

December 7, 1998

MEMORANDUM FOR MEMBERS OF THE INTERAGENCY ADVISORY
GROUP AND THE HUMAN RESOURCE
DEVELOPMENT COUNCIL

FROM: SARAH D. ADAMS
ASSISTANT DIRECTOR
FOR HUMAN RESOURCE DEVELOPMENT

SUBJECT: Guidance on Training Restrictions Contained in
Public Law 105-277

Section 635 of the 1999 Treasury and General Government Appropriations Act contains language prohibiting use of appropriated funds for inappropriate or offensive training. The restrictions apply to appropriated funds for training any Federal employee, civilian and military. This legislation is contained in section 101(h) of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277).

Similar language appeared in the Treasury and General Government Appropriations Act of 1998, (Public Law 105-61); in the Treasury, Postal Service, and General Government Appropriations Act of 1997 (Public Law 104-208); and the Treasury, Postal Service, and General Government Appropriations Act of 1996 (Public Law 104-52).

Each year the U.S. Office of Personnel Management has issued guidance about using appropriated funds for training agency employees. To help clarify any questions that you may have about this legislation, we are updating and reissuing that guidance. Each agency official with the authority to authorize and approve funds for training agency employees should be made aware of the restrictions in Public Law 105-277.

If you or your staff have questions, please contact Judith Lombard at 202-606-2431.

Attachment

Guidance on Training Restrictions in Public Law 105-277

I. Background

Section 635 of the 1999 Treasury and General Government Appropriations Act prohibits use of appropriated funds for inappropriate training that is offensive to Federal employees and unnecessary in the execution of their official duties. Section 635 is not intended to prohibit training that is necessary for Federal workers to effectively complete their assigned duties. This legislation is contained in section 101(h) of 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277).

Similar restrictions appeared in section 622 of the Treasury and General Government Appropriations Act of 1998; in section 624 of the Treasury, Postal Service, and General Government Appropriations Act of 1997 (Public Law 104-208); and in section 627 of the Treasury, Postal Service, and General Government Appropriations Act of 1996 (Public Law 104-52).

Each year the U.S. Office of Personnel Management has issued guidance about using appropriated funds for training agency employees. The following guidance is based on balancing our understanding of the intent of section 635 with the basic authorities contained in training law, chapter 41 of title 5, United States Code.

II. Guidance Regarding Specific Subsections

Sec. 635. "(a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that -"

Section 635 does not amend chapter 41 of title 5, United States Code, Training, or change the legal purpose of training. The purpose of training continues to be to improve individual and organizational performance related to an agency's mission (5 U.S.C. § 4101(4)). Please note that the phrase "this or any other Act" refers to all Acts of Congress which appropriate funds to agencies, both civilian and military agencies, and to the training of all employees, both those subject to the civil service provisions of title 5 of the United States Code and those who are not subject to title 5.

"(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;"

Consistent with current law, this subsection reminds agency officials that there should be a relationship between the knowledge, skills, and abilities the training is intended to provide and an employee's lawfully assigned duties. Employees may be assigned to training associated with their current duties or anticipated duties related to the mission of the agency. 5 CFR §410.203, based on Executive Order No. 11348 (1967), provides basic guidance to agencies for determining training needs of individuals, occupations, programs, and organizations.

"(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;"

Agency officials should carefully review and be sensitive to training content and training methods. Both content and methods should be evaluated in context with the purpose of the training. Training must not induce unnecessary psychological stress in participants. Some training programs might, of necessity, have the potential for inducing psychological stress and yet be performance related and in the Government's interest. An example would be training simulating stress already present in the employees' work environment.

"(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations;"

For all agency-sponsored training, employees must be notified, in advance, of the purpose of the training, about the content to be expected in the training, and of the methods to be used in the training.

Written end of course evaluations must be used to assess participant reaction to the training, vendor and instructor performance and to assess the effectiveness of any participatory learning techniques.

"(4) contains any methods or content associated with religious or quasi-religious belief systems or new age belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or"

Agency officials should review U.S. Equal Employment Opportunity Commission (EEOC) Notice N-915.022. The notice provides guidance in handling situations where an employee objects to participating in a training program because the content or the techniques or exercises used conflict with the employee's religious beliefs. In addition, the Notice reminds agency officials of their duty to accommodate employees' religious needs. Agencies should have procedures for handling employees' requests for religious accommodation regarding training.

The Notice is available from the EEOC, Publications Information Center, P.O. Box 12549, Cincinnati, OH 45212-0549, 1-800-669-3362 (Voice), 1-800-800-3302 (TDD), 513-791-2954 (Fax). It is also available electronically from the Training Forum of the OPM electronic bulletin board (202-606-4800).

"(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace."

This subsection reminds agency officials that it is inappropriate to use Federally-sponsored training to change employees' personal values or to influence their lifestyles outside the workplace. This legislation does not affect training in Government ethics and codes of conduct expected of Federal employees. Both subjects are directly related to the performance of official duties. As noted earlier, the primary purpose for training is to improve performance.

Non-technical training is appropriate when it addresses:

1. Interpersonal skills that Federal employees need to provide services, work with, and manage persons both like and unlike themselves;
2. Behavior Federal employees are expected to exhibit, or may encounter, in the workplace; and/or
3. Workplace health and safety issues, security matters, and other subjects that bear directly on individual or organizational performance.

A Federal employee, including a member of the armed forces, may not be required to attend or participate in an acquired immune deficiency syndrome (AIDS) or the

human immunodeficiency virus (HIV) training program unrelated to the restrictions noted above. Section 9 of the Ryan White CARE Amendments Act of 1996, (Public Law 104-146, May 20, 1996), prohibits mandatory AIDS or HIV training for Federal employees, except for training necessary to protect the health and safety of the employee and the individuals served by the employee.

"(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties."

This legislation does not prohibit any type of training that is necessary for Federal workers to effectively complete their legally assigned tasks.
