

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 2-2001]

Order of Succession to the Secretary of Labor and Continuity of Executive Direction

1. Purpose

To provide for succession to act as Secretary of Labor in case of death or resignation of the Secretary, or if the Secretary is otherwise unable to perform the functions and duties of the office, including in case of absence or sickness; to provide lines of succession for executive continuity within the Department and its Agencies during vacancies arising in a period of national emergency or in the course of business; and to identify the first assistant to officers of the Department whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate.

2. Authority and Directives Affected

This Order is issued pursuant to the Federal Vacancies Reform Act of 1998 (the FVRA) (codified generally at 5 U.S.C. 3345, *et seq.*); the Act of March 4, 1913, as amended; the Act of April 17, 1946; Reorganization Plan No. 6 of 1950; Reorganization Plan No. 1 of 1958; Reorganization Plan No. 1 of 1973; Federal Civil Defense Act of 1950; Disaster Relief Act of 1974; Executive Order 12656; Executive Order 12148, as amended; and Executive Order 10513, to the extent it is not overridden by the FVRA.

Secretary's Order 5-93 is canceled. All agency delegations in conflict with this Order and its Attachment are hereby superseded.

3. Background

Prior to the enactment of the FVRA, the order of succession of officers to act as Secretary of Labor in periods of vacancy was determined, in part, by reference to an order of the Secretary. This line of succession worked effectively for decades. Secretary's Order 5-93 (October 13, 1993), the latest Secretary's Order issued under Executive Order 10513, established the following order of succession: the Deputy Secretary; the Solicitor of Labor; the Assistant Secretary for Administration and Management; then, the other Assistant Secretaries appointed by the President in the order of the respective dates of their commissions [in the event that two or more of their commissions bear the same date, succession will follow the order in which they have taken their

oaths of office]; the Commissioner of Labor Statistics; the Director of the Women's Bureau; and the Deputy Under Secretary for International Affairs. However, the FVRA has established a new framework for identifying the order of succession to the position of Secretary of Labor, as well as other positions within the Department.

4. Order of Succession

In case of absence, sickness, resignation, or death and during periods of national emergency declared by the President, the functions and duties of the officers of the Department of Labor and their respective responsibilities for operational management will be performed in an acting capacity by the incumbents of the positions designated:

a. To the Secretary of Labor

(1) Deputy Secretary of Labor.

(2) Assistant Secretaries and the Solicitor of Labor in the order of the respective dates of their commissions; or in the event that two or more of their commissions bear the same date, in the order in which they shall have taken their oath of office.

b. To All Other PAS Positions and Heads of Other Principal Organizational Units

(1) Within the Department of Labor are offices and agencies headed by officers whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate (PAS). In the event of a vacancy in any of these PAS positions, the FVRA provides that except in certain narrow circumstances, the "first assistant [to the PAS position] shall perform the functions and duties of the [PAS position] temporarily in an acting capacity" (subject to certain time limitations), unless and until the President makes an alternative designation under the FVRA. The functions and duties of the PAS officers of the Department and the operational management of the respective agency will be performed by the incumbent first assistant to the PAS position, as designated in the Memorandum attached to this Order.

(2) In the event that (a) there is a vacancy in the position of the first assistant, or (b) the first assistant position is occupied by a person who is statutorily barred from serving as an acting officer, the operational management of the agency headed by the PAS shall be performed by the person whose designation closest follows that of the first assistant, unless and until the President makes an alternative designation under the FVRA.

However, the "functions and duties" of the PAS may not be performed by any person other than the person serving in an acting capacity (or, in the absence of an acting officer, by the Secretary pursuant to the FVRA). The "functions and duties" are those non-delegable responsibilities (a) established by law (statute or regulation); and (b) required to be performed by, and only by, the PAS.

(3) The Memorandum described in Section 3(b)(1) above, shall include succession to the heads of other Departmental organizational units which report to the Secretary.

(4) Nothing in this Order or the Memorandum shall: (1) be construed to override the provisions in the FVRA with respect to the Inspector General or the Chief Financial Officer [5 U.S.C. 3349(e)]; or (2) limit the Secretary's authority to reassign functions or duties of officers unless otherwise precluded by law or regulation.

(5) That Memorandum shall be published in the **Federal Register** and codified in the Department of Labor Manual Series. It is also subject to periodic revision by the Secretary, as necessary, and is effective on the date indicated above.

5. Effective Date

This Order is effective immediately.

Dated: January 18, 2001.

Alexis M. Herman,

Secretary of Labor.

January 18, 2001.

Memorandum for DOL Executive Staff

From: Alexis M. Herman.

Subject: To Provide for the Order of Succession for Executive Continuity.

This memorandum is issued pursuant to Secretary's Order 2-2001 and the authorities cited therein, in order to provide lines of succession in case of absence, sickness, resignation, or death of agency heads and during periods of national emergency declared by the President and to provide for ongoing operational management of agency programs and personnel.

Functions and duties and ongoing operational management responsibilities of the officers of the Department whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate (PAS), will be performed in an acting capacity by the below designated "first assistants," unless and until the President makes an alternative designation under the Federal Vacancies Reform Act of 1998 [FVRA].¹ Functions and duties are those non-delegable responsibilities established by law (statute or

¹ The first assistants are designated below as the position immediately following the PAS position title.

regulation) and required to be performed by, and only by, the PAS.

In the event that the first assistant does not serve or is barred from serving, unless and until the President makes an alternative designation under the FVRA, the person whose designation closest follows that of the first assistant shall perform the operational management of the agency. However, the functions and duties of the PAS may not be performed by any person other than the person serving in an acting capacity, in accord with FVRA (or, in the absence of an acting officer, by the Secretary pursuant to the FVRA).

The Bureau of International Labor Affairs, which is not covered by the statute, (because it is not headed by a PAS position) is included in this memorandum for the purpose of consolidating the presentation of the Department's program for establishing orderly internal succession in the event of vacancies.

This memorandum supersedes all inconsistent agency delegations. Agency Heads shall assure that agency delegations, position descriptions, and other pertinent documents are maintained consistently with the designations provided below.

This memorandum shall be published in the **Federal Register** and codified in the Department of Labor Manual Series. This memorandum is subject to periodic revision by the Secretary, as necessary, and is effective on the date indicated above.

Agency Head Succession

F. PAS Positions

Deputy Secretary of Labor

Designation to be made by Presidential direction, as provided in 5 U.S.C. § 3345.

Solicitor of Labor

Deputy Solicitor

Deputy Solicitor for Planning and Coordination

Deputy Solicitor for Regional Operations

Associate Solicitor

Assistant Secretary for Administration and Management

Deputy Assistant Secretary for Operations

Deputy Assistant Secretary for Budget and Strategic and Performance Planning

Assistant Secretary for the Employment Standards Administration

Deputy Assistant Secretary

Deputy Assistant Secretary for Federal

Contract Compliance

Deputy Assistant Secretary for Workers'

Compensation Programs

Deputy Assistant Secretary for Labor-

Management Programs

Deputy Director for Workers'

Compensation Programs

Assistant Secretary for the Employment and Training Administration

Deputy Assistant Secretary²

Deputy Assistant Secretary

Deputy Assistant Secretary for Field

Operations

Associate Deputy Secretary

Assistant Secretary for the Mine Safety and Health Administration

Deputy Assistant Secretary for Policy

Deputy Assistant Secretary for Operations

Assistant Secretary for the Occupational Safety and Health Administration

Deputy Assistant Secretary³

Deputy Assistant Secretary

Associate Assistant Secretary

Assistant Secretary for the Office of the Assistant Secretary for Policy

Deputy Assistant Secretary

Deputy Assistant Secretary for Regulatory

Economics and Economic Policy

Analysis

Associate Assistant Secretary

Assistant Secretary for the Office of Congressional and Intergovernmental Affairs

Deputy Assistant Secretary

Associate Assistant Secretary

²This Deputy Assistant Secretary position is responsible for the formulation of policies and development of multi-year goals, objectives and strategies, among other responsibilities.

³This Deputy Assistant Secretary position is responsible for Congressional and intergovernmental liaison and national litigation, among other responsibilities.

Internal Management and Support
Assistant Secretary for the Office of Disability Policy

Deputy Assistant Secretary

Deputy Assistant Secretary for

Administration

Assistant Secretary for the Office of Public Affairs

Deputy Assistant Secretary

Associate Assistant Secretary

Director of Information and Public Affairs

Assistant Secretary for the Pension and Welfare Benefits Administration

Deputy Assistant Secretary for Policy

Deputy Assistant Secretary for Program

Operations

Assistant Secretary for the Veterans' Employment and Training Service

Deputy Assistant Secretary

Director for Operations and Programs

Director of the Women's Bureau

Deputy Director⁴

Deputy Director for Operations

Administrator of the Wage and Hour Division

Deputy Administrator for Policy

Deputy Administrator for Operations

Commissioner of the Bureau of Labor Statistics

Deputy Commissioner

Chief Financial Officer

Deputy Chief Financial Officer

Inspector General

Deputy Inspector General

G. Non-PAS Position

Deputy Under Secretary for International Affairs of the Bureau of International Labor Affairs

Associate Deputy Under Secretary for

Policy

Associate Deputy Under Secretary and

Director of International Economic

Affairs.

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⁴This position is first assistant pursuant to 29 U.S.C. 14.