



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Tuesday, January 26, 2010

MEMORANDUM TO: All Federal and Contract Investigative and Review Staff
and Associated Management Personnel

MEMORANDUM FROM: Lisa M. Loss
Program Manager, Operational Policy

Rafson 1/26/10

SUBJECT: Third Party Participants and Representation in Subject
Interviews

The purpose of this memorandum is to provide clarifying guidance regarding the presence of third parties during subject interviews, pursuant to Section 4.2.3.1. of the July 2007 Investigator's Handbook. The handbook states that OPM permits "representation" of a subject during a PRSI "in certain limited circumstances."

OPM's policy is generally to exclude third parties from OPM-conducted subject interviews. Subject representatives (i.e., an attorney or union representative advising the subject with respect to the interview) are not permitted to be present during subject interviews when the subject is not an employee of OPM. This policy is based upon both OPM's assessment of what practices constitute sound investigative techniques and the voluntary nature of submitting to a background investigation.

If an investigator receives a request from a subject for representation during the interview, the following procedures apply. The investigator shall reference the case papers to determine if the subject is an employee of OPM. If the subject is *not* an employee of OPM, the investigator shall advise the subject that representation is *not* permitted. If the subject is an employee of OPM, the investigator shall utilize his or her supervisory chain of command to contact FISE's Integrity Assurance Branch at (202)696-1042 for guidance as to how to proceed.

There are certain situations, however, in which OPM will permit a third party to be present, not in a representative's role, but to assist the subject in some other way.

What follows are examples of situations in which a third party may be appropriately present during a PRSI:

1. **Sign Language Interpreter.** The subject requests a sign language interpreter. If an investigator receives such a request, the investigator shall utilize his or her supervisory chain of command to contact FISE's Agency Liaison Group (ALG)

at 724-794-5612. ALG will notify the agency requesting the investigation that it must provide the sign language interpreter. The subject's friends, relatives, or associates may not serve as translators. There is no need to confirm that the requesting agency received a reasonable accommodation request from the subject.

2. **Foreign Language Translator:** The subject requests a foreign language translator. If an investigator receives such a request, the investigator shall utilize his or her supervisory chain of command to contact FUSD's Agency Liaison Group (ALG) at 724-794-5612. ALG will notify the agency requesting the investigation that it must provide the translator. The subject's friends, relatives, or associates may not serve as translators.
3. **Religious Accommodation:** The subject requests a third party to be present based on a religious objection to conducting the interview without the third party. For example, the subject objects, on religious grounds, to being interviewed by an investigator of the opposite sex. If an investigator receives such a request, the investigator shall utilize his or her supervisory chain of command to contact Agency Liaison Group (ALG) at 724-794-5612. ALG will notify the agency requesting the investigation that it must provide the third party. The subject's friends, relatives, or associates may not serve in this function. The third party individual is not permitted to participate in the interview in any way. Alternatively, the investigator's supervisor, at his or her discretion, may assign an investigator of the same sex as the subject to conduct the investigation or to be present during the interview.

General questions concerning this policy should be directed, through appropriate organizational channels, to Operational Policy, 703-505-1003.