



Selective Service System

National Headquarters / Arlington, Virginia 22209-2461

Headquarters Order

EFFECTIVE DATE: April 22, 2021

RESPONSIBLE OFFICE: PIA

NUMBER: 21-04

SUBJECT: Legislative Programs and Procedures

1. **PURPOSE**

This Headquarters (HQ) Order updates Selective Service System (SSS) policies and procedures pertaining to legislative initiatives. The legislative program is designed to attain registration compliance rates in accordance with the SSS Strategic Plan.

2. **SCOPE**

This HQ Order applies to SSS legislative efforts at the Federal, state, and local levels of government, and is designed to boost the effectiveness of the legislative program by enhancing coordination between National HQ, Regional Offices, and field components. This HQ Order governs the legislative efforts on behalf of SSS, by SSS employees, contractors, Reserve Service Members (RSMs), and properly-appointed volunteers.

3. **AUTHORITIES**

- a. 18 U.S.C. § 1913, *Lobbying with Appropriated Moneys*;
- b. Memorandum Opinion for the Attorney General, *Constraints Imposed by 18 U.S.C. § 1913 on Lobbying Efforts*, September 28, 1989; and
- c. M-21-18, *Legislative Coordination and Clearance*, March 4, 2021.

4. **LIMITATIONS ON LEGISLATIVE ADVOCACY**

Pursuant to 18 U.S.C. § 1913, certain limitations are imposed on Executive agencies, including SSS, regarding efforts to pass legislation.

a. **PROHIBITED SSS ACTIVITIES**

SSS employees are prohibited from engaging in substantial "grassroots" lobbying campaigns of telegrams, letters, and other private forms of communications designed to encourage members of the public to pressure Members of Congress (and state and local governments) to support legislative proposals.

b. **PERMITTED SSS LEGISLATIVE ACTIVITIES**

With prior written approval by the Associate Director of Public and Intergovernmental Affairs (ADPIA), on a case-by-case basis, SSS employees are permitted to undertake the following activities

- (1) Direct communications to Members of Congress and their staffs (as well as state and local governments) regarding SSS positions on legislation;
- (2) Give public speeches, appearances, and writings;
- (3) Engage in private communications designed to inform the public about Administration positions or to promote those positions, so long as there is no significant expenditure of appropriated funds;
- (4) Communicating SSS views to Congress, state and local governments, the media, or the public; and
- (5) Communications or activities unrelated to legislation or appropriations, such as lobbying Congress or the public to support Administration nominees.

c. **FURTHER LIMITATION ON COMMUNICATIONS WITH CONGRESS**

SSS employees are further limited in communications with Congress by Office of Management and Budget (OMB) M-21-18. Items subject to the OMB clearance process, prior to communicating to Congress, include:

- (1) **Legislative Proposals**
 - (a) All draft legislation that SSS wishes to transmit to Congress must be sent to OMB for clearance. OMB circulates the draft bills, along with any other supporting documents, to affected agencies and appropriate Executive Office of the President (EOP) offices;

- (b) Any agency reviewing a draft bill may respond that it: (1) supports or has no objection to the draft bill; or (2) proposes substantive or technical amendments, or even a complete substitute. OMB facilitates reconciliation of divergent views. Most disagreements are resolved through discussions at the staff level by OMB, other EOP offices, and the agencies; and
- (c) After obtaining appropriate policy guidance on a draft bill and resolving all issues, OMB advises the proposing agency of clearance. OMB directs the originating agency to convey the draft bill, a transmittal, and a sectional analysis to Congress. If the draft bill is contrary to or conflicts with the Administration's objectives, clearance is withheld and OMB advises the proposing agency that it may not transmit the bill.

(2) Testimony and Letters on Pending Legislation

Congressional committees often invite agency officials to testify on pending legislation on behalf of the Administration, or request that agencies submit their views through a letter. Agencies may also choose to submit a letter on pending legislation without a Congressional request. Such testimonies and letters must be submitted to OMB for clearance. OMB circulates legislative testimonies and letters to affected agencies for their review and resolves any issues, which includes ensuring that testimonies and letters comport with Administration policy and the President's budget.

(3) Other Legislative Communications

All transmittals to Congress communicating legislative views or recommendations must be submitted to OMB for clearance. In addition to testimonies and letters, an agency may communicate in another form, such as submitting talking points to convey comments (often informally) on a bill under consideration by Congress, or responding to questions for the record following a congressional hearing. Also, agencies have numerous requirements to submit certain reports to Congress, and reports that contain any legislative views or recommendations must be submitted to OMB for clearance to ensure consistency with Administration policy and the President's Budget.

(4) Requesting OMB Clearance

All requests for OMB clearance pertaining to legislative proposals, testimony and letters on proposed legislation, and other legislative

communications, shall be made by the Director unless he or she designates this authority.

d. **FURTHER LIMITATIONS ON RESERVE SERVICE MEMBERS (RSMs)**

RSMs should consult with their military branch of service to determine restrictions on legislative advocacy. In general, RSMs should not engage in legislative activities on behalf of SSS without written approval by the Associate Director for Operations (ADOP) and the ADPIA.

5. **LEGISLATIVE PROGRAMS**

Legislative Programs are managed by the Public and Intergovernmental Affairs (PIA) Directorate with support and involvement of the Operations (OP) Directorate. Regional offices and their field elements will be involved in legislative programs as necessary.

a. **DRIVER'S LICENSE LEGISLATION**

Driver's License Legislation (DLL) links applications for learner's permits, driver's licenses, state-issued identification cards, and renewals to providing consent to SSS registration for those required to register with SSS under Section 3 of the Military Selective Service Act (MSSA). See 50 U.S.C. § 3802. While some state statutes apply only to male applicants ages 18 to 26, SSS prioritizes gender-neutral DLL that applies to ages 16 to 26. The preferred type of DLL is Automatic DLL, followed by Opt-Out DLL, and then Opt-In DLL. The following types of DLL are defined as follows:

(1) **Automatic DLL**

Applicants automatically consent to registration with SSS, if required to register under Federal law, as a condition of receiving the credential sought by the application. This requires a consent to SSS registration statement on applications.

(2) **Opt-Out DLL**

Applicants automatically consent to registration with SSS, if required to register under Federal law, unless they take overt action to avoid registration.

(3) **Opt-In DLL**

Applicants are provided the option of consenting to registration with SSS, if required to register under Federal law, but are not registered unless they take overt action to register.

b. **SOLOMON ACT (STATE)**

State Solomon Act legislation requires that those who are required to register with SSS, pursuant to the MSSA (50 U.S.C. § 3802), must register in order to remain eligible for state-based student aid, scholarships, and loans. States vary on whether SSS registration is required in order to access all state-based student aid, or whether SSS registration is required only for certain types of state-based student aid. Additionally, some states require SSS registration as a pre-requisite to attending a state-financed university.

c. **THURMOND ACT (STATE)**

State Thurmond Act legislation requires that those who are required to register with SSS, pursuant to the MSSA (50 U.S.C. § 3802), must register in order to be eligible to work for state and local government. States and localities vary regarding whether SSS registration is required for both state and local employment; required only for state employment; or required only for employment in certain localities within a state.

d. **MUNICIPAL/COUNTY ORDINANCES AND PROCLAMATIONS**

Efforts should be made to provide informational assistance and monitor any progress made toward the passage of Thurmond-type legislation at the municipal and county level. Additionally, registration awareness can be bolstered by proclamations in support of SSS registration passed by city and county councils.

6. **STATE LEGISLATION PROCEDURES**

In certain circumstances, PIA will identify legislative opportunities in the states, whereas in other circumstances, Regional Offices and/or SSS personnel in the field will recognize legislative opportunities.

a. **WHEN PIA IDENTIFIES A LEGISLATIVE OPPORTUNITY**


When the PIA Directorate identifies a legislative opportunity, the designated official within the PIA Directorate will notify the OP Directorate, which will coordinate with the PIA Directorate and the applicable Regional Office to devise a legislative strategy. In many cases, the Regional Office will include the applicable State Director in the legislative effort. All legislative strategy and associated efforts shall be managed by the PIA Directorate.

b. **WHEN A REGIONAL OFFICE AND/OR STATE COMPONENT IDENTIFIES A LEGISLATIVE OPPORTUNITY**

When a Regional Office and/or State Director identifies a legislative opportunity at the state, county, or municipal level, the legislative opportunity shall be referred to the OP Directorate which will consult with the PIA Directorate. If the legislative opportunity appears viable, the ADPIA will authorize the effort and manage the legislative strategy and any associated efforts in collaboration with the OP Directorate, Regional Office, and State Director. No action shall be taken on a legislative opportunity until approved by the ADPIA. If it is determined by the PIA Directorate that the legislative opportunity is not viable, the ADPIA shall notify the OP Directorate that no action should be taken, which will be communicated to the Regional Office and State Director by the OP Directorate. Legislation is determined to be *viable* if – in the ADPIA's discretion – the proposed legislation will help the Agency achieve its mission and any associated efforts to pass the legislation are a good use of SSS resources.

7. **SUPERSESION**

This HQ Order supersedes and cancels HQ Order 17-01, *Registration Awareness and Initiatives Programs* (October 3, 2016). The obsolete HQ Order shall be deleted/destroyed immediately in any convenient manner.



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