12/19--DRAFT

(1) Good ideas
(2) note a few chngs
(3) While we need governors' public is far more concerned about their local schools not state so we need to keep that in mind also

TO: Mike Smith
Frank Holleman
Terry Peterson
Kay Casstevens
Kay Kahler

FR: Mike Cohen

RE: Promoting Flexibility in Federal Education Programs

As States continue to work on the implementation of Goals 2000, IASA, and School-to-Work, we need to take some visible steps to highlight the increased emphasis on results and the significant new flexibility in federal programs. This is important to support implementation at the state and local level, and to strengthen our position with the Congress in the next session.

I'd like your immediate reactions to the recommendations below--by this afternoon if at all possible. If we think this is worth pursuing, we will need to meet tomorrow and begin to lay out the next steps. I've discussed these general ideas, very briefly, with the Secretary and he has reacted positively; I'd like to get him a version of this memo ASAP, after receiving your input.

I propose we consider the following:

for effective state and community actions to improve local schools.

1. Effectively packaging our legislative accomplishments from the last session to highlight the unprecedented degree of flexibility built into our programs, tied directly to an emphasis on results. The point here, in part, is to remind people that the Administration and the Congress, working together in a bipartisan fashion, have already delivered a good deal of what people want. We can tie this back to the specific agreements the Nation's Governors and President Bush reached at the education summit, to further underscore the bipartisan nature of this effort, and the fact the this Administration delivered what Governors of both parties have been asking from the federal government for a long time.

Here is a quick cut at the components of the package we might tie together:

- **Goals 2000**, a accountable block grant designed to help communities and states determine and measure the results they want, and support the improvement strategies necessary to achieve them.

  Through Goals 2000, interested states and communities are ~~each state is~~ asked to (1) set challenging academic standards for all of its students, (2) develop its own approach to improving schools so students can meet the standards, and (3) accomplish these objectives with broad-based, grass roots, bottom-up involvement. In exchange, the federal government will help by providing (1) access to voluntary model standards, research findings and examples of effective practices from around the country, (2) funds to support the ~~development~~ and implementation of local and state improvement plans--with the vast majority of funds supporting locally-designed reforms at the school level, and (3) flexibility, through the provision of waivers from federal statutory and regulatory requirements if they interfere with the ability of a school, district, or state to carry out its own improvement plan aimed at helping all students reach challenging standards, if they are willing to be held accountable for results.

Results from all the different efforts will be ~~spread~~ collected and shared throughout America.

This needs to be made simple and shown dramatically!

- A clear description of the **waiver authority we have in Goals, ESEA, and STW**, with examples of how it can be used. This should include indications of how and under what circumstances we would be willing to waive provisions of the reauthorized ESEA that may otherwise be onerous. It should also include a description of the **Waiver Review Board** we have established to manage the waiver process, and a commitment to a fixed and rapid timetable for responding to waiver requests.

- An announcement of the application for the **Edflex Demonstration Program**, through which we will delegate the Secretary's waiver authority under Goals 2000 to up to six states. The applications for this program will be available shortly (late January, I think.) Since this delegation is unprecedented, we are challenging states to also go the extra mile, and will award this authority to states that can demonstrate that they too are vigorously promoting flexibility in exchange for results. States must have an approved Goals 2000 plan in order to be eligible, and we anticipate delegating waiver authority to up to 3 states this Spring. Three additional states will be selected in approximately a year, once more states have had an opportunity to complete their Goals 2000 plans. (Note--we might want to consider challenging Congress to expand the number of eligible states.) Good idea!

- A brief explanation of the changes in **ESEA** which increase the focus on results against challenging standards for all students, such as schoolwide projects, elimination of separate federal testing requirements and other forms of flexibility for using federal funds to help students reach these standards

- A clear description of the **consolidated planning provisions in ESEA**, which encourage and enable states

& counties
to think through how best to use funds from various categorical programs to support their overall improvement efforts, and to combine administrative funds for more efficient program administration.

- A description of the **Charter Schools Demonstration Program** as another major approach to promoting flexibility for results.

2. A clear statement of how we intend to aggressively use these authorities to promote flexibility in exchange for improved results w/ grass roots involvement

- **The Secretary should announce that he intends to use these authorities to the maximum extent possible--to push his authority to the limits--in order to help** participating **~~every~~ State**s & communities **focus on improved results for ~~all~~** any **students.** This is especially true for any State with an approved Goals 2000 plan, because this plan will assure that the State has a way of monitoring results and has broad based support of parents, educators and business for its approach to achieving results.

State Panel?

- **We should invite states (Governors???)** legislators, dists; parents **to send teams to meet with us--starting immediately--to work with our staff to figure out how they can best take advantage of these authorities.** The waiver authority and planning requirements will enable us to tailor an approach that meet each state's needs. We should immediately invite people from strategically important states (e.g., with key governors, Senators or Representatives) to begin meeting with us.

Need to carefully pick a name that conveys to public a new, less bureaucratic approach.

- We should announce that we ~~have~~ already begun work on an **integrated monitoring process,** and to reorganize the Office ~~of Elementary and Secondary~~ Education so that we have an integrated rather than a fragmented approach to working with states. And we have encouraged this same teamwork approach in states, through the "mega" conference early this month.

- We should highlight that **our approach to implementing Goals 2000 has preserved every bit of flexibility that has been written into the law:** (1) we have chosen not to issue new regulations to administer the state grants program; (2) we have developed a streamlined application package that eliminates the usual paperwork burdens--and won a Hammer Award in recognition of how much this reinvents the typical government approach; (3) we are beginning to review state plans, relying on knowledgeable people from the field rather than ED staff to conduct the reviews.

3. We should announce this approach to flexibility to improve

results soon--ideally a day or two before the Secretary testifies before Mr. Goodling's committee. Or Shortly after.

- The Secretary should hold a press conference, ideally with Gov. Romer and Gov. Engler participating if they are available and willing. Business participation, together with educator participation, would also be good.

- It would be ideal if the President would participate in this. This would give him an opportunity to: (1) underscore education and training as a priority; (2) demonstrate that he has remained consistent with the principles he personally advocated at the Charlottesville Summit--and delivered on what Governors agreed was an appropriate federal role; and (3) set his overall education and training agenda in the context of the National Education Goals.

UNITED STATES
DEPARTMENT OF EDUCATION NEWS

FOR RELEASE
January 25, 1995

Contact: Kathryn Kahler
(202) 401-3026

RILEY OFFERS STATES AND COMMUNITIES NEW FLEXIBILITY

U.S. Secretary of Education Richard W. Riley today offered states and communities unprecedented flexibility in using federal funds to help students reach challenging standards and to make schools safer and more disciplined.

In a letter to governors and state education officials, Riley described a new federal-state partnership to help states and school districts carry out effective school reform focusing on challenging standards and accountability.

"As former governors, President Clinton and I know firsthand the tremendous energy and effort that states and communities are devoting to improving education for our nation's youngsters," Riley said. "The success of such efforts depends on all of us seeking new ways to improve teaching and learning for all students. For the first time, we can now cut the red tape that wraps so many education programs."

The new flexibility program responds to a longstanding request, Riley said. During a 1989 education summit convened by President Bush, the nation's governors - including President Clinton and Education Deputy Secretary Madeleine Kunin - asked the federal government to provide more flexibility and accountability.

Riley said the new approach includes provisions of legislation enacted with bipartisan support during the last Congress, such as the Education Flexibility (Ed-Flex) Partnership

-MORE-

Demonstration Program, general waivers from federal statutes and regulations under key federal education programs, and a new Charter Schools flexibility provision.

The most dramatic initiative is the Ed-Flex Program, which for the first time will give six states authority to waive federal requirements that can impede local and state efforts to improve their schools.

To be considered for a waiver, states need to:

- o eliminate unnecessary, burdensome state and local education regulations;
- o hold schools and districts accountable for student performance;
- o and, have an approved Goals 2000 state improvement plan.

Riley said the flexibility initiative is also reflected in how the department is implementing the new Goals 2000: Educate America Act. No regulations will be published for the new education reform law, which invites states to submit a four-page application in order to receive first-year federal funds. Riley said 43 states have already received funds to develop their own blueprints for better schools.

In addition to the Ed-Flex provision, the initiative offers general waivers to states, school districts and schools under Goals 2000, the Improving America's Schools Act (IASA), and the School-to-Work Opportunities Act.

To apply for a waiver, applicants are asked to describe how federal requirements impede reform efforts and how without them, quality can be improved. Waivers can be provided under major programs of IASA: Title I (Helping Disadvantaged Children Reach High Standards); Title II (Eisenhower Professional Development); Title IV (Safe and Drug-

-MORE-

Free Schools and Communities); Title VI (Innovative Education Program Strategies); and Title VII, Part C (Emergency Immigrant Education), as well as under the Perkins Vocational and Applied Technology Education Act.

Under the new waivers, schools will be expected to continue to observe civil rights statutes, as well as health and safety standards.

Finally, a new Charter Schools Demonstration Program will allow states with charter school laws to receive start-up grants under the IASA and to apply for waivers of all federal regulations to maximize flexibility. As the name implies, groups and organizations can apply for a charter to establish and operate a public school, based on state statutes.

Riley said the department will process waiver applications as soon as they are received and is offering assistance to states and communities on a new waiver assistance line at (202) 401-7801, or through the Department's toll-free number, 1-800-USA-LEARN.

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UNITED STATES
DEPARTMENT OF EDUCATION NEWS

FOR RELEASE
January 25, 1995

Contact: Kathryn Kahler
(202) 401-3026

STATEMENT BY U.S. SECRETARY OF EDUCATION RICHARD W. RILEY
regarding federal role in education

This is no time to back away from America's commitment to educational improvement. Education is primarily a state responsibility under local control, but it is also a national priority which requires a national commitment.

The American public clearly recognizes this. A poll just released by the Wall Street Journal shows that 80 percent of Americans say that the U.S. Department of Education fulfills a vital role. Others polls show that while a majority of Americans favor a balanced budget, only 22 percent favor balancing the budget while cutting spending on education.

We have worked hard, with a broad bipartisan, grassroots coalition, to empower local communities and states in their efforts to improve teaching and learning in their schools. More than 40 states have chosen to participate in the Goals 2000: Educate America Act, which helps support meaningful state and community school improvement efforts that are based on high academic and occupational standards.

The department has created new partnerships with states that emphasize unprecedented flexibility in its programs, fewer regulations, and broad waiver provisions from red tape. The administration has been a strong supporter of effective innovation, including charter schools, public school choice, and parental involvement in education.

Our nation is turning to education because education represents the cornerstone of our future. Proposals like the President's Middle Class Bill of Rights -- and its emphasis on expanded opportunities through increased education and training -- are the building blocks for this future, helping to ensure that all Americans achieve the economic security they deserve.

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ATTACHMENT A

DRAFT

Overview of major new provisions promoting flexibility to support state and community education reform efforts:

School-to-Work and Goals 2000 grants supporting reform plans custom-made by states and communities.

School-to-Work and Goals 2000 grants are designed to support reform efforts custom-made by states, communities, and schools. Greater flexibility in federal education programs will better enable states and communities to improve the education of their students, and that one size does not fit all in American public education. The School-to-Work and Goals 2000 Acts, as well as the Department's approach in implementing these acts, are shaped by these principles.

Both laws, enacted last year with broad and bipartisan support, invest in state and community efforts to address critical needs in American public education. These critical needs include preparing our students for the world of work, raising academic standards for all students, professional development opportunities for teachers, investing in educational technologies, and keeping our schools safe and drug-free. States, communities, and schools can use these investments to strengthen and coordinate their own initiatives to address these, and other, critical needs.

The Department of Education has also been working hard to implement these laws as flexibly as possible. The application for first-year Goals 2000 funding was only four pages, no regulations have been issued for the Goals 2000 grant program, and the average length of time for reviewing and funding applications, to date, is less than a month.

Waivers from federal statutory and regulatory requirements.

States, school districts and schools may request waivers from programmatic and regulatory requirements associated with the reauthorized Elementary and Secondary Education Act, and certain other federal education programs. Under new legislative authority, the Department is prepared to work with your state to remove federal requirements [or, obstacles] impeding your ability to help children reach challenging academic standards, [and impeding your own strategies to meet the underlying intent and purposes of federal education programs.] Attachment B provides guidance explaining the waiver process in greater detail, and Attachment C is a chart comparing the provisions of waiver authorities in Goals 2000, School-to-Work, and IASA. States or school districts considering requesting waivers can contact Bill Kincaid, on the Department's new waiver assistance line, at (202)-401-7801, or 1-800-USA-LEARN.

[Moreover, waiver requests from states, school districts, and schools can help identify legislative and regulatory provisions that might be unnecessarily impeding innovation in state and local reform strategies. An analysis of common themes in waiver requests can help inform proposals for future changes in federal legislation or regulation.]

Ed-Flex Demonstration Program: authority for states to grant federal waivers.

The Goals 2000: Educate America Act establishes an educational flexibility demonstration program (Ed-Flex program) under which the Secretary may delegate to up to six state educational agencies (SEAs) the authority to waive certain Federal statutory or regulatory requirements affecting the SEA, or any local educational agency (LEA) or school within the state. By statute, 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. To be eligible to apply for Ed-Flex status, an SEA must have an approved Goals 2000 state improvement plan. Moreover, in the spirit of the ed-flex program, states must waive their own related statutory or regulatory education requirements, while holding LEAs and schools affected by the waivers accountable for the performance of their students.

The Secretary is prepared to review Ed-Flex applications as soon as they are received, and to grant Ed-Flex waiver authority to a State whose application demonstrates a substantial promise of assisting that state, its communities, and schools in carrying out comprehensive education reform [and otherwise meeting the purposes of the Goals 2000: Educate America Act.] Because only six states may be delegated this waiver authority from the Secretary, those desiring to participate in the program are encouraged to submit their applications as soon as possible

Charter Schools Demonstration Program

One of the most interesting new strategies to promote local innovation and results-based accountability in education is the development of public charter schools. Because one of the greatest challenges facing charter school developers is getting started, the reauthorized Elementary and Secondary Education Act provides start-up grants to charter schools, in states with charter school laws, for up to three years. Moreover, the Charter Schools program gives the Secretary broad authority to waive most federal education laws and regulations for charter schools.

The Administration asked for $15 million to fund this grant program in FY 1995, Congress appropriated $6 million. In addition to these funds, states can use Goals 2000, the reauthorized Elementary and Secondary Education Act, and other federal funds to support the development and operations of charter schools. Attached in Attachment D is a more detailed description on how states, and charter schools, may apply for these funds.

Other key provisions promoting flexibility in the Improving America's Schools Act

The Improving America's Schools Act of 1994 (IASA), which reauthorized the Elementary and Secondary Education Act (ESEA), promotes new flexibility for comprehensive school reform efforts in states, communities, and individual schools. While a range of new opportunities for flexibility are available under the new IASA, this document highlights some of the most significant provisions. A more detailed analysis is provided in Appendix E.

Schoolwide programs

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Title I of the Improving America's Schools Act of 1994 significantly expands the number of schools eligible to become "schoolwide" programs, and dramatically increases flexibility in the use of federal program funds to support these programs. By the 1996 school year, schools with at least 50% low-income children will be eligible for schoolwide status, increasing the total number of potential schoolwide programs from 8,000 to 20,000 schools nationwide.

Moreover, for the first time, these schools will be able to combine most of their federal funds, not solely their Title I funds, to support schoolwide reform and will be freed from the separate statutory and regulatory requirements governing each federal education program. In return, these schools will be called upon to develop comprehensive plans to improve teaching and learning in their entire school, and to meet the needs of the children whose programs are included in the plan.

Elimination of many federal requirements for Chapter 1 testing and reporting.

The reauthorized Elementary and Secondary Education Act eliminates burdensome testing and reporting requirements. No longer will the federal government require Title I schools to give annual norm-referenced tests to all participating students in grades 2-12 in order to evaluate student progress. Nor will the federal government any longer require states to comply with burdensome annual reporting requirements. States may now use their own assessments, rather than separate assessments required by the federal government, to evaluate the progress of schools and districts served by Title I programs. Moreover, assessment information will be used to inform communities of progress in education, rather than be reported to the federal government

Submitting a single (consolidated) plan to receive most federal funds.

The Improving America's Schools Act provides broad new authority for the Secretary of Education to accept a single state plan for most federal funds supporting elementary and secondary education. States may choose to submit this single plan instead of separate plans for separate federal program funds. The development of a single plan eliminates the need to develop separate, often overlapping, plans for many federal programs. Moreover, the planning can reduce program fragmentation, and improve the use of all federal funds to support state and local reform efforts.

Under this law, states may also enable school districts to develop a single plan for many federal programs. The Department is interested in working together with states, school districts, and schools to help them take full advantage of this opportunity.

One section of Attachment E also describes the consolidated planning option in greater detail. [Moreover, appendix F is a copy of the federal register notice, published on January 13, 1994, outlining how states and school districts may take full advantage of this opportunity.] If you have questions, or are interested in discussing this further, can contact Bill Wooten at (202)-401-1003.

Ongoing Departmental activities supporting these provisions.

DRAFT

The Department is working hard on a wide array of activities to enable states, communities, school districts and schools take the greatest advantage of these opportunities described in this document. For example, we are instituting a rapid-response system to expeditiously and consistently take action on all waiver requests.

The Office of Elementary and Secondary Education (OESE) is also adopting a more client-centered approach, reorganizing around states and regions rather than its traditional structure based on individual programs. Moreover, OESE teams will pilot an integrated monitoring strategy in several states this spring, pioneering a more efficient, and client-focused, approach to monitoring. Rather than sending Department staff to monitor different federal programs at the same site throughout the year, we will send teams to visit states at the same time, focusing on how well the state is making progress toward results it has defined, rather than on rules and regulations established in Washington.

Finally, the Department is implementing all new laws with a minimum of regulations and paperwork, and is working hard to reduce any excessive paperwork generated by Departmental activities. An interoffice team is reviewing all internal proposals for regulations on the Improving America's Schools Act, and choosing alternatives to regulation whenever possible.

Draft, 1/8

Dear Governor/State School Chief,

I am pleased to tell you that significant new federal legislation was enacted last year enabling the Department of Education to provide much greater flexibility for state and local use of federal education dollars, in exchange for an increased focus on educational results. As a former Governor myself, I am pleased with this shift and have been working hard to use this new authority to its fullest.

After careful analysis of new provisions promoting flexibility, I am writing you to outline a number of ways in which your state can tailor federal program resources to best meet your needs. I am also making available teams from my Department, upon request, to help you understand how to take advantage of these new opportunities. If you or your staff are interested in exploring these issues further with us, or arranging a visit with a Department team, please feel free to contact my senior advisor Mike Cohen at (202)-401-3000.

I thought it might be helpful to briefly outline for you the major legislative vehicles that support greater flexibility, and to provide several additional documents explaining these opportunities in greater detail. I hope that your efforts to improve education for all students in your state can benefit from the dramatic new approach to federal education programs described in these documents.

Summary of major provisions:

Use Goals 2000 State and Local Grants to support your custom-made reform plans..

Goals 2000 grants are designed to support reform efforts custom-made by your state, and by communities and schools in your state. As a former Governor, I have long believed that greater flexibility in federal education programs would better enable states and communities to improve the education of their students, and that one size does not fit all in American public education.. I am pleased to tell you that the Goals 2000 legislation, and my Department's approach in implementing this act, are shaped by these principles.

Goals 2000, enacted last year with broad and bipartisan support, invests in state and community efforts to address critical needs in American public education. These critical needs include professional development opportunities for teachers, raising academic standards for all students, investing in educational technologies, and keeping our schools safe and drug-free. States, communities, and schools can use these investments to strengthen and coordinate their own initiatives to address these critical needs.

My Department has also worked hard to implement this legislation as flexibly as possible. The application for first-year funding was only two pages, no regulations have been issued at all, and the average length of time for reviewing and funding applications was only 23 (?) days.

Waiver requests from federal statutes and regulations.

Your state -- and school districts and schools in your state -- may request waivers from most programmatic and regulatory requirements associated with the reauthorized Elementary and Secondary Education Act, and certain other federal education programs. Under new authority in the Goals 2000, School-to-Work, and Elementary and Secondary Education acts, my Department is prepared to work with your state to remove programmatic or regulatory obstacles impeding your ability to help children reach challenging academic standards. Attached in Tab A is guidance explaining the waiver process in greater detail. States or school districts considering requesting waivers can also call 1-800-USA-LEARN, extension 532, to discuss waiver opportunities with a Departmental representative.

Moreover, waiver requests from states, school districts, and schools can help guide future legislative proposals that balance the need to reduce statutory and regulatory requirements, with the need for some accountability in the use of taxpayers' money in education.

Ed-Flex Demonstration Program: States may request authority to waive federal statutes and regulations.

A demonstration program in the Goals 2000 Act allows me to select up to six states to become education flexibility demonstration states, receiving authority to waive federal education statutes and regulations on their own. A state receiving this authority may waive federal laws and regulations affecting the state, school districts, and individual schools. My Department intends to conduct two separate competitions, the first as early as this spring, and the second within the following year, to select the six states.

By law, I may select up to three states with a population of over 3.5 million, and up to three states with populations under 3.5 million. Moreover, a state must have developed an approved state education reform plan under the Goals 2000 Act, in order to be eligible to apply for ed-flex authority. The state must also waive its own statutory and regulatory education requirements, while holding schools and districts accountable for the performance of their students.

Schoolwide programs

The Improving America's School Act of 1994 significantly expands the number of schools eligible to become "schoolwide" programs, and dramatically increases flexibility in the use of federal program funds to support these programs. By the 1996 school year, schools with at least 50% low-income children will be eligible for schoolwide status, increasing the total number of potential schoolwide programs from 8,000 to 20,000 schools. Moreover, for the first time, these schools will be able to combine most of their federal funds, not solely their Title I funds, to support schoolwide reform and will be freed from the separate statutory and regulatory requirements governing each federal education program. In return, these schools will be called upon to develop comprehensive plans to improve teaching and learning in the school as a whole, and to meet the needs of the children whose programs are included in the plan.

Elimination of burdensome Chapter 1 testing and reporting requirements.

The reauthorized Elementary and Secondary Education Act eliminates burdensome testing and reporting requirements. No longer will the federal government require Chapter 1 schools to give annual norm-referenced tests, in grades 2-12, to evaluate student progress. Nor will the federal government any longer require states to comply with burdensome annual reporting requirements and analyses of types of children participating in various federal programs.[??] In place of separate assessments, your state may now use its own assessments to evaluate the progress of students served by IASA programs. Moreover, we now encourage you to provide assessment information to your communities, rather than to the federal government

Charter Schools Demonstration Program

One of the most innovative new strategies to promote flexibility and results-based accountability in education is the provision of "charters" to those interested in establishing new schools. Because one of the greatest challenges facing those interested in developing charter schools is getting started, the reauthorized Elementary and Secondary Education Act provides start-up grants to charter schools in states with charter school laws. Moreover, the Charter Schools program gives the Secretary extremely broad authority to waive the vast majority of federal education laws and regulations for charter schools.

The Administration asked for $15 million to fund this grant program in FY 1995, Congress appropriated $6 million. In addition to these funds, I strongly encourage states to consider using Goals 2000, School-to-Work, and other federal funds to support the development and operations of charter schools. Attached in Guidance B is a more detailed description on your your state, and charter schools in your state, may apply for these funds.

Again, I hope this brief summary is helpful. [but these final two paragraphs are rough.] You should know that my Department is working hard on a wide array of administrative and other activities to enable you to take the greatest advantage of these opportunities and promote flexibility and burden-reduction in the operation of federal programs. For example, the Department published in the Federal Register this week a draft notice outlining how states and local school districts might submit a single "consolidated" plan to receive funds from most federal programs. Moreover, the Department is pioneering a new method of integrated monitoring; no longer will we send Department staff to monitor different federal programs throughout the year. This approach will be replaced by teams who visit states at the same time, focusing on how well the state is making progress toward results it has defined, rather than on rules and regulations established in Washington.

Moreover, our office of Elementary and Secondary Education is reorganizing around teams designated to individual states and regions, rather than around individual programs. Finally, we are avoiding regulation wherever possible in the implementation of new laws, and are working hard to reduce paperwork and other burdens imposed on states and schools.

I look forward to working with you to support your efforts to improve education. Best wishes in the New Year, and please feel free to contact me with questions or concerns at any time.

Sincerely,

Richard Riley

DRAFT
12/30/94

GUIDANCE ON WAIVERS UNDER THE GOALS 2000: EDUCATE AMERICA ACT, THE ELEMENTARY AND SECONDARY EDUCATION ACT, AND THE SCHOOL-TO-WORK OPPORTUNITIES ACT

INTRODUCTION

The recent enactment of three pieces of legislation -- the Goals 2000: Educate America Act[1], the School-to-Work Opportunities Act[2], and the reauthorized Elementary and Secondary Education Act (ESEA)[3] -- has shifted significantly the focus of Federal education programs. Rigid, fragmented programs that have often impeded innovation in education have been replaced with flexible initiatives that promote system-wide educational reforms based on challenging academic standards for all students. States, communities and schools face fewer burdens and requirements, and have real opportunities to implement meaningful and creative changes to their education systems.

As part of this increased flexibility, the Secretary of Education has been given unprecedented authority under Goals 2000, the ESEA, and School-to-Work to waive certain Federal statutory and regulatory requirements.[4] This guidance, which has

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1 P.L. 103-227 (Mar. 31, 1994) (20 USC 5801 et seq.).

2 P.L. 103-239 (May 4, 1994) (20 USC 6101 et seq.).

3 The ESEA was reauthorized by the Improving America's School Act of 1994 (IASA), P.L. 103-382 (Oct. 20, 1994).

4 In addition to the waiver provisions, other key flexibility provisions in the new legislation include the following: the authority to consolidate State and local administrative funds under Title I of the ESEA, other major ESEA programs, and Goals 2000 (see ESEA Sections 14201 and 14203); the authority to submit consolidated State and local plans for many of the ESEA programs, Part A of Title II of the Perkins Act, Goals 2000, and School-to-Work (see ESEA Sections 14302 and 14305); flexibility to use a portion of funds under certain "covered programs" for the purpose of another covered program (see ESEA Section 14206(a)); the use of ESEA funds for coordinated services projects (see ESEA Section 14206(b)); grants to public charter schools, together with broad authority of the Secretary to waive statutory or regulatory requirements to promote the purposes of the charter school provisions (see ESEA Sections 10301-10307); the latitude given to States that choose to develop plans under Goals 2000, as well as the Goals 2000 pre-existing plan provisions (see Goals 2000 Section 306); and the delegation of waiver authority under the Education Flexibility Partnership Demonstration Program (see Goals 2000 Section 311(e)).

been drafted in question and answer form, highlights some of the significant aspects of the new waiver provisions, and describes the process by which the Department will review waiver requests.[5]

WAIVER QUESTIONS AND ANSWERS

Will the Department assist potential applicants in preparing waiver requests?

Yes. The Department is committed to assisting potential applicants with their waiver requests. The Department also encourages dialogue with applicants during the period a request is being reviewed. To receive assistance, waiver applicants may contact [INSERT CONTACT NUMBER] or the relevant program office.

What statutory and regulatory requirements may be waived?

Although there is considerable overlap among the waiver provisions in Goals 2000, the ESEA, and School-to-Work, there are some differences in the requirements that may be waived under each program.

A. Waiver authority under Goals 2000

Subject to the limitations discussed below, under Goals 2000, the Secretary is authorized to waive any statutory or regulatory requirement <u>applicable</u> <u>to</u> the following programs or acts:

ESEA Title I -- Helping Disadvantaged Students Reach 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
The Perkins Vocational and Applied Technology Act[6]

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5 Attached to this guidance are the Goals 2000, ESEA, and School-to-Work waiver provisions, as well as a chart that provides a more detailed comparison of these waiver provisions.

6 The IASA contains conforming amendments that were intended to replace the program references in the Goals 2000 legislation with the appropriate references in the reauthorized ESEA. However, in a technical drafting error, certain provisions of the ESEA bill were reorganized after the conforming amendments were drafted, without corresponding changes to the conforming amendments. The references above refer to the programs for which

Under Goals 2000, there may be waivers of program-specific requirements, as well as waivers of other statutory or regulatory requirements "applicable" to the enumerated programs or Acts. Thus, under Goals 2000, the Secretary has authority to waive requirements under the General Education Provisions Act (GEPA)[7] and the Education Department General Administrative Regulations (EDGAR)[8]).

B. Waiver authority under School-to-Work

Subject to the limitations discussed below, the School-to-Work legislation authorizes the Secretary to waive statutory or regulatory requirements of the following programs or acts:

ESEA Title I -- Helping Disadvantaged Students Reach 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
The Perkins Vocational and Applied Technology Act[9]

Although the list of programs and acts subject to the School-to-Work and Goals 2000 waiver authorities is the same, the School-to-Work authority is somewhat more limited -- the Secretary may waive requirements of the specified program statutes and implementing regulations (e.g., the Title I supplement, not supplant requirement), but may not waive other requirements applicable to these programs. Thus, under School-to-Work, waivers of GEPA and EDGAR requirements would not be permitted.

C. Waiver authority under the ESEA

Under the ESEA waiver authority, subject to the restrictions noted below, the Secretary is authorized to waive any statutory or regulatory requirement of the ESEA. In certain respects, this waiver authority is broader than the authority under Goals 2000 or School-to-Work. Under the ESEA waiver authority, the Secretary has broad discretion to waive any ESEA requirement, subject to the specific limitations discussed below. Under the Goals 2000 and School-to-Work waiver authority, on the other hand, the Secretary may only waive requirements of certain specified ESEA programs. Like the School-to-Work waiver provisions, the

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Congress intended waivers to be authorized.

[7] 20 USC 1221 et seq.

[8] 34 CFR Parts 74, 75, 76, 77, 79, 80, 81, 82, 85, and 86.

[9] The conforming amendments for School-to-Work contain the same drafting errors as those for Goals 2000. See note 6 above.

ESEA provisions do not permit waivers of other, non-programmatic requirements applicable to the ESEA. Thus, GEPA and EDGAR requirements may not be waived under the ESEA waiver authority.

Are there certain statutory or regulatory requirements that may not be waived?

Yes. For each of the waiver authorities, there are certain requirements that may not be waived. These requirements are listed in the attached waiver chart. Some requirements -- for example, maintenance of effort, comparability, civil rights requirements, and health and safety requirements -- may not be waived under any of the waiver authorities.[10] In other instances, the waiver restrictions vary depending on the authority under which the waiver is sought. For example, a State educational agency (SEA) may obtain a waiver of a supplanting prohibition under the Goals 2000 or School-to-Work waiver authorities, but not under the ESEA.

Who is eligible to apply for a waiver?

The eligibility of an applicant to apply for a waiver depends on the authority under which the waiver is sought. (The attached waiver chart summarizes the eligibility requirements of waiver applicants.)

Under Goals 2000, only an SEA may apply directly to the Secretary for a waiver. A local educational agency (LEA) or school seeking a waiver under Goals 2000 must first submit a waiver application to its SEA for review. The SEA then forwards those requests that it approves to the Secretary for his review.

Likewise, under the ESEA, the SEA may apply directly to the Secretary for a waiver. In addition, an LEA may apply directly to the Secretary for a waiver on its own behalf or on behalf of a school, after the LEA or school request has been reviewed by the SEA. Thus, while the SEA has the responsibility of reviewing LEA and school waiver requests under the ESEA, it is the LEA's responsibility to submit these requests to the Secretary. In addition, under the ESEA, an Indian tribe may submit a waiver request to the Secretary on behalf of schools operated by the tribe.

Under School-to-Work, the State may submit to the Secretary a waiver request on its own behalf, or on behalf of a local partnership. Furthermore, the local partnership may submit its request to the Secretary directly if the State fails to act

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[10] Although the Goals 2000 waiver limitations do not expressly include civil rights requirements and health and safety requirements, the Secretary has determined that waivers of these requirements would be unwarranted under any circumstance. Waivers of these requirements are not needed to carry out comprehensive education reform or otherwise meet the purposes of the Goals 2000 legislation.

upon the request within 30 days of receiving the waiver application.

May an applicant simultaneously seek a waiver under more than one of the waiver authorities?

Yes. An applicant may simultaneously seek a waiver under more than one authority so long as it is eligible to apply under those waiver authorities. For example, an SEA may simultaneously seek a waiver of Title I requirements under Goals 2000, the ESEA, and School-to-Work.

May an applicant simultaneously seek waivers of several different requirements?

Yes. The Department encourages potential applicants to submit comprehensive waiver requests where appropriate, rather than separate piecemeal requests.

Is there is specific waiver application form?

No. There is not a specific form that must be completed by an applicant seeking a waiver. Instead, waiver applicants have the flexibility to submit requests in a manner that best meets their needs and circumstances, while still addressing the specific requirements of the respective waiver authorities.

What kind of supporting documentation must be submitted with a waiver request?

The individual waiver authorities contain waiver criteria and application requirements that should guide applicants in preparing their waiver submissions. The type of supporting documentation that must be submitted to meet these requirements and satisfy the criteria will vary depending on the nature of the waiver sought. The Department will work with waiver applicants in addressing any concerns that they may have about a particular request.

Goals 2000 waivers are only available to SEAs, LEAs and schools in States with approved Goals 2000 State improvement plans. However, the Goals 2000 waiver request may be submitted prior to the actual approval of the plan. For example, many SEAs may want to include waiver requests as part of their State plan submission. The waivers may not be granted, however, until after the plan is approved. The waiver applicant must demonstrate, among other things, that the requirements requested to be waived impede the ability to carry out the State or local improvement plan and that the SEA has waived, or agrees to waive, similar requirements of State law.

ESEA waiver provisions for formula grant programs become effective on July 1, 1995. The ESEA waiver requests are not contingent on the approval of a

Goals 2000 or an ESEA plan. To be granted an ESEA waiver, an applicant must demonstrate, among other things, how the waiver will increase quality of instruction or improve teaching and learning, and describe which similar requirements of State or local law will be waived.

For a School-to-Work waiver, an applicant must describe specific, positive outcomes expected from the waiver, and explain why the outcomes cannot be achieved while complying with the requirement. As with the other waiver authorities, the State must also waive, or agree to waive, similar requirements of State law.

The attached chart details the specific requirements and criteria that must be met under each of the waiver authorities.

How will the Department review waiver requests?

The Secretary has established within the Department a Waiver Action Board to review applications for waivers under Goals 2000, the ESEA, and School-to-Work. The Board will be chaired by the Assistant Secretary for Elementary and Secondary Education, and include the Assistant Secretary for Vocational and Adult Education, the Director of Bilingual Education and Minority Language Affairs, and the General Counsel. As needed, practitioners in residence at the Department and other senior officials will assist in the review process. The Waiver Action Board will help ensure that waiver requests across categorical programs are handled in a thorough, consistent, and expeditious manner. The Board will make its recommendations to the Under Secretary, who has been delegated the authority to make the final decision on a waiver request.

How long will it take the Department to review a waiver request?

In recognition of its desire to best serve the needs of students, the Department intends to act upon waiver requests as expeditiously as possible. The Department has informally established 60 days from receipt of a waiver request as the target date by which a waiver decision will be made. The Department will strive to make waiver decisions in less than sixty days whenever possible.

May the Department approve part of a waiver request?

Yes. The Department will not disapprove an entire waiver request when certain portions of the request are approvable. By permitting approval of part of a waiver request, the Department encourages applicants to consider waivers across various programs in light of their reform efforts and to consolidate individual requests.

Will the Department approve waivers on a multi-year basis?

Yes. 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 will grant waivers for the maximum period possible to encourage the use of waivers, where needed, to advance systemic reform.

How do the general waivers under Goals 2000, the ESEA, and School-to-Work relate to waivers under the Goals 2000 Education Flexibility Partnership Demonstration Program (Ed-Flex Program)?

The educational flexibility program is an independent program under which the Secretary may grant up to six SEAs the authority to waive the same Federal statutory and regulatory requirements that the Secretary is authorized to waive under the Goals 2000 general waiver provisions.[11] To be eligible to apply under the Ed-Flex program, an SEA must (1) have developed a State improvement plan under Goals 2000 that is approved by the Secretary; and (2) waive State statutory or regulatory requirements relating to education, while holding LEAs or schools within the State that are affected by the waivers accountable for the performance of their students.

What application requirements and selection criteria will be used to determine which States will be granted Ed-Flex status?

The Secretary will publish in the Federal Register in early 1995 proposed applicant requirements and selection criteria for the Ed-Flex program. The Secretary encourages comments on the proposal.

What waivers may be granted under the charter school provisions of the ESEA?

The Secretary has broad authority to waive requirements applicable to public charter schools funded under Part C of Title X of the ESEA. The Secretary may waive any statutory or regulatory requirement over which he exercises administrative authority except those requirements relating to the elements of a charter school if -- (1) the waiver is requested in an approved application, and (2) the Secretary determines that granting the waiver will promote the purposes of the

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11 See Goals 2000 Section 311(e).

ESEA charter school provisions.[12]

12 See ESEA Section 10304(e).

FEDERAL ROLE IN EDUCATION
FROM THE EDUCATION SUMMIT AND THE NATIONAL EDUCATION GOALS

Attached are copies of:

- A Joint Statement agreed to by President Bush and all 49 Governors present at the Education Summit, in September 1989; and,

- The original text of the National Education Goals, including clarifying introduction and discussion of changes necessary to achieve the goals. The text of this document, in its entirety, was also adopted unanimously by all 50 Governors and endorsed by President Bush, in February 1990.

Both documents contain specific language indicating what Governors and the Bush Administration agreed was an appropriate federal role in education. These sections are marked.

Taken together, these documents underscore the following:

- Federal education programs must focus on results, and provide flexibility in how to achieve them. ("Federal...executives need authority to waive statutory and regulatory provisions in return for greater accountability for results." The President and the Governors agreed to "submit legislation to Congress...that would provide state and local recipients greater flexibility in the use of federal funds, in return for firm commitments to improved levels of education and skill training.")

- There is an important federal role to promote national education equity by "...helping our poor children get off to a good start in school, giving disadvantaged and handicapped children extra help to assist them in their school years, ensuring accessibility to a college education, and preparing the workforce for jobs."

- There is also an important federal role in promoting education improvement through "...research and development..., goodin information on the real performance of students, schools and states, and assistance in replicating successful (practices)...all across the United States."

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ATTACHMENT A

Overview of major new provisions promoting flexibility to support state and community education reform efforts:

School-to-Work and Goals 2000 grants supporting reform plans custom-made by states and communities.

School-to-Work and Goals 2000 grants are designed to support reform efforts custom-made by states, communities, and schools. Greater flexibility in federal education programs will better enable states and communities to improve the education of their students, and that one size does not fit all in American public education. The School-to-Work and Goals 2000 Acts, as well as the Department's approach in implementing these acts, are shaped by these principles.

Both laws, enacted last year with broad and bipartisan support, invest in state and community efforts to address critical needs in American public education. These critical needs include preparing our students for the world of work, raising academic standards for all students, professional development opportunities for teachers, investing in educational technologies, and keeping our schools safe and drug-free. States, communities, and schools can use these investments to strengthen and coordinate their own initiatives to address these, and other, critical needs.

The Department of Education has also been working hard to implement these laws as flexibly as possible. The application for first-year Goals 2000 funding was only four pages, no regulations have been issued for the Goals 2000 grant program, and the average length of time for reviewing and funding applications, to date, is less than a month.

Waivers from federal statutory and regulatory requirements.

States, school districts and schools may request waivers from programmatic and regulatory requirements associated with the reauthorized Elementary and Secondary Education Act, and certain other federal education programs. Under new legislative authority, the Department is prepared to work with your state to remove federal requirements [or, obstacles] impeding your ability to help children reach challenging academic standards, [and impeding your own strategies to meet the underlying intent and purposes of federal education programs.] Attachment B provides guidance explaining the waiver process in greater detail, and Attachment C is a chart comparing the provisions of waiver authorities in Goals 2000, School-to-Work, and IASA. States or school districts considering requesting waivers can contact Bill Kincaid, on the Department's new waiver assistance line, at (202)-401-7801, or 1-800-USA-LEARN.

[Moreover, waiver requests from states, school districts, and schools can help identify legislative and regulatory provisions that might be unnecessarily impeding innovation in state and local reform strategies. An analysis of common themes in waiver requests can help inform proposals for future changes in federal legislation or regulation.]

Ed-Flex Demonstration Program: authority for states to grant federal waivers.

The Goals 2000: Educate America Act establishes an educational flexibility demonstration program (Ed-Flex program) under which the Secretary may delegate to up to six state educational agencies (SEAs) the authority to waive certain Federal statutory or regulatory requirements affecting the SEA, or any local educational agency (LEA) or school within the state. By statute, 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. To be eligible to apply for Ed-Flex status, an SEA must have an approved Goals 2000 state improvement plan. Moreover, in the spirit of the ed-flex program, states must waive their own related statutory or regulatory education requirements, while holding LEAs and schools affected by the waivers accountable for the performance of their students.

The Secretary is prepared to review Ed-Flex applications as soon as they are received, and to grant Ed-Flex waiver authority to a State whose application demonstrates a substantial promise of assisting that state, its communities, and schools in carrying out comprehensive education reform [and otherwise meeting the purposes of the Goals 2000: Educate America Act.] Because only six states may be delegated this waiver authority from the Secretary, those desiring to participate in the program are encouraged to submit their applications as soon as possible

Charter Schools Demonstration Program

One of the most interesting new strategies to promote local innovation and results-based accountability in education is the development of public charter schools. Because one of the greatest challenges facing charter school developers is getting started, the reauthorized Elementary and Secondary Education Act provides start-up grants to charter schools, in states with charter school laws, for up to three years. Moreover, the Charter Schools program gives the Secretary broad authority to waive most federal education laws and regulations for charter schools.

The Administration asked for $15 million to fund this grant program in FY 1995, Congress appropriated $6 million. In addition to these funds, states can use Goals 2000, the reauthorized Elementary and Secondary Education Act, and other federal funds to support the development and operations of charter schools. Attached in Attachment D is a more detailed description on how states, and charter schools, may apply for these funds.

Other key provisions promoting flexibility in the Improving America's Schools Act

The Improving America's Schools Act of 1994 (IASA), which reauthorized the Elementary and Secondary Education Act (ESEA), promotes new flexibility for comprehensive school reform efforts in states, communities, and individual schools. While a range of new opportunities for flexibility are available under the new IASA, this document highlights some of the most significant provisions. A more detailed analysis is provided in Appendix E.

Schoolwide programs

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Title I of the Improving America's Schools Act of 1994 significantly expands the number of schools eligible to become "schoolwide" programs, and dramatically increases flexibility in the use of federal program funds to support these programs. By the 1996 school year, schools with at least 50% low-income children will be eligible for schoolwide status, increasing the total number of potential schoolwide programs from 8,000 to 20,000 schools nationwide.

Moreover, for the first time, these schools will be able to combine most of their federal funds, not solely their Title I funds, to support schoolwide reform and will be freed from the separate statutory and regulatory requirements governing each federal education program. In return, these schools will be called upon to develop comprehensive plans to improve teaching and learning in their entire school, and to meet the needs of the children whose programs are included in the plan.

Elimination of many federal requirements for Chapter 1 testing and reporting.

The reauthorized Elementary and Secondary Education Act eliminates burdensome testing and reporting requirements. No longer will the federal government require Title I schools to give annual norm-referenced tests to all participating students in grades 2-12 in order to evaluate student progress. Nor will the federal government any longer require states to comply with burdensome annual reporting requirements. States may now use their own assessments, rather than separate assessments required by the federal government, to evaluate the progress of schools and districts served by Title I programs. Moreover, assessment information will be used to inform communities of progress in education, rather than be reported to the federal government

Submitting a single (consolidated) plan to receive most federal funds.

The Improving America's Schools Act provides broad new authority for the Secretary of Education to accept a single state plan for most federal funds supporting elementary and secondary education. States may choose to submit this single plan instead of separate plans for separate federal program funds. The development of a single plan eliminates the need to develop separate, often overlapping, plans for many federal programs. Moreover, the planning can reduce program fragmentation, and improve the use of all federal funds to support state and local reform efforts.

Under this law, states may also enable school districts to develop a single plan for many federal programs. The Department is interested in working together with states, school districts, and schools to help them take full advantage of this opportunity.

One section of Attachment E also describes the consolidated planning option in greater detail. [Moreover, appendix F is a copy of the federal register notice, published on January 13, 1994, outlining how states and school districts may take full advantage of this opportunity.] If you have questions, or are interested in discussing this further, can contact Bill Wooten at (202)-401-1003.

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<u>Ongoing Departmental activities supporting these provisions.</u>

The Department is working hard on a wide array of activities to enable states, communities, school districts and schools take the greatest advantage of these opportunities described in this document. For example, we are instituting a rapid-response system to expeditiously and consistently take action on all waiver requests.

The Office of Elementary and Secondary Education (OESE) is also adopting a more client-centered approach, reorganizing around states and regions rather than its traditional structure based on individual programs. Moreover, OESE teams will pilot an integrated monitoring strategy in several states this spring, pioneering a more efficient, and client-focused, approach to monitoring. Rather than sending Department staff to monitor different federal programs at the same site throughout the year, we will send teams to visit states at the same time, focusing on how well the state is making progress toward results it has defined, rather than on rules and regulations established in Washington.

Finally, the Department is implementing all new laws with a minimum of regulations and paperwork, and is working hard to reduce any excessive paperwork generated by Departmental activities. An interoffice team is reviewing all internal proposals for regulations on the Improving America's Schools Act, and choosing alternatives to regulation whenever possible.

ATTACHMENT B

DRAFT – 1/6/95

GUIDANCE ON WAIVERS UNDER THE GOALS 2000: EDUCATE AMERICA ACT, THE ELEMENTARY AND SECONDARY EDUCATION ACT, AND THE SCHOOL-TO-WORK OPPORTUNITIES ACT

INTRODUCTION

The recent enactment of three pieces of legislation – the Goals 2000: Educate America Act[1], the School-to-Work Opportunities Act[2], and the reauthorized Elementary and Secondary Education Act (ESEA)[3] – has shifted significantly the focus of Federal education programs. Rigid, fragmented programs that have often impeded innovation in education at the local level have been replaced with flexible initiatives that promote system-wide educational improvement based on challenging academic standards for all students. States, communities and schools face fewer burdens and requirements, and have real opportunities to implement meaningful and creative changes to their education systems.

As part of this increased flexibility, the Secretary of Education has been given unprecedented authority under Goals 2000, the ESEA, and School-to-Work to waive certain Federal statutory and regulatory requirements. This guidance, which has been drafted in question and answer form, highlights some of the significant aspects of the new waiver provisions, and describes the process by which the Department will review waiver requests. Attached to the guidance are the Goals 2000, ESEA, and School-to-Work waiver provisions, as well as a chart that provides a more detailed comparison of the waiver authorities.

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1 P.L. 103-227 (Mar. 31, 1994) (20 USC 5801 et seq.).

2 P.L. 103-239 (May 4, 1994) (20 USC 6101 et seq.).

3 The ESEA was reauthorized by the Improving America's School Act of 1994 (IASA), P.L. 103-382 (Oct. 20, 1994) (20 USC 6301 et seq).

WAIVER QUESTIONS AND ANSWERS

Will the Department assist potential applicants in preparing waiver requests?

Yes. The Department is committed to assisting potential applicants with their waiver requests. The Department also encourages dialogue with applicants during the period a request is being reviewed. To receive assistance, waiver applicants may contact 1-800-USA-LEARN or the relevant program office.

What statutory and regulatory requirements may be waived?

Although there is considerable overlap among the waiver provisions in Goals 2000, the ESEA, and School-to-Work, there are some differences in the requirements that may be waived under each program.

A. Waiver authority under Goals 2000

Subject to the limitations discussed below, under Goals 2000, the Secretary is authorized to waive any statutory or regulatory requirement applicable to the following programs or acts:

ESEA Title I – Helping Disadvantaged Students Reach 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
The Perkins Vocational and Applied Technology Act[4]

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[4] The IASA contains conforming amendments that were intended to replace the program references in the Goals 2000 legislation with the appropriate references in the reauthorized ESEA. However, in a technical drafting error, certain provisions of the ESEA bill were reorganized after the conforming amendments were drafted, without corresponding changes to the conforming amendments. The references above refer to the programs for which Congress intended waivers to be authorized.

Under Goals 2000, there may be waivers of program-specific requirements, as well as waivers of other statutory or regulatory requirements "applicable" to the enumerated programs or Acts. Thus, under Goals 2000, the Secretary has authority to waive requirements under the General Education Provisions Act (GEPA)[5] and the Education Department General Administrative Regulations (EDGAR)[6]).

B. Waiver authority under School-to-Work

Subject to the limitations discussed below, the School-to-Work legislation authorizes the Secretary to waive statutory or regulatory requirements <u>of</u> the following programs or acts:

ESEA Title I – Helping Disadvantaged Students Reach 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
The Perkins Vocational and Applied Technology Act[7]

Although the list of programs and acts subject to the School-to-Work and Goals 2000 waiver authorities is the same, the School-to-Work authority is somewhat more limited – the Secretary may waive requirements <u>of</u> the specified program statutes and implementing regulations (e.g., the Title I supplement, not supplant requirement), but may not waive other requirements applicable to these programs. Thus, under School-to-Work, waivers of GEPA and EDGAR requirements would not be permitted.

C. Waiver authority under the ESEA

Under the ESEA waiver authority, subject to the restrictions noted below, the Secretary is authorized to waive any statutory or regulatory requirement <u>of</u> the ESEA. In certain respects, this waiver authority is broader than the authority under Goals 2000 or School-to-Work. Under the ESEA waiver authority, the Secretary has broad discretion to waive any ESEA requirement, subject to the specific limitations discussed below. Under the Goals 2000 and School-to-Work waiver authority, on the other hand, the Secretary may only waive requirements of certain specified ESEA programs. Like the School-to-Work waiver provisions, the ESEA provisions do not permit waivers of other, non-programmatic requirements applicable to the ESEA. Thus, GEPA and EDGAR requirements may not be

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[5] 20 USC 1221 <u>et seq</u>.

[6] 34 CFR Parts 74, 75, 76, 77, 79, 80, 81, 82, 85, and 86.

[7] The conforming amendments for School-to-Work contain the same drafting errors as those for Goals 2000. <u>See</u> note 6 above.

waived under the ESEA waiver authority.

Are there certain statutory or regulatory requirements that may not be waived?

Yes. For each of the waiver authorities, there are certain requirements that may not be waived. These requirements are listed in the attached waiver chart. Some requirements -- for example, maintenance of effort, comparability, civil rights requirements,[8] and health and safety requirements -- may not be waived under any of the waiver authorities.[9] In other instances, the waiver restrictions vary depending on the authority under which the waiver is sought. For example, a State educational agency (SEA) may obtain a waiver of a supplanting prohibition under the Goals 2000 or School-to-Work waiver authorities, but not under the ESEA.

Who is eligible to apply for a waiver?

The eligibility of an applicant to apply for a waiver depends on the authority under which the waiver is sought. (The attached waiver chart summarizes the eligibility requirements of waiver applicants.)

Under Goals 2000, only an SEA may apply directly to the Secretary for a waiver. A local educational agency (LEA) or school seeking a waiver under Goals 2000 must first submit a waiver application to its SEA for review. The SEA then forwards those requests that it approves to the Secretary for his review.

Likewise, under the ESEA, the SEA may apply directly to the Secretary for a waiver. In addition, an LEA may apply directly to the Secretary for a waiver on its own behalf or on behalf of a school, after the LEA or school request has been reviewed by the SEA. Thus, while the SEA has the responsibility of reviewing LEA and school waiver requests under

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[8] Although the Goals 2000 waiver limitations do not expressly include civil rights requirements and health and safety requirements, the Secretary has determined that waivers of these requirements would be unwarranted under any circumstance. Waivers of these requirements are not needed to carry out comprehensive education reform or otherwise meet the purposes of the Goals 2000 legislation.

[9] The restrictions applicable to the charter school waiver provisions are discussed separately in this guidance.

the ESEA, it is the LEA's responsibility to submit these requests to the Secretary. In addition, under the ESEA, an Indian tribe may submit a waiver request to the Secretary on behalf of schools operated by the tribe.

Under School-to-Work, the State may submit to the Secretary a waiver request on its own behalf, or on behalf of a local partnership. Furthermore, the local partnership may submit its request to the Secretary directly if the State fails to act upon the request within 30 days of receiving the waiver application.

May an applicant simultaneously seek a waiver under more than one of the waiver authorities?

Yes. An applicant may simultaneously seek a waiver under more than one authority so long as it is eligible to apply under those waiver authorities. For example, an SEA may simultaneously seek a waiver of Title I requirements under Goals 2000, the ESEA, and School-to-Work.

May an applicant simultaneously seek waivers of several different requirements?

Yes. The Department encourages potential applicants to submit comprehensive waiver requests where appropriate, rather than separate requests.

Is there a specific waiver application form?

No. There is not a specific form that must be completed by an applicant seeking a waiver. Instead, waiver applicants have the flexibility to submit requests in a manner that best meets their needs and circumstances, while still addressing the specific requirements of the respective waiver authorities.

What kind of supporting documentation must be submitted with a waiver request?

The individual waiver authorities contain waiver criteria and application requirements that should guide applicants in preparing their waiver submissions. The type of supporting documentation that must be submitted to meet these requirements and satisfy the criteria will vary depending on the nature of the waiver sought. The Department will work with waiver applicants in addressing any concerns that they may have about a particular request.

Goals 2000 waivers are only available to SEAs, LEAs and schools in States with approved

Goals 2000 State improvement plans. However, the Goals 2000 waiver request may be submitted prior to the actual approval of the plan. For example, SEAs may want to include waiver requests as part of their State plan submission. The waivers may not be granted, however, until after the plan is approved. The waiver applicant must demonstrate, among other things, that the requirements requested to be waived impede the ability to carry out the State or local improvement plan and that the SEA has waived, or agrees to waive, similar requirements of State law.

ESEA waiver provisions for formula grant programs become effective on July 1, 1995. The ESEA waiver requests are not contingent on the approval of a Goals 2000 or an ESEA plan. To be granted an ESEA waiver, an applicant must demonstrate, among other things, how the waiver will increase quality of instruction or improve teaching and learning, and describe which similar requirements of State or local law will be waived.

For a School-to-Work waiver, an applicant must describe specific, positive outcomes expected from the waiver, and explain why the outcomes cannot be achieved while complying with the requirement. As with the other waiver authorities, the State must also waive, or agree to waive, similar requirements of State law.

The attached chart details the specific requirements and criteria that must be met under each of the waiver authorities.

How will the Department review waiver requests?

The Secretary has established within the Department a Waiver Action Board to review applications for waivers under Goals 2000, the ESEA, and School-to-Work. The Board will be chaired by the Assistant Secretary for Elementary and Secondary Education, and include the Assistant Secretary for Vocational and Adult Education, the Director of Bilingual Education and Minority Language Affairs, and the General Counsel. As needed, practitioners in residence at the Department and other senior officials will assist in the review process. The Waiver Action Board will help ensure that waiver requests across categorical programs are handled in a consistent and expeditious manner. The Board will make its recommendations to the Under Secretary, who has been delegated the authority to make the final decision on a waiver request.

How long will it take the Department to review a waiver request?

In recognition of its desire to best serve the needs of students, the Department intends to act upon waiver requests as expeditiously as possible. The Department has established 60 days from receipt of a waiver request with the necessary documentation as the target date by which a waiver decision will be made. The Department will strive to make waiver decisions in less than sixty days whenever possible.

May the Department approve part of a waiver request?

Yes. The Department will approve portions of a waiver request, even if the entire request is not approvable. By permitting approval of part of a waiver request, the Department encourages applicants to consider waivers across various programs in light of their reform efforts and to consolidate individual requests.

Will the Department approve waivers on a multi-year basis?

Yes. In many instances, multi-year waivers may be needed to change fundamentally 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 will grant waivers for the maximum period possible to encourage the use of waivers, where needed, to advance systemic reform.

In addition to authorizing waivers of certain statutory and regulatory requirements relating to education, does the School-to-Work Opportunities Act authorize other waivers?

Yes. Subject to the conditions in Section 503 of the School-to-Work Opportunities Act, the Secretary of Labor is authorized to waive any requirement under any provision of the Job Training Partnership Act (JTPA), including regulations issued under these provisions. The Department of Education's Waiver Action Board will assist in coordinating with the Department of Labor any waiver requests that involve both JTPA and education requirements.

How do the general waivers under Goals 2000, the ESEA, and School-to-Work relate to waivers under the Goals 2000 Education Flexibility Partnership Demonstration Program (Ed-Flex Program)?

The educational flexibility program is an independent program under which the Secretary may grant up to six SEAs the authority to waive the same Federal statutory and regulatory requirements that the Secretary is authorized to waive under the Goals 2000 general waiver provisions.[10] To be eligible to apply under the Ed-Flex program, an SEA must (1) have developed a State improvement plan under Goals 2000 that is approved by the Secretary; and (2) waive State statutory or regulatory requirements relating to education, while holding LEAs or schools within the State that are affected by the waivers accountable for the performance of their students. By statute, 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.

What application requirements and selection criteria will be used to determine which States will be granted Ed-Flex status?

The Secretary will publish in the Federal Register in early 1995 proposed applicant requirements and selection criteria for the Ed-Flex program. The Secretary encourages comments on the proposal.

When will the Ed-Flex States be chosen?

The Secretary recognizes that States are at various stages in the development of the 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 reform efforts, the Secretary intends to conduct more than one Ed-Flex competition. The first competition would be conducted as early as the spring of 1995 and would result in the designation of no more than three States as Ed-Flex States, with no more than two States designated in either of the population categories. One or more additional competitions would be conducted within a year of the first and would result in the designation of the remaining Ed-Flex States.

What waivers may be granted under the charter school provisions of the ESEA?

The Secretary has broad authority to waive requirements applicable to public charter schools funded under Part C of Title X of the ESEA. The Secretary may waive any statutory or regulatory requirement over which he exercises administrative authority

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10 See Goals 2000 Section 311(e).

except those requirements relating to the elements of a charter school if – (1) the waiver is requested in an approved application, and (2) the Secretary determines that granting the waiver will promote the purposes of the ESEA charter school provisions.[11]

Are there requirements that may not be waived under the charter school waiver provisions?

Yes. Charter schools must comply 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. In addition, a charter school must meet all applicable Federal, State, and local health and safety requirements.

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[11] See ESEA Section 10304(e).

ATTACHMENT C

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]

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[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. <u>See</u> note 1 above.

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

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)

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 LEA's 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

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

ATTACHMENT D

U.S. DEPARTMENT OF EDUCATION'S CHARTER SCHOOL DEMONSTRATION PROGRAM

Charter schools represent an important new strategy to promote innovation, parental and community involvement and choice in public education. The Department of Education will soon publish an announcement in the federal register for a grant competition awarding start-up funds, and eligibility for broad waivers, to charter schools.

The Administration requested $15 million for this program in FY 1995, and $6 million was appropriated by Congress. By law, the first competition will be held for States where charter schools laws have been enacted; States receiving grants must pass on at least 95% of these funds to fund charter schools. Charter schools must apply for funds in partnership with its chartering agency, whether that agency is a school district, or public university, or another public agency. Charter school developers may include teachers, parents, administrators, non-profit organizations, or for-profit firms.

Moreover, a wide array of federal funds -- including Goals 2000, and IASA -- may be used by states and communities to support charter schools. The broad waiver authority in the charter schools law enables the Secretary to provide maximum flexibility in the use of federal program funds -- including Title I of IASA -- for charter schools. The Department intends to take full advantage of this waiver authority to help charter schools tailor the use of federal program resources to those needs.

Both the charter schools application, and guidance on waiver possibilities, will be made public by mid-February. Meanwhile, those interested in learning more about this program should feel free to contact the charter schools program officer, John Fiegel, at (202)-260-2671.

ATTACHMENT E

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

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.

Some of the key flexibility and burden-reducing provisions of the new legislation are outlined below.

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 waiver guidance and chart at Tab ____ contain contain a detailed 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 now 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. OPPORTUNITIES FOR CONSOLIDATED PLANNING FOR STATES AND SCHOOL DISTRICTS

The Improving America's Schools Act provides broad new authority for the Secretary of Education to accept a single state plan for most federal funds supporting elementary and secondary education. States may choose to submit this single plan instead of separate, often overlapping, plans for separate federal programs.

A notice appears on the January, 13, 1994 edition of the federal register, explaining how states and school districts might take advantage of this opportunity. This consolidated plan would explain how all of the resources of Federal programs included in the plan would work together to promote the State's educational goals for all students while effectively meeting the needs of the programs' intended beneficiaries. To receive fiscal year (FY) 1995 program funds, a State educational agency (SEA) would need only to describe how it would develop its final plan over the following year, and to submit basic information needed to ensure fiscal accountability.

An SEA may submit a consolidated State plan or a consolidated State application for such programs, as defined in section 14101(10), as Titles I-VII of the IASA (check), 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. This authority can simplify 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. Attachment F is a copy of the federal register notice explaining in greater detail how SEAs and LEAs may take advantage of this option. (Dennis will edit)

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)

ATTACHMENT F (OPTION)

FEDERAL REGISTER NOTICE ON OPPORTUNITIES FOR 'CONSOLIDATED PLANNING FOR STATES AND SCHOOL DISTRICTS. TO BE PUBLISHED 1/13/95.

SUMMARY: The Department of Education proposes criteria for optional State consolidated plans submitted under section 14302 of the Elementary and Secondary Education Act of 1965 (ESEA), as recently reauthorized by the Improving America's Schools Act, Pub. L. 103-382 (IASA). Submitting a consolidated plan will allow a State to obtain funds under many Federal programs through a single plan, rather than through separate and detailed program funding plans or applications. The consolidated plan would explain how all of the resources of Federal programs included in the plan would work together to promote the State's educational goals for all students while effectively meeting the needs of the programs' intended beneficiaries.

To receive fiscal year (FY) 1995 program funds, a State educational agency (SEA) would need only to describe how it would develop its final plan over the following year, and to submit basic information needed to ensure fiscal accountability. The Secretary solicits written comments on this proposal from all interested parties. Subject to review of the comments received, the Secretary plans to announce final criteria for consolidated State plans in February, 1995.

Section 14302 of the ESEA, as reauthorized by Title I of the IASA, permits the Secretary to establish criteria under which any SEA may obtain certain Federal program funds through a single consolidated plan rather than through separate funding applications or plans. As explained in section 14301, this consolidated plan would be designed to enhance cross-program coordination, planning and service delivery, and the integration of Federal program services with services offered by States and localities, as keys to increased student achievement.

So that the development and use of consolidated plans can achieve their maximum potential, the Secretary proposes to offer States a two-phase process for completing their consolidated plans: (1) submission in the spring of 1995 of a relatively simple preliminary plan, followed by (2) the State's development and submission the next year of a final consolidated plan. This final plan would focus specifically on how the Federal programs included in the plan, while retaining their separate identities and intended beneficiaries, would support State goals and education reform strategies. A State developing a consolidated plan is encouraged to consider at the outset both the connection of this plan to its overall reform efforts, including efforts under the Goals 2000: Educate America Act or the School-to-Work Opportunities Act, and any waivers that it may need to request to effectively carry out its reforms. To ensure that local educational agencies (LEAs) and schools also can tap the full potential of Federal programs, section 14305 of the ESEA offers LEAs an opportunity to submit to their respective SEAs a consolidated plan under specific Federal programs.

These provisions for development of consolidated State plans -- particularly when coupled with the Secretary's new waiver authority, contained in Section 14401 of the ESEA (as well as in the Goals 2000 and School-to-Work statutes) and other provisions of the IASA that offer new opportunities for flexibility -- also enable the Department to refocus its administration of programs in ways that can better assist a State in meeting its education goals and objectives. Indeed, the information contained in a consolidated plan may help to clarify why an SEA or LEA needs a waiver of certain program requirements in order to improve student achievement. The Department expects to issue separate guidance in the near future on the process for obtaining waivers of programmatic requirements under Section 14401.

Whether to submit a consolidated plan, which of the eligible programs to include in it if one is submitted, and whether to add to a final consolidated plan programs that were not included in a preliminary plan are decisions left to each SEA. Similarly, an SEA that submits a preliminary plan for FY 1995 would be able to submit individual program plans or applications for subsequent fiscal years rather than a final consolidated plan, just as an SEA that chooses for FY 1995 to submit individual program plans or applications could, in any subsequent fiscal year, submit a final consolidated plan.

Approval of a consolidated plan, whether in preliminary or final form, permits the Secretary to award funds under the programs included in the plans, and eliminates for an SEA the need, under those included programs, either to submit program applications to the Department or to develop program planning documents that the program statutes otherwise would require. Approval of a consolidated plan also establishes a different context for any Departmental review of an SEA's administration of the included programs.

The Secretary stresses that approval of a consolidated plan does not alter the obligation of an SEA and its grantees to continue to comply with all requirements of each program, including those that the program statute may express in terms of plan or application descriptions or assurances. (See further discussion and examples under "Assurances" to be submitted as part of the first-year (preliminary) consolidated plan.) Nor does approval of a consolidated State plan authorize commingling of program funds. However, under waiver provisions contained in the IASA, the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act, the Secretary is authorized to waive certain of these requirements. Furthermore, an SEA that meets the conditions of section 14201 of the ESEA may consolidate administrative funds under specified programs.

The remainder of this notice identifies the programs that might be included in a consolidated plan, and the proposed content of both the preliminary and final consolidated State plans. Attached in Appendix A, as background, is the preliminary guidance on the consolidated plan, which the Secretary provided to members of the public who attended a Federal program conference in Baltimore, Maryland, on December 2, 1994.

Programs that a State May Include in a Consolidated Plan

Section 14302 permits an SEA to include any of the following State-administered programs in its consolidated State plan:

(1) Title I, Part A of the ESEA (LEA Program).
(2) Title I, Part B of the ESEA (Even Start Program).
(3) Title I, Part C of the ESEA (Migrant Education).
(4) Title I, Part D of the ESEA (Neglected, Delinquent or At-Risk Children).

(5) Title II of the ESEA (State and local programs) (Professional Development).
(6) Title III, Part A, subpart 2 of the ESEA (Technology for Education).
(7) Title IV, Part A (other than the Governor's Programs in section 4114) of the ESEA (Safe and Drug-Free Schools and Communities).
(8) Title VI of the ESEA (Innovative Education Program Strategies (formerly Chapter 2).
(9) State leadership programs under Title II of the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act).
(10) Programs under the Goals 2000: Educate America Act.
(11) Programs under the School-to-Work Opportunities Act.

In addition, pursuant to section 14302(a)(2)(F) of the ESEA, the Secretary proposes to designate the following additional programs that a State may include in a consolidated plan:

(12) Subtitle B of Title III of the Stewart B. McKinney Homeless Assistance Act (the Education for Homeless Children and Youth program) (enacted in Title III, Part B of the IASA).
(13) All other State formula grant programs under the Perkins Act.

The Secretary is considering whether to designate Title VII, Part C of the ESEA (the Emergency Immigrant Education Program) for possible inclusion in the consolidated State plan, but is not proposing to do so at this time in view of the significant relationship of this program to other Federal initiatives for addressing immigration-related issues.

Certain programs that the statute permits to be included in a consolidated State plan, such as the Technology for Education program in Title III, Part A, subpart 2 of the ESEA, are competitive grant programs rather than formula grant programs. These competitive programs can promote innovation in specific aspects of a State's reform efforts, and so can play an important role in a consolidated State plan for the overall use of Federal program funds. However, given their competitive nature, the Secretary proposes that an SEAs still will need to meet the application content, selection criteria, and closing dates established for these programs.

The Secretary is considering how these and other discretionary grant programs that might be designated for inclusion in a consolidated State plan can best promote the purposes of a consolidated State plan. As stated in the "Invitation to Comment" section of this notice, the public is invited to suggest other grant programs, both formula and discretionary, that should be available for inclusion in a consolidated State plan, and how that plan can best accommodate these other programs.

The Preliminary (First-Year) Consolidated Plan Descriptions

The preliminary consolidated plan for FY 1995 program funds would identify the Federal programs that the plan covers, and address the following three areas with respect to the programs included in it:

Assurances. In addition, an SEA also would provide in its preliminary plan a set of assurances that include:

- Those required by section 14306 of the ESEA, which are repeated in APPENDIX B.

- Those required under the civil rights statutes.

- A general assurance that, unless and until these requirements are waived, the SEA and its subgrantees will continue to comply with all operational requirements of each program, including those that the program statute may express in terms of application or plan descriptions or assurances.

EXAMPLE 1: An SEA includes the Migrant Education Program (MEP) (Title I, Part C of the ESEA) in its preliminary consolidated plan. The SEA does not need to submit a State application, or any of the descriptions described in section 1304 of Title I, Part C. It also does not need to prepare the separate comprehensive service-delivery plan, as otherwise required for the MEP under section 1306(a) of the ESEA; that MEP plan is not required because it is addressed within the consolidated State plan. However, the SEA's receipt of MEP funds under an approved, preliminary consolidated plan still would require the SEA to develop and carry out activities for migratory children as identified in the comprehensive plan requirements of section 1306(a).

EXAMPLE 2: An SEA includes the Safe and Drug-Free Schools and Communities program (Title IV, Part A, of the ESEA) in its preliminary consolidated plan. The SEA does not need to submit the State application under section 4112 of Title IV, Part A, or any of the application descriptions, such as the description contained in section 4112(b)(4) of how the SEA will coordinate its program activities with the Governor's drug and violence prevention programs funded under section 4114, and prevention efforts of other State agencies. However, the SEA's receipt of Safe and Drug-Free Schools and Communities program funds under an approved, preliminary consolidated plan still would require the SEA to meet all applicable program requirements, including coordinating its program with relevant programs and activities of the Governor and other State agencies.

EXAMPLE 3: An SEA includes the Title I, Part A (ESEA) program in its preliminary consolidated plan. The SEA does not need to submit the State plan, or any of the State plan descriptions described in section 1111 of Title I, Part A. However, the SEA's receipt of Title I, Part A program funds under an approved, preliminary consolidated plan still would require the SEA to carry out all of the requirements contained in section 1111 with regard to standards and assessments and other provisions to support teaching and learning.

The Secretary is considering including in the final instructions for the preliminary consolidated plan a list, program-by-program, of all application and plan descriptions and assurances that the SEA's general assurance would cover in the absence of a waiver.

1. <u>Goals or Objectives</u>. What are the goals and objectives that the SEA hopes to achieve through the development and use of a consolidated program plan, and how do they relate to the needs of the intended beneficiaries of programs included in the plan? In answering these questions, include:

- Ways in which consolidated plans for use of Federal program funds are already being developed and used, and the impediments to success that are now most evident.

2. <u>Process for Developing the Final Consolidated Plan</u>. What process and timelines will the SEA use during the following year to develop its final consolidated plan? Include the State's strategies for --

- Coordinating the planning for the use of Federal program funds with the State's overall education reform efforts (including planning under Goals 2000 and School-to-Work for participating States).

- Bringing together all key individuals -- Governors, State program officials, LEA and school administrators, teachers, adult education administrators, parents, and others who play a key role in coordinating and integrating each program included in the plan with State and locally funded activities -- for the development and review of the final consolidated State plan.

3. <u>Fiscal Accountability</u>. To ensure fiscal accountability and the availability of information that the Secretary needs to distribute program funds, provide for each included program, where applicable --

- The amount of funds provided under each program that will be used to carry out State-level activities (whether or not those activities are performed by the SEA), and a general description of how these funds will be used.

- The procedures and criteria that the SEA will use to distribute program funds within the State where the program statute provides no in-State funding formula. (The Secretary thus far has identified the Even Start, Migrant Education, Neglected, Delinquent or At-Risk Children (Part D, Subpart 2, local agency program), Safe and Drug-Free Schools and Communities, Innovative Education, McKinney Homeless Assistance, and the Perkins Act, Title III, as programs to which this statement applies if they are included in a consolidated State plan.)

- The amount of funds, if any, provided under each program that the State would consolidate for State administration under section 14201 of the ESEA, along with a statement confirming that the SEA has determined that a majority of its resources come from non-Federal sources.

Relationship to the Goals 2000 and School-to Work Initiatives

Goals 2000 provides States and communities with an opportunity to strengthen and broaden their education reform efforts by developing comprehensive plans to enable all children to learn to challenging academic standards. The School-to-Work Opportunities initiative may also play a significant role in a State's education reform efforts by helping to establish transition systems for youth that integrate challenging academic content with high quality work-based learning experience leading to postsecondary education and career-oriented entry into the workforce. A State's participation in these initiatives is voluntary, as it is with all Federal programs.

States that chose to participate in Goals 2000 and School-to-Work are encouraged to integrate their development of consolidated State plans under Section 14302 of the ESEA with their Goals 2000 and School-to-Work plans and activities. However, since these initiatives are designed specifically to support a State's overall education reform strategy (including those aspects which do not ordinarily draw upon Federal resources), the Secretary is not proposing that submission of a consolidated State plan, in either preliminary or final form, would alter application or planning requirements under
Goals 2000 or School-to-Work.

The Final (Second-Year) Consolidated State Plan

The final consolidated plan will provide an opportunity for SEAs to consider how the resources of those Federal program included in the plan can be used directly to support their States' overall improvement strategies. The following discussion represents the Department's current thinking on what issues and questions a State might address in a final, second-year plan. After reviewing comment on this notice, the Department intends to continue collaboration with the public on modifications that may be needed, as well as on the formulation of additional examples that can better illustrate how States might address the questions presented.

Possible Issues to be Addressed in a Final (Second-Year) Consolidated Plan

1. What is the SEA's vision (including specific goals) for improving its educational system throughout the State? How do these goals relate directly to raising student academic achievement, geared to challenging academic standards, of all children who benefit from Federal programs? In answering this question, the State must address:

   - How the State will meet the standards and assessment requirements of Title 1, Part A, section 1111(b) of the ESEA to ensure the use of challenging academic content standards and high-quality assessments aligned with the standards.

   - What goals and performance indicators will the State establish to determine the effectiveness of programs included in the plan (e.g., improved professional development based upon realigned teacher certification requirements under the Eisenhower Professional Development program (Title II, Part B of the ESEA), and additional performance indicators for safe and drug-free schools under the Safe and Drug-Free Schools and Communities program (Title IV, Part A of the ESEA).

2. How will the Federal resources (of programs included in the consolidated plan) support, at both the State and local level on the basis of identified needs, the State's specific goals and its efforts to enable intended program beneficiaries to reach the challenging academic standards established in the State?

Example 1: If a State determines that one of its goals to improve education is increasing the percentage of youth who complete high school, the State might describe how Federal program funds fit into State efforts to reach that goal.

Example 2: If the State has established overall goals for professional development, it should describe how it will use resources (not limited to Title II, ESEA) to reach these goals.

In answering Question 2, a State should consider addressing such critical areas as:

- The process it will use for determining the needs of the children served by these programs.
- The most significant barriers to more effective use of Federal funds, and how the State and individual programs will work together to overcome these barriers.
- Any waivers of Federal statutes or regulations the State may need to support its consolidated plan.
- How program administrators in the State will maintain the kind of communication and coordination needed to draw effectively on all Federal resources as outlined in the plan.
- How program administrators throughout the State will make the strategies outlined in the consolidated plan part of their daily work.
- If a State chooses to consolidate its use of State administration funds (under section 14201 of the ESEA), how the consolidation of these funds relates to the consolidated State plan under section 14302.
- Any critical timelines and benchmarks that will guide related and ongoing activities.

3. How will the State enable interested local educational agencies, in accordance with section 14305 of the ESEA, to develop their own consolidated plans for the use of Federal funds, and help to develop the capacity of LEAs and schools to use all of their funds to support high academic achievement for all intended program beneficiaries?

4. For an individual school whose activities are supported with Federal funds, how on a daily basis will the needs of its students be better met through implementation of the consolidated plan?

An SEA also would provide an update on any significant changes in the procedures for distribution of funds, as well as in the amounts and general uses of funds reserved for administrative and State-level activities, from those described in the preliminary consolidated plan.

Review of Consolidated Plans

The Secretary proposes that the State's preliminary consolidated plan be approved without peer review, but is strongly considering using a peer review process that involves the assistance and advice of State officials and others with relevant expertise for approving the final State consolidated plan.

Public Participation Requirements

Section 14303(7) of the ESEA, one of the general consolidated plan assurances described above in the discussion of the preliminary plan, requires an SEA to assure that "before the [consolidated plan] was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan ... and has considered such comment." (This assurance applies both to consolidated State plans under section 14302 and to all individual State plans or applications submitted under individual programs.)

Invitation to Comment

The Secretary invites comments from all interested members of the public on this proposal for the content of the consolidated State plan.

12/19--DRAFT

TO: Mike Smith
Frank Holleman
Terry Peterson
Kay Casstevens
Kay Kahler

FR: Mike Cohen

RE: Promoting Flexibility in Federal Education Programs

As States continue to work on the implementation of Goals 2000, IASA, and School-to-Work, we need to take some visible steps to highlight the increased emphasis on results and the significant new flexibility in federal programs. This is important to support implementation at the state and local level, and to strengthen our position with the Congress in the next session.

I'd like your immediate reactions to the recommendations below--by this afternoon if at all possible. If we think this is worth pursuing, we will need to meet tomorrow and begin to lay out the next steps. I've discussed these general ideas, very briefly, with the Secretary and he has reacted positively; I'd like to get him a version of this memo ASAP, after receiving your input.

I propose we consider the following:

1. Effectively packaging our legislative accomplishments from the last session to highlight the unprecedented degree of flexibility built into our programs, tied directly to an emphasis on results. The point here, in part, is to remind people that the Administration and the Congress, working together in a bipartisan fashion, have already delivered a good deal of what people want. We can tie this back to the specific agreements the Nation's Governors and President Bush reached at the education summit, to further underscore the bipartisan nature of this effort, and the fact the this Administration delivered what Governors of both parties have been asking from the federal government for a long time.

Here is a quick cut at the components of the package we might tie together:

- **Goals 2000**, a block grant designed to help states determine and measure the results they want, and support the improvement strategies necessary to achieve them.
  - Through Goals 2000, each state is asked to (1) set challenging academic standards for all of its students, (2) develop its own approach to improving schools so students can meet the standards, and (3) accomplish these objectives with broad-based, grass roots, bottom-up

involvement. In exchange, the federal government will help by providing (1) access to voluntary model standards, research findings and examples of effective practices from around the country, (2) funds to support the development and implementation of local and state improvement plans--with the vast majority of funds supporting locally-designed reforms at the school level, and (3) flexibility, through the provision of waivers from federal statutory and regulatory requirements if they interfere with the ability of a school, district, or state to carry out its own improvement plan aimed at helping all students reach challenging standards, if they are willing to be held accountable for results.

- A clear description of the **waiver authority we have in Goals, ESEA, and STW**, with examples of how it can be used. This should include indications of how and under what circumstances we would be willing to waive provisions of the reauthorized ESEA that may otherwise be onerous. It should also include a description of the **Waiver Review Board** we have established to manage the waiver process, and a commitment to a fixed and rapid timetable for responding to waiver requests.

- An announcement of the application for the **Edflex Demonstration Program**, through which we will delegate the Secretary's waiver authority under Goals 2000 to up to six states. The applications for this program will be available shortly (late January, I think.) Since this delegation is unprecedented, we are challenging states to also go the extra mile, and will award this authority to states that can demonstrate that they too are vigorously promoting flexibility in exchange for results. States must have an approved Goals 2000 plan in order to be eligible, and we anticipate delegating waiver authority to up to 3 states this Spring. Three additional states will be selected in approximately a year, once more states have had an opportunity to complete their Goals 2000 plans. (Note--we might want to consider challenging Congress to expand the number of eligible states.)

- A brief explanation of the changes in **ESEA** which increase the focus on results against challenging standards for all students, such as schoolwide projects, elimination of separate federal testing requirements and other forms of flexibility for using federal funds to help students reach these standards

- A clear description of the **consolidated planning provisions in ESEA**, which encourage and enable states to think through how best to use funds from various categorical programs to support their overall improvement efforts, and to combine administrative funds for more efficient program administration.

- A description of the **Charter Schools Demonstration Program** as another major approach to promoting flexibility for results.

2. A clear statement of how we intend to aggressively use these authorities to promote flexibility in exchange for improved results.

- **The Secretary should announce that he intends to use these authorities to the maximum extent possible--to push his authority to the limits--in order to help every State focus on improved results for all students.** This is especially true for any State with an approved Goals 2000 plan, because this plan will assure that the State has a way of monitoring results and has broad based support of parents, educators and business for its approach to achieving results.

- **We should invite states (Governors???) to send teams to meet with us--starting immediately--to work with our staff to figure out how they can best take advantage of these authorities.** The waiver authority and planning requirements will enable us to tailor an approach that meet each state's needs. We should immediately invite people from strategically important states (e.g., with key governors, Senators or Representatives) to begin meeting with us.

- We should announce that we have already begun work on an **integrated monitoring process**, and to reorganize the Office of Elementary and Secondary Education so that we have an integrated rather than a fragmented approach to working with states. And we have encouraged this same teamwork approach in states, through the "mega" conference early this month.

- We should highlight that **our approach to implementing Goals 2000 has preserved every bit of flexibility that has been written into the law**: (1) we have chosen not to issue new regulations to administer the state grants program; (2) we have developed a streamlined application package that eliminates the usual paperwork burdens--and won a Hammer Award in recognition of how much this reinvents the typical government approach; (3) we are beginning to review state plans, relying on knowledgeable people from the field rather than ED staff to conduct the reviews.

3. We should announce this approach to flexibility to improve

results soon--ideally a day or two before the Secretary testifies before Mr. Goodling's committee.

- The Secretary should hold a press conference, ideally with Gov. Romer and Gov. Engler participating if they are available and willing. Business participation, together with educator participation, would also be good.

- It would be ideal if the President would participate in this. This would give him an opportunity to: (1) underscore education and training as a priority; (2) demonstrate that he has remained consistent with the principles he personally advocated at the Charlottesville Summit--and delivered on what Governors agreed was an appropriate federal role; and (3) set his overall education and training agenda in the context of the National Education Goals.

Draft, 1tr #1

DRAFT 2

Dear Governor/State School Chief,

I am pleased to tell you that significant new federal legislation was enacted last year enabling the Department of Education to provide much greater flexibility for state and local use of federal education dollars, in exchange for an increased focus on educational results. As a former Governor myself, I am pleased with this shift and have been working hard to use this new authority to its fullest.

After careful analysis of new provisions promoting flexibility, I am writing you to outline a number of ways in which your state can tailor federal program resources to best meet your needs. I am also making available teams from my Department, upon request, to help you understand how to take advantage of these new opportunities. If you or your staff are interested in exploring these issues further with us, or arranging a visit with a Department team, please feel free to contact my senior advisor Mike Cohen at (202)-401-3000.

I thought it might be helpful to briefly outline for you the major legislative vehicles that support greater flexibility, and to provide several additional documents explaining these opportunities in greater detail. I hope that your efforts to improve education for all students in your state can benefit from the dramatic new approach to federal education programs described in these documents.

Summary of major provisions:

School-to-Work and Goals 2000 grants to support reform plans custom-made by states and communities..

School-to-Work and Goals 2000 grants are designed to support reform efforts custom-made by your state, and by communities and schools in your state. As a former Governor, I have long believed that greater flexibility in federal education programs would better enable states and communities to improve the education of their students, and that one size does not fit all in American public education.. I am pleased to tell you that School-to-Work, Goals 2000, and my Department's approach in implementing these acts, are shaped by these principles.

Both laws, enacted last year with broad and bipartisan support, invest in state and community efforts to address critical needs in American public education. These critical needs include preparing our students for the world of work, professional development opportunities for teachers, raising academic standards for all students, investing in educational technologies, and keeping our schools safe and drug-free. States, communities, and schools can use these investments to strengthen and coordinate their own initiatives to address these critical needs.

My Department has also worked hard to implement these laws as flexibly as possible. The application for first-year Goals 2000 funding was only two pages, no regulations have been issued at all, and the average length of time for reviewing and funding applications was only 23 (?) days.

Waiver requests from federal statutes and regulations.

Your state -- and school districts and schools in your state -- may request waivers from most programmatic and regulatory requirements associated with the reauthorized Elementary and Secondary Education Act, and certain other federal education programs. Under new authority in the Goals 2000, School-to-Work, and Elementary and Secondary Education acts, my Department is prepared to work with your state to remove programmatic or regulatory obstacles impeding your ability to help children reach challenging academic standards. Attached in Tab A is guidance explaining the waiver process in greater detail. States or school districts considering requesting waivers can also call 1-800-USA-LEARN, extension 532, to discuss waiver opportunities with a Departmental representative.

Moreover, waiver requests from states, school districts, and schools can help guide future legislative proposals that balance the need to reduce statutory and regulatory requirements, with the need for some accountability in the use of taxpayers' money in education.

Ed-Flex Demonstration Program: States may request authority to waive federal statutes and regulations.

A demonstration program in the Goals 2000 Act allows me to select up to six states to become education flexibility demonstration states, receiving authority to waive federal education statutes and regulations on their own. A state receiving this authority may waive federal laws and regulations affecting the state, school districts, and individual schools. My Department intends to conduct two separate competitions, the first as early as this spring, and the second within the following year, to select the six states.

By law, I may select up to three states with a population of over 3.5 million, and up to three states with populations under 3.5 million. Moreover, a state must have developed an approved state education reform plan under the Goals 2000 Act, in order to be eligible to apply for ed-flex authority. The state must also waive its own statutory and regulatory education requirements, while holding schools and districts accountable for the performance of their students.

Charter Schools Demonstration Program

One of the most innovative new strategies to promote flexibility and results-based accountability in education is the provision of "charters" to those interested in establishing new schools. Because one of the greatest challenges facing those interested in developing charter schools is getting started, the reauthorized Elementary and Secondary Education Act provides start-up grants to charter schools in states with charter school laws. Moreover, the Charter Schools program gives the Secretary extremely broad authority to waive the vast majority of federal education laws and regulations for charter schools.

The Administration asked for $15 million to fund this grant program in FY 1995, Congress appropriated $6 million. In addition to these funds, I strongly encourage states to consider using Goals 2000, School-to-Work, and other federal funds to support the development and operations of charter schools. Attached in Guidance B is a more detailed description on how your state, and charter schools in your state, may apply for these funds.

Schoolwide programs

The Improving America's School Act of 1994 significantly expands the number of schools eligible to become "schoolwide" programs, and dramatically increases flexibility in the use of federal program funds to support these programs. By the 1996 school year, schools with at least 50% low-income children will be eligible for schoolwide status, increasing the total number of potential schoolwide programs from 8,000 to 20,000 schools. Moreover, for the first time, these schools will be able to combine most of their federal funds, not solely their Title I funds, to support schoolwide reform and will be freed from the separate statutory and regulatory requirements governing each federal education program. In return, these schools will be called upon to develop comprehensive plans to improve teaching and learning in the school as a whole, and to meet the needs of the children whose programs are included in the plan.

Elimination of burdensome Chapter 1 testing and reporting requirements.

The reauthorized Elementary and Secondary Education Act eliminates burdensome testing and reporting requirements. No longer will the federal government require Chapter 1 schools to give annual norm-referenced tests, in grades 2-12, to evaluate student progress. Nor will the federal government any longer require states to comply with burdensome annual reporting requirements and analyses of types of children participating in various federal programs.[??] In place of separate assessments, your state may now use its own assessments to evaluate the progress of students served by IASA programs. Moreover, we now encourage you to provide assessment information to your communities, rather than to the federal government

Again, I hope this brief summary is helpful. [but these final two paragraphs are rough.] You should know that my Department is working hard on a wide array of administrative and other activities to enable you to take the greatest advantage of these opportunities and promote flexibility and burden-reduction in the operation of federal programs. For example, the Department published in the Federal Register this week a draft notice outlining how states and local school districts might submit a single "consolidated" plan to receive funds from most federal programs. Moreover, the Department is pioneering a new method of integrated monitoring; no longer will we send Department staff to monitor different federal programs throughout the year. This approach will be replaced by teams who visit states at the same time, focusing on how well the state is making progress toward results it has defined, rather than on rules and regulations established in Washington.

Moreover, our office of Elementary and Secondary Education is reorganizing around teams designated to individual states and regions, rather than around individual programs. Finally, we are avoiding regulation wherever possible in the implementation of new laws, and are working hard to reduce paperwork and other burdens imposed on states and schools.

I look forward to working with you to support your efforts to improve education. Best wishes in the New Year, and please feel free to contact me with questions or concerns at any time.

Sincerely,

Richard Riley

EXCHANGING RED TAPE FOR HIGHER STANDARDS AND GREATER ACHIEVEMENT

-- By Richard W. Riley

President Clinton and I support increased flexibility for schools and school systems because we know well that the needs of communities differ significantly from one to another, that a "one-size-fits-all" approach to improving education will not work.

When I first arrived at the U.S. Department of Education 3 years ago, I was handed a just-completed General Accounting Office (GAO) report that examined the Department's previous management structure and financial controls. The GAO report concluded that the Department's management practices inadequately supported our major initiatives and that the Department was over-regulated and bureaucratic. Rather than turning around and going home, our team set out immediately to correct those problems, first, by hiring one of the principal critics from GAO to head up one of our key offices and, second, by beginning to implement many of the recommendations contained in those reports.

While we still have much work to do, I am happy to report progress since 1993. We have thrown out or simplified almost 40% of our regulations, cut the required paperwork to get student loans, and proposed eliminating 60 outdated programs. The number of Education staff is more than 30% smaller now than under the old HEW, and is projected to shrink further over time.

Major Congressional action was required for some of the needed changes in our Department and the programs it administers.

For example, when I came into office, I had no authority to grant waivers to allow local school districts or states to try out their own innovative ideas with federal program funds. But, using our overhauled education legislation signed by President Clinton in 1994, in the last year alone, the Department has granted 90 waivers to local school districts and has given 5 states unprecedented Ed-Flex waiver authority covering a number of our major programs -- dramatic regulatory relief and flexibility, demonstrating true respect for our long American tradition of state and local control of education.

I would like to share with you more details about the improved opportunities from two pieces of the President's legislation that provide increased flexibility, cut red tape, and provide better resources to schools, school districts and states to start and expand their own education improvements and lift core academic standards: Goals 2000 and the Improving America's Schools Act (the reauthorized Elementary and Secondary Education Act or ESEA).

Raising Education Standards Across America -- the Goals 2000 Act. As the son of a school board attorney, a PTA member, a governor and now the Secretary of Education, I've observed that the hardest money to get at the local level is resources for schools to improve themselves, raise standards of achievement and discipline and build partnerships for needed change. Excellence grants from Goals 2000 provide such resources for local school improvements geared to challenging education standards, with no new regulations.

In participating districts, Goals 2000 funds already are being used to build partnerships around parents, teachers, district officials, business people, and others in the community in developing and putting into action local strategies for improving teaching and learning. For example, in just six months, using its Goals 2000 subgrant, a Durango, Colorado parent and teacher reform partnership nearly doubled parent and community participation in school reform efforts and increased volunteer hours by 85 percent.

Through Goals 2000, high school students in one Pennsylvania community are visiting shop floors and factories to learn how math and science concepts taught in the classroom are used in the workplace. In Ohio, Goals 2000 is supporting the efforts of 126 low-performing districts to increase the level of academic achievement of students on state proficiency tests.

A New Focus on Improving Schools -- Title I Overhauled. Under Title I of the ESEA, beginning in 1996-97, schools with an enrollment of at least fifty percent low-income students will be eligible to operate an improvement program for the entire school. These almost 20,000 schools can combine most of their Federal education program funds (not solely Title I) with State and local resources to support serious schoolwide improvements. These schools are exempt from most Federal requirements such as tracking dollars to specific services for particular students, so long as the intent and purposes of the programs are met. In return for this flexibility, participating schools develop and implement comprehensive plans to improve teaching and learning geared to challenging standards across their entire school.

More schools and districts may want to take advantage of this bold attempt to strengthen an entire school's curriculum, instruction, accountability and parent involvement to boost student achievement and discipline. In 1994-95, less than half of those eligible schools across the U.S. were operating schoolwide programs with Title I funds. In preparation for next school year, school districts with qualifying schools may want to provide extra technical assistance, training, and staff development and planning time to take advantage of this opportunity to make significant advances.

The new flexibility in Title I is not limited to schoolwide programs. Now, for all schools participating in Title I, program funds may support professional development for *any* teacher that works with Title I students, not solely the Title I teachers. Title I also encourages school-parent compacts which invite better teacher-parent collaboration to address pressing needs in their school.

Beyond the flexibility provided by the ESEA itself, the Department of Education has sought to increase the flexibility of its elementary and secondary programs by keeping regulations to the minimum necessary, simplifying those that are required, and eliminating the rest. For instance, under Safe- and Drug-Free Schools provisions, schools and districts can develop comprehensive strategies to make schools and surrounding communities safer, more disciplined and drug-free for their students. Overall, for those elementary and secondary education programs that have been reauthorized since the beginning of the Clinton Administration, the Department has *eliminated* two-thirds of its regulations . . . and we are looking for more ways to cut red tape.

<u>Waivers from Federal Statutory and Regulatory Requirements</u>. Even with a more flexible ESEA and many fewer regulations, schools, school districts, and states may encounter Federal program requirements that interfere with their strategies for improving quality of instruction and student academic performance. Now, for the first time ever, Goals 2000 and the ESEA give the U.S. Department of Education authority to provide waivers for the vast majority of statutory and regulatory requirements for our major programs. For example:

The Fort Worth, Texas School District received a waiver allowing it to target an extra portion of its Title I dollars to four high-poverty, inner-city elementary schools. The schools were chosen for a complete overhaul due to low achievement and other factors. The schools, all operating as schoolwide programs, use Title I funds to improve instruction for all their students and will reorganize staff, lengthen the school year, focus on teaching reading and math, provide extensive teacher training, and strengthen links to their community.

As part of Oregon's comprehensive school improvement efforts, the State Department of Education received a waiver of Perkins Act provisions in order to link community colleges and school districts in an innovative consortia arrangement. The consortia will receive Perkins funds to provide high quality vocational education programs to both high school and postsecondary students. Without the waiver, this collaboration would not have been possible.

Based on needs identified by member districts, the Riverview Consortium in Shippensville, Pennsylvania received a waiver enabling it to use up to 50 percent of its Eisenhower professional development funds for local teacher training in core academic subjects other than math and science. Without a waiver -- due to current appropriations levels -- the law would have required the consortium to use almost 95 percent of its Eisenhower dollars on professional development activities in math and science, regardless of local needs.

Ed-Flex. Perhaps the most dramatic example of the Department's new flexibility is the Education Flexibility Partnership Demonstration Program (Ed-Flex) established by the Goals 2000 Act. Under Ed-Flex, the Secretary may delegate up to six State Educational Agencies the authority to waive certain Federal statutory or regulatory requirements affecting the State and its districts and schools, in order to remove barriers to better teaching and learning. To apply for the demonstration, a State must have an approved State education improvement plan under Goals 2000. In addition, the State must provide appropriate waivers to local districts and schools. Those affected by the waivers agree to be held accountable for the academic performance of their students. Requirements pertaining to health and safety, civil rights, and parental participation may not be waived. So far, Oregon, Kansas, Massachusetts, Ohio, and Texas have been selected for Ed-Flex, with a sixth state to be chosen soon; three states (Kansas, Massachusetts, and Oregon) have already begun approving waivers.

Public Charter Schools. Public charter schools are another important new tool for promoting effective local innovation, better accountability, and choice in public education. Because one of the greatest challenges facing charter school developers is getting started, the ESEA provides start-up grants, for up to three years, to public charter schools in States with charter school laws. Moreover, this program gives the Secretary broad authority to waive, for public charter schools, most statutory and regulatory requirements of federal education programs. The Department awarded $6 million to help start charter schools in eleven States last year, and the Clinton Administration will seek enough funds to help open nearly three thousand charter schools over the next four years. In a recent meeting in Minnesota, a district school board member told me how having a charter school as part of his district helped the district treat all of their schools with more autonomy and focused the district's attention on helping schools reach mutually agreed upon goals rather than micromanagement.

Conclusion. In his State of the Union Address last month, the President challenged all of us to do our part to adopt high standards for students and teachers, cut red tape so that teachers, principals, and parents working together have more flexibility for grassroots reform, and focus on accountability. Your leadership is key to energizing local improvements, school by school, neighborhood by neighborhood, and across your community. Sustained support for raising standards and constant attention on better teaching, learning and accountability are vital to moving education forward.

Building on the progress of the past couple of years, our Department will continue to explore ways to provide more flexibility and cut unnecessary red tape and to use the improved legislation and U.S. Department of Education funds in ways that better support local effective innovation.

I was proud recently to stand with many of you on the steps of the U.S. Capitol in opposing the unwise and drastic proposals in the new Congress to cut education funding for students and local schools. Thank you for your time and tireless dedication to America's children.