letters, the rights of the individual were considered paramount to the authority of local schools. The need to end sex stereotyping also was stressed.

The major theme of those who favored revoking the regulation was that rules of appearance should be made

locally. These commentators felt that, while codes of appearance may be important for discipline and high academic standards, the issue is tangential to the purpose of Title IX.

The few educators and administrators who commented reflected the range of opinion generally, some favoring local control and revocation and others favoring individual control and Federal regulatory protection.

In the group expressing no clear responsive opinion, most letters were based on misimpressions that the regulation either forbade or set specific standards for local codes of appearance. Eighteen letters were from students of one elementary school class in Baltimore who apparently did not understand the regulation or its revocation, but who uniformly recommended local control. The remaining three commentators in this group stressed the need for high standards generally, rather than addressing the discrimination issue.

Not counting the letters expressing no clear responsive opinion, there were 45 letters; 25 favored retaining the regulation, and 20 favored deleting the regulation.

The deletion of 45 CFR 86.31(b)(5) is proposed under the authority of Sections 901 and 902 of the Education

Amenments of 1972, Pub. L. 92-318, 86 Stat. 373 (20 U.S.C. 1681, 1682) as amended by Section 3(a) of Pub. L. 93-568, 88 Stat. 1862; and Section 412(a) of Pub. L. 94-482, 90 Stat. 2234.

FOR FURTHER INFORMATION CONTACT:

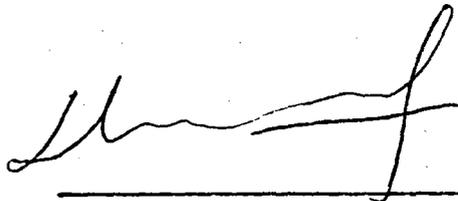
Colleen O'Connor

202-245-6700

After consideration of all relevant matter presented by interested persons, the deletion proposed is hereby adopted.

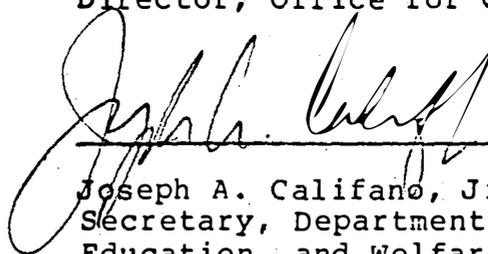
Signed,

Date:



David S. Tatel,
Director, Office for Civil Rights

Date:



Joseph A. Califano, Jr.
Secretary, Department of Health,
Education, and Welfare

Part 86 of Subtitle A of Title 86 of the Code of Federal Regulations is amended by the deletion of subparagraph

45 CFR §86.31(b)(5) and the renumbering of subsequent subparagraphs 45 CFR §86.31(b)(6), (7), and (8), as follows:

(b) Specific prohibitions. Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment.

(5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for instate fees and tuition;

(6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis

of sex in providing any aid, benefit or service to students or employees;

(7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

THE WHITE HOUSE
WASHINGTON

Stu- Do not
underline, except for
a key word or
phrase here &
Also - initials
get longer &
longer } there
JC

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POLITICAL

10/9/79

Q: How do you assess the importance of the Florida caucuses this weekend? Do you agree with Senator Kennedy that this is not a real test?

A: Well, as with any contest, it helps to win, and it hurts to lose. I don't know how to predict accurately a final result, but I can^{say} ~~at~~ two things:

First, I think the people working on my behalf in Florida have already proven that any challenger is in for a tough fight; and

Second, win, lose or draw in Florida, I want those people to know that I think their efforts are important, and I appreciate what they are doing.

Q: Aren't you pouring tremendous resources into Florida with Administration officials traveling down there, etc.?

A: Well, let me make two points. First, as an incumbent President, my primary responsibility is to the job I hold. I can't avoid dealing with controversial issues, and I can't be as personally active as I would like to be. So, we have to use others to stand in for me and to set the record straight.

Second, the Carter-Mondale Committee has gone the second mile in making sure that any travel that the Federal

Election law defines as campaign business is not paid for by the taxpayers. I can't personally keep track of everything that takes place, but my impression is that the Committee is doing a good job of insuring that the spirit and the letter of the law is followed. I'm sure that if they slip up, some of you people will not hesitate to point it out.

Q: Do you think that Chappaquiddick is an issue, and if not, why not?

A: Well, so far as I know, Senator Kennedy is not yet a candidate, so the question is irrelevant at this point. I can't predict what others will do in the press or in other campaigns, but I do not intend to raise it.

Why not? Well, I think there are other things I would prefer to talk about, and also, I don't have any new information to add to the controversy over that incident.

Q: Aren't there almost no issues that divide you and Senator Kennedy, what do you think will be the issues?

A: I can't control what the issues will be, but I do think there are differences on such questions as fiscal responsi-

bility, the need for a strong defense and so forth, but we'll have to wait and see -- the voters and to some extent the press will decide what is important.

Q: Do you think that a fight over the nomination between you and Senator Kennedy will split the party and help the Republicans?

A: Well, there certainly will be divisions, and it is clear that people are already beginning to choose up sides in some states. That is a danger that cannot be dismissed. How deep these divisions will be and how long lasting they will be is something that only time will tell.

As for my part I will certainly wage a tough campaign if challenged, but I will also try to wage a campaign that responds to any challenge from any quarter in a responsible and positive manner.

Q: If you lose in the early contests, wouldn't you feel that you were obligated to step aside to avoid turning the White House over to the Republicans?

A: I think the choice of the nominee of the Democratic Party in 1980 is a serious and important matter for our

party and for the future of the country. People from all parts of the country should have a chance to participate in that decision -- whether they live in an early state or not.

I happen to believe very strongly in what we've tried to do, and I am convinced that to be a good President means quite often making decisions and taking actions on difficult issues that may not be politically expedient at the time. If you believe that sincerely as I do and you hold the office that I hold, you have a duty to take your case to the people in every state from the first to the last and fight for that sort of government -- and you can be sure I intend to do just that.

Q: This is the first press conference you've had since July 25th. Why are you renegeing on your promise to have at least two press conferences a month?

A: In the little over 32 months since I took office, I have held over 100 press conferences -- about half with the White House Press Corps and about half with other reporters and editors from around the country -- and 14 question and answer sessions with American citizens. I

think that is a record of accessibility that compares favorably to say the least with other recent Presidents.

I intend to continue to have formal press conferences with you, but I also plan to increase my availability to American citizens to answer their questions directly. Despite some claim to the contrary, I have not detected any disinclination to ask tough, pointed questions on the part of the American people.

This Saturday afternoon I will be answering unscreened questions selected at random from Americans all over this country over National Public Radio. I think that is just as much a part of a President's responsibility as answering questions from the White House Press Corps -- even as much as I enjoy doing that.

(If the question is particularly obvious, you might try a quick one-liner, such as:

I don't suppose you'd believe me if I said I was too busy training for the Catoclin Mountain foot race (or whatever the name of it was).

Q: Since there is no doubt about your intentions, why don't you just go ahead and announce instead of playing a game?

A: First, let me say that insofar as complying with the requirements of the law, we are doing that just as though I were a candidate, so we're not using my status to circumvent any requirements on fundraising or disclosure that would be placed on me if I were an announced candidate.

As President, I simply have other responsibilities that are more important than campaigning for re-election (mention energy, SALT, hospital cost containment, etc.).

So, to avoid having an announcement conflict with these responsibilities, we've decided some time ago to put it off as long as possible -- as you know, the first filing deadlines are before the middle of December, so the first week of December is about as long as we can wait.

Q: Why do you think people should re-elect you . . . with high inflation, problems with Congress, etc.?

A: I don't think you have time for me to list all the wonderful things there are to say about this Administration -- neither have I come to think about it -- at least not until a few months later.

I will say just this, however. We have not tried to duck the tough problems that face our country. We have not tried to mislead the people by pretending that there were easy, quick, painless solutions to be found.

We have made decisions and proposed solutions, not based on what might be the most popular at the time, not because we were trying to please some particular interest, but based on what we believed to be in the best interest of our country.

In some cases, we've been successful, in others we've just begun to make progress and we must keep at it.

Re-election or not, that's the way I've tried to serve, and that's the way I'll continue to serve.

Q: Your last poll rating had you at 19%. Don't you think this is an indication that people have lost confidence in you and that you should step aside for Senator Kennedy or someone else who can unite the Democratic Party and lead it to victory?

A: I know one thing for sure. You can't make decisions as President based on the public opinion polls, and I don't intend to try. As the election year approaches, I

think my record, my philosophy of government, my positions on the issues and what I've tried to do to deal with the problems will not be viewed in vacuum but will be compared with the record, philosophy, position and proposals of the alternatives. That is already beginning to happen in some states such as Florida, where the first test will come, and I think we'll do better than 19% there.

This kind of success from Florida - I want to avoid

(Say this with a smile): If any of you in the fourth estate are waiting for a signal from me to begin making these comparisons and contrasts -- please don't hold back any longer on my account.

Q: Do you think Hamilton Jordan should resign if a special prosecutor is appointed?

A: Let me say that as President I am the chief law enforcement officer of this country, and as such, I feel constrained not to comment publicly on the merits of these allegations -- no matter how strongly I might feel personally.

Let me say generally, however, without reference to this particular case that under this law the appointment of a special prosecutor does not imply guilt or even that

any substance has been found to support the allegations. Therefore, I think it would set a very unfortunate precedent to require that a person automatically resign or take a leave of absence because a special prosecutor was named. I don't think this was the intent of Congress when the law was passed.

I might say that I have not discussed this matter with Hamilton in the past several weeks (remember that you did talk to him the day we got back from the Delta Queen trip) -- so I can't say how he feels personally. I'm sure all of this has been very difficult for him and for his family and friends.

Not used
J

THE SECRETARY OF STATE
WASHINGTON

LIMITED OFFICIAL USE

October 8, 1979

MEMORANDUM FOR: THE PRESIDENT
FROM: Cyrus Vance *CV*
SUBJECT: Initial American Commitment to Kampuchean Humanitarian Relief

This memorandum recommends that at your press conference, October 9, you read the attached statement pledging an initial United States commitment to an international relief effort to alleviate the incredible suffering and starvation in Kampuchea.

After several months of negotiations, the United Nations Children's Fund (UNICEF) and the International Committee of the Red Cross (ICRC) jointly announced September 26 an agreement in principle covering the start of large-scale relief efforts in the People's Republic of Kampuchea (PRK) zone. They also announced an agreement with the Pol Pot authorities about aid to the "other side" and control of relief distribution. The two agencies have been proceeding as if they have an agreement with the PRK and have indicated that \$20 million will be necessary to get the program started.

UNICEF and ICRC plan to make a joint appeal next week for up to \$100 million for the first six months of operations. I believe the United States, which has been in the diplomatic forefront of the campaign to get a relief program underway, should without delay make an initial commitment to the UNICEF/ICRC effort. Given Congressional and press concern, which is increasing rapidly, and the announced participation of other nations in this relief effort, I believe that you need to lead off your press conference with an announcement of this commitment.

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for Preservation Purposes**

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Bearing in mind that Australia and Japan have already pledged about \$4.5 million each in cash and commodities to Kampuchean relief, and the British just under \$7 million, I recommend that you make the attached statement initially pledging \$7 million. Of that total, \$2 million would be in cash from the United State Emergency Refugee and Migration Assistance Fund. I have already forwarded to you, on September 29, a recommendation for a Presidential Determination to draw \$2 million from the Fund for this purpose. The additional \$5 million would be in commodities and shipping costs from the Food for Peace (FFP) program. The FFP contribution is currently available, and would not require your further action. Neither of these amounts would require any additional budgetary appropriation.

If a satisfactorily monitored international effort proves effective, I will make further recommendations concerning making available additional resources.

Recommendation:

That you make the attached statement at your press conference October 9 pledging an initial United States commitment of \$7 million to UNICEF/ICRC for their effort in Kampuchea.

Attachment:

Presidential statement.

LIMITED OFFICIAL USE

PRESIDENTIAL STATEMENT

US Contributions to Kampuchean Humanitarian Relief

Famine and disease in Kampuchea pose an urgent threat to the health and lives of possibly three million people. Continuous fighting since the Vietnamese invasion has had a disastrous effect on food production and distribution. Only a small percentage of the arable land has been planted, yields are very low and many people are cut off from any food supplies. Recent visitors to Kampuchea report that only a few children under five have survived. Large-scale relief efforts must begin at once if the international community is to avoid mass starvation in Kampuchea.

For months the United States has taken the lead with other interested governments and the Secretary General of the United Nations in calling attention to this tragedy. Agencies such as the ICRC, UNICEF, WFP and private voluntary organizations have tried to obtain permission from Hanoi and Phnom Penh to establish an effective program for providing adequate food and medical supplies to the people of Kampuchea. There has been one delay after another, one excuse after another from these authorities while the condition of the people has worsened. On September 26

the ICRC and UNICEF, acting as agents for concerned governments and the UN, reported agreement on a relief program. Now this program must be implemented before it is too late.

Our initial response to the UNICEF/ICRC appeal will be \$7 million in funds and commodities, \$2 million out of the United States Refugee and Migration Assistance Emergency Fund, and 10,000 tons of food commodities worth about \$5 million from Food for Peace. Subsequently we expect that the United Nations/World Food Program (WFP), which is taking a leading role in mobilizing international food assistance in response to UNICEF/ICRC relief efforts, will draw upon US pledges made to that program.

These steps are additional to the relief efforts we are already supporting along the Thai/Kampuchean border. For feeding and medical supply operations there, we have already given \$1,225,000.

Secretary General Waldheim has appealed to member states to support the ICRC/UNICEF effort with money and food.

Already Japan, Australia, the EEC and the UK have responded.

We urge others to join this effort.

Following this initial contribution we will be prepared, in consultation with Congress, to consider how we might provide additional emergency assistance to further ameliorate the effects of this human tragedy.

American citizens can do much to help meet this disaster. A number of private American voluntary agencies have moved quickly to meet human needs on an emergency basis. While unable to address the massive needs of virtually the entire Kampuchean population, these organizations, through their resourcefulness and determination, are making an important contribution. Along with UNICEF and ICRC, they deserve support as we respond together to the tragedy in Kampuchea.

Hertzberg rewrite
10/8/79 11:30 pm

Statement on Kampuchean relief

Right now, a human tragedy of horrifying proportions is unfolding in Kampuchea. Some three million people face illness or death from starvation. Hardly any food is being planted or harvested. Many people are cut off from food supplies entirely. There are epidemics. Most children under the age of five have already died. Each visitor returning from Kampuchea tells a more dreadful story than the one before.

Every member of the international community has a duty to help avert further mass suffering in Kampuchea. This is beyond politics. It is a matter of simple and urgent humanitarian concern. There must be action -- now.

For months -- with the encouragement of the United States and others -- international agencies and private voluntary organizations have been trying to get Phnom Penh and Hanoi

to let them provide food and medicine to the people of Kampuchea. There has been one delay after another, one excuse after another from these authorities. Two weeks ago [Sept. 26], the International Committee of the Red Cross and UNICEF -- acting as agents for concerned governments and the UN -- reported agreement on a relief program. Now this program must be implemented before it is too late.

I am today announcing an initial U.S. pledge of \$7 million to this effort: \$2 million from the U.S. Refugee and Migration Assistance Emergency Fund, plus 10,000 tons of food worth \$5 million from Food for Peace.

This is in addition to the more than \$1.2 million we have already devoted to feeding and caring for people along the Thai-Kampuchean border. I hope we can do more once the food and medicine begins to flow to those who need it, and I am eager to work with the Congress to that end.

Secretary General Waldheim has appealed to UN member states to support this effort with money and food. Japan, Australia, Britain and the European Economic Community have already responded. I urge others to follow their example.

I want to commend the private voluntary agencies which have moved so quickly to deal with this emergency. [During Pope John Paul's visit to the United States last week, the tragedy in Kampuchea was a subject of discussions between the Papal delegation and our government. I know that the Holy See's concern is shared by other religious groups of many denominations.]

Again, I want to stress my belief that this human calamity demands a human response from all countries. I hope that other governments will put aside considerations of power politics, and come to the aid of a people who have suffered unbearably in a decade of war, revolution, and now famine.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

2B

October 8, 1979

MEMORANDUM FOR: THE PRESIDENT
FROM: HENRY OWEN
SUBJECT: Initial American Commitment to Kampuchean
Humanitarian Relief

Cy Vance wanted you to see this tonight. OMB may have reservations about the reference to specific figures for the U.S. contribution. I will concert with Jim McIntyre first thing tomorrow and give you a recommendation shortly thereafter whether specific figures should be mentioned as Cy suggests, or whether the U.S. response should be described in more general -- albeit still very forthcoming -- terms.

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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

October 9, 1979

MEMORANDUM FOR: THE PRESIDENT
FROM: James T. McIntyre, Jr. *J. McIntyre*
SUBJECT: Kampuchean Famine Relief

Cy Vance is asking you to make a statement now initiating a large U.S. contribution to an international relief effort in Kampuchea. I recognize the dimensions of the human tragedy and the need for the United States to exercise moral leadership. But I am concerned that major questions remain to be answered:

Will the relief be equitably distributed? Both the Pol Pot and Heng Samrin regimes have used food denial to the other as a deliberate policy. No one in the U.S. Government has been able to tell OMB staff what the nature of the agreement that the International Red Cross (ICRC) were finally able to reach with the Heng Samrin regime to assure that the food will go to starving civilians rather than military forces. Indeed the Heng Samrin government radio broadcasts have asserted that their forces would distribute the food and merely report back to the ICRC. This position may simply reflect political face-saving, but it may also indicate that they are deadly serious. The United States may have no choice but to proceed under the circumstances, but we should be under no illusion about the difficulty of assuring fair and equitable distribution of the relief supplies.

Can we legally use refugee funds to aid persons who have not crossed international borders? OMB is holding the proposed Presidential Determination authorizing release of emergency refugee assistance funds because of this legal concern. Until we are certain that the proposed funds can be spent legally, we will continue to hold the Determination. (This issue will be handled expeditiously).

Recommendation. Any public statement of support by the United States should emphasize that continued assistance will depend on adequate assurances of equitable distribution of relief supplies.

Also your statement should be limited to a general announcement that the U.S. will provide \$5 million in PL-480 food stuffs, while we continue to examine the legalities of using the Emergency Refugee Fund.

MEMORANDUM

THE WHITE HOUSE

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