

2 FAM 070 DISSENT CHANNEL

(TL:GEN-294; 04-25-1998)

2 FAM 071 POLICY

2 FAM 071.1 Policy Statement

(TL:GEN-294; 04-25-1998)

(Uniform State/USAID/USIA/ACDA)

- a. It is Department of State policy that all U.S. citizen employees, foreign and domestic, be able to express dissenting or alternative views on substantive issues of policy, in a manner which ensures serious, high-level review and response.
- b. The State Department has a strong interest in facilitating open, creative, and uncensored dialogue on substantive foreign policy issues within the professional foreign affairs community, and a responsibility to foster an atmosphere supportive of such dialogue, including the opportunity to offer alternative or dissenting opinions without fear of penalty. The Dissent Channel was created to allow its users the opportunity to bring dissenting or alternative views on substantive foreign policy issues, when such views cannot be communicated in a full and timely manner through regular operating channels or procedures, to the attention of the Secretary of State and other senior State Department officials in a manner which protects the author from any penalty, reprisal, or recrimination.
- c. Freedom from reprisal for Dissent Channel users is strictly enforced; officers or employees found to have engaged in retaliation or reprisal against Dissent Channel users, or to have divulged to unauthorized personnel the source or contents of Dissent Channel messages, will be subject to disciplinary action. Dissent Channel messages, including the identity of the authors, are a most sensitive element in the internal deliberative process and are to be protected accordingly.

2 FAM 071.2 Scope

(TL:GEN-294; 04-25-1998)

(Uniform State/USAID/USIA/ACDA)

The Dissent Channel is reserved for consideration of dissenting or alternative views on substantive foreign policy matters. The Dissent Channel may not be used to address non-policy issues (e.g., management or personnel issues that are not significantly related to substantive matters of policy).

Complaints relating to violation of law, rules, or regulations; mismanagement; or fraud, waste, or abuse may be addressed to OIG/INV (see 1 FAM 053 paragraph c). Classification challenges should not be addressed through the Dissent Channel. (See Subpart C of 22 CFR 171.)

2 FAM 071.3 Applicability

(TL:GEN-294; 04-25-1998)

(Uniform State/USAID/USIA/ACDA)

Any U.S. citizen who is a regular or re-employed annuitant employee of the Department of State, United States Information Agency, Arms Control and Disarmament Agency, or Agency for International Development, may use the Dissent Channel. The Dissent Channel may not be used by non-U.S. citizens or by U.S. citizens who are contractors with, or who have retired from, the foreign affairs agencies specified above.

2 FAM 071.4 Responsibilities

(TL:GEN-294; 04-25-1998)

(Uniform State/USAID/USIA/ACDA)

- a. Consistent with its mandate to stimulate innovation and creativity in the Department, the Secretary's Policy Planning Staff (S/P) is responsible for management of the Dissent Channel.
- b. In consultation with S/P and, as appropriate, with the Chair of the Secretary's Open Forum (S/OF), the Office of Inspector General (OIG) is responsible for investigating all reports of improprieties related to use of the Dissent Channel and for recommending appropriate action.
- c. The Chair of the Secretary's Open Forum is responsible for monitoring the operation of the Dissent Channel to ensure compliance with the spirit and the letter of applicable regulations and policies.
- d. Chiefs of Mission/Principal Officers are responsible for ensuring that Dissent Channel messages originating from abroad are treated with strict adherence to applicable regulations, including prompt authorization of the transmission of Dissent Channel messages, protection of Dissent Channel

users from any penalty, reprisal, or recrimination, and protection of the source and contents of Dissent Channel messages. Chiefs of mission and Principal officers are also responsible for ensuring that this guidance on the Dissent Channel (2 FAM 070) is circulated at post and that all eligible employees are cognizant of Dissent Channel procedures.

2 FAM 071.5 Authorities

(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)

The Dissent Channel Program is derived from the authority of the Secretary to manage the Department of State and the Foreign Service, 22 U.S.C. 2656, 2651a.

2 FAM 071.6 Related FAM Regulations

(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)

The following are cross-referenced FAM provisions relevant to the Dissent Channel:

- (1) **Open Forum: 1 FAM 022.7 paragraph d(1).** This provision provides that the Chair of the Secretary's Open Forum monitors the operation of the Dissent Channel to ensure compliance with the spirit and the letter of applicable regulations and policies.
- (2) **Captions and Distribution: 5 FAM 274 and 5 FAM 438.6 paragraph c.** These provisions indicate to whom Dissent Channel messages are distributed in the Department and at post.
- (3) **Inadmissible Comments: 3 FAM 2815.1 b(14).** This provision indicates that employee performance evaluation reports may not make negative reference to the use of the Dissent Channel or judgments based on the views expressed in Dissent Channel messages.
- (4) **Openness in Post Operations and Management - 2 FAM 041.1.** This provision describes the importance of free exchange of ideas and criticism throughout the mission.
- (5) **Office of Inspector General - 1 FAM 051.2.** This provision describes the investigatory responsibilities of the OIG.

2 FAM 072 DISSENT CHANNEL USE

(TL:GEN-294; 04-25-1998)

(Uniform State/USAID/USIA/ACDA)

- a. The value of the Dissent Channel depends not only on its unimpeded availability but also on its appropriate use. It is a serious policy channel reserved only for consideration of responsible dissenting and alternative views on substantive foreign policy issues that cannot be communicated in a full and timely manner through regular operating channels or procedures (e.g., when the inability to resolve concrete differences of opinion on substantive foreign policy issues has prevented such views from being reported—see 2 FAM 041.1, Policy of Openness in Post Operations and Management).
- b. Employees and their supervisors should make every effort to use front channel communication to accommodate and/or report differing views on major foreign policy issues, prior to resorting to the Dissent Channel (see also 2 FAM 041.1).
- c. Because the Dissent Channel is not a routine channel and its messages are handled at the highest levels of the Department, authors should ensure not only that their views are well-grounded and well-argued, but that other channels are not available to them. Dissenting or alternative views on non-policy issues (e.g., management, administrative, or personnel issues that are not significantly related to matters of substantive foreign policy) may not be communicated through the Dissent Channel.
- d. Employees considering Dissent Channel use may wish to contact S/P to discuss their circumstances. S/P will ensure confidentiality of such conversations, and can help employees determine the appropriateness of Dissent Channel use in their particular cases. Employees still retain their right to use the Dissent Channel, consistent with the criteria stipulated above. S/P may reject communications that do not meet those criteria.

2 FAM 073 DISSENT CHANNEL TRANSMISSION

(TL:GEN-294; 04-25-1998)

(Uniform State/USAID/USIA/ACDA)

- a. Users are encouraged, but are not required, to discuss their dissenting or alternative views with their supervisors and to show Dissent Channel

messages to them. A Dissent Channel message requires no clearance. The chief of mission, principal officer, or a designated subordinate must authorize prompt transmission of any Dissent Channel messages provided to them, with the understanding that authorization of its transmission does not imply concurrence with its views.

- b. Dissent Channel messages may be submitted in the form of a telegram or memorandum, using the formats given in 2 FAM 073 Exhibit 073. Failure to properly identify and caption a Dissent Channel message as such may cause improper or delayed distribution and possible loss of confidentiality. The Subject Line of Dissent Channel telegrams must have the words "Dissent Channel:" followed by a brief description of the matter being dissented. Dissent Channel telegrams must not be labeled or identified by any other distribution caption (e.g., NODIS, EXDIS, STADIS, or LIMDIS).

2 FAM 074 ROLE OF POLICY PLANNING STAFF (S/P), INSPECTOR GENERAL (OIG), AND OPEN FORUM (S/OF)

2 FAM 074.1 Policy Planning Staff (S/P)

(TL:GEN-294; 04-25-1998)

(Uniform State/USAID/USIA/ACDA)

- a. Consistent with its mandate to stimulate innovation and creativity in the Department, the Secretary's Policy Planning Staff (S/P) is responsible for management of the Dissent Channel, including receipt, storage, distribution, and acknowledgment of all Dissent Channel messages received, and drafting, clearance, and timely transmission of all Dissent Channel responses.
- b. Immediately upon receipt of all incoming Dissent Channel messages, S/P is tasked with distributing copies to the Secretary, the Deputy Secretary, the Under Secretary for Political Affairs, the Executive Secretary, and the Chair of the Secretary's Open Forum. If the author of a dissent message is employed by an agency other than the Department of State (e.g., USAID, ACDA, USIA), S/P will also distribute a copy of the Dissent Channel message to the head of that agency. With due regard for the sensitivity of the message and the wishes of the drafter, the Director of S/P may also distribute the Dissent message to other senior officials in the Department, both for information purposes and for help in drafting a response. No additional distribution may be made without the authorization of the S/P Director.

- c. Neither the identity of a Dissent Channel user nor the contents of any Dissent Channel message may be shared with anyone outside of the procedures as outlined in 2 FAM 074.1(b).
- d. The Director of Policy Planning is responsible for acknowledging receipt of a Dissent message within two working days, and for providing a substantive reply normally within 30-60 working days. S/P is to clear replies with the Chair of the Secretary's Open Forum, consistent with the Chair's mandate of monitoring the operation of the Dissent Channel. At the discretion of the Director of the Policy Planning, S/P may also clear replies with other senior Department of State officials.

2 FAM 074.2 Office of Inspector General (OIG)

(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)

In consultation with S/P and, as appropriate, with the Chair of the Secretary's Open Forum, the Office of Inspector General (OIG) is responsible for investigating all reports of improprieties related to use of the Dissent Channel, including allegations of reprisal against its users and allegations of unauthorized divulgence of Dissent Channel source or contents. OIG is responsible for determining in a timely manner if any improprieties or reprisal did occur, and for recommending appropriate action.

2 FAM 074.3 Secretary's Open Forum (S/OF)

(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)

The Chair of the Secretary's Open Forum is responsible for monitoring the operation of the Dissent Channel and providing clearance on all responses to incoming Dissent Channel messages to ensure compliance with applicable regulations.

2 FAM 074.4 Questions

(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)

Questions regarding any aspect of the Dissent Channel -- including proper address forms or use of captions -- should be directed to the S/P staff assistant. Information about the Dissent Channel may also be obtained from the Chair of the Secretary's Open Forum.

2 FAM 075 FREEDOM FROM PENALTY OR REPRISAL

2 FAM 075.1 Impermissibility of Penalty or Reprisal

(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)

- a. The Dissent Channel may be used without fear of pressure, penalty, or unauthorized divulgence of its use. Discouragement of, or penalties for use of, the Dissent Channel are impermissible. Dissent Channel users who believe that they have been pressured or penalized for their use of the Dissent Channel, that negative comments have been made in their evaluation reports because of their use of the Dissent Channel, that the transmission of their Dissent message has been deliberately delayed or prevented, that the existence of their Dissent Channel messages has been divulged to unauthorized personnel, or that the protection of their Dissent message has been jeopardized by improper treatment, should make a report to the Inspector General's Office via the OIG Channel, with copies to the Director of S/P. S/P will inform the Under Secretary for Management and the Chair of the Secretary's Open Forum when such reports are received.
- b. The Director of Policy Planning and the Office of Inspector General will consult about any such allegations, and, if warranted, OIG will investigate and recommend action to the senior officers of the Department or appropriate Agency (e.g., ACDA, USAID, or USIA). Officers or employees found to have engaged in acts of reprisal or retaliation against Dissent Channel users, or who have improperly divulged the use of the channel by discussing the content or identifying the user to unauthorized personnel, will be subject to disciplinary action, which may include administrative (such as a letter of reprimand, suspension, or termination), civil and, in rare cases, criminal penalties.

2 FAM 075.2 Inadmissibility in Evaluation Reports

(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)

- a. The following is inadmissible in any part of an evaluation report either as direct or indirect comments: Negative reference to use of the Dissent Channel or direct or indirect reference to, or consideration of, judgments in Dissent Channel messages as a basis for an adverse evaluation of

performance or potential.

- b. An employee who has received negative comments in an evaluation report because of his or her use of the Dissent Channel may file a grievance pursuant to 3 FAM 4410.

2 FAM 076 THROUGH 079 UNASSIGNED

2 FAM 073 EXHIBIT 073 SAMPLE FORMATS

*(TL:GEN-294; 04-25-1998)
(Uniform State/USAID/USIA/ACDA)*

Dissent Channel Telegram Format

FROM: (post)

TO SECSTATE WASHDC

DISSENT CHANNEL: (caption line)

TAGS: as appropriate

SUBJECT: Dissent Channel: (actual title)

1. The following is a Dissent Channel message from (name and post) to the Director of Policy Planning (S/P).

2. Text of message.

Continuation—2 FAM 073 Exhibit 073

Dissent Channel Memorandum Format

DISSENT CHANNEL

Classification (as appropriate)

OADR: (As appropriate)

TO: S/P - (Director's name)

FROM: (Drafter's office symbols) - (Drafter's name)

SUBJECT: Dissent Channel: (actual title)

1. The following is a Dissent Channel message from (name and post) to the Director of Policy Planning (S/P).

2. Text of message.