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Folder Title: [Political Activities]

THE WHITE HOUSE
WASHINGTON

Date: 6/13/03

To: Matt Kavanaugh (OEOP 156)

From: **Domestic Policy Council**

Ernie Malachuk

- FYI
- Appropriate Action
- Direct Response
- Prepare Response For My Signature
- Per Our Conversation
- Let's Discuss
- Per Your Request
- Please Return
- Deadline
- Other

Comments: Per our conversation.

May 23, 2003

VIA FACSIMILE

Windy M. Hill
Associate Commissioner
Head Start Bureau
U.S. Department of Health and Human Services
330 C Street, S.W.
Washington, D.C. 20447

Re: Dear Colleague Letter of May 8, 2003

Dear Ms. Hill:

I am writing to you in regard to the letter that you sent to all Head Start programs on May 8, 2003, in which you refer to an advocacy group (presumably NHSA) and accuse that group of "encourag[ing] Head Start programs to use Head Start program funds and/or staff in a manner that is in direct violation of the laws that govern [their] political activities."

Needless to say, NHSA takes your accusation very seriously. After receiving many distress calls about your letter from numerous Head Start programs, I have ample reason to believe the letter's references to legal requirements such as the Hatch Act and its vague accusation of impropriety have had the effect of chilling the exercise of free expression by Head Start programs and their representatives - - staff, parents and board members. Indeed, stating that certain unspecified "political" activity, if carried out, could violate federal law while, at the same time, providing no clear guidance on what is and what is not lawful (certainly the attached IM provides no guidance at all to programs but only quotes passages from statutes and regulations) appears designed to produce such a chilling effect.

It is and always has been NHSA's understanding that expression of views on legislation (under consideration or already enacted) is protected by the First Amendment of the Constitution and that there is no "restriction or limitation" (using the terms from your letter) on a Head Start program or its staff, parents, or board members from expressing views on legislation to Members of Congress (or their staffs), to the Press, or to others in their communities provided they do not use federal funds in expressing those views the process.

The foregoing understanding is based on years of discussions with federal officials over what Head Start programs may and may not do under applicable law and

Windy M. Hill
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regulation. We assume that you agree with it. Considering the Constitutional implications of restricting the free expression of views on legislation, we cannot imagine that you disagree with our position that the only applicable restriction is on the use of federal funds. However, considering the concerns your letter has raised, a statement to that effect now is needed to assure Head Start agencies that they may freely express their views about the changes to Head Start legislation that have been, or may be, advanced during the reauthorization process.

If we are incorrect, however, and you do not agree with our understanding, we would appreciate clarification from your office on what, specifically, the restrictions on the ability of Head Start agencies, staff, parents and board members to express their views on the reauthorization process (or other pending legislation) are.

As you know, reauthorization will soon be completed; in the next few weeks, or months a final proposal will come to a vote. Accordingly, the ability of Head Start programs and their representatives to express their views during the time such views can be considered by the Congress is short. Your response is urgently needed. We would therefore hope to receive your reply within no longer than a week.

Thank you in advance for your quick attention to this matter.

Sincerely,

Sarah M. Greene

Sarah M. Greene

Dear Colleague:

As you may know, on May 8, 2003, Windy Hill, the Associate Commissioner of the Head Start Bureau sent a letter to all Head Start grantees in which she strongly suggested that "the Government Affairs arm of a Head Start advocacy group" was encouraging Head Start programs, in essence, to break the law. We can only assume that Ms. Hill was referring to NHSA in her letter. We have, accordingly, responded to that letter and our response is attached.

As our letter makes clear, we are extremely concerned about the vague charges in the letter and the negative effect that the letter has on the exercise of the constitutional right of every Head Start agency and its representatives -- staff, parents and board members -- to freely express their views on pending legislation, among other things. We also clearly express our view, as we have always advised our members, that federal funds are not to be used for lobbying or political activity. Finally, we have asked Ms. Hill to immediately clarify her statements so that no individual associated with the Head Start program need fear legal action because he or she talked to a Member of Congress, the Press or anybody else.

We will advise you immediately if we receive a response from the Head Start Bureau. If you have any questions or concerns, please do not hesitate to contact me at sgreene@nhsa.org.

Sincerely,

Sarah M. Greene

Sarah M. Greene



DEPARTMENT OF HEALTH & HUMAN SERVICES

May 8th

ADMINISTRATION FOR CHILDREN AND FAMILIES
Head Start Bureau
330 C Street, SW
Washington, D.C. 20447

Dear Head Start Colleagues,

Recently, a document about the Administration's proposal to offer states greater flexibility in coordinating preschool services, including Head Start, was sent to Head Start programs for circulation to Head Start parents by the Governmental Affairs arm of a Head Start advocacy group. The Head Start Bureau continues to recognize and celebrate the importance of effective two-way communication between staff and parents and sharing of information and materials that empower and support the role of parents in shared decision-making. At the same time, it seems appropriate to again share with you, your staff, governing boards and policy councils and parents, long-standing Federal and Head Start Bureau policy regarding political activities.

Your political activities are governed and, in many ways, restricted or limited by Federal law. A little over 16 years ago the Head Start Bureau issued an Information Memorandum to all Grantees and Delegate Agencies outlining these restrictions and providing reference to the source of these restrictions. For your convenience, I've attached a copy of that IM. Although ACYF-IM-87-03 is now over 16 years old the basic guidance remains applicable. Your participation in political activities is still governed by the pertinent sections of the Federal laws referenced in the Information Memorandum. Section 656(a) of the current Head Start Act, Public Law 105-285, still specifies that employees of Head Start programs are covered by the provisions of the Hatch Act that prohibit certain political activities. Section 656(b) of the same Head Start Act proscribes the use of programs funds, personnel or services to support any partisan or non-partisan political activity. Further, the latest revision to the Assurances Certification (OMB Circular A-102) that programs submit as part of their grant application package still asserts that the program will comply with the provisions of the Hatch Act regarding restrictions to political activities or lobbying activities.

Simply stated, the request by the advocacy group appears to encourage Head Start programs to use Head Start program funds and/or staff in a manner that is in direct violation of the laws that govern your political activities. If information will be or has been disseminated pursuant to a request from an advocacy group, that dissemination would constitute promotion of lobbying, which is a prohibited use of Federal funds. If a grantee has done this, it must prove that Federal funds, or resources purchased with those funds—such as Head Start staff time and facilities—were not used as requested by the advocacy group.

The coming months will be challenging ones for all of us in the Head Start community as Congress holds hearings to examine the merits of the President's vision for a Head Start program that provides more emphasis on early learning and promotes the best methods for preparing children for success in school. There is no question that the reauthorization process will make unusual demands on each of us. However, I am confident that we are all equal to the challenge.

Sincerely,

Windy M. Hill
Associate Commissioner
Head Start Bureau

Attachment: ACYF-IM-87-03

hds human development services	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families	
	1. Log No. ACYF-1M-87-03	2. Issuance Date: 1/13/87
	3. Originating Office: Head Start Bureau	
	4. Key Word: Political Activities 5.	
	6.	7.

INFORMATION MEMORANDUM

TO: All Head Start Grantees and Delegate Agencies

SUBJECT: Political Activities

LEGAL AND RELATED REFERENCES: Public Law 99-425, Section 656, (a) through (d).
Office of Human Development Services Grants Administration Manual, Part I, Chapter 7, Section A.4, The Hatch Act.
Instructions for Applying for Federal Assistance from HDS Programs: Part V, Assurances and the notice (included in the grant application package): Grant Funds May Not Be Used To Attempt To Influence Legislation Pending Before Congress.
OMB Circular A-122: Cost Principles for Nonprofit Organizations; "Lobbying" Revision.

BACKGROUND: The above legal documents limit the political activities of Head Start staff members and the use of Head Start grant funds for political or lobbying purposes. The following synopses should be helpful as a review of the limits set by these documents.

INFORMATION: Section 656(a) of Public Law 99-425, the Head Start Act, requires that employees of Head Start programs be covered under provisions of the Hatch Act which prohibits certain political activities.

The Office of Human Development Services Grants Administration Manual, Part I, Chapter 7, Section A.4, the Hatch Act, specifies prohibited political activities.

A Head Start employee may not:

- Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or

Directly or indirectly coerce, attempt to coerce, command, or advise other Head Start employees to pay, lend, or contribute anything of value to a political party, committee, organization, agency or person for a political purpose; or

Be a candidate for elective public office in a partisan election.

Despite the limits indicated above, the Hatch Act allows Head Start employees to engage in all political activity not specifically restricted, including candidacy for office in nonpartisan elections and candidacy for political party office.

Section 656(b) of the Head Start Act further specifies that Head Start programs shall not use program funds, provide services, or employ or assign personnel in a manner supporting or resulting in the identification of such programs with:

Any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; or

Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

Any voter registration activity.

OMB Circular A-122: Cost Principles for Nonprofit Organizations; "Lobbying" Revision, defines certain lobbying activities by nonprofit grantees as unallowable costs which can not be paid for with Federal funds. The most significant provisions make costs of the following activities unallowable:

Directly or indirectly coerce, attempt to coerce, command, or advise other Head Start employees to pay, lend, or contribute anything of value to a political party, committee, organization, agency or person for a political purpose; or

Be a candidate for elective public office in a partisan election.

Despite the limits indicated above, the Hatch Act allows Head Start employees to engage in all political activity not specifically restricted, including candidacy for office in nonpartisan elections and candidacy for political party office.

Section 656(b) of the Head Start Act further specifies that Head Start programs shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with:

Any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; or

Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

Any voter registration activity.

OMB Circular A-122: Cost Principles for Nonprofit Organizations; "Lobbying" Revision, defines certain lobbying activities by nonprofit grantees as unallowable costs which can not be paid for with Federal funds. The most significant provisions make costs of the following activities unallowable:

Federal, State or local electioneering and support of such entities as campaign organizations and political action committees;

Most direct lobbying of Congress and, with the exceptions noted below, State legislatures, to influence legislation;

Lobbying of the Executive Branch in connection with decisions to sign or veto enrolled legislation;

Efforts to utilize State or local officials to lobby Congress or State legislatures;

Grassroots lobbying concerning either Federal or State legislation; and

Legislative liaison activities in support of unallowable lobbying activities.

This OMB circular does not disallow all costs, in that it does not cover:

Lobbying at the local level;

Lobbying to influence State legislation, in order to directly reduce the cost of performing the grant or contract, or to avoid impairing the organization's authority to do so;

Lobbying in the form of a technical and factual presentation to Congress or State legislatures, at their request;

Contacts with Executive Branch officials other than lobbying for the veto or signing of enrolled bills; and

Lobbying on regulatory actions.

ACTION:

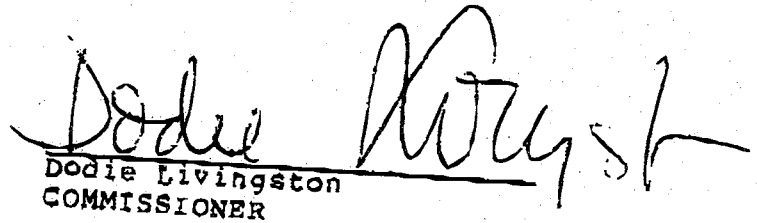
All Head Start agency staff are encouraged to review and become familiar with the above sections of the law and regulations so that they understand the limits placed on their political and lobbying activities as a condition of their employment with the Head Start program.

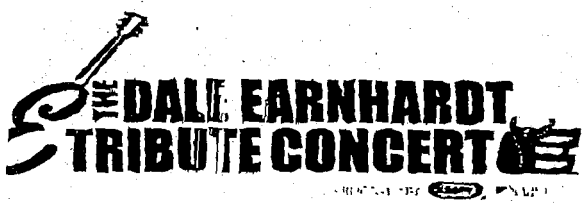
EFFECTIVE DATE:

Immediately.

INQUIRES:

Contact your Regional Program Specialist or your American Indian or Migrant Programs Branch Specialist for assistance.


Dodie Livingston
COMMISSIONER



attn: Bret K.

ABOUT THE DALE EARNHARDT TRIBUTE CONCERT

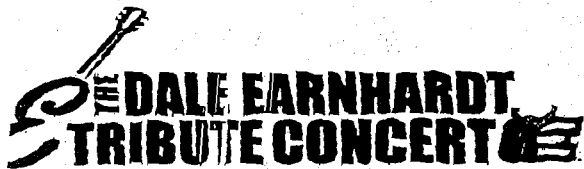
The Dale Earnhardt Tribute Concert is the first marquee event of the recently announced Dale Earnhardt Legacy Program. The concert will bring together some of the music industry's biggest artists for a daylong celebration of music and memories. It is also the first fundraising event to benefit the Dale Earnhardt Foundation established by Teresa Earnhardt to support the causes Dale championed during his life including children, wildlife and educational programs. The Dale Earnhardt Tribute Concert, sponsored by Kraft/Nabisco, will be the first non-racing event ever to be held at the Daytona International Speedway - the "World Center of Racing."

Concert Specifics:

- Date: Saturday, June 28, 2003
Time: Gates open at noon, Music begins at 3 p.m. and continues until midnight
Location: Daytona International Speedway, Daytona Beach, FL
Musical Acts*: Grammy Winning Group Alabama, Grammy Award Winning Duo Brooks & Dunn, Double Platinum Kenny Chesney, Grammy Award Solo Artist Sheryl Crow
Tickets on Sale: "DEInsiders," premium content members on www.daleearnhardtinc.com, can purchase tickets beginning on 3/3/03. General ticket sales begin on 3/22/02 through Ticketmaster outlets nationwide and www.ticketmaster.com.

More information can be found at www.daleearnhardtinc.com or by calling 877.334.DALE.

*Musical acts scheduled to perform. Additional musical acts to be announced at a later date.



About The Dale Earnhardt Foundation

Dale Earnhardt was an extremely generous man. He was recognized on countless occasions as someone who always went the extra mile, donating considerable time and money to a variety of public charities and causes. However, he also gave much to the sick and needy in a private manner - most times anonymously. Much has been written and recorded of how grateful Dale was for what he was able to achieve in his career and life, as well as the lifestyle it afforded him. But, to his credit, he never forgot his roots - always looking to "give back." This behavior made him a true philanthropist and has set the tone for future fundraising efforts in his name.

Prior to his untimely death in February 2001, Dale had looked to establish an official charity in order to focus his philanthropic activities - forming The Earnhardt Family Fund within the Foundation of the Carolinas. In a short period of time, The Earnhardt Family Fund began raising considerable monies. Following his tragic death, the Fund grew dramatically as thousands of fans and admirers donated money in his memory. Following two years of managing those funds in conjunction with the Foundation of the Carolinas, Teresa Earnhardt has decided to form and operate an independent foundation - armed with a handpicked staff and Board of Directors. Although forever grateful to those who made donations to the Foundation for the Carolinas, she wanted to personally build and direct all future Dale Earnhardt oriented philanthropy and has named this charitable organization The Dale Earnhardt Foundation.

Without question, The Dale Earnhardt Foundation will serve as the cornerstone of the Dale Earnhardt Legacy Program. Its mission will clearly involve carrying on Dale's name and good works through charitable causes he supported during his lifetime. The non-profit 501 C-3 Foundation will support numerous programs - including a variety of children's causes, educational and scholarship programs, as well as wildlife preservation. Teresa is in the process of finalizing the exact causes and/or charities the Foundation will support, as well as the methodologies for grant distribution.

Finally, The Dale Earnhardt Foundation will be funded through a variety of means. First and foremost, the Foundation will receive funds from individual and corporate donors through annual fundraising drives and major gift donations. Secondly, the Foundation will host a number of fundraising events, such as the Dale Earnhardt Tribute Concert and Dale Earnhardt Day, which are designed to raise money and awareness for the Foundation and its causes. Additionally, the Foundation will raise money through a number of cause-related fundraising programs, such as charity-driven licensing initiatives and the development of other projects.

For more information on The Dale Earnhardt Foundation, fans and supporters can call 877.334.DALE or write to:

The Dale Earnhardt Foundation
1675 Coddle Creek Highway
Mooresville, NC 28115

WHITE HOUSE

DALE EARNHARDT
TRIBUTE CONCERT
PRESENTED BY TALL PONY PRODUCTIONS

May 2, 2003

VIA FACSIMILE 202-456-2130

Mr. Abel Guerra
The White House
1000 Pennsylvania Avenue NW
Washington, DC 20500

Dear Abel,

Bill Green contacted Dale Earnhardt, Incorporated many weeks ago. Bill suggested President Bush would be interested in participating in this dramatic tribute to one of NASCAR's greatest icons, Dale Earnhardt. As you know, Bill asked that we contact you to follow up.

We would be thrilled to have the President participate in this two-hour FOX television special. Preferably, the President would kick off the opening of the show in a live or taped introduction and finish by introducing our host for the evening, Teresa Earnhardt, Dale Earnhardt's widow.

We understand the President would be pleased to know that Alabama and Brooks & Dunn are two of our outstanding performers for the evening. The Navy is providing flyovers and this event will surely be an All-American event.

The live concert event is scheduled for June 28th, 2003 at the Daytona International Speedway in Daytona Beach, Florida. We anticipate 80,000 fans will attend.

Enclosed please find some information on the Dale Earnhardt Tribute Concert and the foundation the event will benefit. We look forward to your timely response as we shake out the opening of the televised special and the live concert event. Please feel free to call me at 310-456-7495 or drop me an e-mail.

Thank you,



Anthony Eaton
Executive Producer
Aeaton@tallponyproductions.com

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