

**The original documents are located in Box 12, folder “Transition (1977) - General” of the Richard B. Cheney Files at the Gerald R. Ford Presidential Library.**

### **Copyright Notice**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

November 18, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: RON NESSEN *RAN*

SUBJECT: Press Coverage of Carter Visit

Terry O'Donnell, Mike Duval and I recommend the following press plan for the visit of President-Elect and Mrs. Carter to the White House next Monday:

The Carters would arrive by auto on the South Grounds at the walkway leading to the Oval Office.

They would be greeted there by you and Mrs. Ford.

There would be no press coverage of this initial greeting.

You and Carter would go into the Oval Office. Mrs. Ford and Mrs. Carter would go into the Residence.

There would be a press photo in the Oval Office, with you seated behind the desk and Carter beside the desk.

There would be a separate press photo of Mrs. Ford and Mrs. Carter in one of the state rooms, preferably the Blue Room.

At the conclusion of the meetings you and Mrs. Ford would escort President-Elect and Mrs. Carter down the walkway from the Oval Office to their car on the South Driveway.

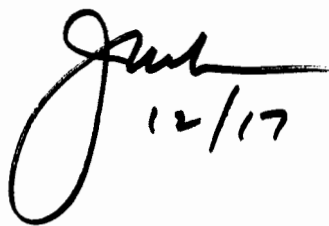
There would be press coverage of this departure.

There would be an optional microphone in case you and President-Elect Carter care to say anything to the assembled press.

Concerning Mrs. Carter's visit to the White House, Nancy Chiordon has just advised me that Mrs. Carter spoke with the First Lady by phone in the last several days and indicated her desire to bring Amy on a quiet visit to the White House because the youngster has some apprehensions about the move to Washington.

I understand the two ladies had a very cordial and fine conversation and Mrs. Ford approved and extended a welcome to Mrs. Carter for the visit.

A visit is slated for 9:00 this coming Monday morning. Rex Scouten is aware of the matter and he and Nancy Chiordon will be Mrs. Carter's escort on a visit which is expected to be about one-half hour in length.

 12/17

THE WHITE HOUSE

WASHINGTON

January 8, 1977

MEMORANDUM FOR: DICK CHENEY  
FROM: JIM CAVANAUGH  
SUBJECT: Status Report

1. Energy Reorganization. I've talked to Jim Mitchell and Paul O'Neill. The energy reorganization proposal will be ready for transmittal to the Congress on Tuesday. I've told Mitchell to talk to Nessen and have Elliot Richardson and Frank Zarb on standby to brief Tuesday morning. ✓
2. Coyotes. OMB will have a decision paper for the President on the coyote reorganization by Tuesday morning. Knebel will also have a report for you on the changes in the Executive Order that you and I discussed at Vail. ✓
3. Attached is the signed transmittal letter on the Secret Service legislation. Jack Marsh will talk to Jack Watson about it, and Max and his people will brief the key Congressional committees.
4. Amnesty. The President reviewed the Jane Hart amnesty letter and asked that it be further modified. My note to Ed Schmults is attached. Schmults is still working on the two options that the President wanted to look at and reports that it is much more complicated than Charlie Goodell related. At the earliest they'll have an option paper for the President to look at on Tuesday. I've mentioned this to the President.
5. Economic Report. I contacted Alan Greenspan on Saturday and told him to move off on the President's economic report.

cc: Jack Marsh

*check cont. memo  
Pawson*

*Thurs Fri  
Demo + GOP leadership  
Brett*

AGENDA

MARSH/WATSON MEETING

Tuesday, January 11, 1977

1. Nixon intelligence brief
2. Phone call or meeting with Cannon and McConahey re State-local governmental activities
3. Status of CIEP -- someone call Bill Gorog phone number 456-7060
4. Installation of Signal phones
5. Medal of Freedom -- names
6. Proposed Secret Service protection legislation
7. Puerto Rico background (see item #11)
8. Inaugural format including pre-inaugural activity on the 20th
9. Status of household staff
10. Secretarial staff
11. Energy letter
12. Meeting with Steve Ailes

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

January 11, 1977

MEMORANDUM FOR: DICK CHENEY  
FROM: BOB LINDER *Linder*  
SUBJECT: Unemployment Compensation and  
Severance Pay Opinions Concerning  
White House Personnel

Attached are opinions from the Civil Service Commission on severance pay and from the Department of Labor on unemployment compensation for White House employees. These opinions were given as a result of questions put to the agencies concerning the status of White House employees during a transition period. Basically they hold:

- White House employees are not eligible for severance pay because they are serving under "Presidential appointments." In the opinion of CSC, this excludes not only the commissioned staff, but all personnel, including those in the operating units.
- Unemployment compensation is available for members of White House staff who leave by reason of the transition. Personnel forms will read "termination of appointment."

Attachments

cc: Jack Marsh  
Jim Connor

THE WHITE HOUSE

WASHINGTON

January 7, 1977

MEMORANDUM FOR: JIM CONNOR  
BOB LINDER  
JIM ROGERS

FROM: BOBBIE GREENE KILBERG

*Bobbie*

Per Jim Rogers' request, attached is a memorandum from the Department of Labor which should answer the major questions we have received regarding unemployment compensation for White House personnel.

Attachment

U.S. DEPARTMENT OF LABOR

Office of the Solicitor  
WASHINGTON, D.C. 20540



7 JAN 1977

MEMORANDUM FOR: BOBBIE KILBERG  
Associate Counsel to the President

FROM: ALFRED G. ALBERT *AHA/PSC*  
Acting Solicitor of Labor

SUBJECT: Unemployment Compensation for White  
House Personnel

In your discussion with Craig Berrington on January 4, you asked for a legal opinion on the following two questions:

- (1) Are determinations as to the eligibility and benefit levels of White House personnel made pursuant to District of Columbia law, or pursuant to the law of the State of residence or of the filing of the initial claim for benefits?
- (2) Are White House personnel who resign due to the change of administration eligible for unemployment compensation.

In answer to question (1), it is the unemployment compensation law of the last official station which is determinative. Thus, the eligibility and benefit levels of the District of Columbia Unemployment Compensation Act would apply to all White House personnel.

In answer to question (2), White House personnel who resign due to the change in administration are eligible for UI benefits, as such resignations would be considered "voluntary quits with good cause". To be on the safe side, however, the White House should state on each employee's Standard Form 50 and on the ETA form ETA-931 that the reason for separation was "termination of appointment." This should be done even if the employee submits a resignation.

An expansion of these answers follows:

Federal civilian employees receive unemployment compensation pursuant to the Unemployment Compensation for Federal Employees (UCFE) Program, established under 5 U.S.C. §§ 8501 et seq., as implemented by 20 CFR Part 609. In the District of Columbia, the UCFE Program is administered by the District Unemployment Compensation (DUC) Board, 6th Street and



Pennsylvania Avenue, N. W., Washington, D. C. 20001, as the agent of the U. S. Department of Labor. A federal civilian employee whose last official station prior to the filing of an initial claim was in the District of Columbia receives benefits as if the employment was covered under the District of Columbia Unemployment Compensation Act, D. C. Code §§ 46-301 et seq. Individuals may file for UCFE in their home or other State, but determinations as to eligibility and benefit levels nevertheless will remain governed by the law of the last official station. Benefits under the D. C. statute currently range from \$14 to \$139 weekly, depending upon past wages.

Eligibility determinations for individuals who voluntarily leave a job are made under § 301.1 of Title 18, D.C. Rules and Regulations, 3 CCH UI REPTR. (DC) ¶5361. Section 301.1 states, in part, that what is "good cause for leaving will accordingly depend upon the facts in each case. . . ."

Craig Berrington spoke with William V. Wilkerson, the Director of the DUC Board, on this matter. Mr. Wilkerson stated that if the White House indicates, both on the Standard Form 50 for the employee and on the ETA-931 form submitted to the White House by the DUC Board, that the reason for separation was "termination of appointment", no question of voluntary leaving will be raised. Mr. Wilkerson further stated that for resignations effective on or after January 15, 1977, the White House can put "resignation due to change in administration" as the reason for separation. This would indicate a voluntary leaving for good cause, and therefore would not be grounds for disqualification for UCFE. Although this statement could also be placed on the forms of individuals being separated prior to January 15, Mr. Wilkerson stated that questions might be raised in such situations as to whether the resignations were really prompted by the change in administration, or by some other consideration. To avoid any problems, I would suggest that the reason given for separation in every case be "termination of appointment". The White House can legitimately use this approach, even in those cases where resignations are submitted.



UNITED STATES CIVIL SERVICE COMMISSION

IN REPLY PLEASE REFER TO

WASHINGTON, D.C. 20415

DEC 27 1976

YOUR REFERENCE

Mr. James E. Connor  
Secretary to the Cabinet  
The White House  
Washington, D.C.

Dear Mr. Connor:

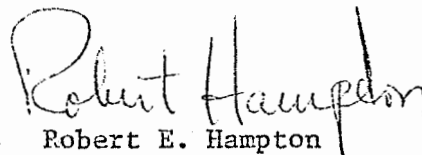
This is in reply to your letter, dated November 30, 1976, concerning eligibility for severance pay of employees leaving the White House Office due to the change of Administration.

We have been particularly concerned about the exclusion from the severance pay provisions of employees "in the excepted service serving under a Presidential appointment" (sec. 550.701(b)(8) of title 5, Code of Federal Regulations). While the first group of employees referenced in question II-1 of your enclosure (commissioned employees) are clearly "in the excepted service serving under a Presidential appointment," we extensively researched the question with reference to those employees appointed to Schedule A positions under the authority of section 213.3102(c) of title 5, CFR. We have reviewed the historical files pertaining to the inclusion of section 550.701(b)(8) in the regulations, effective January 4, 1969, and we have concluded on the basis of the specific wording of the pertinent regulation that employees in the excepted service serving in Schedule A positions under the authority of section 213.3102(c) of title 5, CFR, are properly considered as "employees in the excepted service serving under a Presidential appointment" and are thereby excluded from entitlement to severance pay.

In our enclosure we have answered the questions you posed on the assumption that there are, or in the future may be, employees of the White House who do not fall into the two categories you have identified in question II of your enclosure.

We hope this information will be of assistance to you in answering questions on the subject of severance pay. If we can be of further help to you in this matter, please let us know.

Sincerely yours,

  
Robert E. Hampton  
Chairman

Enclosure

(Note: Questions contained in enclosure to White House letter of November 30, 1976 are answered in the order in which presented)

I

Generally, the meaning of "involuntary separation" in conjunction with the transition period for the purpose of determining eligibility for severance pay (if otherwise qualified) can be the same as that for determining eligibility for discontinued service retirement. Normally, the term implies a separation against the will and without the consent of the employee. However, under certain conditions a separation can be considered involuntary when it is the result of a resignation initiated by the employee, as in the following examples which are appropriate to the change in Administration:

a. Officers who serve at the pleasure of the President, whose replacement is customary with a change of Administration and who submit their resignations at any time after election day will be considered involuntary separations.

b. Officers with fixed terms who submit resignations at the request of the incoming Administration or courtesy resignations that are offered to and accepted by the incoming Administration will be considered involuntary separations.

c. Other officers or employees who submit resignations after election day in response to specific requests from a recognized representative of the incoming Administration, or from an appropriate individual who holds office after election day, will be considered as involuntarily separated unless the circumstances in the case include charges of misconduct, delinquency, or inefficiency.

d. Separations resulting from unsolicited resignations, e.g., based merely on a belief or on the possibility that the Administration may request a resignation, will be considered voluntary.

The above examples are not all-inclusive. Individual cases should be considered on their merits and the separations determined as involuntary when the facts support such a conclusion.

## II

The type of appointment does have a bearing on who qualifies for severance pay. For example, severance pay does not apply to employees "in the excepted service serving under a Presidential appointment, under an appointment to a position filled by noncareer executive assignment \* \* \*, or under an appointment to a Schedule C position \* \* \*" (sec. 550.701(b)(8) of title 5, Code of Federal Regulations). All employees must meet the requirement of "involuntary separation" to be eligible for severance pay. However, some employees who can be considered "involuntarily separated" are excluded from severance pay by their type of appointment, as stated above. While the employees whom you have cited in the background information for question II may qualify under the definition of "involuntary separation," they do not qualify for severance pay because they are serving under Presidential appointments in the excepted service, as defined in answer VII.

## III

See No. I for examples of when a resignation precludes or does not preclude eligibility for severance pay.

## IV

An employee who is separated (other than for cause) against his will or without his consent, e.g., in a reduction in force, is involuntarily separated at any time. An employee who resigns may also be considered to be involuntarily separated when the separation occurs between November 3, 1976 and July 20, 1977 under the circumstances described in No. I.

## V

Section 550.704(d) of title 5, CFR, provides that, "The requirement of section 5595(b) of title 5, United States Code, is met if the employee on the date of separation has been on the rolls of one or more agencies under one or more appointments without time limitation, or temporary appointments that precede or follow an appointment without time limitation, without any break in service of more than three calendar days for at least the preceding 12 calendar months \* \* \* "(emphasis added). As defined in section 5595(a) of title 5, U.S.C., "agency" means an Executive agency, the Library of Congress, the Government Printing Office, and the government of the District of Columbia. In answer to your questions:

1. a. The House of Representatives or Senate does not meet the definition of "agency." Therefore, service with either the House or Senate cannot be considered in fulfilling the requirement for 12 months continuous service.

b. Service which is creditable for annual leave accrual purposes under section 6303 of title 5, U.S.C., is creditable in the computation of the employee's total service (sec. 550.704(b) of title 5, CFR). Therefore, the service as an employee of either house of Congress is creditable in arriving at the total civilian service for purposes of severance pay.

2. On the date of separation the employee must meet the requirements of the definition of "employee" found in section 5595 of title 5, United States Code. Service in an "agency," as defined above, is creditable toward the 12 months continuous service if it meets the requirement of being without time limitation, or a temporary appointment that preceded or followed an appointment without time limitation without a break in service of more than three calendar days during the preceding 12 months. Service as a consultant which precedes or follows an appointment without time limitation without a break in service of more than three calendar days is creditable toward the 12 months of continuous service.

3. Any break in service of more than three days terminates the continuity of service for severance pay purposes, regardless of the reason for the break in service. This derives directly from the language of the severance pay law. Service with the President Ford Committee constituted such a break because this service is not creditable. There is no provision within that law to make an exception, or a determination, that service with the Committee, or that service preceding duty with the Committee, is creditable towards the requirement of a continuous period of at least 12 months.

## VI

An employee whose rate of basic pay is fixed at a rate provided for one of the levels of the Executive Schedule or is in excess of the maximum rate for GS-18 is excluded from the provisions of severance pay (sec. 5595(a)(2) of title 5, U.S.C.). The purpose of the law was to exclude from severance pay entitlement those employees paid in excess of the maximum rate for a GS-18. At the time the law was effected the Executive Schedule was in excess of the maximum rate of a GS-18 and those employees paid in excess of the GS-18 (including the Executive Schedule employees) were excluded as intended. By law employees paid at a rate provided by one of the levels of the Executive Schedule are still excluded, although their actual rate of pay may be less than that of a GS-18. With respect to those employees not in the Executive Schedule, the rate of \$39,600 is the proper amount to use in determining whether an employee is excluded from severance pay. To emphasize again, the clear intent of the law, reflecting what were then in fact normal pay relationships among top level Government positions, was to exclude from entitlement occupants of such positions, e.g., those clearly intended to be paid in Executive Levels I through V, or at a rate equivalent to that specified in Executive Levels, or at a rate otherwise authorized above the rate of GS-18.

## VII

Although in his memorandum dated March 2, 1966 Chairman Macy seemed to exclude only the "high ranking Presidential Assistants" from severance pay, the Commission amended section 550.701(b)(8) of title 5, CFR, effective January 4, 1969, to exclude "an employee in the excepted service serving under a Presidential appointment."

1. The law excluded from entitlement to severance pay specific groups of employees, e.g., employees separated for cause, employees serving under appointments with definite time limitation, and employees who are paid at a rate provided for one of the levels of the Executive Schedule or paid at a rate in excess of the maximum rate for GS-18. The law also provided that other employees may also be excluded from severance pay under regulations "of the President or such other officer or agency as he may designate" (sec. 5595(a)(2)(viii)). In exercising the authority delegated to the Commission by the President in Executive Order 11257, the Commission excepted such additional categories of employees as schedule C employees, those serving under noncareer executive assignments, and employees in the excepted serving under Presidential appointments (sec. 550.701(b)(8) of title 5, CFR). For the purpose of exclusion from the severance pay provisions, a Presidential appointment is considered as any appointment made by the President, or any individual acting in his behalf under delegated authority. "Presidential appointments" include those excepted appointments made to Schedule A positions under section 213.3102(c) of title 5, CFR.

2. See paragraph 1 above.

a. The acceptance of a Presidential commission constitutes a Presidential appointment in the excepted service and excludes the individual from severance pay entitlement.

b. All of the categories listed are excluded from severance pay entitlement by virtue of the fact that they are in the excepted service serving under a Presidential appointment as noted in 2a above.

3. As stated above, those employees holding Schedule A positions and appointed under the authority of section 213.3102(c) are considered in the excepted service serving under a Presidential appointment and are not eligible for severance pay.

## VIII

Within the provisions of the Presidential Transition Act of 1963 employees of the Transition Office are not considered Federal employees except for the purpose of retirement, life insurance, group health insurance, and injury compensation (notes, section 102 of title 3, U.S.C.).

1. Employment with the Transition Office does not change eligibility for severance pay gained through prior employment. A position with the Transition Office is not considered Federal employment for the purpose of determining eligibility for severance pay and is, therefore, not considered either a limited or unlimited appointment for this purpose.

2. An appointment as a consultant with the Transition Office has no effect upon the employee's eligibility for severance pay gained through prior employment.

3. Employment with the Transition Office does not interrupt severance pay regardless of whether there is a three-day break in service. An employee may receive severance payments earned through prior employment while employed with the Transition Office.



THE WHITE HOUSE

WASHINGTON

January 18, 1977

MEMORANDUM FOR: DICK CHENEY

FROM: *RED CAVANEY*

SUBJECT: INAUGURAL HELO MANIFEST

As I previously mentioned to you, only 10 seats will be available on the helicopter for the President's trip from the Capitol grounds to Andrews AFB on Thursday, January 20th following the Inaugural Ceremony. I propose that the seats be allocated as follows:

1. The President
2. Mrs. Ford
3. The Vice President
4. Mrs. Rockefeller
5. Dick Cheney
6. Ron Nessen
7. Terry O'Donnell
8. Dave Kennerly
9. USSS
10. USSS

The above is set forth on the supposition that neither the Military Aide nor Doctor is required nor needed at this function. In the absence of an Aide, I feel that it is important that Terry is along to be of assistance during the ceremony at Andrews AFB. It is further felt that Kennerly should be present to photograph the flight. Particularly since it is our understanding that the President will be taking a "sentimental flight" over much of the city en route Andrews AFB. For the same reason, it is felt that Ron Nessen should be included to enable him to debrief the press on the President's impressions during the flight.

If you or the President wish to alter this manifest, please let me know.

*Prepare papers for P on HALL-VP. Sum  
on USSS part 1/20/77*