

STATE POPULATIONS

I. STATES WITH POPULATIONS OF 3,500,000 OR GREATER

Arizona
California
Florida
Georgia
Illinois
Indiana
Kentucky
Louisiana
Maryland
Massachusetts
Michigan
Minnesota
Missouri
New Jersey
New York
North Carolina
Ohio
Pennsylvania
Tennessee
Texas
Virginia
Washington
Wisconsin

ALSO

Puerto Rico

II. STATES WITH POPULATIONS OF LESS THAN 3,500,000

Alabama
Alaska
Arkansas
Colorado
Connecticut
Delaware
Hawaii
Idaho
Iowa
Kansas
Maine
New Mexico
Mississippi
Montana
Nebraska
Nevada
New Hampshire
North Dakota
Oklahoma
Oregon
Rhode Island
South Carolina
South Dakota
Utah
Vermont
West Virginia
Wyoming

ALSO

District of Columbia
Guam
American Samoa
Virgin Islands
Commonwealth of the Northern Marianas Islands
Palau
Republic of the Marshall Islands
Federated States of Micronesia

4000-01-P

DEPARTMENT OF EDUCATION

Education Flexibility Partnership Demonstration Program

AGENCY: Department of Education

ACTION: Notice inviting applications under the Education Flexibility Partnership Demonstration Program.

SUMMARY: The Secretary invites applications from State educational agencies (SEAs) under the Education Flexibility Partnership Demonstration program (Ed-Flex program), which is authorized by section 311(e) of the Goals 2000: Educate America Act (Pub. L. 103-227) (the Act). To help foster comprehensive education improvement in a State, the Secretary will grant up to six SEAs with approved Goals 2000 State improvement plans the authority to waive certain Federal statutory or regulatory requirements for the SEA, or for any local educational agency (LEA) or school within the State. SEAs desiring to participate in the Ed-Flex program must submit to the Secretary an application that meets the requirements of Section 311(e) of the Act.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: There is no specific deadline for transmittal of applications. However, because the Secretary is authorized to grant Ed-Flex status to only a limited number of States, SEAs are encouraged to submit their Ed-Flex applications as soon as possible. The Secretary will review applications as they are received in accordance with the criteria set forth in the Act.

ADDRESSES: Applications should be sent to Richard W. Riley, Secretary, U.S. Department of Education, Education Flexibility

Partnership Demonstration Program, 600 Independence Avenue, S.W.,
Room 6300, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Thomas W. Fagan, U.S.

Department of Education, 600 Independence Avenue, S.W., Portals
Building, Room 4000, Washington, D.C. 20202-2110. Telephone:
(202) 401-0039.

SUPPLEMENTARY INFORMATION:

The Ed-Flex program is an educational flexibility demonstration program under which the Secretary may grant up to six SEAs the authority to waive certain Federal statutory or regulatory requirements applicable to one or more of the following programs or Acts:

(1) Title I of the Elementary and Secondary Education Act of 1965 (ESEA) -- Helping Disadvantaged Children Meet High Standards.

(2) Title II of the ESEA -- Eisenhower Professional Development.

(3) Title IV of the ESEA -- Safe and Drug-Free Schools and Communities.

(4) Title VI of the ESEA -- Innovative Education Program Strategies.

(5) Part C of Title VII of the ESEA -- Emergency Immigrant Education.

(6) the Carl D. Perkins Vocational and Applied Technology

Education Act.¹

The waiver authority is intended to assist SEAs and affected LEAs and schools in implementing State and local school improvement plans designed to help all children reach challenging academic standards.

To be eligible to apply under the Ed-Flex program, an SEA must serve an "eligible State." Section 311(e)(3) of the Act defines an "eligible State" as one that: (1) has developed a State improvement plan under Goals 2000 that is approved by the Secretary; and (2) waives State statutory or regulatory requirements relating to education, while holding LEAs or schools within the State that are affected by the waivers accountable for the performance of their students.

The Secretary will select for participation in the Ed-Flex program three States with a population of 3,500,000 or greater, and three States with a population of less than 3,500,000, as determined by the 1990 decennial census. For the purpose of this program, section 3(a)(14) of the Act defines "State" to include the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, the Republic of the Marshall Islands,

¹ The recently enacted Improving America's Schools Act of 1994 (P.L. 103-382) contains conforming amendments that were intended to replace the program references in the Goals 2000 legislation with the appropriate references in the reauthorized ESEA. However, in a technical drafting error, certain provisions of the ESEA bill were reorganized after the conforming amendments were drafted, without corresponding changes to the conforming amendments. The references above refer to the programs for which Congress intended waivers to be authorized.

and the Federated States of Micronesia.

APPLICATION REQUIREMENTS AND CRITERIA:

I. When May an SEA Submit Its Ed-Flex Application?

An SEA serving an "eligible State" may submit its application at any time. The Secretary is prepared to review Ed-Flex applications as soon as they are received and to grant Ed-Flex waiver authority to an SEA whose application demonstrates a substantial promise of assisting the SEA and affected LEAs and schools in the State in carrying out comprehensive education reform and otherwise meeting the purposes of the Goals 2000: Educate America Act. An SEA that serves an "eligible State" and desires to participate in the program is encouraged to submit its Ed-Flex application as soon as possible because only six applicants may receive the Secretary's delegated waiver authority.

II. What Information Should Be Included in an SEA's Ed-Flex Application?

To be considered for participation in the Ed-Flex program, an SEA must serve an "eligible State" and submit to the Secretary an application demonstrating that the State has adopted an educational flexibility (Ed-Flex) plan that meets the requirements of section 311(e)(4) of the Act. Specifically, the Ed-Flex plan must: (1) describe the process the SEA will use to evaluate applications from LEAs or schools requesting waivers of Federal statutory or regulatory requirements for covered programs, as well as State statutory or regulatory requirements relating to education; and (2) describe in detail the State

statutory and regulatory requirements relating to education that the SEA will waive. An applicant must have the legal authority to grant waivers of the State requirements that it proposes to waive and agree to grant these waivers when it is appropriate to do so.

The Ed-Flex waiver authority is designed to facilitate a State's systemic reform efforts by giving the SEA the authority to waive certain Federal requirements that impede the ability of the SEA, or any LEA or school within the State, from carrying out State or local improvement plans developed under Title III of Goals 2000. Therefore, the Ed-Flex plan should be integrated with the State's improvement plan under Goals 2000. When developing its Ed-Flex plan, an SEA is encouraged to consult with the State panel that developed the State's Goals 2000 State improvement plan. An SEA that obtains approval of a pre-existing plan under section 306(q) of the Act is encouraged to consult with those responsible for developing the pre-existing plan.

III. What Criteria Will Be Used by the Secretary to Evaluate Ed-Flex Applications?

In accordance with section 311(e)(4)(B) of the Act, the Secretary will approve an Ed-Flex application only if he determines that the application demonstrates substantial promise of assisting the SEA and affected LEAs and schools within the State in carrying out comprehensive reform and meeting the purposes of the Act. Section 311(e)(4)(B) also provides that the Secretary will consider the following criteria in evaluating Ed-Flex partnership applications: (1) the comprehensiveness and

quality of the State's Ed-Flex plan; (2) the ability of the plan to ensure accountability for the activities and goals described in the plan; (3) the significance of the State statutory or regulatory requirements relating to education that the State will waive; and (4) the quality of the SEA's process for approving applications for waivers of the covered Federal statutory or regulatory requirements and for monitoring and evaluating the results of the waivers. As stated previously, to be eligible to apply, an SEA must serve an "eligible State" -- that is, a State that (1) has developed a State improvement plan under Goals 2000 that is approved by the Secretary; and (2) waives State statutory or regulatory requirements relating to education, while holding LEAs or schools within the State that are affected by the waivers accountable for the performance of their students.

In preparing applications that address these statutory criteria, SEAs are encouraged to examine carefully the following questions:

- o Did the SEA conduct effective public hearings or provide other means for broad-based public involvement in the development of the Ed-Flex plan? How has the SEA involved LEAs, schools, parents, community groups, and advocacy and civil rights groups in the development of the plan? Is there widespread commitment within the State for the Ed-Flex plan?

- o To what extent would the Ed-Flex plan enhance the State's ability to carry out its Goals 2000 State improvement plan? How would waivers under the Ed-Flex plan reduce or eliminate barriers to the reform of teaching and learning and assist all children in

reaching challenging academic standards? Has the State demonstrated that it would extend to LEAs and schools, to the greatest extent possible, the flexibility provided under the Ed-Flex program to help foster local systemic reform efforts?

- o What is the likelihood that the SEA's process for granting waivers of Federal requirements to LEAs and schools will assist them in reaching specific, measurable educational goals?

- o What State statutory and regulatory requirements relating to education would be waived, and why? What is the relationship between the State and Federal requirements for which the SEA might grant waivers?

- o How would the implementation of the Ed-Flex plan facilitate bottom-up reform in LEAs and schools? What LEAs, schools, and student populations would be affected by the Ed-Flex plan? If some LEAs or schools would not be covered by the Ed-Flex plan, why not? What role would an LEA have in the waiver process if an individual school requests a waiver from the SEA?

- o How would the SEA provide LEAs, parent organizations, advocacy or civil rights groups, and other interested parties in the State with notice and an opportunity to comment on proposed waivers of Federal requirements?

- o How would the SEA's processes for monitoring LEAs and schools that have been granted waivers under the Ed-Flex authority and for evaluating the results of these waivers ensure that the LEAs and schools will be held accountable for the

performance of all students affected by the waivers?

o To what extent do the timelines and benchmarks for implementing the Ed-Flex plan, monitoring LEAs and schools that have been granted waivers, and evaluating the results of the waivers granted provide a reasonable basis for measuring the progress of the SEA in achieving the goals of the Ed-Flex plan?

An SEA is not required to answer specifically each of these questions in its application. Rather, the questions have been provided as guidance to assist SEAs in the preparation of Ed-Flex applications that address the statutory criteria. The Secretary encourages SEAs to consider these issues or any other factors that may demonstrate that the conditions of section 311(e) of the Act have been met. There is not a particular application form that must be completed for this program.

IV. What Federal Statutory and Regulatory Requirements May an Ed-Flex Partnership State Waive?

Section 311(e)(2)(A) of the Act provides that an Ed-Flex Partnership State may waive certain statutory and regulatory requirements applicable to the following programs or Acts:

(1) Title I of the Elementary and Secondary Education Act of 1965 (ESEA) -- Helping Disadvantaged Children Meet High Standards.

(2) Title II of the ESEA -- Eisenhower Professional Development.

(3) Title IV of the ESEA -- Safe and Drug-Free Schools and Communities.

(4) Title VI of the ESEA -- Innovative Education Program

Strategies.

(5) Part C of Title VII of the ESEA -- Emergency Immigrant Education.

(6) the Carl D. Perkins Vocational and Applied Technology Education Act.

The Ed-Flex Partnership State will not be authorized to waive any Federal statutory or regulatory requirement of the above-referenced programs or Acts relating to: (1) maintenance of effort; (2) comparability of services; (3) the equitable participation of students and professional staff in private schools; (4) parental participation and involvement; and (5) the distribution of funds to States or to local educational agencies. In addition, Ed-Flex States will not be permitted to waive Federal civil rights requirements or Federal health and safety requirements.

V. What is the Duration of the Ed-Flex Waiver Authority?

The Secretary will approve an SEA's Ed-Flex waiver authority for up to five years. The period may be extended if the SEA's authority to grant waivers has been effective in enabling the State or affected LEAs or schools to carry out their reform plans. In addition, the Secretary may terminate the waiver authority at any time if he determines, after notice and

opportunity for hearing, that an SEA's performance has been inadequate to justify the continuation of the waiver authority.

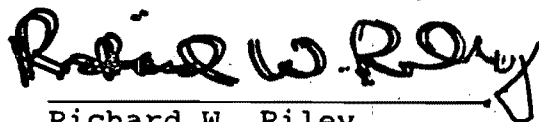
Paperwork Reduction Act of 1980

This notice involves information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of the application requirements and selection criteria to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

SEAs are eligible to apply for the waiver authority under this program. The Department needs and uses the information in determining which States will be designated as Ed-Flex Partnership States under this program. The public reporting burden for this collection of information is estimated to average 80 hours per response for approximately 50 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10325, New Executive Office Building, Washington, D.C. 20503; Attention: Daniel J. Chenok.

Dated: JAN 13 1995



Richard W. Riley,
Secretary of Education.



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202

October 17, 1994

MEMORANDUM

TO : Goals 2000 Management Council

FROM : Dennis Koeppel

SUBJECT: Ed-Flex Waiver Notice

Attached for your review is a copy of a draft notice of proposed application requirements and selection criteria for the Education-Flexibility Partnership Demonstration Program (Ed-Flex Program) authorized by section 311(e) of the Goals 2000: Educate America Act.

As you will note, the draft notice indicates that the Secretary intends to conduct two separate Ed-Flex competitions. The first competition would be held in the Spring of 1995 and would result in the designation of no more than three States as Ed-Flex States. The second competition would be held in the Spring of 1996 and would result in the designation of the remaining Ed-Flex States.

The draft notice also announces the criteria by which the Secretary intends to select Ed-Flex participants. The criteria would be presented as a series of questions that each applicant would be asked to address. The questions would not be weighted individually. Rather, the Secretary would evaluate the Ed-Flex applications on the basis of how well the criteria, considered as a whole, are met.

After the Management Council has approved the draft notice, the package will be circulated throughout the Department for final clearance before being transmitted to the Office of Management and Budget. We hope to have the notice published in the Federal Register by early December 1994.

Thank you for your attention to this matter.

Attachment

DRAFT -- OCTOBER 17, 1994

4000-01-P

DEPARTMENT OF EDUCATION

Education Flexibility Partnership Demonstration Program

AGENCY: Department of Education

ACTION: Notice of proposed application requirements and selection criteria for the Education Flexibility Partnership Demonstration Program (Ed-Flex Program)

SUMMARY: The Secretary proposes application requirements and selection criteria for the Ed-Flex Program, which is authorized under section 311(e) of the GOALS 2000: Educate America Act (Pub. L. 103-227) (the "Act"). The program is a special waiver demonstration program under which the Secretary may authorize six State educational agencies (SEAs) serving eligible States to waive certain Federal statutory or regulatory requirements for the SEA, or for any local educational agency (LEA) or school within the State.

DATES: Comments must be received on or before (insert the 30th day from the date of publication in the FEDERAL REGISTER).

ADDRESSES: All comments concerning this notice should be addressed to Thomas W. Fagan, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4000, Washington, D.C. 20202-2110.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Thomas W. Fagan. Telephone: (202) 401-0039. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time.

SUPPLEMENTARY INFORMATION:

The Ed-Flex program is a special waiver demonstration program under which the Secretary may grant to six SEAs the authority to waive certain Federal statutory or regulatory requirements applicable to one or more of the following programs or Acts: (1) Title I of the Elementary and Secondary Education Act of 1965; (2) Part A of title II of the Elementary and Secondary Education Act of 1965; (3) Part A of title V of the Elementary and Secondary Education Act of 1965; (4) Title VIII of the Elementary and Secondary Education Act of 1965; (5) Part B of title IX of the Elementary and Secondary Education Act of 1965; and (6) the Carl D. Perkins Vocational and Applied Technology Education Act. The waiver authority is intended to assist SEAs and affected LEAs and schools in implementing State and local school improvement plans designed to help all children reach challenging academic standards.

To be eligible to apply under the Ed-Flex program, an SEA must serve an "eligible State". Section 311(e)(3) of the Act defines an "eligible State" as one that (1) has developed a State improvement plan under Goals 2000 that is approved by the Secretary, and (2) waives State statutory and regulatory requirements relating to education while holding LEAs or schools within the State that are affected by the waivers accountable for

the performance of the students who are affected by the waivers.

The Secretary will select for participation in the Ed-Flex program three States with a population of 3,500,000 or greater, and three States with a population of less than 3,500,000, as determined by the 1990 decennial census. For purposes of this program, Section (3)(a)(14) of the Act defines "State" to include the 50 States, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, the Republic of the Marshall Islands, and the Federated States of Micronesia.

Description of the Ed-Flex Program

I. How Many Competitions Does the Secretary Intend to Conduct?

The Secretary recognizes that States are at various stages in the development of their Goals 2000 State improvement plans. A number of States have made substantial progress toward completing their plans; other States are in the early stages of plan development. In order to provide as many SEAs as possible the opportunity to apply for the Ed-Flex waiver authority, while accommodating the needs of States that are further along in their systemic reform efforts, the Secretary proposes to conduct two separate Ed-Flex competitions. The first competition would be conducted in the Spring of 1995 and would result in the designation of no more than three States as Ed-Flex Partnership States, with no more than two States designated in either one of the population categories referred to above. The second competition would be conducted in the Spring of 1996 and would

result in the designation of the remaining Ed-Flex Partnership States.

An SEA that does not have an approved State improvement plan before the first competition is conducted would be eligible to apply in the second competition if its plan has been approved by that time. In addition, an SEA that applies in the first competition, but is not selected, would be permitted to apply in the subsequent competition.

The Secretary is particularly interested in comments on this proposal to conduct two separate competitions.

II. What Information Would Be Included in an SEA's Ed-Flex Application?

Each SEA desiring to participate in the Ed-Flex program must submit to the Secretary an application demonstrating that the State has adopted an educational flexibility (Ed-Flex) plan that meets the requirements of Section 311(e)(4) of the Act. Specifically, the Ed-Flex plan must (1) describe the process the SEA will use to evaluate applications from LEAs or schools requesting waivers of Federal statutory or regulatory requirements for covered programs, as well as State statutory or regulatory requirements relating to education; and (2) describe in detail the State statutory and regulatory requirements relating to education that the SEA will waive. The Secretary would require each Ed-Flex applicant to provide an assurance that it has the legal authority to grant waivers of the State requirements that it proposes to waive and that it will grant

these waivers where it is appropriate to do so.

The Ed-Flex plan should be integrally related to the State's improvement plan under Goals 2000. The Ed-Flex waiver authority is designed to facilitate a State's systemic reform efforts by giving the SEA the authority to waive certain Federal requirements that impede the ability of the SEA, or any LEA or school within the State, from carrying out State or local improvement plans developed under Title III of Goals 2000. A State improvement plan is developed by a broad-based State panel that is responsible for conducting a statewide grassroots outreach process. In order to ensure that the Ed-Flex plan is appropriately linked to the State improvement plan, the Secretary would require the SEA to include in its Ed-Flex application information demonstrating that it has consulted with the State panel in the development of its Ed-Flex plan and to submit any comments the Panel may have had concerning the Ed-Flex plan. If an SEA has obtained approval of a pre-existing plan under Section 306(q) of the Act, (the consultation would be with those responsible for developing the pre-existing plan.)

III. What Selection Criteria Does the Secretary Use to Evaluate Ed-Flex Applications?

In accordance with Section 311(e)(4)(B) of the Act, the Secretary will approve an Ed-Flex application only if he determines that the application demonstrates substantial promise of assisting the SEA and affected LEAs and schools within the State in carrying comprehensive reform and meeting the purposes

of the Act. Section 311(e)(4)(B) also provides that the following criteria are to be considered by the Secretary in evaluating Ed-Flex partnership applications: (1) the comprehensiveness and quality of the Ed-Flex plan; (2) the ability of the plan to ensure accountability for the activities and goals described in the plan; (3) the significance of the State statutory or regulatory requirements relating to education that will be waived; and (4) the quality of the SEA's process for approving applications for waivers of the covered Federal statutory or regulatory requirements and for monitoring and evaluating the results of the waivers.

The Secretary believes that these statutory criteria are interrelated and, taken as a whole, provide a reasonable basis for judging the quality of the Ed-Flex applications submitted for review. Given the nature of these criteria, the Secretary does not intend to weight the criteria individually. Rather, the Secretary proposes that the Ed-Flex applications be evaluated on the basis of how well the criteria, considered together, are met. The Secretary proposes to include these statutory considerations in a series of questions that would be used by reviewers for evaluating applications. These questions are as follows:

44-197
o Did the SEA conduct effective public hearings or provide other means for broad-based public involvement in the development of the Ed-Flex plan? How has the SEA involved LEAs, schools, parents, community groups, and advocacy and civil rights groups in the development of the plan? Does the SEA's Ed-Flex

application contain an adequate summary of the comments received on the Ed-Flex plan? To what degree does the Ed-Flex plan reflect the comments received, or provide rationale for the SEA's decision not to incorporate particular comments? Is there widespread commitment within the State for the Ed-Flex plan?

- o To what extent would the Ed-Flex plan enhance the State's ability to carry out its Goals 2000 State improvement plan? How would waivers under the Ed-Flex plan reduce or eliminate barriers to systemic reform and assist all children in reaching challenging academic standards?

- o What State statutory and regulatory requirements relating to education would be waived, and why? What is the relationship between the State and Federal requirements for which the SEA might grant waivers? How would the SEA ensure that the underlying purposes of the Federal requirements for which a waiver is granted would continue to be met?

- o What is the likelihood that the SEA's process for granting waivers of Federal requirements to LEAs and schools would assist them in reaching specific, measurable educational goals? What LEAs, schools, and student populations would be affected by the Ed-Flex plan? If some LEAs or schools would not be covered by the Ed-Flex plan, why not? What role would an LEA have in the waiver process if an individual school requests a waiver from the SEA?

- o How would the SEA provide LEAs, parent organizations, advocacy or civil rights groups, and other interested parties in

the State with notice and an opportunity to comment on proposed waivers of Federal requirements?

o How would the SEA's processes for monitoring LEAs and schools that have been granted waivers under the Ed-Flex authority and for evaluating the results of these waivers ensure that the LEAs and schools will be held accountable for the performance of all students affected by the waivers?

o To what extent do the timelines and benchmarks for implementing the Ed-Flex plan, monitoring LEAs and schools that have been granted waivers, and evaluating the results of the waivers granted provide a reasonable basis for measuring the progress of the SEA in achieving the goals set forth in its State improvement plan?

The quality of an SEA's Ed-Flex application would be evaluated on the basis of how well these particular issues are addressed in the application.

IV. What Federal Statutory and Regulatory Requirements May an Ed-Flex Partnership State Waive?

Section 311(e)(2)(A) of the Act provides that an Ed-Flex Partnership State may waive certain statutory and regulatory requirements applicable to the following programs or Acts: (1) Title I of the Elementary and Secondary Education Act of 1965; (2) Part A of title II of the Elementary and Secondary Education Act of 1965; (3) Part A of title V of the Elementary and Secondary Education Act of 1965; (4) Title VIII of the Elementary and Secondary Education Act of 1965; (5) Part B of title IX of

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the Elementary and Secondary Education Act of 1965; and (6) the Carl D. Perkins Vocational and Applied Technology Education Act. The Ed-Flex Partnership State will not be authorized to waive any statutory and regulatory requirement of the above-referenced programs or Acts relating to (1) maintenance of effort; (2) comparability of services; (3) the equitable participation of students and professional staff in private schools; (4) parental participation and involvement; and (5) the distribution of funds to States or to local educational agencies.

V. What is the Duration of the Ed-Flex Waiver Authority?

The Secretary would approve an SEA's Ed-Flex waiver authority for no more than five years. The period may be extended if the SEA's authority to grant waivers has been effective in enabling the State or affected LEAs or schools to carry out their local reform plans. In addition, this authority may be terminated at any time if it is determined, after notice and opportunity for hearing, that an SEA's performance has been inadequate to justify the continuation of the waiver authority.

Executive Order 12866

1. Assessment of costs and benefits

This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated are those resulting from statutory requirements and those determined by the Secretary to

be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1980.

In assessing the potential costs and benefits -- both quantitative and qualitative -- of these proposed application requirements and selection criteria, the Secretary has determined that the benefits justify the costs.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from the proposed application requirements and selection criteria without impeding the effective and efficient administration of the program.

2. Clarity of the notice

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed application requirements and selection criteria easier to understand, including answers to questions such as the following: (1) Are the requirements in the notice clearly stated? (2) Does the notice contain technical terms or other wording that interferes with its clarity? (3) Does the format of the notice (use of headings, paragraphing, etc.) aid or reduce their

clarity? (4) Is the description of the notice in the "Supplementary Information" section of this preamble helpful in understanding the notice? How could this description be more helpful in making the notice easier to understand? (5) What else could the Department do to make the notice easier to understand?

A copy of any comments that concern how the Department could make the notice easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5121, FB-10), Washington, D.C. 20202-2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed application requirements and selection criteria would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

The proposed application requirements and selection criteria contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of the proposed application requirements and selection criteria to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

States are eligible to apply for the waiver authority under this program. The Department needs and uses the information in determining which States would be designated as Ed-Flex Partnership States under this program. Annual public reporting burden for this collection of information is estimated to average

[] hours per response for [] respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, D.C. 20503; Attention: Daniel J. Chenok.

INVITATION TO COMMENT:

Interested persons are invited to submit comments and recommendations regarding this notice.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3022, ROB-3, 7th and D Streets, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether this notice would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Dated:

Richard W. Riley,
Secretary of Education.

4000-01-P

DEPARTMENT OF EDUCATION

Education Flexibility Partnership Demonstration Program

AGENCY: Department of Education

ACTION: Notice inviting applications under the Education Flexibility Partnership Demonstration Program.

SUMMARY: The Secretary invites applications from State educational agencies (SEAs) under the Education Flexibility Partnership Demonstration program (Ed-Flex program), which is authorized by section 311(e) of the Goals 2000: Educate America Act (Pub. L. 103-227) (the Act). To help foster comprehensive education improvement in a State, the Secretary will grant up to six SEAs with approved Goals 2000 State improvement plans the authority to waive certain Federal statutory or regulatory requirements for the SEA, or for any local educational agency (LEA) or school within the State. SEAs desiring to participate in the Ed-Flex program must submit to the Secretary an application that meets the requirements of Section 311(e) of the Act.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: There is no specific deadline for transmittal of applications. However, because the Secretary is authorized to grant Ed-Flex status to only a limited number of States, SEAs are encouraged to submit their Ed-Flex applications as soon as possible. The Secretary will review applications as they are received in accordance with the criteria set forth in the Act.

ADDRESSES: Applications should be sent to Richard W. Riley, Secretary, U.S. Department of Education, Education Flexibility

Partnership Demonstration Program, 600 Independence Avenue, S.W.,
Room 6300, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Thomas W. Fagan, U.S.

Department of Education, 600 Independence Avenue, S.W., Portals
Building, Room 4000, Washington, D.C. 20202-2110. Telephone:
(202) 401-0039.

SUPPLEMENTARY INFORMATION:

The Ed-Flex program is an educational flexibility demonstration program under which the Secretary may grant up to six SEAs the authority to waive certain Federal statutory or regulatory requirements applicable to one or more of the following programs or Acts:

(1) Title I of the Elementary and Secondary Education Act of 1965 (ESEA) -- Helping Disadvantaged Children Meet High Standards.

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(4) Title VI of the ESEA -- Innovative Education Program Strategies.

(5) Part C of Title VII of the ESEA -- Emergency Immigrant Education.

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Education Act.¹

The waiver authority is intended to assist SEAs and affected LEAs and schools in implementing State and local school improvement plans designed to help all children reach challenging academic standards.

To be eligible to apply under the Ed-Flex program, an SEA must serve an "eligible State." Section 311(e)(3) of the Act defines an "eligible State" as one that: (1) has developed a State improvement plan under Goals 2000 that is approved by the Secretary; and (2) waives State statutory or regulatory requirements relating to education, while holding LEAs or schools within the State that are affected by the waivers accountable for the performance of their students.

The Secretary will select for participation in the Ed-Flex program three States with a population of 3,500,000 or greater, and three States with a population of less than 3,500,000, as determined by the 1990 decennial census. For the purpose of this program, section 3(a)(14) of the Act defines "State" to include the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, the Republic of the Marshall Islands,

¹ The recently enacted Improving America's Schools Act of 1994 (P.L. 103-382) contains conforming amendments that were intended to replace the program references in the Goals 2000 legislation with the appropriate references in the reauthorized ESEA. However, in a technical drafting error, certain provisions of the ESEA bill were reorganized after the conforming amendments were drafted, without corresponding changes to the conforming amendments. The references above refer to the programs for which Congress intended waivers to be authorized.

and the Federated States of Micronesia.

APPLICATION REQUIREMENTS AND CRITERIA:

I. When May an SEA Submit Its Ed-Flex Application?

An SEA serving an "eligible State" may submit its application at any time. The Secretary is prepared to review Ed-Flex applications as soon as they are received and to grant Ed-Flex waiver authority to an SEA whose application demonstrates a substantial promise of assisting the SEA and affected LEAs and schools in the State in carrying out comprehensive education reform and otherwise meeting the purposes of the Goals 2000: Educate America Act. An SEA that serves an "eligible State" and desires to participate in the program is encouraged to submit its Ed-Flex application as soon as possible because only six applicants may receive the Secretary's delegated waiver authority.

II. What Information Should Be Included in an SEA's Ed-Flex Application?

To be considered for participation in the Ed-Flex program, an SEA must serve an "eligible State" and submit to the Secretary an application demonstrating that the State has adopted an educational flexibility (Ed-Flex) plan that meets the requirements of section 311(e)(4) of the Act. Specifically, the Ed-Flex plan must: (1) describe the process the SEA will use to evaluate applications from LEAs or schools requesting waivers of Federal statutory or regulatory requirements for covered programs, as well as State statutory or regulatory requirements relating to education; and (2) describe in detail the State

statutory and regulatory requirements relating to education that the SEA will waive. An applicant must have the legal authority to grant waivers of the State requirements that it proposes to waive and agree to grant these waivers when it is appropriate to do so.

The Ed-Flex waiver authority is designed to facilitate a State's systemic reform efforts by giving the SEA the authority to waive certain Federal requirements that impede the ability of the SEA, or any LEA or school within the State, from carrying out State or local improvement plans developed under Title III of Goals 2000. Therefore, the Ed-Flex plan should be integrated with the State's improvement plan under Goals 2000. When developing its Ed-Flex plan, an SEA is encouraged to consult with the State panel that developed the State's Goals 2000 State improvement plan. An SEA that obtains approval of a pre-existing plan under section 306(q) of the Act is encouraged to consult with those responsible for developing the pre-existing plan.

III. What Criteria Will Be Used by the Secretary to Evaluate Ed-Flex Applications?

In accordance with section 311(e)(4)(B) of the Act, the Secretary will approve an Ed-Flex application only if he determines that the application demonstrates substantial promise of assisting the SEA and affected LEAs and schools within the State in carrying out comprehensive reform and meeting the purposes of the Act. Section 311(e)(4)(B) also provides that the Secretary will consider the following criteria in evaluating Ed-Flex partnership applications: (1) the comprehensiveness and

quality of the State's Ed-Flex plan; (2) the ability of the plan to ensure accountability for the activities and goals described in the plan; (3) the significance of the State statutory or regulatory requirements relating to education that the State will waive; and (4) the quality of the SEA's process for approving applications for waivers of the covered Federal statutory or regulatory requirements and for monitoring and evaluating the results of the waivers. As stated previously, to be eligible to apply, an SEA must serve an "eligible State" -- that is, a State that (1) has developed a State improvement plan under Goals 2000 that is approved by the Secretary; and (2) waives State statutory or regulatory requirements relating to education, while holding LEAs or schools within the State that are affected by the waivers accountable for the performance of their students.

In preparing applications that address these statutory criteria, SEAs are encouraged to examine carefully the following questions:

- o Did the SEA conduct effective public hearings or provide other means for broad-based public involvement in the development of the Ed-Flex plan? How has the SEA involved LEAs, schools, parents, community groups, and advocacy and civil rights groups in the development of the plan? Is there widespread commitment within the State for the Ed-Flex plan?

- o To what extent would the Ed-Flex plan enhance the State's ability to carry out its Goals 2000 State improvement plan? How would waivers under the Ed-Flex plan reduce or eliminate barriers to the reform of teaching and learning and assist all children in

reaching challenging academic standards? Has the State demonstrated that it would extend to LEAs and schools, to the greatest extent possible, the flexibility provided under the Ed-Flex program to help foster local systemic reform efforts?

- o What is the likelihood that the SEA's process for granting waivers of Federal requirements to LEAs and schools will assist them in reaching specific, measurable educational goals?

- o What State statutory and regulatory requirements relating to education would be waived, and why? What is the relationship between the State and Federal requirements for which the SEA might grant waivers?

- o How would the implementation of the Ed-Flex plan facilitate bottom-up reform in LEAs and schools? What LEAs, schools, and student populations would be affected by the Ed-Flex plan? If some LEAs or schools would not be covered by the Ed-Flex plan, why not? What role would an LEA have in the waiver process if an individual school requests a waiver from the SEA?

- o How would the SEA provide LEAs, parent organizations, advocacy or civil rights groups, and other interested parties in the State with notice and an opportunity to comment on proposed waivers of Federal requirements?

- o How would the SEA's processes for monitoring LEAs and schools that have been granted waivers under the Ed-Flex authority and for evaluating the results of these waivers ensure that the LEAs and schools will be held accountable for the

performance of all students affected by the waivers?

o To what extent do the timelines and benchmarks for implementing the Ed-Flex plan, monitoring LEAs and schools that have been granted waivers, and evaluating the results of the waivers granted provide a reasonable basis for measuring the progress of the SEA in achieving the goals of the Ed-Flex plan?

An SEA is not required to answer specifically each of these questions in its application. Rather, the questions have been provided as guidance to assist SEAs in the preparation of Ed-Flex applications that address the statutory criteria. The Secretary encourages SEAs to consider these issues or any other factors that may demonstrate that the conditions of section 311(e) of the Act have been met. There is not a particular application form that must be completed for this program.

IV. What Federal Statutory and Regulatory Requirements May an Ed-Flex Partnership State Waive?

Section 311(e)(2)(A) of the Act provides that an Ed-Flex Partnership State may waive certain statutory and regulatory requirements applicable to the following programs or Acts:

(1) Title I of the Elementary and Secondary Education Act of 1965 (ESEA) -- Helping Disadvantaged Children Meet High Standards.

(2) Title II of the ESEA -- Eisenhower Professional Development.

(3) Title IV of the ESEA -- Safe and Drug-Free Schools and Communities.

(4) Title VI of the ESEA -- Innovative Education Program

Strategies.

(5) Part C of Title VII of the ESEA -- Emergency Immigrant Education.

(6) the Carl D. Perkins Vocational and Applied Technology Education Act.

The Ed-Flex Partnership State will not be authorized to waive any Federal statutory or regulatory requirement of the above-referenced programs or Acts relating to: (1) maintenance of effort; (2) comparability of services; (3) the equitable participation of students and professional staff in private schools; (4) parental participation and involvement; and (5) the distribution of funds to States or to local educational agencies. In addition, Ed-Flex States will not be permitted to waive Federal civil rights requirements or Federal health and safety requirements.

V. What is the Duration of the Ed-Flex Waiver Authority?

The Secretary will approve an SEA's Ed-Flex waiver authority for up to five years. The period may be extended if the SEA's authority to grant waivers has been effective in enabling the State or affected LEAs or schools to carry out their reform plans. In addition, the Secretary may terminate the waiver authority at any time if he determines, after notice and

opportunity for hearing, that an SEA's performance has been inadequate to justify the continuation of the waiver authority.

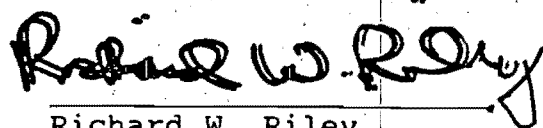
Paperwork Reduction Act of 1980

This notice involves information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of the application requirements and selection criteria to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

SEAs are eligible to apply for the waiver authority under this program. The Department needs and uses the information in determining which States will be designated as Ed-Flex Partnership States under this program. The public reporting burden for this collection of information is estimated to average 80 hours per response for approximately 50 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10325, New Executive Office Building, Washington, D.C. 20503; Attention: Daniel J. Chenok.

Dated: JAN 13 1995



Richard W. Riley,
Secretary of Education.

4000-01-P

DEPARTMENT OF EDUCATION

Education Flexibility Partnership Demonstration Program

AGENCY: Department of Education

ACTION: Notice inviting applications under the Education Flexibility Partnership Demonstration Program.

SUMMARY: The Secretary invites applications from State educational agencies (SEAs) under the Education Flexibility Partnership Demonstration program (Ed-Flex program), which is authorized by section 311(e) of the Goals 2000: Educate America Act (Pub. L. 103-227) (the Act). To help foster comprehensive education improvement in a State, the Secretary will grant up to six SEAs with approved Goals 2000 State improvement plans the authority to waive certain Federal statutory or regulatory requirements for the SEA, or for any local educational agency (LEA) or school within the State. SEAs desiring to participate in the Ed-Flex program must submit to the Secretary an application that meets the requirements of Section 311(e) of the Act.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: There is no specific deadline for transmittal of applications. However, because the Secretary is authorized to grant Ed-Flex status to only a limited number of States, SEAs are encouraged to submit their Ed-Flex applications as soon as possible. The Secretary will review applications as they are received in accordance with the criteria set forth in the Act.

ADDRESSES: Applications should be sent to Richard W. Riley, Secretary, U.S. Department of Education, Education Flexibility

Partnership Demonstration Program, 600 Independence Avenue, S.W.,
Room 6300, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Thomas W. Fagan, U.S.

Department of Education, 600 Independence Avenue, S.W., Portals
Building, Room 4000, Washington, D.C. 20202-2110. Telephone:
(202) 401-0039.

SUPPLEMENTARY INFORMATION:

The Ed-Flex program is an educational flexibility demonstration program under which the Secretary may grant up to six SEAs the authority to waive certain Federal statutory or regulatory requirements applicable to one or more of the following programs or Acts:

(1) Title I of the Elementary and Secondary Education Act of 1965 (ESEA) -- Helping Disadvantaged Children Meet High Standards.

(2) Title II of the ESEA -- Eisenhower Professional Development.

(3) Title IV of the ESEA -- Safe and Drug-Free Schools and Communities.

(4) Title VI of the ESEA -- Innovative Education Program Strategies.

(5) Part C of Title VII of the ESEA -- Emergency Immigrant Education.

(6) the Carl D. Perkins Vocational and Applied Technology

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The waiver authority is intended to assist SEAs and affected LEAs and schools in implementing State and local school improvement plans designed to help all children reach challenging academic standards.

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The Secretary will select for participation in the Ed-Flex program three States with a population of 3,500,000 or greater, and three States with a population of less than 3,500,000, as determined by the 1990 decennial census. For the purpose of this program, section 3(a)(14) of the Act defines "State" to include the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, the Republic of the Marshall Islands,

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and the Federated States of Micronesia.

APPLICATION REQUIREMENTS AND CRITERIA:

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An SEA serving an "eligible State" may submit its application at any time. The Secretary is prepared to review Ed-Flex applications as soon as they are received and to grant Ed-Flex waiver authority to an SEA whose application demonstrates a substantial promise of assisting the SEA and affected LEAs and schools in the State in carrying out comprehensive education reform and otherwise meeting the purposes of the Goals 2000: Educate America Act. An SEA that serves an "eligible State" and desires to participate in the program is encouraged to submit its Ed-Flex application as soon as possible because only six applicants may receive the Secretary's delegated waiver authority.

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To be considered for participation in the Ed-Flex program, an SEA must serve an "eligible State" and submit to the Secretary an application demonstrating that the State has adopted an educational flexibility (Ed-Flex) plan that meets the requirements of section 311(e)(4) of the Act. Specifically, the Ed-Flex plan must: (1) describe the process the SEA will use to evaluate applications from LEAs or schools requesting waivers of Federal statutory or regulatory requirements for covered programs, as well as State statutory or regulatory requirements relating to education; and (2) describe in detail the State

statutory and regulatory requirements relating to education that the SEA will waive. An applicant must have the legal authority to grant waivers of the State requirements that it proposes to waive and agree to grant these waivers when it is appropriate to do so.

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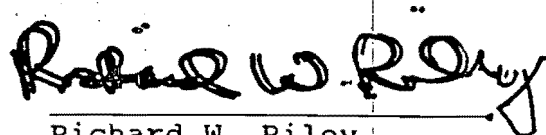
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Dated: JAN 13 1995



Richard W. Riley,
Secretary of Education.

Mike -
As requested.
Bill

STATE POPULATIONS

I. STATES WITH POPULATIONS OF 3,500,000 OR GREATER

Arizona
California
Florida
Georgia
Illinois
Indiana
Kentucky - *applied*
Louisiana
Maryland - *inferred*
Massachusetts - *inferred*
Michigan
Minnesota
Missouri
New Jersey
New York
North Carolina
Ohio - *inferred*
Pennsylvania
Tennessee
Texas - *inferred*
Virginia
Washington
Wisconsin

ALSO

Puerto Rico

II. STATES WITH POPULATIONS OF LESS THAN 3,500,000

Alabama
Alaska
Arkansas
Colorado - *interested*
Connecticut
Delaware
Hawaii
Idaho
Iowa
Kansas
Maine
New Mexico
Mississippi
Montana
Nebraska
Nevada
New Hampshire
North Dakota
Oklahoma
Oregon
Rhode Island
South Carolina
South Dakota
Utah
Vermont
West Virginia - *interested*
Wyoming

ALSO

District of Columbia
Guam
American Samoa
Virgin Islands
Commonwealth of the Northern Marianas Islands
Palau
Republic of the Marshall Islands
Federated States of Micronesia

Hard copy received
6/21/95 (FAX received
6/20/95)

**EDUCATIONAL FLEXIBILITY
DEMONSTRATION SITE**

Proposal Submitted By:

The Massachusetts Department of Education

May 1995

Revised: June 1995

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	• Massachusetts Board of Education's Five-Year Master Plan • March 31, 1995 Ed-Flex Notice • First Annual Education Reform Implementation Report • Waiver Application • Waiver Annual Report • Massachusetts Regulations as of June 20, 1995 • Examples of State Statutes and Corresponding Regulations	

I. Eligibility

- The USED approved the Massachusetts Department of Education's Goals 2000 State Improvement Plan on May 10, 1995, fulfilling the requirement of Section 311 (e)(A). The Plan, also considered the Commonwealth's Five-Year Master Plan for education reform, was approved by the Massachusetts Board of Education, which serves as the Goals 2000 State Panel, on March 1, 1995.
- *check the shift content*
While Massachusetts state statutes are not in and of themselves waivable, they do not contain specific restrictions or requirements as to how Local Education Agencies carry out educational programs and services to students in the Commonwealth. Rather, the restrictions and requirements imposed on LEAs are found in the Board adopted regulations, which the Commissioner and Board of Education have the authority to waive, while holding districts and schools within the State that are affected by such waivers accountable for the performance of the students. (Fulfilling the requirement of Section 311 (e)(3)(B).)
- Three examples of broad state statutes and corresponding regulatory requirements are included in the appendices, as they relate to: 1) physical education; 2) place of attendance, discrimination; and 3) student learning time. (A full listing of all Massachusetts regulations can be found in the appendices, as well.)
- Massachusetts has greater than 3,500,000 in population and would qualify as one of the three state educational agencies serving a population this size, that might be selected as an Ed-Flex Partnership State.

II. Educational Flexibility as Part of Systemic Statewide Education Reform

The Massachusetts Ed-Flex application fits into the broader context of statewide systemic improvement initiated by the Massachusetts Education Reform Act of 1993, and expanded in the Board of Education's Five-Year Master Plan.

The 1993 Reform Act established the statutory framework for a new type of relationship among the state, school districts, and schools. The Act directed the Board of Education and Department of Education to develop state standards to hold every student, teacher, administrator, school, and school district accountable to high levels of performance. While the Act established new standard setting authority at the state level, it transferred substantial administrative authority from the district to the school-building level.

By dividing standard-setting and administrative authority between the state and schools, respectively, the Act made possible a fundamental shift in the state's regulatory environment. Instead of traditional efforts to improve education through disjointed grants and regulations, the Education Reform Act enacted deep structural changes to provide schools with unprecedented flexibility so long as they achieve benchmark results.

The Department of Education's Fall 1993 Education Reform Implementation Plan set in motion fifty-four initiatives that put in place the basic building blocks of this new system. A full account of what was accomplished during the first two years can be found in the First Annual Education Reform Implementation Report. The critical accomplishments at the state level include:

- 1) Over 50,000 people participated statewide in the development of a Common Core of Learning, defining what all students should know and be able to do; and
- 2) Approximately 10,000 teachers are participating in a process in which the Common Core of Learning is being translated into curriculum frameworks in each of the core subject areas. Each framework contains content standards for grades 4, 8, and 10 which will form the basis for the new performance standards embodied in the new statewide assessment system.

And at the school level:

- 1) Educators at all levels participated in professional development activities regarding their new roles and responsibilities. The most fundamental changes occurred for school principals who are no longer allowed to collectively bargain, are given authority to hire and dismiss school personnel, and are expected to lead school improvement efforts;
- 2) School councils were established in every school providing teachers, parents, community members, and, on the secondary level, students, a forum to work with the principal and develop comprehensive school improvement plans;
- 3) Applications were accepted for up to 25 public charter schools (17 of which are opening in September, 1995, and 8 more are scheduled to be opened in September 1996).

On March 1, 1995, the Board of Education adopted a Five-Year Master Plan that establishes a common structure to integrate Education Reform implementation with all other state and federal programs, and projects the resulting eighty initiatives through the Year 2000. The Board's Five-Year Plan is closely aligned with the USED's three recent initiatives: Goals 2000, IASA, and School-to-Work. Significantly, the Five-Year Plan establishes a single common planning framework for the Massachusetts Goals 2000 State Improvement Plan, the Consolidated State Plan, and the Ed-Flex Action Plan, as well as several other state planning and reporting requirements.

The Five-Year Master Plan was filed with USED as the Massachusetts Goals 2000 State Improvement Plan on March 7, 1995, and the Goals 2000 Review Panel visited Massachusetts on March 30-31. The Plan was approved by Secretary Riley on May 10, 1995. Also in May, the Department filed with USED two appendices to the Five-Year Plan, one which will constitute the Preliminary Consolidated State Plan, and this document, the Massachusetts Ed-Flex Action Plan. In July, the Five-Year Plan will be updated to reflect the final state appropriations.

In addition to establishing the general framework for the Board and Department to shift emphasis from regulatory compliance to performance accountability, the Five-Year Plan outlines several specific initiatives that the Commonwealth will take over the next few years that are directly related to the Massachusetts Ed-Flex Action Plan:

Initiative #38: Opportunity-to-Learn Standards, Regulations, and Compliance:

During the 1994-95 school year, the Board and the Department worked with the State Commission on Regulatory Relief to conduct a comprehensive review of all state education regulations. The initial results of this process will be to substantially reduce redundant, obsolete, and extraneous regulations. A second phase will further consolidate and streamline regulations and put in place a coordinated process to handle all issues related to compliance, audits, complaint management, and waivers.

Initiative #24: School and District Improvement Plans: A major emphasis of the Five-Year Plan is to support school districts in the creation and implementation of comprehensive, school-based improvement plans. In much the same way that USED encourages the creation of state improvement plans under Goals 2000, Massachusetts will encourage school districts to develop comprehensive plans to integrate initiatives such as extended school time, elimination of general track, implementation of Curriculum Frameworks, and introduction of educational technology into a single planning framework. Massachusetts is piloting this effort this year with the seven school districts that received Goals 2000 District Improvement Grants.

In addition to supporting schools through incentive grants, connections to restructuring networks, and technical assistance, the Department will encourage comprehensive planning through increased regulatory flexibility. In order for a school or a district to be eligible for such regulatory relief, it will need to meet the following criteria:

1) have a state-approved improvement plan; 2) meet a base-level performance threshold; and 3) continue to make progress towards state performance goals.

what dist be
achieving schools?

Initiative #45: Charter Schools: The Massachusetts Reform Act of 1993 authorized the state Secretary of Education to charter up to 25 new public schools outside of the purview of the district where the school is located. These 25 Charter Schools are to be granted expanded regulatory relief to encourage innovation. Whereas other schools will need to meet the above three criteria in order to be eligible for expanded regulatory relief, the presumption will be to grant regulatory relief to charter schools wherever possible.

A full description of each of these initiatives with annual objectives through the Year 2000 can be found in the body of the Five-Year Master Plan.

III. Massachusetts' Contribution to Educational Flexibility

A. Authority to Regulate and to Waive Regulations

The Massachusetts General Laws define the powers and duties of the State Board of Education. Mass. Gen. Laws Chapter 69, Section 1B, as amended by the Education Reform Act of 1993, authorizes the Board to "promulgate regulations as necessary" to fulfill the purposes of the state education statutes. Section 1B specifies that the Board's regulations "shall be promulgated so as to encourage innovation, flexibility and accountability in schools and school districts."

In keeping with this legislative directive, the Board's regulations promote local initiative in seeking waivers from regulatory requirements, when the school district can demonstrate that its proposal will be consistent with statutes and will provide students with the educational opportunities to which they are entitled. Waiver authority by the Board is inherent in all of the regulations it promulgates. In some regulations, a specific waiver process is included.

For example, the Massachusetts special education regulations (603 CMR 28.00, at §204) contain the following provision:

Each school committee [school board] may submit in writing a proposal for approval by the Department for the satisfaction of any requirement in these regulations in a manner different from that specified in these regulations. The Department may approve such proposal if it shows substantial promise of contributing to improvements in the methods for meeting the goals of these regulations and if such proposal does not conflict with any provision of law. No such proposal shall be implemented until approved by the Department.

Similarly, the Student Learning Time Regulations adopted by the Board in December 1994 state, at 603 CMR 27.06(a):

The Board of Education may, upon the written application of a school committee [school board] and the recommendation of the Commissioner of Education, grant a waiver of any requirements set forth in 603 CMR 27.00 for good cause. School committees are encouraged to apply for waivers, as needed, to permit the district to initiate innovative programs or schedules intended to improve student learning.

B. Regulatory Reform

The Massachusetts Board of Education has initiated several actions to reform and streamline the state regulations affecting public schools in Massachusetts. The Board's goal is to reduce administrative burdens on schools by assuring that every regulation is necessary, clear, current, and advances Education Reform for the benefit of students.

At its April 25, 1995 meeting, the Board of Education voted its intent to repeal eleven sets of regulations that are obsolete; to consolidate what are now four separate sets of regulations on racial imbalance and magnet school programs into one; and to amend the Massachusetts Student Records Regulations to clarify and simplify them and make them consistent with other laws. These proposed changes were disseminated for public comment, and on June 20, 1995, the Board acted on the proposed repeal and amendment.

Over the next twelve months, working with the Commission on Regulatory Relief appointed by Governor William F. Weld under the Education Reform Act of 1993, the Board intends to review all other state education regulations to determine whether and how to amend, simplify and consolidate them, consistent with the goal stated above. The Commission's first preliminary report is due out in the Summer of 1995.

Have we seen this

C. Examples of Statewide Regulatory Flexibility and Local Interest

1. (Special Education, Pursuant to the Provisions of Chapter 766, 603 CMR 28.00)

On June 22, 1994, the Williamstown Public Schools requested a waiver to permit the school district to organize the administration of special education in a manner different from the requirements of the Massachusetts special education regulation which requires a dedicated position of "Administrator of Special Education". In its waiver request the district proposed creating a unified administrative structure through which the Superintendent would assume the responsibility and accountability formerly assigned to the Administrator of Special Education. Those duties were proposed to be distributed among the Superintendent, Principal, Business Manager, Administrative Assistant for Special Education and Speech and Language Pathologist.

The proposal was based on the district's belief that shared responsibility for special education leadership would promote a shared sense of accountability and ownership for the educational services of all children.

The Department approved the waiver request on August 12, 1994, after completing an on-site visit to the district to validate the proposed design for the changed administrative leadership. Ongoing monitoring of the district's implementation of the waiver during the 1994-95 school year has focused upon the successful implementation of TEAM evaluation procedures, demonstration of public meetings held with all constituencies affected by the proposal. Additionally, an internal evaluation plan was requested to document the effectiveness of the alternative administrative arrangement. A summary of this evaluation will be reviewed during a renewed on-site visit to the district on June 13, 1995, at which point the district will propose a permanent approval of the waiver.

2. (Transitional Bilingual Education, Pursuant to Chapter 71A, 603 CMR 14.00)

Massachusetts was the first state in the country to enact legislation requiring Transitional Bilingual Education (TBE) in any school district with twenty or more Limited English Proficient (LEP) children who speak the same language. Under this legislation, such students are entitled to receive a full-time program of instruction in all those courses or programs that a child is required by law to receive, in both the native language as well as in English. The intent of the legislation is to transition LEP students into English-only classrooms within three years. In the past, school districts were required to maintain a TBE program even if the number of LEP students in that language group dipped below twenty.

On December 19, 1994, an urban school district in metropolitan Boston requested a waiver to permit the district to discontinue its Transitional Bilingual Education (TBE) program for Limited English Proficient Vietnamese students. The district stated that "the enrollment of Vietnamese students declined to 14 and there were indications that the number would further decrease for the 1994-1995 school year." The request stated that "should the number of Vietnamese Limited English Proficient students increase to 20 or more" the district would once again implement a TBE program for this language group. Further, the district offered to provide the state with progress reports documenting how the needs of the Vietnamese LEP students are being met.

Based on this information, the waiver was granted by the Commissioner on March 1, 1995.

3. On March 31, 1995 Commissioner Robert V. Antonucci issued a notice to all superintendents, principals and other educational leaders throughout the state regarding the Department's intention to apply to the USED for "Ed-Flex" status. In this notice, the Commissioner invited school and district leaders to offer suggestions regarding specific regulations that might be useful to have waived. The notice made clear what statutory or regulatory requirements could not be waived. A copy of this notice can be found in the appendices.

In addition to the notice, throughout the months of April and May, Deputy Commissioner David Driscoll met with each of the Goals 2000 Advisory Councils. The purpose of these meetings was to invite substantive feedback across constituency groups for the Department's Five-Year Master Plan, as well as to continue and strengthen the dialogue regarding enhanced flexibility and accountability in implementing local change.

The responses the Department has received, both through written correspondence and public meetings, clearly indicates a strong climate of interest in the educational community for regulatory flexibility, while maintaining the responsibility to be held accountable for measurable results.

D. Building Greater Capacity for Integration and Flexibility

The Massachusetts Department of Education has been moving forward to work with school districts in an integrated fashion, encouraging both local and state-level educators to view students, schools and districts as a whole, rather than as a disjointed group of separate clients, programs, and funding sources. Key components of this initiative are:

- **Five-Year Master Plan** -- The Five-Year Master Plan, approved by the State Board of Education, is the blueprint for implementing education reform in Massachusetts. For the first time, Massachusetts has established a common planning structure for all state and federal programs related to early childhood, primary, secondary, vocational, and adult basic education. This common planning structure, which will be updated each year, allows the Department of Education to consolidate, prioritize, and project into the future all state and federal programs as they relate to improving student learning. Further, because this document strongly illustrates the parallels between the National Education Goals and state education reform, it has been approved by the USED as the Massachusetts Goals 2000 State Improvement Plan.
- **Consolidated State Plan** -- In May, 1995, the Massachusetts Department of Education submitted to the USED its Preliminary Consolidated State Plan, as authorized by the Improving America's Schools Act of 1994. Over the course of the next several months, the Massachusetts Department of Education will work to develop a Final Consolidated State Plan. The fortuitous opportunity to coordinate state and federal appropriations with programmatic priorities will become a key strategy for implementing education reform in the Commonwealth.
- **Unified Grants Process** -- As the Department of Education continues to streamline its own grant application process, it provides local districts with the same opportunity, through one unified grants process. This process allows each district to access the majority of its entitlement, allocation, continuation, and other noncompetitive grants by responding to one Unified Request for Proposal (RFP).

- School Improvement and District Change Teams -- The Massachusetts Education Reform Act of 1993 provides for a comprehensive strengthening of local school system leadership for school improvement. Every school in the Commonwealth is required to establish a school council that includes teachers, parents, and non-parent community members, who work with the school principal to develop school improvement plans. Such plans address improved student performance, improved teacher effectiveness, and improved school effectiveness.

During the 1994-95 school year, the Commonwealth used Goals 2000 funding to pilot comprehensive district improvement planning in seven districts. Over the next four years, a major focus of Department resources and technical assistance will be placed on supporting districts in developing comprehensive improvement plans that strengthen the collaboration necessary for substantial school-based improvement.

To support the implementation of school-based innovation and change, this summer the Department is promoting the establishment of District Change Teams. These leadership teams will be made up of superintendents, school committee members, program administrators, principals, teachers, school council members, and community partners. Through intensive summer institutes, these teams will: 1) explore the components of the Education Reform Act; 2) expand their understanding of the learning, teaching and assessment approaches of the curriculum frameworks and their implications for system-wide change in districts; and 3) work to align district and school improvement planning.

E. Process for Integrating State and Federal Regulatory Waivers Under Ed-Flex

As the Department continues to build the infrastructure for ongoing innovation and systemic change, it is integrating its process for granting waivers of state and federal regulations under Ed-Flex.

ole Similar to the eligibility requirement that only state's with an approved State Improvement Plan apply for Ed-Flex status, the Massachusetts Department of Education will grant federal waivers to only those schools and districts with approved Improvement Plans. Further, preference will be given to such schools and districts for all waiver requests, both state and federal. Schools or districts will request waivers for a one, three, or five year period.

Should Massachusetts be designated to help pilot the Educational Flexibility Partnership Demonstration Site Program, the process for considering requests will work as follows:

1. The Deputy Commissioner will have responsibility on waivers for outreach (e.g., outreach to school districts to encourage them to seek waivers that will enhance flexibility, educational innovation, and improved student outcomes), and for intake (i.e., all waiver requests involving state or federal program regulations will be channeled through the Deputy Commissioner's office). (See appendices for waiver application.)
2. Working closely with the Associate Commissioners and the General Counsel, the Deputy Commissioner will conduct the initial review of a waiver request, to determine its nature and scope.

Based on that determination, the Deputy Commissioner will convene a meeting of an "Ed-Flex Team" made up of key administrators, program staff, and/or district liaisons to review the waiver request.

This "Ed-Flex Team" shall include individuals who are familiar with all state and federal statutory and regulatory requirements, thus ensuring that granted waivers do not impede the progress or success of other state or federally funded programs.

3. The Deputy and team will prepare a recommendation (including a suggested monitoring plan and timetable) for the Commissioner, who will make the final decision on the waiver request.
4. Monitoring takes on two purposes: 1) On an annual basis, schools or districts that have been granted waivers will be required to submit an annual report. (See appendices.) When deemed appropriate by the Deputy Commissioner, additional forms of assessment will also be used to measure the benefits of the waiver; and 2) The Department of Education will track all requests for waivers, assessing statewide trends and results, including an assessment of whether waiver trends indicate that certain regulations are obsolete or need to be amended.

IV. Summary

Throughout this proposal, the Massachusetts Department of Education has aimed to demonstrate that educational flexibility is not an end in itself. Rather, flexibility must be an integral part of an overall sustained effort and partnership among stakeholders in public education to set the conditions that allow for improved performance among students and educators.

Since the enactment of Education Reform two years ago, substantial work has been done throughout Massachusetts to change the paradigm of what it means to educate all children and youth, and to build the structures for implementing and supporting this vision. The Education Reform Act, as described in Part II, will lead to a complete restructuring in how the state, school districts, and schools conduct business in Massachusetts. Through standard-setting and accountability, the Act has made possible a fundamental shift in the state's regulatory environment, providing schools and districts with unprecedented flexibility so long as they achieve benchmark results.

Becoming an Educational Flexibility Partnership Demonstration Site, as authorized by the Goals 2000: Educate America Act, not only fits into the broader context of systemic change in Massachusetts, but maintains the promise of becoming a key pilot for educational innovation and flexibility nationwide. In many respects, Massachusetts is ahead of the game in terms of standard setting, flexibility, and accountability. Designating Massachusetts an "Ed-Flex" state, combined with models of more traditionally regulated states, would offer a variety of perspectives from which all states could gain better knowledge as to the ongoing educational innovation necessary for systemic change.

V. Appendices

- Massachusetts Board of Education's Five-Year Master Plan
- March 31, 1995 Ed-Flex Notice to School and District Leaders
- First Annual Education Reform Implementation Report
- Waiver Application
- Waiver Annual Report Form
- Massachusetts Regulations as of June 20, 1995
- Examples of State Statutes and Corresponding Regulations

MEMORANDUM

To: Superintendents, Principals, and other Interested Parties

From: Robert V. Antonucci,
Commissioner of Education

Re: Ed-Flex Partnership States

Date: March 31, 1995

I am writing to ask your assistance in a new initiative the Department is undertaking. We plan to submit an application to the U.S. Department of Education's (USED) Educational Flexibility Demonstration Program (Ed-Flex) in May. Under this program, U.S. Secretary of Education Riley can grant up to six state Departments of Education the authority to waive certain federal statutory or regulatory requirements. In essence, the Secretary will be transferring his authority to grant waivers to the state.

Specifically, the federal programs included in this initiative are:

- Title 1 (formerly Chapter 1)
- Title II (Eisenhower Professional Development)
- Title IV (Safe and Drug-Free Schools and Communities)
- Title VI (formerly Chapter 2)
- Part C of Title VII (Emergency Immigrant Education)
- Carl D. Perkins Vocational and Applied Technology Act

The waiver authority is intended to assist states and local school districts in implementing state and local school improvement plans designed to help all students reach challenging academic standards.

It is important to note that Ed-Flex Partnership states will **not** be authorized to waive the following statutory or regulatory requirements:

1. Maintenance of effort;
2. Comparability of services;
3. Equitable participation of students and professional staff in private schools;
4. Parental participation and involvement, and
5. The distribution of funds to local school districts.

In order to apply to be an Ed-Flex Partnership, a state must first have an approved Goals 2000 State Improvement Plan. Massachusetts submitted as its Goals 2000 State Plan, the Five Year Master Plan which is enclosed with this mailing. This Plan is currently under review by USED and we anticipate receiving approval in April.

As part of our application for Ed-Flex status we would like to include concrete examples of regulations school districts would like waived. For example, Secretary Riley recently granted Florida's Palm Beach County Schools a one year waiver of a provision in the new Title I law that requires a school district to serve all schools with percentages of poverty at or above 75 percent, including middle and high schools, before serving schools with lower poverty rates.

I am asking that you let us know of **specific regulations** in the program areas listed above that you would find useful to have waived. Please send us your recommendations, including the specific federal program area, the regulation and how a waiver would help you improve teaching and learning in your school or school district. Please send these recommendations by **April 20** to:

David Driscoll, Deputy Commissioner
Massachusetts Department of Education
350 Main Street
Malden, MA 02148

If you have questions regarding this initiative, please call Jane Thomas at (617) 388-3300 ext. 380.

**Goals 2000
Education Flexibility Partnership Demonstration Site**

Waiver Application

Please respond to each of the following sections. For each category, restate the question at the top of the page. Responses must be no more than one page per section.

1. WAIVER(S):

Describe the State or Federal regulatory requirement(s) which must be modified or waived as a means towards improving student learning at your site. Indicate whether the request is for a one, three, or five year period.

2. RATIONALE:

Explain the **rationale** behind the waiver request, and how and why modifying or waiving such statutory or regulatory requirement(s) will assist your school or district in achieving measurable goals towards improved student learning. This section should include how the waiver's overall intent fits into school or district improvement plans.

3. CONSTITUENCY SUPPORT:

Describe the processes used to build constituency support for this initiative, and how such support shall be maintained.

4. STRATEGIES:

Describe how waiving such requirement(s) will serve as a strategy for helping students reach higher learning standards, and what other annual strategies or activities would supplement a granted waiver.

5. ASSESSMENT:

Explain how, on an annual basis your site will monitor the effect of the waiver on student learning. Provide the major indicators of student learning and educational performance that will be used on an annual basis.

Goals 2000
Educational Flexibility Partnership Demonstration Site
Annual Report

Please respond to each of the following sections. For each category, restate the question at the top of the page. Responses must be no more than one page per section.

1. WAIVER(S):

Indicate the State or Federal regulatory requirement(s) that were waived by the Massachusetts Department of Education in order for your site to work towards improved student learning.

2. ABSTRACT:

Provide an overview of the conditions at your site (school or district) at the time the request for waiver(s) was granted, and how those conditions have or have not changed over the course of the past year, as they relate to the waiver.

3. CONSTITUENCY SUPPORT:

How has public support for the conditions affected by the waiver changed or not changed over the course of the past year? What measurable indicators of support has your site employed?

4. STRATEGIES:

Describe how and why the waiver has served (or not served) as a strategy towards improved student learning at your site. Include strategies and activities that were initiated to supplement the waiver.

5. ASSESSMENT:

What are the measurable indicators of student learning your site has used to determine the success of the Ed-Flex pilot? Are the outcomes of the pilot in line with the expectations? How or how not?

MASSACHUSETTS REGULATIONS AS OF JUNE 20, 1995

603 CMR 4.00 Vocational Education

603 CMR 7.00 Certification of Educational Personnel

603 CMR 8.00 Regulations for Kindergarten

603 CMR 9.00 Physical Education

603 CMR 10.00 School Finance Regulations

603 CMR 13.00 Certification of Supervisors of Attendance

603 CMR 14.00 Transitional Bilingual Education

603 CMR 17.00 Racial Imbalance and Magnet School Programs

603 CMR 18.00 Approval of Private Special Education Schools that
Serve Publicly-Funded Students

603 CMR 22.00 Regulations Governing Payment of Special Education
Costs for Metco Students

603 CMR 23.00 Regulations Pertaining to Student Records

603 CMR 26.00 Access to Equal Educational Opportunity

603 CMR 27.00 Student Learning Time

603 CMR 28.00 Chapter 766 - Comprehensive Special Education

603 CMR 29.00 Nutrition Education and School Food Services

603 CMR 30.00 Massachusetts Testing Program

603 CMR 32.00 Fiscal Accountability for Grant Programs

603 CMR 33.00 Anti-Hazing Reporting

603 CMR 35.00 Evaluation of Teachers and Administrators

603 CMR 38.00 School Construction

603 CMR 41.00 School District Reorganization

603 CMR 42.00 School Employees Collective Bargaining

603 CMR 43.00 School Choice Transportation Reimbursement

603 CMR 44.00 Recertification

OMITTED for circulation, due to length: Examples of State Statutes and Corresponding Regulations

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Kansas State Board of Education

Ed-Flex Plan

Submitted to:

U. S. Department of Education

June- 1995

Kansas State Board of Education Request for Educational Flex Waivers Authority

Purpose:

The Kansas State Board of Education submits the following request for Ed-Flex Waiver authority as a means of assisting local schools and districts implement the Kansas improvement plan.

Background-Kansas Educational Improvement Plan

Kansas has a history of educational reform efforts which date back more than ten years. The Kansas State Board of Education has been involved in strategic planning, development of curriculum reform measures, development of interactive telecommunications systems, revision of certification procedures and requirements and implementation of a statewide continuing improvement process for all schools. These measures have occurred within a cooperative partnership under the leadership of the Kansas State Board of Education and the Commissioner of Education with the support, commitment and involvement of legislators, state education organizations, business groups, parents, community groups and other interested individuals and groups.

The basic foundation for Kansas education reform rests on two important perspectives. First, the future well-being of Kansas citizens rests on the state's ability to engage in economic development, workforce development and educational reform. The state must promote a more diversified and values-added economy. Workforce development must focus on career planning, career preparation and career development for youth and adults to provide a high-skills, productive, high-wage workforce. Central to the attainment of the economic goals is the reform of educational and training institutions which can prepare youth and adults with high levels of academic, workplace, thinking, knowledge-application and knowledge-development skills. In short, the preparation of world-class people is an essential task for the present and the future of individuals and the conditions of Kansas.

A related perspective of the Kansas educational reform effort is the need for continuous learning organizations and learning communities. Schools must be dynamic organizations which not only provide all students with excellence in teaching and learning, but also are involved in assessing progress, identifying problems, and developing and implementing plans which improve the conditions for children and youth in schools and communities.

These two perspectives of the needs for high levels of human resource development or human capital and the need for continuous collaborative learning and improvement provide the foundation for Kansas educational improvement efforts.

Components of Kansas Educational Reform

The major premise of the Kansas State Board of Education's philosophy is that all citizens must be involved in their own learning and development and the learning of others. The Board's mission for educational reform, developed in 1989, is:

To prepare each person with the living, learning, and working skills and values necessary for caring, productive, and fulfilling participation in our evolving, global society..

The mission is supported by seven Strategic Directions which are similar to the National Education Goals. They include the following.

Kansas Strategic Directions

- Support families and young children through quality early childhood programs for all children
- Strengthen parental involvement in schools and communities
- Implement results-oriented curriculum and instruction which focus on learner outcomes
- Provide safe, nurturing, and technologically-advanced learning environments which meet the needs of all diverse groups
- Provide quality staff and organizational development
- Create learning communities
- Strengthen involvement of business and industry in education

The process developed for the achievement of these directions is known as the Quality Performance Accreditation process. The major focus of the Quality Performance Accreditation process is the improvement of student learning and achievement. The Kansas improvement plan is also designed to provide an operational framework for the management and implementation of activity which will lead to the continuous improvement of education of all Kansas students. The philosophy of continuous improvement is actualized as schools assess their needs, develop goals and plans, implement plans, and assess their levels of progress. State teams work with districts to assist their improvement efforts.

Impact of Goals 2000

A number of reform activities were in place prior to the receipt of the Goals 2000 Planning Grant. A first set of content standards had been developed, four state assessments had been designed and given (mathematics, reading, science, and writing), cluster sites for interactive telecommunications were in place, integration of academic and occupational curriculum was underway, and many state policies and actions which supported educational reform efforts had been adopted.

The implementation of Goals 2000 provided an opportunity for further specifying and refining reform activities, for extending the involvement of educators, business persons, parents, community groups and citizens in the planning process and for developing information and technical assistance materials which can support educational reform.

Goals 2000 has strengthened and extended educational reform. The goals of the Goals 2000 program fit within the existing state reform efforts and provide some coherence to the overall program. These include the following.

Goal 1 - Development of an active reform program for improving and extending the teaching learning process.

Implementation Objective 1.1 To continue to develop and monitor a statewide consensus as to challenging content standards and benchmarks

Implementation Objective 1.2 To continue to refine and disseminate Kansas content standards

Implementation Objective 1.3 To continue to develop and implement instructional strategies which can increase and extend the quality and power of instructional methods and programs.

Implementation Objective 1.4 To expand and refine the Kansas state assessments and procedures

Implementation Objective 1.5 To implement SCANS standards and skills standards in K-14 educational programs, integrating academic, career, and vocational/technical education

Goal 2: The implementation of leadership and management change orientation systems

Implementation Objective 2.1 To improve and extend area and local professional development programs

Implementation Objective 2.2 To involve higher education institutions and teacher/administrator preparation programs in preservice and advanced education which prepares educators for professional excellence in teaching and learning (standards, curriculum development, instruction and assessment); managing and leading (organizational excellence); and community outreach (systems excellence)

Implementation Objective 2.3 To continue the implementation of Kansas Quality Performance Accreditation in all schools as a means of planning, implementing, and evaluating continuous improvement

Goal 3: The development of community outreach and learning communities

Implementation Objective 3.1 To expand the fiber optic networks and interactive learning opportunities with Kansas, accessing the United States and the world

Implementation Objective 3.2 To continue the professional development of teachers in the use of technologies for improving and extending learning opportunities

Implementation Objective 3.3 To strengthen collaboration among Kansas health, social service, justice, other relevant entities (e.g. Bureau of Indian Affairs), and employment systems in providing quality services for children and youth

Implementation Objective 3.4 To expand the Parents as Teachers Programs, implement the early childhood education standards, expand early childhood education programs through collaboration and multiple funding opportunities, and continue to support parent involvement initiatives that strengthen the teaching/learning process of young children.

The Goals 2000 plan has provided focus to and extension of the Kansas improvement or educational reform plan. The primary need at this time is to focus on efforts and activities which support the implementation of the Kansas Improvement plan. The focus of effort and activities can be supported by the state process which could grant waivers to requirements which may not support the achievement of Kansas reform goals as directly as would be desirable.

School Improvement Process

Through the Quality Performance Accreditation process the State has established:

- Three school and district process outcomes
- Five student performance outcomes
- Twenty six standards related to the process and student outcomes
- Twenty one non-duplicative state, as well as locally-developed indicators to measure progress

The school improvement process is the basis for improving Kansas schools under the Quality Performance Accreditation system. Local education agencies have the latitude to investigate a variety of systems/models and to adopt/adapt/create one that fits their unique needs. This process is to focus on the academic achievement of Kansas students, ensuring equitable, individualized learning opportunities that meet both the unique and shared needs of all students, including all students of diverse population groups.

Quality Performance Accreditation addresses school improvement, accountability, and individual performance at the building level.

Quality Performance Accreditation requires schools to develop improvement plans. This includes a needs assessment, a plan for improving weak areas, evaluation of the progress toward meeting the plan, and a report to the local and state boards on progress made in accomplishing what was planned.

Quality Performance Accreditation is structured around five focus areas:

1. School and district outcomes related to the process of continuous improvement.
2. Community-based programs/the learning community concept.
3. Human resource development/staff training and retraining.
4. World class standards of academic performance through mastery of essential skills.
5. World class standards of academic performance through an integrated curricular approach.

Within each of the five focus areas, outcome measures of student success have been designated by the Kansas State Board of Education. Standards of acceptable levels of excellence and indicators of the standard's status have been identified for each state outcome or goal. In addition to the state standards and indicators for each outcome, Kansas districts and schools must identify and work toward locally-determined standards and indicators, as needed, to support a comprehensive school program. The combination of state and local indicators assure accountability to the community and parents of each respective school system, the Kansas State Board of Education, and the Legislature. Student data are analyzed and reported, both locally and statewide, in a disaggregated format (that is, according to race, gender, socioeconomic status, and any other

appropriate category representative of the school/community profile). Periodic on-site auditing systematically checks progress toward achieving both school and student improvement and progress toward state identified outcomes and results.

Writing the School Improvement Plan

The school improvement plan rests on a foundation provided by the mission statement, the district learner exit outcomes and the school profile. The school improvement plan serves as an action plan, or blueprint, for improving student performance. It must be research-based and it must address the outcomes and standards for Quality Performance Accreditation. The following questions will be useful in writing the school improvement plan:

- What data were identified in the school profile that indicated a need for improvement or maintenance?
- What outcome(s) is targeted for improvement or maintenance?
- How will the targeted outcome(s) be evaluated to determine if improvement has taken place?
- How will the outcome(s) be evaluated if performance is to be maintained?
- Were multiple assessments used to provide triangulated data?
- What population has reached a maintenance level in an outcome(s)?
- What evidence will be collected to determine if the strategies or interventions have resulted in improved student performance or have resulted in maintaining student performance?
- Who is responsible for implementing the strategies or interventions and for reporting results for accreditation purposes?
- What resources (human, material, monetary, time) are needed to effectively implement the strategies or interventions?
- What are the timelines for implementing and evaluating the strategies or interventions?
- What specific strategies or interventions have been selected to improve the targeted outcome(s)?
- What specific population(s) has been identified as needing improvement?
- Each school must develop and submit to the local and State boards of education specific plans for achieving its improvement plan outcomes. The improvement plan will include:
 - statement of the improvement plan outcomes pursued and their relationship to State Board outcomes and local outcomes
 - strategies to achieve the improvement plan outcomes
 - person(s) responsible for implement each action

- timeline for achieving the improvement plan outcomes
- ways to measure progress toward the improvement plan outcomes
- staff development plans which address the improvement plan outcomes related to student exit outcomes
- resources (time and money) needed, as well as those anticipated, for school improvement plan implementation and staff development
- Each school will solicit faculty, community, and school site council endorsement of the draft school improvement plan.

Writing a school improvement plan is not a short-term process nor does it guarantee an overnight resolution of problems faced by a school and its community. The plan evolves from a lengthy process based on using local data and national research, and the school community must solicit faculty, community, parents, and school site council endorsement of the school improvement plan. Once the plan is in place, it is essential that a reasonable time be allowed for achieving the improved student performance. If revisions are needed, the changes should be based on updated or new data reflected in the revised school profile.

Need for the Kansas Ed-Flex Proposal

The Kansas Improvement plan outlined above has been in stages of development and is moving toward installation in the 300 plus Kansas districts. While the intent of Federal and State regulations is generally supportive of the educational reform plan, there are some cases where regulations do not permit the utilization of resources to maximize and coordinate efforts to ensure that all students are provided with the opportunities necessary for higher levels of learning and achievement.

The priorities of Kansas educational reform remain on the following activities:

- The continued implementation of the Kansas Quality Performance Accreditation process as a means of achieving systemic change in districts.
- The continued refinement and dissemination of content standards and their integration into the curriculum scope and sequence of districts.
- The development of more targeted, systemic professional development which can increase teachers curriculum and instructional excellence.
- The continued development of curriculum and activities which integrate SCANS skills and career planning and exploration into the K-12 curriculum for all students.
- The continued efforts to integrate academic, occupational and knowledge application skills in secondary education programs.
- The expansion of the fiber optic networks and learning opportunities for Kansas students and communities.
- The continued professional development of teachers in the use of information technologies for improving and extending learning opportunities.

- The strengthening of collaboration among Kansas health, social service, justice, employment systems and other relevant groups in providing quality services for children and youth.
- The expansion of the involvement of Parents as Teachers, early childhood education, and other ways of supporting the learning of young children.

The above listing provides examples of purposes which would need to be met in the granting of waivers to LEAs.

Ed-Flex Plan

The Kansas Ed-Flex Proposal has been discussed with the State Board of Education, and all superintendents were notified of the State's intention to seek waiver authority under Ed-Flex and asked for their input and comments. The State Goals 2000 Panel, which includes parents and parent organization representatives, has also endorsed the waiver process.

The SEA waiver process is designed to grant individual waivers on a case-by-case basis to districts that demonstrate the Federal or State regulation/statutes create barriers to carrying out the education reform plan in an effective way. Waivers will not be granted which would reduce or eliminate maintenance of effort; comparability; equitable participation of students and teachers in private schools; distribution of funds to States, Title X/Part C Charter School requirement; safety requirements; prohibition of use of State aid funds for religious worship or instruction; prohibition of restrictions regarding construction; or requirements relating the basic purposes or goals of programs.

Waivers would be granted in those cases where the implementation of the Kansas Educational Improvement plan is supported by allowing greater flexibility in Federal and State requirements. Examples of barriers which might be waived are (1) allowing schools greater flexibility in the design and implementation of schoolwide programs of ESEA Title I, (2) providing services to only pre-selected student groups, (3) using ESEA Title II funds to support general curriculum and instructional needs and content areas other than mathematics and science, (4) extending Drug Free Schools programs to a broader student and staff audience, (5) the expanding of Tech Prep programs to lower grade levels to benefit students at a earlier age, (6) supporting joint funding and services for early childhood education programs, (7) expanding the Emerging Immigrant Education program to rural areas, and (8) other Federal program requirements related to funding equipment purchase and reporting which would enable Kansas schools to better meet the established high performance standards that drive the state reform efforts.

The Kansas Quality Performance Accreditation process provides a method of monitoring the value and use of waivers to meet measurable goals. It requires that schools develop improvement plans, which include a needs assessment, a plan for improving weak areas, evaluation of progress toward meeting the plan, and a yearly report to local and state boards on progress made in accomplishing what was planned.

Quality Performance Accreditation is structured around five focus areas:

1. School and district outcomes related to the process of continuous improvement.
2. Community-based programs/the learning community concept.

3. Human resource development/staff training and retraining.
4. World class standards of academic performance through mastery of essential skills.
5. World class standards of academic performance through an integrated curricular approach.

Within each of the five focus areas, outcome measures of student success have been designated by the Kansas State Board of Education. Standards of acceptable levels of excellence and indicators of the standard's status have been designated for each state outcome or goal. In addition to the state standards and indicators for each outcome, Kansas districts and schools must identify and work toward locally-determined standards and indicators, as needed, to support a comprehensive school program. The combination of state and local indicators assure accountability to the community and parents of each respective school system, the Kansas State Board of Education, and the Legislature.

Accountability is further ensured by the development of individual School Improvement Plans and a requirement of a yearly report to the State Board of Education. The annual report requires annually updated information regarding the required state indicator data. Each school makes public disclosure at least once a year to the community in the primary languages of the community. In addition, state accountability data, which include samples of school records, student dropout data, state assessment results; norm-referenced and criterion-referenced assessments; and performance-based assessments (portfolios, direct writing, work samples, mathematics, and science fair projects, teachers' observations, and interviews) provide a relatively strong indication as to whether improvement goals have been reached.

State regulatory requirements would also be considered for waiver on the same basis that Federal requirements might be waived. When a school or district demonstrates that a requirement presents a barrier not related to the areas of non-waiver provision, state regulations would be waived.

Public Involvement

The SEA sought public input through the following activities:

- All LEAs were notified of the waiver provisions and input was requested through a survey.
- Presentation and discussions were conducted with the State Board of Education to seek their input, and approval to pursue an Ed-Flex Plan.
- Presentation and discussions were also conducted with the State Goals 2000 Panel to seek their input and how waivers are related to the Goals 2000 Plan.
- A series of workshops were conducted throughout the State involving over 700 local school personnel in which waiver provisions were discussed and input received. The various committees, panels, and boards all consisted of parents, community representation, and advocacy groups.

AUTHORITY TO WAIVE STATUTORY AND REGULATORY PROVISIONS

The Kansas Supreme Court has established: "The adoption by the people of this State of the 1966 amendment to Article 6 of the Kansas Constitution vested broad powers of supervision in the state board of education." These broad powers of supervision are self-executing.

"A self-executing provision of a constitution is a provision requiring no supplementary legislation to make it effective and leaving nothing to be done by the legislature to put it in operation." State ex rel. v. Board of Education, 212 Kan.482(1973).

Based upon the broad powers granted to the Kansas State Board of Education by the state constitution the State Board of Education has the authority to adopt rules and regulations regarding accreditation of schools and the certification of school personnel. The State Board of Education clearly has the constitutional authority to grant waivers from these regulations. It also is granted the authority to waive statutory provisions regarding alternative schools and charter schools.

The local boards of education in Kansas are to provide for the development, operation, and maintenance of the public schools, subject to general supervision by the state board. Current accreditation regulations contain the major provisions governing local schools, and which the State Board can waive, such as:

- procedures for accrediting schools
- policies and programs
- organization
- special, exemplary or innovative programs: waivers of regulations
- distance learning
- summer school programs
- administration
- staff
- guidance
- special education
- library media programs
- the granting credit
- independent study programs
- work experience programs
- adult education
- graduation
- interscholastic activities

New regulations are currently being developed by the State Board of Education to implement a new method of accrediting schools in Kansas, known as Quality Performance Accreditation. This new school improvement process is based on state standards, student outcomes and state/local indicators. Schools will be accredited based on increased student performance and other state/local indicators. Also, included are rewards and sanctions established by the State Board of Education.

SEA Waiver Process

The SEA waiver authority process will consist of notifying all LEAs of state and federal provisions included in the authorizing statutes. LEAs that wish to participate in the waiver application process will be sent appropriate materials for completion and submission to the SEA Waiver Committee for action. The SEA Waiver Committee will

grant waivers on a by case by case basis with final approval by the State Board of Education. The SEA will not grant a statewide waiver for all LEAs. Individual LEAs must specify in their application which federal and state provision(s) waiver authority is being requested.

The SEA may, in some cases, provide waivers to LEAs regarding the provisions in GEPA and EDGAR if they are deemed to inhibit local improvement efforts needed to implement state and local reform efforts.

The Kansas State Department of Education will establish a waiver committee consisting of the following:

- Assistant Commissioner of Learning Services
- Assistant Commissioner of Lifelong Learning
- Team Leader, Program Support Services
- Team Leader, Outcomes Education
- Team Leader, Planning, Research, and Evaluation

Other SEA staff will provide input and recommendations to the committee as needed related to specific issues, such as certification, early childhood education, bilingual education, special education, vocational and technical education, etc. The Waiver Committee will meet monthly to act on waivers and submit recommendations to the Commissioner for final action. The Waiver Committee will also consider requests for waivers from state regulations.

Criteria which will be used to consider waivers include the following:

- ✓ • Are the waivers requested needed to implement state/local reform initiatives?
- ✓ • Does the request contribute to helping all students reach high standards and include the needs of high-risk populations?
- ✓ • To what extent will the waiver enhance the local educational agency's ability to implement activities directed toward their school improvement plan as developed through Goals 2000 and Quality Performance Accreditation?
- ✓ • To what extent do the waivers relate to the outcomes and indicators set forth in Quality Performance Accreditation document?

Evaluation and Accountability

LEAs receiving waiver authority will be held accountable primarily through the results from state assessments. Student results from the content areas will be analyzed for positive growth for all students affected by the waivers. Schools not demonstrating the State Board's established annual benchmarks for progress within a two year period will not be granted continued waiver authority.

In addition to State assessments, schools will select two locally determined indicators and specify expected levels of improvement for each indicator to demonstrate impact on

students affected by the waivers. Local indicators might include, but are not limited, to the following:

- continuous student improvement in areas targeted in each school's locally-developed improvement plan;
- graduation rate;
- dropout rate;
- attendance rate;
- low or declining number of violent acts against teachers and students;
- student performance on locally-developed tests in communications, math, science, and social studies;
- number of students passing advanced math and science in high school;
- student mastery of algebraic concepts

These indicators will be included in Lea's request for a waiver and also used by the SEA as a criteria for awarding waivers.

The SEA has established a monitoring process for Quality Performance Accreditation, which includes two on-site visits within a four year cycle. The waiver process would be included as a part of the on-site review.

Timelines

The following activities, products, and timelines are provided as a general schedule of activities, but is recognized that some modifications may be needed.

<u>Dates</u>	<u>Activities</u>	<u>Products</u>
May 1995	SEA waiver committee meetings	Development of local waiver application and procedures
June 1995	SEA waiver committee meeting	Notification to all schools of SEA waiver procedures
Aug. 1995 to Feb. 1996	Waiver committee mtg.	Waiver request from LEA/schools
Sept. 1995 to Mar. 1996	Submit waiver request with recommendation to State Board for action	Monthly list to State Board
April 1995 to May 1996	Follow-up on short term evaluation of waiver impact	Development of evaluation feedback form to be submitted by grantees
June 1995 to July 1996	Review and analysis of local evaluation of waivers	Report to State Board on year one of Ed-Flex results/recommendations

Comments and Involvement

The Goals 2000 Panel and the State Teams implementing Quality Performance Accreditation hold hearing and briefings or site visits around the state on a regular basis.

Notices of these hearings or visits will include the announcement that individuals or groups wishing to comment on the waivers are invited to do so. An announcement will also be made that comments will be received at any time by the Kansas State Board of Education.

Programs or Acts Covered by Ed-Flex

The Kansas State Board understands that waivers may be applied only to the following.

- (1) Title I of the Elementary and Secondary Education Act of 1965 (ESEA) - Disadvantaged Children
- (2) Title II of the ESEA - Professional Development
- (3) Title IV of the ESEA - Safe and Drug-Free Schools
- (4) Title VI of the ESEA - Innovative Education Program Strategies
- (5) Part C of Title VII of the ESEA - Emergency Immigrant Education
- (6) The Carl D. Perkins Vocational and Applied Technology Education Act

Note to Mike S., Mike C., and Gerry T.

I just wanted to call to your attention the attached article on Ed-Flex that was in the 2/23/96 edition of Ed Daily.

-- Bill

Specter Seeks Money To Boost Education (Cont. from p. 1)

for ED than the Senate's, so any extra funding the Senate finds could be bargained away in a compromise.

Specter's letter said he plans to ask Education Secretary Richard Riley and his counterparts in Labor and HHS for suggestions on where to spend any extra money available for this year.

ED officials yesterday declined comment on where they would like to see extra money go.

Specter canceled a hearing scheduled for Wednesday in which Cabinet members would have spelled out their recommendations, but told Panetta he would reschedule it once OMB has found the savings.

"It made no sense having a hearing if we didn't have a solution," a Specter spokesman said yesterday.

While finding \$3.3 billion is unlikely to protect ED from all losses, it is the high-water mark in recent Capitol Hill talks to ease cuts proposed for ED.

"The [\$]3.3 billion [for the three departments] is the largest number I've heard thrown out there," said Violet Boyer, president of the Committee for Education Funding and assistant vice president for congressional relations for the National Association of Independent Colleges and Universities. "It's not restoring everything to [fiscal 19]95 levels, but it's moving in the right direction."

Specter and other appropriators are trying to finalize spending for fiscal 1996, which started Oct. 1, 1995. ED and other agencies without 1996 spending laws are operating through March 15 under a stopgap measure (ED, Jan. 26). —David Hoff

Ed Flex Off To Slow Start, As Schools Test New Muscle

Pilot states have granted few schools' requests with new authority to waive federal rules, but they expect to shift into a higher gear soon.

The five states in the Education Flexibility (Ed Flex) Partnership Demonstration program had granted only eight waivers as of last week, but state officials say the numbers will rise once schools see the potential.

"The tradition of schools is to follow the rules, not to try to find a way to break them," said Alan Safran, chief of staff for Massachusetts' education commissioner. Once school officials see how they can use the waivers, "we'll get a flood of" requests.

Finding Flexibility

Even with the lack of waivers, Ed Flex is encouraging schools to stretch administrative muscle they didn't realize they had.

Oregon told 16 school districts that applied they did not need waivers to make the changes they sought. Many of the school officials still assumed that former federal policies remained intact, such as the requirement that schools have poverty rates exceeding 90 percent before they could become a schoolwide program under Title I.

That meets Ed Flex's ultimate goal—helping

districts operate with fewer constraints—federal officials coordinating the effort say.

"Whether or not this is something that leads to lots and lots of waivers, it does focus on the fact there is a lot of flexibility there" that people don't know about, said Bill Kincaid, a special assistant to Education Undersecretary Mike Smith.

Ed Flex allows Massachusetts, Oregon, Ohio, Kansas and Texas to waive rules for federal K-12 programs, such as Title I, professional development and vocational education.

The Education Department is reviewing Vermont's application for the last of six Ed Flex spots created in the Goals 2000 school reform law (ED, Feb. 13).

Getting Started

Kansas has awarded five waivers—the most so far—and is expecting more applications by a March 1 deadline for the third round of awards.

Four of Kansas' waivers went to Title I schools that wanted to become schoolwide projects, which lets principals blend K-12 money to upgrade their curriculum.

(more)

Ed Flex Off To Slow Start, As Schools Test New Muscle (Cont.)

The waiver recipients had poverty rates that put them close to qualifying for the status this year and would have been eligible when criteria broaden in the 1996-97 school year, said Ken Gentry, the Kansas official coordinating the waivers.

The fifth Kansas waiver allowed a school to spend federal professional development money meant for mathematics and science teachers on training for reading teachers, Gentry said.

Oregon, which won the first spot a year ago, has granted only one waiver, according to the state official coordinating the effort. She also is predicting an increase, as districts write a system-wide reform plan required to be in place by state law in the 1997-98 school year.

"Districts are really trying to figure out how they are going to change," said Joyce Benjamin, Oregon's associate superintendent.

Ohio—the only participating state not to use its Ed Flex powers—is still outlining the process it will use to review and approve requests.

So far, waiver requests states have granted are similar to those ED officials previously okayed.

Massachusetts allowed the Fitchburg School District to circumvent the formula distributing Title I money that Congress rewrote in the 1994 Improving America's Schools Act (IASA).

Because of the law, Fitchburg had to eliminate Title I services at three schools last fall. But a waiver the state education board okayed in December allowed eight Fitchburg teachers to return this year.

Likewise, Oregon's waiver will allow a county school district to spend the current year planning to move Title I into its high school, which IASA required it to do this year.

—David Hoff

Presidential Panel Advises Technology Link In Grants

In its final report, a presidential panel says federal, state and local education grants should require that projects feature technology links.

The National Information Infrastructure Advisory Council's (NIAC) report also urges initiatives to integrate technology resources into teacher training and certification programs.

"All educators should be able to ... guide students in the use of the Information Superhighway [and] integrate Information Superhighway technologies into the design and implementation of their curriculum plans," says the report, released last week.

Among other recommendations, it says:

- The federal government and private companies should offer funds to schools that effectively use technology in education; and
- State and local governments, through school boards, should test and reward students' knowledge of technology, such as an "Information Superhighway Driver's License" that would require students to pass an exam of technical competence and know their rights and responsibilities.

It also urges the creation of nonprofit resource centers, or "greenhouses," to gather information on using technology in education, and to offer support for educators, such as technology consulting services.

An earlier NIAC report urged schools to devote 2 percent of their budgets to putting all students online by 2000 (ED, Dec. 15, 1995).

The 36-member group of educators, technology specialists and business leaders, created two years ago to advise the administration on a national strategy for promoting technology development, will now officially disband.

But through the Benton Foundation in Washington, D.C., NIAC will maintain an Internet site for information exchanges with educators.

Limited copies of "A Nation of Opportunity: Realizing the Promise of the Information Superhighway," are free from National Telecommunications and Information Administration, Openness Center, Commerce Department, 14th Street and Constitution Avenue NW, Room 1609, Washington, D.C. 20230, (202)482-3999. To receive the report online, access the Benton Foundation site at: <http://www.benton.org>.

—Khela Cuccaro