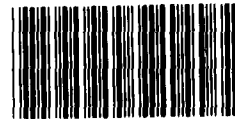


Human Resources Division

B-222303



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March 21, 1986

The Honorable Ted Weiss
Chairman, Subcommittee on Intergovernmental Relations
and Human Resources
Committee on Government Operations
House of Representatives

The Honorable Henry Waxman
Chairman, Subcommittee on Health and the Environment
Committee on Energy and Commerce
House of Representatives

The Honorable Orrin G. Hatch
Chairman, Committee on Labor and Human Resources
United States Senate

The Honorable Robert T. Stafford
Chairman, Subcommittee on Education, Arts and Humanities
Committee on Labor and Human Resources
United States Senate

The Honorable Claiborne Pell
Ranking Minority Member
Subcommittee on Education, Arts and Humanities
Committee on Labor and Human Resources
United States Senate

In response to November 1985 requests (see apps. I and II), we have reviewed certain allegations regarding Ms. Anne Graham. This report contains the results of this review. Ms. Graham was Assistant Secretary of Education for Legislation and Public Affairs from August 1981 until December 16, 1985. On December 17, 1985, she was confirmed by the Senate as a Commissioner of the Consumer Product Safety Commission. We were specifically asked to determine whether:

- ° She performed her duties on a regular basis.
- ° She used government facilities for activities that violated laws or Department of Education standards of conduct, specifically drinking alcoholic beverages in the office and recording conversations.
- ° She used government vehicles and personnel for nonofficial purposes.
- ° Her office had hired unnecessary consultants.

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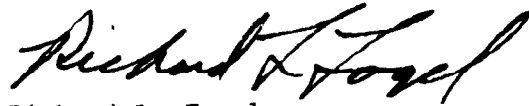
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Many of these allegations related to issues for which documentation was not available. We, therefore, sought to determine the specifics by interviewing present and former employees who worked in Ms. Graham's office as well as other Department of Education officials who had knowledge of her activities, including the present and former Secretaries of Education. With the exception of the former Secretary, whom we interviewed by phone at his office in Utah, all people provided their information under oath, except for some follow-up questions we asked by telephone.

We received conflicting testimony regarding the allegations. But despite such conflicts, the statements received tended to support the following conclusions.

- ° As a Presidential appointee considered to be on duty at all times, Ms. Graham had no official duty hours. People gave us significantly different estimates of when Ms. Graham normally arrived at her office, the extent of her absences from the office, or how often she attended meetings with the Secretary of Education.
- ° Ms. Graham permitted and participated in the consumption of alcoholic beverages in her office, generally after 6:00 P.M., in violation of the federal regulations that prohibit such consumption in government buildings except where the agency head or the head's designee grants a written exemption for appropriate official uses.
- ° Ms. Graham in some instances used government cars to go to the hairdresser in violation of the law prohibiting the use of government vehicles except for official purposes. Ms. Graham used between two and four government employees to perform personal tasks for her in possible violation of the law which provides that appropriations can be expended only for the purposes for which appropriated.
- ° Consultants hired by Ms. Graham's office, with few exceptions, generally performed their duties.

Further details are covered in the report. We are providing Ms. Graham a copy of this document.



Richard L. Fogel
Director

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ALLEGATIONS CONCERNING

MS. ANNE GRAHAM

Ms. Anne Graham was Assistant Secretary of Education for Legislation and Public Affairs from August 1981 until December 17, 1985,¹ when she was confirmed by the Senate as a Commissioner of the Consumer Product Safety Commission.

On November 20, 1985, the Chairmen of the Subcommittee on Intergovernmental Relations and Human Resources, House Committee on Government Operations, and the Subcommittee on Health and the Environment, House Committee on Energy and Commerce, asked us to look into a number of allegations relating to Ms. Graham (see app. I). Specifically, we were asked to determine whether

- She performed her duties on a regular basis.
- She used government facilities for activities that violated laws or Department of Education standards of conduct. The specific allegations involved drinking alcoholic beverages in the office and recording conversations.
- She used government vehicles and personnel for non-official purposes.
- Her office had hired unnecessary consultants.

We were later asked by the House requesters or their offices to obtain information about recent cash awards to employees and to answer six questions about the use of consultants.

On November 22, 1985, the Chairman of the Senate Committee on Labor and Human Resources and the Chairman and Ranking Minority Member of its Subcommittee on Education, Arts and Humanities requested a prompt investigation of the allegations so that the Senate could vote on Ms. Graham's nomination to the Commission (see app. II). To be as responsive as we believed we could be to the Senate's concerns, we orally briefed Senator Stafford and his staff as well as staff of the other Senate requesters on December 12, 1985, on the results of our work up to that time. During the same week, we also orally briefed Chairman Weiss and his staff and Chairman Waxman's staff.

¹Ms. Graham was a consultant to the Secretary of Education from May 18 to August 9, 1981, pending Senate confirmation of her appointment as an Assistant Secretary.

SCOPE AND METHODOLOGY

To do our work we interviewed 32 present or former employees and/or consultants in Ms. Graham's office (the Office of Legislation and Public Affairs); 5 other Department officials, including the present and former Secretaries of Education; and Ms. Graham. Except for the former Secretary, who is located in Utah and whom we interviewed by telephone, all those interviewed provided their information under oath. However, we asked some of them follow-up questions by telephone when they were not under oath.

Most of these persons did not work in Ms. Graham's office during the entire period she was Assistant Secretary. (For example, eight people had not worked in her office since 1983.) Therefore, they were able to provide information for only part of the period our review covered. Many other people, because of such factors as their work locations, work hours, and duties, were not in a position to address all of our questions regarding the allegations.

The House requesters' offices wanted to protect the identity of persons who provided information critical of Ms. Graham to minimize the possibility of retaliation. In addition, several persons we interviewed expressed concern about being identified as providing adverse information to us, including two people who expressed concern about losing their jobs. Therefore, during our work and in this report, we have tried to avoid disclosing information that would help identify persons making adverse comments about Ms. Graham. Thus, it is difficult for the reader to evaluate the credibility of the various sources that furnished us information. We did evaluate such credibility, however, in drawing conclusions.

Most of the information in this report was obtained from interviews and could not be corroborated with documentary evidence. Because we did not tell Ms. Graham who had made adverse comments, she could not challenge their credibility on such bases as personal animosity and lack of full knowledge of the facts.

We also obtained information from other individuals and reviewed such agency records as motor pool logs, Ms. Graham's appointment calendar,² personnel data, and information on amounts paid to consultants.

²Ms. Graham's 1985 appointment calendar was the only one available. Ms. Graham told us that there were appointment calendars for 1981 to 1985. However, we were told that the calendars for 1981, 1982, and 1984 were not kept and the 1983 calendar was stolen.

One former consultant who worked for Ms. Graham and was said to be knowledgeable about some allegations refused to be interviewed.

ALLEGATION: PERFORMANCE OF DUTIES

It was alleged that Ms. Graham's performance of her duties was hampered because she came to work late, was absent from the office, and did not attend meetings with the Secretary.

Findings

The people interviewed provided conflicting information.

Presidential appointees like Ms. Graham are considered to be on duty at all times. Such officials do not earn sick or annual leave and do not charge leave for their absences. Accordingly, there was no need to keep records of Ms. Graham's time and attendance. There was no requirement that she work any set number of hours or be in her office at any particular time. She was accountable to the Secretary of Education for her work, and both the present and former Secretaries told us that they were pleased with her performance.

**Arrival at and departure
from the office**

Of the 18 people interviewed who estimated when Ms. Graham normally arrived at the office,

- 10 estimated between 9:00 and 10 A.M.,
- 5 estimated at 11:00 A.M. or later,
- 2 estimated between 10:00 and 11:00 A.M., and
- 1 estimated between 8:30 and 11:00 A.M.

According to Ms. Graham, she had no normal work hours. She reported directly to the Secretary of Education, she said, and was on 24-hour call. She added that it would be difficult to state a certain hour when she came into the office and that her arrival time varied depending on such factors as whether the Congress was in session or she had early morning interviews with the media. She said there were not many times when she arrived at the office after 11:00 A.M.

Even people who worked in Ms. Graham's office at the same time gave different estimates of her arrival in the office. For example, one of three people who worked in her office said that she usually arrived between 11:00 A.M. and 1:00 P.M.; another, around lunchtime or 2:00 P.M.; and the third, around 10:00 or 10:30 A.M.

Most of the 17 people who estimated when Ms. Graham left the office said that it was 7:00 P.M. or later.

Absences from the office

Three people, all of whose period of employment in Ms. Graham's office overlapped, said that she went home during the day, usually to let her dogs out, and returned to work later. Five people said that Ms. Graham seldom left the office during the day to go home.

Ms. Graham told us that, while on occasions she might have gone home during the day, she did not do so often. Seven people who could be expected to have frequent contact with Ms. Graham said there were no extended absences from the office.

Senior staff meetings

Estimates varied as to Ms. Graham's attendance at former Secretary Bell's senior staff meetings or similar meetings held by Secretary Bennett.

- Five people said that they believed that she seldom attended senior staff meetings.
- Three people estimated that Ms. Graham attended most such meetings.
- Three others said they attended some meetings for Ms. Graham but had no estimate of the percentage she attended.
- One person estimated that, since late 1983, the person attended, on behalf of Ms. Graham, over half of the senior staff meetings.

Ms. Graham told us that while she attended enough senior staff meetings to satisfy Secretaries Bell and Bennett, she could not estimate the percentage of meetings she had attended over the 4-1/2-year period.

On February 3, 1986, we requested information from the Department of Education on Ms. Graham's attendance at senior staff meetings. We provided a list of meetings shown on her 1985 appointment calendar and asked which of the meetings shown on the list she attended. We also asked how many senior staff meetings she was expected to attend and did attend during 1981 through 1984. On March 6, 1986, the Department responded with data relating to Ms. Graham's scheduled attendance at meetings

since Mr. Bennett became Secretary in February 1985. However, the Department pointed out that the data were based on materials prepared in advance of the meetings and that records of who actually attended could not be found. We were advised that the Department was still searching for data on meetings held before Mr. Bennett became Secretary of Education.

Secretaries' views on
Ms. Graham's performance

The former and present Secretaries of Education, to whom Ms. Graham was responsible, told us that they were pleased with her performance. According to former Secretary Bell, Ms. Graham assumed duties previously handled by two assistant secretaries and did a good job with a heavy workload. According to Secretary Bennett, Ms. Graham had fulfilled her duties with ability and integrity and had advanced the administration's goals. He said Ms. Graham provided invaluable assistance to him over the past year and that he has relied on her experience and judgment in countless matters. He would have been grateful, he added, to have her remain in her present position if the President had not nominated her to the Commission.

ALLEGATION: IMPROPER USE OF
GOVERNMENT FACILITIES

It was alleged that alcoholic beverages were consumed in Ms. Graham's office and that conversations were recorded.

Findings

Based on our work, there were apparently numerous instances of consumption of alcoholic beverages. Since no prior exemption, in writing, was granted by the Secretary of Education or a designee authorizing such consumption, this would violate federal regulations. We found no evidence that Ms. Graham recorded conversations without the knowledge of the people involved.

Consumption of alcoholic beverages

Most people interviewed either expressed no knowledge of drinking of alcoholic beverages in Ms. Graham's office or said it was limited to special occasions, such as farewell or Christmas parties. However, others told us about drinking alcoholic beverages at other times. Specifically:

--Twelve people said that they were aware of or participated in drinking in the late afternoons or evenings by Ms. Graham and others in her office. The situation generally described was a gathering of some staff members discussing work and having some beer or wine after

6:00 P.M. While the estimates of how often this occurred varied, about twice a week was the most common estimate. Five of the 12 said that they sometimes purchased or contributed to the cost of the beverages consumed. Three people said, and a fourth said she thought, that Ms. Graham kept alcoholic beverages in her office.

--Four of the 12 people and one other person said that Ms. Graham occasionally drank beer or wine with her lunch in the office.

--Two of the 12 people said Ms. Graham drank alcoholic beverages (beer, wine, or hard liquor) about every day she was in the office.

According to Ms. Graham, alcoholic beverages were consumed at the office during special occasions and office parties and she may have had wine with lunch once or twice. She said that there were occasional instances when people gathered in the office and had some beer or wine. She could not estimate the frequency of such instances over the period she was an Assistant Secretary. She added that, while alcoholic beverages left over after a party were put in her credenza at times, she did not regularly keep such beverages in her office.

Federal regulations relating to public buildings (41 C.F.R. 101-20.307) prohibit the use of alcoholic beverages in buildings under the control of the General Services Administration. An exception may be made when the head of an agency or the head's designee grants an exemption, in writing, for appropriate official uses. The Education Department's regulations for conduct in federal buildings (34 C.F.R. 73.735-605) state that the regulations prohibiting consumption of alcoholic beverages on the premises apply to all buildings and space under the Department's control.

The executive assistant to the Department's Deputy Under Secretary for Management advised us that the Secretary has informally delegated to assistant secretaries the authority to permit consumption of alcohol in government buildings. He said the delegation was not in writing and, to his knowledge, no exemptions or waivers were requested or granted. We believe this informal procedure is not consistent with the exception authority provided in 41 C.F.R. 101-20.307.

Recording of conversations

None of the persons interviewed indicated any knowledge of conversations being recorded by Ms. Graham except two people

who said Ms. Graham may have recorded some meetings with the participants' knowledge. Two people told us about another employee who recorded staff meetings with the staff's knowledge. One of the two told us that Ms. Graham, at his suggestion, listened to one of these recordings.

Ms. Graham told us that she did not recall recording conversations without people's knowledge. She added that she had told the employee who was recording meetings to stop recording them because it was inappropriate.

**ALLEGATION: IMPROPER USE OF
GOVERNMENT PERSONNEL AND VEHICLES**

It was alleged that Ms. Graham used government employees and vehicles for personal purposes.

Findings

Ms. Graham used both government personnel and vehicles for personal purposes.

Personnel

Eight people interviewed said that they had observed another employee or employees doing personal tasks for Ms. Graham during the workday. They mentioned four employees who performed personal tasks and several of the eight said that one of the four appeared to spend much time on such tasks. The estimates of time spent on such tasks by that employee ranged from 1 hour a day to 90 percent of the workday.

We interviewed three of the four persons mentioned. The person who was said to have spent a significant amount of time on personal tasks for Ms. Graham admitted performing such tasks. These tasks included buying alcoholic beverages for Ms. Graham about three times a week, picking up her dry cleaning, taking in her car for servicing and inspection, writing checks for her, and maintaining her checkbook. The employee estimated that an average of about 2 hours a day was spent on such tasks over a 3-year period, but noted that, while the tasks were performed throughout the workday, the employee's workday often extended from 8:00 A.M. to 8:00 P.M. Thus, the workday of this individual would often have exceeded the required 8 hours even if the estimated 2 hours per day during which she was performing personal tasks for Ms. Graham were not included.

Another person admitted purchasing a bottle of wine or liquor for Ms. Graham about once a week, making some phone calls relating to her personal matters, and maintaining her checkbook (i.e., preparing checks for her bills and reconciling the checkbook). This employee said about 1 hour a week was spent on

Ms. Graham's checkbook and that the employee normally spent 10 hours a day at the office.

A third person acknowledged performing personal tasks for Ms. Graham only a few times. This person admitted purchasing liquor for Ms. Graham once or twice and making some phone calls to a tenant of Ms. Graham's. The employee stated that another person, who was employed as a consultant, assumed responsibility for performing personal tasks for Ms. Graham after the person who spent a significant amount of time on such tasks left Ms. Graham's office. The consultant refused to be interviewed.

We asked Ms. Graham if she had ever asked employees to perform personal tasks for her. Ms. Graham said that her answer would depend how a "personal task" was defined. She said if it was defined as accepting the offer of someone who was going out to buy a sandwich to also buy one for her, the answer was yes. Otherwise, her answer was no. She said she had no recollection of asking employees to perform such tasks as picking up dry cleaning, purchasing alcoholic beverages, or having her car serviced. There could have been an occasion where a secretary might have made a call in connection with some of her properties, Ms. Graham said, but she did not recall any specifics.

According to Ms. Graham, she had made arrangements with two employees to work on her checkbook on their own time, not during work hours. She said she took back her checkbook when one employee refused compensation. The other employee was compensated, she added.

Both employees who worked on Ms. Graham's checkbook told us that she had not discussed with them when the work was to be done and that they were neither offered nor did they receive compensation for this task. The employee whom Ms. Graham said refused compensation said that she worked on the checkbook for about 1-1/2 years and that Ms. Graham knew she worked on it during the workday.

Under 31 U.S.C. 1301(a), appropriations can be expended only for the purpose for which they are appropriated. The statute would have been violated to the extent that any portion of the salaries of these employees represented payment for work that was not related to their official duties and responsibilities.

Nonofficial use of vehicles

Four employees who worked for Ms. Graham before 1985 told us that they arranged for government vehicles that Ms. Graham used to go to the hairdresser. Two of them said that she would arrange to have the car drop her off near the hairdresser, so that the driver would not know her actual destination.

Our review of motor vehicle dispatch records and Ms. Graham's 1985 appointment calendar showed two apparent trips to the hairdresser--one on April 23, 1985, and one on October 15, 1985. According to these records, government vehicles took Ms. Graham to a location where she had a hair appointment at about the time of her appointment. We did not review motor vehicle dispatch records for years before 1985 because, as stated, Ms. Graham's appointment calendars for those years were not available.

According to Ms. Graham, she used government vehicles only for official purposes. There may have been an occasion, she said, when she had an official appointment and ran a personal errand at the same time.

We discussed one of the two trips with Ms. Graham. The records for this trip showed that on April 23, 1985, a government car took Ms. Graham from her office building to Connecticut Avenue and L Street at 1:50 P.M. and returned from that address to her building at 3:53 P.M. Ms. Graham's calendar showed a 2:00 P.M. appointment at a hairdresser at Connecticut Avenue and L Street.

Ms. Graham said that she had probably gone to the hairdresser but was certain that she must have also had official business at that location. She noted that her calendar also showed an appointment at a time 45 minutes before her hair appointment (the calendar entry consisted of two initials) with a person who works at the White House. We pointed out that the time of that appointment was 35 minutes before the government car took her from her office building. She realized that, she said, then reiterated that, as far as she could recollect, she never used a government car specifically for personal business.

Using government vehicles for other than official purposes is prohibited by law (31 U.S.C. 1349(b)). Using a government vehicle for a combination of official and personal purposes, as Ms. Graham said she may have done, is prohibited by the Department of Education. The Department's policy for use of official vehicles, dated March 8, 1982, states that "Since it is the policy of the Department to interpret the term 'official purposes' strictly, official and non-official business may not be intermingled."

ALLEGATION: USE OF CONSULTANTS

The initial allegations related to whether unnecessary consultants were hired. Later, we were asked by the House requesters to answer six questions about consultants. The

questions and our responses are presented below. The information developed regarding the allegations is included within the responses.

1. What procedures were in place for monitoring consultants' performance?

We talked to five employees who supervised consultants. They were not aware of any specific procedures, nor were they given specific guidance, for monitoring consultants' performance.

2. On what basis was Ms. Graham able to certify the consultants' time and attendance reports?

Ms. Graham said that she generally did not certify the consultants' time and attendance reports. She said she relied on her staff for certifying consultants' time. She also said she was not aware of any consultants who did not work all the hours shown on their time sheets.

Four of the five persons who supervised consultants (two of whom said they did not personally sign the time sheets) indicated that they were aware of the consultants' attendance because they had regular, usually daily, contact with the consultants. The responses of the fifth supervisor to this question and question 3 are discussed under question 5.

3. How did Ms. Graham determine that consultants were satisfying work requirements, particularly where their responsibilities under their appointments were not specifically detailed?

Ms. Graham said she believed that the consultants' performance generally was compared to their job descriptions to make sure they were meeting work requirements. One supervisor said that she compared the consultants' performance to their job descriptions. According to Ms. Graham and four of the five supervisors we interviewed, the consultants were given specific tasks, and they evaluated the consultants' performance on these tasks.

We asked Ms. Graham about one individual who, after resigning from Ms. Graham's office, was immediately employed as a consultant by her for 1 year. During that year the person was assigned to the White House. Ms. Graham said that she did not assign any duties to or supervise that consultant because the person worked at the White House. According to Ms. Graham, this person was employed as a consultant after she resigned because the former Secretary of Education told Ms. Graham to hire her. The former Secretary confirmed that he had told Ms. Graham to employ the person as a consultant. This consultant told us

that, while at the White House, she worked on broad overall government policies, primarily those dealing with the family. She said education-related matters, such as school improvement and tuition tax credits, were interwoven throughout her work on family matters.

Two of the consultants employed by Ms. Graham's office were assigned to work for the Committee for the 50th American Presidential Inaugural. The committee requested that the consultants be detailed on a nonreimbursable basis to the General Services Administration to provide assistance to the committee pursuant to the authority in 40 U.S.C. 490(a)(15). One consultant was to work as director of entertainment from December 10, 1984, to February 1, 1985; the other was to serve as a staff assistant from January 7 to February 1, 1985.

The person identified as the consultants' supervisor said that he believed the consultant who was to work on the inauguration from January 7 to February 1 was so detailed for about a month. He said that the other consultant did not work for him, and that he believed she worked for Ms. Graham. Ms. Graham's administrative officer said that, while the two consultants were not formally detailed, both of them worked for the committee for the period requested.

Ms. Graham told us that when the two consultants were requested by the committee, she approved the request after her administrative officer told her it was appropriate. According to her, such details were not unusual and employees from the Department and other agencies were detailed for the inauguration. She did not recall any other people from her office being detailed, she said.

The legislative authority cited in the committee's request authorizes the General Services Administration to assist the committee during the inaugural period. It does not authorize other agencies to detail permanent employees or consultants to provide inaugural assistance either directly to the committee or through the General Services Administration. Also, the inaugural period is defined by 36 U.S.C. 721 (b)(1) as beginning 5 days before and ending 4 days after inauguration day. The two consultants were detailed for longer than the inaugural period. Even if a valid detail from the Department of Education to the General Services Administration had been made under other statutory authority, such as 31 U.S.C. 1535, the Department of Education should have been reimbursed for the consultants' salary for the period during which they were detailed.

The use of federal employees on a nonreimbursable basis in connection with Presidential inaugurations has occurred regularly for many years. Pursuant to a congressional request, our Office is reviewing such use and expects to issue a report this summer.

4. What specific documentation of the work activities of these consultants is available?

Ms. Graham said that, in probably every case, consultants provided some documentation in writing. Based on our discussions with Ms. Graham and the four supervisors, the documentation of work activities would depend on the nature of the consultant's work. Consultants who were hired to make specific studies, we were told, prepared specific reports. For example, a consultant hired to analyze a block grant program prepared a written analysis. Other consultants performed duties similar to the daily activities of regular employees. For example, one consultant would draft responses to letters that came to Ms. Graham's office.

5. How did the Department determine the need for the consultants it hired?

Ms. Graham and two supervisors said that consultants were hired to do needed work because there was not enough staff or the staff did not have the skills required. One supervisor said that the consultants he supervised performed needed work. The consultants had been employed previously as Educational Policy Fellows. They were retained for a few months as consultants after their fellowships ended. According to another supervisor, he did not know how the need for the two consultants he supervised was determined. One consultant was already employed, and the other was being hired when the supervisor started work in Ms. Graham's office. However, the supervisor indicated that the consultants had skills relevant to his office's responsibilities and that they were productively employed.

Nearly all the people we interviewed who expressed knowledge about consultants said that those with whom they were familiar performed their duties.

One supervisor said that a consultant was hired as a favor to a former Administrator of the Environmental Protection Agency rather than to perform specific tasks. The consultant was competent and intelligent, the supervisor said, but was not knowledgeable about education. The supervisor added that the consultant was given tasks to do and performed them, but although the consultant was employed full time, there was not enough work to keep him busy. According to the supervisor, the consultant was not at work all the hours shown on his time sheet, but although attendance problems were discussed with him, it was difficult to criticize him because the supervisor was not awaiting any work from him.

The justification for hiring this consultant stated that he would provide policy advice to Ms. Graham's office on legislative and public affairs matters, the National Commission on

Excellence Report, and various field hearings. The justification stated that this consultant was said to be specially qualified to perform these services because of his exceptional background and experience in the highest level of policy planning in government. He was hired on a 120-day appointment at the annual salary equivalent of about \$63,800--the highest rate a consultant can be paid.

Ms. Graham said that she did not remember who recommended this consultant. She believed he worked at the Environmental Protection Agency when she interviewed him. According to her, the consultant started in her office at a time when there was a great deal of activity as a result of a report called A Nation at Risk and related regional forums. She believed this consultant's responsibility could be summed up as working on the forums, writing speeches, and being a liaison with the National Aeronautics and Space Administration on the young astronaut program.

This consultant told us that:

- He worked all the hours shown on his time sheets and more.
- The former Administrator of the Environmental Protection Agency and other administration officials may have helped get him the job. He presumes that officials in the White House got him a temporary appointment with Ms. Graham's acceptance.
- He was hired primarily because Ms. Graham was dissatisfied with the quality of written material coming out of the Department. He was to try and review everything of importance that was going to be published.
- His duties were those of an editor. He spent most of his time editing a magazine prepared by Ms. Graham's office and other written material.

The services that this consultant said he performed differ considerably from the services that he was hired to perform or that Ms. Graham said he performed.

6. What was the total amount of money paid to each consultant by Ms. Graham's office?

Department of Education officials gave us quarterly reports showing the amounts paid to consultants since September

1983. We used those data for calculating payments made after that date with one exception. The exception involved data for two pay periods that were not included in the reports although it appeared that one consultant had worked during those periods. We were advised by a Department official that the reports are based on data from a payroll system maintained for the Department by another federal agency outside the Washington, D.C., area. Because this official agreed that the consultant, who worked full time, had probably worked during the two pay periods, we added her normal pay for those periods to the amounts shown on the reports. We did not attempt to determine why no data were reported for those two periods.

A Department official told us that it would be difficult to obtain pay data for consultants for periods before June 12, 1983,³ because, until then, the Department was on the Department of Health and Human Services' payroll system. We estimated the pay for consultants employed before that date, based on records in Ms. Graham's office, which showed the dates that they began and ended employment as consultants and their hourly rates of pay. We assumed that they worked 80 hours each 2-week pay period unless they started or ended employment during a pay period.

Table 1 shows the estimated amounts paid to each consultant employed in Ms. Graham's office during the time she was Assistant Secretary.

³According to a list of consultants provided by Ms. Graham, no consultants were employed in her office during June, July, and August 1983.

Table 1:

Consultants Employed by Ms. Graham's
Office from July 1981 to December 1985

<u>Consultant</u>	<u>Period employed</u>		<u>Amount paid</u>
	<u>From</u>	<u>To</u>	
A	July 1981	Nov. 1981	\$16,767
B	Sept. 1981	Oct. 1981 ^a	5,396
C	Oct. 1981	Dec. 1981	7,150
D	Oct. 1981	Feb. 1982	16,574
E	Jan. 1983 ^a	May 1983	13,070
F	Mar. 1982	Oct. 1982	27,826
G	Mar. 1982	June 1982	
	Oct. 1983	Oct. 1984	71,429
H	Mar. 1982	July 1982 ^a	12,387
I	Apr. 1982	May 1982	3,158
J	Oct. 1982	Feb. 1983	11,552
K	Sept. 1983	Jan. 1984	21,380
L	Dec. 1983	Feb. 1984	6,727
M	Feb. 1984	Feb. 1984	1,386
N	May 1984	Mar. 1985	36,639
O	June 1984	Dec. 1985	16,115
P	July 1984	Oct. 1984	12,937
Q	Sept. 1984	Feb. 1985	12,064
R	Oct. 1984	Dec. 1985	74,481
S	Nov. 1984	Dec. 1984	3,193
T	Dec. 1984	Oct. 1985	29,249
U	Sept. 1985	Dec. 1985	9,202
V	Nov. 1985	Dec. 1985	5,874
W ^b	Apr. 1985	May 1985	6,110

^aIn some cases the dates of employment shown on the list of consultants provided by Ms. Graham differed from the dates shown on personnel records. Specifically, the list showed that (1) consultant B was employed until September 1981, (2) consultant E started in February 1983, and (3) consultant H was employed until June 1982.

^bConsultant W, who was hired as a consultant after he resigned from a position in Ms. Graham's office, was not on the list of consultants provided by Ms. Graham.

ALLEGATION: CASH AWARDS

It was subsequently alleged that Ms. Graham had recently made cash awards to employees without written justification.

Findings

The awards process followed was generally adequate.

Ms. Graham's administrative officer provided us with data on three groups of awards made by Ms. Graham's office during 1985. These were

--performance awards ranging from \$573.02 to \$1,426.74 made to 11 employees;

--eight awards, six for \$1,000 and two for \$1,500, to employees on the basis of special acts or services; and

--awards ranging from \$200 to \$500 to 18 employees.

The performance awards were required by law for employees under merit pay who received high performance evaluations. Employees with outstanding ratings received 2.2 percent of their salary; those with superior ratings received 1 percent.

Ms. Graham said that when the awards for special acts or services were made, her office believed that these were the only cash awards (the performance awards are not considered cash awards). According to her, she and her senior staff determined who was most deserving of awards. She said that she made some recommendations and obtained others from her deputies, who may have sought recommendations from their staff. The amounts of the awards were decided working with the deputies, she said. She added that, when her office later learned that their customary cash awards (the \$200-\$500 awards) could be made, they did so using the same process.

There were no written justifications for some of the \$200-\$500 cash awards. Ms. Graham said that she relied on her staff to ensure that the proper documentation was prepared. According to Ms. Graham's administrative officer, while a recommendation form was required for an award, a written justification was not required unless the employee had a fully successful, rather than a higher, rating. However, some supervisors prepared written justifications even when they were not required. She had appropriate documentation for all these awards.

Recommendations accompanied by written justifications were prepared for the eight awards made for special acts or services. The Department's instructions for its awards program were not clear as to what constitutes a special act or service. They state:

"Performance may be that which exceeds job requirements as a one-time occurrence such as a particular project which involves overcoming unusual difficulties, a special effort or innovation that results in significant economies, or courageous handling of an emergency situation related to official employment."

Few, if any, of the written justifications described actions that fit the descriptions in the instructions.

The instructions require that the amount of a special act or service award be justified on the basis of the act's tangible and intangible benefits to the government. None of the eight justifications showed the basis for the amount of the award.

Ms. Graham signed all eight recommendations as the person who (1) initiated the recommendation, (2) recommended approval, and (3) approved the award. Ms. Graham had the authority to approve awards up to \$5,000 except for Senior Executive Service employees. One of the eight awards was to such an employee. That award was also approved by the Under Secretary of Education.

Congress of the United States
House of Representatives
Washington, D.C. 20515

November 20, 1985

The Honorable Charles A. Bowsher
Comptroller General of the United States
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

We are writing to request that the General Accounting Office undertake an immediate review regarding the Department of Education's Office of the Assistant Secretary for Legislation and Public Affairs. A number of serious allegations about the performance of the Assistant Secretary and the Office of the Assistant Secretary have come to our attention during an investigation of the Department of Education's Publications and Audio Visual Advisory Council (PAVAC) by the Subcommittee on Intergovernmental Relations and Human Resources. While it would be imprudent to assume that the allegations are true, they are serious enough to warrant a thorough investigation. We are writing to request your assistance in performing that investigation.

Specifically, we request that this investigation answer the following questions:

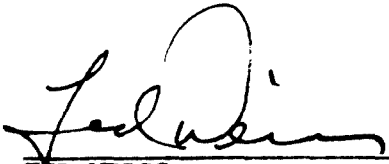
- 1) Were government funds used to hire unnecessary consultants by the Office of the Assistant Secretary since 1981?
- 2) Did the Assistant Secretary perform her duties on a regular basis?
- 3) Have government vehicles and personnel been used for non-official purposes?
- 4) Have government facilities been used for activities in violation of federal or local laws, or of Department standards of conduct?

The staff members handling this investigation are Diana Zuckerman of the Subcommittee on Intergovernmental Relations and Human Resources (225-2548), Robert Adler of the Subcommittee on Health and the Environment (226-2620), and Nathan Szanton of Mr. Waxman's personal staff (225-3976).

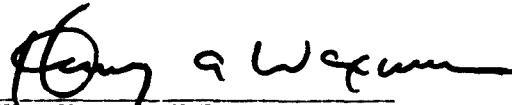
The Honorable Charles A. Bowsher
November 20, 1985
Page Two

Thanking you in advance for your assistance, and looking forward to
working with with you, we are,

Sincerely,



TED WEISS
Chairman
House Subcommittee on
Intergovernmental Relations
and Human Resources



HENRY A. WAXMAN
Chairman
House Subcommittee on
Health and the Environment

TWHAW:nd

ORRIN G. HATCH, UTAH, CHAIRMAN
 ROBERT T. STAFFORD, VERMONT
 DAN QUAYLE, INDIANA
 DON HICKLES, OKLAHOMA
 PAULA HAWKINS, FLORIDA
 STROM THURMOND, SOUTH CAROLINA
 LOWELL P. WEICKER, JR., CONNECTICUT
 MALCOLM WALLOP, WYOMING
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EDWARD M. KENNEDY, MASSACHUSETTS
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 SPARK M. MATSUHAGA, HAWAII
 CHRISTOPHER J. DODD, CONNECTICUT
 PAUL SIMON, ILLINOIS
 JOHN F. KERRY, MASSACHUSETTS

RONALD F. DOCKSAI, STAFF DIRECTOR
 KATHRYN Q.L. HIGGINS, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON LABOR AND
 HUMAN RESOURCES
 WASHINGTON, DC 20510

November 22, 1985

The Honorable Charles A. Bowsher
 Comptroller General of the United States
 General Accounting Office
 441 G Street, N.W.
 Washington, D.C. 20548

Dear Mr. Bowsher:

We are writing you in regard to a letter you have received requesting a review of the conduct of Ms. Anne Graham, the Assistant Secretary of Education for Legislation and Public Affairs. Specifically, we are very concerned that the questions regarding her conduct included in the letter may well be based on unfounded charges by disgruntled former employees who have been involuntarily separated from their positions and whose own veracity may be questioned.

For over four years our Subcommittee has worked with Assistant Secretary Graham. We find it curious that charges of the kind listed in the November 20th letter from Congressmen Weiss and Waxman have never been brought to our attention. Further, it is equally curious that charges of this nature never surfaced during the Commerce Committee's consideration of Ms. Graham's nomination for Commissioner on the Consumer Products Safety Commission. That nomination has been subject to investigation by the FBI and by the Committee staff.

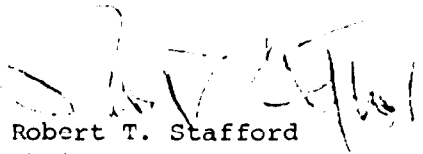
A GAO investigation of the nature requested in the Weiss-Waxman letter has the practical effect of further postponing Ms. Graham's confirmation by the Senate. As you may know, her nomination for Commissioner has been before us since July 1 of this year. Her confirmation hearing was held on September 12 and was unanimously reported by the Committee on Commerce, Science and Transportation on November 14. We had expected her nomination to be considered by the full Senate this week.

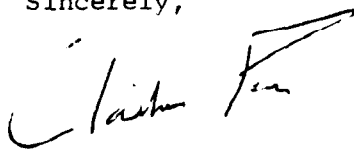
As members of the authorizing and oversight Subcommittee for the Department of Education, we are very concerned over what could be a protracted and unnecessary investigation that would unduly delay Ms. Graham's confirmation. We would ask, therefore, that you conduct an immediate preliminary investigation on this matter within the next 72 hours to determine if the questions posed in the Weiss-Waxman

The Honorable Charles A. Bowsher
November 22, 1985
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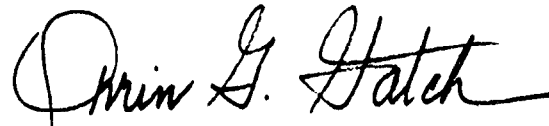
letter have any basis in fact, or if they are anonymous and/or unsubstantiated charges. If they appear to have basis in fact, a more complete investigation should, of course, proceed and we would appreciate having the results of that investigation within two weeks. If, however, the questions are anonymous charges with no substantiation, then we would ask that you report this to us so that Ms. Graham's nomination can be immediately considered by the full Senate.

Sincerely,


Robert T. Stafford
Chairman
Subcommittee on Education,
Arts and Humanities


Claiborne Pell
Ranking Minority Member
Subcommittee on Education,
Arts and Humanities




Orrin G. Hatch
Chairman
Committee on Labor and
Human Resources

(118161)