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THE WHITE HOUSE

WASHINGTON

August 5, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

JIM CANNON

FROM:

JIM CONNORS *JEB.*

The attached articles were returned in the President's outbox with the following notation:

"Good P. R. "

Please follow-up with appropriate action.

cc: Dick Cheney.

2/5

THE WHITE HOUSE
WASHINGTON

Jim Cannon

God PR.

The Washington Star

JOE L. ALLERITTON, Publisher

JAMES G. BELLOWS, Editor

SIDNEY EPSTEIN, Managing Editor

EDWIN M. YODER JR., Associate Editor

FRIDAY, JULY 23, 1976

HEW: Regulating the regulators

A cynic might argue that the Department of Health, Education and Welfare needs a press agent adept at explaining the inexplicable and defending the indefensible. Such a functionary would have been handy a couple of weeks ago when one of HEW's regional mandarins suddenly advised an Arizona community that school banquets must now be unisex affairs — a ruling whose repercussions quickly reached the Oval Office itself.

But could press agency do the job for HEW when this most gigantic arm of U.S. government employs 135,000, administering a budget of \$128 billion? By rough calculation that means the average oversight by every HEW employe of some \$948,000. And that oversight often entails at least several million dollars' worth of officiousness, murky guidelines and over-regulation.

We cite these fanciful considerations, and equally fanciful statistics, only by way of proposing three cheers for Secretary David Mathews. Mr. Mathews has announced "sweeping reforms" in his department's controversial regulation-writing process, which for many Americans has become the horrible example of bureaucratic intrusion.

In essence, Mr. Mathews seeks to "democratize" HEW procedures. "Effective today," he is to announce, "HEW will open the process (of regulation-writing) by framing the issues for the public and laying out available options." The department will "work to stimulate the widest possible public discussion. We will not put forward a major proposal until the people affected by it have had their say."

Under Mr. Mathews's new procedure, HEW will give prior notice of a proposed regulation, inviting and evaluating public reaction, before it sets forth that regulation in final form. Heretofore, as the secretary says, his department has tended to consult too exclusively "with the groups having a special interest in a given program" while "the public at large was shut out of the process." The secretary is even going so far as to try to make regulations readable as well as consultative. "Training sessions," declares the HEW press release, will be held for "department regulations writers so that regulations are written in clear, concise English." They will

even be reviewed "to determine if they are, in fact, doing what was intended."

This outburst of good sense merits an unmitigated Bravo. Secretary Mathews's reform program is not only refreshing, it has a pleasantly antiquarian ring about it — antiquarian in a laudable sense. It sounds as if the secretary, who was a historian by trade before he took over the nation's largest and most muscular bureaucracy, has been rereading the Declaration of Independence.

In the clear, concise English of that document, American government is said to rest on the proposition that government "derives its just powers from the consent of the governed." Yet as government has waxed bureaucratic, public consent has become more and more inferential, more and more extensively based on the delegation of power, and often less and less in tune with what the governed regard as fair and reasonable.

It is doubtful, to cite again the latest stir over HEW regulations, that even the inattentive congressmen who framed Title IX supposed that their rule against sex discrimination implied the end of anything so harmlessly traditional as father-son and mother-daughter functions at public schools. If Mr. Mathews's regulation-writers had been functioning under his reform rules, there would have been plenty of public objection beforehand.

This experiment noble in purpose will not, of course, work miracles. HEW is not always granted, by Congress and the courts, as much latitude in construing laws and court orders as it might wish. At this writing, for instance, Judge John J. Sirica has given HEW 60 days to tidy up its investigations of Title VI compliance in 14 school districts. The rigidity and haste that often mark HEW exercises of delegated power are not always of its own devising.

But if the department faithfully adheres to its chief's admirable reform program, we shall at least know which regulations are far-out or officious because of an inflexible mandate from Congress or the courts, and which are far-out and officious because, under the old dispensation, the regulation-writers were unaccountable to department policy and the rules of English grammar.

The Atlanta Journal

Covers Dixie Like the Dew

Since 1883

James M. Cox, Chairman 1939-1957—James M. Cox Jr., Chairman 1957-1974

Jack Tarver, Publisher

Jack Spalding, Editor

14-A ★★★★★

JULY 26, 1976

Worth Trying

THOUGH they start with the best of intentions, regulations promulgated by the U. S. Department of Health, Education and Welfare often seem arbitrary and unrealistic, and even more often they confuse and complicate the problems they are supposed to solve.

Secretary David Mathews has announced a worthwhile step toward reforming the process by which these regulations are promulgated. The new procedure should help to improve the substance of the regulations as well as the public attitude about them.

Henceforth Mathews will require that the public be consulted directly while the regulations are being drawn up. Notice will be given in advance on areas to be regulated or areas in which existing regulations are to be changed, so that public comment can

be offered before, and not after, the rules are made. Not only that, but writers of regulations will receive training in how to write "clear, concise English," as Mathews put it.

We have had hopes for improvement in HEW ever since Mathews took office. Perhaps it is really on the way. Of course these procedural reforms will not solve everything; part of the problem lies in the complexity of what HEW has to regulate, and part of it lies in the ambiguity or basic misconceptions in the laws Congress passes and then expects HEW to interpret and implement.

But every little bit helps, and getting the public involved from the beginning could be more than a little bit of help in dispelling the feeling that we are governed by faceless and unresponsive bureaucrats.

THE INDIANAPOLIS STAR

Where the Spirit of the Lord is, there is Liberty

II Corinthians 3:17

EUGENE C. PULLIAM—1889-1975

Publisher 1944-1975

EUGENE S. PULLIAM, *Publisher*

"Let the people know the facts and the country will be saved."—Abraham Lincoln

Asking The People

David Mathews, secretary of the United States Department of Health, Education and Welfare (HEW), has announced that he is reforming the way HEW develops and issues regulations.

His stated objective is to see to it that the department seeks out public opinion before a proposed regulation is drafted, rather than after. This is a very important reform if it can be made to work as intended.

A press release said Mathews "believes strongly that the regulations process is HEW's most intrusive channel into people's lives." That it surely is.

"For far too long," Mathews said for the release, speaking of the process of making regulations, "HEW has gone to the public in these situations only to tell them what it intends to do. From now on our first step will be to ask the people of the country what they think we should do."

Mathews unabashedly noted that under the previous system when HEW decided that a new regulation was needed it consulted largely with groups having a special interest in the affected program and then proposed a regulation which often reflected "their common preconceptions."

The public at large was effectively shut out of the process by departmental directives which prohibited distribution of proposed regulations before publication in the Federal Register. Even then the public would not know what was going on unless HEW explained it in a news release or some sharp-eyed reporter succeeded in attracting attention. The Federal Register is very thick reading.

Henceforth a proposal to make a regulation is to be made public, with comment invited, before the regulation is drafted. When the drafting is done there is to be another public announcement outlining the proposed regulation, with another interval for comment.

It's a great idea. We hope it works.

THE DALLAS TIMES HERALD

EDITORIALS

2—C**** Tuesday, July 27, 1976.

Regulations reform

NEARLY EVERY segment of American society is affected by one or more of the thousands of regulations issued by the various departments of the federal government, but too often rules devised to carry out the laws approved by the Congress are handed down without adequate participation from the public.

David Mathews, secretary of the Department of Health, Education and Welfare, is taking steps to reform the way his department develops and issues its regulations. He has ordered the regulation writers to consult broad segments of the public before they put pen to paper in preparing controversial regulations mandated by congressional action or administrative needs.

Mathews said: "For too long HEW has gone to the public in these situations only to tell them what it intends to do. From now on our first step will be to ask the people of this country what they think we should do."

HEW is one of the government's most prolific issuer of regulations, since its 135,000 employes, operating under a \$128 billion budget, administer a wide range of social programs. Under the previous system, Mathews said, when the need for a regulation arose, the department consulted with the groups having a special interest in a given program and then proposed a regulation, which often reflected their common preconceptions. The public at large

was shut out of the process.

Under the new program announced by Mathews, HEW will open the process by framing the issues for the public and laying out available options. Once these are on the table, the department will work to stimulate the widest possible discussion.

Various channels will be used to obtain public comment on the proposed regulations — town hall meetings, advertisements, public service announcements, news releases, professional and service organizations, mailings, the Federal Register and HEW's 10 regional offices.

The new procedure may lengthen the time it takes to issue final regulations, but the public will have greater opportunity to debate the options and to comment on proposed guidelines.

HEW is also attacking the regulations problem on other fronts. It is conducting training sessions for regulations writers so that rules are written in clear, concise English. It is reviewing existing regulations to determine if they are doing what was intended and it is rewriting some regulations which impose too numerous or needlessly complex requirements on program administrators.

There is no way to get rid of government regulations, but at least HEW is leading the way toward making government work more efficiently with the public it serves.

Jim Fain, *Publisher*; Ray Mariotti, *Editor*; Bill Meroney, *General Manager*; Bob Easter, *Circulation Director*; Tim Brown, *Systems Director*; Everett Bushell, *Advertising Director*; George W. Spaulding, *Classified Manager*.

Public agency

For a federal bureaucracy to consult the American people before imposing a regulation would be as extraordinary as for an Eastern bloc Olympic judge to give high marks to a Western athlete.

Yet one of the more disliked federal bureaucracies says it is going to the people first, from now on.

David Mathews, secretary of the U.S. Department of Health, Education, and Welfare (HEW), Sunday began what his department calls "sweeping reforms."

Mathews will require HEW to consult broad segments of the public before it puts pen to paper in preparing controversial regulations mandated by Congressional action or "compelling administrative need."

"For far too long HEW has gone to the public in these situations only to tell them what it intends to do," Mathews said. "From now on our first step will be to ask the people of this country what they think we should do."

Mathews says reform of the regulations has been his top priority since he took office last August.

"Under the previous system," he says, "when the need for a regulation arose, the department consulted largely with the groups having a special interest in a given program and then proposed a regulation which often reflected their common preconceptions. The public at large was shut out of the process."

What HEW will do, beginning immediately, is not put forth any major proposal until the people affected by it have had their say.

HEW will draft regulations by first sending Mathews a proposed plan. If he approves it, the department will publish a public notice of its intent, and will even state the department's preference, if any. The public's comments will be scrutinized. Another notice will go out, and more public comment sought. That will be evaluated before the regulation is approved and finally published.

Mathews isn't stopping at that point. His reform package also calls for training HEW regulations writers to write their rules in "clear, concise English." And when a regulation is put into being, it will be reviewed to see if it does what it was supposed to do. Regulations which are too complicated will be simplified. The first to get the blue pencil will be the Medicaid regulations.

We are never too sanguine about the way bureaucrats carry out their intentions. The example of the annually-more-complicated "simplified" income tax forms keeps coming to mind.

But Mathews' expressed intent seems straightforward enough. And if he can get his employees to do what he says he wants them to do, HEW could become a benchmark agency. Cross your fingers and hope (in triplicate).

TULSA WORLD

"Oklahoma's Greatest Newspaper"

EUGENE LORTON
1869-1949

Page 8-A

Monday, July 26, 1976

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BIBLE THOUGHT

Always and for everything giving thanks.—Eph. 5:20.

Welfare Goes Public

THE DEPARTMENT of HEALTH, EDUCATION and WELFARE has announced "sweeping reforms" designed to give the general public a voice in writing HEW rules and regulations.

"We will not put forward a single major proposal until the people affected by it have had their say," SECRETARY DAVID MATHEWS explained.

MATHEWS' announcement said the Department would seek public guidance "through town hall type meetings, advertisements, public service announcements, news releases, professional and service organizations, mailings, the Federal Register, and HEW's 10 regional offices.

In theory, it sounds great.

This mammoth agency spends \$128 billion a year, a sizable chunk of the earnings of every taxpayer. Its 135,000 employees regulate the lives of citizens in the most personal ways.

HEW may choose a school for your child. It can tell you whether you have the proper skin color to qualify for a job or promotion. It can cause you to lose a job or a promotion if you are of the wrong sex.

Last month, a 28-year-old HEW official issued a decree setting out circumstances under which a par-

ent may have breakfast with a child. A school breakfast attended by fathers and sons, for example, or by mothers and daughters would be in violation of Federal law on the grounds of sex discrimination.

The anti-breakfast rule was so obviously oppressive and absurd that PRESIDENT FORD personally caused it to be revoked. But it is an example of HEW's power and inclination to regulate even the most private aspects of American life. Most certainly, the public should have a loud voice in how such power is used.

As a practical matter, however, this country is too large for town hall Government. The public can and will squawk when Government does something that is particularly outrageous. But ordinary citizens have work to do. They cannot become individual experts in such matters as HEW regulations.

HEW's public hearings on regulations may get a little more attention from the general citizenry under the new program. But the process will continue to be dominated by the special interest groups and activists who dominate it now.

It will be interesting to see whether HEW's "sweeping reform" in rule-making procedures actually makes any difference at all or whether it is just another public relations gimmick.

THE DAILY OKLAHOMAN

E. K. GAYLORD (1873-1974)

Published Every Morning by The Oklahoma Publishing Co., 500 N. Broadway
Post Office Box 25125, Oklahoma City 73125 Telephone (405) 232-3311

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Wednesday, July 28, 1976

Slower to Regulate

SECRETARY DAVID MATHEWS, of the Department of Health, Education, and Welfare, is taking a leaf from the book of the environmentalists and others who revised highway planning and many other government functions.

Like the engineers who plan our roads, the bureaucrats of HEW will now have to go through complex procedures including input from the public before they put pen to paper to compose new regulations.

In the case of new roads, it may be argued that the delays involved are excessive and excessively costly. On one major Oklahoma City expressway alone, it is estimated that the cost of the recently adopted preliminary procedures will add at least 25 per cent to the eventual cost. Part of that is the cost of paperwork, hearings and repeated revisions of design and planning work. But much is represented by the inflation that will hike the price of all the labor and components going into the road by the time it is built.

In the case of HEW regulations, however, there is a more positive result in view. The regulations issued by this one massive department of government affect nearly all of us at one time or another, and some are costly in human as well as dollar terms. As an example, HEW regulations have eliminated many small hospitals in lightly populated areas of such states as Oklahoma. They have made day care centers too costly for many communities to afford, and removed them from the reach of some working parents who

need them most.

Such regulations, it has been charged in the past, too often were devised by idealistic but impractical authors in Washington who had no real idea of the impact of their edict.

Mathews has instituted reforms in the regulation writing system that will at least alleviate this problem. "For far too long, HEW has gone to the public in these situations only to tell them what it intends to do," he says. "From now on, our first step will be to ask the people of this country what they think we should do."

The regulations process, Mathews says, is HEW's most intrusive channel into people's lives—as powerful in its impact as the department's staff of 135,000, or its annual budget of \$128 billion.

The most obvious result will be a slowing of the process of issuing regulations. That alone will help ease the public resentment of hastily contrived solutions to problems that may or may not exist in the real world outside the bureaucratic concepts.

But another result can be—although not necessarily will be—a reduction in the ability of pressure groups to get their own pet regulations written into federal edicts with the full force and effect of law.

Mathews is a quiet sort of cabinet officer, despite the size of his department and the scope of its responsibilities. If he can effect this one big change, he will have made an important and possibly permanent mark on Washington.

This page contains opinions and comments. Editorials in the left-hand column express The News' viewpoints. Other items which appear are expressions of those whose name appears and may, or may not, reflect The News' opinions. Comments on subjects of general public interest from readers are accepted. All letters must be signed, home address given, and conform to published standards limiting length to 300 words, be in good taste and reason. THE EDITORS.

Monday, July 26, 1976 3

HEW to seek public's advice

It appears the U. S. Department of Health, Education and Welfare has ended up with egg on its bureaucratic face once too often and HEW Secretary David Mathews is finally taking steps to see it doesn't happen again.

In announcing sweeping reforms in the department's decision-making process Sunday, Mathews said HEW will now begin to ask for public input on controversial matters before it takes action or mandates regulations rather than waiting to hear from the public after it is too late and the decisions have been made.

Too often in the past the bureaucrats at HEW, as well as those at most federal agencies, have simply looked at controversial matters in the cozy confines of their Washington ivory towers and issued ill-advised regulations, only to be confronted afterwards by an outraged public demanding that the pointy-headed intellectuals throw their briefcases in the Potomac.

The most recent example of that syndrome, of course, was the brouhaha following the HEW edict that "father-son" or "mother-daughter" school functions should be banned on the questionable grounds that such functions are sexually discriminatory.

The edict, blasted by the public from sea to shining sea, was quickly disavowed by an embarrassed Mathews and countermanded by a disgruntled President Gerald Ford, but the damage was already done: here was one more example, the public said, of a stupid regulation sent down from on high by a bureaucrat who didn't have enough sense to park a bicycle straight.

If only you had asked us, the public seemed to say, we would have told you how ludicrous such a regulation is.

Well, now Mathews says he will ask.

"For far too long HEW has gone to the public in these situations only to tell them what it intends to do," the secretary said. "From now on our first step will be to ask the people of this country what they think we should do.

"Effective today," Mathews said Sunday, "HEW will open the process by framing the issues for the public and

laying out available options. Once these are on the table, we will work to stimulate the widest possible public discussion.

"We will not put forward a major proposal until the people affected by it have their say."

Mathews envisions communication with the public through "town hall" meetings, advertisements, public service announcements, news releases, professional and service organizations, mailings, the Federal Register, and HEW's 10 regional offices.

The process by which public input will be elicited will begin with publication identifying the issues and the options available and inviting public comment. If the department has a preference, it will be clearly stated at the outset.

Following evaluation of the public response, HEW will come back with a second publication of the specific rules it is proposing based on that public response, congressional intent and its own professional expertise and knowledge of the law.

Then second round of public response will be evaluated, changes in the rules will be made if they are felt necessary, and finally the final regulation will be published.

Other parts of Mathew's reform package should also be welcomed by a public fed up with bureaucratic

mumbo-jumbo and regulations which don't seem to work and include provisions calling for training sessions for department regulation writers so that regulations are written in clear, concise English, and periodic review of all regulations to determine if they are, in fact, doing what was intended.

Mathews also wants periodic modification of regulations which impose too numerous or needlessly complex requirements on program administrators and points to a special force now at work simplifying Medicare regulations as an example of that concept in action.

Of course all this looks good on paper and sound fine in theory. But the proof, as they say, will be in the pudding and only time will tell if the new system will really work or if it is being instigated simply as a way to get HEW off the hook when it comes out with an unpopular set of rules or regulations.

In such instances in the future, HEW may be able to say, "well, we asked you and this is what you wanted" when the cry goes out that the department once again stuck its foot in its mouth.

But if indeed the system does serve to nip only one foolish bureaucratic idea in the bud, then perhaps it will all be worth it. Certainly under the new system the public will at least have the illusion of more participation in government.

San Francisco Chronicle

THE VOICE OF THE WEST

Founded 1845 by Charles and M. H. de Young
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Editorials

Public Input To HEW Rules

DAVID MATHEWS, the Secretary of Health, Education and Welfare, is concerned about the intrusion into people's lives of the regulations that HEW writes. HEW is just about the biggest bureaucracy in Washington, with a \$128 billion budget and around 1000 full-time rule-writers, and it is this monster whose ways Secretary Mathews is starting out to change. May good luck attend him.

HEW, says the secretary, has up to now gone to the public "only to tell them what it intends to do." From now on he is determined that his department should first ask the people.

That may not seem a revolutionary thought, but it evidently strikes the secretary that way, for along with his announcement of this public-input procedure that is being set up, Mathews has written to the editor to request editorial comment on the strong public policy implications of his reforms. We are glad to comment.

IF THE NEW PROCEDURES at HEW will save the agency from closing the doors of the public schools to father-and-son events, for example, that will enhance public confidence in the department. It will be recalled that the Scottsdale, Ariz., schools were informed by HEW the other day that they could not hold such events because that would be a sex discrimination. President Ford was so irritated he ordered the order canceled.

If the public had been asked in advance its views about holding father-and-son banquets in the schools separately from mother-and-daughter banquets, no doubt public opinion would have told HEW what Mr. Ford did, not to worry about the sex discrimination aspect.

THE PROPOSALS of Secretary Mathews should be well received by the public, whose lives are so closely touched by HEW rules. Normally, he says, the public will have 45 days to comment after HEW gives notice of a proposed regulation. In each case the name of a person in HEW who can be contacted for further information will be published, along with the proposed rule. That is a welcome feature: not knowing to whom to take your troubles is probably the most formidable and discouraging barrier to communication between the citizen and his government.

Editorial

Taking Bureaucracy Out of the Vacuum

The public, along with the press, has for years now been trying to get the point across that federal bureaucracy has grown into too much of a Big Brother government, with little brother having little or nothing to say about how he was treated.

Even presidents, senators and representatives have admitted that bureaucracy has become a fourth branch of the American government, probably with more power than the other three combined, insofar as the ability to make rules that affect our everyday lives is concerned.

Moreover, the question of how to cut that bureaucracy down to size never has been answered.

Well, fortunately there is — if not a way to reduce the influence of governmental decision makers — at least a means of trying to change their way of thinking. And the secretary of Health, Education and Welfare, David Mathews, has set about putting it into practice.

His premise is that the public which is to be affected by the myriad rules made by departments and agencies ought at least to have some voice in the formulation of those rules.

Time and time again complaints have been issued, often justly, that some official who has never been on, say, a farm or in a factory, promulgates rules that are either unneeded or unjust.

Previously, "when the need for a regulation arose, the department consulted largely with the groups having a special interest in a given program and then proposed a regulation which often reflected their common preconceptions," Mathews noted. "The public at large was shut out of the process."

If the public had not been shut out, in many cases, it would have been discovered that there was no need for a regulation in the first place.

From this point on, HEW will first publish a notice of intent to prepare regulations, then seek public guidance before it actually writes the rules. The input from the public will be obtained through town and city hall meetings, advertisements, public service announcements, news releases, and other devices.

The public will then be given time to state its case before the rule is written.

Certainly, the public will not always prevail. And not every little rule issued by HEW will be subject to this procedure. But at least the public will be forewarned on the major issues, and can arm itself to either praise or oppose.

Mathews is completely correct in expressing concern that HEW wields enormous powers in a vacuum when it writes regulations to implement a law passed by Congress, with little if any legislative debate and no public comment until the new rules have been put into effect.

It would be of tremendous help to the public if the other bureaucratic agencies, large and small, would follow HEW's suit and seek out the feelings of those who are regulated.

The public may, as a result, be deluged with information on proposed rules and regulations. But this would be a far less onerous burden than the amount of senseless governing now gotten from the decision-making vacuum HEW is abandoning.

This page contains opinions and comments. Editorials in the left-hand column express The News' viewpoints. Other items which appear are expressions of those whose name appears and may, or may not, reflect The News' opinions. Comments on subjects of general public interest from readers are accepted. All letters must be signed, home address given, and conform to published standards limiting length to 300 words, be in good taste and reason. THE EDITORS.

July 25, 1976

Editorials

Reforms

HEW Secretary Mathews is to be commended for his revamp efforts

U.S. Health, Education and Welfare (HEW) Secretary David Mathews is to be commended for the sweeping reforms he has ordered in the way the vast agency develops and issues its regulations.

As Mathews points out, HEW's regulations reach out, touch and even change the lives of citizens in many areas. He has said that the agency's power to control by regulations is as potent in terms of human impact as HEW's \$128 billion budget and 135,000 employees.

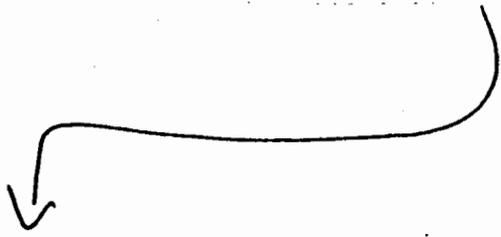
The most extreme of the reforms Mathews has ordered is a requirement that HEW consult broad segments of the public before

Comment: HEW Secretary David Mathews, on leave as president of the University of Alabama, is wise in requiring public input in forming HEW regulations.

finalizing controversial regulations.

"For far too long HEW has gone to the public in these situations only to tell them what it intends to do," Mathews said in his announcement of the changes. "From now on, our first step will be to ask the people of this country what they think we should do."

"Under the previous system," he continued. "When the need for a regulation arose, the department consulted largely with the groups



having a special interest in a given program and then proposed a regulation which often reflected their common preconceptions. The public at large was shut out of the process."

"Effective today (July 25), HEW will open the process by framing the issues for the public and laying out available options. Once these are on the table, we will work to stimulate the widest possible public discussion. We will not put forward a major proposal until the people affected have had their say," he said.

HEW will communicate with the public through town hall type meetings, advertisements, public service announcements, news releases, professional and service

organizations, mailings, the Federal Register and 10 HEW regional offices.

The public will usually have 45 days to comment on proposed regulations after they are published.

The U.S. Department of Health, Education and Welfare is a massive bureaucracy that controls programs in an incredible number of areas.

Mathews has shown wisdom in recognizing that the public needs some influence over regulations that in the past have sometimes seemed impersonal and unnecessarily prohibitive.

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2-E BRO
 Sunday, July 25, 1976

EDITORIALS

HEW Reform of Regulations Is Good News for the Public

LAWs passed by Congress may not mean anything, as Bill Klem would say, until they are interpreted in the Federal Register or other nosy places by the federal regulatory agencies.

As the immortal baseball umpire explained, "Some of 'em is strikes, and some of 'em is balls, but they ain't nothing until I calls 'em."

Well, sir, the worm is turning at least several degrees. Health, Education and Welfare Secretary David Mathews announces that HEW today is instituting "sweeping reforms in the way the Department develops and issues its regulations."



Mathews

"Most extreme of these," he goes on, "is the requirement for HEW to consult broad segments of the public before it puts pen to paper in preparing controversial regulations mandated by congressional action or compelling administrative need."

We accent the last words. In a more ancient context, Ask, and ye shall receive, that your joy may be full. HEW evidently is putting aside "administrative needs," which may have been farthest from the mind of Congress, for audience participation.

The move is to be welcomed since it comes with a full confession from the agency which, with 135,000 employees and a budget of \$128 billion, consumes the largest whack of the taxpayers' dollar.

"Under the previous system," testi-

fies a contrite Secy. Mathews, "when the need for a regulation arose, the Department consulted largely with groups having a special interest in a given program and then proposed a regulation which often reflected their common preconceptions. The public at large was shut out of the process." For an agency which was created 23 years ago (and is old enough to vote: this, pray, is an election year) the confession is sensational.

But we think Secy. Mathews ought to be taken at his word. The whole subject of government regulation, as President Ford has emphasized often, needs the swift broom of reform.

Some businesses which otherwise are quick to bemoan the stern eye of government, actually like regulation and are aghast when it is criticized as a form of governmental oppression of free enterprise competition.

In the main, however, most regulation is counterproductive. It increases the cost of doing business. It bewilders the individual. And it confounds the pursuit of happiness as the Fathers defined the sacred right to be let alone.

So, two and a half cheers for HEW as it issues new regulations which give the public 45 days to comment following its publication of intended, rather than accomplished, regulations.

The Department will communicate with the public through town-hall type meetings, advertisements, public service announcements, news releases, professional and service organizations, mailings, the Federal Register (which must, in its 40 years of daily striving, have listed millions of regulations) and HEW's 10 regional offices.

We always keep our fingers crossed when there is a promised political millennium around the corner, but we hail with unqualified enthusiasm one stipulation of the new HEW: "The reform package calls for training sessions for Department regulation writers so that regulations are written in clear, concise English."

Man, that's progress!

Daily Record
Morristown, N.J.
July 27, 1976

Our Opinion

HEW Reforms

Do you believe in the HEW? That is, do you believe there is a HEW?

Many people undoubtedly don't and others probably could care less.

But the Department of Health, Education and Welfare (HEW) has an enormous impact on our lives.

It would almost go unnoticed if it wasn't for its controversial regulations. One example is the brilliant ruling against schools holding father-son or mother-daughter events.

What does the agency do? It implements legislation written by the Congress. Until this weekend, this has been an in-house function with the public and the Congress left out of this crucial, final phase of policy-making.

Sometimes the HEW botches the job and misinterprets the thrust of the legislation. The father-son travesty points this out as do several other incidents. Regulations prohibiting discrimination against women and protecting the privacy of students' records created so much controversy that Congress had to amend the laws to make its intent clear.

This weekend David Mathews, department secretary, announced some reforms that will give the public a say in the rulemaking process.

This is a step in the right direction for an agency that for too long has been insulated from public opinion. In the past, when there was a need for outside consultation, the department would seek the advice of special interest groups. There was no input from the public.

Now, when a new rule is in the works, the department plans to seek a true cross-section of national opinion at public meetings throughout the country.

We have high hopes that public dialogue will give the department a more realistic vision of the people whom these rules and regulations affect so deeply.

With some participation from the public, the department should become more responsive to real, human needs and more accountable for the \$128 billion it spends annually.

A Good Idea

Richmond Times-Dispatch

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ALAN S. DONNAHOE, President and Associate Publisher

JOHN E. LEARD, Executive Editor ALF GOODYKOONTZ, Managing Editor

EDWARD GRIMSLEY, Editor of the Editorial Page

Monday, July 26, 1976

Many critics, by no means all of them political conservatives, have complained of growing imperiousness on the part of some officials within the huge bureaucracy of the federal Department of Health, Education and Welfare (HEW). A recent decree banning father-son, mother-daughter outings at public schools—a decree promptly suspended by an angry President Ford—was editorially lambasted as “civil rights madness” by the liberal *Washington Post*, for example.

Last week, Rep. G. William Whitehurst, R-Va., scored a regional HEW official for “bureaucratic arrogance” because of his alleged refusal to answer questions of a Norfolk newspaper reporter about how funds were spent for certain social programs. (HEW has a \$128 billion budget this year.) Whitehurst said he has demanded a full accounting of expenditures for the programs question.

Examples of the problem could fill up this page and then some. But at last comes an indication that the problem is recognized at HEW—by the top man, at least, if not necessarily by all his underlings.

HEW Secretary David Mathews announced yesterday a package of “reforms” that is meant to give the general public more of a say in HEW regulation-writing. The regulatory process is HEW’s most intrusive channel into people’s lives, said Mathews, declaring: “For far too long HEW has gone to the public in these situations only to tell them what it intends to do. From now on our first step will be to ask the people of this country what they think we should do.”

Mathews, a former University of Alabama president who has been HEW chief for about a year, spelled out a series of steps to be followed in regulation-drafting beginning with identification of policy options to be taken to the public for discussion. He said HEW communication with the public would be through town hall-type meetings, advertisements, public

service announcements, news releases, professional and service organizations, mailings, the *Federal Register*, and the department’s 10 regional offices. (The regional office for Virginia is in Philadelphia.) Some of those methods of communicating sound similar to what the federal department already is doing, but some, like the use of public meetings to hear the opinions prior to the adoption of regulations, do appear to be innovative.

Other changes called for by Mathews are training sessions for HEW officials in how to write regulations in clear, concise English (now there’s a truly revolutionary proposal!), periodic review of regulations to see if they are doing what was intended, and modification of regulations that impose too many or too complex requirements on program administrators.

Secretary Mathews ought to be given credit for a good idea. From



Perts

Mathews

idea to implementation is obviously a long journey, however, with many opportunities along the way for sabotage of the head man’s best-laid plans by 135,000 employees. Nor is it entirely clear that average citizens—as opposed to members of special interest groups—will be able to affect HEW decisions significantly under the Mathews system. We shall all watch in the hope that the “reforms” don’t turn out to be just another oversold public relations gimmick.

HEW and Rulemania

THERE'S A RULE that says you can and a rule that says you can't and a rule that says if you don't within 60 days you will have to forfeit your federal benefit and pay a penalty for every day you are in default from the day of notification—all subject, of course, to review *provided that* application for review is made within 30 days of the date of this ruling. Understand? Because so many people who deal with public programs have answered simply, and defeatedly, No, the great engine of government has finally begun to do something about its mind-boggling output of rules. These, according to President Ford, take up more than 40,000 pages of fine print a year, hither to promulgate, and once in a while, as everyone knows, a real lulu will hit the front pages—as in the recent HEW ruling (now suspended) that Father/Son or Mother/Daughter social functions could not be sponsored by public schools unless such schools wished to risk a loss of federal funds because they were violating anti-sexual-discrimination law.

It struck us as something of an irony, or perhaps just a demonstration of the durability and reach of the nutty rule-making machine, that this latter ruling came out of HEW. That is because HEW Secretary David Mathews is known to be an unabashed zealot on the subject of simplifying the tangle of rules his department puts out—so much so, in fact, that he has regularly been criticized for 1) backing down on strict requirements for compliance with the programs HEW administers and 2) permitting himself to become transfixed by a minor aspect of HEW's operation to the detriment of other business over which he ought to be presiding. So we were not greatly surprised to learn the other day that Secretary Mathews has now come forward with some new procedures for simplifying and rationalizing the HEW rule output. The first thing we will say about the secretary's proposals is that they represent a sound step forward. The second is that they do not amount to the counter-revolution; they amount to a modest and sensible attempt to get the thing under control.

Secretary Mathews has listed a number of changes his department intends to make in the way it formulates its rules. They seek to make the rule-devising process more accessible to the people who will have to enforce or abide by those rules in the field. They also seek to make the rules themselves, once devised, more accessible to everyone concerned by putting them into that strange and anti-bureaucratic tongue known as the English language. In a grand and star-spangled sense, all this has to do with getting the public into policy-making, achieving consensus, making democracy work and the rest. From a more practical worm's eye view there are other advantages. An aw-

ful lot of free, untapped knowledge is floating around this country concerning the programs HEW administers, and the newly formulated procedures should permit the government to tap that knowledge—the nuts and bolts stuff about how nursing home care or day care or any of a multitude of grant programs really works. This way a lot of predictable anguish and foolishness could be avoided. And so could a lot of recrimination, since people could no longer complain as they now do (and often with much merit) that no one told them in advance how the thing was supposed to work and no one asked them how it *should* be administered.

Secretary Mathews, never mind his zealotry, is not the first or only public figure to have leapt into this morass. Former Gov. Carter of Georgia has had something to say about it, and so have President Ford and Ronald Reagan. Perhaps more important, though less center-stage in a political way and certainly a whole lot quieter, has been the effort of the folks over at the Federal Register to bring lucidity to the rules they print. Under the direction of Mr. Fred J. Emery they have for some time now been moving to de-whareas their product and also to instruct both the bureaucracy and the public in ways of making the Register more useful. But the Federal Register can't make the rules—and that is why the attention and intervention of Secretary Mathews is so welcome and important.

It is interesting to note in this connection that Congress, which is indirectly the fount of all this rule-making hocus pocus by virtue of the complicated laws it passes, has lately been toying with appropriating the rule-making function for itself. Outrage over some especially loony and burdensome rules has caused many legislators to conclude that they should pass individually on the rules promulgated by the Executive Branch. We think this is a poor idea for several reasons. The legislators really do not have the time or resources to devote to this essentially executive function. Congress being Congress, the lobbies would have an even better shot than they now do at bending the rules to fit limited, parochial interests. And in any event, to complain that the rule-making function has got out of hand is only another way of conceding a failure of congressional oversight on the part of those committees to which the various agencies of the Executive Branch must answer. But we have no doubt that Congress will go forward with its ill-conceived plan if the Executive Branch does not act to make the rules fairer, simpler and more effective. That is another reason why Secretary Mathews' initiative is to be applauded and—ideally—followed by his colleagues.