

LU:CW:mlc

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MEMORANDUM FOR MARY ALICE HEDGE RESZETAR
Associate Director
National Commission on Libraries and
Information Science?

This responds to your request of December 22, 1980, for our opinion whether the National Commission on Libraries and Information Science (the "Commission") must receive clearance from the Office of Management and Budget ("OMB") for proposed legislation. We conclude that the Commission must submit all proposed legislation to OMB for clearance.

One of OMB's duties is "[t]o assist the President by clearing and coordinating departmental advice on proposed legislation and by making recommendations as to Presidential action on legislative enactments" Exec. Order No. 8248, § II(2)(e), 3 C.F.R. (1938-43 Comp.) 576. See also 3 U.S.C. § 101 note (Statement on Organization and Functions of the Executive Office of the President, § III(A)). The procedures that agencies must follow are outlined in Circular No. A-19 (rev.), a copy of which is enclosed. Agency includes "[a]ny executive department or independent . . . agency" Circular A-19, ¶ 5(b). See also 31 U.S.C. § 2. The Commission is an independent agency within the executive branch. 20 U.S.C. § 1502(a).

The language in 20 U.S.C. § 1504(a)(1) */ does not exempt the Commission from OMB's regulations. When Congress wants to receive recommendations for legislation directly from an agency, it says so explicitly. See, e.g., 15 U.S.C. § 2076(j)(10),

*/ The section directs the Commission to "advise the President and the Congress on the implementation of national policy by such statements, presentations and reports as it deems appropriate."

(k)(2) (Consumer Product Safety Commission); 44 U.S.C. § 3322 (National Study Commission on Records and Documents of Federal Officials); 46 U.S.C. § 1118 (Federal Maritime Commission). At times it has asked that legislative proposals be transmitted to OMB and Congress concurrently. See, e.g., 2 U.S.C.A. 437d(d)(2) (Supp. 1980) (Federal Election Commission); 10 U.S.C. § 131 note, P.L. 93-155, title VII, § 707(a) (Defense Manpower Commission). Cf. 50 U.S.C. App. § 2007(c)(1) and (2) (authority to make "recommendations" and "proposals for legislation" distinguished) (War Claims Commission). The Commission's authority set forth in § 1504(a)(1) does not provide such explicit authority.

We conclude, therefore, that the Commission must submit its legislative proposals to OMB for clearance.

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