

**FLEXIBILITY AND BURDEN-REDUCING
PROVISIONS IN THE
IMPROVING AMERICA'S SCHOOLS ACT**

**U.S. Department of Education
December 1, 1994**

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INTRODUCTION

The Improving America's Schools Act of 1994 (IASA), which reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA), represents a major shift in the focus of Federal education programs -- a departure from fragmented education programs that have often impeded innovation and coordination to flexible programs that promote system-wide reforms based on challenging academic standards for all students. The legislation provides greater decisionmaking authority and flexibility to schools and teachers, in exchange for greater responsibility for student performance. Emphasizing education results, the IASA contains fewer burdens and requirements and offers significant opportunities for cost savings and more effective uses of funds by State and local agencies.

The key flexibility and burden-reducing provisions of the new legislation are outlined below. The Appendix contains a more comprehensive description of other flexibility and burden-reducing provisions applicable to specific programs.

A. KEY FLEXIBILITY AND BURDEN-REDUCING PROVISIONS WITH GENERAL APPLICABILITY

1. WAIVERS

The Secretary has broad authority to grant waivers of ESEA statutory and regulatory requirements applicable to state and local educational agencies (SEAs and LEAs), Indian tribes and schools. A waiver may be granted if, among other things, it will increase the quality of instruction or improve teaching and learning. (Section 14401 of the ESEA) (The attached chart contains a side-by-side comparison of the new waiver provisions in the ESEA, the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act.)

2. CONSOLIDATION OF STATE AND LOCAL ADMINISTRATIVE FUNDS

SEAs have the option of consolidating funds made available for State administration under Title I of the ESEA, other major ESEA programs, and Goals 2000. Administrative funds may be used for activities designed to enhance the effective and coordinated use of the funds available under the various programs. In

addition, an SEA may authorize LEAs to consolidate administrative funds. (Sections 14201, 14203)

The consolidation of administrative funds encourages fully integrated and coordinated services, while eliminating the need for duplicative administrative activities in each program, and for burdensome time distribution records for individual programs--the subject of many compliance problems in the past.

3. BETTER USE OF UNNEEDED FUNDS

With the approval of its SEA, an LEA may use up to 5 percent of the funds available under certain "covered programs" (as defined in section 14101(10)), excluding Part A of Title I, for the purpose of another covered program. To utilize this provision, an LEA would demonstrate that the funds are not needed for the program for which they were awarded. The provision gives the LEA flexibility to make more effective use of its funds. (Section 14206(a))

4. COORDINATED SERVICES

An LEA, school, or consortium of schools may use up to 5 percent of the funds it receives under the ESEA for the establishment and implementation of coordinated services projects under ESEA Title XI, which are comprehensive approaches to provide students and their families with access to needed social, health, and education services through community-wide partnerships. (Section 14206(b))

5. CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

An SEA may submit a consolidated State plan or a consolidated State application for the following programs: the "covered programs" as defined in section 14101(10)); the Even Start program; Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out; programs under Part A of Title II of Perkins; programs under Goals 2000 and School-to-Work; and other programs designated by the Secretary. Similarly, there are provisions for the LEAs to submit applications or plans for "covered programs" to SEAs on a consolidated basis. This authority simplifies application requirements and reduces burden for SEAs and LEAs, and helps improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery. (Sections 14302, 14305)

6. PUBLIC CHARTER SCHOOLS

The Secretary is authorized to make awards to SEAs (or an "authorized public chartering agency" that serves the State) to conduct a charter school grant program that, among other things, assists educationally disadvantaged and other students to achieve challenging academic standards, offers flexibility under the State's charter schools laws, and involves input from parents and other members of the community. Furthermore, the Secretary has broad authority to waive applicable statutory or regulatory requirements in order to promote the purposes of the charter school provisions. (Sections 10301 through 10307)

B. KEY FLEXIBILITY AND BURDEN-REDUCING PROVISIONS IN TITLE I

1. SCHOOLWIDE PROJECTS

The ESEA expands the schoolwide program approach by reducing the "eligibility thresholds" for schools from the current 75 percent children from low-income families to 60 percent in school year 1995-96, and 50 percent starting in school year 1996-97. Schools with schoolwide programs will now have substantial flexibility to use funds under Part A of Title I in combination with other Federal, State, and local funds to upgrade the entire educational program of the school and promote reform. Separate and burdensome accountability and fiscal requirements are eliminated.
(Section 1114)

The reauthorized ESEA should increase the number of eligible schoolwide projects by about 12,000 schools (for a total of approximately 20,000 schools).

2. ACCOUNTABILITY AND TESTING

Burdensome Federal reporting requirements and mandatory use of norm-referenced tests have been eliminated. States will be able to determine their own standards and assessments for the purposes of Title I accountability. LEAs will no longer have to test each Title I child annually to determine whether desired outcomes are achieved and whether a school is in need of program improvement. Burdensome annual reporting requirements regarding test results and participation data are eliminated. States are permitted to use already existing standards developed in response to Goals 2000 or as part of their own State education reform efforts to assess the progress of Title I students and to identify schools that are in need of program improvement. (Section 1111)

APPENDIX

IASA PROVISIONS THAT PROVIDE FLEXIBILITY AND REDUCE BURDEN

The following is a more complete summary of the IASA provisions that provide flexibility and eliminate burdensome requirements on grantees:

A. ESEA TITLE I, PART A – IMPROVING BASIC PROGRAMS OPERATED BY LEAS

- o Title I focuses on **upgrading academic achievement**, with each State developing or adopting its own challenging academic standards for all students.
- o Local schools have much **greater authority to make decisions** concerning Title I services provided to their students, including identifying and selecting students for services.
- o Local agencies are **not required to provide services through particular instructional methods** or in a particular setting such as through "pullout programs."
- o Schools, teachers and students are **no longer penalized for success**. Requirements that restricted the continuing participation of participants who succeeded are eliminated, and incentives for success are included.
- o Various requirements promote the **alignment of all educational components**, including integrating Title I programs as part of the State's overall systemic reform efforts to ensure that all students served by Title I reach challenging academic standards. For example, where a State has developed a set of State-wide assessments for children, it will be able to use those assessments for Title I purposes.
- o States and localities may submit **consolidated program plans and applications, and consolidate administrative funds** in order to better integrate programs and reduce the need to spend funds on unnecessary recordkeeping. (See page 1 of main text)

- o The Secretary has broad authority to **waive statutory or regulatory requirements** for an SEA, LEA, Indian tribe, or school that receives funds under Title I or ESEA programs to help increase the quality of instruction and improve academic performance. (See attached waiver chart)
- o The **schoolwide program approach is expanded**, providing recipients with substantial flexibility to use Title I funds in combination with other funds to upgrade the entire program of the school. (See page 3 of main text)
- o **Burdensome Federal reporting requirements and mandatory use of norm-referenced tests and other testing requirements have been eliminated**, so that recipients may develop programs that address their particular needs. (See page 3 of main text).
- o LEAs may use Title I funds, in combination with State, local, and private funds, to develop and implement **public school choice programs** for eligible children that permit parents to select the Title I public school that their children will attend.
- o Title I funds for professional development purposes may be combined with ESEA Title II funds, funds under Title III of Goals 2000, and funds from other sources to design more effective development programs with less requirements.
- o All staff in a Title I school may benefit from Title I professional development activities.

B. ESEA TITLE I, PART B -- EVEN START FAMILY LITERACY PROGRAMS

- o **Eligibility for services has been expanded to include teen-age parents**, who are generally among the most in need.
- o States are provided **greater flexibility in the operation and evaluation of programs** through changes such as (a) the removal of the restriction on the use of funds under Part A of Title I and other Federal funds (other than Even Start funds) for meeting the local share requirement; (b) the elimination of the requirement that an eligible child must reside in a Title I participating area; (c) the authorization for other family members to participate in the program when the participation would serve program purposes; and (d) the elimination of the requirement for representative distribution of funds between urban and rural areas.

C. ESEA TITLE I, PART C – EDUCATION OF MIGRATORY CHILDREN

- o States have the option of submitting a consolidated application that is integrated with other ESEA programs and Goals 2000.
- o **Application requirements have been simplified.** Previous requirements for non-essential narrative descriptions to be included in the State application have been eliminated; these matters are now treated as application assurances.
- o **The Migrant Student Record Transfer System has been eliminated,** so that State and localities can spend less time collecting and entering data into a computer system, and more time providing direct services to children.
- o **The statutory distinction between formerly migratory students and currently migratory students has been eliminated,** thus eliminating the need to track student "status" and to prioritize services to currently migratory children over formerly migratory children.
- o **Specific annual performance report requirements have been eliminated.**
- o States may now measure the effectiveness of their migrant programs using the same evaluation approaches and high content standards that are used for all children, including Title I students. Among other things, this change eliminates the need to administer standardized, norm-referenced tests to migrant students when the State uses criterion-referenced testing, portfolios, or other types of assessment measures.
- o Schools now have the flexibility to combine migrant funds with State and local funds for programs at **schoolwide programs.**
- o Local programs have clear statutory authority to meet the academic needs of educationally deprived migratory students that do not specifically relate to migrancy, with either Title I or migrant funds.
- o States with annual allocations of \$1,000,000 or less will have the option of developing consortium arrangements with other States or appropriate entities to deliver services more effectively and efficiently. States that enter into consortium arrangements will compete for incentive grants of up to \$250,000.
- o In order to enhance the interstate or intrastate coordination of migrant programs, the Department may issue a grant or contract not only to an SEA but to any public or private nonprofit agency.

D. ESEA TITLE I, PART D -- PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK OF DROPPING OUT

- o Institutions are given the flexibility to combine Federal program funds with State and local funds in institution-wide programs to upgrade the educational program of the entire institution.
- o State agencies may operate three-year programs, rather than just single-year programs.
- o State agencies may use up to ten percent of their funds to support projects that facilitate the transition of children from State-operated institutions to LEA programs.

E. ESEA TITLE II -- DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

- o The new law supports efforts to improve teaching and learning through sustained and intensive professional development in all core subject areas while maintaining mathematics and science as a high priority. Specifically, Federal assistance over \$250,000,000 may be used for professional development in subjects other than mathematics and science.
- o State plans need to be submitted less frequently -- every five years rather than every three years.

F. ESEA TITLE IV -- SAFE AND DRUG-FREE SCHOOL AND COMMUNITIES

- o The Safe and Drug-Free Schools and Communities Act (SDFSCA) increases flexibility for Governors, as well as State and local educational agencies, to implement and integrate a broader range of prevention initiatives, including those that address school violence. LEAs will have the flexibility to design their own programs that more effectively address local prevention needs.

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- o **Governors have more flexibility in using their formula funds. The SDFSCA eliminates most of a complicated series of set-asides for use of Governors' funding, leaving only a 10% set-aside for law enforcement education partnerships. The complicated and administratively burdensome definition of "high-risk youth" has also been eliminated.**
- o **SEAs have increased flexibility to target funds to high-need LEAs, and to determine the criteria for designating high-need LEAs. Previously, all funding was allocated to LEAs based on a formula contained in the statute.**
- o **SEAs may now determine the contents and frequency of LEA reports. The prior law required annual progress reports, and prescribed the contents of the report.**
- o **State reports need to be submitted less frequently -- every three years rather than biennially. New requirements for the contents of State reports are less prescriptive, and focus on progress toward meeting measurable goals and objectives.**
- o **The new law eliminates many other burdensome requirements -- e.g., the drug-free school "certification" requirements; requirements for annual distribution of policy statements to employees, students, and parents; and SEA "monitoring" responsibilities with regard to the certification requirements.**
- o **LEA application requirements for funding are decreased; a lengthy series of assurances and descriptions were eliminated as part of the reauthorization.**

G. ESEA TITLE V, PART A -- MAGNET SCHOOLS ASSISTANCE

- o **Recipients may use funds for instructional activities that are designed to make the special curriculum offered by the magnet school project available to students who are enrolled in the school but who are not enrolled in the magnet school program.**
- o **Recipients may use up to 50% of the funds awarded in the first year of the project for planning activities.**
- o **Three-year grants (rather than two-year grants) will be available to promote the development and implementation of new and innovative programs.**

H. ESEA TITLE V, PART B – WOMEN'S EDUCATIONAL EQUITY

- o The program scope has been expanded to allow the use of funds for both demonstration and local implementation activities.

I. ESEA TITLE VI – INNOVATIVE EDUCATION PROGRAM STRATEGIES

- o Compared to the old Chapter 2 program, Title VI reports (on the use of funds, the types of services, and the students served) need to be submitted less frequently -- biennially rather than annually.
- o There are fewer requirements (e.g., set-aside restrictions) on LEAs for the targeted use of funds.
- o LEAs may collaborate in the use of funds for Goals 2000 and Title I school improvement programs to support common targeted areas.

J. ESEA TITLE VII – BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

- o Applicants have considerably more flexibility in designing their program. They no longer have to meet requirements for transitional and developmental bilingual education, or for special alternative instruction.
- o The Part A application requirement is less burdensome.
- o Recipients need only submit a summary report describing the State's use of funds.

K. ESEA TITLE VIII – IMPACT AID

- o LEAs no longer have to identify and update multiple comparable properties for use in establishing the estimated assessed value of their eligible Federal property. Instead, their local tax assessors will set a single value for the Federal property based on highest and best adjacent taxable property.

- o In the school construction program, the need for applications to be submitted in a competitive grant process has been eliminated. Instead, formula grant payments will be automatically computed based on the data in other applications.**

L. ESEA TITLE IX, PART A – INDIAN EDUCATION

- o Indian Education funds may be combined with other Federal, State, and local and federal funds to support schoolwide projects.**
- o Two existing authorities for demonstration programs are combined into one authority, and two professional development programs are combined into a single authority.**

M. ESEA TITLE X, PART B – GIFTED AND TALENTED CHILDREN

- o The purpose of the program has been broadened to encourage the development of challenging curricula for all students through the appropriate application of methods developed for the gifted and talented.**

N. ESEA TITLE XIV – GENERAL PROVISIONS

- o The new law provides for (a) optional consolidation of State and local administrative funds; (b) the use of unneeded funds in other programs; (c) the use of funds for coordinated services projects under ESEA, Title XI; (d) consolidated State and local plans and applications; and (e) public charter schools. (See main text)**
- o The Secretary has broad authority to waive certain statutory and regulatory requirements for State and local educational agencies, Indian tribes and schools. (See attached waiver chart)**
- o The new law further reduces burden by providing for uniform State and local assurances, thus relieving State and local agencies of the burden of understanding and complying with varying and inconsistent assurances under**

different programs.

- o There are uniform provisions for meeting requirements on maintenance of effort and on the participation of private school children.

O. IASA TITLE II – AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

- o The Secretary is authorized to provide for the joint funding of programs. This will encourage coordination and integrated planning and reduce fragmentation of programs at the Federal level.
- o The Secretary may dispense with notice and comment rulemaking in the first competition under a new or substantially revised program. This facilitates early award of grants for such competitions. The new law also eliminates delayed effective dates, which will also facilitate earlier awards.
- o Law enforcement records may be released in certain cases involving subpoenas and the juvenile justice system.
- o The requirements for obtaining a grantback are eased.
- o States need only furnish data on the uses of Federal funds every other year, rather than every year.
- o State and local grantees are only required to retain Federal education program records for three years, rather than five.

P. IASA TITLE III, PART A – EDUCATION FOR HOMELESS CHILDREN AND YOUTH

- o States reports are due every three years, rather than every two years.
- o The statutory restriction against providing subgrant services at sectarian facilities has been eliminated.
- o LEAs have greater flexibility in expending funds because the percentage requirements concerning primary and related activities have been eliminated.

**COMPARISON OF WAIVER PROVISIONS IN
THE GOALS 2000: EDUCATE AMERICA ACT,
THE ELEMENTARY AND SECONDARY EDUCATION ACT,
AND THE SCHOOL-TO-WORK OPPORTUNITIES ACT**

	GOALS 2000	ESEA	SCHOOL-TO-WORK
GENERAL COVERAGE OF WAIVERS	Any statutory or regulatory requirement applicable to: ESEA Title I -- Helping Disadvantaged Students Meet High Standards ESEA Title II -- Eisenhower Professional Development ESEA Title IV -- Safe and Drug-Free Schools and Communities ESEA Title VI -- Innovative Education Program Strategies ESEA Title VII, Part C -- Emergency Immigrant Education Perkins ¹	Any statutory or regulatory requirement of the ESEA	Any statutory or regulatory requirement of: ESEA Title I -- Helping Disadvantaged Students Meet High Standards ESEA Title II -- Eisenhower Professional Development ESEA Title IV -- Safe and Drug-Free Schools and Communities ESEA Title VI -- Innovative Education Program Strategies ESEA VII, Part C -- Emergency Immigrant Education Perkins ²

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 in the chart refer to the programs for which Congress intended waivers to be authorized.

² The conforming amendments for School-to-Work contain the same drafting errors as those for Goals 2000. See note 1 above.

	GOALS 2000	ESEA	SCHOOL-TO-WORK
REQUIREMENTS THAT MAY NOT BE WAIVED	maintenance of effort comparability equitable participation of students and staff in private schools parental participation and involvement distribution of funds to States and LEAs In addition, civil rights requirements and health and safety requirements will not be waived.	maintenance of effort comparability equitable participation of students and teachers in private schools parental participation and involvement distribution of funds to States, LEAs, or other recipients applicable civil rights requirements supplement, not supplant Title X/Part C charter school requirement prohibitions regarding State aid or use of funds for religious worship or instruction	maintenance of effort comparability equitable participation of students in private schools student and parental participation and involvement distribution of funds to States and LEAs public health or safety, labor standards, civil rights, occupational safety or health, environmental protection eligibility of an individual for participation in a program prohibitions or restrictions regarding construction requirement relating to basic purposes or goals of program
WAIVER APPLICANTS	SEA acting in its own behalf SEA on behalf of LEA or school that receives funds under Title III of Goals, if SEA approves waiver request SEA on behalf of LEA or school with reform efforts comparable to Section 306 activities, if SEA approves waiver request	SEA acting in its own behalf LEA, after review by the SEA LEA on behalf of a school, after review by SEA Indian tribe on behalf of schools operated by tribe	State acting in its own behalf State on behalf of local partnership local partnership, if State fails to make determination to submit or not to submit within 30 days of receiving application

	GOALS 2000	ESEA	SCHOOL-TO-WORK
APPLICATION REQUIREMENTS	identify requirements requested to be waived and goals recipient intends to achieve describe action SEA has taken to remove State barriers identified in LEA applications for waivers describe goals of waiver and expected programmatic results describe number and types of students impacted describe timetable for implementation describe process for SEA monitoring, on biannual basis, progress in implementation (see also review criteria in box below)	identify Federal programs affected describe requirements to be waived and how waivers will increase quality of instruction or improve academic performance if applicable, describe which similar State and local requirements will be waived, and how waivers will help achieve stated objectives describe specific, measurable educational improvement goals and expected outcomes for all affected students describe methods to be used to measure progress in meeting goals and outcomes describe how schools will continue to provide assistance to same populations served by programs for which waivers are requested (see also review criteria in box below)	identify specific requirements to be waived describe specific, positive outcomes expected from waiver, and why outcomes cannot be achieved while complying with requirement describe process to be used in monitoring progress in implementing waiver (see also review criteria in box below)

	GOALS 2000	ESEA	SCHOOL-TO-WORK
CRITERIA FOR GRANTING WAIVERS	requirements requested to be waived impede ability to carry out State or local improvement plan SEA has waived, or agrees to waive, similar requirements of State law for statewide waivers, demonstrate that SEA has provided LEAs and parent organization opportunity to comment, and submit LEAs comments to Secretary for LEA waivers, demonstrate that parents, community groups, and advocacy or civil rights groups were provided opportunity to comment underlying purposes of the statutory requirements of each program for which waiver is granted continue to be met	no explicit criteria, but waiver application must meet requirements listed above	requirements sought to be waived impede ability to carry out STW Act State provides documentation of necessity of waiver, meeting application requirements listed above State waives, or agrees to waive, similar requirements of State law State has provided relevant partnerships and LEAs with opportunity to comment on State request State provides, to extent feasible, students, parents, advocacy and civil rights groups, labor and business organizations, opportunity to comment on State request State has submitted comments of partnerships and LEAs to Secretary
DURATION, EXTENSION, AND TERMINATION OF WAIVERS	Up to 4 years May be extended if waiver has been effective in enabling State or affected LEAs to carry out reform plans May be terminated if performance of SEA, LEA, or school affected by waiver is inadequate to justify continuation	Up to 3 years May be extended if waiver has been effective in enabling recipient to carry out activities for which waiver was requested, waiver has contributed to improved student performance, and is in public interest May be terminated if performance of State or other recipient has been inadequate to justify continuation or if it is no longer necessary to achieve original purposes	Up to 5 years May be extended if waiver has been effective in enabling State or partnership to carry out purposes of STW Act May be terminated if performance of State, partnership, or LEA affected by waiver has been inadequate to justify continuation, or if State fails to waive similar requirements of State law as required or agreed to

	GOALS 2000	ESEA	SCHOOL-TO-WORK
PUBLICATION REQUIREMENTS	Notice of decision to grant waivers to be published in Federal Register and widely disseminated	Notice of decision to grant each waiver to be published in Federal Register and widely disseminated	None
REPORTING REQUIREMENTS OF WAIVER RECIPIENT	None	LEA that receives waiver submits a report to SEA at end of second year, and each subsequent year; SEA submits annual report to Secretary based on LEA reports Indian tribe submits annual report to Secretary	None
REPORTS FROM SECRETARY TO CONGRESS	By April 30, 1996, and every two years thereafter, Secretary submits Goals 2000 report that includes information on effect of waivers	Beginning in FY 1997 and in each subsequent year, Secretary submits waiver report to Congress	Not later than 24 months after enactment of Act, and every 12 months thereafter, Secretary submits report on all activities carried out pursuant to Act

Waiver materials

(1) Chart comparing waiver provisions in Goals, IASA, School-to-Work.

(2) Goals waiver provisions

(3) IASA " "

(4) Charter school " "

(5) Waiver review Board memo,
approved by Secretary.

(6) 10/17 draft of ed-flex notice
(latest draft?)

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**COMPARISON OF WAIVER PROVISIONS IN THE
GOALS 2000: EDUCATE AMERICA ACT, THE
SCHOOL-TO-WORK OPPORTUNITIES ACT, AND
THE ELEMENTARY AND SECONDARY EDUCATION ACT**

	GOALS 2000	ESEA	SCHOOL-TO-WORK
GENERAL COVERAGE OF WAIVERS	Any statutory or regulatory requirement applicable to: ESEA Title I -- Helping Disadvantaged Students Meet High Standards ESEA Title II -- Eisenhower Professional Development ESEA Title IV -- Safe and Drug-Free Schools and Communities ESEA Title VI -- Innovative Education Program Strategies ESEA Title VII, Part C -- Emergency Immigrant Education Perkins ¹	Any statutory or regulatory requirement of the ESEA	Any statutory or regulatory requirement of: ESEA Title I -- Helping Disadvantaged Students Meet High Standards ESEA Title II -- Eisenhower Professional Development ESEA Title IV -- Safe and Drug-Free Schools and Communities ESEA Title VI -- Innovative Education Program Strategies ESEA VII, Part C -- Emergency Immigrant Education Perkins ²

¹ The Improving America's Schools Act (P.L. 103-382) contains conforming amendments that were intended to replace the program references in the original 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 in the chart refer to the correct programs for which waivers are authorized.

² The conforming amendments for School-to-Work contain the same drafting errors as those for Goals 2000. See note 1 above.

	GOALS 2000	ESEA	SCHOOL-TO-WORK
REQUIREMENTS THAT MAY NOT BE WAIVED	maintenance of effort comparability equitable participation of students and staff in private schools parental participation and involvement distribution of funds to States and LEAs In addition, civil rights requirements and health and safety requirements will not be waived.	maintenance of effort comparability equitable participation of students and teachers in private schools parental participation and involvement distribution of funds to States, LEAs, or other recipients applicable civil rights requirements supplement, not supplant Title X/Part C charter school requirement prohibitions regarding State aid or use of funds for religious worship or instruction	maintenance of effort comparability equitable participation of students in private schools student and parental participation and involvement distribution of funds to States and LEAs public health or safety, labor standards, civil rights, occupational safety or health, environmental protection eligibility of an individual for participation in a program prohibitions or restrictions regarding construction requirement relating to basic purposes or goals of program
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	GOALS 2000	ESEA	SCHOOL-TO-WORK
APPLICATION REQUIREMENTS	identify requirements requested to be waived and goals recipient intends to achieve describe action SEA has taken to remove State barriers identified in LEA applications for waivers describe goals of waiver and expected programmatic results describe number and types of students impacted describe timetable for implementation describe process for SEA monitoring, on biannual basis, progress in implementation (see also review criteria in box below)	identify Federal programs affected describe requirements to be waived on how waivers will increase quality of instruction or improve academic performance if applicable, describe which similar State and local requirements will be waived, and how waivers will help achieve stated objectives describe specific, measurable educational improvement goals and expected outcomes for all affected students describe methods to be used to measure progress in meeting goals and outcomes describe how schools will continue to provide assistance to same populations served by programs for which waivers are requested (see also review criteria in box below)	identify specific requirements to be waived describe specific, positive outcome expected from waiver, and why outcomes cannot be achieved while complying with requirement describe process to be used in monitoring progress in implementing waiver (see also review criteria in box below)

	GOALS 2000	ESEA	SCHOOL-TO-WORK
CRITERIA FOR GRANTING WAIVERS	requirements requested to be waived impede ability to carry out State or local improvement plan SEA has waived, or agrees to waive, similar requirements of State law for statewide waivers, demonstrate that SEA has provided LEAs and parent organization opportunity to comment, and submit LEAs comments to Secretary for LEA waivers, demonstrate that parents, community groups, and advocacy or civil rights groups were provided opportunity to comment underlying purposes of the statutory requirements of each program for which waiver is granted continue to be met	no explicit criteria, but waiver application must meet requirements listed above	requirements sought to be waived impede ability to carry out STW Act State provides documentation of necessity of waiver, meeting application requirements listed above State waives, or agrees to waive, similar requirements of State law State has provided relevant partnerships and LEAs with opportunity to comment on State request State provides, to extent feasible, students, parents, advocacy and civil rights groups, labor and business organizations, opportunity to comment on State request State has submitted comments of partnerships and LEAs to Secretary
DURATION, EXTENSION, AND TERMINATION OF WAIVERS	Up to 4 years May be extended if waiver has been effective in enabling State or affected LEAs to carry out reform plans May be terminated if performance of SEA, LEA, or school affected by waiver is inadequate to justify continuation	Up to 3 years May be extended if waiver has been effective in enabling recipient to carry out activities for which waiver was requested, waiver has contributed to improved student performance, and is in public interest May be terminated if performance of State or other recipient has been inadequate to justify continuation or if it is no longer necessary to achieve original purposes	Up to 5 years May be extended if waiver has been effective in enabling State or partnership to carry out purposes of STW Act May be terminated if performance of State, partnership, or LEA affected by waiver has been inadequate to justify continuation, or if State fails to waive similar requirements of State law as required or agreed to

	GOALS 2000	ESEA	SCHOOL-TO-WORK
PUBLICATION REQUIREMENTS	Notice of decision to grant waivers to be published in Federal Register and widely disseminated	Notice of decision to grant each waiver to be published in Federal Register and widely disseminated	None
REPORTING REQUIREMENTS OF WAIVER RECIPIENT	None	LEA that receives waiver submits a report to SEA at end of second year, and each subsequent year; SEA submits annual report to Secretary based on LEA reports Indian tribe submits annual report to Secretary	None
REPORTS FROM SECRETARY TO CONGRESS	By April 30, 1996, and every two years thereafter, Secretary submits Goals 2000 report that includes information on effect of waivers	Beginning in FY 1997 and in each subsequent year, Secretary submits waiver report to Congress	Not later than 24 months after enactment of Act, and every 12 months thereafter, Secretary submits report on all activities carried out pursuant to Act

(4) **PERMISSIVE ACTIVITIES.**—A recipient of a subgrant under this subsection may use the subgrant funds for costs related to release time for teachers to participate in professional development activities, which professional development shall include related services personnel as appropriate.

(c) **SPECIAL AWARD RULE.**—

(1) **IN GENERAL.**—Each State educational agency shall award at least 50 percent of subgrant funds under subsection (a) in each fiscal year to local educational agencies that have a greater percentage or number of disadvantaged children than the statewide average such percentage or number for all local educational agencies in the State.

(2) **WAIVER.**—The State educational agency may waive the requirement of paragraph (1) if such agency does not receive a sufficient number of applications to comply with such requirement.

SEC. 310. AVAILABILITY OF INFORMATION AND TRAINING.

(a) **INFORMATION AND TRAINING.**—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

(1) a State educational agency or local educational agency which uses funds under this title to develop goals, State content standards or State student performance standards, curricular materials, and State assessments shall, upon request, make information related to such goals, standards, materials, and assessments available to private schools; and

(2) a State educational agency or local educational agency which uses funds under this title for teacher and administrator training shall provide in the State improvement plan described in section 306 for the training of teachers and administrators in private schools located in the geographical area served by such agency.

(b) **WAIVER.**—If, by reason of any provision of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this title, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and State content standards for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of the Elementary and Secondary Education Act of 1965.

SEC. 311. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) **WAIVER AUTHORITY.**—

(1) **IN GENERAL.**—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement applicable to any program or Act described in subsection (b) for a State educational agency, local educational agency, or school if—

(A) and only to the extent that, the Secretary determines that such requirement impedes the ability of the

State, or of a local educational agency or school in the State, to carry out the State or local improvement plan;

(B) the State educational agency has waived, or agrees to waive, similar requirements of State law;

(C) in the case of a statewide waiver, the State educational agency—

(i) provides all local educational agencies and parent organizations in the State with notice and an opportunity to comment on the State educational agency's proposal to seek a waiver; and

(ii) submits the local educational agencies' comments to the Secretary; and

(D) in the case of a local educational agency waiver, the local educational agency provides parents, community groups, and advocacy or civil rights groups with the opportunity to comment on the proposed waiver.

(2) **APPLICATION.**—(A)(i) To request a waiver under paragraph (1), a local educational agency or school that receives funds under this title, or a local educational agency or school that does not receive funds under this title but is undertaking school reform efforts that the Secretary determines are comparable to the activities described in section 306, shall transmit an application for such a waiver to the State educational agency. The State educational agency then shall submit approved applications for waivers under paragraph (1) to the Secretary.

(ii) A State educational agency that receives funds under this title may request a waiver under paragraph (1) by submitting an application for such waiver to the Secretary.

(B) Each application submitted to the Secretary under subparagraph (A) shall—

(i) identify the statutory or regulatory requirements that are requested to be waived and the goals that the State educational agency or local educational agency or school intends to achieve;

(ii) describe the action that the State educational agency has undertaken to remove State statutory or regulatory barriers identified in the application of local educational agencies;

(iii) describe the goals of the waiver and the expected programmatic results if the request is granted;

(iv) describe the numbers and types of students to be impacted by such waiver;

(v) describe a timetable for implementing a waiver; and

(vi) describe the process the State educational agency will use to monitor, on a biannual basis, the progress in implementing a waiver.

(3) **TIMELINESS.**—The Secretary shall act promptly on a request for a waiver under paragraph (1) and shall provide a written statement of the reasons for granting or denying such request.

(4) **DURATION.**—Each waiver under paragraph (1) shall be for a period not to exceed 4 years. The Secretary may extend such period if the Secretary determines that the waiver has been

effective in enabling the State or affected local educational agencies to carry out reform plans.

(b) **INCLUDED PROGRAMS.**—The statutory or regulatory requirements subject to the waiver authority of this section are any such requirements under the following programs or Acts:

(1) Chapter 1 of title I of the Elementary and Secondary Education Act of 1965, including Even Start.

(2) Part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965.

(3) The Dwight D. Eisenhower Mathematics and Science Education Act.

(4) The Emergency Immigrant Education Act of 1984.

(5) The Drug-Free Schools and Communities Act of 1986.

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

(c) **WAIVERS NOT AUTHORIZED.**—The Secretary may not waive any statutory or regulatory requirement of the programs or Acts described in subsection (b)—

(1) relating to—

(A) maintenance of effort;

(B) comparability of services;

(C) the equitable participation of students and professional staff in private schools;

(D) parental participation and involvement; and

(E) the distribution of funds to States or to local educational agencies; and

(2) unless the underlying purposes of the statutory requirements of each program or Act for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) **TERMINATION OF WAIVERS.**—The Secretary shall periodically review the performance of any State, local educational agency, or school for which the Secretary has granted a waiver under subsection (a)(1) and shall terminate the waiver if the Secretary determines that the performance of the State, the local educational agency, or the school in the area affected by the waiver has been inadequate to justify a continuation of the waiver.

(e) **FLEXIBILITY DEMONSTRATION.**—

(1) **SHORT TITLE.**—This subsection may be cited as the "Education Flexibility Partnership Demonstration Act".

(2) **PROGRAM AUTHORIZED.**—

(A) **IN GENERAL.**—The Secretary may carry out an education flexibility demonstration program under which the Secretary authorizes not more than 6 State educational agencies serving eligible States to waive statutory or regulatory requirements applicable to 1 or more programs or Acts described in subsection (b), other than requirements described in subsection (c), for the State educational agency or any local educational agency or school within the State.

(B) **AWARD RULE.**—In carrying out subparagraph (A), the Secretary shall select for participation in the demonstration program described in subparagraph (A) three State educational agencies serving eligible States that each have a population of 3,500,000 or greater and three State educational agencies serving eligible States that each have

a population of less than 3,500,000, determined in accordance with the most recent decennial census of the population performed by the Bureau of the Census.

(C) **DESIGNATION.**—Each eligible State participating in the demonstration program described in subparagraph (A) shall be known as an "Ed-Flex Partnership State".

(3) **ELIGIBLE STATE.**—For the purpose of this subsection the term "eligible State" means a State that—

(A) has developed a State improvement plan under section 306 that is approved by the Secretary; and

(B) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

(4) **STATE APPLICATION.**—(A) Each State educational agency desiring to participate in the education flexibility demonstration program under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

(I) Federal statutory or regulatory requirements described in paragraph (2)(A); and

(II) State statutory or regulatory requirements relating to education; and

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive.

(B) The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within such State in carrying out comprehensive educational reform and otherwise meeting the purposes of this Act, after considering—

(i) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

(ii) the ability of such plan to ensure accountability for the activities and goals described in such plan;

(iii) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(iv) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and for monitoring and evaluating the results of such waivers.

(5) **LOCAL APPLICATION.**—(A) Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement described in paragraph (2)(A) and any rel-

evant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and the statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement;

(iii) describe for each school year specific, measurable, educational goals for each local educational agency or school affected by the proposed waiver; and

(iv) explain why the waiver will assist the local educational agency or school in reaching such goals.

(B) A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (4)(A).

(C) A State educational agency shall not approve an application for a waiver under this paragraph unless—

(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively; and

(ii) the waiver of Federal statutory or regulatory requirements described in paragraph (2)(A) will assist the local educational agency or school in reaching its educational goals.

(6) **MONITORING.**—Each State educational agency participating in the demonstration program under this subsection shall annually monitor the activities of local educational agencies and schools receiving waivers under this subsection and shall submit an annual report regarding such monitoring to the Secretary.

(7) **DURATION OF FEDERAL WAIVERS.**—(A) The Secretary shall not approve the application of a State educational agency under paragraph (4) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers has been effective in enabling such State or affected local educational agencies or schools to carry out their local reform plans.

(B) The Secretary shall periodically review the performance of any State educational agency granting waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and shall terminate such agency's authority to grant such waivers if the Secretary determines, after notice and opportunity for hearing, that such agency's performance has been inadequate to justify continuation of such authority.

(f) **ACCOUNTABILITY.**—In deciding whether to extend a request for a waiver under subsection (a)(1), or a State educational agency's authority to issue waivers under subsection (e), the Secretary shall review the progress of the State educational agency, local educational agency, or school affected by such waiver or authority to determine if such agency or school has made progress toward achiev-

ing the desired results described in the application submitted pursuant to subsection (a)(2)(B)(iii) or (e)(5)(A)(ii).

(g) **PUBLICATION.**—A notice of the Secretary's decision to grant waivers under subsection (a)(1) and to authorize State educational agencies to issue waivers under subsection (e) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, other interested parties, and the public.

SEC. 312. PROGRESS REPORTS.

(a) **STATE REPORTS TO THE SECRETARY.**—Each State educational agency that receives funds under this title shall annually report to the Secretary regarding—

(1) progress in meeting State goals and plans;

(2) proposed State activities for the succeeding year; and

(3) in summary form, the progress of local educational agencies in meeting local goals and plans and increasing student learning.

(b) **SECRETARY'S REPORTS TO CONGRESS.**—By April 30, 1996, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing—

(1) the activities assisted under, and outcomes of, grants or contracts under section 220, including—

(A) a description of the purpose, uses, and technical merit of assessments evaluated with funds awarded under such paragraph; and

(B) an analysis of the impact of such assessments on the performance of students, particularly students of different racial, gender, ethnic, or language groups and individuals with disabilities;

(2) the activities assisted under, and outcomes of, allotments under this title; and

(3) the effect of waivers granted under section 311, including—

(A) a listing of all State educational agencies, local educational agencies and schools seeking and receiving waivers;

(B) a summary of the State and Federal statutory or regulatory requirements that have been waived, including the number of waivers sought and granted under each such statutory or regulatory requirement;

(C) a summary of waivers that have been terminated, including a rationale for the terminations; and

(D) recommendations to the Congress regarding changes in statutory or regulatory requirements, particularly those actions that should be taken to overcome Federal statutory or regulatory impediments to education reform.

SEC. 313. TECHNICAL AND OTHER ASSISTANCE REGARDING SCHOOL FINANCE EQUITY.

(a) **TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—From funds reserved in each fiscal year under section 304(a)(2)(A), the Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, State educational agencies and other public and private agencies, institutions, and organizations to provide technical assistance to State and local educational agencies to assist such agencies in achieving a greater degree of equity in the distribution of financial resources for education among local educational agencies in the State.

(2) **ACTIVITIES.**—A grant, contract or cooperative agreement under this section may support technical assistance activities, such as—

(A) the establishment and operation of a center or centers for the provision of technical assistance to State and local educational agencies;

(B) the convening of conferences on equalization of resources within local educational agencies, within States, and among States; and

(C) obtaining advice from experts in the field of school finance equalization.

(b) **DATA.**—Each State educational agency or local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965 shall provide such data and information on school finance as the Secretary may require to carry out this section.

(c) **MODELS.**—The Secretary is authorized, directly or through grants, contracts, or cooperative agreements, to develop and disseminate models and materials useful to States in planning and implementing revisions of the school finance systems of such States.

SEC. 314. NATIONAL LEADERSHIP.

(a) **TECHNICAL ASSISTANCE AND INTEGRATION OF STANDARDS.**—From funds reserved in each fiscal year under section 304(a)(2)(A), the Secretary may, directly or through grants or contracts—

(1) provide technical assistance to States, local educational agencies, and tribal agencies developing or implementing school improvement plans, in a manner that ensures that such assistance is broadly available;

(2) gather data on, conduct research on, and evaluate systemic education improvement and how such improvement affects student learning, including the programs assisted under this title;

(3) disseminate research findings and other information on outstanding examples of systemic education improvement in States and local communities through existing dissemination systems within the Department of Education, including through publications, electronic and telecommunications mediums, conferences, and other means;

(4) provide grants to tribal divisions of education for coordination efforts between school reform plans developed for schools funded by the Bureau and public schools described in section 306(g)(2), including tribal activities in support of such plans;

(5) support national demonstration projects that unite local and State educational agencies, institutions of higher education, government, business, and labor in collaborative ar-

rangements in order to make educational improvements system-wide; and

(6) support model projects to integrate multiple content standards, if—

(A) such standards are certified by the National Education Standards and Improvement Council and approved by the National Goals Panel for different subject areas, in order to provide balanced and coherent instructional programs for all students; and

(B) such projects are appropriate for a wide range of diverse circumstances, localities (including both urban and rural communities), and populations.

(b) **RESERVATION OF FUNDS.**—

(1) **IN GENERAL.**—The Secretary shall use at least 50 percent of the funds reserved each year under section 304(a)(2)(A) to make grants, in accordance with the provisions of section 309(a) that the Secretary determines appropriate, and provide technical and other assistance to urban and rural local educational agencies with large numbers or concentrations of students who are economically disadvantaged or who have limited English proficiency, to assist such agencies in developing and implementing local school improvement plans, except that any school that received funds under section 309(a) shall not receive assistance pursuant to this paragraph other than technical assistance.

(2) **SURVEY.**—The Secretary shall use not less than \$1,000,000 of the funds reserved for fiscal year 1994 under section 304(a)(2)(A) to replicate coordinated services programs that have been found to be successful in helping students and families and improving student outcomes, and shall disseminate information about such programs to schools that plan to develop coordinated services programs.

(c) **ADMINISTRATION.**—Any activities assisted under this section that involve research shall be administered through the Office of Educational Research and Improvement.

SEC. 315. ASSISTANCE TO THE OUTLYING AREAS AND TO THE SECRETARY OF THE INTERIOR.

(a) **OUTLYING AREAS.**—

(1) **IN GENERAL.**—Funds reserved for outlying areas under section 304(a)(1)(A) shall be distributed among such areas by the Secretary according to relative need of such areas.

(2) **INAPPLICABILITY OF PUBLIC LAW 95-134.**—The provisions of Public Law 95-134, permitting the consolidation of grants to the insular areas, shall not apply to funds received by such areas under this title.

(b) **SECRETARY OF THE INTERIOR.**—

(1) **IN GENERAL.**—The funds reserved for the Secretary of the Interior under section 304(a)(1)(B) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines shall best achieve the provisions of this section and this Act. The agreement shall, at a minimum, contain assurances that—

"(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

"SEC. 14307. RELATIONSHIP OF STATE AND LOCAL PLANS TO PLANS UNDER THE GOALS 2000: EDUCATE AMERICA ACT.

"(a) STATE PLANS.—

"(1) IN GENERAL.—Each State plan submitted under the following programs shall be integrated with each other and the State's improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994, and the Carl D. Perkins Vocational and Applied Technology Education Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Part C of title I (education of migratory children).

"(C) Part D of title I (education of neglected, delinquent, and at-risk youth).

"(D) Title II (professional development).

"(E) Title IV (safe and drug-free schools).

"(F) Title VI (innovative education program strategies).

"(G) Subpart 4 of part A of title IX (Indian education).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the approved State improvement plan for such State under title III of the Goals 2000: Educate America Act, the State plan referred to in paragraph (1) need not separately address that requirement.

"(3) AMENDMENT.—Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State improvement plan for such State under title III of the Goals 2000: Educate America Act.

"(b) LOCAL PLANS.—

"(1) IN GENERAL.—Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Title II (professional development).

"(C) Title IV (safe and drug-free schools).

"(D) Subpart 4 of part A of title IX (Indian education).

"(E) Subpart 1 of part A of title VII (bilingual education).

"(F) Title VI (innovative education program strategies).

"(G) Part C of title VII (emergency immigrant education).

"(2) PLAN OF OPERATION.—Each plan of operation included in an application submitted by an eligible entity under part B of title I (Even Start) shall be consistent with, and promote the goals of, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000:

Educate America Act or, if those plans are not approved or being developed, with the State and local plans under sections 1111 and 1112.

"(3) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved local improvement plan under title III of the Goals 2000: Educate America Act, the local plan referred to in paragraph (1) need not separately address that requirement.

"(4) SUBMISSION.—Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's improvement plan under title III of the Goals 2000: Educate America Act.

"PART D—WAIVERS

"SEC. 14401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

"(1) receives funds under a program authorized by this Act; and

"(2) requests a waiver under subsection (b).

"(b) REQUEST FOR WAIVER.—

"(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

"(A) identifies the Federal programs affected by such requested waiver;

"(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

"(i) increase the quality of instruction for students;

or

"(ii) improve the academic performance of students;

"(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

"(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

"(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

"(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

"(2) ADDITIONAL INFORMATION.—Such requests—

"(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) shall be developed and submitted—

"(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

"(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

"(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

"(3) GENERAL REQUIREMENTS.—(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

"(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(ii) submit the comments to the Secretary; and

"(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

"(B) In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

"(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

"(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

"(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

"(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

"(2) maintenance of effort;

"(3) comparability of services;

"(4) use of Federal funds to supplement, not supplant, non-Federal funds;

"(5) equitable participation of private school students and teachers;

"(6) parental participation and involvement;

"(7) applicable civil rights requirements;

"(8) the requirement for a charter school under part C of title X; or

"(9) the prohibitions regarding—

"(A) State aid in section 14502; or

"(B) use of funds for religious worship or instruction in section 14507.

"(d) DURATION AND EXTENSION OF WAIVER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed three years.

"(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

"(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

"(B) such extension is in the public interest.

"(e) REPORTS.—

"(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

"(A) describes the uses of such waiver by such agency or by schools;

"(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

"(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

"(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

"(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

"(A) describes the uses of such waiver by schools operated by such tribe; and

"(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

"(4) REPORT TO CONGRESS.—Beginning in fiscal year 1997 and each subsequent year, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report—

"(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) describing whether such waivers—

"(i) increased the quality of instruction to students;

or

"(ii) improved the academic performance of students.

"(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

"(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

"PART E—UNIFORM PROVISIONS

"SEC. 14501. MAINTENANCE OF EFFORT.

"(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(b) REDUCTION IN CASE OF FAILURE TO MEET.—

"(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

"(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

"(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

"(1) exceptional or uncontrollable circumstances such as a natural disaster; or

"(2) a precipitous decline in the financial resources of the local educational agency.

"SEC. 14502. PROHIBITION REGARDING STATE AID.

"A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

"SEC. 14503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

"(a) PRIVATE SCHOOL PARTICIPATION.—

"(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and

their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

"(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

"(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

"(5) PROVISION OF SERVICES.—Such agency or consortium described in subsection (a)(1) may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to programs under—

"(A) part C of title I (migrant education);

"(B) title II (other than section 2103 and part C of such title?);

"(C) title VII;

"(D) title III (other than part B of such title) (Star Schools); and

"(E) part A of title IV (other than section 4114).

"(2) DEFINITION.—For the purposes of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).

"(c) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency or consortium of such agencies shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided; and

"(D) how the services will be assessed.

"(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—

"(1) **IN GENERAL.**—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institution of higher education or State educational agency, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (7) of subsection (b).

"(2) **DIRECTOR.**—Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) **LIMITATION.**—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsections (b)(7) or (c).

"(e) **COORDINATION.**—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by such Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with such Office.

"SEC. 10206. PROGRAM PRIORITIES.

"(a) **GENERAL PRIORITY.**—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of and the provision of services to gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities); and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification of and service to gifted and talented students, such as mentoring and apprenticeship programs.

"(b) **SERVICE PRIORITY.**—In approving applications for assistance under section 10204(a)(2), the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1).

"SEC. 10206. GENERAL PROVISIONS.

"(a) **PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.**—In making grants and entering into contracts under this part, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

"(b) **REVIEW, DISSEMINATION, AND EVALUATION.**—The Secretary shall—

"(1) use a peer review process in reviewing applications under this part;

"(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

"(3) evaluate the effectiveness of programs under this part in accordance with section 14701, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than January 1, 1998.

"(c) **PROGRAM OPERATIONS.**—The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

"(1) administer the programs authorized by this part;

"(2) coordinate all programs for gifted and talented students administered by the Department;

"(3) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

"(4) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

"SEC. 10307. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated \$10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.

"PART C—PUBLIC CHARTER SCHOOLS

waives
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"SEC. 10301. FINDINGS AND PURPOSE.

"(a) **FINDINGS.**—The Congress finds that—

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

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

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

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

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

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

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

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

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

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

"SEC. 10302. PROGRAM AUTHORIZED.

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

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

"(c) **PROGRAM PERIODS.**—

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

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

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

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

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

"SEC. 10303. APPLICATIONS.

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

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

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

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

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

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

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

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

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

"(C) a description of—

"(i) the objectives of the charter school; and

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

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

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

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

"(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules,

generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

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

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

"(i) informed about the charter school; and

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

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

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

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

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

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

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

"(2) contain assurances that the State educational agency—

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

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

"SEC. 10304. ADMINISTRATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(e) **WAIVERS.**—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 10306(1), if—

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

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

"(f) **USE OF FUNDS.**—

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

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

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

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

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

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

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

"(i) informing the community about the school;

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

"(iii) acquiring or developing curriculum materials; and

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

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

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

"SEC. 10305. NATIONAL ACTIVITIES.

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

"(1) peer review of applications under section 10304(c);

"(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and

"(3) other activities designed to enhance the success of the activities assisted under this part, such as—

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

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

"SEC. 10306. DEFINITIONS.

"As used in this part:

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

"(A) in accordance with an enabling State statute, is exempted from significant State or local rules that inhibit

the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

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

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

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

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

"(F) does not charge tuition;

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

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

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

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

"(K) operates in accordance with State law.

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

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

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

"SEC. 10307. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated \$15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

ACTION MEMORANDUM

DATE:

TO: The Secretary
Through: DS _____
ES _____

FROM: The Goals 2000 Management Council

SUBJECT: Proposal to Establish a Waiver Review Board to Review Requests for Waivers under Goals 2000, the ESEA, and the School-to-Work Opportunities Act, and to Delegate Waiver Authority to the Under Secretary

ISSUE

Three recent pieces of legislation -- the Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and the reauthorized Elementary and Secondary Education Act (ESEA) -- provide States, State educational agencies (SEAs), local educational agencies (LEAs), Indian tribes, local partnerships, and schools with an unprecedented opportunity to obtain waivers of certain Federal statutory and regulatory requirements. (The attached chart provides a side-by-side comparison of the separate waiver provisions, including comparisons of the scope of each waiver authority, the eligible applicants, and the criterion for approval of waivers.) The Secretary is authorized to grant waivers if the applicant demonstrates, among other things, that the requirements sought to be waived impede implementation of Goals 2000 plans or School-to-Work plans, or in the case of the ESEA, that the waivers will increase quality of instruction or improve teaching and learning.

This memorandum requests the Secretary to establish within the Department a board to review applications for waivers and to make recommendations concerning approval or disapproval of each waiver request. It further requests the Secretary to delegate his authority to approve waiver requests to the Under Secretary.

ACTION-FORCING EVENT

We expect that the Department may begin to receive requests for waivers sometime this fall under School-to-Work, or as part of an SEA's State plan submission under Goals 2000. Thus, a process for handling requests for waivers will need to be in place as soon as possible.

DESIRED FEATURES OF WAIVER REVIEW PROCESS

The granting of waivers should facilitate systemic reform activities and improve teaching and learning for all students. To help ensure that waivers achieve these purposes, we believe that the waiver review process should include the following features:

(1) Thorough Review of Waiver Requests and Consistent Application of Waiver Criteria

Each waiver application must be reviewed thoroughly to ensure that the relevant legislative criteria are met. Appropriate offices should be given the opportunity to comment on waiver applications, and to provide the expertise needed to facilitate the review process. In addition, given the importance and potential quantity and complexity of the waiver requests, there must be in place a mechanism to ensure that waiver requests are handled in a consistent manner.

(2) Expeditious Waiver Decisions

In recognition of the substantial impact of potential waivers on students, and our desire to best serve the needs of students, the Department should act upon waiver requests as expeditiously as possible. The Department should informally establish 60 days from receipt of a waiver request as the target date by which a waiver decision would be made. Of course, the Department should strive to make waiver decisions in less than 60 days whenever possible. In a limited number of circumstances, final decision on a waiver request may take longer.

(3) Informal Discussions with the Waiver Applicant Concerning Preparation and Review of Waiver Requests

Waiver applicants are likely to desire discussions with Department representatives during the period the request is being prepared as well as during the period the request is being reviewed. The Department should encourage this dialogue. Such conversations may lead to meaningful changes in how an applicant is planning to use a waiver and the kinds of waivers that may be requested. They may also lead to a more thorough understanding of the waiver request.

(4) Approval of Part of a Waiver Request

An applicant may simultaneously seek waivers of several different requirements. In such cases, it may be proper or appropriate to approve a portion of the request, while denying another portion. By permitting approval of part of a waiver request, the Department encourages applicants to examine waivers across various programs in light of their reform efforts and to consolidate individual requests for waivers.

(5) Multi-Year Approval

In many instances, multi-year waivers may be needed to fundamentally change policies to improve teaching and learning. Under the ESEA, Goals 2000, and School-to-Work, waivers may be granted for up to three, four, and five years, respectively. Where appropriate, the Department should grant waivers for the maximum extent possible to encourage the use of waivers, where needed, to advance systemic reform.

(6) Evaluation of Effectiveness of Waivers

It is essential that the Department evaluate the effectiveness of the waivers granted to ensure that they are effective in enabling the relevant applicants to achieve the purposes of Goals 2000, the ESEA, and School-to-Work.

RECOMMENDATION TO ESTABLISH A WAIVER REVIEW BOARD

We believe that the desired features of the waiver review process can be best incorporated through the establishment within the Department of a Waiver Review Board that has the appropriate staff support. The Waiver Review Board would help ensure that waiver requests across categorical programs are handled in a thorough, consistent and expeditious manner. The Board would lead to the development of a knowledge base that would be useful during considerations of other waiver requests, during Department analyses of the effectiveness of waivers, and during discussions of possible courses of future legislative proposals and regulations.

During our discussions concerning the waiver review process, we also considered options other than the establishment of a Waiver Review Board. For example, one alternative considered was whether to delegate to the Assistant Secretary for Elementary and Secondary Education, the Assistant Secretary for Vocational and Adult Education, and the Director of Bilingual Education and Minority Language Affairs waiver authority for the respective programs for which they are responsible. Recognizing that many waiver requests may involve multiple programs, the critical need to review requests consistently, and the benefits of greater interaction among offices, we concluded that the waiver process would not be as efficient if separate waiver authorities were delegated to different Senior Officers.

Therefore, we recommend that the Secretary establish a Waiver Review Board to review and make recommendations concerning requests for waivers under Goals 2000, the ESEA, and School-to-Work.

We also recommend that the Secretary appoint as members of the Waiver Review Board the principal officers with authority over the affected programs as well as the Secretary's principal legal advisor -- namely, the representation would include the Assistant Secretary for Elementary and Secondary Education, the Assistant Secretary for Vocational and Adult Education, the Director of Bilingual Education

and Minority Language Affairs, and the General Counsel. We suggest that these individuals be permitted to delegate their Waiver Review Board responsibilities. The Board also could include practitioners in residence at the Department and other senior staff.

We further recommend that the Assistant Secretary for Elementary and Secondary Education, or his designee, be appointed to chair the Board.

RECOMMENDATION TO DELEGATE WAIVER AUTHORITY TO THE UNDER SECRETARY

We believe that the waiver approval process would be handled in an efficient, effective, and consistent manner if the ultimate authority to grant waivers were delegated to the Under Secretary, who has day-to-day responsibilities over all of the Department's programs. This delegation would signal the importance that the Department places on the waiver review process, while removing from the Secretary the time-consuming and burdensome task of issuing decisions on the voluminous individual waiver requests that are anticipated. In reaching a decision on a particular waiver request, the Under Secretary would review the recommendation of the Waiver Review Board.

RESPONSIBILITIES AND RESOURCES FOR THE WAIVER REVIEW BOARD

In its deliberations on waiver requests, the Waiver Review Board would draw upon:

- documents submitted by the waiver applicant,
- a review of the waiver request by Office of General Counsel to determine the legal sufficiency of the request and to provide policy options,
- a review of the waiver request by the appropriate program office to determine whether the waiver is consistent with the purpose and intent of the program, and
- other information relevant to the deliberations, including input from other Department offices, where appropriate.

Staffing and work load

A Waiver Review Board would require staff members to assist the Board in its review of waiver requests by analyzing documentation presented by waiver applicants, summarizing and coordinating materials for the Board, maintaining files of waiver requests and Board actions, and providing other appropriate support. It is recommended that each of the three principal offices (OESE, OVAE, OBEMLA) assign a staff person to work part-time with the Waiver Review Board. OGC and

OUS staff would provide further assistance as appropriate.

It is difficult to predict the volume of work that may be required of the Review Board. In all likelihood, the flow of work will also be very uneven.

Coordination with the Department's Ed-Flex Demonstration Program and with Waiver Requests Reviewed by the Secretary of Labor

Section 311(e) of Goals 2000 also authorizes an Ed-Flex demonstration under which six SEAs may receive delegated authority from the Secretary to waive certain Federal statutory and regulatory requirements. The Waiver Review Board would help coordinate the activities surrounding the Ed-Flex competition.

Likewise, the Waiver Review Board should be responsible for coordinating waiver requests that this Department receives under Goals 2000, ESEA, and the School-to-Work legislation with those requests that the Secretary of Labor receives under School-to-Work.

COMMENTS BY OTHER OFFICES

Each of the members of the Goals 2000 Management Council -- Mike Cohen (OS), Tom Payzant (OESE), Sharon Robinson (OERI), Judy Heumann (OSERS), Eugene Garcia (OBEMLA), Augusta Kappner (OVAE), and James Hairston (AFGE) -- as well as Judy Winston, the General Counsel, has approved this proposal.

RECOMMENDATION 1

The Secretary should establish a Waiver Review Board -- chaired by the Assistant Secretary for Elementary and Secondary Education, and including the Assistant Secretary for Vocational and Adult Education, the Director of Bilingual Education and Minority Language Affairs, and the General Counsel, or their designees, with flexibility to include practitioners in residence at the Department and other senior staff -- to review and make recommendations concerning requests for waivers submitted under Goals 2000, the ESEA, and School-to-Work.

DECISION

Approve _____ Signature _____ Date _____

Disapprove _____ Signature _____ Date _____

Other/Comments:

RECOMMENDATION 2

The Secretary should delegate to the Under Secretary the authority to grant waivers under Goals 2000, the ESEA, and School-to-Work.

DECISION

Approve _____ Signature _____ Date _____

Disapprove _____ Signature _____ Date _____

Other/Comments:

Attachment

CONTACT: David Stevenson, Room 5164/FB-10, 401-3389

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(g) 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:

- 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

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.