



U.S. DEPARTMENT OF EDUCATION

FY2001 EDUCATION BUDGET PROPOSAL

September 1999

(IN THOUSANDS OF DOLLARS)

Selected Education Programs In the Tax Bill	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	Secretary's FY2001 Request	Difference from expected	Impact
<u>SCHOOL CONSTRUCTION AND MODERNIZATION</u>						
<u>School Modernization Bonds and Qualified Zone Academy Bonds.</u> Provides new bonds with interest paid by Federal tax credits to help local communities go much further in renovating and building needed schools	--	\$24.8 billion in new bonds (at a cost of \$3.7 billion over 5 years)	+ \$24.8 billion in new bonds (at a cost of \$3.7 billion over 5 years)			Would make available nearly \$25 billion in new bonds to build and renovate about 6,000 public schools in communities throughout the country to make them safer and more accessible, to address record enrollments and overcrowding, to repair crumbling school facilities, and to accommodate smaller class sizes. Federal tax credits would pay the interest on two types of proposed bonds: School Modernization Bonds and Qualified Zone Academy Bonds. The tax credits on these bonds would cost the Treasury a total of \$3.7 billion over 5 years.
<u>Building Schools As Centers of Community Grants.</u> Encourages greater public participation in the planning and design of new schools	--	\$10,000	\$10,000	\$10,000 ¹	N/C	Would support the creation of 150-200 school-community partnerships to encourage broader citizen engagement in the process of planning and designing new school buildings that can enhance teaching and learning as well as serve the broader needs of the community.

¹ Funded under the Fund for Improvement of Education

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
NEW INITIATIVES UNDER THE REAUTHORIZATION OF ESEA (ELEMENTARY AND SECONDARY EDUCATION ACT)						
<u>High School Reform</u>	--	--	--	\$125,000	+\$125,000	This initiative would support research-based, comprehensive reforms at the high school level, including the creation of smaller, more supportive learning environments such as schools within schools. The request would fund reform efforts at some 1,000 high schools as the first stage in reaching 5,000 schools by 2007.
<u>OPTIONS (Opportunities to Improve our Nation's Schools)</u>	--	--	--	\$30,000	+\$30,000	Grants to States and local school districts to develop innovative approaches to public school choice, including worksite schools and schools located on college campuses.
<u>Principals Leadership Initiative</u>	--	--	--	\$40,000	+\$40,000	Would establish some 24 regional leadership centers (LEAs in partnership with IHEs) that would provide professional development focused on standards-based reform, use of achievement data for decision-making and resource allocation, and leadership training to strengthen skills of current and potential principals.
<u>State Recognition and Reward for Student Achievement</u>	--	--	--	\$5,000	+\$5,000	Funding to implement the proposed authority that allows the Department to recognize and reward States that demonstrate improved student achievement over three consecutive years, including narrowing the achievement gap between high- and low- performing students and reducing the practices of social promotion.

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NEW INITIATIVES UNDER THE REAUTHORIZATION OF ESEA (ELEMENTARY AND SECONDARY EDUCATION ACT)						
<u>Early Childhood Educator Professional Development</u>	--	--	--	\$20,000	+\$20,000	Would provide professional development opportunities for about 10,000 staff working in Title I preschools, Head Start, Even Start, and day care centers in high poverty areas. Funds would be awarded competitively to partnerships between IHEs and LEAs.
<u>Special Needs Technical Assistance Centers</u>	--	--	--	\$8,000	+\$8,000	Two centers that would provide training and technical assistance to address the instructional needs of LEP, migratory, Indian, and Alaskan native students and help these students reach the same high standards as other students.
<u>Web-based Information Dissemination</u>	--	--	--	\$6,000	+\$6,000	Would make Internet-based educational resources more accessible to teachers, administrators, parents, and students by linking sites, cataloguing materials, and providing on-line assistance to, for example, help users locate lesson plans and best practices quickly.
				Subtotal: +\$234,000		

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AFTER-SCHOOL						
<u>21st Century Community Learning Centers.</u> Funds school-community partnerships to keep schools open after regular hours as safe havens for enhanced learning	\$200,000	\$600,000	\$600,000	\$1,000,000	+\$400,000	Would provide before- and after-school and summer programs in safe, drug-free environments for approximately 1,300,000 additional school-age children in 900 additional school districts. This request, along with a proposed matching requirement for new awards would support about 2,300 districts and serve approximately 2.8 million students.
				SUBTOTAL:	+\$400,000	
IMPROVING TEACHING						
<u>Teaching to High Standards</u> – Helps states and school districts implement the next generation of standards-based reform, including standards-based assessments, curricula, and professional development. The program would consolidate the following programs:	\$1,171,000	\$796,000	\$1,171,000	\$1,700,000	+\$529,000	Would continue the development and implementation of standards with a specific focus on bringing standards into the classroom through professional development, curricula and assessments.
<u>Raise Educational Standards – Goals 2000.</u> Helps schools raise academic standards, improve teaching, expand the use of technology.	\$461,000	\$461,000	\$461,000	Combined under ESEA's Teaching to High Standards	(\$461,000)	
<u>Upgrade Teacher Skills - Eisenhower Professional Development (State Grants).</u> Improves teachers' skills in core academic subjects	\$335,000	\$335,000	\$335,000	Combined under Teaching to High Standards	(\$335,000)	
<u>Innovation Education Strategies State Grants (Title VI)</u> – Supports state and local reform efforts.	\$375,000	–	\$375,000	Combined under Teaching to High Standards	(\$375,000)	

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
<u>Teacher Quality Enhancement (HEA Title II).</u>	\$75,000	\$115,000	\$115,000	\$200,000	+\$85,000	Provides grants to help recruit new teachers for high-poverty urban and rural areas, strengthen partnerships between schools and universities to give the teachers the best preparation possible, and help States improve the quality of their teaching force through reform activities such as teacher licensing and certification.
<u>Improvement of Teaching and School Leadership</u>	\$23,300	\$30,000	\$30,000	\$40,000	+\$10,000	Would support activities to implement the recommendations of the Glenn Commission, to develop and disseminate materials on effective teaching practices, and to support the development of math teacher leaders.
<u>Bilingual Education.</u>	\$224,000 (includes \$50 million for professional development)	\$259,000 (includes \$75 million for professional development)	\$259,000	\$286,500 (includes \$90 million for professional development)	+\$27,500	Provides assistance to local schools to improve English and related instruction for limited English proficient students and would provide training grants to institutions of higher education and fellowships to individuals. This would result in an estimated 7,000 additional bilingual teachers to address the acute shortage of well-trained teachers to instruct limited English proficient students.
<u>Transition to Teaching: Troops to Teachers</u>	--	\$18,000	\$18,000	\$18,000	N/C	Would continue and expand the successful Troops to Teachers initiative by recruiting and supporting mid-career professionals as teachers, particularly in high-poverty school districts and high-need subject areas.
<u>American Indian Teacher Corps</u>	--	\$10,000	\$10,000	\$10,000	N/C	Recruits and trains 1,000 new Indian teachers (over five years) to work in Native American communities by funding programs at Tribal Colleges and other postsecondary institutions to pay tuition and living expenses for prospective teachers, and support in-service training for educators already employed in Indian schools.

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
<u>Middle School Teacher Training</u>	--	\$30,000	\$30,000	\$30,000	N/C	Supports a technology teacher leader in middle schools and encourages schools to establish technology literacy requirements.
<u>Strengthening Technical Assistance Capacity</u>	\$28,000	\$32,000	\$32,000	\$60,000	+\$28,000	Would eliminate the Comprehensive Regional Assistance Centers and redirect the funds by formula to states and the 100 school districts with the largest numbers of children in poverty.
<u>Special Education State Improvement</u>	\$35,200	\$45,200	\$45,200	+\$135,600	+\$90,400	Would give all States the opportunity to compete for funds to reform and improve their systems for providing educational services to children with disabilities, especially their system for professional development. Would also significantly increase the size of awards so that States can implement true systemic change activities.
			Subtotal:		\$769,900	

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ACCELERATING CHANGE AND INCREASING ACCOUNTABILITY						
<u>Strengthen Achievement and Accountability in Title I.</u> Helps State and local education agencies turn around low-performing schools	NEW	\$200,000 (non-add)	+ \$200,000² (non-add)	\$215,000 (non-add)	+15,000 (non-add)	Would provide States new resources to accelerate implementation of Title I accountability provisions and to identify and improve weak schools through intensive teacher training, improved school discipline, and proven approaches to school reform.
<u>Comprehensive School Reform Demonstrations (Title I and FIE funds).</u> Helps schools develop and implement reforms that are based on reliable research and effective practices	\$145,000	\$175,000	\$175,000	\$225,000	+\$50,000	Would provide new round of grants to an estimated 2,900 schools and continue support for more than 400 schools already using funds to carry out research-based school improvement.
<u>Charter Schools.</u> Supports the planning, development and initial implementation of public charter schools	\$100,000	\$130,000	\$130,000	\$150,000	+\$20,000	Would support planning and implementation of 1,100 new charter schools which would exceed the administration objective of creating 3,000 charter schools by 2002.
<u>Research, Development and Dissemination</u> (Replaces National Education Research Institutes, Regional Educational Laboratories, and National Dissemination Activities)	\$143,567	\$198,282	\$198,282	\$250,000	+\$51,718	Would support a research agenda focused on improving the teaching and learning of academic subjects for diverse students, the ability of schools and states to implement reforms, and the utilization of knowledge.
<u>Advanced Placement Incentive Program.</u> Increases opportunities for students to enroll in and complete advanced placement courses in high schools.	\$4,000	\$20,000	\$20,000	\$40,000	+\$20,000	Would support State and local efforts to expand the availability of Advanced Placement and other challenging courses in high schools and to train teachers for those courses.
Subtotal:					+\$156,718	

² This \$200 million is part of the \$320 million requested increase in Title I Grants to Local Education Agencies (see the section entitled "Mastering the Basics").

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MASTERING THE BASICS						
<u>Reducing Class Size.</u> Second installment in reducing class sizes in grades 1-3 to a nationwide average of 18 to give children more personal attention and get them on the right track	\$1,200,000	\$1,400,000	\$1,400,000	\$1,700,000	+\$300,000	Would support the hiring and training of more than 11,000 additional qualified teachers so schools can reduce class size in order to provide children with more individual attention, make classrooms more orderly and help children master reading and other basics. This is the third installment in the Administration's commitment to help school districts hire and train 100,000 new teachers over 7 years.
<u>Reading Excellence Act.</u> Helps children learn to read well and independently by the end of the third grade	\$260,000	\$286,000	\$286,000	\$386,000	+\$100,000	Would help schools and communities improve reading programs by providing tutoring and extended learning time connected to quality classroom instruction, improving teacher training in reading instruction, and providing family literacy activities to help more than 1.4 million children become successful readers.
<u>Extra Help in the Basics (Title I LEA Grants).</u> Helps disadvantaged students learn the basics	\$7,732,397	\$7,996,020 ²	\$8,052,397 ³	\$8,800,000	+\$747,603	Would provide funds to help more than 12.5 million educationally disadvantaged children -- 400,000 more than in FY2000 -- boost their basic skills, master challenging curriculum, and meet high standards, and to help improve the entire academic programs in their schools.
<u>Special Education State Grants.</u> Helps local schools and States provide special education and early intervention services	\$5,054,685	\$5,106,435	\$5,603,135	\$6,136,507	+\$533,372	Would help provide special education and related services to children with disabilities and early intervention services to infants and toddlers with disabilities. About 6.6 million children with disabilities would be served in FY2001.

³ \$200 million of this requested increase is reserved to help States and local districts turn around low-performing schools (see the section entitled "Accelerating Change and Increasing Accountability").

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MASTERING THE BASICS CON'T						
<u>Special Education Primary Education Intervention Program.</u> Helps school districts meet the needs of children with reading or behavioral problems	NEW	\$50,000	\$50,000	\$100,000	+\$50,000	Would demonstrate the benefits of early identification and research-based interventions for young children with developmental delays who may later be identified as learning disabled or emotionally disturbed.
<u>Adult Education.</u> Provides adult and family literacy, English as a second language, and other educational programs	\$385,000	\$575,000	\$575,000	\$622,500	+\$47,500	Would further the President's adult literacy initiative to close the skills gap by 2005. Would help an additional 33,000 adults become literate, strengthen their basic skills, and obtain good jobs. This total includes \$75 million to continue an English literacy and civics initiative which would provide additional resources to States and localities significantly affected by immigration.
<u>Even Start</u>	\$135,000	\$145,000	\$145,000	\$160,000	+\$15,000	Would provide funding for approximately 200 new local Even Start projects. Since the average project serves 60 families, an additional 12,000 low income families with high educational needs would be served. The increase would impact 54,000 parents and children.
Subtotal:					+\$1,793,475	
KEEPING OUR CHILDREN SAFE AND DRUG-FREE						
<u>Safe and Drug-Free Schools State Grants, National Programs, and Project SERV (School Emergency Response to Violence).</u> Helps schools become safe, drug-free learning environments	\$566,000	\$591,000	\$591,000	\$691,000	+\$100,000	Would provide \$483 million for State grants with improved targeting to quality programs; \$109 million for competitive "Safe Schools/Healthy Students" grants to support comprehensive strategies for creating safe and drug-free schools and for promoting healthy childhood development; \$37 million for a variety of national leadership activities; \$50 million for coordinators to plan, design, and implement successful drug and violence prevention programs in middle schools, and \$12 million to provide emergency assistance to schools affected by serious violence or other traumatic crises.
Subtotal:					+\$100,000	

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected appropriation	President's FY2001 Request	Difference from expected	Impact
TECHNOLOGY						
<u>Technology Literacy Challenge Fund.</u> Helps provide students and teachers with computers, educational software, telecommunications, and technology training	\$425,000	\$450,000	\$450,000	\$450,000	N/C	Would continue Federal funding to almost 4,000 school districts to help schools integrate technology into the curriculum, ensure that teachers are trained to use technology effectively in the classroom, and improve teaching and learning in the core subjects
<u>Next Generation Technology Innovation Grants</u>	\$160,100	\$155,000	\$155,000	\$170,000	+\$15,000	Would consolidate the Technology Innovation Challenge Grants and Star Schools programs. Would support the use of cutting-edge technology to improve education. Priority for new awards would go to projects that: develop distance learning networks, software, and online-learning resources; serve more than one State; develop models for using electronic networks to provide challenging courses such as Advanced Placement; and serve traditionally underserved populations.
<u>Preparing Tomorrow's Teachers to Use Technology</u>	\$75,000	\$75,000	\$75,000	\$85,000	+\$10,000	Would support consortia of public and private entities to train new teachers to use advanced technology to foster learning environments that prepare all students to achieve challenging state and local standards.
<u>Community Technology Centers.</u> Helps community residents gain technology skills, take courses on-line, and access on-line job databases	\$10,000	\$65,000	\$65,000	\$65,000	N/C	Would support access to technology-based resources for low-income families by bringing technology to public housing, community centers, libraries, and other community facilities.
Subtotal:					+\$25,000	

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COLLEGE STUDENT AID						
<u>Pell Grants</u> . Provides grant assistance to low-income undergraduate students	max grant: \$3,125 budget authority: \$7,704,000 program cost: \$7,392,000	max grant: \$3,250 budget authority: \$7,463,000 program cost: \$7,912,000 ⁴	max grant: \$3,250 budget authority: \$7,549,000 program cost: + \$7,913,000	max grant \$3,525 budget authority: \$8,715,000	max grant +\$275 budget authority +\$1,166,000	Would help nearly 4 million financially-needy students attend college -- 84,000 more than in FY2000 -- and would increase the average award by \$160 compared to FY2000.
<u>Work-Study</u> . Helps undergraduate and graduate students pay for college through part-time work assistance	\$870,000	\$934,000	\$934,000	\$1,011,000	+\$77,000	Would give one million students the opportunity to work and earn funds to help pay for college -- approximately the same number of students as in FY2000. This request would also provide opportunities for students at more than 1,100 colleges and universities to tutor children in reading and math.
<u>Supplemental Educational Opportunity Grants (SEOG)</u> . Provides grant assistance to low-income undergraduate students	\$619,000	\$631,000	\$631,000	\$663,000	+\$32,000	Would provide need-based grant aid to over 1.1 million college students, especially enabling low-income undergraduates to pursue a baccalaureate degree.
<u>Perkins Loans (Capital Contributions)</u> . Helps colleges and universities provide long-term, low-interest loans to undergraduate and graduate students with demonstrated financial need	\$100,000	\$100,000	\$100,000	\$100,000	N/C	Would maintain sufficient funds to provide approximately \$1.1 billion in new Perkins loans in award year 2001-2002, the same as in 2000 - 2001.
<u>Leveraging Educational Assistance Partnership (formerly SSIG)</u> . Provides Federal matching funds for States to support need-based postsecondary student grant assistance	\$25,000	\$25,000	\$25,000	\$35,000	+\$10,000	Would maintain the Federal share of need-based aid to States for more than 100,000 recipients, 17,000 more than in FY2000.
<u>D.C. Resident Tuition Support</u> . Provides expanded opportunities for D.C. residents that are similar to those available to residents of States	--	\$17,000	\$17,000	\$17,000	N/C	Would pay the difference between in-State and out-of-state tuition at all public institutions of higher education in Maryland and Virginia on behalf of D.C. residents who have recently graduated from high school or received a GED.
				Subtotal:	+\$1,285,000	

⁴ Includes new budget authority and \$449 million of the prior year surplus.

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REACHING AND COMPLETING COLLEGE						
<u>GEAR UP.</u> Gives disadvantaged students and their families pathways to college by partnering middle and high schools with colleges and universities or through state-administered programs	\$120,000	\$240,000	\$240,000	\$360,000	+\$120,000	Would help give an estimated 948,000 at-risk, middle and high school students the critical skills and encouragement they need to raise their educational expectations, increase their academic achievement and eliminate the barriers they face in preparing for and pursuing a college education. Academic and support services include mentoring, tutoring and college visits.
<u>TRIO Programs.</u> Provides education outreach and student support services designed to encourage disadvantaged individuals to enter and complete college	\$600,000	\$630,000	\$630,000	\$690,000	+\$60,000	In total, would help more than 743,000 disadvantaged students prepare for and persist in postsecondary education. This request would provide academic and career counseling, admissions and financial aid information, and tutoring services to almost 383,000 middle and high school students; encourage 201,000 disadvantaged postsecondary students to complete college and pursue graduate studies; and encourage over 159,000 adults to go back to school and pursue postsecondary education.
<u>College Completion Challenge Grants.</u> Helps disadvantaged students stay in college and earn diplomas	NEW	\$35,000	\$35,000	\$35,000	N/C	Would help postsecondary institutions increase the persistence rate of students who are at-risk of dropping out by strengthening student support services, augmenting student aid awards, and financing intensive summer programs.
<u>Preparing for College.</u> Provides information to middle and high school students and adults on preparation for college	NEW	\$15,000	\$15,000	\$15,000	N/C	Would educate students and their parents about the importance of higher education, the academic coursework needed in middle and high school to gain entrance into college, and the available financial aid opportunities to finance education through pamphlets and videos, community events, and public service announcements.
Subtotal:					+\$180,000	

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INSTITUTIONAL AID						
<u>Strengthening Historically Black Colleges and Universities and Graduate Institutions (HEA Title III).</u> Helps provide equal educational opportunity and strong academic programs	\$166,000	\$180,750	\$180,750	\$192,768	+\$12,018	Would support the Administration's strong commitment to ensuring access to high quality postsecondary education by providing funds to strengthen HBCUs and HBGs through academic program development and improved administrative management.
<u>Developing Hispanic-Serving Institutions.</u> Helps strengthen colleges with large Latino populations	\$28,000	\$42,250	\$42,250	\$50,000	+\$7,750	Would support the Administration's commitment to improving postsecondary opportunities for Hispanic students by helping to expand and enhance the academic offerings, program quality, and institutional stability of the colleges and universities that have an enrollment of at least 25% Hispanic FTE undergraduates.
<u>Strengthening Tribally-Controlled Institutions (HEA Title III).</u> Supports institutions that serve Native Americans	\$3,000	\$6,000	\$6,000	\$9,000	+\$3,000	Would support the Administration's strong commitment to ensuring access to high quality postsecondary education by providing funds to strengthen TCCUs through academic program development and improved administrative management.
<u>Learning Anytime Anywhere Partnerships.</u> Supports access to quality postsecondary education not limited by time or place for underserved populations through the use of technology and related innovations	\$10,000 (+ \$10 million for Dept. of Labor)	\$20,000 (+ \$10 million for Dept. of Labor)	\$20,000	\$30,000	+\$10,000	Would support projects to improve technology-based learning opportunities for individuals, such as the disabled, dislocated workers, those making the transition from welfare to work, and others who do not have easy access to traditional campus-based postsecondary education.
<u>Child Care Means Parents in School</u> – Helps raise student achievement by assisting public schools across the country to implement effective, comprehensive school reforms that are based on reliable research and effective practices, and that include an emphasis on basic academics and parental involvement.	\$5,000	\$5,000	\$5,000	\$10,000	+\$5,000	Would support the participation of low-income parents in postsecondary education through campus-based childcare services.

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<u>Demonstration Projects to Ensure Quality Higher Education for Students with Disabilities</u> – Funds model demonstration projects to improve the quality of education for students with disabilities.	\$5,000	\$5,000	\$5,000	\$8,000	+\$3,000	Would support an increased number of model demonstration projects that provide technical assistance and professional development for faculty and administrators in institutions of higher education in order to improve the quality of higher education for students with disabilities.
<u>Higher Education for Individuals with Disabilities</u>	--	--	--	\$50,000	+\$50,000	Would assist State Vocational Rehabilitation (VR) agencies to increase the number of VR participants with significant disabilities who attend four-year college degree or advanced degree programs and provide them with the ability to achieve high quality employment outcomes that can sustain economic independence. This request would establish a supplemental source of funds to offset the high costs of higher education and related services for individuals with significant disabilities, not covered by student financial aid or other sources, including disability-related expenses such as personal assistants, interpreters, readers, and education support services.
Subtotal:					+\$90,768	

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• **Comments:**

I have attached a copy of the Public Charter Schools statute with the 1998 amendments added in. (This is the clearest version I have.) Also, the ESEA does not define "public school" -- the ESEA does define "elementary school" & "secondary school" and our regulations define "public" in 34 CFR 77. I've attached all of these FYI

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OUR MISSION IS TO ENSURE EQUAL ACCESS TO EDUCATION AND TO PROMOTE EDUCATIONAL EXCELLENCE
THROUGHOUT THE NATION.

TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

PART C—PUBLIC CHARTER SCHOOLS

SEC. 10301. [20 U.S.C. 8081] FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

(1) providing financial assistance for the design and initial implementation of charter schools; ~~and~~

(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents; and

(3) expanding the number of high-quality charter schools available to students across the Nation.

→ planning, program

→; and

4

SEC. 10302. [20 U.S.C. 8062] PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303(c).

(c) PROGRAM PERIODS.—

(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

(A) not more than 18 months for planning and program design; ~~and~~

(B) not more than 2 years for the initial implementation of a charter school; and

(C) not more than 2 years to carry out dissemination activities described in section 10304(f)(6)(B).

~~(d) Limitation.—The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.~~

(d) LIMITATION.—A charter school may not receive—

(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

(e) PRIORITY TREATMENT.—

(1) IN GENERAL.—

(A) FISCAL YEARS 1999, 2000, AND 2001.—In awarding grants under this part for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of \$51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

(B) SUCCEEDING FISCAL YEARS.—In awarding grants under this part for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

10302(a) -

(e)(1)

5

(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

(B) The State—

(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

SEC. 10303. [20 U.S.C. 8063] APPLICATIONS.

(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program;

and

10302(c)(2) -

10303(b)(1)

(2) describe how the State educational agency—

(A) will inform each charter school in the State regarding—

(i) Federal funds that the charter school is eligible to receive; and

(ii) Federal programs in which the charter school may participate;

(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

(3) ← (9) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

(A) a description of the educational program to be implemented by the proposed charter school, including—

(i) how the program will enable all students to meet challenging State student performance standards;

(ii) the grade levels or ages of children to be served; and

(iii) the curriculum and instructional practices to be used;

(B) a description of how the charter school will be managed;

(C) a description of—

(i) the objectives of the charter school; and

(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

→ planning, program

10303(5)(2) -
(3)(G)

(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

(I) a description of how students in the community will be—

(i) informed about the charter school; and

(ii) given an equal opportunity to attend the charter school;

(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; ~~(L)~~

(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 10302(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

(N) ~~(L)~~ such other information and assurances as the Secretary and the State educational agency may require.

(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section ~~10302(a)(1)~~ or 10302(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

(1) the information and assurances described in subparagraphs (A) through ~~(F)~~ of subsection (b)(3), except that for purposes of this subsection subparagraphs ~~(B)~~, ~~(D)~~, and ~~(F)~~ of such subsection shall be applied by striking "and the State educational agency" each place such term appears; and

(2) assurances that the State educational agency—

(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e).

(N)

(J), (K), and (N)

10303(4)(3)(H) -

(d)

SEC. 10304. [20 U.S.C. 8084] ADMINISTRATION.

(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as—

(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

(3) the ambitiousness of the objectives for the State charter school grant program;

(4) the quality of the strategy for assessing achievement of those objectives; ~~and~~

(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

(6) the number of high quality charter schools created under this part in the State; and

(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as—

(1) the quality of the proposed curriculum and instructional practices;

(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

(3) the extent of community support for the application;

(4) the ambitiousness of the objectives for the charter school;

(5) the quality of the strategy for assessing achievement of those objectives; ~~and~~

(6) the likelihood that the charter school will meet those objectives and improve educational results for students;

; and

(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.

10304(a)-
(b)

(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 10310(1) if—

(1) the waiver is requested in an approved application under this part; and

(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

(f) USE OF FUNDS.—

(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part.

10310(1),

, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6)

(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school in accordance with this part.

(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

(A) post-award planning and design of the educational program, which may include—

(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

(ii) professional development of teachers and other staff who will work in the charter school; and

(B) initial implementation of the charter school, which may include—

(i) informing the community about the school;

(ii) acquiring necessary equipment and educational materials and supplies;

(iii) acquiring or developing curriculum materials; and

(iv) other initial operational costs that cannot be met from State or local sources.

, or to disseminate information about the charter school and successful practices in the charter school,

10304(c) -
(f)(3)

(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than ~~20~~ percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

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(6) DISSEMINATION.—

(A) IN GENERAL.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

(i) substantial progress in improving student achievement;

(ii) high levels of parent satisfaction; and

(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

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(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this part and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

- (1) the eligibility of the school to receive any other Federal, State, or local aid; or
- (2) the amount of such aid.

~~SEC. 10303. (20 U.S.C. 8803) NATIONAL ACTIVITIES.~~

~~The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for—~~

- ~~(1) peer review of applications under section 10304(c);~~
- ~~(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and~~
- ~~(3) other activities designed to enhance the success of the activities assisted under this part, such as—~~

~~(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and~~

~~(B) collection and dissemination of information on successful charter schools.~~

SEC. 10305. NATIONAL ACTIVITIES.

(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or \$5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed \$8,000,000, to carry out the following activities:

- (1) To provide charter schools, either directly or through State educational agencies, with—

(A) information regarding—

(i) Federal funds that charter schools are eligible to receive; and

(ii) other Federal programs in which charter schools may participate; and

(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

- (2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

- (3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

- (4) To provide—

(A) information to applicants for assistance under this part;

(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

(C) assistance in the planning and startup of charter schools;

(D) training and technical assistance to existing charter schools; and

(E) for the dissemination to other public schools of best or promising practices in charter schools.

- (5) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

10304(g)-

10305

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**SEC. 10306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR
AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.**

(12)

(a) **IN GENERAL.**—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of the enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

(b) ADJUSTMENT AND LATE OPENINGS.—

(1) **IN GENERAL.**—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

(2) **RULE.**—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

SEC. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

10306 -
10307

SEC. 10308. RECORDS TRANSFER.

State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

SEC. 10309. PAPERWORK REDUCTION.

To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.

10310.

SEC. 10308 [20 U.S.C. 8066] DEFINITIONS.

As used in this part:

(1) The term "charter school" means a public school that—

(A) in accordance with ~~an enabling State statute~~ is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

a specific State statute authorizing the granting of charters to schools,

is a school to which parents choose to send their children, and that

10308 -
10310(1)(H)

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements; ~~(K)~~

(K) operates in accordance with State law; and

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

(2) The term "developer" means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(3) The term "eligible applicant" means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

(4) The term "authorized public chartering agency" means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

10311

SEC. ~~(999)~~. [20 U.S.C. 8067] AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated ~~(\$15,000,000 for fiscal year 1997~~ and such sums as may be necessary for each of the four succeeding fiscal years.

\$100,000,000 for fiscal year 1999

10310(IXI) -
10311

TITLE XIV—GENERAL PROVISIONS

PART A—DEFINITIONS

SEC. 14101. [20 U.S.C. 8801] DEFINITIONS.

Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

(14) **ELEMENTARY SCHOOL.**—The term “elementary school” means a nonprofit institutional day or residential school that provides elementary education, as determined under State law. → , including a public elementary charter school.

(25) **SECONDARY SCHOOL.**—The term “secondary school” means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12. → , including a public secondary charter school,

§77.1

it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

Nonpublic, as applied to an agency, organization, or institution, means that the agency, organization, or institution is nonprofit and is not under Federal or public supervision or control.

Preschool means the educational level from a child's birth to the time at which the State provides elementary education.

Private, as applied to an agency, organization, or institution, means that it is not under Federal or public supervision or control.

Project means the activity described in an application.

Public, as applied to an agency, organization, or institution, means that the agency, organization, or institution is under the administrative supervision or control of a government other than the Federal Government.

Secondary school means a day or residential school that provides secondary education as determined under State law. In the absence of State law, the Secretary may determine, with respect to that State, whether the term includes education beyond the twelfth grade.

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Service function, with respect to a local educational agency:

(a) Means an educational service that is performed by a legal entity—such as an intermediate agency:

(1) Whose jurisdiction does not extend to the whole State; and

(i) That is authorized to provide consultative, advisory, or educational services to public elementary or secondary schools; or

(2) That has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools.

(b) The term does not include a service that is performed by a cultural or educational resource.

34 CFR Subtitle A (7-1-97 Edition)

State means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

State educational agency means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

Work of art means an item that is incorporated into facilities primarily because of its aesthetic value.

(Authority: 20 U.S.C. 1221e-3(a)(1), 2831(a), 2874(b), and 3474)

[45 FR 22529, Apr. 3, 1980, as amended at 45 FR 37442, June 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86298, Dec. 30, 1980; 54 FR 21776, May 19, 1989; 57 FR 30342, July 8, 1992; 59 FR 34739, July 6, 1994]

PART 79—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES

Sec.

79.1 What is the purpose of these regulations?

79.2 What definitions apply to these regulations?

79.3 What programs and activities of the Department are subject to these regulations?

79.4 What are the Secretary's general responsibilities under the Order?

79.5 What is the Secretary's obligation with respect to Federal interagency coordinations?

79.6 What procedures apply to the selection of programs and activities under these regulations?

79.7 How does the Secretary communicate with State and local officials concerning the Department's programs and activities?

79.8 How does the Secretary provide States an opportunity to comment on proposed Federal financial assistance?

79.9 How does the Secretary receive and respond to comments?

79.10 How does the Secretary make efforts to accommodate intergovernmental concerns?

79.11 What are the Secretary's obligations in interstate situations?



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

FACSIMILE TRANSMITTAL SHEET

TO: *Bethany Little*

FROM: SUSAN FROST, SENIOR ADVISOR
TRISH BRENNAN, SPECIAL ASSISTANT
JEN ROLNICK, SCHEDULER

COMPANY:

DATE:

FAX NUMBER:

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NOTES/COMMENTS:

Bethany -

*Susan asked me to deliver this to
you. Unfortunately, email is not working -
our system is down.*

Hope this reaches you,

TeaH



U.S. DEPARTMENT OF EDUCATION
FY2001 EDUCATION BUDGET PROPOSAL

September 1999

(IN THOUSANDS OF DOLLARS)

Selected Education Programs in the Tax Bill	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	Secretary's FY2001 Request	Difference from expected	Impact
SCHOOL CONSTRUCTION AND MODERNIZATION						
<u>School Modernization Bonds and Qualified Zone Academy Bonds.</u> Provides new bonds with interest paid by Federal tax credits to help local communities go much further in renovating and building needed schools	-	\$24.8 billion in new bonds (at a cost of \$3.7 billion over 5 years)	+ \$24.8 billion in new bonds (at a cost of \$3.7 billion over 5 years)			Would make available nearly \$25 billion in new bonds to build and renovate about 6,000 public schools in communities throughout the country to make them safer and more accessible, to address record enrollments and overcrowding, to repair crumbling school facilities, and to accommodate smaller class sizes. Federal tax credits would pay the interest on two types of proposed bonds: School Modernization Bonds and Qualified Zone Academy Bonds. The tax credits on these bonds would cost the Treasury a total of \$3.7 billion over 5 years.
<u>Building Schools As Centers of Community Grants.</u> Encourages greater public participation in the planning and design of new schools	-	\$10,000	\$10,000	\$10,000 ¹	N/C	Would support the creation of 150-200 school-community partnerships to encourage broader citizen engagement in the process of planning and designing new school buildings that can enhance teaching and learning as well as serve the broader needs of the community.

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
NEW INITIATIVES UNDER THE REAUTHORIZATION OF ESEA (ELEMENTARY AND SECONDARY EDUCATION ACT)						
<u>High School Reform</u>	--	--	--	\$125,000	+\$125,000	This initiative would support research-based, comprehensive reforms at the high school level, including the creation of smaller, more supportive learning environments such as schools within schools. The request would fund reform efforts at some 1,000 high schools as the first stage in reaching 5,000 schools by 2007.
<u>OPTIONS (Opportunities to Improve our Nation's Schools)</u>	--	--	--	\$30,000	+\$30,000	Grants to States and local school districts to develop innovative approaches to public school choice, including worksite schools and schools located on college campuses.
<u>Principals Leadership Initiative</u>	--	--	--	\$40,000	+\$40,000	Would establish some 24 regional leadership centers (LEAs in partnership with IHEs) that would provide professional development focused on standards-based reform, use of achievement data for decision-making and resource allocation, and leadership training to strengthen skills of current and potential principles.
<u>State Recognition and Reward for Student Achievement</u>	--	--	--	\$5,000	+\$5,000	Funding to implement the proposed authority that allows the Department to recognize and reward States that demonstrate improved student achievement over three consecutive years, including narrowing the achievement gap between high- and low-performing students and reducing the practices of social promotion.

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
NEW INITIATIVES UNDER THE REAUTHORIZATION OF ESEA (ELEMENTARY AND SECONDARY EDUCATION ACT)						
<u>Early Childhood Educator Professional Development</u>	--	--	-	\$20,000	+\$20,000	Would provide professional development opportunities for about 10,000 staff working in Title I preschools, Head Start, Even Start, and day care centers in high poverty areas. Funds would be awarded competitively to partnerships between IHEs and LEAs.
<u>Special Needs Technical Assistance Centers</u>	--	--	--	\$8,000	+\$8,000	Two centers that would provide training and technical assistance to address the instructional needs of LEP, migratory, Indian, and Alaskan native students and help these students reach the same high standards as other students.
<u>Web-based Information Dissemination</u>	--	--	--	\$6,000	+\$6,000	Would make Internet-based educational resources more accessible to teachers, administrators, parents, and students by linking sites, cataloguing materials, and providing on-line assistance to, for example, help users locate lesson plans and best practices quickly.
Subtotal: +\$234,000						

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
AFTER-SCHOOL						
<u>21st Century Community Learning Centers.</u> Funds school-community partnerships to keep schools open after regular hours as safe havens for enhanced learning	\$200,000	\$600,000	\$600,000	\$1,000,000	+\$400,000	Would provide before- and after-school and summer programs in safe, drug-free environments for approximately 1,300,000 additional school-age children in 900 additional school districts. This request, along with a proposed matching requirement for new awards would support about 2,300 districts and serve approximately 2.8 million students.
				SUBTOTAL:	+\$400,000	
IMPROVING TEACHING						
<u>Teaching to High Standards</u> – Helps states and school districts implement the next generation of standards-based reform, including standards-based assessments, curricula, and professional development. The program would consolidate the following programs:	\$1,171,000	\$796,000	\$1,171,000	\$1,700,000	+\$529,000	Would continue the development and implementation of standards with a specific focus on bringing standards into the classroom through professional development, curricula and assessments.
<u>Raise Educational Standards – Goals 2000.</u> Helps schools raise academic standards, improve teaching, expand the use of technology.	\$461,000	\$461,000	\$461,000	Combined under ESEA's Teaching to High Standards	(\$461,000)	
<u>Upgrade Teacher Skills - Eisenhower Professional Development (State Grants).</u> Improves teachers' skills in core academic subjects	\$335,000	\$335,000	\$335,000	Combined under Teaching to High Standards	(\$335,000)	
<u>Innovation Education Strategies State Grants (Title VI)</u> – Supports state and local reform efforts.	\$375,000	–	\$375,000	Combined under Teaching to High Standards	(\$375,000)	

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
<u>Teacher Quality Enhancement (HEA Title II).</u>	\$75,000	\$115,000	\$115,000	\$200,000	+\$85,000	Provides grants to help recruit new teachers for high-poverty urban and rural areas, strengthen partnerships between schools and universities to give the teachers the best preparation possible, and help States improve the quality of their teaching force through reform activities such as teacher licensing and certification.
<u>Improvement of Teaching and School Leadership</u>	\$23,300	\$30,000	\$30,000	\$40,000	+\$10,000	Would support activities to implement the recommendations of the Glenn Commission, to develop and disseminate materials on effective teaching practices, and to support the development of math teacher leaders.
<u>Bilingual Education.</u>	\$224,000 (includes \$50 million for professional development)	\$259,000 (includes \$75 million for professional development)	\$259,000	\$286,500 (includes \$90 million for professional development)	+\$27,500	Provides assistance to local schools to improve English and related instruction for limited English proficient students and would provide training grants to institutions of higher education and fellowships to individuals. This would result in an estimated 7,000 additional bilingual teachers to address the acute shortage of well-trained teachers to instruct limited English proficient students.
<u>Transition to Teaching: Troops to Teachers</u>	-	\$18,000	\$18,000	\$18,000	N/C	Would continue and expand the successful Troops to Teachers initiative by recruiting and supporting mid-career professionals as teachers, particularly in high-poverty school districts and high-need subject areas.
<u>American Indian Teacher Corps</u>	--	\$10,000	\$10,000	\$10,000	N/C	Recruits and trains 1,000 new Indian teachers (over five years) to work in Native American communities by funding programs at Tribal Colleges and other postsecondary institutions to pay tuition and living expenses for prospective teachers, and support in-service training for educators already employed in Indian schools.

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
<u>Middle School Teacher Training</u>	--	\$30,000	\$30,000	\$30,000	N/C	Supports a technology teacher leader in middle schools and encourages schools to establish technology literacy requirements.
<u>Strengthening Technical Assistance Capacity</u>	\$28,000	\$32,000	\$32,000	\$60,000	+\$28,000	Would eliminate the Comprehensive Regional Assistance Centers and redirect the funds by formula to states and the 100 school districts with the largest numbers of children in poverty.
<u>Special Education State Improvement</u>	\$35,200	\$45,200	\$45,200	+\$135,600	+\$90,400	Would give all States the opportunity to compete for funds to reform and improve their systems for providing educational services to children with disabilities, especially their system for professional development. Would also significantly increase the size of awards so that States can implement true systemic change activities.
			Subtotal:		\$769,900	

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
ACCELERATING CHANGE AND INCREASING ACCOUNTABILITY						
<u>Strengthen Achievement and Accountability in Title I.</u> Helps State and local education agencies turn around low-performing schools	NEW	\$200,000 (non-add)	+ \$200,000² (non-add)	\$215,000 (non-add)	+15,000 (non-add)	Would provide States new resources to accelerate implementation of Title I accountability provisions and to identify and improve weak schools through intensive teacher training, improved school discipline, and proven approaches to school reform.
<u>Comprehensive School Reform Demonstrations (Title I and FIE funds).</u> Helps schools develop and implement reforms that are based on reliable research and effective practices	\$145,000	\$175,000	\$175,000	\$225,000	+\$50,000	Would provide new round of grants to an estimated 2,900 schools and continue support for more than 400 schools already using funds to carry out research-based school improvement.
<u>Charter Schools.</u> Supports the planning, development and initial implementation of public charter schools	\$100,000	\$130,000	\$130,000	\$150,000	+\$20,000	Would support planning and implementation of 1,100 new charter schools which would exceed the administration objective of creating 3,000 charter schools by 2002.
<u>Research, Development and Dissemination</u> (Replaces National Education Research Institutes, Regional Educational Laboratories, and National Dissemination Activities)	\$143,567	\$198,282	\$198,282	\$250,000	+\$51,718	Would support a research agenda focused on improving the teaching and learning of academic subjects for diverse students, the ability of schools and states to implement reforms, and the utilization of knowledge.
<u>Advanced Placement Incentive Program.</u> Increases opportunities for students to enroll in and complete advanced placement courses in high schools.	\$4,000	\$20,000	\$20,000	\$40,000	+\$20,000	Would support State and local efforts to expand the availability of Advanced Placement and other challenging courses in high schools and to train teachers for those courses.
Subtotal: +\$156,718						

² This \$200 million is part of the \$320 million requested increase in Title I Grants to Local Education Agencies (see the section entitled "Mastering the Basics").

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected Appropriation	President's FY2001 Request	Difference from expected	Impact
MASTERING THE BASICS						
<u>Reducing Class Size.</u> Second installment in reducing class sizes in grades 1-3 to a nationwide average of 18 to give children more personal attention and get them on the right track	\$1,200,000	\$1,400,000	\$1,400,000	\$1,700,000	+\$300,000	Would support the hiring and training of more than 11,000 additional qualified teachers so schools can reduce class size in order to provide children with more individual attention, make classrooms more orderly and help children master reading and other basics. This is the third installment in the Administration's commitment to help school districts hire and train 100,000 new teachers over 7 years.
<u>Reading Excellence Act.</u> Helps children learn to read well and independently by the end of the third grade	\$260,000	\$286,000	\$286,000	\$386,000	+\$100,000	Would help schools and communities improve reading programs by providing tutoring and extended learning time connected to quality classroom instruction, improving teacher training in reading instruction, and providing family literacy activities to help more than 1.4 million children become successful readers.
<u>Extra Help in the Basics (Title I LEA Grants).</u> Helps disadvantaged students learn the basics	\$7,732,397	\$7,996,020 ³	\$8,052,397 ³	\$8,800,000	+\$747,603	Would provide funds to help more than 12.5 million educationally disadvantaged children -- 400,000 more than in FY2000 -- boost their basic skills, master challenging curriculum, and meet high standards, and to help improve the entire academic programs in their schools.
<u>Special Education State Grants.</u> Helps local schools and States provide special education and early intervention services	\$5,054,685	\$5,106,435	\$5,603,135	\$6,136,507	+\$533,372	Would help provide special education and related services to children with disabilities and early intervention services to infants and toddlers with disabilities. About 6.6 million children with disabilities would be served in FY2001.

³ \$200 million of this requested increase is reserved to help States and local districts turn around low-performing schools (see the section entitled "Accelerating Change and Increasing Accountability").

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected appropriation	President's FY2001 Request	Difference from expected	Impact
<u>MASTERING THE BASICS CON'T</u>						
<u>Special Education Primary Education Intervention Program.</u> Helps school districts meet the needs of children with reading or behavioral problems	NEW	\$50,000	\$50,000	\$100,000	+\$50,000	Would demonstrate the benefits of early identification and research-based interventions for young children with developmental delays who may later be identified as learning disabled or emotionally disturbed.
<u>Adult Education.</u> Provides adult and family literacy, English as a second language, and other educational programs	\$385,000	\$575,000	\$575,000	\$622,500	+\$47,500	Would further the President's adult literacy initiative to close the skills gap by 2005. Would help an additional 33,000 adults become literate, strengthen their basic skills, and obtain good jobs. This total includes \$75 million to continue an English literacy and civics initiative which would provide additional resources to States and localities significantly affected by immigration.
<u>Even Start</u>	\$135,000	\$145,000	\$145,000	\$160,000	+\$15,000	Would provide funding for approximately 200 new local Even Start projects. Since the average project serves 60 families, an additional 12,000 low income families with high educational needs would be served. The increase would impact 54,000 parents and children.
				Subtotal:	+\$1,793,475	
<u>KEEPING OUR CHILDREN SAFE AND DRUG-FREE</u>						
<u>Safe and Drug-Free Schools State Grants, National Programs, and Project SERV (School Emergency Response to Violence).</u> Helps schools become safe, drug-free learning environments	\$566,000	\$591,000	\$591,000	\$691,000	+\$100,000	Would provide \$483 million for State grants with improved targeting to quality programs; \$109 million for competitive "Safe Schools/Healthy Students" grants to support comprehensive strategies for creating safe and drug-free schools and for promoting healthy childhood development; \$37 million for a variety of national leadership activities; \$50 million for coordinators to plan, design, and implement successful drug and violence prevention programs in middle schools, and \$12 million to provide emergency assistance to schools affected by serious violence or other traumatic crises.
				Subtotal:	+\$100,000	

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected appropriation	President's FY2001 Request	Difference from expected	Impact
TECHNOLOGY						
<u>Technology Literacy Challenge Fund.</u> Helps provide students and teachers with computers, educational software, telecommunications, and technology training	\$425,000	\$450,000	\$450,000	\$450,000	N/C	Would continue Federal funding to almost 4,000 school districts to help schools integrate technology into the curriculum, ensure that teachers are trained to use technology effectively in the classroom, and improve teaching and learning in the core subjects
<u>Next Generation Technology Innovation Grants</u>	\$160,100	\$155,000	\$155,000	\$170,000	+\$15,000	Would consolidate the Technology Innovation Challenge Grants and Star Schools programs. Would support the use of cutting-edge technology to improve education. Priority for new awards would go to projects that: develop distance learning networks, software, and online-learning resources; serve more than one State; develop models for using electronic networks to provide challenging courses such as Advanced Placement; and serve traditionally underserved populations.
<u>Preparing Tomorrow's Teachers to Use Technology</u>	\$75,000	\$75,000	\$75,000	\$85,000	+\$10,000	Would support consortia of public and private entities to train new teachers to use advanced technology to foster learning environments that prepare all students to achieve challenging state and local standards.
<u>Community Technology Centers.</u> Helps community residents gain technology skills, take courses on-line, and access on-line job databases	\$10,000	\$65,000	\$65,000	\$65,000	N/C	Would support access to technology-based resources for low-income families by bringing technology to public housing, community centers, libraries, and other community facilities.
Subtotal:					+\$25,000	

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected appropriation	President's FY2001 Request	Difference from expected	Impact
COLLEGE STUDENT AID						
<u>Pell Grants</u> . Provides grant assistance to low-income undergraduate students	max grant: \$3,125 budget authority: \$7,704,000 program cost: \$7,382,000	max grant: \$3,250 budget authority: \$7,463,000 program cost: \$7,912,000 ⁴	max grant: \$3,250 budget authority: \$7,549,000 program cost: \$7,913,000	max grant \$3,525 budget authority: \$8,715,000	max grant +\$275 budget authority +\$1,166,000	Would help nearly 4 million financially-needy students attend college -- 84,000 more than in FY2000 -- and would increase the average award by \$160 compared to FY2000.
<u>Work-Study</u> . Helps undergraduate and graduate students pay for college through part-time work assistance	\$870,000	\$934,000	\$934,000	\$1,011,000	+\$77,000	Would give one million students the opportunity to work and earn funds to help pay for college -- approximately the same number of students as in FY2000. This request would also provide opportunities for students at more than 1,100 colleges and universities to tutor children in reading and math.
<u>Supplemental Educational Opportunity Grants (SEOG)</u> . Provides grant assistance to low-income undergraduate students	\$619,000	\$631,000	\$631,000	\$663,000	+\$32,000	Would provide need-based grant aid to over 1.1 million college students, especially enabling low-income undergraduates to pursue a baccalaureate degree.
<u>Perkins Loans (Capital Contributions)</u> . Helps colleges and universities provide long-term, low-interest loans to undergraduate and graduate students with demonstrated financial need	\$100,000	\$100,000	\$100,000	\$100,000	N/C	Would maintain sufficient funds to provide approximately \$1.1 billion in new Perkins loans in award year 2001-2002, the same as in 2000 - 2001.
<u>Leveraging Educational Assistance Partnership (formerly SSIG)</u> . Provides Federal matching funds for States to support need-based postsecondary student grant assistance	\$25,000	\$25,000	\$25,000	\$35,000	+\$10,000	Would maintain the Federal share of need-based aid to States for more than 100,000 recipients, 17,000 more than in FY2000.
<u>D.C. Resident Tuition Support</u> . Provides expanded opportunities for D.C. residents that are similar to those available to residents of States	--	\$17,000	\$17,000	\$17,000	N/C	Would pay the difference between in-State and out-of-state tuition at all public institutions of higher education in Maryland and Virginia on behalf of D.C. residents who have recently graduated from high school or received a GED.
				Subtotal:	+\$1,285,000	

⁴ Includes new budget authority and \$449 million of the prior year surplus.

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected appropriation	President's FY2001 Request	Difference from expected	Impact
REACHING AND COMPLETING COLLEGE						
<u>GEAR UP.</u> Gives disadvantaged students and their families pathways to college by partnering middle and high schools with colleges and universities or through state-administered programs	\$120,000	\$240,000	\$240,000	\$360,000	+\$120,000	Would help give an estimated 948,000 at-risk, middle and high school students the critical skills and encouragement they need to raise their educational expectations, increase their academic achievement and eliminate the barriers they face in preparing for and pursuing a college education. Academic and support services include mentoring, tutoring and college visits.
<u>TRIO Programs.</u> Provides education outreach and student support services designed to encourage disadvantaged individuals to enter and complete college	\$600,000	\$630,000	\$630,000	\$690,000	+\$60,000	In total, would help more than 743,000 disadvantaged students prepare for and persist in postsecondary education. This request would provide academic and career counseling, admissions and financial aid information, and tutoring services to almost 383,000 middle and high school students; encourage 201,000 disadvantaged postsecondary students to complete college and pursue graduate studies; and encourage over 159,000 adults to go back to school and pursue postsecondary education.
<u>College Completion Challenge Grants.</u> Helps disadvantaged students stay in college and earn diplomas	NEW	\$35,000	\$35,000	\$35,000	N/C	Would help postsecondary institutions increase the persistence rate of students who are at-risk of dropping out by strengthening student support services, augmenting student aid awards, and financing intensive summer programs.
<u>Preparing for College.</u> Provides information to middle and high school students and adults on preparation for college	NEW	\$15,000	\$15,000	\$15,000	N/C	Would educate students and their parents about the importance of higher education, the academic coursework needed in middle and high school to gain entrance into college, and the available financial aid opportunities to finance education through pamphlets and videos, community events, and public service announcements.
				Subtotal:	+\$180,000	

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected appropriation	President's FY2001 Request	Difference from expected	Impact
INSTITUTIONAL AID						
<u>Strengthening Historically Black Colleges and Universities and Graduate Institutions (HEA Title III).</u> Helps provide equal educational opportunity and strong academic programs	\$166,000	\$180,750	\$180,750	\$192,768	+\$12,018	Would support the Administration's strong commitment to ensuring access to high quality postsecondary education by providing funds to strengthen HBCUs and HBGIs through academic program development and improved administrative management.
<u>Developing Hispanic-Serving Institutions.</u> Helps strengthen colleges with large Latino populations	\$28,000	\$42,250	\$42,250	\$50,000	+\$7,750	Would support the Administration's commitment to improving postsecondary opportunities for Hispanic students by helping to expand and enhance the academic offerings, program quality, and institutional stability of the colleges and universities that have an enrollment of at least 25% Hispanic FTE undergraduates.
<u>Strengthening Tribally-Controlled Institutions (HEA Title III).</u> Supports institutions that serve Native Americans	\$3,000	\$6,000	\$6,000	\$9,000	+\$3,000	Would support the Administration's strong commitment to ensuring access to high quality postsecondary education by providing funds to strengthen TCCUs through academic program development and improved administrative management.
<u>Learning Anytime Anywhere Partnerships.</u> Supports access to quality postsecondary education not limited by time or place for underserved populations through the use of technology and related innovations	\$10,000 (+ \$10 million for Dept. of Labor)	\$20,000 (+ \$10 million for Dept. of Labor)	\$20,000	\$30,000	+\$10,000	Would support projects to improve technology-based learning opportunities for individuals, such as the disabled, dislocated workers, those making the transition from welfare to work, and others who do not have easy access to traditional campus-based postsecondary education.
<u>Child Care Means Parents in School</u> – Helps raise student achievement by assisting public schools across the country to implement effective, comprehensive school reforms that are based on reliable research and effective practices, and that include an emphasis on basic academics and parental involvement.	\$5,000	\$5,000	\$5,000	\$10,000	+\$5,000	Would support the participation of low-income parents in postsecondary education through campus-based childcare services.

Selected Education Programs In Appropriations	FY1999 Appropriation	President's FY2000 Request	Expected appropriation	President's FY2001 Request	Difference from expected	Impact
<u>Demonstration Projects to Ensure Quality Higher Education for Students with Disabilities</u> – Funds model demonstration projects to improve the quality of education for students with disabilities.	\$5,000	\$5,000	\$5,000	\$8,000	+\$3,000	Would support an increased number of model demonstration projects that provide technical assistance and professional development for faculty and administrators in institutions of higher education in order to improve the quality of higher education for students with disabilities.
<u>Higher Education for Individuals with Disabilities</u>	--	--	--	\$50,000	+\$50,000	Would assist State Vocational Rehabilitation (VR) agencies to increase the number of VR participants with significant disabilities who attend four-year college degree or advanced degree programs and provide them with the ability to achieve high quality employment outcomes that can sustain economic independence. This request would establish a supplemental source of funds to offset the high costs of higher education and related services for individuals with significant disabilities, not covered by student financial aid or other sources, including disability-related expenses such as personal assistants, interpreters, readers, and education support services.
Subtotal:					+\$90,768	

Selected Education Programs In Appropriations	FY 2000	FY 2001	Increase
<u>REDUCING CLASS SIZE, IMPROVING TEACHER QUALITY AND IMPROVING READING</u>			
<u>Reducing Class Size</u> . Third installment in reducing class sizes in grades 1-3 to a nationwide average of 18 to give children more personal attention and get them on the right track	\$1,300,000	\$1,800,000	+\$500,000
<u>Reading Excellence Act</u> . Helps children learn to read well and independently by the end of the third grade and supports early childhood professional development.	\$260,000	\$360,000	+\$100,000
<u>Teaching to High Standards</u> - Helps states and school districts implement the next generation of standards-based reform, including standards-based assessments, curricula, and professional development.	\$1,206,000	\$1,735,000	+\$529,000
<u>Teacher Quality Enhancement (HEA Title II)</u> .	\$98,000	\$183,000	+\$85,000
<i>Upgrade teachers' skills and knowledge, provide new resources to local schools and commit to upgrade teaching materials and curriculum to better prepare teachers to help students meet higher standards.</i>			+\$200,000
<u>STRENGTHENING THE FOUNDATION FOR DISABLED AND LOW-INCOME STUDENTS</u>			
<u>Extra Help in the Basics (Title I LEA Grants)</u> . Helps disadvantaged students learn the basics. Includes an increase in basic grants and funds accountability and OPTIONS/choice.	\$7,941,397	\$8,691,397	+\$750,000
<u>Special Education State Grants</u> . Helps local schools and States provide special education and early intervention services	\$5,754,685	\$6,287,685	+\$533,000
<u>Special Education State Improvement</u>	\$35,200	\$125,200	+\$90,000
<u>DOUBLING SAFE AND SMART AFTER-SCHOOL PROGRAMS</u>			
<u>21st Century Community Learning Centers</u> . Funds school-community partnerships to keep schools open after regular hours as safe havens for enhanced learning	\$435,710	\$885,710	+\$450,000
<u>Safe and Drug-Free Schools State Grants, National Programs, and Project SERV (School Emergency Response to Violence)</u> . Helps schools become safe, drug-free learning environments	\$605,750	\$705,750	+\$100,000
<u>REFORMING HIGH SCHOOLS AND ENSURING PATHWAYS TO COLLEGE</u>			
<u>Small Schools</u> - newly funded initiative	\$45,000	\$90,000	+\$45,000
<u>Comprehensive High School Reform (ESEA)</u>	New	\$125,000	+\$125,000
<u>High Schools on Community College Campuses and Career Academies (Authorized Under Perkins)</u>			+\$200,000
<u>Advanced Placement Incentive Program</u> . Increases opportunities for students to enroll in and complete advanced placement courses in high schools.	\$15,000	\$35,000	+\$20,000
<u>GEAR UP</u> . Gives disadvantaged students and their families pathways to college by partnering middle and high schools with colleges and universities or through state-administered programs	\$200,000	\$350,000	+\$150,000
<u>TRIO Programs</u> . Provides education outreach and student support services designed to encourage disadvantaged individuals to enter and complete college	\$645,000	\$795,000	+\$150,000

<u>HELPING FAMILIES PAY FOR COLLEGE</u>			
<u>Pell Grants</u> . Provides grant assistance to low-income undergraduate students	\$7,700,000	\$8,700,000	max grant - +\$400 +1,000,000
<u>Work-Study</u> . Helps undergraduate and graduate students pay for college through part-time work assistance	\$934,000	\$1,034,000	+\$100,000
<u>Supplemental Educational Opportunity Grants (SEOG)</u> . Provides grant assistance to low-income undergraduate students	\$631,000	\$731,000	+\$100,000
		TOTAL	+\$5,207,000

12/03/99

Education-Related Environmental Issues:

- 1. Schools as Centers of the Community:**
 - Administration's Proposal
 - Part of "Livability Agenda: Building Livable Communities for the 21st Century" first announced by Vice Pres. Gore
- 2. EnergySmart Schools Press Conference:**
 - DOE and Owens Corning held press conference on Thurs. 11/18 @10:00am to discuss energy efficiency and renewable energy use in schools
 - DOE EnergySmart Schools Press Release
 - EnergySmart Schools Web Site Address: <http://www.eren.doe.gov/energysmart/schools>
- 3. Environmental Protection Agency:**
 - Green Communities Web Site—Students and Sustainability
 - Teacher Resources
 - Students Grades K-8
 - Students Grades 9-12
- 4. Alliance to Save Energy:**
 - Educators Web Site
 - Educational Opportunities
 - Press Release: Green Schools Expands
 - Green Schools Web Site
 - About Green Schools
 - ASE Fax 10/12/99
 - Green Schools Update 10/8/99
 - Energy/Environmental/Education Web Sites
- 5. National Clearinghouse for Educational Facilities: Information Resources**
 - Energy Savings
 - FYI Fax: Robert Pernel Appointed to California Energy Commission
 - Indoor Air Quality
 - Correspondence from Fritz concerning Secretary's AIA Speech—asthma and unhealthy schools
 - Water Conservation in Schools
 - Impact of Facilities on Learning
- 6. American Institute of Architecture:**
 - AIA's Center for Livable Communities Home Page
 - Vision Statement
 - Useful Web Links
 - Gore Announces Livable Communities Agenda at AIA Headquarters
 - AIA Legislative Priority Issues—Livable Communities
- 7. American Association of School Administrators**
 - Healthy School Environments Program Web Site

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8. National School Boards Association

- Home Page
- School Board News (9/28/99): Natural Light Aids Learning
- School Board News (3/9/99) : "Green Schools" Reap the Rewards of Energy Conservation

9. The Council of Education Facility Planners, International

- Home Page
- Issue Traks and Online Publications
 - Where Children Learn
 - Underground Fuel Storage Tanks
 - Electric Lighting and Daylighting in Schools

**** No information was available on this subject from the Army Corp of Engineers**

NCLR

NATIONAL COUNCIL OF LA RAZA

Raul Yzaguirre, President

November 24, 1999

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The Honorable Richard Riley
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Riley:

On behalf of the Hispanic Education Coalition (HEC), an *ad hoc* coalition of national organizations dedicated to improving educational opportunities for Hispanics, we want to thank the Department of Education for your continued efforts to improve and expand educational opportunities for Hispanic children. As the Administration develops its Fiscal Year (FY) 2001 funding priorities, we encourage increased funding levels in several programs that provide the pillar of support for Hispanic students.

Today, Latino children are the largest group of minority children in the United States, second only to non-Hispanic White children. Despite the significant increases in the number of Hispanic children attending our nation's schools, they remain among the most educationally disadvantaged of all public school students. For example, 39% of Hispanic children live in families with an income below the poverty line, a rate more than twice as high as for White children.

The Hispanic dropout rate remains one of the most significant challenges faced by the Hispanic community, and the country as a whole. Hispanic students drop out at nearly three times the rate of African American or White Students. The dropout rate of Hispanics is at about 30% nationally. To reduce the dropout rate, and ensure Hispanics contribute to our nation's economic prosperity, funding for programs serving Hispanic children and young people must be increased.

BILINGUAL EDUCATION

Funds for Bilingual Education are critical to meeting the needs of school districts that must provide high-quality instruction to the more than 3.5 million limited English proficient (LEP) students. As the 1990 Census showed, LEP students are no longer concentrated in a limited number of regions of the United States. These students are in virtually every large urban area as well as many smaller and rural communities. Unprepared for this rapid growth in LEP students, school districts have floundered trying to devise local responses to this national trend.



Program Offices: Phoenix, Arizona • San Antonio, Texas • Los Angeles, California • Chicago, Illinois

LA RAZA: The Hispanic People of the New World

Letter to Secretary Riley

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Federal bilingual education funding both leverages other funds for program improvement and provides much needed leadership for states and localities.

Although the number of LEP students has grown dramatically, funding for federal bilingual education has not significantly increased to ensure LEP students are afforded equal educational opportunities. For example, in 1980, bilingual education received \$166 million in appropriations; for FY 1998, it was funded at \$199 million. During the same period, the number of LEP students in the United States doubled. Clearly, appropriation levels have not kept pace with the increasing need for services. According to the Congressional Research Service, funding for the Bilingual Education Act since FY 1980, after adjusting for inflation, has declined an estimated 39% from FY 1980 to FY 1998.¹ The FY 1980 appropriation for bilingual education, in estimated FY 1993 dollars, should have been \$345,504,000.²

To help LEP students meet the same academic standards required of all children in the United States, it is essential that funding for bilingual education be increased to \$336 million. This would increase funding for instructional services, which provides direct assistance to school districts, to \$215 million, and increase Support Services, which funds grants to State educational agencies, the National Clearinghouse for Bilingual Education, Academic Excellence dissemination grants and grants for research, to \$21 million. These funds would assist school districts in meeting their obligation to LEP students under the Civil Rights Act of 1964 and the Supreme Court ruling in Lau v. Nichols of 1974, as well as support important research and dissemination of information to the public. Last, we urge an increase for professional development to \$100 million to address the critical shortage of qualified and certified bilingual education teachers. A 1993 study found that only 18% - or fewer than one in five - of teachers serving LEP students were certified in either English as a second language or bilingual education.³

HEP/CAMP

The High School Equivalency Program (HEP) provides an excellent model for bringing dropouts back into the educational world, so that they can receive their GED and pursue

¹Congressional Research Service. *Bilingual Education: An Overview*. CRS Report for Congress No. 98-501 EPW, by Steven R. Aleman, Education and Public Welfare Division.

²For a discussion of estimating changes over time in funding levels, see: U.S. Library of Congress. Congressional Research Service. *U.S. Department of Education: Major Program Trends, Fiscal Years 1980-1991*. CRS Report for Congress No. 91-10 EPW, by the Education and Public Welfare Division.

³Descriptive Study of Services to Limited English Proficient Students. Summary of Findings and Conclusions, vol. 1, Development Associates, 1993.

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postsecondary education opportunities. The College Assistance Migrant Program (CAMP) provides significant services to migrant students during their first year of college. Both programs show excellent success rates with 69% of HEP students receiving GEDs and 96% of CAMP students completing their first year of college. More than 73% of CAMP students go on to receive their baccalaureate degrees.

Despite the phenomenal success of HEP/CAMP, both programs are seriously underfunded. HEP can serve only one out of ten eligible students and CAMP is limited to serving only 2% of its eligible population. To be able to meet the need of all eligible migrant students, more than \$70 million would be required for the HEP program, and \$100 million would be needed for CAMP. The FY 1999 funding level of \$13 million for HEP/CAMP did not come close to meeting this need, and barely exceeds the \$10.5 million the programs received in FY 1993. For FY 2001, we urge the Administration to recommend that the programs receive \$20 million and \$10 million, respectively.

MIGRANT EDUCATION PROGRAM

The Migrant Education Program (MEP), Title I, Part C of the Elementary and Secondary Education Act (ESEA), has been especially underfunded at a time when costs have increased steadily and changes in the ESEA expanded the program's purposes. Although the MEP program received its first increase in five years in FY 1999, it has been level funded for FY 2000. The program needs additional funding if it is to serve migrant students adequately. Migrant children have a dropout rate in excess of 50%. Many of the very specialized services provided under the MEP are crucial to encouraging students to stay in school. Expansion of services to migrant children at an early age is a necessary first step in ensuring that they can fully participate in the school environment. For FY 2001, we recommend that the Administration propose increasing funding for the MEP to \$430 million.

COMPREHENSIVE REGIONAL ASSISTANCE CENTERS AND EQUITY ASSISTANCE CENTERS

Comprehensive Regional Assistance Centers (CRACs) support critical elementary and secondary education programs, such as the Migrant Education Program and Bilingual and Emergency Immigrant Education. These 15 centers provide an essential technical support network to schools, local education agencies, state education agencies, and other grant recipients delivering vital educational services to our nation's poorest and most disadvantaged students through the programs authorized under the Improving America's Schools Act. For FY 2001, we recommend that funding for the CRACs be increased to \$42 million.

Equity in schools has still not been reached. But for students – who by virtue of their race, ethnic background, sex or national origin may be deprived of their civil rights and an equal opportunity to a quality education – equity is a promise they are depending on for their future. The Equity Assistance Centers (EACs) build bridges among administrators, teachers, parents,

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students and community members so that all stakeholders can find that common higher ground where all students will benefit from the public education system regardless of race, sex or national origin. All students and their communities benefit from the services provided by the centers. School systems serving Hispanics especially need assistance from the EACs. For example, recent studies conducted by the Harvard University Project on School Desegregation found that Hispanic students attend the most segregated public schools.⁴ For FY 2001, we recommend \$8.3 million for the EACs.

HISPANIC SERVING INSTITUTIONS

Hispanic Serving Institutions (HSIs) serve more than one million students, of which about 70% are minorities. Latino students at HSIs earn 56% of all associate degrees and 65% of all bachelor's degrees awarded in 1995-96. By contrast, at non-HSIs, Latino students earned 4% of the associate degrees and 3% of the bachelor's degrees. These figures reflect the commitment of HSIs to serving a diverse student body and improving access to postsecondary education for low income and educationally disadvantaged groups. Given the key role HSIs play in providing access to higher education for Hispanics, we must help strengthen and develop these institutions.

Grants to HSIs improve the ability of the institutions to provide a quality education to their students. However, limited funding for the program denies grants to many eligible institutions that need additional resources to provide recruitment and other services for Hispanic and other disadvantaged young people. In FY 1999, the Department could only award grants to 38% of eligible institutions. Clearly, the need far exceeds the funding. We urge the Administration to include \$62.5 million in its budget for HSIs.

HISPANIC DROPOUT INITIATIVE

We appreciate your leadership in raising national awareness about the dropout crisis through the Administration's Hispanic Education Action Plan (HEAP). We urge you to fully support changes and additions to current dropout prevention legislation that would complement funding increases for programs included in the HEAP. Senator Jeff Bingaman (D-NM) and Representative Ruben Hinojosa (D-TX) have introduced legislation to reduce the Hispanic dropout rate. Among other things, their legislation would allow middle schools and high schools with the highest dropout rates in each state to compete for grants that would enable them to implement proven and widely replicated models of comprehensive reform. We strongly urge your support for this legislation.

⁴Orfield, Gary, "Deepening Segregation in American Public Schools," Harvard Project on School Desegregation, Harvard Graduate School of Education, Harvard University, 1997.

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TITLE I, GEAR UP, AND TRIO PROGRAMS

Not exclusively directed at Hispanic children, Title I, Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), and TRIO programs provide essential services to all disadvantaged children and college students. Because the Improving America's Schools Act of 1994 lifted a prior restriction in Title I on serving LEP children, an estimated 1.5 million LEP students participated in Title I in the 1994-95 school year. Title I services may now be provided to LEP students to address their special language needs or other academic deficiencies unrelated to their LEP status. We urge you to propose significant increases for Title I for FY 2001.

We fully support the GEAR UP program authorized in the 1998 Higher Education Amendments Act. However, we would like to see community-based organizations that have a track record of working with youth get a preference in funding. We recommend that the Administration request \$300 million for GEAR UP for FY 2001.

TRIO programs provide excellent services that help reduce the dropout rate and increase college participation rates. However, the TRIO programs are significantly underfunded for the needs they are addressing. In addition, Hispanic students are particularly underrepresented because of the manner in which the grants are awarded and the inadequate funding for the programs. For FY 2001, we urge you to increase funding for TRIO to \$690 million.

SCHOOL CONSTRUCTION

Although Congress has not authorized the President's School Construction initiative, we support School Construction and urge you to include it as part of the President's education package. Given the large and growing number of Hispanic students in the elementary and secondary schools, the need for this program is greater than ever. Hispanic students in particular are more likely to attend overcrowded schools or attend schools in desperate need of repair. Therefore, federal investment in school construction and repair would greatly help improve the learning environment for Hispanic students.

TEACHER RECRUITMENT AND CLASS SIZE REDUCTION

To better serve Hispanic students, class sizes in schools serving Hispanics must be reduced, in part, by increasing the number of qualified teachers, particularly minority teachers. In 1993-94, only 4.25% of the entire teaching force was Hispanic, 7.35% African American and 1.07% Asian. In contrast, the student population attending our nation's schools is becoming increasingly diverse. Given the acute need for qualified teachers and minority teachers, we would support increased funding for Teacher Recruitment and Minority Teacher Recruitment.

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ADULT EDUCATION AND ESL

Although adult education received an increase for FY 2000, the programs under the Adult Education Act remain severely underfunded. There is an urgent national need for adult English as a Second Language (ESL) services. Adults hoping to learn English have to wait up to more than a year to access these programs, which are vital not only for these adults to learn English, but to help them become more rounded members of society. We recommend that the Department request \$585 million for adult education for FY 2001, including \$70 million for Adult ESL and Civics.

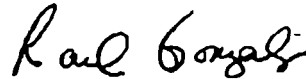
CONCLUSION

The Hispanic Education Coalition respectfully requests that you give priority to the programs outlined above as you develop your FY 2001 budget recommendations. We appreciate your consideration of our request for significant increases in programs serving Hispanic children. We greatly appreciate the Administration's support for our programs in the past and look forward to working with you to increase the educational achievement and attainment of Hispanic children across the country.

Sincerely,



PATRICIA E. LOERA
HEC Co-Chair
National Association for Bilingual Education



RAUL GONZALEZ
HEC Co-Chair
National Council of La Raza

On behalf of:

ASPIRA Association, Inc.
Intercultural Development Research Association
League of United Latin American Citizens
Mexican American Legal Defense and Educational Fund
Migrant Legal Action Program
Multicultural Education Training and Advocacy, Inc
National Association for Bilingual Education
National Association for College Admission Counseling
National Association for Migrant Education
National Council of La Raza
National HEP-CAMP Association
National Latino Children's Institute
Puerto Rican Legal Defense and Education Fund

PREAMBLE

Purpose of the Proposed Regulatory Amendments

The Department proposes to amend its existing Title IX regulation, consistent with the purposes of the Title IX statute and subject to appropriate safeguards against discrimination, to provide greater flexibility to school districts and greater choice to elementary and secondary school parents regarding single-sex programs and activities. The proposed amendments are intended to support efforts of schools and school districts to improve educational outcomes for children, to assist school districts in responding to parents' desires for different pedagogical methods, and to provide public school parents with a diverse array of educational options.

Background

Title IX of the Education Amendments of 1972 prohibits sex-based discrimination in education programs or activities receiving federal financial assistance. 20 U.S.C. § 1681. The Title IX statute specifically exempts from its coverage admissions policies of non-vocational elementary and secondary schools, private undergraduate postsecondary institutions, and public undergraduate postsecondary institutions that traditionally and continually from their establishment have had a policy of admitting only students of one sex. The statute does not specifically prohibit single-sex classes or programs in coeducational schools.

Title IX is implemented by rules promulgated by agencies providing federal assistance to education programs and activities. 20 U.S.C. § 1682. The Department's current regulation issued by its predecessor agency the Department of Health, Education, and Welfare (HEW) became effective July 21, 1975.

The regulation does not apply to the single-sex admission policies of non-vocational elementary and secondary schools, among other institutions exempted by the statute. 34 CFR 106.15. Accordingly, recipients can operate single-sex elementary and secondary schools consistent with Title IX. However, the regulation requires that where a local educational agency (LEA) operates a school for one sex, it must provide the other sex, pursuant to the same policies and criteria of admission, with comparable courses, services, and facilities. 34 CFR 106.35.

With limited exceptions, the existing regulation prohibits recipients that operate coeducational schools from conducting single-sex classes, programs, or activities.¹ The regulation reflects

¹ The exceptions are if separation based on sex (1) results from the application of objective standards of physical ability, or vocal range or ability, 34 CFR 106.34(b), (d), and (f); (2) is in a physical education class involving contact sports or is in a class involving human sexuality, 106 CFR 106.34(c) and (e); (3) involves a program offered to pregnant students on a voluntary basis that is comparable to that offered non-pregnant students, 34 CFR

congressional concerns that coeducational institutions were using sex-based policies and practices that reflected out-dated and stereotyped notions of the differences between the sexes and of the limited abilities of girls and women.

Summary of proposed changes to the Department's Title IX regulation

The proposed regulation is intended to increase flexibility, diversity, and choice consistent with the intent and purpose of Title IX. Recent attempts by some school districts to experiment with single-sex programs, as well as recent congressional proposals regarding single-sex programs, reflect important and legitimate efforts to improve educational outcomes for all students. The purposes behind these programs generally are not based on outdated notions regarding the limitations, or limited goals, of members of one sex. Rather the goal is to find new and better ways to help all students learn and succeed to high standards.

The proposed regulatory changes continue to treat schools and classes differently because of the statutory exemption for single-sex schools. The three major proposed changes to the regulation can be summarized as follows –

The first, and most significant, change, relates to single-sex classes, programs, or activities in coeducational schools. The proposed regulation permits non-vocational elementary and secondary schools to operate single-sex classes, programs, or activities, in addition to those situations permitted by the existing regulation, if a school can meet the constitutional standard used by the federal courts to review gender classifications. Under this standard, a school must demonstrate an exceedingly persuasive justification for the single-sex class, program, or activity.

Whether a school's particular goals and factual circumstances satisfy the requirements of the regulation will need to be decided on a case-by-case basis.

Second, the proposed regulation clarifies the options available to school districts, that operate single-sex schools, to provide equal educational opportunity to both sexes.

Third, the proposed regulation clarifies a requirement that school districts operating single-sex schools provide equal educational opportunity. The language in the regulation has been revised to require that educational programs for both sexes must be "equivalent," rather than "comparable." This change does not alter the intent of the existing regulation, but clarifies that, while schools for both sexes need not be identical, they must be equal in key aspects.

Equivalence will be determined on a case-by-case basis. Determinations regarding equivalence will take into account the purpose and justification for the program, will look at both inputs and

106.40(b); or (4) constitutes remedial or affirmative action. 34 CFR 106.3. In addition, pursuant to an OCR policy determination, recipients may offer sex-segregated classes for students who object to coeducational classes on religious grounds. 43 Fed. Reg. No 84 (May 1, 1978).

outcomes, as appropriate, and will consider sound professional assessments of whether the programs are equivalent. However, differences between programs cannot be based on stereotypes about the sexes, and programs must be equal in all fundamental respects. These include admissions criteria, the quality and availability of curriculum, facilities, services and other benefits, and the qualifications and distribution of staff and faculty.

The proposed changes only apply to elementary and secondary schools, classes and programs. It is at these levels that the issues of flexibility, diversity, and choice are most prevalent, and where the current Title IX regulation unduly limits the discretion of educators to provide single-sex program choices.

Single-sex classes

Title IX applies to class and program selections and assignments in coeducational elementary and secondary schools. Thus, schools must adequately justify the creation of a single-sex program to comply with Title IX. To ensure an interpretation of Title IX that is consistent with the Constitution, the Department proposes to permit single-sex classes, programs, or activities under standards that would satisfy the Equal Protection Clause. This means that when investigating Title IX complaints, OCR would evaluate, on a case-by-case basis, whether the recipient demonstrates an exceedingly persuasive justification for the single-sex class, program or activity. The framework for OCR's legal analysis would be as follows:

The Supreme Court has determined that the Constitution requires equal educational opportunity for men and women. However, sex is not a prohibited classification. For instance, sex classifications may be used "to compensate women 'for particular economic disabilities [they have] suffered,' 'to promot[e] equal employment opportunity,' [and] 'to advance full development of the talent and capacities of our Nation's people.'" United States v. Virginia (VMI), 116 S. Ct. 2264, 2276 (1996) (citations omitted). See also, Mississippi for Women v. Hogan, 102 S. Ct. 3331, 3338 (1982) (holding that in limited circumstance, gender-based classifications can be justified).

Nevertheless, gender classifications require an exceedingly persuasive justification. VMI, 116 S. Ct. at 2275. Gender classifications are permissible if they serve important governmental goals, and the means employed are substantially related to those goals. Id. This is a "demanding" legal hurdle for a school. Id. The governmental justification must be genuine, not hypothesized or invented post hoc in response to litigation. And it must not rely on overbroad generalizations about the different talents, capacities, or preferences of males and females. Id. See also Hogan, 102 S. Ct. 3337 (holding that sex-based classifications must be based on "reasoned analysis" rather than through the application of "traditional and often inaccurate assumptions" about the roles of men and women). Before establishing single-sex programs, a school must take a "hard look" at its reasons for establishing the single-sex program(s), and the school must make sure it is not relying on generalizations and "tendencies" of girls and boys that are likely to perpetuate patterns of discrimination. VMI, 116 S. Ct. at 2280. Thus, schools cannot deny one sex an educational benefit merely because most members of that sex would not benefit from or want to

participate in a particular program.

The Department has identified three categorical situations that meet these standards. The first category relates to the longstanding regulatory exception for programs and activities that are undertaken to overcome the effects of sex-based-discrimination and to overcome the effects of conditions that have resulted in limited participation by members of one sex. 34 CFR Part 106.3. Because programs under § 106.3 are intended to remedy existing inequities in a program for one sex, it is not necessary to evaluate whether equivalent opportunities are provided to members of the other sex.

The second category relates to the longstanding regulatory exception for sex-segregated physical education classes involving contact sports, 34 CFR Part 106.34(c), and for sex-segregated classes involving human sexuality, 34 CFR Part 106.34(e), as long as equivalent opportunities are provided to members of both sexes. Sex-segregation in these circumstances is based on real differences between the sexes and on compelling issues of privacy. Moreover, neither sex is denied equal educational opportunity.

The third category involves schools that offer all of the following as part of an actual and demonstrated goal of offering a diverse array of educational options: an equivalent single-sex class, program, or activity for each sex, and an equivalent coeducational class, program, or activity. Admission to all three programs must be voluntary.

The Department believes this latter situation is permissible because the Supreme Court has expressly stated that it “do[es] not question the State’s prerogative evenhandedly to support diverse educational opportunities.” See VMI, 116 S. Ct. at 2276 & n. 7. As the Court noted: “It is not disputed that diversity among public educational institutions can serve the public good.” Id. at 2277. The goal of providing a diverse array of educational options is not an effort to limit the opportunities of a particular sex. Instead, it is intended to improve education choices and outcomes for all students, by providing diverse options to meet the different needs of students. Research on single-sex education programs has demonstrated that single-sex programs produce positive results for some students in some settings. See Separated by Sex: A Critical Look at Single-sex Education for Girls, American Association of University Women (AAUW) Educational Foundation (March 12, 1998). See also Single-Sex Schooling: Perspectives from Practice and Research, Office of Research, U.S. Department of Education (Dec. 1993) (concluding that single-sex schools may provide benefits to a range of students who choose to attend them, and that single-sex schools produce noteworthy achievement, particularly for women and minority students).

Because a diversity rationale requires even-handed application, the proposed regulation requires that each of the three programs must be equivalent. This also ensures that programs are not based on impermissible stereotypes, and that no one is denied equal educational opportunity. Moreover, voluntary admissions to the programs, as well as the availability of single-sex and coeducational programs, ensures that students are not placed in single-sex programs based on overbroad generalizations about the needs or interests of members of one sex or the other.

The Department has not identified other situations or justifications for a categorical regulation allowing the operation of a single-sex program. The Department welcomes educators and others to share their expertise and insight regarding other possible exceedingly persuasive educational justifications that would support categorical authority to offer, not only the scenario discussed above, but also perhaps only single-sex programs, or a single-sex program only to one sex. The Department is also interested in receiving input on whether proposed justifications would encompass the need to provide equivalent opportunities for the excluded sex, and ways in which the availability of equivalent opportunities, in either a single-sex or coeducational setting, affects the analysis of the justification needed for the single-sex program.

Depending on comments received during the public comment process, the Department may conclude that sufficient justifications do not exist to incorporate additional, specific categories of permissible single-sex programs in the final regulation. However, the Department's proposed regulation would permit it to consider exceedingly persuasive justifications offered by schools in support of particular single-sex programs on a case-by-case basis. These case-by-case determinations will be informed by the analysis and educational expertise that hopefully will be shared with the Department by commenters through the public comment process.

The proposed regulation retains the existing regulatory provisions that explicitly permits grouping students based on: ability in physical education classes, 34 CFR § 106.34(b), vocal range or quality, 34 CFR § 106.34(f), or pregnancy. 34 CFR § 106.4(b). These provisions and/or classifications are not based on sex and, thus, are not affected by the exceedingly persuasive justification standard.

As discussed above, the proposed regulation retains the permissibility of separating students by sex within physical education classes during participation in contact sports. The proposed regulation would not, however, otherwise permit sex-segregated physical education activities. The provision requiring coeducational physical education classes was the subject of thorough debate at the time the Title IX regulations were promulgated, see 108 Fed. Reg. 24133 (June 4, 1975), and stereotyping in physical education classes was a particular concern of Congress when it enacted Title IX. Nor does the proposed regulation permit sex-segregated vocational education classes. Congress was also specifically concerned with gender-based stereotyping in this area. See 118 Cong. Rec. 5806. To permit single-sex vocational education classes, programs, or activities would be inconsistent with congressional intent since Congress did not permit single-sex vocational education schools at the elementary and secondary level.

Examples of equivalent classes, programs and activities

The following examples are intended to illustrate programs that do and do not satisfy the regulatory definition of equivalent.

Example 1 – Coeducational Middle School A offers several single-sex math and science classes for freshman and sophomore girls and for freshman and sophomore boys. The single-sex classes

are open to all students of the relevant sex at these grade levels. There are slight but insignificant differences in curriculum, class size, and teacher quality (as measured by preparation and certification in the area of instruction) between the single-sex classes and the coeducational classes in the same subject matter. The school offers equal educational opportunities for boys and girls.

Example 2 – Middle School B offers middle school boys, on a voluntary basis, an innovative mentoring program in which boys are encouraged to develop a close, one-on-one relationship with an adult in the community who is not their parent or teacher. The school provides opportunities for community leaders to make presentations to the boys and provides regular opportunities within the school curriculum for the boys and mentors to meet as a group to discuss gang involvement, drug abuse, and other risk factors affecting boys in the community. The mentors regularly provide one-on-one counseling and other support services. For students in the all-girls mentoring program, and for students in the coeducational mentoring program, the school maintains a list of adult professionals who are willing to be mentors, but the school does not provide any other opportunities for mentoring of these students. The school is not providing equal educational opportunities for boys and girls.

Single-sex schools

The statutory exemption for the admissions policies of nonvocational elementary and secondary schools precludes OCR from regulating the single-sex admissions policies of these schools. On the other hand, the Department has consistently interpreted Title IX to require that a school district ensure that when it chooses to offer single-sex schools to one sex – absent a remedial basis – it must provide equal educational opportunities to the other sex. Moreover, Congress deferred to federal agencies further to determine through regulations the meaning of an equal educational opportunity when an LEA chooses to establish one or more single-sex schools. 20 U.S.C. § 1682. The existing regulation (see Part 106.35), thus, permits LEAs to operate single-sex schools, without an examination of the LEA's justification for the school, as long as the excluded sex is provided comparable opportunities. The proposed regulation does not change these provisions except to clarify that under Part 106.35 comparable means equivalent in all fundamental aspects (see discussion above regarding equivalent classes and programs). It also clarifies that under Title IX, equal opportunity is satisfied where an LEA offers a single-sex school only to one sex as long as it offers an equivalent coeducational school.

Thus, the proposed regulation would clarify that an LEA operating a single-sex school has three options for satisfying the requirement for equal educational opportunity:

- (1) An LEA offers an equivalent single-sex school for each sex; it offers an equivalent coeducational school; and admission to all three schools is voluntary; or
- (2) An LEA offers equivalent single-sex schools for each sex, without offering an equivalent coeducational school; or

- (3) An LEA offers a single-sex school for one sex, without offering a single-sex school for the other sex; admission to the single-sex school is voluntary; and the LEA provides an equivalent coeducational school.

LEAs need to be aware that single-sex schools are vulnerable to challenge under the U.S. Constitution. OCR does not have the authority to require a justification for a single-sex school under Title IX. However, if challenged in court litigation under the Equal Protection Clause, a school will be required to provide an exceedingly persuasive justification for its single-sex policy.

Examples of equivalent schools

Example 1 -- School District A operates an all-girls middle school that offers an “alternative” program. The school emphasizes very small class size, mentoring opportunities, and daily one-on-one time between students and their teachers and mentors. The school also uses portfolio assessments instead of grades. The required curriculum is based on core subjects and subject matter established by the school board. The school district also operates a coeducational middle school that teaches the same core curriculum taught in the all-girls school. Class size at the coeducational school is average to large and the classes offer a traditional format including final exams and little one-on-one contact during class. The school district does not offer boys and girls equivalent educational opportunities.

Example 2 – Charter School B operates in School District B. It has been chartered by a group of local community leaders, business leaders, and philanthropists as an alternative to traditional public schools in the district. The school focuses primarily on mathematics and science and has obtained significant contributions from the business community in order to outfit the school with state-of-the-art laboratory and computer equipment. Enrollment is limited to boys. There are no other schools operating in the district that have a special focus on mathematics and science, or that have similar laboratories or equipment. School District B does not offer boys and girls equivalent educational opportunities.

Example 3 -- School District C operates an all-boys high school with a hands on curriculum that involves small classes, team projects, frequent hands-on experiments, projects and field trips, and portfolio assessments instead of grades. Apart from a few core courses, students can choose their courses. Admission is open to all high school boys in the school district. At the coeducational high school, students choose all courses after freshman year. While class size is somewhat larger, the difference is not significant. Course offerings are open to all students, and apart from a few core courses, students can choose their courses. Almost all available courses utilize various aspects of the hands-on approach. For instance, some classes concentrate on team projects, some offer frequent field trips, others offer portfolio assessments, and some classes offer all of these aspects. The school district offers boys and girls equivalent educational opportunities. However, if at the coeducational high school only students with a GPA of 3.0 and above can enroll in courses offering a hands-on curriculum, the school district would not offer boys and girls equivalent educational opportunities.

Example 4 -- School District D establishes single-sex academies for grades 10-12. The schools are given identical resources and facilities, equivalent quality teachers and administrators, and offer an identical curriculum based on core courses in mathematics, science, English, and history. After several years, the boys school has developed a close relationship with local business and community leaders. Over time, these outside groups increasingly offer significant mentoring services to the students at the boys school, such as putting on educational programs for the students, and using their contacts to help the students obtain summer jobs, internships, and interviews with alumni of highly competitive colleges. The groups also joined together to raise and donate money to build a new sports complex at the boys school. The single-sex academies are no longer equivalent.

PROPOSED REGULATORY LANGUAGE

Replace existing sections 106.34 and 106.35 with the following:

106.34 Access to course offerings

- (a) Except as provided in paragraphs (b) and (c) of this section, a recipient that operates a nonvocational elementary or secondary school may provide or carry out courses, programs, or activities separately on the basis of sex:
 - (1) As part of a program to redress sex-based discrimination or to overcome the effects of conditions that resulted in limited participation by members of one sex under §106.3;
 - (2) Within physical education classes or activities while participating in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact, or during portions of classes that deal exclusively with human sexuality;
 - (3) (i) If the recipient demonstrates an exceedingly persuasive justification for the single-sex course, program or activity. For example, this standard is met if a school, as part of an actual and demonstrated goal of providing a diverse array of educational options, operates an equivalent single-sex class, program, or activity for each sex, as well as an equivalent coeducational class, program, or activity, and admission to all three classes, programs, or activities is voluntary.
 - (ii) Factors to consider in determining whether courses, programs, or activities are equivalent, as used in this section include whether the programs being compared are offered to students at the same age or grade level in the same school, and whether there is equivalence in the policies and criteria of admissions (excluding a policy to restrict admissions based on sex), the quality and range of the curriculum, and the qualifications and ratio of faculty and staff.

- (b) (1) A recipient may not offer sex-segregated physical education classes or activities except during participation in sports the purpose or major activity of which involves bodily contact.
- (i) This paragraph does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance and applied without regard to sex.
- (ii) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect of members of one sex, the recipient shall use appropriate standards which do not have such an effect
- (c) A recipient may not offer sex-segregated vocational, technical, home economics, industrial, or business classes, programs or activities.
- (d) Recipients may impose requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

106.35 Access to schools operated by LEAs

- (a) A local educational agency (LEA) that operates a nonvocational, single-sex school for members of one sex does not discriminate against students of the excluded sex if –
- (1) The LEA also offers an equivalent single-sex school for the other sex; it offers an equivalent coeducational school; and admission to the single-sex schools is voluntary.
- (2) The LEA does not offer an equivalent coeducational school, but offers equivalent single-sex schools for each sex.
- (3) The LEA does not offer a single-sex school for the other sex, but the LEA provides an equivalent coeducational school for the other sex; and admission to the single-sex school is voluntary.
- (b) Factors to consider in determining whether a school is equivalent as used in this section, include whether the schools being compared are offered to students at the same age or grade level in the same geographic area and whether there is equivalence in the policies and criteria of admissions (excluding a policy to restrict admissions based on sex); the quality, range, and availability of curricular and extracurricular activities; the quality, range and availability of facilities, services, resources, financial aid, and other benefits; and the qualifications and distribution of faculty and staff.