

# NIH Policy Manual

## 1130 - NIH Delegations of Authority

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Transmittal Notice

- 1. Explanation of Material Transmitted:** This chapter describes the policy and required procedures for the delegation and redelegation of authorities held by the Director of the National Institutes of Health (NIH). The *NIH Delegations of Authority Guidebook* includes supporting procedures and guidance.
- 2. Filing Instructions:**
  - **Remove:** None
  - **Insert:** NIH Policy Manual, Chapter 1130, dated 01/30/2024

**PLEASE NOTE:** For information on:

- The content of this chapter, contact the Management Operations Branch (MOB), Division of Compliance Management (DCM), Office of Management Assessment (OMA), Delegations of Authority (DOA) Program: [NIHDOA@nih.gov](mailto:NIHDOA@nih.gov), or 301-496-4606, or navigate to <https://oma.od.nih.gov/DMS/Pages/Delegations-of-Authority.aspx>.
- The NIH Policy Manual contact MOB, DCM, OMA, NIH Policy Manual Program: [policymanual@nih.gov](mailto:policymanual@nih.gov) or 301-496-4606, or navigate to the following URL: <https://oma.od.nih.gov/DMS/Pages/Manual-Chapters.aspx>.

### A. Purpose

This NIH Manual Chapter (MC) describes the policy and requirements for the development, review, approval, and distribution of NIH Delegations of Authority (DOA).

## **B. Scope**

This policy applies to authorities that are granted to the NIH Director. For the purposes of this Manual Chapter, these authorities are referred to as NIH-level authorities.

This policy applies to NIH personnel involved in the development, review, approval, issuance, use, and maintenance of NIH-level DOAs, and redelegation of these authorities within the Institutes, Centers, and OD Offices (ICOs).

Some NIH employees have certain general authorities based on their status or position within their organization. For example, supervisors have the authority to assign work to employees under their supervision. These authorities are defined in position descriptions, functional statements, and other official documents. This chapter does not apply to these general grants of authority.

## **C. Background**

Delegations of authority are an important part of the legal foundations of the operations of NIH and the Department of Health and Human Services (HHS). Without DOAs, nearly all authorities would remain with the HHS Secretary or NIH Director. Appropriate DOAs allow NIH officials to legally carry out mission-critical activities. Carrying out these activities without legal authority could adversely affect NIH and the official who acts without legal authority. For example, an official who approves an expenditure of funds without proper legal authority could be held liable for the funds.

## **D. Definitions**

### **1. Delegation of Authority (DOA):**

Formal assignment or commitment of legal power to make specified decisions or take actions. It may involve regulatory authority, administrative authority, or both. It generally includes the authority to sign a legal document approving other individuals to take certain actions.

### **2. Redelegation:**

The act of empowering others with specific legal authority. The term “delegation” describes the initial assignment of authority, while “redelegation” describes the reassignment of that authority to another official. Any NIH official who delegates or redelegates authority may continue to exercise that authority, since delegating does not divest the authority from the delegating official.

### 3. Types of Delegations:

- a. **Regulatory (Program) Authorities:** Are contained in Acts of Congress, Federal Regulation, or Executive Orders of the President that authorize NIH programs and activities. They authorize NIH to take substantive actions, such as issuing program guidelines, awarding grants, conducting and supporting research, and conducting and supporting research training activities within the ICOs. NIH-wide Regulatory Authorities are generally vested in the NIH Director directly by law, regulation, or delegated to the NIH Director from the Secretary, HHS.
- b. **Administrative Authorities:** Authorize the taking of financial, personnel, or other administrative actions in support of substantive programs, such as purchasing equipment, hiring employees, or approving travel. These authorities are provided by government-wide acts and regulations or central executive agencies such as the Office of Management and Budget, the Office of Personnel Management, or the General Services Administration. Administrative Authorities at NIH are usually coordinated through the Office of Management (OM) in the Office of the Director and in the Executive Offices of the ICOs.

### 4. NIH-Level Delegation:

Authorities granted to the NIH Director. These include authorities granted to the NIH Director directly by legislation, regulation, or order, or delegated to NIH from a Department of Health and Human Services (HHS) official. Most NIH-level authorities are identified within the Public Health Service Act (e.g., [42 U.S.C. 281 et seq.](#)).

### 5. Institute, Center, and Office (ICO) Level Redelegation:

Authorities granted to ICO officials and redelegated within the ICOs. ICO-level redelegations as defined by this policy can only originate from NIH-level delegations.

### 6. NIH Delegations Officer:

Leads the NIH DOA program within the Management Operations Branch (MOB), Division of Compliance Management (DCM), Office of Management Assessment (OMA), OM. Serves as the NIH principal advisor and implements HHS and NIH policies and procedures on DOA.

### 7. Issuing Office (IO):

The entity with functional responsibility for the subject matter of the authority. The IO serves on behalf of the Delegating Official and maintains all DOAs within their area of functional responsibility.

## **8. Delegating Official:**

The highest-level official who holds the authority and delegates the authority to another official. For NIH-level authorities, this is usually the NIH Director. For ICO-level authorities, this is usually the ICO Director or Executive Officer.

## **9. DOA Coordinator:**

Serves as the ICO main point of contact for DOA inquiries, manages the ICO-level redelegation official records, manages all delegations within their ICO, and works with the NIH Delegation Officer for NIH-level delegation requests.

## **E. Policy**

### **1. Redelegations:**

Authorities may be redelegated unless restricted by law, regulation, or by the initial delegation. Any NIH officer or employee who delegates or redelegates authority may continue to exercise that authority, since the act of delegating does not divest the authority from the delegating official from whom the authority originated.

- a. Delegating Officials can (if they so choose) place limitations on any aspect of the authority that the Delegating Official redelegates.
- b. Delegating Officials should redelegate authorities to the lowest practical working level to ensure timely, economical, and effective management and administration of NIH programs.

### **2. NIH DOA System:**

The NIH DOA System is the central repository for all NIH-level Delegations of Authority, located at: <https://delegations.nih.gov>. The system provides capability for ICOs to redelegate from NIH-level authorities (as appropriate). ICOs, through their designated DOA Coordinator, are expected to update and maintain any ICO redelegation of NIH-level authority within this system.

### **3. Authority of Acting Officials:**

Authority delegated to an official position may be exercised by the person officially designated to serve in an acting capacity in a vacant position, unless prohibited from doing so by the terms of the delegation, by a restriction written into the document designating the acting official, or unless not legally permissible. In this case, the official should sign with their name, and acting position title, (e.g., Acting Deputy Director) in the signature line. The term "acting" may also be used when serving in the temporary absence (e.g., vacation, travel,

sick leave) of an official. In this case, the employee will sign with their name followed by “for” and include the name and title of the absent official written underneath.

#### **4. Acting Officials for Presidentially Appointed, Senate-Confirmed (PAS) Positions:**

The Federal Vacancies Reform Act of 1998 provides that the “first assistant” (absent Presidential action to select another qualified individual) to the office of such officer shall perform the functions and duties of the office temporarily in an acting capacity. For PAS positions, the “Acting” title is applicable and reserved only in instances in which there is a vacancy in the position by virtue of death, resignation, or where the incumbent is otherwise unable to perform the functions and duties of the office.

#### **5. Authority of Deputies or a Principal Deputy:**

A deputy or principal deputy does not automatically have the same authority as the senior official. The deputy’s or principal deputy’s authority is limited to the authorities specifically given to the position or the authorities they may exercise when serving in an acting capacity during the absence of the senior official.

#### **6. Delegations by Title:**

Redelegations must be made to official positions rather than employees by name. In the rare instance an authority is delegated to an employee by name, anyone acting for that employee may not act on the authority and the authority becomes void when the occupant vacates the position.

#### **7. Effective Date of Delegation:**

Each delegation becomes effective on the date the delegation is approved unless a future effective date is specified.

#### **8. Delegations to be in Writing:**

Each DOA must be in writing in memorandum format, addressed to the position to whom the authority is being delegated, and signed by the official with the authority to delegate. For templates and guidance see the NIH DOA Guidebook.

#### **9. Delegation Review and Recertification:**

Issuing Offices (IOs) will review their NIH-level DOAs whenever there are substantive changes within law, regulations, HHS or NIH policy, Executive Orders, reorganizations, or within 5 years of last review (whichever comes first). IOs are expected to revise or rescind accordingly or certify to the NIH Delegations Officer that no changes are needed.

## **10. Effect of Reorganizations on Delegations:**

Pursuant to HHS General Administration Manual 8- 60, whenever an NIH entity is reorganized, delegations to and within that organization remain in effect in the successor organization, unless the reorganization document specifies otherwise. (Note: The reorganization document must always contain a statement as to how the reorganization affects existing delegations.) IOs are expected to review and update DOAs after the approval of the reorganization. Contact the NIH Delegations Officer to determine if any NIH delegations need to be written or revised because of the reorganization.

## **11. Distribution of DOAs:**

The NIH Delegations Officer will publish all NIH-level DOAs electronically in the NIH DOA system and send notification via the NIH Delegations listserv upon clearance and signature.

## **12. Superseding DOAs:**

Whenever a new delegation supersedes another delegation, the superseded delegation and all redelegations based on it become null and void on the effective date of the new delegation, unless the new delegation specifically states otherwise.

## **13. Rescinding DOAs:**

Whenever a delegation is rescinded, the delegation and all redelegations based on it become null and void on the date the rescinding memorandum is signed.

## **F. Roles and Responsibilities**

### **1. Delegating Official:**

- a. Signs the delegation memo to formally delegate authority.
- b. Ensures the incumbent(s) of the position(s) to whom the authority is being delegated has access to the policy, memoranda, or procedural instructions needed to exercise the delegated authority.

### **2. Issuing Office (IO):**

The Issuing Office is the entity with functional responsibility for the subject matter of the authority. The IO serves on behalf of the Delegating Official and has the following responsibilities:

- a. Serves as the subject matter expert to their respective delegation and maintains all NIH DOAs within their area of functional responsibility, including all background

material and legal authority.

- b. Monitors the delegation subject area to determine the need to publish a new delegation or to revise or rescind an existing delegation of authority.
- c. In coordination with their respective DOA Coordinator, reviews their delegations whenever there are substantive changes within law, regulations, HHS/NIH policy, Executive Orders, reorganizations, or within 5 years of last review (whichever comes first). The IO and DOA Coordinator are expected to revise or rescind accordingly or certify to the NIH Delegations Officer that no changes are needed. If the IO is certifying that no changes are needed, the organizational head of the issuing office must approve a recertification memo and submit to the NIH Delegations Officer. See Section G. Procedures and the Guidebook for more information.
- d. Initiates action in coordination with their respective DOA Coordinator to develop a Delegation Package to request new or revised authority, or to rescind a delegation.
- e. Coordinates with the NIH Delegations Officer and their respective DOA Coordinator in the development, review, and clearance of a new DOA, a revision to or rescission of an existing DOA.
- f. Ensures NIH DOAs are accurate and up to date by providing stakeholders and Subject Matter Experts (SMEs) an opportunity to review new, revised, or existing NIH DOAs. The IO must properly document stakeholder and SME review to support decision-making and approval.
- g. Ensures that the position(s) to whom the authority is being delegated has access to the policy, memoranda, or procedural instructions needed to exercise the delegated authority.
- h. Alerts affected officials of all changes in the authorities delegated to them and notifies affected ICO DOA Coordinators regarding changes to NIH-level DOAs.

### **3. Office of the General Counsel (OGC), HHS:**

- a. Upon request, reviews proposed NIH-level DOAs for legal supportability, consistency, and avoidance of conflict with applicable government ethics statutes and regulations before the formal delegation package is submitted for approval.
- b. Through its Public Health Division (OGC/PHD), Ethics Division (OGC/ED), and as necessary, General Law Division (OGC/GLD), indicates clearance or identifies comments. Where OGC clearance is contingent on making one or more changes to the draft delegation, OGC will note the contingency, as appropriate, in an accompanying comment.
- c. Provides the NIH Delegations Officer and IO with information, guidance, and legal interpretation of a delegation.

### **4. NIH Delegations Officer, Management Operations Branch (MOB), Division of Compliance Management (DCM), Office of Management Assessment (OMA), OM:**

The NIH Delegations Officer leads the NIH DOA program and has the following responsibilities:

- a. Serves as the NIH principal advisor on delegations of authority.
- b. Implements Department and NIH policies and procedures on delegations of authority.
- c. Provides assistance and policy guidance to IOs in the research, development, review, and issuance of all new, revised, and rescinded NIH-level DOAs.
- d. Assists IOs in preparing and reviewing any Delegation Package to be signed by the Director, NIH, or other NIH-level Delegating Official.
- e. Requests and coordinates OGC legal review for new, revised, or rescinded NIH-level delegations of authority.
- f. Submits completed Delegation Packages through proper channels for clearance and approval by the NIH Director and other senior NIH officials and communicates the approval decision to the IO.
- g. Maintains the central repository of delegations and redelegations of NIH-level authority in the NIH DOA system and provides technical assistance as needed.
- h. Manages the official records for all NIH-level Delegations signed by the NIH Director or other senior NIH officials.
- i. Serves as liaison to HHS organizations and coordinates requests for new or unrestricted authorities for NIH officials.

**5. NIH Deputy Director for Management (DDM):**

- a. Reviews and provides formal clearance for all NIH-level DOAs.

**6. NIH Executive Secretariat:**

- a. Receives NIH-level DOA requests from the Delegations Officer to obtain final approval from the NIH Director or other senior NIH official.

**7. ICO Executive Officers and OD Office Directors:**

- a. Designates the DOA Coordinator for the ICO. Executive Officers or OD Office Directors may designate multiple DOA Coordinators.
- b. Sends designation to the NIH Delegations Officer, specifying the name, organization, and email address.

**8. DOA Coordinator:**

- a. Serves as the ICO main point of contact for DOA inquiries and manages the official records for all ICO-level redelegations.
- b. Ensures that the DOA Coordinator's organization meets all requirements in this policy.
- c. Analyzes updated NIH-level delegations, policies, legislation, or regulations, and reorganizations, to determine effects on delegations under their purview.

- d. Reports any discovered conflicts between policy and DOAs, or errors to the IO and NIH Delegations Officer.
- e. Manages ICO redelegations and ensures all ICO-level redelegations entered in the NIH DOA system are aligned with the corresponding NIH-level delegation.
- f. Periodically reviews ICO redelegations to determine the need to create, revise, or rescind an existing ICO DOA, or an NIH-level DOA that has been created, revised, or rescinded.
- g. Prepares and submits ICO DOA packages to appropriate ICO officials for clearance and final approval.
- h. Coordinates with the IO and NIH Delegations Officer to prepare the formal package for NIH-level DOA changes if the ICO is the IO of an NIH-level DOA.
- i. Subscribes to the Delegations listserv DELEGATIONS-L at <https://list.nih.gov> to receive notification when there are any changes to NIH-level DOAs.
- j. Alerts affected officials of all changes in the authorities delegated to them and notifies any stakeholders regarding changes to delegations.

## 9. NIH personnel:

- a. Complies with this policy and published DOAs.
- b. Reports any discovered conflicts between policy and DOAs, or errors to the NIH Delegations Officer, DOA Coordinator, or IO.

## G. Procedures

This section includes requirements for NIH-level DOAs. For guidance on ICO-level redelegation procedures, please see the DOA Guidebook.

### 1. Issuing, Revising, Rescinding NIH-Level DOAs:

The IO and DOA Coordinator will coordinate with the NIH Delegations Officer to review, prepare, and submit the DOA package for clearance. The IO and DOA Coordinator will provide background material which includes legislation or legal authority to implement the delegation, rationale for issuing the DOA, and any relevant correspondence or supporting documentation.

#### a. NIH-Level DOA Package Requirements:

##### [Required templates](#)

- i. **Request Memo:** IO and DOA Coordinator create the request memo with a justification or rationale for the request addressed to the Delegating Official and submits to the NIH Delegations Officer.  
NOTE: This Request Memo is a *draft* and should not be signed by the requesting official until the OGC clearance process is completed.
- ii. **Current DOA:** (for revisions or rescissions only).

- iii. **Proposed DOA:** IO and DOA Coordinator create the proposed DOA document in coordination with the NIH Delegations Officer (for new delegations or revisions only). This is the formal document that will be signed by the Delegating Official.
  - iv. **Rescission Memo:** IO and DOA Coordinator create the proposed rescission memo in coordination with the NIH Delegations Officer (for rescissions only).
  - v. **Background information:** IO submits any information pertinent to the delegation to the NIH Delegations Officer, e.g., emails, related policies, cited legislation.
- b. **OGC Clearance:** Once the DOA package is in final draft form and with the approval of the IO and DOA coordinator, the NIH Delegations Officer will send the proposed draft DOA package to OGC for legal review. The NIH Delegations Officer will coordinate updates with the IO if OGC has suggested edits, questions, or comments.
  - c. **Clearance and Approval:** The DOA package will be cleared through the IO when the IO official signs the Request Memo. The NIH Delegations Officer will route the package for clearance through the MOB, DCM, OMA, appropriate program or ICO officials as determined by the IO, and the NIH Deputy Director for Management. The package will then be routed to the NIH Executive Secretariat for final approval by the NIH Director or NIH Principal Deputy Director, as appropriate.
  - d. **Implementation of DOA:** The NIH Delegations Officer:
    - i. Receives the approved delegation or rescission package
    - ii. Updates the delegation in the NIH DOA system
    - iii. Notifies the Delegations-L listserv that a new, revised, or rescinded NIH-level DOA has been approved and published in the system.
    - iv. Maintains the official records.

## 2. Requesting DOA from the Secretary, HHS:

The IO must coordinate with the NIH Delegations Officer to facilitate the request.

## 3. Reviewing and Certifying Active NIH-level DOAs:

The IO in coordination with the DOA Coordinator must periodically review their NIH-level DOAs to determine if they are affected by new or amended legislation, policy, reorganization, or any other relevant changes. The IO and DOA Coordinator are expected to review every 5 years, based on last publication, revision, or certification date, unless the IO or DOA Coordinator determines that a review is warranted immediately. If it is determined that a delegation under review is not affected and requires no updates, the organizational head of the IO must approve a recertification memo and submit to the NIH Delegations Officer. The NIH Delegations Officer will update the Explanation of Transmittal in the DOA system indicating it has been reviewed and certified.

## H. References

1. [5 U.S.C. 302; 42 U.S.C. 203, 216 and 281 et seq.](#)
2. [Redelegation of Authorities by the Assistant Secretary for Health, June 18, 1973 \(38 FR 18261\). \[Continued by the Secretary, April 18, 1979 \(44 FR 23132\).\]](#)
3. [Memorandum to the Director, NIH, dated September 28, 1979, from the Assistant Secretary for Health, entitled: Delegation of Authority under Title IV of the Public Health Service Act Regarding the National Research Institutes.](#)
4. [Memorandum to the Director, NIH, dated June 26, 1981, from the Assistant Secretary for Health, entitled: Delegation of Authority under Title III of the Public Health Service Act, as amended.](#)
5. [NIH Delegations of Authority Program](#)
6. [NIH Delegations of Authority System](#)
7. [NIH Delegations of Authority Guidebook](#)
8. [HHS General Administration Manual 8-100, Delegations of Authority](#)
9. [HHS General Administration Manual 8-60, Reorganization Procedures](#)
10. [HHS Facilities Program Manual](#)
11. [NIH Policy Manual, Chapter 0001: Reorganization Management](#)
12. [NIH Organizational Charts and Functional Statements](#)
13. [NIH Policy Manual, Chapter 1743: Managing Federal Records](#)
14. [NIH Policy Manual, Chapter 1744: NIH Vital Records Program](#)
15. [NIH Policy Manual, Chapter 1792: Legislative Implementation](#)
16. [Federal Vacancies Reform Act of 1998](#)