

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 03–2009]

Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Employment and Training

1. *Purpose and Scope.* The purpose of this Secretary's Order is to delegate and assign to the Assistant Secretary for Employment and Training (ASET) the authorities and responsibilities of the Secretary of Labor for organizing, implementing, and putting into operation employment and training policies, programs, and activities.

2. Authority and Directives Affected.

A. *Authorities.* This Order is issued under 5 U.S.C. 301 (Departmental Regulations); 29 U.S.C. 551 (Establishment of the Department; Secretary; Seal); and Reorganization Plan No. 6 of 1950 (5 U.S.C. Appendix).

B. *Directives Affected.* Secretary's Order 3–2007 is hereby superseded and cancelled by this Order. Any Secretary's Orders or other DOL document (including policies and guidance) which references Secretary's Orders 4–75 (Manpower Programs), 2–79 (Targeted Jobs Tax Credit), 3–81 (Trade Act of 1974), or 2–85 (Job Training Partnership Act), which were superseded and cancelled by Secretary's Order 3–2007, and the delegation of authority and assignment of responsibility of the ASET under Secretary's Order 3–81, are deemed to refer to this Order instead.

3. *Background.* This Order, which repeals and supersedes Secretary's Order 3–2007, updates the roles and responsibilities of the ASET to include responsibility for determining whether a recipient of a grant awarded or administered by the Employment and Training Administration is entitled, pursuant to the Religious Freedom Restoration Act, to an exemption from a religious non-discrimination provision of a statute or regulation enforced by the Department. In general, this Order constitutes the primary Secretary's Order for the Employment and Training Administration (ETA). This Order consolidates all of the authority delegated and the responsibilities assigned to the ASET for the employment and training policies, programs, and activities of ETA. The ASET is responsible for overseeing and managing a budget that funds the nation's publicly funded workforce investment system. This system contributes to the more efficient functioning of the U.S. labor market by providing a wide array of employment

and training services to employers, job seekers, and youth, including job training, employment services, labor market information, and income maintenance services. The ASET manages the agency responsible for carrying out these responsibilities.

4. Delegation of Authority and Assignment of Responsibilities.

A. The Assistant Secretary for Employment and Training is hereby delegated authority and assigned responsibility for carrying out the standards, policies, programs, and activities of the Department of Labor, including grant making and contract procurement activities in accordance with existing governmental and Departmental regulations, relating to workforce development activities such as employment services, benefit assistance, and training, including those functions to be performed by the Secretary of Labor under the designated provisions of the following statutes, except as provided in paragraph 5 of this Order.

(1) American Competitiveness and Workforce Improvement Act, Section 414(c), Public Law 105–277, as amended by Division J, Section 428, Public Law 108–447, 29 U.S.C. 2916a.

(2) Appalachian Regional Development Act of 1965, as amended, 40 U.S.C. 14101 *et seq.*

(3) Federal Unemployment Tax Act, as amended, 26 U.S.C. 3301–3311, including the Federal-State Extended Unemployment Compensation Act of 1970, as amended, 26 U.S.C. 3304 note.

(4) Health Coverage Tax Credit, section 31 of the Internal Revenue Code of 1986, 26 U.S.C. 31.

(5) Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 *et seq.* and related laws, subject to (i) Secretary's Order 4–2001 which remains in effect, which in relevant part, delegates authority and assigns responsibility to the Assistant Secretary for Employment Standards for the enforcement of alien labor certification, attestation, and labor condition application programs, and (ii) Secretary's Order 18–2006 which remains in effect, which in relevant part, delegates authority and assigns responsibility to the Deputy Undersecretary for International Affairs for assisting the Secretary of Homeland Security in the preparation of immigration reports and assisting in the coordination of information on immigration and migration policy within the Department and coordinating the Department's participation in international forums on discussions of migration and immigration.

(6) Intergovernmental Cooperation Act of 1968, as amended, 31 U.S.C. 6501 *et seq.*

(7) National Apprenticeship Act (Fitzgerald Act), as amended, 29 U.S.C. 50 *et seq.*

(8) Older Americans Act of 1965, as amended, 42 U.S.C. 3056 *et seq.*

(9) Public Works Acceleration Act, Public Law 87–658, 42 U.S.C. 2641 *et seq.*

(10) Rehabilitation Act of 1973, as amended, 29 U.S.C. 795.

(11) Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, sections 410 and 423, 42 U.S.C. 5177 and 5189a; Executive Order 12381, “Delegation of Emergency Management Functions” (September 8, 1982), which delegates the authority of the President to exercise powers of the President with respect to Federal disaster assistance to the Federal Emergency Management Agency; “Delegation of Authority to the Department of Labor,” from the Federal Emergency Management Agency to provide Federal disaster assistance (February 10, 1986).

(12) Rural Development Act of 1972, as amended, 7 U.S.C. 1932(d)(4).

(13) Small Business Act, as amended, 15 U.S.C. 644(n).

(14) Social Security Act of 1935, as amended, Title III—Grants to States for Unemployment Compensation Administration, 42 U.S.C. 501–504; Title IX—Unemployment Security Administration Financing, 42 U.S.C. 1101–1110; Title XI, Section 1137—Income and Eligibility Verification System, 42 U.S.C. 1320b–7; Title XII—Advances to State Unemployment Funds, 42 U.S.C. 1321–1324.

(15) Trade Act of 1974, as amended, 19 U.S.C. 2101–2321 and 2395; North American Free Trade Agreement Transitional Adjustment Assistance Program (NAFTA–TAA), Public Law 103–182, Title V, 19 U.S.C. 2331, repealed by section 123(c) of the Trade Reform Act of 2002, Public Law 107–210, except with respect to workers eligible for NAFTA–TAA under petitions filed before November 4, 2002.

(16) Unemployment Compensation for Federal Civilian Employees Program, 5 U.S.C. 8501–8509; and Unemployment Compensation for Ex-servicemembers Program, 5 U.S.C. 8521–8525.

(17) Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 3689, 3694, 4106, 4107(c), 4110, and 4212(a)(2)(B) and (C).

Note: Secretary's Order 4–2001 remains in effect, which in part, delegates authority and assigns responsibility to the Assistant Secretary for Employment Standards for affirmative action provisions of the Vietnam

Era Veterans' Readjustment Assistance Act of 1974, including 38 U.S.C. 4212(a)(1), 4212(a)(2)(A), and 4212(b)(2004) and 38 U.S.C. 4212(a) and (b) (2002). Subject to the above delegation to ETA, Secretary's Order 3-2004 remains in effect, which in part, delegates authority and assigns responsibility to the Assistant Secretary of Labor for Veterans' Employment and Training for administering the Federal Contractor Veteran's Employment Report (VETS-100), 38 U.S.C. 4212(d), and determining compliance pursuant to 20 CFR 1001.130 regarding Federal contractor priority of employment referral and employment listings under 38 U.S.C. 4212(a)(2)(B) and (C).

(18) Vocational Education Act of 1963, as amended, the Carl D. Perkins Vocational and Applied Technology Act, 20 U.S.C. 2301 *et seq.*

(19) Wagner-Peyser Act, as amended, 29 U.S.C. 49 *et seq.*

(20) Work Opportunity Tax Credit, section 51 of the Internal Revenue Code of 1986, 26 U.S.C. 51.

(21) Worker Adjustment and Retraining Notification Act, as amended, 29 U.S.C. 2101 *et seq.*

(22) Workforce Investment Act of 1998, as amended, title I and title V, Public Law 105-220, 29 U.S.C. 2801-2945, 20 U.S.C. 9271-9276 except for title I, subtitle D § 168 which pertains to the Veterans' Workforce Investment Program, 29 U.S.C. 2913, and title I, subtitle C which pertains to the Job Corps program, 29 U.S.C. 2881-2901.

(23) YouthBuild Transfer Act of 2005, Public Law 109-281, 29 U.S.C. 2918a.

(24) Executive Order 10582, "Prescribing Uniform Procedures for Certain Determinations under the Buy American Act" (December 17, 1954), as amended by Executive Order 11051, "Prescribing Responsibilities of the Office of Emergency Planning in the Executive Office of the President" (September 27, 1962), and Executive Order 12148, "Federal Emergency Management" (July 20, 1979).

(25) Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities" (November 18, 1988).

(26) Executive Order 12789, "Delegation of Reporting Functions under the Immigration Reform and Control Act of 1986" (February 10, 1992), as amended by Executive Order 13286, "Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain

Functions to the Secretary of Homeland Security" (February 28, 2003).

(27) Executive Order 12073, "Federal Procurement in Labor Surplus Areas" (August 16, 1978).

(28) Executive Order 13198, "Agency Responsibilities With Respect to Faith-Based and Community Initiatives" (January 29, 2001).

(29) Executive Order 13279, "Equal Protection of the Laws for Faith-Based and Community Organizations" (December 12, 2002).

(30) Such additional Federal acts, Executive Orders, or regulations that may assign to the Secretary or the Department duties and responsibilities relating to workforce development activities including employment services, benefit assistance and training, similar to those listed under subparagraphs (1)-(29) of this paragraph, including, but not limited to, the extension of unemployment compensation provided under Federal law.

B. The Assistant Secretary for Employment and Training is delegated authority for making organizational changes in accordance with policies established by the Secretary.

C. The Assistant Secretary for Employment and Training is also delegated the authority and assigned responsibility to carry out departmental liaison and committee representative duties as provided in the relevant authorities listed in paragraph 4(A) above, except as provided in paragraph 5 of this Order.

D. The Assistant Secretary for Employment and Training is also delegated the authority and assigned responsibility to determine whether a recipient of a grant awarded or administered by the Office of the Assistant Secretary for Employment and Training is entitled, pursuant to the Religious Freedom Restoration Act, 42 U.S.C. 2000bb-1(b), to an exemption from a religious non-discrimination provision of a statute or regulation applied and/or enforced by the Department.

E. The Solicitor of Labor is delegated authority and assigned responsibility for providing legal advice and assistance to officials of the Department relating to the administration of this Order and the statutory provisions, regulations, and Executive Orders listed above.

5. *Reservation of Authority.*

A. No delegation of authority or assignment of responsibility under this Order will be deemed to affect the Secretary's authority to continue to exercise or further delegate such authority or responsibility.

B. The submission of reports and recommendations to the President and Congress concerning the administration of the statutory provisions and Executive Orders listed above is reserved to the Secretary.

C. Nothing in this Order shall limit or modify the delegation of authority and assignment of responsibility to the Administrative Review Board by Secretary's Order 1-2002 (September 24, 2002).

D. Nothing in this Order shall limit or modify the provision of any other Order, including Secretary's Order 04-2006 (February 21, 2006), Office of the Inspector General, except as expressly provided.

E. The Secretary reserves the authority to enter into and terminate an agreement with any state or state agency to act as an agent of the United States under section 239(a) of the Trade Act of 1974, as amended, 19 U.S.C. 2311(a), in the administration of the Trade Adjustment Assistance and NAFTA-Transitional Adjustment Assistance programs; under 5 U.S.C. 8502 in the administration of the Unemployment Compensation for Federal Employees and Unemployment Compensation for Ex-servicemembers programs; under section 410(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5177(a), in the administration of the Disaster Unemployment Assistance program; as well as under any federal program providing for the extension of unemployment compensation.

6. *Redelegation of Authority.* The Assistant Secretary for Employment and Training may further redelegate, unless otherwise prohibited, the authority and responsibilities herein delegated by this Order.

7. *Effective Date.* This Order is effective immediately.

Dated: January 9, 2009.

Elaine L. Chao,
Secretary of Labor.

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