

OGC Has Reviewed

Approved For Release 2001/09/01 : CIA-RDP81-00261R000300030033-4

7 November 1977

STATINTL

MEMORANDUM FOR: Director of Personnel

FROM : [REDACTED]
Assistant General Counsel

SUBJECT : Training for Re-Employment

REFERENCE : OGC 65-0927a, dtd 24 May 65, Subj:
Training for Re-Employment

1. You have requested that this Office re-examine referenced 1965 opinion upholding the legality and propriety of expending official funds for "retooling" resignees or early retirees for post-separation employment. Briefly, this opinion sets forth the view that a training program for prospective retirees may be properly authorized pursuant to the Director's authority under section 102c of the National Security Act of 1947, as amended, and section 8 of the CIA Act of 1949, as amended, if based on security considerations and limited in scope.

2. While this earlier opinion did not identify the extent to which other potentially applicable Federal statutes were canvassed, an examination of the background material leading to the opinion indicates that this question has been raised and considered on previous occasions. These materials disclose that the various training authorities of other agencies and Government-wide training authorities including, The Government Employees Training Act (5 U.S.C. 4101, et seq.*) and The Manpower Development and Training Act (42 U.S.C. 2571, et seq.) were examined and found to be inadequate. Our re-examination of these laws in their current form confirms this earlier conclusion that such authorities would not be applicable.

3. While we are still of the view that, as a theoretical matter, a retraining program and associated expenditures might be justified if special operational or security considerations were involved; we doubt the requisite justification could be established in any particular case. In this regard the Retirement Affairs Division has informally advised the undersigned that Agency employees appear to stand in no better or worse positions than any other Federal employee when

*The original section 4 of the CIA Act of 1949, as amended, which arguably would have provided authority for a retraining program was repealed by section 21 of this Act.

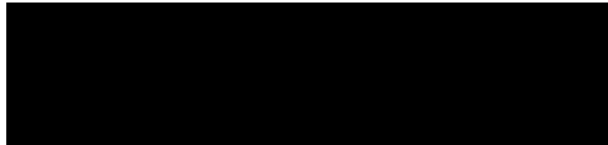
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seeking post-separation employment. It should be noted that Government training programs (other than welfare-oriented programs) are, by and large, oriented toward retaining or upgrading an employee's skills in order to enhance his ability to perform his job. Training a Federal employee to put him in a better competitive position subsequent to the termination of his services with the Federal Government is neither a legal nor moral obligation of the Agency. The employee's choice of vocation is entirely his own, and the degree to which that vocation is marketable after retirement, is one of the considerations an employee must weigh before entering a particular field of work.

4. The establishment of an Agency program for "retooling" resignees or early retirees would not, in the current view of this Office, be supportable under the legal authorities discussed in OGC 65-0927a. At most, those authorities could be relied on to justify expenditures on a case-by-case basis, taking into account the special and individualized circumstances of the employee involved. If it is desired to establish a general program, it is our recommendation that a specific appropriation be sought for that purpose. OGC 65-0927a is modified to the extent it is inconsistent with the views expressed above.



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JMH:nl

Distribution

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1 - RETIREMENT

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