

programs for eligibility access determinations, obtaining security clearances for USDA employees, denial or revocation of access to national security information, and developing and promulgating policies and training.

(iii) Direct and administer USDA's program under which information is safeguarded pursuant to Executive Order 12958, Classified National Security Information.

(iv) Establish Information Security (INFOSEC) policies and procedures for classifying, declassifying, safeguarding, and disposing of classified national security information and materials.

(v) Establish procedures under which authorized holders of information may challenge the classification of information believed to be improperly classified or unclassified.

(vi) Take corrective action for violations or infractions under section 5.7, par. (b), of Executive Order 12958.

(vii) Develop and maintain a secure facility for the receipt and safeguarding of classified material.

(viii) Coordinate security activities with the Chief Information Officer who has primary responsibility for PDD 63, Critical Infrastructure Assurance.

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) *Related to human resources management.* Make final determinations in the following areas:

(i) Separation of employees for security reasons;

(ii) Restoration to duty of employees following suspension from duty for security reasons;

(iii) Reinstatement or restoration to duty or the employment of any person separated for security reasons; and

(iv) Issuance of temporary certificates to occupy sensitive positions.

(2) [Reserved]

[60 FR 56393, Nov. 8, 1995, as amended at 65 FR 12428, Mar. 9, 2000; 65 FR 77756, Dec. 13, 2000; 67 FR 65689, Oct. 28, 2002; 68 FR 27439, May 20, 2003; 69 FR 34252, June 21, 2004; 73 FR 56705, Sept. 30, 2008; 74 FR 3405, Jan. 21, 2009; 74 FR 19373, Apr. 29, 2009]

§ 2.25 Assistant Secretary for Civil Rights.

(a) The following delegations of authority are made by the Secretary to

the Assistant Secretary for Civil Rights:

(1) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery, compliance, and equal employment opportunity, with emphasis on the following:

(i) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in federally assisted programs.

(ii) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment.

(iii) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department.

(iv) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department.

(v) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA programs and activities funded by the Department.

(vi) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA conducted programs.

(vii) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate.

(viii) Actions to develop and implement the Department's Federal Women's Program.

(ix) Actions to develop and implement the Department's Hispanic Employment Program.

(2) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(3) Provide leadership and coordinate Departmental agencies and systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

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(4) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of USDA programs on a nondiscriminatory basis.

(5) Coordinate with the Department of Justice on matters relating to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*), and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(6) Coordinate with the Department of Health and Human Services on matters relating to the Age Discrimination Act of 1975, 42 U.S.C. 6102, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(7) Order proceedings and hearings in the Department pursuant to §§ 15.9(e) and 15.86 of this title which concern consolidated or joint hearings within the Department or with other Federal departments and agencies.

(8) Order proceedings and hearings in the Department pursuant to § 15.8 of this title after the program agency has advised the applicant or recipient of his or her failure to comply and has determined that compliance cannot be secured by voluntary means.

(9) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to part 15 of this title; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his or her recommended findings and proposed action.

(10) Authorize the taking of action pursuant to § 15.8(a) of this title relating to compliance by "other means authorized by law."

(11) Make determinations required by § 15.8(d) of this title that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(12) Make determinations that program complaint investigations per-

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formed under § 15.6 of this title establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate.

(13) Investigate (or make determinations that program complaint investigations establish a proper basis for final determinations), make final determinations on both the merits and required corrective action, and, where applicable, make recommendations to the Secretary that relief be granted under 7 U.S.C. 6998(d) notwithstanding the finality of National Appeals Division decisions, as to complaints filed under parts 15a, 15b, and 15d of this title, except in those cases where the Assistant Secretary for Civil Rights has participated in the events that gave rise to the matter.

(14) Conduct civil rights investigations and compliance reviews Departmentwide.

(15) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(16) Monitor, evaluate, and report on agency compliance with established policy and Executive Orders which further the participation of historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

(17) *Related to Equal Employment Opportunity (EEO)*. Is designated as the Department's Director of Equal Employment Opportunity with authority:

(i) To perform the functions and responsibilities of that position under 29 CFR part 1614, including the authority:

(A) To make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's EEO program.

(B) To provide EEO services for managers and employees.

(C) To make final agency decisions on EEO complaints by Department employees or applicants for employment and order such corrective measures in such complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been

found to have engaged in a discriminatory practice.

(ii) Administer the Department's EEO program.

(iii) Oversee and manage the EEO counseling function for the Department.

(iv) Process formal EEO complaints by employees or applicants for employment.

(v) Investigate Department EEO complaints and make final decisions on EEO complaints, except in those cases where the Assistant Secretary has participated in the events that gave rise to the matter.

(vi) Order such corrective measures in EEO complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to engage in a discriminatory practice.

(vii) Provide liaison on EEO matters concerning complaints and appeals with the Department agencies and Department employees.

(viii) Coordinate the Department's affirmative employment program, special emphasis programs, Federal Equal Opportunity Recruitment Program, EEO evaluations, and development of policy.

(ix) Provide liaison on EEO programs and activities with the Equal Employment Opportunity Commission and the Office of Personnel Management.

(18) Maintain liaison with historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment, and assist Department agencies in strengthening such institutions by facilitating institutional participation in Department programs and activities and by encouraging minority students to pursue curricula that could lead to careers in the food and agricultural sciences.

(19) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, or other outside authority.

(20) Make final determinations, or enter into settlement agreements, on discrimination complaints in federally conducted programs subject to the Equal Credit Opportunity Act. This delegation includes the authority to make compensatory damage awards whether pursuant to a final determination or in a settlement agreement under the authority of the Equal Credit Opportunity Act and the authority to obligate agency funds, including CCC and FCIC funds to satisfy such an award.

(21) Make final determinations in proceedings under part 15f of this title where review of an administrative law judge decision is undertaken.

(22) Provide civil rights and equal employment opportunity support services, with authority to take actions required by law or regulation to perform such services for:

(i) The Secretary of Agriculture.

(ii) The general officers of the Department.

(iii) The offices and agencies reporting to the Assistant Secretary for Administration.

(iv) Any other offices or agencies of the Department as may be agreed.

(23) *Related to outreach.* (i) Develop policy guidelines and implement a Departmental outreach program which delivers services to traditionally under-served customers.

(ii) Develop a strategic outreach plan for the Department which coordinates the goals, objectives, and expectations of mission area outreach programs.

(iii) Coordinate the dissemination/communication of all outreach information from the Department and its mission areas ensuring its transmission to as wide a public spectrum as possible.

(iv) Serve as the Department's official outreach spokesperson.

(v) Provide coordination and oversight of agency outreach activities including the establishment of outreach councils.

(vi) Develop a system to monitor the delivery of outreach grants and funding.

(vii) Establish requirements and procedures for reporting agency outreach status and accomplishments including

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Departmental reporting under the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers Program (7 U.S.C. 2279).

(24) *Related to conflict management.* (i) Designate the senior official to serve as the Department Dispute Resolution Specialist under the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571, *et seq.*, and provide leadership, direction and coordination for the Department's conflict prevention and resolution activities.

(ii) Issue Departmental regulations, policies, and procedures relating to the use of Alternative Dispute Resolution (ADR) to resolve employment complaints and grievances, workplace disputes, Departmental program disputes, and contract and procurement disputes.

(iii) Provide ADR services for:

(A) The Secretary of Agriculture.

(B) The general officers of the Department.

(C) The offices and agencies reporting to the Assistant Secretary for Administration.

(D) Any other officer or agency of the Department as may be agreed.

(iv) Develop and issue standards for mediators and other ADR neutrals utilized by the Department.

(v) Coordinate ADR activities throughout the Department.

(vi) Monitor agency ADR programs and report at least annually to the Secretary on the Department's ADR activities.

(25) Redesignate, as appropriate, any authority delegated under this section to general officers of the Department and heads of Departmental agencies.

(b) [Reserved]

[69 FR 34252, June 21, 2004]

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

EDITORIAL NOTE: Nomenclature changes to subpart D appear at 60 FR 66713, Dec. 26, 1995.

§ 2.26 Director, Office of the Executive Secretariat.

The following delegation of authority is made by the Secretary of Agriculture to the Director, Office of the

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Executive Secretariat: Responsible for all correspondence control and related records management functions for the Office of the Secretary.

§ 2.27 Office of Administrative Law Judges.

(a) The following designations are made by the Secretary of Agriculture to the Office of Administrative Law Judges:

(1) Administrative law judges (formerly hearing examiners) are designated pursuant to 5 U.S.C. 556(b)(3) to hold hearings and perform related duties in proceedings subject to 5 U.S.C. 556 and 557, arising under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*); the Commodity Exchange Act as amended (7 U.S.C. 1 *et seq.*); the Perishable Agricultural Commodities Act, as amended (7 U.S.C. 499a *et seq.*); the Federal Seed Act, as amended (7 U.S.C. 1551 *et seq.*); the (Laboratory) Animal Welfare Act, as amended (7 U.S.C. 2131 *et seq.*); the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 *et seq.*); the Forest Resources Conservation and Shortage Relief of 1990 (16 U.S.C. 630 *et seq.*); and any other acts providing for hearings to which the provisions of 5 U.S.C. 556 and 557, are applicable. Pursuant to the applicable rules of practice, the administrative law judges shall make initial decisions in adjudication and rate proceedings subject to 5 U.S.C. 556 and 557. Such decisions shall become final without further proceedings unless there is an appeal to the Secretary by a party to the proceeding in accordance with the applicable rules of practice: Provided, however, that no decision shall be final for purposes of judicial review except a final decision of the Secretary upon appeal. As used herein, "Secretary" means the Secretary of Agriculture, the Judicial Officer, or other officer or employee of the Department delegated, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c–450g), and Reorganization Plan No. 2 of 1953 (5 U.S.C. App.), "regulatory functions" as that term is defined in the 1940 Act, in acting as final deciding officer in adjudication and rate proceedings subject to 5 U.S.C. 556 and 557. Administrative Law Judges are delegated authority to