potential use of ADR in employee-related disputes and procurement matters.

Comment: One commenter urged that the policy statement provide greater emphasis on arbitration, rather than mediation, and that the Department design a process for deciding before a dispute arises which methods of dispute resolution will be used. The commenter also expressed concern regarding the application of sufficient resources to implement the policy.

Discussion: Mediation, rather than arbitration, has been the means of alternative dispute resolution used most frequently in the Department's audit appeal procedures. As indicated above, mediation is the ADR method particularly authorized by Congress in part E of the General Education Provisions Act relating to enforcement of grant requirements in education programs. For this reason, particular focus was placed on that method. However, the Department will consider the use of other methods if appropriate. The selection of the appropriate method for dispute resolution when a dispute arises generally will be made by the responsible Department employee. At this stage in the administration of the ADR Act, the development of a fixed schedule of ADR methods to be applied to particular types of disputes is neither appropriate nor useful. The Department will, however, continue to evaluate this suggestion as it gains experience in administering the policy statement.

Changes: None.

Policy of the Department

It is, and has been, the policy of the Department to support fully the goals and objectives of the ADR Act, as set forth in section 2 of the ADR Act, and to seek to attain those goals and objectives wherever feasible through the Department's dispute resolution procedures. The Department's implementation of the ADR Act will be carried out in a manner consistent with E.O. 12778, Civil Justice Reform.

The Department is fully committed to implementing the ADR Act through steps already taken, steps listed below, and other actions to be pursued in accordance with the principles and goals set out in this policy statement. At the same time, the Department recognizes that some or all of the alternative dispute resolution techniques may be inappropriate where formal adjudication is necessary to achieve accountability or to protect the fiscal interests of the United States from illegal or wasteful practices or expenditures.

For example, the Department believes that use of alternative dispute resolution techniques may not be successful, and may serve to delay rather than expedite resolution of disputes, where the issue in controversy pertains to the initial or continued eligibility of an entity to participate in a program administered by the Department, such as those arising under the Higher Education Act of 1965, as amended, or title VI of the Civil Rights Act of 1964. The degree to which an institution has already been provided with an opportunity to propose informal resolution of a claim or a finding of violation is another factor that can affect the availability of alternative means of dispute resolution techniques during an administrative hearing. However, in these areas, the Department will consider the use of alternative means of dispute resolution where practicable and consistent with the above-described considerations.

The Department is committed to striking a proper balance between the formal adjudication of cases where necessary and their resolution through alternative means of dispute resolution where practicable and in the public interest.

This policy is consistent with and in furtherance of the recommendation of the Report of the National Performance Review quoted above.

Further Steps To Be Taken

In furtherance of the policies of the ADR Act, the Department plans to take the following additional steps:

(1) Each departmental office will be asked to assign an ADR liaison officer to consider administrative dispute resolution issues within that office and to encourage the expanded use of all appropriate alternative means of dispute resolution in resolving disputes arising in administrative proceedings involving that office. These ADR liaison officers will serve as points of contact for matters pertaining to alternative means of dispute resolution within the Department and will collectively study procedural issues pertaining to alternative dispute resolution that affect the Department generally, including the proper stage of a dispute at which to invoke alternative means of dispute resolution and the appropriate distribution of mediation costs among the parties to a dispute. The Department will provide the liaison officers with appropriate training regarding administrative dispute resolution and the ADR Act.

(2) The Department will continue to design and implement procedures to ensure that all parties are aware of existing opportunities for alternative means of dispute resolution for cases before the OALJ. It will be the practice of the Department's Office of the General Counsel to suggest mediation in appropriate cases where mediation holds promise for early resolution without undue delay or impairment of the public interest.

(3) The Department will work to continue to extend the availability of mediation to other administrative proceedings and functions not presently governed by Part E of the General Education Provisions Act or part 81 of title 34 of the Code of Federal Regulations.

(4) The Department will seek to continue and expand the use of all appropriate alternative means of dispute resolution in employee-related disputes and procurement matters, as well as in connection with audit resolution processes. Appropriate staff training in those areas will be pursued.

(5) The Department will conduct a study of its standard contract and other terms to determine if they need amendment to comply with the ADR Act.

(6) The Department will develop and maintain a system for keeping statistics related to alternative dispute resolution in its administrative proceedings.

(7) The Department will continue to coordinate with the Administrative Conference of the United States on alternative means of dispute resolution matters and to avail itself of training provided by the Conference.

(8) The Department will continue to determine what other agency actions will lend themselves to implementation of the ADR Act and to study how it may encourage the appropriate use of alternative dispute resolution techniques by educational agencies, institutions, and organizations that it serves to the end of achieving resolution of education related disputes without the need for unnecessary litigation.

Authority: Pub. L. 101–552, Section 3 (1990).

Dated: October 22, 1993.

Richard W. Riley,

Secretary of Education.

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federal register

Friday
November 26, 1993

Part V

The President

Executive Order 12881—Establishment of the National Science and Technology Council

Executive Order 12882—President's Committee of Advisors on Science and Technology



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Presidential Documents

Title 3—

The President

Executive Order 12881 of November 23, 1993

Establishment of the National Science and Technology Council

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the National Science and Technology Council ("the Council").

Sec. 2. *Membership.* The Council shall comprise the:

(a) President, who shall serve as Chairman of the Council;

(b) Vice President;

(c) Secretary of Commerce;

(d) Secretary of Defense;

(e) Secretary of Energy;

(f) Secretary of Health and Human Services;

(g) Secretary of State;

(h) Secretary of the Interior;

(i) Administrator, National Aeronautics and Space Administration;

(j) Director, National Science Foundation;

(k) Director of the Office of Management and Budget;

(l) Administrator, Environmental Protection Agency;

(m) Assistant to the President for Science and Technology;

(n) National Security Adviser;

(o) Assistant to the President for Economic Policy;

(p) Assistant to the President for Domestic Policy; and

(q) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Sec. 3. *Meetings of the Council.* The President or, upon his direction, the Assistant to the President for Science and Technology ("the Assistant"), may convene meetings of the Council. The President shall preside over the meetings of the Council, provided that in his absence the Vice President, and in his absence the Assistant, will preside.

Sec. 4. *Functions.* (a) The principal functions of the Council are, to the extent permitted by law: (1) to coordinate the science and technology policy-making process; (2) to ensure science and technology policy decisions and programs are consistent with the President's stated goals; (3) to help integrate the President's science and technology policy agenda across the Federal Government; (4) to ensure science and technology are considered in development and implementation of Federal policies and programs; and (5) to further international cooperation in science and technology. The Assistant may take such actions, including drafting a Charter, as may be necessary or appropriate to implement such functions.

(b) All executive departments and agencies, whether or not represented on the Council, shall coordinate science and technology policy through the Council and shall share information on research and development budget requests with the Council.

(c) The Council shall develop for submission to the Director of the Office of Management and Budget recommendations on research and development budgets that reflect national goals. In addition, the Council shall provide advice to the Director of the Office of Management and Budget concerning the agencies' research and development budget submissions.

(d) The Assistant will, when appropriate, work in conjunction with the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, the Director of the Office of Management and Budget, and the National Security Adviser.

Sec. 5. *Administration.* (a) The Council will oversee the duties of the Federal Coordinating Council for Science, Engineering, and Technology, the National Space Council, and the National Critical Materials Council.

(b) The Council may function through established or ad hoc committees, task forces, or interagency groups.

(c) To the extent practicable and permitted by law, executive departments and agencies shall make resources, including, but not limited to, personnel, office support, and printing, available to the Council as requested by the Assistant.

(d) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.

William J. Clinton

THE WHITE HOUSE,
November 23, 1993.

[FR Doc. 93-29263
Filed 11-24-93; 11:50 am]
Billing code 3195-01-P

Executive Order 12882 of November 23, 1993

President's Committee of Advisors on Science and Technology

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to establish an advisory committee on science and technology, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Committee of Advisors on Science and Technology ("PCAST"). PCAST shall be composed of not more than 16 members, one of whom shall be the Assistant to the President for Science and Technology ("Assistant"), and 15 of whom shall be distinguished individuals from the nonfederal sector appointed by the President. The nonfederal sector members shall be representative of the diverse perspectives and expertise in this Nation's investments in science and technology. The Assistant to the President for Science and Technology shall co-chair PCAST with a nonfederal sector member selected by the President.

Sec. 2. *Functions.* (a) The PCAST shall advise the President, through the Assistant, on matters involving science and technology.

(b) In the performance of its advisory duties, PCAST shall assist the National Science and Technology Council ("Council") in securing private sector involvement in its activities.

Sec. 3. *Administration.* (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide PCAST such information with respect to scientific and technological matters as required for the purpose of carrying out its functions.

(b) In consultation with the Assistant to the President for Science and Technology, PCAST is authorized to convene ad hoc working groups to assist the Council.

(c) Members of PCAST shall serve without any compensation for their work on PCAST. However, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(d) Any expenses of PCAST shall be paid from the funds available for the expenses of the Office of Science and Technology Policy.

(e) The Office of Science and Technology Policy shall provide such administrative services as may be required.

Sec. 4. *General.* (a) I have determined that the Committee shall be established in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.). Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to PCAST shall be performed by the Office of Science and Technology Policy in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) PCAST shall terminate 2 years from the date of this order unless extended prior to that date.

(c) Executive Orders Nos. 12700, 12768, and Section 2 of Executive Order No. 12869 are hereby revoked.

William J. Clinton

THE WHITE HOUSE,
November 23, 1993.

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