

# UNDERSTANDING



# FEDERAL EDUCATION PROGRAMS

2000

UNDERSTANDING  
FLEXIBILITY  
IN  
FEDERAL EDUCATION PROGRAMS

2000

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## INTRODUCTION

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We are in a new era in education and related services for children and their families. The focus of federal aid has shifted and now places more emphasis on results and less on process. States and communities now have more flexibility to use federal education dollars in creative and innovative ways to promote student learning. Schools are increasingly working in partnership with health and social service agencies so that students really are “ready to learn.” This movement toward greater flexibility in education reflects similar trends in other federal programs, from Medicaid\* (health services for low-income people) to welfare reform.

While federal funds account for less than seven percent,<sup>1</sup> on average, of a school district’s budget, these resources are especially important for low-income and disadvantaged children — most notably children in low-income communities, non-English speaking students, and disabled children. Federal funding is a valuable resource that comes with requirements that states, school districts, and schools must meet. State and local administrators have expressed concern that some federal requirements prevent them from using federal funding to most effectively meet the needs of their students. Also, educators frequently complain that the paperwork associated with federal aid takes up time that would be better spent on improving student achievement.

In recent years, the federal government has addressed these problems by giving states, school districts, and schools greater flexibility to use federal funds in innovative ways that best meet local needs and that streamline the administration of federal programs. In exchange for this increased flexibility, the federal government is holding states and localities accountable for raising the academic achievement of students. For example, states, school districts, and schools must now set clear educational goals, implement challenging academic standards, and test how well their students measure up to those standards.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book.*

## What Is This Flexibility?

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Think of this flexibility as a way to use resources and funds more effectively to help students learn and achieve. One way the federal government has increased flexibility is by minimizing program requirements that proscribe specific activities that a state, school district, or school must undertake. For example, several federal programs — such as Goals 2000 and Title I schoolwide programs — allow states, school districts, and schools to design their own approaches to improve education.

Second, the federal government now allows states, school districts, and schools to obtain waivers\* (exemptions) from federal requirements that hinder efforts to improve student learning. For example, the federal Eisenhower Professional Development program requires that funds be used primarily to support teacher training in *mathematics and science*. If a school district's students do well in mathematics and science, but not in reading and language arts, the school district can apply for a waiver to use its Eisenhower funds to improve instruction in reading and language arts.

Finally, the federal government has given states and school districts more flexibility in how they administer federal programs. Several provisions in federal laws and regulations\* simplify program administration and reduce paperwork for states, school districts, and schools. For example, states and school districts may now consolidate their plans or applications for multiple federal education programs rather than submit separate documents for each program. State education agencies and school districts may also consolidate the funds that they use to administer multiple federal education programs.

## If Flexibility Is So Easy, Why Don't We See More of It?

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Most states and school districts are cautiously using the relatively new flexibility in federal education programs. This guidebook includes examples of innovations by states and school systems that have seized the opportunity to improve student achievement. However, surprisingly few school districts or states have taken advantage of — or perhaps had the need for — the provisions for waivers\* or opportunities for greater administrative flexibility.

There is a significant information gap between what federal law now *allows* schools to do and what schools *are doing* and *believe they can do*. Many schools, school districts, and state education agencies do not take advantage of existing flexibility because they are not aware of — or do not fully understand — the changes to federal education laws. This guidebook is intended to help bridge that information gap.

**EXAMPLE OF  
USING FLEXIBILITY IN THE FEDERAL TITLE I PROGRAM  
to Improve Student Achievement by Establishing a Family Center**

The Southwestern City Schools in Franklin County, Ohio, wanted to create a family center to offer families adult literacy and general educational development (GED) — high school equivalency — programs and to give students extra instructional help. The school district faced a problem: there were no “extra” buildings in the rapidly-growing school system. The district’s Title I director knew that the Head Start program also needed extra space and suggested that the district use both Title I and Head Start funds to purchase modular classrooms to place on-site at Title I schools. The U.S. Department of Health and Human Services approved the district’s request for additional “expansion” funds to purchase the modular classrooms.

The Title I staff at the state education agency supported the district’s proposal, but they wanted to check with the U.S. Department of Education before approving the plans, since Title I funds are typically used for instruction and not for “bricks and mortar.” The U.S. Department of Education clarified that since modular classrooms can be considered “equipment” rather than “real property” the school district could use Title I funds to purchase them. With this clarification, the state education agency approved Southwestern City Schools’ plan to purchase modular classrooms.

By 1997, the Family Center had been operating for five years. It offers Even Start, adult basic education courses, a monthly dental clinic, immunizations, and social services for children and families. The Center also provides computers so that parents can help their children with homework assignments. Perhaps the greatest benefit is that achievement has improved for Title I students and for parents participating in Even Start and adult basic education programs at the Center. (Source: Interviews with staff, Southwestern City Schools, Franklin County, Ohio, 1997.)

In September 1998, the U.S. General Accounting Office (GAO) published a study that documented that school district administrators often do not know enough to use the flexibility in federal laws. “With incomplete information, district officials may make only conservative and narrow interpretations of federal requirements, believing they have less flexibility than they actually do.”<sup>2</sup>

Since many state and school district administrators do not understand what they can do under current federal laws (and parents and other community members know even less), they often see these laws as insurmountable barriers to change, even when there is no *actual* federal barrier. For example, the U.S. Department of Education reports that nearly one-third of the 617 waiver requests it had processed by September 1998 were unnecessary: the law already allowed states, school districts, and schools enough flexibility to do what they wanted to do without a waiver.<sup>3</sup>

Administrators in states, school districts, and schools might feel that using some flexibility provisions requires too much work. This is a genuine concern: it takes time, energy, and vision to use these flexibility provisions effectively to improve outcomes for students. For example, limited resources can make it difficult to find the staff time necessary to develop the plans required for Title I schoolwide programs, to apply for waivers, or to plan and implement coordinated services projects.

Some schools, school districts, and state education agencies see more risks than benefits in doing business differently. They fear that auditors will look askance at non-traditional uses of federal funds, making a sensible innovation look like a scandal that will make headlines in local papers. Their concern about unforeseen consequences creates a culture of timidity that constrains educators at all levels from doing things differently.

Some states do not encourage their school districts to use this increased flexibility. One state official said that he was concerned that increased flexibility would lead to block grants and that, over time, each program would lose its constituency base (such as poor children, disabled children, and limited-English-proficient children), resulting in less total federal aid for education. Other state officials who have seen federal trends come and go are taking a “wait and see” attitude to find out if waivers and other flexibility provisions are here to stay.

Furthermore, *rules imposed by states* are often more burdensome and restrictive than federal requirements.<sup>4</sup> Education is primarily a state and local responsibility, so it makes sense that states impose more requirements on school districts and schools than the federal government does. Sometimes, however, *state* rules actually prevent school districts and schools from taking advantage of flexibility in *federal* laws and regulations.\* For example, while federal law allows schools that operate Title I schoolwide programs to combine funds from many federal education programs, some states require schools to account for all programs separately. Likewise, almost one-third of states do not allow school districts to consolidate administrative funds, even though federal law allows them to do so.<sup>5</sup>

Finally, some federal requirements are simply *not* flexible. GAO reports that there is little or no flexibility in the areas where school district staff most want it.<sup>6</sup> For example, none of the various waiver provisions allow Individuals with Disabilities Education Act (IDEA) requirements to be waived. Likewise, none of the flexibility provisions allow schools to be exempt from environmental rules, health and safety requirements, or nutrition standards.

## About This Guidebook

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Since the IEL Policy Exchange and the Center on Education Policy first published this guidebook in 1997, it has become increasingly obvious that many schools, school districts, and states do not have adequate information about the flexibility in federal education laws and other federal laws affecting schools. This guidebook is intended as a tool to help states, school districts, and schools get the most from federal funding by making programs work better.

Since 1997, Congress and the Clinton Administration have given states, school districts, and schools even greater flexibility. This 2000 guidebook expands and updates the earlier edition, giving information about important new flexibility initiatives, including:

- the recently enacted Education Flexibility Partnership Act of 1999 (Ed-Flex) that potentially allows all states to waive many requirements of federal education laws and regulations;
- the William F. Goodling Child Nutrition Reauthorization Act of 1998 that simplifies the administration of the school meal programs and expands opportunities for schools to serve after-school snacks;
- the 1997 amendments to IDEA that allow schools to use IDEA funds in Title I schoolwide programs and to coordinate social and health services for students;
- new Comprehensive School Reform Demonstration grants that provide seed money for schools to implement promising, research-based education reform strategies; and
- the Workforce Investment Act of 1998 that allows the U.S. Secretary of Labor to waive requirements of federal job-training programs and expands the Work-Flex program so that potentially all states can waive federal job-training requirements.

The first chapter of this guidebook discusses major federal programs that support innovation and education reform: the Title I program for disadvantaged students (including Title I schoolwide programs), using IDEA funds in Title I schoolwide programs, the Comprehensive School Reform Demonstration program, the Goals 2000 program, the Public Charter Schools program, and provisions in the Elementary and Secondary Education Act (ESEA) and IDEA that allow school districts to use program funds to connect students and their families to social and health services.

The second chapter explains how states, school districts, and schools can get waivers\* from federal requirements in education, training, and child nutrition laws and regulations. It discusses the waiver provisions in, for example, ESEA, the Goals 2000: Educate America Act, the Education Flexibility Partnership Act of 1999, the School-to-Work Opportunities Act, the Workforce Investment Act, and the National School Lunch Act. The chapter also describes how states and school districts are using education waivers.

Chapter three describes provisions to increase state and local administrative flexibility and reduce paperwork associated with federal programs. It explains flexibility in the Elementary and Secondary Education Act that allows states and school districts to consolidate their plans or applications for multiple federal education programs, to consolidate administrative funds from several federal education programs, and to shift “unneeded funds” from one ESEA program to another. It also describes how Congress and the U.S. Department of Education have reduced testing requirements for the Title I program and increased flexibility for states and school districts administering certain grants from the U.S. Department of Education. Finally, the chapter discusses administrative flexibility in the school meal programs, such as provisions to simplify the process of certifying student eligibility for free and reduced-price meals.

Every chapter of this guide includes examples of how states, school districts, and individual schools are using flexibility provisions to improve student achievement. Each example is written as a short case study describing the state, school district, or school; what specific flexibility they are using; and how they are using the flexibility. A list of these examples follows the table of contents.

There are also four ready-reference tables. *To Waive or Not to Waive?* (on pages 30–31) summarizes *which waiver authorities* apply to *which laws*. Other tables outline major Elementary and Secondary Education Act programs, which federal programs can be included in consolidated plans, and which federal administrative funds can be consolidated. A list of these tables follows the table of contents.

To help readers, Appendix I provides *Definitions of Terms Used in This Guidebook*. Throughout the book, technical terms, acronyms, and jargon marked with asterisks (\*) are defined in Appendix I.

Appendix II contains charts comparing the three general education waiver authorities.

Appendix III lists useful resources for those who wish to explore more fully the flexibility provisions in the federal laws covered in this guidebook. Appendix III also lists other publications of the IEL Policy Exchange and the Center on Education Policy.

## PROMOTING EDUCATION REFORM AND INNOVATION

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Few Americans would dispute that elementary and secondary schools in this country — especially those in low-income urban and rural areas — need improvement. However, there is little agreement about how best to accomplish this. Every state and community is different. What works well in one area may not work in another.

For these reasons — and since education is primarily a state and local responsibility rather than a federal one — the federal government has increasingly tried to provide flexible support for education reform. Rather than dictating how states, school districts, and individual schools must use federal funds to improve student learning, Congress has created programs that allow states and localities to design approaches that work for their students and communities.

This chapter outlines some of the most important federal programs and provisions supporting education reform and innovation.

### **The Revised Title I Program**

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Title I, Part A (usually referred to as “Title I”)<sup>7</sup> is the largest program in the federal Elementary and Secondary Education Act (ESEA). It provides nearly \$8 billion in total annual funding to support schools with high percentages of low-income children. Approximately 53,000 schools nationwide use these funds to provide additional instructional services — usually in reading and mathematics — to help low-achieving students meet their state’s academic standards. Title I funds also help schools improve their academic programs through such activities as curriculum development, summer or after-school programs, teacher training, and involving parents in their children’s education. More than 11 million children receive Title I services each year.

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**For More Information  
about the Title I Program**

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Contact your local Title I coordinator, your state education agency, or the U.S. Department of Education's Office of Compensatory Education Programs at

(202) 260-0826.

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**EXAMPLE OF  
A SCHOOL DISTRICT USING SEVERAL FEDERAL PROGRAMS  
to Support a Summer-School Program**

The Irvington School District, an urban, New Jersey, school district with 8,700 students, has successfully used federal funds from Title I and other programs for its summer school program. There are 11 schools in the district: five K-6 schools, four K-8 schools, one middle school, and one high school. Two of the six schools that receive Title I funds have enough low-income students to be eligible for schoolwide programs under Title I. Approximately 90 percent of the students are African-American, six percent are Hispanic, and four percent are white or "other." About 365 of the students have limited proficiency in English. Approximately 50 percent of students come from low-income families in which most parents work in low-wage jobs.

The school district offers a summer-school program for Title I and "at-risk" students with funding from a combination of federal resources, including funds from Title I, Innovative Education Program Strategies, the Eisenhower Professional Development Program, Safe and Drug-Free Schools and Communities, and the Summer Food Service Program. The school district started the summer-school program to improve student achievement and to maintain the academic gains students made during the school year. Teachers report that it is doing just that.

Irvington School District used funds from Title I and Innovative Education Program Strategies (ESEA Title VI) to hire a staff of 18, including teachers, a nurse, and a guidance counselor. Federal Eisenhower Professional Development (ESEA Title II) funds provided staff development for the teachers and purchased mathematics materials for students. Safe and Drug-Free Schools and Communities (ESEA Title IV) funds purchased books with anti-drug and anti-violence themes. The district also used the Summer Food Service Program administered by the U.S. Department of Agriculture to pay for student meals during the summer. (Source: Interviews with staff, Irvington School District, Irvington, New Jersey, 1997.)

ESEA outlines a process that school districts must use for selecting schools to receive Title I funds and for distributing funds to eligible schools.<sup>8</sup> If a school district has more than 1,000 students — or if the district has more than one elementary, middle, or high school — it must rank all of its "school attendance areas"\* by the percentage of low-income children living in each area on an annual basis. The school district must provide Title I funds to all schools in attendance areas in which 75 percent or more of the children come from low-income families before it serves any schools that have fewer low-income children. The school district must allocate Title I funds to these schools in rank order from highest to lowest concentrations of poverty. If funds remain after serving these schools, the school district may provide Title I funds to other eligible schools in rank order.<sup>9</sup> A school is eligible to receive Title I funds if it serves an attendance area in which the percentage of low-

income children is at least as high as the school district’s overall percentage of low-income children. Furthermore, according to the “35 percent rule,” a school district may designate any school or attendance area in which at least 35 percent of the children come from low-income families as eligible for Title I funds.

Two kinds of Title I programs operate in schools: schoolwide programs (described in more detail on page 10) and targeted assistance programs. If a school serves a community in which 50 percent or more of the children are low-income (or if at least 50 percent of the school’s students are low-income), it may operate its Title I program on a schoolwide basis.<sup>10</sup> Schoolwide programs allow schools to use their Title I funds — in combination with other federal, state, and local funds — to support academic improvement by *all* students, not just those eligible for Title I services.

Schools that are ineligible for — or that choose not to operate — schoolwide programs run Title I targeted assistance programs. These schools use their Title I funds to provide additional services only to children they identify as eligible for Title I services; that is, children who are failing, or most at-risk of failing, to meet their state’s academic standards.

Over its 30-year history, Title I has helped to improve the academic achievement of educationally disadvantaged children. However, Title I programs have not always complemented efforts to reform schools. Before the 1994 revision of ESEA,<sup>11</sup> Title I programs typically operated outside of the regular school program rather than as a part of it. As such, Title I was cumbersome to administer. Schools tended to keep Title I dollars and services separate from their regular programs in order to avoid problems with auditors. This “fiscal separation” meant that many states and school districts actually forbade teachers of Title I students from helping other students.

Now, federal law better supports integrating Title I with schools’ regular programs, as well as with other federal programs. Schoolwide programs allow schools to serve all students with a combination of Title I and other funds without having to account for expenses by each program. The law also actively discourages targeted assistance schools from removing Title I students from the regular classroom. The law now encourages these schools to provide additional services for Title I students by extending their learning time through after-school, summer, and other programs. The law also requires targeted assistance schools to coordinate Title I services with their regular programs and services.

In 1994, Congress amended ESEA to make clear that schools must expect Title I students to meet rigorous academic standards. Congress also redesigned Title I to be in sync with the standards-based education reform efforts

that all states and the District of Columbia are currently undertaking.<sup>12</sup> States must now establish challenging academic content and performance standards for students receiving Title I services. States that have established academic standards for all children — such as those developed by states participating in Goals 2000 — must also use those standards for Title I students. At a minimum, Title I requires states to have developed academic standards for Title I students in mathematics and reading/language arts by the beginning of the 1997–1998 school year.<sup>13</sup> Title I also requires that by the beginning of the 2000–2001 school year, states develop assessments (tests) that are aligned with states’ academic standards and that measure students’ knowledge and skills in at least mathematics and reading/language arts. If a state measures the academic performance of all children, it must use the same assessments for all children, including Title I students.

Finally, the 1994 ESEA amendments gave schools greater leeway to use Title I funds in ways that best meet their students’ needs. School staff in consultation with their school districts decide which eligible children to serve and how best to serve them. While one Title I school might choose to focus on developing reading skills, another school in the same district might use its Title I funds to support additional instruction in mathematics.

### ***Title I Schoolwide Programs***

Title I schoolwide programs are based on the premise that all children in low-income (“high-poverty”) communities are at an educational disadvantage. Therefore, these programs allow schools to improve their entire educational programs and serve all children, rather than provide services only to students identified as needing extra educational help.

Schools that operate Title I programs on a schoolwide basis have great flexibility in how they use their federal education funds. They can combine Title I funds with funds from most other federal education programs — including IDEA, Part B — without having to account for expenses by each separate program. Furthermore, schools with schoolwide programs do not have to comply with the specific statutory\* or regulatory\* requirements of most federal programs as long as they meet the overall “intent and purposes” of each program, and comply with all applicable health, safety, and civil rights requirements.<sup>14</sup> For example, a school that included its Eisenhower Professional Development funds in its schoolwide program would not have to comply with the Eisenhower requirement that it give priority to supporting professional development in mathematics and science. Such a school would meet the “intent and purposes” of the Eisenhower program by providing a

**EXAMPLE OF  
A SCHOOL DISTRICT USING TITLE I SCHOOLWIDE PROGRAMS  
to Operate Family Learning Centers**

The Elk Grove Unified School District in Sacramento County, California, is a growing district with 40,000 students, most from racial and ethnic minority groups. Sixty-six different languages are spoken among the students, and 41 percent are poor enough to qualify for free or reduced-price meals under the National School Lunch Program.

The district has 12 Title I schools, including ten elementary schools. Seven of the elementary schools already operate schoolwide programs; the other three are in the planning stage. At four of the schoolwide elementary schools, the district uses Title I funds to operate Twilight Family Learning Center programs for students and their parents.

Twilight programs begin after the regular school day ends. Although each school runs its program somewhat differently, all schools partner with their community's adult education program to hold adult literacy and other courses for parents of Title I students. For every 20 Title I students at a Twilight program, there is one teacher, a bilingual aide, a parent volunteer, and a high school student, who receives community service credit for tutoring younger students. Each school has a multi-purpose room, where students do their homework and receive extra help.

Twilight programs also use kindergarten classrooms from 4:00 to 7:00 p.m. to offer Title I preschool programs that teach young children the skills they will need in school. These programs also provide child care so that parents can participate in adult education classes. (Source: Interviews with staff, Elk Grove Unified School District, Sacramento, California, 1997.)

**EXAMPLE OF  
A SCHOOLWIDE PROGRAM  
Using Title I and Other Funds to Support Year-Round Schooling**

The Douglas MacArthur Elementary School in Cleveland, Ohio, runs a Title I schoolwide program that operates on a year-round schedule. Seventy percent of the 280 students are from minority groups, and 75 percent of students are from low-income families.

The year-round schedule consists of four ten-week periods of instruction, separated by four three-week vacations. MacArthur's students attend 13 more days of school than other students in the district. Title I funds helped the school reach out to parents and local businesses to build support for the year-round program. Title I funds, as well as funds from other sources, also support the additional instructional days.

The school receives additional federal funding through the ESEA Magnet Schools program, which helps school districts with court-ordered desegregation plans establish schools with special curricula to attract students from different racial backgrounds.

The 1997–1998 school year was the first that MacArthur operated year round, although the school began its Title I schoolwide program in 1996–1997. During the first year of operation as a schoolwide program, students at MacArthur scored 20 percent higher on the state's proficiency exam than during the previous school year. (Source: Interviews with staff, Cleveland Public Schools, Cleveland, Ohio, 1997.)

sustained program of high-quality professional development for school staff in core academic subjects that is aligned with the state's academic standards, reflects recent research on teaching and learning, and meets the educational needs of diverse groups of students. It would not have to document that it spent its Eisenhower funds specifically on professional development activities.

The major exception to this flexibility for schoolwide programs is in the Individuals with Disabilities Education Act. Schools that combine IDEA funds in their schoolwide programs still must meet all IDEA requirements.

The 1994 amendments to ESEA greatly increased the number of schools eligible to operate Title I schoolwide programs. Before 1994, only a school with at least 75 percent of its students from low-income families could operate a Title I schoolwide program. Now a school can operate a schoolwide program if at least 50 percent of the children living in its attendance area — or at least 50 percent of its students — come from low-income families. This change increased the number of schools qualified to operate Title I schoolwide programs from 9,654 in 1994, to 22,000 in 1998.<sup>15</sup> In addition, many schools have received federal waivers,\* allowing them to operate schoolwide programs when less than 50 percent of their children come from low-income families. (See the chapter on waivers, especially page 60.)

## **IDEA and Schoolwide Programs**

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In 1997, Congress amended the Individuals with Disabilities Education Act (IDEA) to allow school districts to use a portion of their IDEA, Part B (Assistance for Education of All Children with Disabilities) funds in Title I schoolwide programs.<sup>16</sup> Before 1997, schools had to account for all IDEA funds separately, and could only use IDEA funds to provide eligible disabled students with special education and related services (such as transportation, counseling services, and speech-language pathology).

Although school districts that operate schoolwide programs are generally exempt from the specific requirements of each federal education program they combine, a school district that uses a portion of its IDEA funds to support a Title I schoolwide program must continue to meet all IDEA requirements. Likewise, a school district that combines a portion of its IDEA funds with other education funds must ensure that children with disabilities continue to have all of the rights — such as the right to a free appropriate public education — guaranteed by IDEA.

**EXAMPLE OF  
A SCHOOL USING FLEXIBILITY IN IDEA AND  
A TITLE I SCHOOLWIDE PROGRAM  
to Help All Children Succeed in School**

The Samuel W. Mason School in Boston, Massachusetts, serves approximately 320 students from preschool through grade five. The student body is approximately 53 percent African-American, 23 percent Cape Verdean, 11 percent Hispanic, and 13 percent white. More than 90 percent of the students are from low-income families and qualify for free or reduced-price meals. Twenty-four percent of the students are bilingual. The school population includes children with a broad range of disabilities who are eligible for special education services.

The Mason School has changed how it operates under the Individuals with Disabilities Education Act (IDEA) and other federal programs by emphasizing the school district's priority on serving disabled students in regular classrooms. In 1995, the Mason School moved to include all students with disabilities in regular classes. The school serves its students using federal, state, and local funding, including a Title I schoolwide program and IDEA funding.

Mason has reduced the size of its classes to less than 20 students. Each classroom has a paraprofessional and a teacher certified to teach both regular and special education. The paraprofessionals are paid interns from the Wheelock College teacher-training program.

Mason School provides intensive literacy instruction for all students, with 180 minutes of reading instruction each day, supplemented by Title I-funded after-school and summer programs. The school uses Safe and Drug-Free Schools and Communities funds to contract with a community-based organization to conduct counseling and therapy sessions at the school site and to provide direct interaction between therapists and teachers.

Intensive professional development has been the key to transformation at Mason School. All staff members, including the principal, teachers, paraprofessionals, and custodians, have individualized professional development plans. In 1996, the school received a national award from the U.S. Department of Education for its school-based professional development system. (Source: Interviews with staff, Boston Public Schools, Boston, Massachusetts, 1998.)

## **The Comprehensive School Reform Demonstration Program (“Obey-Porter”)**

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Since July 1998, federal Comprehensive School Reform Demonstration (CSRD) grants have been available to help school districts reform entire schools, especially Title I schools “in need of improvement.”<sup>17</sup> This program is often referred to as “Obey-Porter,” the names of its Congressional sponsors.

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**For More Information about the  
Comprehensive School Reform  
Demonstration Program**

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Contact your state education agency to determine if your state is participating in this program and to find out about application requirements.

To obtain a copy of the guidance developed by the U.S. Department of Education, contact the Office of Elementary and Secondary Education at

400 Maryland Avenue, SW  
Washington, DC 20202  
or  
(202) 205-4292

or download the guidance from the Internet at

[www.ed.gov/pubs/legsregs.html](http://www.ed.gov/pubs/legsregs.html).

Other resources are available on the Internet at

[www.ed.gov/offices/OESE/  
compreform/index.html](http://www.ed.gov/offices/OESE/compreform/index.html).

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CSRSD grants provide “seed money” to help under-achieving schools develop and implement comprehensive school-reform programs that are based on reliable research and have demonstrated effectiveness. A school may receive a CSRSD grant for up to three years and, therefore, must coordinate these funds with other federal, state, local, and private resources to sustain its reform program.

The 1998 Department of Education Appropriations Act provided \$145 million for CSRSD grants to states — \$120 million for grants aimed at Title I schools and \$25 million that are available to other schools.<sup>18</sup> States had until June 30, 1999, to apply to the U.S. Department of Education for fiscal year 1998 funds (that will remain available for state education agencies\* and school districts to obligate until September 30, 2000). States apply to the U.S. Department of Education for formula grants\* and then award competitive subgrants to school districts. School districts then award schools minimum annual grants of \$50,000.<sup>19</sup>

The U.S. Department of Education distributes most of the money (\$120 million) to the states based on their Title I allocations.<sup>20</sup> School districts can compete for these funds on behalf of those schools that are eligible to participate in Title I, Part A. The remaining \$25 million are distributed to states based on their share of the school-age population in the United States.<sup>21</sup> School districts can compete for these funds on behalf of any school, not just Title I schools.

The federal fiscal year 1999 omnibus appropriations bill increased CSRSD funding to \$175 million, including \$145 million to support existing CSRSD grants to schools. The additional money supports increased technical assistance for schools undertaking comprehensive reforms and funds additional studies to evaluate and develop school-reform models.

In order to qualify for a CSRSD grant, a school must incorporate nine components in its comprehensive reform program. Schools and districts are free to design their own comprehensive reform programs, as long as they meet the following nine criteria:

1. effective, research-based methods and strategies;
2. a comprehensive design with aligned components structured to reform the entire school and enable all students to meet the state’s academic standards;
3. professional development for staff;

4. measurable goals and benchmarks for student performance, linked to the state's academic standards;
5. support of school faculty, administrators, and staff for the program;
6. parental and community involvement in planning and implementing the program;
7. external technical support and assistance from an entity — such as a university or external reform model developer — with experience in schoolwide reform;
8. strategies for evaluating results achieved through implementation of the reform plan; and
9. coordination of CSRD funds with other federal, state, local, and private resources available to the school to sustain the reform program.

Federal law and the U.S. Department of Education encourage states to select grantees that use externally developed models of school reform that have demonstrated effectiveness and replicability. The statute\* lists 17 reform models — including Success for All (developed by Robert Slavin and Nancy Madden of Johns Hopkins University) and High Schools That Work (developed by the Southern Regional Education Board) — as examples that schools might adopt for their CSRD programs. In all, the 231 schools receiving CSRD grants as of January 1999, were using more than 60 different approaches.<sup>22</sup>

The U.S. Department of Education encourages state education agencies to give preference to school districts that will fund Title I schools identified as “in need of improvement” and other schools with indicators of need for reform, such as high drop-out rates. The Department also encourages states to award grants to schools that are in different geographic areas and that serve different grade levels.

## Goals 2000

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In 1994, Congress created the Goals 2000 program with the Goals 2000: Educate America Act.<sup>23</sup> This program provides flexible aid to states and school districts to help them plan and implement comprehensive education reform aimed at enabling all students to meet challenging academic standards. Forty-eight states, the District of Columbia, and Puerto Rico receive federal Goals 2000 grants. The other two states, Montana and Oklahoma, allow their school districts to apply directly to the U.S. Department of Education for these funds.<sup>24</sup>

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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**For More Information about the  
Goals 2000 Program**

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Contact your state education  
agency or the U.S. Department of  
Education's Goals 2000 Office at  
(202) 401-0039.

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The U.S. Department of Education gives states and school districts broad latitude to determine how to use Goals 2000 funds. Within the context of a comprehensive education reform plan, a state may use its Goals 2000 funds to support a broad range of state and local activities, such as developing academic standards and assessments, developing curricula, activities to increase parent and community involvement in schools, and learning opportunities for teachers. The law requires each state to award at least 90 percent of its Goals 2000 funds to school districts on a competitive basis. At the local level, these grants support three general kinds of activities: improvement of programs for training new teachers; professional development for teachers and other faculty; and development and implementation of school districts' standards-based, comprehensive reform plans.

A state that chooses to participate in the Goals 2000 program must develop and implement a comprehensive education improvement plan, describing how it will improve educational achievement for all students. To receive Goals 2000 funds, a state must either submit its plan to the U.S. Department of Education for approval or submit assurances to the Secretary of Education that certify that it has developed a plan meeting the requirements of Goals 2000. The latter option is known as "alternative submission"\* of a state improvement plan.\*

Participating states must develop (or adopt) and implement challenging academic standards that outline what students should know and be able to accomplish in core subject-matter areas such as mathematics, science, English/language arts, and history. States must also establish assessments to measure students' knowledge and skills in relation to the standards. Participating states also align other reform activities, such as curriculum development and teacher training, to the standards.

To give states maximum flexibility, the U.S. Department of Education did not develop regulations\* for Goals 2000. Instead, the Department focuses on monitoring state progress to improve student achievement. Each state's education agency\* must report annually on its progress toward meeting its goals.

**EXAMPLE OF  
USING GOALS 2000  
to Develop and Implement a Plan for Education Reform**

With the assistance of Goals 2000, Vermont has continued a strong tradition of community participation and support for high levels of academic achievement. The state's "Green Mountain Challenge," a five-year plan to reform the state's entire educational system, establishes high standards for what students should know and accomplish and transforms learning experiences so that all students can meet these standards. The guiding principle behind the plan is to ensure "High skills for all students: No exceptions, no excuses."

Vermont has also allocated small amounts of money for several other initiatives. Four schools will help to develop community support plans. For example, some schools are implementing a "Neighborhood Watch for School Improvement" based on the popular anti-crime Neighborhood Watch program.

The state has also given grants to three schools to develop new professional-development models. These "professional development schools" will focus on developing models for training new teachers in school settings, as well as new collaborations between higher education and schools to provide additional training for classroom teachers. (Source: Goals 2000 background sheet from the Office of Elementary and Secondary Education, U.S. Department of Education, February 1996.)

## The Public Charter Schools Program

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The 1994 amendments to the Elementary and Secondary Education Act created the Public Charter Schools program to help states establish charter schools.<sup>25</sup> In 1998, the Charter School Expansion Act amended ESEA and provided additional support for the development of charter schools.<sup>26</sup>

Charter schools are public elementary or secondary schools that are exempt from many state and local requirements. The theory behind charter schools is that freeing schools from restrictive rules and regulations\* will foster innovation and experimentation and enable schools to educate students more effectively. Accordingly, a provision of the Public Charter Schools program allows the U.S. Secretary of Education to waive most federal education requirements. (See pages 38–39 for more information about the Public Charter Schools waiver authority.)

The law outlines specific conditions that define charter schools and that cannot be waived.<sup>27</sup> According to the law, a charter school must be a public school that:

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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**For More Information  
about the Public Charter  
Schools Program**

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Contact your state education agency, or the U.S. Department of Education's Office of School Improvement Programs at  
(202) 260-2671.

Or, visit the U.S. Department of Education sponsored Website at  
[www.uscharterschools.org](http://www.uscharterschools.org).

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- operates under a state law specifically authorizing charter schools and, through exemptions from state and local laws and regulations, has greater flexibility in management and operation than other public schools;
- is created by a developer as a public school, or is adapted from an existing public school;
- has specific educational objectives;
- provides a program of elementary and/or secondary education;
- is nonsectarian;
- does not charge tuition;
- complies with all applicable civil rights laws, including Part B of the Individuals with Disabilities Education Act (IDEA);
- is a school to which parents choose to send their children and that uses a lottery system to admit students, if more students apply for admission than can be accommodated;
- complies with federal and state audit requirements applicable to other elementary and secondary schools, unless the school receives a waiver of these requirements;
- complies with all applicable health and safety requirements;
- complies with state law; and
- has a written performance contract with an authorized public chartering agency that describes how the charter school measures student performance using assessments, including, at a minimum, the state assessments required of other schools.

The ESEA Public Charter Schools program provides funds on a competitive basis to state education agencies\* in states that have state charter school laws. In awarding grants, the law requires the U.S. Secretary of Education to give priority to states whose chartering agencies review and evaluate charter schools at least once every five years. In addition, the U.S. Department of Education gives funding priority to states that meet one or more of the following criteria:

- The state has increased its number of high-quality charter schools prior to receiving a federal Public Charter Schools grant.

- The state has an authorized chartering agency (or agencies) other than school districts (such as a state chartering board) or has an appeals process for charter applications denied by school districts.
- The state ensures that charter schools have a great deal of control over their budgets and expenditures.

A state education agency that receives Public Charter Schools funds awards subgrants on a competitive basis to individual charter-school developers for up to three years. Charter-school developers assisted under this program must identify objectives they plan to achieve, monitor progress in reaching these goals, and annually report progress to their state education agencies.

If a state has charter school laws but does not participate in the ESEA Public Charter Schools program, an authorized public chartering agency or an individual charter-school developer may apply for funds directly from the U.S. Department of Education. The law defines an authorized public chartering agency as a state education agency, local education agency,\* or other public entity that is approved by the U.S. Secretary of Education and empowered by state law to authorize or approve a charter school.

A chartering agency or individual charter-school developer may use the federal grant for up to 18 months of planning and program design and for up to two years of initial implementation, not to exceed three years in total. As a result of the Charter School Expansion Act of 1998, charter schools may now apply for dissemination grants of up to two years.<sup>28</sup> These grants fund successful charter schools to share information with other public schools and charter-school developers about practices that improve teaching and student learning. To be eligible for a dissemination grant, a charter school must have been in operation for at least three years and have demonstrated overall success.

In addition to Public Charter Schools program funds, states and school districts can use their Goals 2000 funds to promote charter schools. Also, the Charter School Expansion Act of 1998 allows states and school districts to use their Innovative Education Program Strategies (ESEA Title VI) funds for planning, designing, and implementing charter schools, consistent with the Public Charter Schools program.

## **Coordinating Social, Health, and Education Services**

In 1994, Congress first allowed school districts to use a portion of their Elementary and Secondary Education Act funds to help students and their families access social, health, and education services. In 1997, Congress

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### **States Participating in the Public Charter Schools Program (as of April 1999)**

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Alaska	Minnesota
California	Mississippi
Colorado	Missouri
Connecticut	New Jersey
Delaware	North Carolina
District of Columbia	Ohio
Florida	Pennsylvania
Georgia	Puerto Rico
Illinois	Rhode Island
Kansas	South Carolina
Louisiana	Texas
Massachusetts	Wisconsin
Michigan	

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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**For More Information  
about Coordinating Services  
under ESEA Title XI**

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Contact the U.S. Department of  
Education's Office of Elementary  
and Secondary Education at  
(202) 401-0113.

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further allowed school districts to use some of their Individuals with Disabilities Education Act money to coordinate these services. Both of these provisions allow school districts to use a percentage of the funds they receive under ESEA and IDEA programs as “glue money” to link schools with community services and to create an effective system of services for children and their families. These activities, often referred to as “coordinated services projects,” provide a way for schools to address factors outside the classroom, such as inadequate or substandard nutrition and poor health care and living conditions, that can limit a child’s ability to learn and reach high academic standards.

### ***Using ESEA Funds to Coordinate Services***

Under Title XI of ESEA, a school district may use up to five percent of its total ESEA funds to coordinate social, health, and education services for students and their families.

Funding reallocated under Title XI must be approved by the U.S. Assistant Secretary for Elementary and Secondary Education. These funds may be used to develop, implement, or expand a coordinated services project. Funds for developing a project may be used for up to one year. A school district also may apply for approval to implement or expand its coordinated services project. Once approved, a school district or school’s plan to implement or expand a coordinated services project remains in effect for the duration of the district or school’s participation in Title XI or for the period that the program is authorized by Congress (through FY 1999 or school year 1999–2000), whichever comes first.

The U.S. Department of Education has issued *Preliminary Nonregulatory Guidance for Coordinated Services Projects* to help schools and school districts take advantage of the funding flexibility in Title XI. This guidance\* encourages schools and school districts participating in Title XI to reallocate funds from multiple ESEA programs to ensure that they will have adequate resources to continue to meet the requirements of all their ESEA programs. The guidance makes it clear that using the flexibility to coordinate services does *not* release a school or school district from its obligation to carry out the activities required for all its ESEA programs; and, when a participating school or school district applies for future ESEA program grants, it should outline any plans to use funds for Title XI purposes.

ESEA funds reallocated for coordinated services projects may be used to:

- hire a services coordinator;

- make minor renovations to existing buildings;
- purchase basic operating equipment;
- improve communications and information-sharing among entities participating in the coordinated services project;
- provide training to teachers and appropriate personnel concerning their roles in a coordinated services project; and
- conduct the required needs assessment.

Funds may not be used to provide any direct health-related service (such as vision and hearing testing, physical or dental examinations, or eyeglasses and hearing aids) or to supplant\* non-federal funds.<sup>29</sup>

A school district (on behalf of a school, group of schools, or itself) or a school, if it has no governing school district, can apply directly to the Assistant Secretary for Elementary and Secondary Education to use ESEA funds for coordinating services. The California Department of Education and the Colorado Department of Education have received waivers\* under the ESEA general waiver authority that enable them (rather than the U.S. Department of Education) to approve Title XI coordinated services requests from their school districts.

The law requires that applicants conduct a needs assessment of the barriers to educational achievement — economic, social, and health — experienced by children and families in their community. Applicants must also survey the services available from other agencies in their community to meet the needs of children and families. Useful data readily available at the school and school-district levels include student absentee rates and the number of children entering school with health problems. Data from other agencies, such as child-abuse rates, can also be used.

School districts can submit coordinated services applications at any time during the year. Applicants must give the public a reasonable opportunity to comment on the application before submitting it to the U.S. Department of Education. The Department also encourages applicants to provide a copy of the application to their state education agency.\*

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

**EXAMPLE OF  
USING ESEA FUNDS TO COORDINATE  
SOCIAL, HEALTH, AND EDUCATION SERVICES**

The U.S. Assistant Secretary for Elementary and Secondary Education approved a request from the Los Angeles Unified School District to use up to five percent of its ESEA funds to coordinate social, health, and education services, in accordance with Title XI of ESEA.

Seventy-eight percent of the L.A. Unified School District's 681,000 students come from low-income families. These students are predominantly Hispanic (68 percent). Fourteen percent of the students are African-American, 11 percent are white, four percent are Asian, two percent are Filipino, and less than one percent are Pacific Islander and Native American. About one-third of the students do not have health insurance and are served by the school district's school-based health clinics.

With assistance from a state program, the district was already providing health and social services at several schools and other locations in the district. But the L.A. Unified School District officials realized that these services were not available at every school where students needed them. To address this need, staff reviewed services available, either through the schools or other agencies, and developed a plan to restructure them.

Under this plan, each of the 27 school "clusters" in Los Angeles uses the funds provided through the Title XI authority to hire a person to coordinate services. (A cluster consists of the high schools, middle schools, and elementary schools that serve a common attendance area.) Coordinators report to the cluster administrators. The school district's central office provides technical assistance and helps connect the school cluster to the county agencies that provide social and health services. The clusters have a great deal of autonomy in planning their coordinated services projects — each cluster determines which services their community needs most.

Before it was able to use five percent of its ESEA funds to coordinate social, health, and education services, the L.A. Unified School District had only three school-based health clinics, all located in high schools and serving only high-school students. Now these clinics serve students from all grade levels. In addition, the school district has opened seven more school-based health clinics in the past year, and 14 new private-public partnerships provide health services to children through mobile clinics or community-linked health provider programs. (Source: Interviews with staff, Los Angeles Unified School District, Los Angeles, California, 1997.)

**2000 Update:** The Los Angeles Unified School District originally applied directly to the U.S. Assistant Secretary for Elementary and Secondary Education to use up to five percent of its ESEA funds to coordinate social, health, and education services. Since that time, the California Department of Education has requested and received a waiver from the U.S. Department of Education to allow the *state education agency* to approve Title XI coordinated services applications from California school districts. (See the example on page 35.)

### ***Using IDEA Funds to Coordinate Services***

The 1997 amendments to the Individuals with Disabilities Education Act allow school districts to use not more than five percent of their IDEA, Part B (Assistance for Education of All Children with Disabilities) funds to develop and implement coordinated services systems that improve results for children and families.<sup>30</sup> School districts may use these funds, in combination with other funds, to improve the effectiveness and efficiency of services, including coordinating IDEA services with state and local services and such federal programs as Medicaid.\* School districts can use these funds to develop and implement ways to pay for services across education, health, mental health, and social services agencies, or to provide professional development opportunities for staff from all agencies involved in coordinating services.

School districts that elect to use up to five percent of their IDEA funds to coordinate services must also use non-education funds for this purpose. In addition, a school district that operates a coordinated services project using both ESEA and IDEA funds *in the same schools* must use its IDEA funds in accordance with ESEA Title XI requirements.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.



## WAIVING FEDERAL REQUIREMENTS

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This chapter explains federal waiver authorities\* that affect schools. It outlines criteria for applying for waivers from federal education, job-training, and school meal program requirements. It also describes how states and school districts are actually using education waivers.

In the context of federal education, job-training, and school meal programs, a **waiver** is a mechanism that allows a school, school district, state education agency, or state to be temporarily excused from complying with a particular requirement of a law or regulation.\* For example, the federal government may waive such legal requirements as deadlines imposed on states or criteria for allocating federal funds to school districts.

A **waiver authority** is a provision in a statute\* or regulation that empowers a federal official (or in some instances a state official) to waive certain legal requirements. The name of a waiver authority refers to the law that *grants permission to waive* requirements, not necessarily to the law or regulation that may be waived. For example, the Goals 2000 general waiver authority is the provision in the Goals 2000 statute that allows the U.S. Secretary of Education to waive requirements in the Elementary and Secondary Education Act (ESEA) and the Carl D. Perkins Vocational and Technical Education Act. The Goals 2000 waiver authority does *not* allow the Secretary to waive any part of the Goals 2000 law.

The federal waiver authorities described in this chapter are administered by three separate federal departments and, for Ed-Flex and Work-Flex, by some state agencies as well. It is important to contact the appropriate federal or state agency when preparing a waiver request. Policies affecting waivers may change and having a federal or state “partner” may save time and energy.

The **U.S. Secretary of Education** may waive both statutory and regulatory requirements of many federal elementary and secondary education programs, with the notable exception of the Individuals with Disabilities Education Act (IDEA). The Secretary’s waiver authority is contained in three different federal laws:

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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**For More Information about  
Education Waivers**

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Contact your state education agency  
or call the U.S. Department of  
Education's Waiver Assistance Line  
at

(202) 401-7801  
or  
(800) USA-LEARN.

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- the Elementary and Secondary Education Act (ESEA), which contains three separate waiver authorities: a general waiver authority that covers many federal education programs, an authority for waivers that are only available to school districts operating under court-ordered or state-ordered desegregation plans, and an authority for waivers that are only available to public charter schools;
- the Goals 2000: Educate America Act, which contains a general waiver authority covering many programs; and
- the School-to-Work Opportunities Act, which also contains a general waiver authority covering many programs.

**State education agencies\*** that participate in the Education Flexibility Partnership (Ed-Flex) program may also waive many federal education requirements.

*(For a summary of programs covered by each education waiver authority, see Table 1, To Waive or Not to Waive, on pages 30–31. Also see Appendix II for tables comparing the three general education waiver authorities in ESEA, Goals 2000, and the School-to-Work Opportunities Act.)*

The **U.S. Secretary of Labor** may waive many requirements of federal job-training programs under waiver authorities contained in the School-to-Work Opportunities Act, the Workforce Investment Act (WIA), and Labor Department appropriations bills and regulations.

**States** that participate in the Workforce Flexibility Partnership (Work-Flex) program may also waive many requirements of federal job-training programs.

Finally, the National School Lunch Act allows the **U.S. Secretary of Agriculture** to waive some requirements of the child nutrition programs, including the school meal programs.

## Waiver Strategies

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Think strategically when exploring waivers from federal education or training requirements. First decide what needs to be done to improve student outcomes. Then identify what specific rules in federal laws or regulations,\* if any, stand in the way. A waiver\* may not be needed after all. In fact, nearly a third of all waiver requests received by the U.S. Department of Education were withdrawn when applicants realized that there was no *federal* barrier to doing what they wanted to do.<sup>31</sup>

If a waiver is needed, consider the various waiver options and determine which option will best meet the needs of the state education agency, school

district, or school. Waivers available under each of the education waiver authorities vary in length of time, who is eligible to apply, what program requirements can and cannot be waived, and whether the state education agency\* must approve the waiver request. For example, a waiver granted under ESEA cannot exceed three years, while a waiver under the School-to-Work Opportunities Act can last up to five years, and waivers under Goals 2000 may be granted for four years.

The three general education waiver authorities also have different eligibility requirements. Under the ESEA general waiver authority, a school district may apply directly to the U.S. Department of Education for a waiver. However, under the Goals 2000 general waiver authority, only the state education agency may submit a waiver request to the U.S. Department of Education on behalf of a school district — an individual school district cannot apply on its own.

Congress can create waiver authorities and take them away. Consequently, it is a good idea to stay informed about relevant activities in both the legislative and executive branches. For example, the recently enacted Education Flexibility Partnership Act allows all states to apply for Ed-Flex authority to waive many requirements of federal education laws and regulations. School or school-district administrators who are seeking federal waivers should understand Ed-Flex; find out if their state education agency is applying for Ed-Flex status; and, if so, explore working with their state education agency, rather than the U.S. Department of Education, to get a federal waiver.

## The Basic Outline for Requesting a Waiver

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There is no standard format for requesting a waiver.\* The U.S. Department of Education allows applicants to submit waiver requests in the manner that best meets their needs and circumstances. Although each of the three general education waiver authorities requires applicants to include specific information in their waiver requests, all require the same basic information. Waiver applicants must:

- identify the specific statutory\* or regulatory\* requirement(s) for which the waiver is sought;
- describe why the waiver is needed;
- describe the specific, measurable educational goals the applicant expects to achieve as a result of the waiver;
- describe relevant *state* requirements that have already been waived, or outline steps the state will take to remove any state statutory and regulatory barriers similar to the federal requirements that the applicant seeks to waive;

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### Send Completed Requests for Education Waivers

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under the ESEA, Goals 2000, and School-to-Work Waiver Authorities to  
 Assistant Secretary for Elementary  
 and Secondary Education  
 U.S. Department of Education  
 Washington, DC 20202  
 Attention: Waiver Action Board.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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**Deadlines — April 1 and October 1**

April 1 of each year is the deadline to submit requests to the U.S. Department of Education for waivers that state education agencies, school districts, or schools plan to implement the following fall. October 1 is the deadline for submitting waiver requests to be implemented in the spring. The U.S. Department of Education may consider exceptions to these deadlines if the requested waivers would not disrupt ongoing school activities. For more information about deadlines, call the U.S. Department of Education's Waiver Assistance Line at

(202) 401-7801.

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- describe how interested parties (such as parents and teachers) were notified of and involved in the waiver request; and
- describe how progress in implementing the waiver will be measured.

It is important to work with the state as well as the appropriate federal office (i.e., the U.S. Departments of Education, Labor, or Agriculture, or the National School-to-Work Office) at this early stage to make sure that a waiver is really needed and, if so, that the request is complete, ensuring that it will move smoothly through the review process. Read the Education Department's excellent *Waiver Guidance* that outlines the specific criteria for waivers under Goals 2000, ESEA, and the School-to-Work Opportunities Act.<sup>32</sup> An appendix to the publication also explains how best to apply for waivers of Title I targeting and schoolwide program requirements, which are the most commonly requested types of waivers.

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## How the Waiver Review Process Works at the U.S. Department of Education

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After a school (through its school district), school district, or state education agency\* has compiled the required information, including all of the supporting documentation, the next step is to submit the request to the U.S. Department of Education. The Department's staff then reviews the application and prepares a memorandum for the appropriate Assistant Secretary. The decision to approve or deny a waiver request is made by the Assistant Secretary responsible for the program(s) affected by the proposed waiver (often the Assistant Secretary for Elementary and Secondary Education). The Department's goal is to reach a decision on waiver requests within 60 days after they are received.

Under the School-to-Work waiver authority, an applicant may receive waivers from both education and Job Training Partnership Act (JTPA) provisions. The procedure the federal government uses to review these requests varies, depending on whether the requests cover only education programs, both education and JTPA programs, or only JTPA programs. (JTPA falls under the jurisdiction of the U.S. Department of Labor.)

Requests for education waivers under the School-to-Work waiver authority are handled by the U.S. Department of Education. Requests for waiving *only* JTPA provisions should be sent to the National School-to-Work Office, an office jointly administered by the U.S. Departments of Education and Labor. If an applicant wishes to waive *both* education and JTPA provisions, the completed requests should be sent to both the U.S. Department of Education and the National School-to-Work Office.

Assuming they are eligible, applicants may seek waivers under more than one waiver authority. For example, a state education agency might simultaneously seek a waiver of a Title I provision *under the ESEA general waiver authority* and a waiver of a provision in the Carl D. Perkins Vocational and Technical Education Act *under the Goals 2000 waiver authority*. (For a quick reference of the programs covered by the education waiver authorities, see Table 1, *To Waive or Not to Waive*, on pages 30–31.) In fact, the U.S. Department of Education encourages school districts and state education agencies to submit comprehensive waiver requests rather than several separate requests so that applicants will consider the “big picture” of how the waivers may work together. Consolidating waiver requests does not jeopardize the component parts, as the Secretary of Education may decide to approve only part of a multi-part waiver request.

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**Send Completed Requests  
for JTPA Waivers**

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under the School-to-Work Waiver Authority to

Director  
National School-to-Work Office  
400 Virginia Avenue, SW  
Suite 210  
Washington, DC 20024.

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## **The Elementary and Secondary Education Act General Waiver Authority**

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The Elementary and Secondary Education Act (ESEA) contains the majority of federal programs assisting elementary and secondary schools. Under ESEA, every state education agency\* and almost every school district receives funding for such activities as services for educationally disadvantaged students, professional development for teachers, and anti-drug education programs.

State education agencies and school districts may apply to the U.S. Department of Education for waivers\* under the ESEA general waiver authority.<sup>33</sup>

A waiver granted under the ESEA general waiver authority may last up to three years.

ESEA requires states to report on waivers granted under both the ESEA general waiver authority and the Title I desegregation waiver authority (described in the next section). After two years of operating with a waiver, and after each subsequent year, school districts must submit progress reports to their state education agencies. State education agencies must submit annual reports to the U.S. Department of Education based on the reports of school districts and describing the state’s performance under any state-level waivers that have been in effect for two or more years.

### ***Provisions That Can Be Waived***

The ESEA general waiver authority allows the U.S. Secretary of Education to waive any statutory\* or regulatory\* requirement of ESEA, with the exception of the requirements listed below and those relating to Title VIII — Impact

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

**TABLE 1.  
TO WAIVE OR NOT TO WAIVE? THAT IS THE QUESTION.**

Name of the Waiver Authority	Which Programs Does This Waiver Authority Cover?					
	Elementary and Secondary Education Act Programs					
	Title I	Title II	Title III	Title IV	Title V	Title VI
<b>Elementary and Secondary Education Act</b>						
General Waiver Authority*	✓	✓	✓	✓	✓	✓
Title I Desegregation Waiver Authority	✓					
Public Charter Schools Waiver Authority*†	✓	✓	✓	✓	✓	✓
<b>Goals 2000: Educate America Act</b>						
General Waiver Authority*	✓	✓		✓		✓ (Part C only)
Ed-Flex Demonstration Program*	✓	✓ (Part A, Subpart 2 only)	✓ <sup>s</sup>	✓		✓ (Part C only)
<b>School-to-Work Opportunities Act</b>						
General Waiver Authority*	✓	✓		✓		✓ (Part C only)
<b>Education Flexibility Partnership Act of 1999*</b>	✓	✓ (Part B only)	✓ (Part A, Subpart 2 only)	✓		✓

All waiver authorities are not created equal. This table shows which programs are covered by each federal education waiver authority. A ✓ means that the waiver authority allows for waivers of some or all program requirements. Review the chapter on “Waiving Federal Requirements” for important details, such as what may not be waived and who can apply. Also review page 32 for details on the programs and provisions in each title of the Elementary and Secondary Education Act.

	Perkins Vocational & Technical Education Act	Job Training Partnership Act
<div style="display: flex; justify-content: space-around;"> <div style="width: 20%; height: 40px; background-color: #cccccc;"></div> <div style="width: 20%; height: 40px; background-color: #cccccc;"></div> <div style="width: 20%; height: 40px; background-color: #cccccc;"></div> <div style="width: 20%; height: 40px; background-color: #cccccc;"></div> </div>		

\* These waiver authorities also allow for waivers of some provisions of the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR) as they apply to the covered programs.

† The Public Charter Schools waiver authority applies to requirements of all federal education laws and regulations (including ones not listed here) except those requirements in Title X, Part C of ESEA relating to the elements of a charter school. For example, the Secretary of Education may not waive the requirement that charter schools comply with the Individuals with Disabilities Education Act (IDEA).

§ The Education Flexibility Partnership Act of 1999 added Title III — Technology for Education, Part A, Subpart 2 (Technology Literacy Challenge Fund) to the programs that Ed-Flex Demonstration States may waive.

**TABLE 2.**  
**PROGRAMS AND PROVISIONS OF THE ELEMENTARY AND SECONDARY**  
**EDUCATION ACT**

**Title I     Helping Disadvantaged Children Meet High Standards**

Part A — Improving Basic Programs Operated by Local Educational Agencies; Part B — Even Start Family Literacy Programs; Part C — Education of Migratory Children; Part D — Prevention and Intervention for Children and Youth Who Are Neglected, Delinquent or at Risk of Dropping Out; Part E — Federal Evaluations, Demonstrations and Transition Projects; Part F — General Provisions

**Title II     Dwight D. Eisenhower Professional Development Program**

Part A — Federal Activities; Part B — State and Local Activities; Part C — Professional Development Demonstration Project; Part D — General Provisions

**Title III    Technology for Education**

Part A — Technology for Education of All Students; Part B — Star Schools Program; Part C — Ready-to-Learn Television; Part D — Telecommunications Demonstration Project for Mathematics; Part E — Elementary Mathematics and Science Equipment Program; Part F — Elementary and Secondary School Library Media Resources Program

**Title IV    Safe and Drug-Free Schools and Communities**

Part A — State Grants for Drug and Violence Prevention Programs

**Title V     Promoting Equity**

Part A — Magnet Schools Assistance; Part B — Women's Educational Equity; Part C — Assistance to Address School Dropout Problems

**Title VI    Innovative Education Program Strategies** (formerly Chapter 2)

Part A — State and Local Programs; Part B — State Programs; Part C — Local Innovative Education Programs; Part D — General Administrative Provisions

**Title VII   Bilingual Education, Language Enhancement and Language Acquisition Programs**

Part A — Bilingual Education; Part B — Foreign Language Assistance Program; Part C — Emergency Immigrant Education Program; Part D — Administration; Part E — General Provisions

**Title VIII  Impact Aid**

**Title IX    Indian, Native Hawaiian, and Alaska Native Education**

Part A — Indian Education; Part B — Native Hawaiians; Part C — Alaska Native Education

**Title X     Programs of National Significance**

Part A — Fund for the Improvement of Education; Part B — Gifted and Talented Children; Part C — Public Charter Schools; Part D — Arts in Education; Part E — Inexpensive Book Distribution Program; Part F — Civic Education; Part G — Allen J. Ellender Fellowship Program; Part H — De Lugo Territorial Education Improvement Program; Part I — 21st Century Community Learning Centers; Part J — Urban and Rural Education Assistance; Part K — National Writing Project; Part L — The Extended Time for Learning and Longer School Year; Part M — Territorial Assistance

**Title XI    Coordinated Services**

**Title XII   School Facilities Infrastructure Improvement Act**

**Title XIII  Support and Assistance Programs to Improve Education**

Part A — Comprehensive Regional Assistance Centers; Part B — National Diffusion Network; Part C — Eisenhower Regional Mathematics and Science Education Consortia; Part D — Technology-Based Technical Assistance

**Title XIV   General Provisions**

Part A — Definitions; Part B — Flexibility in the Use of Administrative and Other Funds; Part C — Coordination of Programs, Consolidated State and Local Plans and Applications; Part D — Waivers; Part E — Uniform Provisions; Part F — Gun Possession; Part G — Evaluations; Part H — Sense of the Congress

Aid.\* This waiver authority also allows the Secretary to waive some requirements of the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR) as they apply to the covered programs.

(See Table 2 on page 32 for an outline of programs and provisions under each title of ESEA.)

### ***Provisions That Cannot Be Waived***

Under the ESEA general waiver authority, the U.S. Secretary of Education cannot waive any statutory or regulatory requirement relating to:

- the allocation or distribution of funds to states, school districts, or other recipients of funds;
- maintenance of effort;\*
- comparability of services;\*
- use of federal funds to supplement, not supplant,\* non-federal funds;
- equitable participation of private school students and teachers;
- parental participation and involvement;
- civil rights;
- the elements of a charter school (under Part C of Title X) (see page 18); or
- prohibitions regarding state aid and use of funds for religious worship or instruction.

Important sections of the General Education Provisions Act that cannot be waived are the Family Educational Rights and Privacy Act\* and the Protection of Pupil Rights Act.\*<sup>34</sup>

### ***Eligibility for Waivers***

A **state education agency** may apply to the U.S. Department of Education for a waiver on its own behalf or on behalf of its school districts or schools.

A **school district** may apply *directly* to the U.S. Department of Education for a waiver on behalf of itself or an individual school. Before doing so, the school district must submit the waiver request to the state education agency for review. When the school district submits the final waiver request to the

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\* See Appendix I — *Definitions of Terms Used in This Guide Book.*

Department, it must include the comments of the state education agency. The state does not have authority to approve or disapprove a waiver request.

An **Indian tribe** may apply to the U.S. Department of Education for waivers on behalf of schools operated by the tribe.

### ***Applying for Waivers***

Within the basic outline of waiver applications discussed earlier, waiver requests under the ESEA general waiver authority must describe:

- affected federal programs;
- requirements to be waived, and how the waiver will improve teaching and learning;
- specific, measurable educational improvement goals and anticipated results for all affected students;
- the methods that will be used to measure these goals and outcomes;
- how schools will continue to provide assistance to the population groups served by programs for which waivers are requested; and
- the relevant state or local requirements, if any, that will be waived, and how the waiver would help achieve stated objectives.

Before submitting a waiver application under ESEA, state education agencies and local school districts must do some specific outreach.

- State education agencies must notify all interested school districts and the public about their waiver requests and provide them with an opportunity to comment. State education agencies must submit school districts' comments to the U.S. Department of Education along with the waiver requests.
- School districts (or schools through their school districts) seeking waivers must give their state education agency an opportunity to review the requests. Any comments from the state education agency must be included with the formal waiver application to the U.S. Department of Education. School districts must also inform the public of their waiver requests in the same way that they normally notify the public about important changes. The U.S. Department of Education encourages, but does not require, school districts to include these public comments as part of their waiver applications.

**EXAMPLE OF  
A WAIVER UNDER THE ESEA GENERAL WAIVER AUTHORITY  
Allowing a State to Use Eisenhower Professional Development Funds  
for Social Studies and Reading, Rather Than for Math and Science**

In Missouri, both high-achieving and low-achieving students do better in mathematics and science than in reading and social studies, as measured by the Missouri Mastery and Achievement Tests (MMAT). To raise student achievement in reading and social studies, the Missouri Department of Elementary and Secondary Education used the ESEA general waiver authority to request a waiver of the requirement in the Eisenhower Professional Development Program that funds be used primarily to support professional development in mathematics and science. The U.S. Department of Education granted the waiver, with the result that school districts in Missouri may now use Eisenhower Professional Development funds in other core subject areas, including reading and social studies. During the three years that the waiver is in effect, Missouri continues to use the MMAT to monitor student achievement in mathematics, science, and other subjects. (Source: U.S. Department of Education, *Waivers: Increased Flexibility in Exchange for Increased Accountability*, September 30, 1997.)

**EXAMPLE OF  
WAIVERS UNDER THE ESEA GENERAL WAIVER AUTHORITY  
Allowing a State to Consolidate Federal Administrative Funds  
and to Approve School Districts' Applications  
for Coordinated Services Projects**

The California State Department of Education received two waivers from the U.S. Department of Education under the ESEA general waiver authority. The first waiver allows California to consolidate federal administrative funds from several different ESEA programs. Federal law allows states to consolidate ESEA administrative funds only if the state education agency can demonstrate that a majority of its administrative funding comes from non-federal sources. California did not meet that requirement: only 41 percent of the California State Department of Education's operating budget comes from non-federal sources (that is, from state funds). California sought a waiver that would allow the state to administer the separate federal education programs in a way that demonstrated how they fit together to help improve student achievement. With the waiver, the state provides a model for school districts to consolidate and coordinate their federal education programs as the revised ESEA encourages them to do.

The second federal waiver gives the California State Department of Education authority to approve school districts' applications for coordinated services projects under Title XI of ESEA instead of requiring school districts to apply directly to the U.S. Department of Education. Title XI allows school districts, with approval of the U.S. Secretary of Education, to use up to five percent of their total ESEA funds to coordinate social, health, and education services for students and their families. (See page 20.) California wanted authority to approve school districts' Title XI applications because the State Department of Education had a comprehensive approach to administering ESEA and wanted school districts to be able to include their applications for coordinated services projects as part of their consolidated applications for ESEA program funding. (Source: Interviews with staff, California State Department of Education, Sacramento, California, 1997.)

## **The Title I Desegregation Waiver Authority**

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Unlike the ESEA general waiver authority, the Title I desegregation waiver\* authority is available only to school districts operating under court- or state-ordered desegregation plans.<sup>35</sup> Waivers granted under this authority allow Title I dollars to follow students from low-income areas when, as a result of a desegregation mandate, they attend schools in more affluent areas.

States (on behalf of eligible school districts), eligible school districts, and schools (through their school districts) may apply to the U.S. Department of Education for waivers of two important provisions in Title I regarding the selection of schools to receive funding and the allocation of Title I dollars to schools.

A waiver granted under the Title I desegregation authority may last up to three years.

### ***Provisions That Can and Cannot Be Waived***

The only requirements that can be waived under the Title I desegregation waiver authority are those related to Title I school selection and funding allocation.<sup>36</sup> One provision requires school districts to determine the percentage of children from low-income families who live in each school's attendance area and then select schools for participation in rank order, serving first those schools with the highest percentages of low-income children. The other provision requires school districts to set a certain per-pupil level of funding and to allocate Title I funds to schools in rank order on the basis of the number of low-income children in each school.

### ***Eligibility for Waivers***

A **state education agency\*** may apply for a waiver on behalf of an eligible school district.

A **school district** may apply for a waiver for the entire district or on behalf of a school, if it has one or more schools that:

- operate under a state- or court-ordered desegregation plan, or under a plan that continues to be implemented in accordance with a state- or court-ordered desegregation plan; and
- have at least 25 percent of their students from low-income families.

School districts operating under *voluntary* desegregation plans are not eligible for waivers under this authority. However, they may seek waivers under the general waiver authorities in ESEA, Goals 2000, and the School-to-Work Opportunities Act.

### ***Applying for Waivers***

The U.S. Department of Education must determine that granting a waiver would further the purposes of the Title I program. The Department encourages states and school districts to include the following in their applications:

- an identification of the school or schools for which the waiver is requested;
- a copy of the school district's ranking of all schools and school attendance areas by their percentages of low-income children, including which schools the district would fund if a waiver were granted and which schools the district would fund without a waiver;
- an explanation of how a waiver would further the purposes of Title I if the school district wishes to use the waiver to serve a school with a lower percentage of low-income children (rather than a school with a higher percentage of low-income children);
- an explanation of the educational justification supporting the waiver request, including measurable educational improvement goals, expected outcomes for affected students, and the methods used to measure progress;
- a brief explanation of the district's desegregation plan, how the desegregation plan affects the schools for which the waiver is requested, and how the plan would be furthered by the waiver;
- a description of the per-pupil amount(s) the district intends to allocate to the schools for which the waiver is requested, and the per-pupil amount(s) the district intends to allocate to its other schools, if the district is requesting a waiver of Section 1113(c) (allocation of Title I funds to schools); and
- an explanation of how the district will continue to ensure the equitable participation of eligible private school children if the waiver is granted, including a description of how it consulted with private school officials in the development of the waiver request.

The U.S. Department of Education encourages eligible school districts to seek comments on their waiver applications from interested parties, including the state education agency and private school officials, if appropriate.

**EXAMPLE OF  
A TITLE I DESEGREGATION WAIVER**

The Ferguson-Florissant R-II School District in Florissant, Missouri, applied for and received a waiver from Sections 1113(a) and 1113(c) of the Elementary and Secondary Education Act (ESEA). The waiver enabled the district to provide Title I services in schools operating under a court-ordered desegregation plan where at least 25 percent of the children are economically disadvantaged. (In general, a school can only receive Title I funds if at least 35 percent of the children who live in its attendance area (or who attend the school) come from low-income families.) The waiver helps support the district's desegregation efforts and advances the purpose of Title I by allowing the district to provide additional services to educationally disadvantaged children at schools receiving minority students from other attendance areas. (Source: *Federal Register*, August 25, 1995.)

## **The Public Charter Schools Waiver Authority**

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Another provision of ESEA gives the U.S. Secretary of Education broad authority to waive federal requirements affecting public charter schools.<sup>37</sup>

Waivers\* granted under this authority may last up to three years. The U.S. Department of Education may extend a waiver beyond the initial three years if it determines that the waiver has helped the charter school(s) meet its objectives and that a continuation would be in the public's best interest.

### ***Provisions That Can Be Waived***

Under the charter schools waiver authority, the U.S. Secretary of Education may waive many statutory\* or regulatory\* requirements, if doing so would support the purposes of the federal Public Charter Schools program. In other words, under this waiver authority, a charter school may request a temporary exemption from almost any requirement of federal education law or regulations that hinders the successful operation of the school.

### ***Provisions That Cannot Be Waived***

The Secretary of Education cannot waive requirements of the Americans with Disabilities Act. In addition, the Secretary cannot waive any requirements relating to the elements of a charter school as defined in ESEA.<sup>38</sup> (See page 18 for the full statutory definition of a "charter school.") For example, the Secretary may not waive:

- the statutory requirements that charter schools must be public elementary or secondary schools that do not charge tuition; or
- the obligation to comply with applicable civil rights laws, such as the Individuals with Disabilities Education Act, Title IX of the Education Amendments of 1972, and Title VI of the Civil Rights Act of 1964.

### ***Eligibility for Waivers***

A **state education agency**\* may request a waiver on behalf of an eligible chartering agency or charter school.

A **school district or other authorized public chartering agency** (that is, a public entity with authority to approve charter schools) may also request waivers. In a state that receives federal Public Charter Schools funds, a chartering agency must first submit its waiver request to the state education agency. The state education agency then forwards the waiver request to the U.S. Department of Education. In a state that does not participate in the federal Public Charter Schools program, an authorized chartering agency may apply directly to the U.S. Department of Education for both funds and waivers.

In a state participating in the federal Public Charter Schools program, an **individual charter school** may apply for a waiver through the state education agency. The state education agency submits the request to the U.S. Department of Education on behalf of the charter school. In a state that does not participate in the federal Public Charter Schools program, a charter school receiving these funds directly from the U.S. Department of Education may apply directly to the federal government for waivers.

### ***Applying for Waivers***

To be considered, a waiver request must be included in an application for Public Charter Schools program funds that is approved by the U.S. Department of Education. State education agencies, authorized public chartering agencies, or charter schools may request waivers in their original applications for funding, or they may amend their approved applications by subsequently requesting waivers. A waiver request must describe why a waiver is needed to operate the charter school(s) successfully. Requests must also describe relevant state and local requirements from which the charter school is exempt.

The U.S. Department of Education encourages, but does not require, applicants to notify the public of waiver requests and provide citizens with an opportunity to comment on them.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

## **The Goals 2000: Educate America Act General Waiver Authority**

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As discussed in the previous chapter, Goals 2000 provides funds to help states and school districts develop and implement high academic standards to guide education reform. All states (including the District of Columbia and Puerto Rico) are either participating directly in Goals 2000 or allowing their school districts to apply to the U.S. Department of Education for Goals 2000 funds. In those states that participate in Goals 2000, the state education agencies,\* school districts, and schools may request waivers\* under the Goals 2000 general waiver authority.<sup>39</sup> (See page 41 for specific eligibility requirements.)

Waivers granted under the Goals 2000 authority may last up to four years.

### ***Provisions That Can Be Waived***

The Goals 2000 general waiver authority overlaps with the ESEA general waiver authority. That is, they cover many of the same programs, although the Goals 2000 waiver authority does not apply to as many ESEA programs. At the same time, the Goals 2000 waiver authority, unlike the ESEA general waiver authority, allows for waivers of Carl D. Perkins Vocational and Technical Education Act provisions. Specifically, Goals 2000 allows the U.S. Secretary of Education to waive requirements of:

- ESEA Title I — Helping Disadvantaged Children Meet High Standards;
- ESEA Title II — Dwight D. Eisenhower Professional Development Program;
- ESEA Title IV — Safe and Drug-Free Schools and Communities;
- ESEA Title VI — Innovative Education Program Strategies;
- ESEA Title VII, Part C — the Emergency Immigrant Education Program; and
- the Carl D. Perkins Vocational and Technical Education Act.

(See Table 2 on page 32 for an outline of programs and provisions under each title of ESEA.)

The Goals 2000 general waiver authority also allows the U.S. Secretary of Education to waive some requirements of the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR) as they apply to the covered programs.

### ***Provisions That Cannot Be Waived***

Provisions that cannot be waived under the Goals 2000 general waiver authority include those relating to:

- maintenance of effort;\*
- comparability of services;\*
- the equitable participation of private school students and professional staff;
- parental participation and involvement;
- the distribution of funds to states or to school districts; and
- civil rights, health, and safety.

Important sections of the General Education Provisions Act that cannot be waived are the Family Educational Rights and Privacy Act\* and the Protection of Pupil Rights Act.\*

### ***Eligibility for Waivers***

**State education agencies** that have approved Goals 2000 state improvement plans\* or that participate in Goals 2000 through the alternative submission process\* may apply to the U.S. Department of Education for a waiver. A school district or school seeking a waiver under the Goals 2000 waiver authority must work through its state education agency. Only requests that are *reviewed and approved* by the state education agency are forwarded to the U.S. Department of Education for review.

### ***Applying for Waivers***

Within the basic outline of applying for a waiver that was discussed earlier, requests for waivers under the Goals 2000 general waiver authority must describe:

- the requirements that the recipient requests to waive and the goals it intends to achieve, including how the requirements sought to be waived impede the ability of the applicant to carry out the Goals 2000 state improvement plan or a comprehensive local improvement plan;
- the action the state education agency has taken to remove state barriers identified in school district applications for waivers, including agreement to waive similar requirements of state law;

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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**For More Information about Ed-Flex**

Contact your state education agency or call the U.S. Department of Education's Waiver Assistance Line at

(202) 401-7801.

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- the goals for the waiver, expected programmatic results, and a time table for implementing the waiver;
- the numbers and types of students who would be affected by the waiver; and
- how the state education agency will monitor progress in implementing the waiver on a bi-annual basis.

These requirements are somewhat different from those under the ESEA general waiver authority. For example, including a description of applicable *local* requirements to be waived is optional under Goals 2000, but required under ESEA.

Under Goals 2000, the state education agency must provide all school districts and parent organizations in the state with notice and an opportunity to comment on the waiver proposal. The state education agency must then submit the school districts' comments to the U.S. Department of Education with the waiver application.

Similarly, a school district or school seeking a waiver through its state education agency under Goals 2000 must provide parents, community groups, and advocacy or civil rights groups with an opportunity to comment on the proposed waiver. The U.S. Department of Education encourages, but does not require, school districts to submit these comments with waiver requests.

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## The Twelve-State Ed-Flex Demonstration Program

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The Goals 2000: Educate America Act authorized an experiment in increased flexibility for states. Under the Education Flexibility Partnership Demonstration Program (Ed-Flex), the U.S. Secretary of Education was permitted to grant up to twelve *state education agencies*\* authority to waive many *federal* education requirements.<sup>40</sup>

As of July 1997, twelve states had been designated Ed-Flex demonstration states. To be eligible for the demonstration program, a state education agency had to meet two primary criteria:

- The state had to have a Goals 2000 state improvement plan\* approved by the U.S. Secretary of Education; and
- The state education agency had to have authority to waive *state* statutory\* and regulatory\* requirements affecting elementary and secondary education.

**EXAMPLE OF  
A WAIVER GRANTED BY AN ED-FLEX DEMONSTRATION STATE  
Allowing a School District to Operate Title I Schoolwide Programs  
in Schools with Fewer Than 50 Percent of Students  
from Low-Income Families**

Texas is an Ed-Flex demonstration state. The Texas Education Agency permits school districts to apply for waivers to allow schools with as few as *35 percent* of students from low-income families to operate Title I schoolwide programs. Without a waiver, only schools with at least *50 percent* of students from low-income families can operate Title I schoolwide programs. (For more information about Title I schoolwide programs, see page 10.)

Under Ed-Flex, the state of Texas adopted a policy to approve only waiver requests from school districts that have demonstrated improved student achievement in the past, as measured by the Texas Assessment of Academic Skills (TAAS). In other words, the state grants waivers as rewards for good past performance by school districts, not for taking the first steps to improve student achievement.

The Ysleta Independent School District serves 47,000 students in an urban area of El Paso. Seventy percent of the students come from families that are poor enough to qualify for free or reduced-price meals under the National School Lunch Program. The district is 85 percent Hispanic, 11 percent white, three percent African-American, and one percent other races and ethnic groups. The district's vision statement promises that: "All students who enroll in our schools will graduate fluently bilingual and prepared to enter a four-year college or university."

The Texas Education Agency granted Ysleta a waiver to allow it to operate Title I schoolwide programs in schools where at least 35 percent of students come from low-income families. The district operates 50 schools, 46 of which meet the standard 50-percent poverty threshold and were consequently eligible to operate schoolwide programs without a waiver. However, because less than 50 percent of the students at two of the district's Title I targeted assistance schools were low income, these schools needed the waiver to operate schoolwide programs. (For more information about Title I targeted assistance programs, see page 9.)

Since implementing this waiver, the Ysleta district has improved student achievement, as measured by the TAAS. The Texas Education Agency has designated half the schools in the district as "Recognized" or "Exemplary," meaning that at least 75 percent (Recognized) or 90 percent (Exemplary) of their students passed the TAAS. Thirty additional Ysleta schools have been designated by the Texas Education Agency as "Commendable and Distinguished" Title I schools, which means that more than 70 percent of these schools' Title I students have passed the TAAS. (Source: Interviews with staff, Ysleta Independent School District, El Paso, Texas, 1997, and Texas Education Agency, 1998.)

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**States Participating in the Ed-Flex Demonstration Program**

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Colorado	Michigan
Illinois	New Mexico
Iowa	Ohio
Kansas	Oregon
Maryland	Texas
Massachusetts	Vermont

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In selecting the twelve states to participate in the demonstration program, the U.S. Department of Education gave priority to states with strong accountability systems, requiring that each state have a mechanism to measure increases in student achievement.

As authorized in Goals 2000, Ed-Flex demonstration states have authority to waive the same statutory and regulatory federal education requirements that the U.S. Secretary of Education can waive under the Goals 2000 general waiver authority described earlier. (See pages 40–41 for the specific requirements that can and cannot be waived under the Goals 2000 general waiver authority.) The Education Flexibility Partnership Act of 1999 extends this waiver\* authority to also allow Ed-Flex demonstration states to waive requirements of the Technology Literacy Challenge Fund program authorized under Title III of ESEA.

In exchange for this broad waiver authority, Ed-Flex state education agencies must ensure accountability for the performance of their students. When a state education agency grants the request of a school district for a waiver from federal rules, the school district must identify educational goals for the school district as a whole or for the affected schools. The state education agency must hold the school district accountable for increasing student achievement.

Participating state education agencies retain their Ed-Flex waiver authority for five years. When the five-year period expires, these states may reapply for Ed-Flex status under the new requirements of the Education Flexibility Partnership Act of 1999.

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### **The New Ed-Flex Program (1999)**

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The Education Flexibility Partnership Act of 1999 became law on April 29, 1999.<sup>41</sup> Under this new law, the U.S. Department of Education may potentially grant *all* state education agencies\* authority to waive many federal elementary and secondary education requirements. The new Ed-Flex program builds on the existing twelve-state demonstration program but significantly changes some requirements. The twelve states currently participating in the Ed-Flex demonstration program will not, in general, be affected by these new requirements until they apply to renew their Ed-Flex status.

The new Ed-Flex program has the potential to give states, school districts, and schools an unprecedented degree of flexibility. At the same time, the law increases requirements to hold Ed-Flex states, school districts, and schools accountable for improving academic achievement and for upholding the purposes of federal programs. The law also strengthens Title I accountability require-

ments by linking state eligibility for Ed-Flex to compliance with Title I requirements for implementing academic standards and for ensuring that schools and school districts make progress toward meeting their educational goals.

Ed-Flex states must set specific and measurable educational goals. Each school district or school requesting a waiver must also set specific, educational goals for students who will be affected by the waiver. For example, if a school district is requesting a waiver of a Title I requirement, it might set a goal to have at least 90 percent of its Title I students passing the state's academic assessments in mathematics and reading within three years. State education agencies must annually monitor school districts and schools operating under waivers and terminate waivers for any school district or school not making significant progress toward meeting their goals.

After two years, each participating state must submit data to the U.S. Department of Education that documents progress toward meeting its goals. After three years, the Department must review the performance of each participating state education agency. If a state's performance has been inadequate, its Ed-Flex waiver\* authority may be terminated.

A state's Ed-Flex waiver authority may last up to five years. After five years, the Department may extend a state's Ed-Flex waiver authority if the state, its school districts, and its schools have made progress toward reaching their educational goals.

### ***Provisions That Can Be Waived***

Like the original Ed-Flex demonstration program, state education agencies participating in the Education Flexibility Partnership Act of 1999, can basically waive the same federal requirements that the U.S. Secretary of Education can waive under the Goals 2000 general waiver authority described earlier. (See page 40 for the specific requirements that can be waived under the Goals 2000 general waiver authority.) In addition, the new law allows Ed-Flex states to waive requirements of the Technology Literacy Challenge Fund program authorized by Title III of ESEA.

### ***Provisions That Cannot Be Waived***

In general, an Ed-Flex state education agency may not grant any waiver that would undermine the underlying intent and purposes of federal programs or requirements. The exceptions to the Goals 2000 general waiver authority also apply to the Ed-Flex waiver authority. (See page 41 for the requirements that

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#### **For More Information about the Revised Ed-Flex Program**

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See draft guidance published in the *Federal Register* by the Department of Education on October 13, 1999. Copies are available by calling (202) 401-0039.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

cannot be waived under the Goals 2000 general waiver authority.) In addition, the Education Flexibility Partnership Act of 1999 prohibits waivers of “supplement, not supplant”<sup>\*</sup> requirements.

Compared to the Ed-Flex Demonstration Program, the 1999 law imposes greater restrictions on states’ authority to waive the Title I, Part A provisions that require school districts to target funds to the highest poverty schools. Specifically, under the new Ed-Flex law, a state education agency may not waive the Title I requirement that school districts serve eligible school attendance areas in rank order, funding schools in the highest poverty areas first.<sup>42</sup>

Ed-Flex states may not waive the requirements governing a school’s eligibility to receive Title I funds.<sup>43</sup> (A school is eligible to receive Title I funds if it serves an attendance area where the percentage of low-income children is at least as high as the school district’s overall percentage of low-income children, or if at least 35 percent of the children who attend the school, or who live in its attendance area, come from low-income families.)

An exception to this is that an Ed-Flex state *may* waive the eligibility requirements — allowing an otherwise ineligible school to receive Title I funds — if the percentage of low-income children in the school (or its attendance area) is not more than ten percentage points below that of the Title I-eligible school (or attendance area) with the fewest low-income children of any of the school district’s Title I-eligible schools (or attendance areas). For example, in a school district where the Title I-eligible school with the least poverty has 35 percent low-income children, the state may waive the eligibility requirements only for schools where at least 25 percent of the children are low-income.

### ***Eligibility for Ed-Flex Waiver Authority***

As with the original Ed-Flex Demonstration Program, a **state education agency** seeking Ed-Flex waiver authority under the Education Flexibility Partnership Act of 1999, must have the power to waive *state* statutory<sup>\*</sup> or regulatory<sup>\*</sup> requirements relating to education. If a state education agency does not have this authority, it is not eligible to apply for Ed-Flex status.

The 1999 law also includes two requirements that link state eligibility to compliance with Title I accountability requirements. Specifically, to be eligible to participate in Ed-Flex, a state must:

- meet, or have made “substantial progress” toward meeting, the Title I requirements for implementing academic standards and assessments and for having school districts produce individual school performance profiles;<sup>44</sup> and

- hold school districts and schools accountable for meeting their educational goals and for meeting the Title I requirements for “adequate yearly progress.”<sup>45</sup>

### ***Eligibility for Waivers***

Once the U.S. Department of Education grants Ed-Flex waiver authority to a state, **school districts and individual schools** may apply to their state education agency for federal waivers. To be eligible to receive a waiver, a school district or school must have developed a local education-reform plan. If they wish, state education agencies may impose additional requirements on school districts and schools.

### ***Applying for Ed-Flex Waiver Authority***

A state wishing to participate in Ed-Flex must demonstrate that it meets the eligibility criteria and submit an “educational flexibility plan” to the U.S. Department of Education that describes:

- the process the state education agency will use to evaluate school districts’ and schools’ applications for waivers of federal and state statutory and regulatory requirements;
- the state statutory and regulatory requirements that the state education agency will waive;
- clear educational objectives that the state plans to meet under the educational flexibility plan;
- how the plan is consistent with — and will assist in — implementing the state’s comprehensive education-reform plan (or, if the state does not have a comprehensive reform plan, how the educational flexibility plan is coordinated with the state’s development and implementation of the academic standards and assessments required by Title I);
- how the state education agency will evaluate the performance of students in the schools and school districts affected by waivers; and
- how the state education agency will notify the public of its application for Ed-Flex waiver authority and provide an opportunity for the public to comment on the application.

### **Applying for Waivers**

Each Ed-Flex state education agency may establish its own process for school districts and schools to apply for waivers of federal and state requirements. However, federal law requires each local application for an Ed-Flex waiver to identify:

- each federal program affected by the proposed waiver and each statutory or regulatory requirement that will be waived;
- the purposes and expected results of waiving each requirement;
- for each school year, specific, measurable educational goals for the school district, schools, and students affected by the proposed waiver — and why the waiver will help the school district or school to reach these goals; and
- how the school district will notify the public of its waiver application and provide an opportunity for public comment.

### **The School-to-Work Opportunities Act General Waiver Authority**

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The School-to-Work Opportunities Act provides federal funds to help states develop and improve statewide systems to support youths' transitions into post-secondary education and careers. States must make subgrants to local partnerships\* among businesses, schools, and other organizations in order to carry out these programs.

The U.S. Secretaries of Education and Labor jointly administer the School-to-Work Opportunities Act. Under the School-to-Work Opportunities Act general waiver authority, these Secretaries can waive federal statutory\* and regulatory\* requirements for states and local partnerships in states with approved School-to-Work plans.<sup>46</sup> All fifty states, the District of Columbia, and Puerto Rico are currently implementing approved School-to-Work plans.

Waivers\* granted under the School-to-Work Opportunities Act general waiver authority may last up to five years. Since the School-to-Work Opportunities Act is scheduled to expire on October 1, 2001 — and since no waivers have yet been granted under the School-to-Work authority — it may be more fruitful to pursue waivers under other authorities.

### ***Provisions That Can Be Waived***

The waiver provisions of the School-to-Work Opportunities Act overlap with those in ESEA and Goals 2000. Overall, the programs covered by the Goals 2000 general waiver authority are also covered by the School-to-Work waiver authority.

Specifically, the School-to-Work Opportunities Act allows waivers of statutory and regulatory requirements of:

- ESEA Title I — Helping Disadvantaged Children Meet High Standards;
- ESEA Title II — Dwight D. Eisenhower Professional Development Program;
- ESEA Title IV — Safe and Drug-Free Schools and Communities;
- ESEA Title VI — Innovative Education Program Strategies;
- ESEA Title VII, Part C — the Emergency Immigrant Education Program;
- and
- the Carl D. Perkins Vocational and Technical Education Act.

(See Table 2 on page 32 for an outline of programs and provisions under each title of ESEA.)

This waiver authority also allows the U.S. Secretary of Education to waive some requirements of the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR) as they apply to the covered programs.

Although the School-to-Work Opportunities Act empowers the U.S. Secretary of Labor to waive most requirements of JTPA, the Department of Labor has not yet granted any waivers using this authority.

### ***Provisions That Cannot Be Waived***

Federal education and JTPA provisions that cannot be waived under the School-to-Work waiver authority include requirements relating to:

- the basic purposes or goals of a federal education or JTPA provision;
- maintenance of effort;\*
- distribution of funds to states or school districts;
- the eligibility of an individual for participation in a federal education or JTPA program;

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#### **For More Information about the School-to-Work Opportunities Act General Waiver Authority**

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Contact your state education agency or, for information about *education* waivers, call the U.S. Department of Education's Waiver Assistance Line at

(202) 401-7801.

For information about *JTPA* waivers, call the National School-to-Work Office at

(202) 401-6222.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

- public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; and
- prohibitions or restrictions relating to the construction of buildings or facilities.

Additional federal education provisions that cannot be waived include those relating to:

- comparability of services;\*
- the equitable participation of students in private schools; and
- student and parental participation and involvement.

Important sections of GEPA that cannot be waived are the Family Educational Rights and Privacy Act\* and the Protection of Pupil Rights Act.\*

### ***Eligibility for Waivers***

Waivers under the School-to-Work waiver authority are available to states and local partnerships in states with approved School-to-Work state plans. A waiver request may accompany a state plan submitted to the U.S. Departments of Education and Labor for approval.

**States** may submit waiver requests under the School-to-Work general waiver authority. Guidance\* on waivers prepared by the National School-to-Work Office elaborates by stating that any state official may submit a waiver request on behalf of the state and that the applicant must provide evidence of support from the governor and the state official responsible for the program for which the waiver is requested. A state may submit a waiver request to the federal government on its own behalf, or on behalf of school districts or local partnerships.

**Local** partnerships that want waivers under the School-to-Work authority must first submit their requests to the state. Once the state approves a waiver request, it forwards the request to the federal government. If, however, the state does not act on a local partnership's request within 30 days, the local partnership may submit its request directly to the federal government.

*(See the sidebars on pages 27 and 29 for instructions on where to send requests for waivers under the School-to-Work general waiver authority.)*

## Applying for Waivers

Within the basic outline of applying for a waiver as discussed earlier, School-to-Work waiver requests must describe:

- the specific requirement to be waived and how it impedes the ability of the state or local partnership to carry out the purposes of the School-to-Work Opportunities Act;
- the amount of state resources that will be used to implement the approved School-to-Work state plan;
- specific positive achievements expected to result from the waiver and why those outcomes could not be achieved without the waiver; and
- the process that will be used to monitor the progress of the state or local partnership in implementing the waiver.

Waiver requests must also contain assurances that the state will waive similar requirements of state law. A description of *local* requirements that will be waived may be included in the waiver application but is not required.

All local partnerships carrying out programs under the School-to-Work Opportunities Act and school districts participating in these partnerships must be notified and given an opportunity to comment on the state's waiver application. To the extent feasible, states must also notify students, parents, advocacy and civil rights groups, and labor and business organizations about the waiver request and give them an opportunity to comment. The state's submission to the federal government must include the comments of local partnerships and school districts. The Departments of Education and Labor encourage states to submit any other comments they receive.

## The Workforce Investment Act General Waiver Authority

The Workforce Investment Act (WIA) became law on August 7, 1998.<sup>47</sup> As of July 1, 2000, JTPA will be repealed by and replaced with Title I of WIA. Some states began implementing WIA as early as July 1999.

As states begin implementing WIA, they will have two options for waivers:\*

- States may request waivers from the U.S. Department of Labor under the WIA general waiver authority.<sup>48</sup>

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### For More Information about the Workforce Investment Act (WIA)

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Contact your federal JTPA representative in the Labor Department's Employment and Training Administration regional office or call the national Office of Job Training Programs at the U.S. Department of Labor at

(202) 219-6236.

Information is also available on the Internet at

[usworkforce.org](http://usworkforce.org).

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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### Other Authorities for Waivers of Job-Training Programs

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The U.S. Secretary of Labor has had authority to waive JTPA regulations (but not statutory requirements) since 1994. The U.S. Department of Labor established this authority in the JTPA regulations (20 CFR 627.201). These waivers may last up to four years.

In addition, the 1997 and 1998 statutes authorizing appropriations for the U.S. Department of Labor (P.L. 104-208 and P.L. 105-78) gave the Secretary of Labor authority to waive both statutory and regulatory provisions of JTPA (Titles I–III) and sections 8–10 of the Wagner-Peyser Act.<sup>†</sup> Waivers under the 1997 authority lasted for a period of one program year — July 1, 1997 to June 30, 1998. In 1998, when Congress continued this waiver authority for an additional program year, the Secretary of Labor automatically extended existing waivers through June 30, 1999.

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<sup>†</sup> Title I of JTPA is the Job Training Partnership; Title II is Training Services for the Disadvantaged; and Title III is Employment and Training Assistance for Dislocated Workers. The Wagner-Peyser Act legislates a national employment system that is maintained within the U.S. Department of Labor. Sections 8–10 outline the plans, fiscal requirements, and records a state must develop and maintain in order to participate.

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- States may apply for Work-Flex authority, which gives states, rather than the federal government, power to grant waivers of federal job-training program requirements.<sup>49</sup> (See the next section of this chapter for more information about Work-Flex.)

Title I of WIA (not to be confused with Title I of ESEA) requires that states establish workforce investment systems to provide job-training services and employment for youths, adults, and dislocated workers. Eligible, low-income youths ages 14 to 21 may participate in such activities as tutoring, paid and unpaid work, and comprehensive guidance counseling to help them complete secondary school and go on to higher education and gainful employment.

States may apply to the U.S. Department of Labor for waivers on behalf of the state or local areas within the state.

Waivers granted under the WIA general waiver authority may last up to five years.

### Provisions That Can Be Waived

With the exceptions outlined below, the WIA general waiver authority allows the U.S. Secretary of Labor to waive any statutory\* or regulatory\* requirement of WIA, Title I, Subtitle B — Statewide and Local Workforce Investment Systems and Subtitle E — Administration. This authority also allows the Secretary to waive any statutory or regulatory requirement of sections 8 to 10 of the Wagner-Peyser Act, except for those outlined below.<sup>50</sup>

### Provisions That Cannot Be Waived

The U.S. Secretary of Labor may not waive any requirements of WIA relating to:

- wage and labor standards;
- non-displacement protections;
- workers' rights;
- participation and protection of workers and participants;
- grievance procedures and judicial review;
- nondiscrimination;
- allocation of funds to local areas;

- eligibility of providers or participants;
- establishment and functions of local areas and boards; or
- procedures for review and approval of state and local plans.

In addition, under the WIA general waiver authority, the U.S. Secretary of Labor may not waive any requirements of the Wagner-Peyser Act relating to:

- provision of services to unemployment insurance claimants and veterans; or
- universal access to basic labor exchange services without cost to individuals seeking jobs.

Also according to the WIA regulations, the Department of Labor will not grant waivers of any provisions essential to the “key reform principles” of WIA unless the applicant can demonstrate that the provisions impede reform of the state or local workforce investment system.<sup>51</sup>

### ***Eligibility for Waivers***

A **governor** may apply to the U.S. Department of Labor for a waiver on behalf of the state or on behalf of a local area within the state.

A **local area** within a state may apply for a waiver through that state’s governor. The governor’s office submits the waiver request to the U.S. Department of Labor on behalf of the local area. Only the U.S. Department of Labor can approve waivers under the WIA general waiver authority.

### ***Applying for Waivers***

The U.S. Department of Labor is currently developing guidance\* to describe more fully the application process under the WIA general waiver authority. Applicants are urged to contact the Employment and Training Administration for details.

A governor may include a request for waivers in the state’s workforce investment system plan. This five-year plan is the state’s application for funding under WIA.<sup>52</sup> A governor may also submit a separate waiver request after the state’s WIA plan is approved. Each waiver request must describe:

- the requirements that the state or local area requests to waive and the goals that the state or local area intends to achieve as a result of the waiver, including programmatic outcomes resulting from the waiver;

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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<b>Work-Flex Demonstration States</b>
Florida
Iowa
Ohio
Oregon
South Dakota
Texas

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- actions taken by the state or local area to remove any related state or local statutory or regulatory barriers;
- the individuals who will be affected by the waiver;
- the process the state will use to monitor progress in implementing the waiver; and
- the process by which the local board (the body that sets policy for the local workforce investment system) was given notice and an opportunity to comment on the waiver request.

WIA requires that the U.S. Department of Labor approve a waiver request within 90 days after receiving it, as long as:

- the Secretary determines that the waiver would improve the ability of the state or local area to implement the workforce investment system plan;
- the waiver request meets all statutory and regulatory requirements; and
- the state enters into a memorandum of understanding with the Secretary to ensure accountability (that is, that the state resolves to meet, or ensures that the local area will meet, specific outcomes agreed to by the Secretary).

## **Work-Flex**

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The Workforce Flexibility Partnership (Work-Flex) program, like the Ed-Flex program, allows participating *states* to waive some requirements of *federal* laws and regulations.

The Department of Labor Appropriations Act of 1997 initially authorized Work-Flex as a demonstration program for up to six states. For five years, Work-Flex states have the authority to waive many requirements of federal job-training programs. Under WIA, enacted in 1998, *all* states may now apply for Work-Flex waiver\* authority.

### ***Provisions That Can Be Waived***

With those exceptions listed below, a Work-Flex state under WIA may waive:

- any statutory\* or regulatory\* requirements of Title I of WIA that apply to *local areas*;
- any statutory or regulatory requirements of sections 8 to 10 of the Wagner-Peyser Act that apply to the *state*; and

- any statutory or regulatory requirements of the Older Americans Act of 1965 that apply to *state agencies on aging*.

### ***Provisions That Cannot Be Waived***

A Work-Flex state may not waive any requirements of WIA that apply to the *state* (as opposed to the requirements that apply to the local areas in the state), although the state may still apply to the U.S. Department of Labor under the WIA general waiver authority to waive requirements applicable to the state. A Work-Flex state also may not waive any statutory provisions essential to the “key reform principles” of WIA.<sup>53</sup>

In addition, a Work-Flex state may not waive any requirements of WIA relating to:

- the basic purposes of WIA Title I;
- wage and labor standards;
- grievance procedures and judicial review;
- nondiscrimination;
- eligibility of participants;
- allocation of funds to local areas;
- establishment and functions of local areas and local boards;
- review and approval of local plans; or
- workers’ rights, participation, and protection.

Regarding waivers of Wagner-Peyser Act requirements, Work-Flex states are bound to the same restrictions that apply to the U.S. Secretary of Labor under the WIA general waiver authority. (See page 53 for the Wagner-Peyser requirements that may not be waived under the WIA general waiver authority.) Furthermore, Work-Flex states may not waive any requirements of the Older Americans Act of 1965 relating to:

- the basic purposes of the Older Americans Act;
- wage and labor standards;
- eligibility of participants; or
- standards for agreements.

### ***Eligibility for Waiver Authority and Waivers***

All **states** may apply to the U.S. Department of Labor for Work-Flex designation.

**Local areas** in a Work-Flex state may apply to their state for waivers of WIA Title I requirements. The **state** is eligible for waivers of Wagner-Peyser and Older Americans Act requirements.

### ***Applying for Waiver Authority and Waivers***

To apply for Work-Flex waiver authority, a state must submit a workforce flexibility plan to the U.S. Department of Labor that describes:

- the process by which local areas will request waivers and the state will review such requests;
  - the WIA requirements that the state is likely to waive for local areas;
  - the requirements of the Wagner-Peyser and Older Americans Acts that the state proposes to waive;
  - the outcomes that the state expects to achieve through these expected and proposed waivers; and
  - the measures the state will take to ensure accountability for federal funds.
- Before submitting a workforce flexibility plan, a state must provide interested parties and the public with notice and an opportunity to comment.

*The process for a local area to apply for a waiver varies from state to state since each Work-Flex state sets its own requirements.*

## **The National School Lunch Act Waiver Authority**

Almost all public elementary and secondary schools and many private schools participate in the child nutrition programs administered by the U.S. Department of Agriculture. These programs include the National School Lunch Program, the School Breakfast Program, the Special Milk Program, the Summer Food Service Program, and the Child and Adult Care Food Program. These programs provide funding and food commodities to help schools serve nutritious meals to students. Although many school, school district, and state education agency administrators affirm that the school meal programs are valuable, they also complain that many of the programs' rules are rigid and burdensome.

The National School Lunch Act gives the U.S. Secretary of Agriculture authority to waive many requirements of the federal child nutrition programs, as long as the Secretary determines that granting a waiver would further the purposes of the program(s) involved.<sup>54</sup>

Waivers granted under this authority last for a period of time set by the U.S. Department of Agriculture at the time of approval.

### ***Provisions That Can Be Waived***

The U.S. Secretary of Agriculture may waive many statutory\* and regulatory\* requirements of the National School Lunch Act and the Child Nutrition Act of 1966. Programs covered by this waiver authority include the National School Lunch Program, the Summer Food Service Program, the Child and Adult Care Food Program, the Special Milk Program, and the School Breakfast Program.

### ***Provisions That Cannot Be Waived***

The U.S. Secretary of Agriculture may not waive any requirements of the Commodity Distribution Program or the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Another significant restriction prohibits waivers that would increase the federal government's overall cost.

In addition, the Secretary may not waive any requirements relating to:

- the nutritional content of meals;
- federal reimbursement rates;
- the provision of free and reduced-price meals;
- limits on the price of reduced-price meals;
- maintenance of effort;\*
- the equitable participation of children in private schools;
- the distribution of funds to state agencies, school food authorities, and other entities participating in the child nutrition programs;
- the disclosure of information about students receiving free or reduced-price meals;

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#### **For More Information about the National School Lunch Act Waiver Authority**

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Contact the appropriate agency in your state (usually the state department of education). A directory of agencies responsible for the school meal programs in each state, complete with contact information, is available on the Internet at

[www.fns.usda.gov/cnd/Contacts/StateDirectory.htm](http://www.fns.usda.gov/cnd/Contacts/StateDirectory.htm).

Contact the regional office of the U.S. Department of Agriculture's Food and Nutrition Service in your area.

Or, call the national office of the Child Nutrition Division of the Food and Nutrition Service at

(703) 305-2590.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

- the prohibition on for-profit meal services;
- the sale of foods in competition with federally subsidized meals; or
- civil rights.

### ***Eligibility for Waivers***

Only **state agencies** that administer the child nutrition programs can submit waiver requests on their own behalf or on behalf of school food authorities (usually school districts) or other program sponsors. In most states, the state education agency administers all of the school meal programs. However, in several states, another agency (such as the state department of health and human services) administers the Child and Adult Care Food Program and the Summer Food Service Program.

### ***Applying for Waivers***

State agencies must submit their waiver requests to the director of child nutrition programs in the appropriate regional office of the U.S. Department of Agriculture's Food and Nutrition Service. The Department urges state agency officials to consult with their regional office as they prepare waiver requests. The regional office reviews each waiver request and then forwards it to the national office with a recommendation that the U.S. Secretary of Agriculture either approve or deny it.

Waiver applications should be in narrative form and no longer than ten pages in length. Applicants must:

- identify the state agency and, if applicable, the local school food authority seeking the waiver, including the federal child nutrition programs in which it participates and a general description of the size and scope of its food-service program;
- identify the specific statutory and/or regulatory requirements from which the state seeks a waiver;
- describe why a waiver is necessary to the efficient operation and administration of the program(s);
- describe the state's actions to remove any related state-imposed, statutory or regulatory barriers;
- describe how the waiver will improve services and the outcomes the state expects to achieve with the waiver; and

- certify that the state or school food authority provided the public with notice about the waiver application, and describe how this was done.

Before submitting a waiver request, a state agency or school food authority must notify the public. State agencies must submit annual reports to the U.S. Secretary of Agriculture, summarizing all waivers in the state and describing whether waivers resulted in improved services for children; the impact of the waivers on providing nutritional meals to program participants; and how the waivers reduced the amount of paperwork associated with administering the programs.

## **How States and School Districts Are Using Waivers Granted by the U.S. Department of Education**

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As of September 30, 1998, state education agencies and school districts in 49 states, the District of Columbia, Puerto Rico, and the Virgin Islands had submitted a total of 630 waiver\* requests to the U.S. Department of Education.<sup>55</sup> Of the 617 requests that had been fully processed, the Department:

- approved 54 percent;
- denied eight percent; and
- returned seven percent because, for example, the Department did not have authority to grant the requested waiver or the applicant did not provide all of the required information.

Additionally, 31 percent of the requests were withdrawn, mostly because the waivers were unnecessary: existing law already provided the states and school districts with authority to carry out the activity for which they were requesting a waiver.

*Of the 335 waivers approved, 334 were granted under waiver authority in ESEA — 319 using the ESEA general waiver authority, 14 using the Title I desegregation waiver authority, and one using the Public Charter Schools waiver authority. Only one used the Goals 2000 waiver authority for requirements of the Carl D. Perkins Vocational and Technical Education Act. No waivers have been granted under the School-to-Work Opportunities Act waiver authority.*

Although educators often complain that federal rules pose barriers to school reform, *relatively few of the school districts requesting waivers actually sought these waivers to change the ways that federal dollars could be spent in schools.* Instead, most school districts sought exemptions from requirements controlling which schools could receive aid and implement federal programs.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book.*

The majority of waivers granted by the U.S. Department of Education related to provisions of Title I — specifically those provisions controlling the eligibility of schools to receive Title I funds and to operate schoolwide programs. Waivers of Title I targeting provisions have, for example, allowed schools with poverty rates lower than, but close to, the 50 percent eligibility threshold to receive Title I funds.<sup>56</sup> About one quarter of all waivers granted have allowed school districts to implement Title I schoolwide programs in schools where less than 50 percent, but at least 35 percent, of students come from low-income families.<sup>57</sup>

Waivers of Title I targeting and schoolwide program provisions have remained the most commonly requested types of waivers since the beginning of the U.S. Department of Education's waiver authority in 1994. However, the nature of other waiver requests has varied, in large part reflecting time tables in federal law. For instance, many of the waivers in the first year following the 1994 reauthorization of ESEA were “transitional,” meaning that they were intended to accommodate *temporary* situations as school districts “transitioned” to compliance with new ESEA requirements. Approximately 40 percent of the waivers granted in 1998 were extensions of previously approved waivers that had reached the end of their three-year duration. Interestingly, between September 1997 and September 1998, almost one quarter of the waivers granted were used to extend — beyond the beginning of the 1997–1998 school year — the Title I deadline for states to establish academic standards in at least reading and mathematics.

### ***Use of Waivers Has Been Limited***

Overall, only slightly more than two percent of the nation's school districts have received waivers from the U.S. Department of Education. Although most states have requested at least one waiver, the Department has received a fairly small number of requests.

Some states and school districts have used waivers much more aggressively than others. For example, nearly one quarter of all waiver requests received by the U.S. Department of Education have come from school districts in just one state (Pennsylvania). According to the Department's 1998 report on waivers, “The use of waivers by school districts appears to depend heavily on [their] awareness of the availability of waivers and the degree to which SEAs [state education agencies] encourage them to apply.”<sup>58</sup>

According to the Department of Education, the limited use of waivers suggests that:

- many school districts do not fully understand the flexibility available to them; and
- requirements of federal education laws and regulations\* may not be major barriers to state and local efforts to improve education.

Other recent studies by the U.S. Department of Education’s Office of Inspector General and the U.S. General Accounting Office (GAO) support the finding that school district officials are often unaware that they can get waivers from federal education laws and regulations.<sup>59</sup> Even when school district staff know that waivers are available, they often do not apply, citing inadequate guidance from their state education agencies as the reason.

While supporting the Department of Education’s finding that there is considerable flexibility in federal education laws, GAO also points out that much of the flexibility available does not address school district officials’ primary concerns about federal requirements.

- First, flexibility does not necessarily mean “simplicity.” School district administrators complain that they do not have adequate information about federal rules and resources. Yet, the multiple waiver authorities — each covering a different set of requirements and each with a different application process — add to the amount and complexity of information that district officials need.
- Furthermore, the waiver authorities do not apply to many of the requirements that school district staff find most troublesome. For example, GAO’s report notes that school district officials often complain that some requirements in the Individuals with Disabilities Education Act (IDEA) — a program entirely excluded from the waiver authorities — are too rigid.

### ***Effect of Waivers on Student Achievement***

States and school districts must report on the effects of their federal education waivers two years after initially receiving waivers and after each subsequent year. Title I requires that states define “adequate yearly progress” for schools toward the goal of improving student achievement. The U.S. Department of Education requires that, at a minimum, states and school districts use the “adequate yearly progress” measure to evaluate the effects of their waivers. In the 1995–96 school year, 72 percent of the schools affected by waivers made “adequate yearly progress.” In the following school year, 67 percent of the schools affected by waivers reported making “adequate yearly progress.”

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

It is difficult to interpret these results. Since many states are still developing standards and assessment systems, the varying degrees of reported progress over time may reflect changes in their definitions of adequate progress, rather than *actual* changes in the performance levels of their students. Furthermore, academic standards and measures of student performance vary among states, making comparisons across states extremely difficult.

## How Ed-Flex Demonstration States Are Using Their Waiver Authority

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In a recent study, GAO found that the twelve Ed-Flex demonstration states have granted relatively few waivers compared with the number of school districts in the states.<sup>60</sup> Some Ed-Flex states have used their waiver authority much more aggressively than others. For example, between 1995 and 1997, six of the states granted fewer than ten waivers to individual school districts. In contrast, Texas granted 40 individual waivers and eight statewide waivers; and Maryland, a state with only 24 school districts, granted 22 waivers to individual school districts.

GAO and the U.S. Department of Education offer several explanations for the varying use of the waiver authority by Ed-Flex demonstration states:<sup>61</sup>

- The number of waivers granted by Ed-Flex states is not always an accurate reflection of the extent to which the waivers affect students in the state. A state with fewer school districts, or more densely populated school districts, may grant fewer waivers than other larger, or more sparsely populated states, while affecting the same percentage of students.
- Some of the Ed-Flex demonstration states have had their waiver authority longer than others and, therefore, have had more opportunity to use it.
- Since Ed-Flex demonstration states are accountable to the U.S. Department of Education for the results of waivers they grant, states with more experience in measuring educational achievement may be more comfortable granting waivers.
- Some Ed-Flex states have been more proactive than others in reaching out to school districts and schools to inform them about Ed-Flex waivers and to encourage them to apply.
- Some states have been more active than others in granting waivers of *state* requirements, making districts and schools more accustomed to using waivers.

- By granting statewide waivers, some states have encouraged more school districts to take advantage of this flexibility. Statewide waivers are attractive to school districts because they can use these waivers without having to demonstrate specific need.<sup>62</sup>

Like the U.S. Department of Education, Ed-Flex demonstration states have mostly granted waivers relating to Title I requirements regarding which schools are eligible to receive funds or to operate schoolwide programs. The next most frequently granted type of waiver in Ed-Flex states has concerned school districts' use of Eisenhower Professional Development funds in subjects other than mathematics and science.

### ***Benefits and Drawbacks to Ed-Flex***

There are both benefits and drawbacks to delegating part of the U.S. Secretary of Education's waiver authority to Ed-Flex state education agencies. One advantage is that states can integrate the process for federal education waivers with their own process for waiving state-imposed requirements, creating a virtually seamless waiver system for school districts. Another benefit is that state education agencies, because of their closer relationships with school districts and schools, may be better able than the federal government to assess the needs of educators at the local level and to provide technical assistance. States can also use waivers to support their school improvement plans by linking waivers of federal requirements to their objectives and accountability systems. For example, states can use the greater flexibility that waivers provide as an incentive or reward to school districts that make progress toward the states' goals. In addition, the U.S. Department of Education notes that Ed-Flex promotes innovation in the way the waiver authority is administered, with each state testing different approaches to disseminating information about waivers, linking waivers with standards-based reform, and holding waiver recipients accountable for improving results for students.

The major concern about Ed-Flex is that it may make it harder to ensure that federal funds are used as intended. Specifically, some education experts and advocates for disadvantaged groups are concerned that incorrect interpretations of federal requirements, or carelessness on the part of state education agency officials, may result in less aid reaching the neediest children (such as those who benefit from Title I). Although the U.S. Department of Education reports that the 12 current Ed-Flex states have used their authority with care and respect for the intended purposes of federal programs, there is potential for problems, especially with the 1999 expansion of Ed-Flex to potentially all states.

Ed-Flex states are responsible for holding school districts and schools accountable for making progress with the waivers they receive. However, each state designs its own accountability systems, and there is considerable variation among states in the ways they establish goals, track progress, and ensure that the underlying purposes of federal programs are upheld. Some states have much more clearly defined goals and measures of progress than others. With such variation across states, it is difficult for the U.S. Department of Education — which is ultimately accountable to Congress for ensuring that federal education funds are used properly — to determine if Ed-Flex waivers are contributing to educational progress. To address this problem, the Education Flexibility Partnership Act of 1999 explicitly requires that those states wishing to participate in Ed-Flex, and that school districts and schools seeking waivers, set clear and measurable educational goals.

### **In Summary . . .**

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States, school districts, and schools now have several avenues by which to receive waivers\* from federal laws and regulations\* that they believe impede their ability to increase student achievement or promote school reform. These include the waiver authorities under the Elementary and Secondary Education Act, the Goals 2000: Educate America Act, the Education Flexibility Partnership Act, the School-to-Work Opportunities Act, the Workforce Investment Act, and the National School Lunch Act.

While these waiver authorities cannot address all of the problems that state and local officials experience with federal education and training programs, they may help remove specific barriers to reform and innovation. The availability of federal waivers encourages state and local officials to think in nontraditional ways about how they use federal resources. Rather than focus on designing programs to fit rigid federal requirements, the availability of federal waivers can encourage a focus on identifying strategies to achieve educational goals.

In the process of examining federal statutes\* and regulations, state and local educators may find that they actually have more flexibility than they previously thought. Finally, waivers can also be used to streamline the administration of federal programs, providing state and local staff with more time and resources to improve student achievement.

## INCREASING ADMINISTRATIVE FLEXIBILITY AND REDUCING PAPERWORK

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Staffs in schools, school districts, and state education agencies\* often complain about the red tape and paperwork associated with federal programs. Staff time spent completing funding applications, writing reports, documenting student eligibility for benefits, and performing other administrative tasks is not just expensive, it is time that could be better spent on improving education and other services for children.

States, school districts, and schools can use much of the flexibility discussed in the previous two chapters — such as Title I schoolwide programs and waivers — to simplify the administration of federal programs. This chapter discusses some additional provisions in federal laws and regulations\* that are specifically designed to ease the administrative burdens associated with federal education and school meal programs.

### **Provisions in the Elementary and Secondary Education Act to Increase Administrative Flexibility**

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Several provisions in the Elementary and Secondary Education Act (ESEA) give states and school districts important administrative flexibility and reduce the paperwork they must complete.<sup>63</sup> These provisions include:

- allowing states and school districts to consolidate their applications or plans for many federal education programs;
- allowing states and school districts to consolidate funds they reserve for administering many ESEA programs;
- permitting school districts to shift up to five percent of funds from one ESEA program to another; and
- reducing requirements for testing Title I students.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

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**For More Information about  
Administrative Flexibility  
Provided in ESEA**

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Contact your state education agency or the U.S. Department of Education's Office of Elementary and Secondary Education at (202) 401-0113.

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ESEA programs now have fewer regulations\* than in the past; as of December 1996, only 12 of the 49 ESEA programs had regulations. For example, the U.S. Department of Education has not issued regulations for the Dwight D. Eisenhower Professional Development Program or the Public Charter Schools program. Programs that do have regulations, such as Title I, generally limit the scope of the regulations to address specific issues, such as schoolwide programs, academic standards, and assessment.

Instead of regulations, the U.S. Department of Education is increasingly issuing less formal nonregulatory guidance\* with examples of multiple ways to meet statutory\* requirements. By freeing states and school districts from regulatory burdens that go beyond statutory requirements, the Department hopes that educators will be better able to focus on improving student achievement.

### ***Consolidating Applications and Plans for Multiple Programs***

Since 1994, states and school districts have been able to submit a single application or plan for many federal education programs — a change that was designed to increase coordination across programs and reduce paperwork. Previously, each state and school district had to complete a separate application or plan for each program.

Table 3 shows which programs may be included in state education agencies' and school districts' consolidated plans. Three of the programs (Title III Technology grants, Goals 2000, and the School-to-Work Opportunity Act) may be included by state education agencies only for the purpose of coordinated planning, not for general funding purposes. To receive funds under these programs, the state education agencies must submit separate funding applications.

A school district may include any combination of eligible programs in its consolidated plan. In addition, a state education agency may *require* school districts to include in their consolidated local plans any programs that the state has included in its approved consolidated plan. Also, a school district may include any other program that the state education agency has included *for funding purposes* in its approved consolidated plan.

The General Accounting Office (GAO) reported in 1999 that many school districts do not take advantage of the federal consolidated planning option.<sup>64</sup> In fact, GAO found that ten states require school districts to submit separate plans for one or more of the programs that federal law allows to be consolidated. Seven of these states require school districts to submit separate plans for *each* federal education program. This is surprising, since federal law prohibits states from requiring school districts to submit separate plans for these programs.

**TABLE 3.**  
**WHAT FEDERAL PROGRAMS MAY STATE EDUCATION AGENCIES AND SCHOOL DISTRICTS INCLUDE IN CONSOLIDATED PLANS?**

Federal Programs	State Education Agencies		School Districts†
	For planning purposes	For funding purposes	
<b>Title I of the Elementary and Secondary Education Act</b> (Helping Disadvantaged Children Meet High Standards)			
Improving Basic Local Educational Agencies (Part A)	Programs	Operated	by
Even Start Family Literacy Programs (Part B)	✓	✓	✓
Education of Migratory Children (Part C)	✓	✓	✓
Prevention and Intervention and Youth Who Are at Risk of Dropping Out (Part D)	Programs for Neglected,	for Delinquent,	Children or at
	✓	✓	
<b>Other ESEA Programs</b>			
Dwight D. Eisenhower Program Training Demonstration Project (Title II, except Eisenhower and Eisenhower Professional for National Professional Development)	✓	✓	✓
State and Local Programs Resources (Title III, Part A, Subpart 2)	Programs for	School	Technology
Safe and Drug-Free Schools and Communities (Title IV, Part A, Subpart 1, except Governor's Programs)	✓	✓	✓
Innovative Education Program Strategies (Title VI)	✓	✓	✓
<b>Carl D. Perkins Vocational and Technical Education Act</b> (state formula grant programs)	✓	✓	
<b>Goals 2000: Educate America Act</b>	✓		
<b>School-to-Work Opportunities Act</b>	✓		
<b>Stewart B. McKinney Homeless Assistance Act</b> , Title VII, Subtitle B — Homeless Program	✓	✓	

† In addition to the programs checked here, a state education agency may require a school district to include any programs that are in the state's approved consolidated plan. Also, a school district may include any program in its consolidated plan that the state has included *for funding purposes* in its approved consolidated plan.

ESEA allows state education agencies to require that school districts consolidate their plans for some or all programs covered by the consolidated planning provision. Twenty-four states currently require that school districts submit consolidated plans.

### ***Consolidating Administrative Funds from Multiple Programs***

Title XIV of ESEA allows state education agencies\* and school districts to consolidate their federal administrative funds for major ESEA programs, even if they do not submit consolidated plans.<sup>65</sup> For each program in which they participate, state education agencies and school districts reserve a portion of their federal funding to use for program administration. Many federal programs specify the maximum percentage of federal funds that a state or school district can use for program administration. ESEA allows state education agencies and school districts to combine administrative funds from multiple programs without having to track spending for the administration of each program. This reduces paperwork and gives state education agencies and school districts more flexibility.

To be eligible to consolidate federal administrative funds, Title XIV requires that a state education agency demonstrate that a majority of its administrative funds comes from non-federal sources (that is, from the state). As a related matter, a Title I provision allows state education agencies to consolidate administrative funds from Parts A, C, and D of Title I *without* having to demonstrate that a majority of their administrative funds come from non-federal sources.<sup>66</sup>

Under Title XIV, a school district must have permission from its state education agency to consolidate federal administrative funds. Table 4 shows which federal administrative funds may be consolidated by state education agencies and school districts.

GAO reports that most school districts do not consolidate their ESEA administrative funds.<sup>67</sup> About a third of state education agencies actually prohibit school districts from consolidating administrative funds, and less than ten percent of school districts in the states that do allow it choose to do so.

**TABLE 4.**  
**WHAT FEDERAL ADMINISTRATIVE FUNDS MAY**  
**State Education Agencies and School Districts Consolidate?**

Federal Programs	State Education Agencies <sup>a</sup>	School Districts <sup>b</sup>
<p><b>Title I of the Elementary and Secondary Education Act</b>                      (Helping Disadvantaged Children Meet High Standards)</p> <p>Improving Basic Programs Operated by Local Educational Agencies (Part A) ✓<sup>†</sup></p> <p>Even Start Family Literacy Programs (Part B) ✓</p> <p>Education of Migratory Children (Part C) ✓<sup>†</sup></p> <p>Prevention and Intervention and Youth Who Are at Risk of Dropping Out (Part D) Programs Neglected, ✓<sup>†</sup></p>		
<p><b>Other ESEA Programs</b></p> <p>Dwight D. Eisenhower Program (Title II, except for Project and Professional Development Demonstration Project) for Professional National Teacher Development ✓</p> <p>State and Local Programs for School Technology Resources (Title III, Part A, Subpart 2) ✓</p> <p>Safe and Drug-Free Schools and Communities State Grants (Title IV, Part A, Subpart 1, except for Governor's Programs) ✓</p> <p>Innovative Education Program Strategies (Title VI) ✓</p>		
<p><b>Goals 2000: Educate America Act</b></p>	<p>✓</p>	

<sup>a</sup> To be eligible to consolidate federal administrative funds, a state education agency must demonstrate that a majority of its administrative funds comes from non-federal sources.

<sup>b</sup> A school district must have permission from its state education agency to consolidate administrative funds.

<sup>†</sup> A provision of Title I allows state education agencies to consolidate administrative funds from Parts A, C, and D of Title I.

**EXAMPLE OF  
A SCHOOL DISTRICT CONSOLIDATING  
FEDERAL ADMINISTRATIVE FUNDS FOR ESEA PROGRAMS**

The San Benito Independent School District — located in Texas near the Mexican border between the cities of Brownsville and Harlingen — serves 14,000 students, 96 percent of whom are Hispanic. Ninety-seven percent of students come from families with incomes low enough to qualify for free or reduced-price meals under the National School Lunch Program. Every school in the district has a Title I schoolwide program; that is, schools can use Title I funds along with other federal education funds and state and local resources to improve the achievement of all children, not just those who have been identified as needing extra assistance.

The superintendent of schools wanted to redesign the way the school district staff administered programs and assisted schools. He eliminated a bureaucratic staff structure in which each administrator had complete responsibility for a single program area — a staff structure that had fostered small empires and turf battles. In its place, he created a team structure with “advisors” and “instructional coaches” to work cooperatively across federal, state, and local programs to help schools, principals, and teachers improve student achievement. For example, advisors helped schools implement proven instructional models and acquire classroom materials.

With approval from its state education agency, the Elementary and Secondary Education Act (ESEA) allows a school district to consolidate the funds it uses to administer ESEA programs. Citing this authority, San Benito sought and received approval from the Texas Education Agency to consolidate federal administrative funds for the Title I, Eisenhower Professional Development, Safe and Drug-Free Schools and Communities, and Innovative Education Program Strategies programs. By consolidating administrative funds and using a team approach, San Benito was able to work across federal, state, and local programs to better support principals and teachers.

San Benito has successfully consolidated its ESEA administrative funds and restructured its central office. While still ensuring that individual program requirements are met, central office staff no longer focuses on administering individual *programs*. Instead, it looks at the *needs* of schools or teachers and develops strategies to address those needs.

Student achievement has improved — a year and a half after implementing the new administrative structure, the state designated the school district as “Recognized,” meaning that at least 75 percent of the students passed the Texas Assessment of Academic Skills. (Source: Interviews with staff, San Benito Independent School District, Texas, 1997.)

***The Unneeded Funds Provision: Shifting Funds Among ESEA Programs***

With approval from their state education agencies, ESEA allows school districts to shift a percentage of funding from one ESEA program to another in any fiscal year.<sup>68</sup> To do this, a school district must determine that these

funds are not needed for their original purposes. This “unneeded funds” provision allows school districts to shift up to five percent of funds from any one of the following five ESEA programs among any of the other four:

- Education of Migratory Children (Title I, Part C)
- Dwight D. Eisenhower Professional Development Program (Title II, except for National Teacher Training Project and Professional Development Demonstration Project)
- State and Local Programs for School Technology Resources (Title III, Part A, Subpart 2)
- State Grants for Drug and Violence Prevention Programs (Title IV, Part A, Subpart 1, except for Governor’s Programs)
- Innovative Education Program Strategies (Title VI).

School districts may also shift up to five percent of funds from these programs *into* (but not *out of*) Title I, Part A (Improving Basic Programs Operated by Local Educational Agencies\*) funds. For example, if a school district wanted to expand its Eisenhower Professional Development Program (Title II) to provide additional training for teachers, with approval from the state education agency, the district could use up to five percent of its Safe and Drug-Free Schools (Title IV) funds or Technology for Education (Title III) funds to do this.

As with the other administrative flexibility initiatives, a 1998 GAO study found that school districts rarely use the unneeded funds provision.<sup>69</sup> Only about one-half of the state education agencies even allowed their school districts to use this provision. Only one state had more than ten percent of its school districts using it. No school districts used the unneeded funds provision in two-thirds of the states that allowed them to do so.

### ***Reduced Title I Testing Requirements***

Since Congress last revised Title I in 1994, schools and school districts have not had to administer separate tests for Title I students. Previously, federal law required schools to give nationally normed tests to all students — beginning in the second grade and continuing through the twelfth grade — to determine their eligibility for Title I services and to chart student achievement. Most often, these exams were administered in addition to the achievement tests that states already required. For the purposes of Title I, states may now measure students’ achievement by their performance on state assessments that track the academic progress of all students.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book*.

## **Administrative Flexibility for Discretionary Grant Programs**

In July 1997, the U.S. Secretary of Education published revisions to the Education Department General Administrative Regulations (EDGAR) to give schools, school districts, and states more flexibility in their administration of certain federal grant programs.<sup>70</sup> These changes to EDGAR apply only to discretionary grants; that is, to grants that are not governed by statutory\* funding formulas and that the U.S. Department of Education awards on a competitive basis.<sup>71</sup> Examples of discretionary grant programs include the Public Charter Schools program and Technology Innovation Challenge Grants.

Since the revisions to EDGAR, recipients of discretionary grants no longer need to get prior approval from the Department of Education in order to:

- extend the expiration date of federal grants for up to twelve months, if the extension does not require additional federal funds;<sup>72</sup>
- expend grant funds (at the recipient's risk) for up to 90 calendar days prior to the award (although they do need prior approval in order to spend grant funds *more than* 90 days in advance);<sup>73</sup>
- carry over unused funds from one budget period to the next without limitation;<sup>74</sup> and
- transfer funds from one direct-cost budget category to another unless the U.S. Department of Education imposes a particular limitation on transfers.<sup>75</sup>

While these provisions do not apply to the major federal education programs (such as Title I), they do provide additional flexibility for states and school districts in federal programs that often support innovation and reform.

## **Administrative Flexibility in the School Meal Programs**

The U.S. Department of Agriculture administers several programs that subsidize meals served to children during the school day, in after-school programs, in child care, and in summer programs. These programs — including the National School Lunch Program, the School Breakfast Program, the Special Milk Program, the Summer Food Service Program, and the Child and Adult Care Food Program — are especially important for low-income children who can receive nutritious meals for free or at low cost. In fiscal year 1997, almost 94,000 schools, including nearly 99 percent of public schools, served more than *four billion lunches* supported by the National School Lunch Program. In the same year, almost 68,000 schools served more than *one billion breakfasts* subsidized by the School Breakfast Program.

While the school meal programs clearly benefit many children, state and local administrators have historically complained that these programs were fragmented, inconsistent, and burdensome to administer. Congress and the U.S. Department of Agriculture have taken several steps to address these concerns. Most recently, the William F. Goodling Child Nutrition Reauthorization Act of 1998 made changes designed to alleviate some of the most frequently cited problems.

### ***Simplifying Agreements and Claim Forms***

Over the past decade, Congress and the U.S. Department of Agriculture have simplified the process by which school meal program funds flow from the federal government through the states to local school districts and schools.

To participate in a federal child nutrition program, a “school food authority” (generally a school district) must enter into a written agreement with the state agency that administers the program (generally the state education agency). To receive funds, the district must send the state agency monthly claim forms that document the number of student meals each school served at full price, at reduced price, and for free to eligible students. States then use their federal child nutrition funding to reimburse school districts for each meal served at rates that vary with price category (free, reduced price, or full price). School districts receive the largest subsidy for meals served for free to eligible low-income students. Each year, the U.S. Secretary of Agriculture establishes the reimbursement rates for each price category and kind of meal (i.e., breakfast, lunch, or snack).<sup>76</sup>

Since 1989, federal law has required that agreements between state agencies and school food authorities operating the school meal programs be permanent and amended as necessary. Previously, school food authorities had to renew their agreements with state agencies every year. To further simplify the administrative process, the U.S. Department of Agriculture has allowed state agencies the option of having school districts consolidate their agreements and reimbursement claim forms when one state agency and district operate several nutrition programs.

With the 1998 amendments to the child nutrition programs, each participating school food authority *must* have a single, permanent agreement with the state agency and *must* use a common reimbursement claim form for all of the nutrition programs it operates — to the extent that a single state agency administers all of the programs run by the school district. Congress enacted these changes to increase administrative flexibility and save money at the state level by allowing state agencies to consolidate and simplify the required administrative reviews of schools operating the nutrition programs.<sup>77</sup>

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#### **For More Information about the School Meal Programs**

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Contact the appropriate agency in your state (usually the department of education). Contact the regional office of the U.S. Department of Agriculture’s Food and Nutrition Service in your area. Or, call the national office of the Child Nutrition Division of the Food and Nutrition Service at

(703) 305-2590.

Information about the child nutrition programs is also available on the Internet at

[www.fns.usda.gov/cnd](http://www.fns.usda.gov/cnd).

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### ***Transferring Administrative Funds across Nutrition Programs***

Another 1998 amendment allows state agencies to freely transfer administrative funds among the federal child nutrition programs. Prior to this change, state agencies could only transfer up to ten percent of their administrative funds from one nutrition program to another.

### ***Simplifying Eligibility Certification and Meal Counting***

Certifying students' eligibility for free and reduced-price meals can be a time-consuming and burdensome task. In general, schools must distribute application forms to students at the beginning of each school year and process them very quickly. In addition, staff must verify the income information provided on a sample of applications. Schools must ensure that free and reduced-price meals are served only to eligible children and keep accurate counts of the number of meals served in each price category.

Each year, the U.S. Secretary of Agriculture publishes income eligibility guidelines for the child nutrition programs based on the Federal Income Poverty Guidelines.<sup>78</sup> Children are eligible for *free* meals if they come from households with incomes at or below 130 percent of the poverty line established by the federal government. Children are eligible for *reduced-price* meals if they come from households with incomes between 130 percent and 185 percent of the poverty line. All other students must pay the school food authority's designated full price for school meals.

To simplify the process of determining students' eligibility and to serve additional needy children, federal law allows schools to use a **“direct certification” process**. Under this process, children are automatically enrolled for free meals if their families receive Food Stamps, Temporary Assistance for Needy Families (TANF) benefits, or if they participate in a Head Start program on the basis of Head Start's low-income eligibility criteria. School officials match data from public assistance records and other programs with school files to determine which students are automatically eligible for free meals in school. These students' families do not have to complete application forms, and school officials do not have to verify the families' household income levels.

Schools wishing to simplify the administration of the school meal programs and feed more children may also use the **universal service, no-fee options** known as **“Provision 2”** and **“Provision 3.”** Under these options, schools serve meals to all students for free without having to certify students' eligibility each year. Schools also do not have to count meals by price category each year.

Under these provisions, the U.S. Department of Agriculture does not reimburse the schools at the highest (free) rate for each meal served. While Provisions 2 and 3 differ in exactly how a school's reimbursement is calculated, basically a school's reimbursement is based on the percentage of meals served at each price category — or on the total amount of reimbursement received by the school — in the last year for which the school certified student eligibility and counted meals served by price category. The schools are responsible for additional costs that result from providing free meals to students who are only eligible for reduced-price or full-price meals.

Serving meals for free to all students and reducing the frequency of eligibility certification may also increase costs by encouraging many more students to eat school meals. However, some schools have found that operating under Provision 2 or 3 has enabled them to feed more children and that their administrative savings have enabled them to lower their total meal-service cost. Other schools report that these no-fee options increased the total cost of their meal programs.

The 1998 amendments to the child nutrition programs provide \$4.5 million for grants to up to ten states to expand the use of Provisions 2 and 3. Selected states will use this money to identify schools that could benefit from these provisions, make school districts aware of these schools, and provide technical assistance to help schools provide free meals to all students under these provisions.

The 1998 amendments also authorize appropriations to permit the U.S. Department of Agriculture to award grants for **pilot projects** to reduce paperwork, simplify meal-counting requirements, and evaluate the effect of providing free breakfasts to all children in selected elementary schools. To date, Congress has not provided funding for these pilot projects. Should Congress appropriate funds, the Secretary may award these three-year competitive grants to state education agencies for use in up to six school food authorities. Participating schools would be reimbursed at the highest (free) rate for each breakfast served.

### ***Expanding the Availability of After-School Snacks***

The 1998 amendments to the child nutrition programs make it much easier for schools to provide snacks to students in after-school programs. Congress enacted these changes to provide administrative relief and, more importantly, to increase the number of students — especially those in high-poverty areas — who participate in supervised, structured, after-school enrichment programs. Studies show that children are most likely to get into trouble in the hours between the end of school and dinner.

The 1998 amendments expand eligibility for *all* children to receive subsidized after-school snacks. Prior law only allowed schools to be reimbursed for snacks served to children up to age 12. Schools can now be reimbursed for snacks served to children up to age 18 (or age 19 if the child's 19th birthday occurs during the school year).

Furthermore, many more schools can now receive funding from the National School Lunch Program for snacks served in after-school programs. Previously, for most schools, the Child and Adult Care Food Program (CACFP) was the only potential source of funds for after-school snacks. But only schools that have at least 50 percent of their students eligible for free or reduced-price meals can participate in CACFP. Before the 1998 amendments, a school wishing to receive reimbursement for after-school snacks through the National School Lunch Program, rather than through CACFP, had to have been participating in CACFP as of May 15, 1989. Now, any school that participates in the National School Lunch Program can receive reimbursement for after-school snacks through the lunch program.

In addition to feeding more children and encouraging them to participate in after-school programs, allowing schools to be reimbursed for after-school snacks through the National School Lunch Program also streamlines paperwork and simplifies program administration. Schools no longer have to administer a separate program (the Child and Adult Care Food Program) to be reimbursed for after-school snacks served to students. This change is especially significant in the states where CACFP is not administered by the state education agency. Most school districts already operate the National School Lunch Program and can simply amend their existing agreements with the state education agency to include food service in after-school programs. School districts can also consolidate their reimbursement claims for after-school snacks with the claims they submit for breakfast, lunch, and milk.

The 1998 amendments to the child nutrition programs also provide for a new **“area eligibility option”** to increase the availability of after-school snacks and simplify the administration of after-school food service in high-poverty areas. Under this provision, schools participating in the National School Lunch Program that have certified at least 50 percent of their students as eligible for free or reduced-price meals may now *serve after-school snacks to all students for free*. The schools receive the highest reimbursement rate for each snack served without regard to the income eligibility of the individual children served.

## CONCLUSION

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Schools, school districts, and state education agencies\* now have more flexibility than ever before to use federal funding to increase student achievement and strengthen their communities. Many of the old rules that limited innovation and bound schools in red tape no longer apply. The challenge for educators is to set clear educational goals that push all children to learn to their fullest potential, and to work creatively with federal, state, and local partners to find the best ways to meet these goals.

But schools have been slow to change. Ironically, some school administrators have used this new “flexibility” to continue what they are already doing rather than to explore better ways. Many have not used existing flexibility because they do not fully understand what the law allows or because they believe that federal laws pose barriers that do not actually exist. With surprising frequency, lack of flexibility at the *state level*, not at the federal level, is the problem. And, in some cases, neither federal nor state requirements provide flexibility in the areas that most vex schools.

Now is the time for policy makers to take a hard look at existing and proposed mechanisms for flexibility in federal education programs and to ask tough questions.

- Which provisions allow (even encourage) states, school districts, and schools to improve learning and other outcomes for students?
- Which “reform” or “flexibility” provisions increase the value of federal educational investments for students, families, communities, schools, school districts, and states?
- How can the federal government both provide sufficient flexibility *and* assure accountability?

These and other questions are already being debated during Congressional reauthorization of the Elementary and Secondary Education Act.

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\* See Appendix I — *Definitions of Terms Used in This Guide Book.*

Hopefully, this guidebook will provide educators and administrators with useful information to improve results for children and communities. With better knowledge, states, school districts, and schools will be able to use the flexibility that already exists in federal law to get the most value from federal funding. If schools, communities, and states use this freedom aggressively and thoughtfully, the nation's children will be the winners.

## ENDNOTES

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### Introduction

1. In 1996, the Congressional Research Service estimated that, of all expenditures for public and private elementary and secondary education, 6.6 percent came from the federal government, 41.8 percent from state government, 41.4 percent from local government and 10.3 percent from all other sources. (*Federal Education Funding: A 1996 Perspective*, Congressional Research Service Report for Congress, May 6, 1996.)
2. U.S. General Accounting Office, *Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements*, September 1998 (report no. GAO/HEHS-98-232), p. 5.
3. U.S. Department of Education, *Waivers: Flexibility to Achieve High Standards — Report to Congress on Waivers Granted under the Elementary and Secondary Education Act*, 1998. This report is available from the U.S. Department of Education's Website at [www.ed.gov/flexibility](http://www.ed.gov/flexibility).
4. See the May 11, 1999, article in *The Washington Post*, "Ed-Flex Law Hasn't Cut All Strings on School Aid: Raft of State Rules Still Concerns Educators," by Kenneth J. Cooper.
5. U.S. General Accounting Office, *Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements*, September 1998 (report no. GAO/HEHS-98-232), pp. 47, 55.
6. U.S. General Accounting Office, *Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements*, September 1998 (report no. GAO/HEHS-98-232).

### Promoting Education Reform and Innovation

7. "Title I" is education shorthand for Title I (Helping Disadvantaged Children Meet High Standards), Part A (Improving Basic Programs Operated by Local Educational Agencies) of the Elementary and Secondary Education Act. This program is sometimes referred to as "Chapter 1."
8. Section 1113 of ESEA (as amended through P.L. 103-382) contains the requirements for school district selection of schools to receive Title I funds and for distributing Title I funds among schools.

9. When providing Title I funds to schools with less than 75 percent low-income children, a school district may choose to either continue with the overall district-wide ranking or to rank the remaining schools by grade-span groupings.
10. In addition to meeting the poverty criterion (i.e., 50 percent of a school's students or children in the school attendance area come from low-income families), a school that wishes to operate a Title I schoolwide program must have access to high-quality technical assistance from its school district, state, or another organization with expertise in school improvement (e.g., universities, other successful schools, or educators).
11. The Improving America's Schools Act of 1994 (P.L. 103-382) reauthorized and revised the Elementary and Secondary Education Act.
12. Iowa is the only state that is not developing statewide standards and assessments. Instead, Iowa requires each local school district to set or adopt its own academic standards and to assess students' knowledge and skills using tests developed or adopted by the school district.
13. The U.S. Department of Education has granted waivers to several states to extend the deadline to develop these academic standards. See the chapter on waivers, especially page 60, for more information.
14. See the *Federal Register* notice from September 21, 1995, at 60 FR 49174.
15. Using a January 1995 Compensatory Education Program telephone survey, the U.S. Department of Education estimated that 9,654 schools were eligible to operate Title I schoolwide programs during the 1994–1995 school year. The 1998 statistic (22,000 schools eligible to run schoolwide programs) is from the article in *Education Week*, "Focus of Title I Shifting from Pullout Efforts," March 11, 1998.
16. IDEA (as amended through P.L. 105-17), section 613 (a) (2) (D), allows schools to combine IDEA funds with other federal education funds in Title I schoolwide programs. The amount of a school's IDEA, Part B funds that can be used to support its Title I schoolwide program is limited to the number of disabled children participating in the schoolwide program multiplied by the school district's total IDEA, Part B, grant amount for the fiscal year divided by the number of disabled children in the jurisdiction of the school district.
17. ESEA (as amended through P.L. 103-382) Title I, Part A, Section 1116, requires school districts to identify Title I schools "in need of improvement." School districts annually evaluate the performance of Title I schools, using assessments developed by their states and their own additional assessments. If a Title I school does not demonstrate "adequate yearly progress" (as defined by the state) on these assessments for two consecutive years, the school district designates the school as needing improvement. If a school fails to improve after receiving technical assistance, the school district may take "corrective action," such as revoking a school's authority to operate a schoolwide program, withholding funds, reconstituting the school's staff, or allowing students to transfer to other schools.
18. The fiscal year 1998 Department of Education Appropriations Act is P.L. 105-78. In addition to the \$145 million appropriated for grants to states, another \$5 million was provided to enable the U.S. Department of Education to identify and disseminate information about effective, research-based comprehensive school reform models and to support technical assistance through the Department's ten Regional Educational Laboratories.

19. In addition to the \$50,000 minimum annual grant for each school, districts may provide schools with funds for reasonable and necessary costs associated with administration, technical assistance, and evaluation activities.
20. These grants are authorized under section 1502 (Demonstration of Innovative Practices) of Title I of ESEA.
21. These grants are authorized under the Fund for the Improvement of Education in ESEA Title X, Part A.
22. Debra Viadero, "Who's In, Who's Out: Grant Program's List of 17 Reform Models Attracts Criticism," *Education Week*, January 20, 1999.
23. The Goals 2000: Educate America Act is P.L. 103-227.
24. New Hampshire received its first year of funding from the U.S. Department of Education in 1997, but it is still developing its state improvement plan. (New Hampshire will use the alternative submission option.) The outlying areas (American Samoa, Northern Mariana, Guam, the Virgin Islands, Palau, Micronesia, and the Marshall Islands) also participate in Goals 2000.
25. The Public Charter Schools program is authorized in ESEA Title X, Part C, sections 10301–10311 (as amended through P.L. 105-278).
26. The Charter School Expansion Act of 1998 (P.L. 105-278) became law on October 22, 1998.
27. The definition of "charter school" is in section 10310 of ESEA, as amended by the Charter School Expansion Act of 1998 (P.L. 105-278).
28. Charter schools dissemination grants were authorized by the Charter School Expansion Act of 1998 (P.L. 105-278), which amended the Elementary and Secondary Education Act. See sections 10302 (c) (2) (C) and 10304 (f) (6) of the Elementary and Secondary Education Act as amended.
29. For the purposes of Title XI coordinated services projects, the U.S. Secretary of Education does not consider transportation, child care, case management, or other support services that facilitate access to health care services to be "direct health or health-related services." (*Preliminary Nonregulatory Guidance for Coordinated Services Projects: Title XI of the ESEA*, U.S. Department of Education, 1995.)
30. Coordinated services projects are authorized in IDEA, sections 613 (a) (4) (B) and 613 (f) (as amended through P.L. 105-17).

### **Waiving Federal Requirements**

31. U.S. Department of Education, *Waivers: Flexibility to Achieve High Standards — Report to Congress on Waivers Granted under the Elementary and Secondary Education Act*, 1998.
32. The U.S. Department of Education's guidebook, *Waiver Guidance for Waivers Available under the Goals 2000: Educate America Act, Elementary and Secondary Education Act, and School-to-Work Opportunities Act*, can be obtained from the Department's Website at [www.ed.gov/flexibility](http://www.ed.gov/flexibility) or by calling the Department's Waiver Assistance Hotline at (202) 401-7801 or (800) USA-LEARN.

33. The ESEA general waiver authority is outlined in section 14401 of the Elementary and Secondary Education Act (as amended through P.L. 103-382).
34. The Family Educational Rights and Privacy Act (FERPA) can be found in section 444 of the General Education Provisions Act (GEPA). The Protection of Pupil Rights Act (PPRA) can be found in section 445 of GEPA.
35. The Title I desegregation waiver authority is in ESEA (as amended through P.L. 103-382), Title I, Part A, section 1113 (a) (7).
36. The Title I desegregation waiver authority applies to sections 1113 (a) and 1113 (c) of Title I, Part A — Improving Basic Programs Operated by Local Educational Agencies — of the Elementary and Secondary Education Act (as amended through P.L. 103-382).
37. The charter schools waiver authority is in ESEA (as amended through P.L. 103-382) Title X, Part C, section 10304 (e).
38. The U.S. Secretary of Education may not waive any of the statutory provisions that define a charter school (Title X, Part C, section 10310 (1) of ESEA, as amended through P.L. 105-278). See page 18 for the full definition of “charter school.”
39. The Goals 2000 general waiver authority is outlined in Section 311 of the Goals 2000: Educate America Act (P.L. 103-227).
40. The Goals 2000: Educate America Act originally gave the U.S. Secretary of Education the authority to grant Ed-Flex waiver authority to six state education agencies. The Omnibus Consolidated Rescissions and Appropriations Act of 1996 gave the U.S. Secretary of Education the authority to grant Ed-Flex waiver authority to an additional six state education agencies, bringing the total to twelve state education agencies.
41. The Education Flexibility Partnership Act of 1999 is P.L. 106-25.
42. Under the Education Flexibility Partnership Act of 1999, Ed-Flex state education agencies may not waive the Title I requirement under ESEA section 1113 (a) (3) that school districts provide Title I funds to all schools in attendance areas with at least 75 percent low-income children, in rank order from highest to lowest concentrations of poverty, before serving any schools below 75 percent poverty.
43. Under the Education Flexibility Partnership Act of 1999, Ed-Flex state education agencies may not waive the Title I requirements under ESEA sections 1113 (a) and (b) regarding the selection of schools or school attendance areas to receive Title I, Part A funds.
44. ESEA (as amended through P.L. 103-382), section 1111 (b), requires that, by the beginning of the 1997–1998 school year, states have developed “challenging academic content standards and student performance standards” for at least Title I students in at least mathematics and reading. The law also requires states to have implemented yearly student assessments that are aligned with the academic standards by the beginning of the 2000–2001 school year. To be eligible for Ed-Flex status, a state, at a minimum, must have developed and implemented the academic content standards with interim assessments and have made “substantial progress” (as determined by the U.S. Secretary of Education) toward developing and implementing student performance standards and final assessments.
45. Title I requires each state to define a measure of “adequate yearly progress” for Title I schools based on student performance on yearly assessments. (See also endnote 17.)

46. The School-to-Work general waiver authority is outlined in sections 501, 502, and 503 of the School-to-Work Opportunities Act (P.L. 103-239).
47. The Workforce Investment Act (WIA) is P.L. 105-220. The regulations for WIA (20 CFR parts 652 and 660–671) were published in the *Federal Register* on April 15, 1999, at 64 FR 18662.
48. The WIA general waiver authority is contained in P.L. 105-220, section 189 (I) (4).
49. The initial authorization for Work-Flex as a six-state demonstration program was in P.L. 104-208, the Department of Labor Appropriations Act of 1997. The provision of WIA expanding Work-Flex eligibility to all states is in P.L. 105-220, section 192.
50. The Wagner-Peyser Act legislates a national employment system that is maintained within the U.S. Department of Labor. Sections 8–10 outline the plans, fiscal requirements, and records a state must develop and maintain in order to participate.
51. The “key reform principles” of WIA are described in the regulations at 20 CFR 661.400. They include streamlining services through a “one-stop” delivery system; empowering individuals to obtain the services and information they need to enhance their employment opportunities; ensuring access to core employment-related services; increasing accountability of states, localities, and training providers for performance outcomes; establishing a stronger role for local boards and the private sector; providing increased state and local flexibility; and improving youth programs through services that emphasize academic and occupational learning.
52. Section 501 of WIA (P.L. 105-220) allows states to submit unified plans that incorporate their applications under many related programs. A state’s unified plan may cover a combination of programs under Titles I and II of WIA, the Carl D. Perkins Vocational and Technical Education Act, the Food Stamp Act of 1977, the Trade Act of 1974, the Wagner-Peyser Act, the Rehabilitation Act of 1973, the Social Security Act, the Older Americans Act of 1965, the Community Services Block Grant Act, and others.
53. See endnote 51.
54. The U.S. Secretary of Agriculture’s waiver authority for the child nutrition programs is in the National School Lunch Act (as amended through P.L. 105-394), section 12 (I).
55. U.S. Department of Education, *Waivers: Flexibility to Achieve High Standards — Report to Congress on Waivers Granted under the Elementary and Secondary Education Act*, 1998. This report is available from the U.S. Department of Education’s Website at [www.ed.gov/flexibility](http://www.ed.gov/flexibility).
56. The Title I targeting provisions are in ESEA (as amended through P.L. 103-382) Title I, Part A, section 1113.
57. The schoolwide programs provisions are in ESEA (as amended through P.L. 103-382) Title I, Part A, section 1114.
58. U.S. Department of Education, *Waivers: Flexibility to Achieve High Standards — Report to Congress on Waivers Granted under the Elementary and Secondary Education Act*, 1998, p. 2.
59. U.S. Department of Education Office of Inspector General, Audit Services, *State and Local Education Agencies Need More Technical Assistance to Take Full Advantage of the Flexibility Provisions of Title XIV of the Improving America’s Schools Act*, August 1997. U.S.

- General Accounting Office, *Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns about Federal Requirements*, September 1998 (report no. GAO/HEHS-98-232).
60. U.S. General Accounting Office, *Elementary and Secondary Education: Ed-Flex States Vary in Implementation of Waiver Process*, November 1998 (report no. GAO/HEHS-99-17).
  61. U.S. General Accounting Office, *Elementary and Secondary Education: Ed-Flex States Vary in Implementation of Waiver Process*, November 1998 (report no. GAO/HEHS-99-17). U.S. Department of Education, Office of Elementary and Secondary Education, *Goals 2000: Reforming Education to Improve Student Achievement, Goals 2000 Report to Congress*, April 30, 1998.
  62. Although the Ed-Flex waiver authority covers the same programs in all participating states, five Ed-Flex demonstration states — Illinois, Iowa, Kansas, Massachusetts, and Oregon — were originally authorized to grant only *individual* waivers (that is, waivers that can be used only by the individual school districts that apply for and receive them). The remaining seven states — Colorado, Maryland, Michigan, New Mexico, Ohio, Texas, and Vermont — have been able to grant both individual and *statewide* waivers (that is, waivers that can be used by all qualifying school districts in the state without submitting individual applications). As this guidebook goes to print, the U.S. Department of Education is developing Ed-Flex guidance that will explain how *all* Ed-Flex states, including all of the demonstration states, can grant statewide waivers.

### **Increasing Administrative Flexibility and Reducing Paperwork**

63. Most of the provisions to increase administrative flexibility in federal education programs are contained in Title XIV of ESEA (as amended through P.L. 103-382).
64. U.S. General Accounting Office letter to Richard W. Riley, U.S. Secretary of Education, on the subject *Consolidated Education Planning: State Education Agencies' Implementation of Consolidated Planning at the Local Level*, February 16, 1999 (report no. GAO/HEHS-99-33R).
65. ESEA (as amended through P.L. 103-382) Title XIV, section 14201, authorizes state education agencies to consolidate administrative funds for major education programs. Section 14203 allows local education agencies (school districts) to consolidate administrative funds.
66. ESEA (as amended through P.L. 103-382) Title I, section 1603 (c), allows state education agencies to consolidate administrative funds from Parts A, C, and D of Title I.
67. U.S. General Accounting Office, *Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements*, September 1998 (report no. GAO/HEHS-98-232).
68. ESEA Title XIV, section 14206 (a) is the “unneeded funds” provision.
69. U.S. General Accounting Office, *Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements*, September 1998 (report no. GAO/HEHS-98-232).
70. The changes to EDGAR were published in the *Federal Register* on July 28, 1997 (62 FR

- 4042). You can access the U.S. Department of Education's *Federal Register* notices on the Internet at [www.ed.gov/legislation/FedRegister](http://www.ed.gov/legislation/FedRegister).
71. The U.S. Department of Education's discretionary grant programs for state education agencies or school districts include Even Start Migrant Education, the Migrant Education Coordination Program, the Even Start Statewide Family Literacy Program, Technology Innovation Challenge Grants, the Public Charter Schools program, and State Grants for Assistive Technology.
  72. 34 CFR 75.261 allows discretionary grant recipients to extend a grant project for one additional year.
  73. 34 CFR 75.263 allows discretionary grant recipients to spend grant funds prior to receiving an award.
  74. 34 CFR 75.253 (c) allows discretionary grant recipients to carry over unused funds from one budget period to the next. In determining the amount of funds to be awarded to a discretionary grant recipient in a new budget period, the U.S. Secretary of Education may consider the amount of funds carried over from the last budget period and decide to reduce the amount of the subsequent award.
  75. 34 CFR 75.264 allows discretionary grant recipients to transfer funds among direct-cost budget categories within limits.
  76. Even so-called "full-priced meals" are subsidized by the federal government in participating schools. Each July 1, the U.S. Secretary of Agriculture adjusts the reimbursement rates to account for inflation, based on changes in the "Food Away from Home Series" of the "Consumer Price Index for All Urban Consumers." The reimbursement rates can be found on the U.S. Department of Agriculture's Food and Nutrition Service Website at [www.fns.usda.gov/cnd](http://www.fns.usda.gov/cnd).
  77. The conference report (Report 105-786) (the report of the committee of Senators and Representatives that resolved differences between the bills passed separately by the House and Senate) expresses the intention of Congress to allow state agencies to consolidate their oversight reviews of schools that operate one or more of the school meal programs and the Child and Adult Care Food Program. Furthermore, according to the report, in any year that a state agency reviews a school's regular-year meal programs without finding problems, the state agency need not conduct a separate review of the school's Summer Food Service Program, as long as the same staff operate both the regular-year and summer-meal programs.
  78. The 1999–2000 school year income eligibility guidelines for the child nutrition programs were published in the *Federal Register* on April 2, 1999 (64 FR 15951). They can be found on the Internet at [www.fns.usda.gov/cnd/Lunch/Default.htm](http://www.fns.usda.gov/cnd/Lunch/Default.htm). For school year 1999–2000, a child from a family of four would be eligible for free meals if his or her total annual household income was \$21,710 or less. A child from a family of four would be eligible for reduced-price meals if his or her annual household income was between \$21,710 and \$30,895.



## APPENDIX I

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### DEFINITIONS OF TERMS USED IN THIS GUIDEBOOK

*What follows are short explanations of terms that are important to understand. Many of these terms are defined in the various statutes, but often the definition varies slightly from law to law. We urge you to look up the term in the specific statute if you need a more complete or precise definition.*

The **Alternative Submission Process** allows a state to receive third-year Goals 2000 funds and become eligible for waivers under the Goals 2000 general waiver authority without submitting its state improvement plan (see definition of “state improvement plan” below) to the U.S. Secretary of Education for approval. The alternative submission process allows a state to submit to the Secretary assurances that the state has developed an improvement plan — as well as benchmarks and time lines — meeting the requirements of Goals 2000. The alternative submission process was authorized under the Omnibus Consolidated Rescissions and Appropriations Act of 1996.

**Comparability of Services**, as defined in the Elementary and Secondary Education Act, allows a local education agency (see definition of “local education agency” below) to receive funds for a program only if state and local funds will be used in schools served under this program to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this program.

The **Family Educational Rights and Privacy Act (FERPA)** (also known as the Buckley Amendment) is part of the General Education Provisions Act. It prohibits federal funds being made available to any educational agency or institution that has a policy of denying — or that effectively prevents — the rights of parents to inspect, review, and challenge errors in the educational records of their children.

A **Formula Grant** is funding that the federal government distributes to states in accordance with a funding formula in the authorizing statute. For example, a statute might require that grant funds be allocated on the basis of each state’s share of the school-age population. Some programs, like Title I, also specify formulas for states to use in distributing federal funds to school districts.

**Guidance (or Nonregulatory Guidance)**, issued by a governmental agency (such as the U.S. Department of Education), explains statutory requirements and provides guidance for carrying out these requirements. The document does not impose requirements in addition to those in the law. The grantee, therefore, is more free than in the past to develop alternative approaches as long as they are consistent with the purposes of the statute. Compliance with nonregulatory guidance, however, is deemed by U.S. Department of Education officials, including the Inspector General, as compliance with applicable statutes and regulations.

**Impact Aid** (Title VIII of the Elementary and Secondary Education Act) supplies federal funds to some local school districts to alleviate financial burdens resulting from federal activity. For example, Impact Aid funds help school districts meet the cost of educating children who reside on federal property, such as military bases.

A **Local Education Agency (LEA)** (also known as a school district or school system) is a public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, or other political subdivision of a state, or combination of school districts or counties recognized in a state as an administrative agency for its public elementary or secondary schools.

A **Local Partnership**, as defined in the School-to-Work Opportunities Act, is a local entity that is responsible for local School-to-Work programs. Local partnerships consist of employers, representatives of local education agencies, local post-secondary educational institutions (including representatives of area vocational education schools where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or non-managerial employee representatives, and students. A partnership may include other entities, such as employer organizations, community-based organizations, national trade associations working at the local level, industrial extension centers, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational education entities, local government agencies, parent organizations, teacher organizations, and federally recognized Native-American tribes and Native Hawaiian entities.

**Maintenance of Effort** is a statutory provision that requires a local education agency, state education agency, or other recipient of federal funds to maintain the same, or nearly the same, level of state or local funding for program activities as in the previous fiscal year in order to receive federal funding. The specific definition of maintenance of effort differs from law to law: for example, the Elementary and Secondary Education Act, the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act each have a slightly different definition of the term.

**Medicaid** is a federal-state matching entitlement program that provides medical assistance for low-income persons who are aged, blind, disabled, or members of families with dependent children, low-income pregnant women, and children. Because each state designs and administers its own program within broad federal guidelines, there is substantial variation among states in terms of who is eligible for services; the type, amount, duration, and scope of benefits and services; who can provide services; and how much providers are paid. At the federal level, Medicaid is administered by the Health Care Financing Administration of the U.S. Department of Health and Human Services.

The **Protection of Pupil Rights Act (PPRA)** is part of the General Education Provisions Act. It requires that all instructional material, including teachers' manuals, films, tapes, or other supplementary instructional material used in connection with any survey, analysis, or evaluation as part of any applicable program, be available for inspection by the parents or guardians of students. It also mandates that no student be required, as part of any applicable

program, to submit to a survey, analysis, or evaluation that reveals information concerning political affiliation; mental and psychological problems potentially embarrassing to the student or the student's family; sex behavior and attitudes; illegal, anti-social, self-incriminating, and demeaning behavior; critical appraisals of other individuals with whom respondents have close family relationships; legally recognized, privileged, and analogous relationships such as lawyers, physicians, and ministers; or income without the prior consent of the student (or parent if the student is not emancipated).

A **Regulation** is a rule written by an administrative agency of the executive branch that has the force of law. The function of these regulations is to implement, clarify, or carry out statutes enacted by the legislature.

A **School Attendance Area**, as defined in Title I of the Elementary and Secondary Education Act, is the geographic area in which the children reside who are normally served by a school.

A **State Education Agency (SEA)** is the state governmental agency primarily responsible for supervising the public elementary and secondary schools in that state.

A **State Improvement Plan** is a plan to improve elementary and secondary education in the state required for participation in Goals 2000. Any state education agency that wishes to receive an allotment under Title III (State and Local Education Systemic Improvement) of Goals 2000 must have an improvement plan developed by a broad-based state panel in cooperation with the state education agency and the governor. The plan must include provisions for academic standards and assessments, parental and community support and involvement, making the improvements system-wide, coordination with School-to-Work programs, benchmarks, and time lines.

A **Statute** is a law passed by the U.S. Congress or by a state legislature.

**Supplement, Not Supplant**, as defined in the Elementary and Secondary Education Act, is a statutory provision that requires a state or local education agency to use funds received under a specific federal program only to *supplement* the amount of funds that would, in the absence of such federal funds, be made available from non-federal sources (that is, state, local, or private funds) for the education of pupils participating in the specific program. These federal funds cannot take the place of (*supplant*) non-federal funds that would otherwise be used for these purposes.

A **Waiver** is a mechanism that allows an eligible applicant (such as a school, school district, or state education agency) to be temporarily excused from complying with a particular provision of a law or regulation.

A **Waiver Authority** is a provision in a statute or regulation that empowers a federal, state, or local official to waive certain legal requirements. The name of a waiver authority refers to the law that *grants permission to waive* requirements, not necessarily the law or regulation that may be waived.



## APPENDIX II

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

The comparisons of the three general education waivers in this appendix are from the U.S. Department of Education publication, *Waiver Guidance for Waivers Available under the Goals 2000: Educate America Act, Elementary and Secondary Education Act, School-to-Work Opportunities Act*.

#### WHAT REQUIREMENTS DO THE GENERAL WAIVER AUTHORITIES COVER?

GOALS 2000	ESEA	SCHOOL-TO-WORK
<p>Most statutory or regulatory requirements of the following programs:</p> <p>ESEA Title I — Helping Disadvantaged Children Meet High Standards</p> <p>ESEA Title II — Dwight D. Eisenhower Professional Development Program</p> <p>ESEA Title IV — Safe and Drug-Free Schools and Communities</p> <p>ESEA Title VI — Innovative Education Program Strategies</p> <p>ESEA Title VII, Part C — Emergency Immigrant Education Program</p> <p>The Carl D. Perkins Vocational and Technical Education Act</p>	<p>Most statutory or regulatory requirements of ESEA, except requirements under Title VIII — Impact Aid</p>	<p>Most statutory or regulatory requirements of the following programs:</p> <p>ESEA Title I — Helping Disadvantaged Children Meet High Standards</p> <p>ESEA Title II — Dwight D. Eisenhower Professional Development Program</p> <p>ESEA Title IV — Safe and Drug-Free Schools and Communities</p> <p>ESEA Title VI — Innovative Education Program Strategies</p> <p>ESEA Title VII, Part C — Emergency Immigrant Education Program</p> <p>The Carl D. Perkins Vocational and Technical Education Act</p> <p>The School-to-Work Opportunities Act also permits the U.S. Secretary of Labor to waive certain requirements of the Job Training Partnership Act.</p>

**FOR WHAT PERIOD MAY WAIVERS BE GRANTED?**

<b>GOALS 2000</b>	<b>ESEA</b>	<b>SCHOOL-TO-WORK</b>
Up to 4 years	Up to 3 years	Up to 5 years
May be extended if the waiver has been effective in enabling the state or the affected local education agency to carry out reform plans	May be extended if the waiver has been effective in enabling the recipient to carry out activities for which the waiver was requested, the waiver has contributed to improved student performance, and the waiver is in the public interest	May be extended if the waiver has been effective in enabling the state or partnership to carry out the purposes of the School-to-Work Opportunities Act
May be terminated if the performance of the state education agency, local education agency, or school affected by the waiver is inadequate to justify continuation	May be terminated if the performance of the state or other recipient has been inadequate to justify continuation or if the waiver is no longer necessary to achieve the original purposes	May be terminated if the performance of the state, partnership, or local education agency affected by the waiver has been inadequate to justify continuation or if the state fails to waive similar requirements of state law as required or agreed to

**WHAT REQUIREMENTS MAY NOT BE WAIVED UNDER THE GENERAL WAIVER AUTHORITIES?**

<b>GOALS 2000</b>	<b>ESEA</b>	<b>SCHOOL-TO-WORK</b>
Requirements of the previously listed programs relating to:	Requirements of ESEA relating to:	Requirements of the previously listed programs relating to:
Maintenance of effort	Maintenance of effort	Maintenance of effort
Comparability of services	Comparability of services	Comparability of services
Equitable participation of students and staff in private schools	Equitable participation of students and teachers in private schools	Equitable participation of students in private schools
Parental participation and involvement	Parental participation and involvement	Student and parental participation and involvement
Distribution of funds to states and local education agencies	Distribution of funds to states, local education agencies, or school districts	Distribution of funds to states and local education agencies
Civil rights requirements and health and safety requirements	Civil rights requirements and health and safety requirements	Public health or safety, labor standards, civil rights, occupational safety or health, and environmental protection
	Supplement, not supplant	Eligibility of an individual for participation in a program
	Title X Part C, charter schools requirements	Prohibitions or restrictions relating to the construction of buildings and facilities
	Prohibitions regarding state aid and use of federal funds for religious worship or instruction	Basic purposes or goals of the program
	Title VIII — Impact Aid	

**WHO MAY APPLY FOR A WAIVER?**

<b>GOALS 2000</b>	<b>ESEA</b>	<b>SCHOOL-TO-WORK</b>
<p>The following entities may apply for a waiver if the state has an approved Goals 2000 state plan or if the state participates in Goals 2000 through the alternative submission process authorized in 1996:</p> <p>State education agency acting on its own behalf</p> <p>State education agency on behalf of a local education agency or school that receives funds under Title III of Goals 2000, if the state education agency approves the waiver request</p> <p>State education agency on behalf of a local education agency or school with reform efforts comparable to Section 306 activities, if the state education agency approves the waiver request</p>	<p>The following entities may apply for a waiver under ESEA:</p> <p>State education agency acting on its own behalf</p> <p>State education agency on behalf of a local education agency or school</p> <p>Local education agency on its own behalf, after the state education agency has had the opportunity to comment</p> <p>Local education agency on behalf of a school, after the state education agency has had opportunity to comment</p> <p>Indian tribe on behalf of schools operated by the tribe</p>	<p>The following entities may apply for a waiver if the state has an approved School-to-Work state plan:</p> <p>State acting on its own behalf</p> <p>State on behalf of a local partnership</p> <p>Local partnership, if the state fails to make a determination to submit or not to submit the request within 30 days of receiving the application</p>

**WHAT ARE THE REPORTING REQUIREMENTS OF THE WAIVER RECIPIENT?**

<b>GOALS 2000</b>	<b>ESEA</b>	<b>SCHOOL-TO-WORK</b>
<p>No specific requirements</p>	<p>A local education agency that receives a waiver submits a report to the state education agency at the end of the second year and each subsequent year; the state education agency submits an annual report to the U.S. Secretary of Education based on local education agency reports</p> <p>Indian tribe submits an annual report to the U.S. Secretary of Education</p>	<p>No specific requirements</p>

**WHAT INFORMATION MUST BE INCLUDED IN A WAIVER APPLICATION?**

<b>GOALS 2000</b>	<b>ESEA</b>	<b>SCHOOL-TO-WORK</b>
<p>Identification of the requirements requested to be waived and the goals the recipient intends to achieve, including demonstration that the requirements impede the ability to carry out the state or local improvement plan</p>	<p>Identification of the federal programs affected</p>	<p>Identification of specific requirements to be waived, including demonstration that the requirements impede the ability to carry out the School-to-Work Opportunities Act</p>
<p>Description of action the state education agency has taken to remove state barriers identified in local education agencies' applications for waivers, including agreement to waive similar requirements of state law</p>	<p>Description of the requirements to be waived and how waivers would increase quality of instruction or improve academic performance</p>	<p>Assurance that the state waives, or agrees to waive, similar requirements of state law</p>
<p>Description of the goals of the waiver and expected programmatic results and a timetable for implementation of the waiver</p>	<p>If applicable, description of which similar state and local requirements would be waived and how waivers would help achieve stated objectives</p>	<p>Description of specific, positive outcomes expected from the waiver, and why the outcomes cannot be achieved while complying with the requirement</p>
<p>Description of the number and types of students impacted by the waiver</p>	<p>Description of specific, measurable educational improvement goals and expected outcomes for all affected students</p>	<p>Identification of the amount of state resources that would be used to implement the School-to-Work plan</p>
<p>Description of the process for state education agency monitoring, on a bi-annual basis, the progress in implementing the waiver</p>	<p>Description of how schools would continue to provide assistance to the same populations served by programs for which waivers are requested</p>	<p>Description of the process to be used in monitoring progress in implementing the waiver</p>
<p>For statewide waivers, assurance that the state education agency has provided local education agencies and parent organizations an opportunity to comment and submission of any local education agency comments to the U.S. Secretary of Education</p>	<p>Description of methods to be used to measure progress in meeting goals and outcomes</p>	<p>Assurance that the state has provided relevant partnerships and local education agencies with an opportunity to comment on the state request</p>
<p>For local education agency waivers, assurance that parents, community groups, and advocacy or civil rights groups were provided an opportunity to comment</p>	<p>For a state education agency seeking a waiver on its own behalf, assurance that interested local education agencies and the public were provided a reasonable opportunity to comment on the request and submission of local education agency comments</p>	<p>Assurance that the state has provided, to the extent feasible, students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the state request</p>
	<p>For local education agencies or schools seeking waivers, assurance that the state education agency had an opportunity to review the request and submission of any state education agency comments; also, assurance that the public was provided an opportunity to comment on the request</p>	<p>Comments of partnerships and local education agencies concerning the waiver request</p>

## APPENDIX III

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### USEFUL RESOURCES

There are many resources available to assist in taking advantage of the flexibility discussed in this guidebook. This appendix presents information about the laws discussed in this guide and a list of related resources available from the U.S. Department of Education. Other materials by the IEL Policy Exchange and the Center on Education Policy are also listed.

#### Where to Find Federal Laws and Related Legal Documents

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Contact the school district's legal office.

Visit a federal depository library. There are nearly 1,400 of these libraries throughout the United States and its territories and at least one exists in every congressional district. All of these libraries provide free public access to a wide variety of federal government information, in both print and electronic formats, and have staff available to assist users. Many universities have federal depository libraries.

Use the Internet:

The full text of many federal education laws and regulations are available on the U.S. Department of Education's Webpage at [www.ed.gov/pubs/legsregs.html](http://www.ed.gov/pubs/legsregs.html). Guidance documents can also be downloaded from this address.

The full text of the Workforce Investment Act and the final interim regulations for the Act are available at [usworkforce.org](http://usworkforce.org).

Regulations and policy documents for the child nutrition programs are available on the U.S. Department of Agriculture's Food and Nutrition Service Website at [www.fns.usda.gov/cnd](http://www.fns.usda.gov/cnd). Choose a program (e.g., School Breakfast Program), then select "regulations and policy" on the left side of the screen.

Thomas ([thomas.loc.gov](http://thomas.loc.gov)) is a site sponsored by the Library of Congress that has full text of legislation, searchable by key words or public law numbers. Summaries of bills, the status of pending bills, congressional committee reports, and links to other related information can also be found at this site.

Search through and download sections of the U.S. Code, the Code of Federal Regulations, and many other legal databases on the U.S. Government Printing Office's Website at [www.access.gpo.gov/su\\_docs/index.html](http://www.access.gpo.gov/su_docs/index.html).

The U.S. House of Representatives' Internet Law Library also has the U.S. Code in a searchable format at [uscode.house.gov](http://uscode.house.gov). Users can find individual sections of the U.S. Code or download whole titles at a time (for instance, title 20 is all federal education law). The U.S. General Services Administration also maintains a legal research site at [fedlaw.gsa.gov](http://fedlaw.gsa.gov).

## Reference Information for the Statutes Discussed in This Guidebook

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### **Elementary and Secondary Education Act of 1965 (ESEA)**

Title 20, Chapter 70, of the United States Code (beginning at section 6301)

### **Improving America's Schools Act of 1994** (the last reauthorization of ESEA)

Public Law 103-382 — October 20, 1994 (108 Stat. 3518)

### **Charter School Expansion Act of 1998** (amended sections of ESEA)

Public Law 105-278 — October 22, 1998 (112 Stat. 2682)

### **Goals 2000: Educate America Act**

Public Law 103-227 — March 31, 1994 (108 Stat. 125)

Title 20, Chapter 68, of the United States Code (beginning at section 5801)

### **School-to-Work Opportunities Act of 1994**

Public Law 103-239 — May 4, 1994 (108 Stat. 568)

Title 20, Chapter 69, of the United States Code (beginning at section 6101)

### **Individuals with Disabilities Education Act (IDEA)**

Title 20, Chapter 33, of the United States Code (beginning at section 1400)

### **Individuals with Disabilities Education Act Amendments of 1997**

Public Law 105-17 — June 4, 1997 (111 Stat. 37)

### **Education Flexibility Partnership Act of 1999**

Public Law 106-25 — April 29, 1999 (113 Stat. 41)

Title 20 of the United States Code, beginning at section 5801

### **Carl D. Perkins Vocational and Applied Technology Education Act**

Title 20, Chapter 44, of the United States Code (begins at section 2301)

### **Carl D. Perkins Vocational and Technical Education Act of 1998** (the last set of extensive amendments to the Perkins Act)

Public Law 105-332 — October 31, 1998 (112 Stat. 3076)

### **Workforce Investment Act of 1998**

Public Law 105-220 — August 7, 1998 (112 Stat. 936)

Title 29, Chapter 29, of the United States Code (beginning at section 2801)

**Job Training Partnership Act**

Public Law 102-367 — September 7, 1992

Title 29, Chapter 19, of the United States Code (beginning at section 1501)

(Title I of the Workforce Investment Act replaces the Job Training Partnership Act as of July 1, 2000.)

**National School Lunch Act**

Title 42, Chapter 13, of the United States Code (beginning at section 1751)

**Child Nutrition Act of 1966**

Title 42, Chapter 13A, of the United States Code (beginning at section 1771)

**William F. Goodling Child Nutrition Reauthorization Act of 1998** (amended the National School Lunch Act and the Child Nutrition Act)

Public Law 105-336 — October 31, 1998 (112 Stat. 3143)

## Additional Resources from the U.S. Department of Education

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Below are several resources from the U.S. Department of Education that may be useful when exploring ways to take advantage of the flexibility in federal education programs. Some of these documents, and many other useful resources, are available on the Department's Website ([www.ed.gov](http://www.ed.gov)), or by calling the Department at (800) USA-LEARN to request publications.

*Questions and Answers on Certain Provisions of Title XIV of the Elementary and Secondary Education Act of 1965* (available on the Internet at [www.ed.gov/initi/CAROI/2titlexi.html](http://www.ed.gov/initi/CAROI/2titlexi.html))

*Waiver Guidance for Waivers Available under the Goals 2000: Educate America Act, Elementary and Secondary Education Act, School-to-Work Opportunities Act, October 1998* (available on the Internet at [www.ed.gov/flexibility](http://www.ed.gov/flexibility) or by calling the Department of Education's Waiver Assistance line at (202) 401-7801)

*Waivers: Flexibility to Achieve High Standards, Report to Congress on Waivers Granted Under the Elementary and Secondary Education Act, 1998* (available on the Internet at [www.ed.gov/flexibility](http://www.ed.gov/flexibility) or by calling the Department of Education's Waiver Assistance line at (202) 401-7801)

*Waivers: Increased Flexibility in Exchange for Increased Accountability, Report to Congress on the Waiver Authorities in the Goals 2000: Educate America Act, the Reauthorized Elementary and Secondary Education Act, and the School-to-Work Opportunities Act, September 1997* (available by calling the Department of Education's Waiver Assistance line at (202) 401-7801)

*Companion Document: Cross-Cutting Guidance for the Elementary and Secondary Education Act, 1996* (available on the Internet at [www.ed.gov/pubs/legsregs.html](http://www.ed.gov/pubs/legsregs.html))

*Title I, Part A Policy Guidance—Improving Basic Programs Operated by Local Educational Agencies, 1996* (available on the Internet at [www.ed.gov/pubs/legsregs.html](http://www.ed.gov/pubs/legsregs.html))

*Compliance Supplement for U.S. Department of Education Programs Authorized by the Elementary and Secondary Education Act* (also called the ESEA audit compliance supplement), 1996 (available on the Internet at [www.ed.gov/legislation/ESEA/index.html](http://www.ed.gov/legislation/ESEA/index.html))

*Preliminary Nonregulatory Guidance for Coordinated Services Projects: Title XI of the ESEA*, 1995  
*Implementing Schoolwide Programs: An Idea Book on Planning*, 1998; and *Implementing Schoolwide Projects: An Idea Book*, 1994 (both available on the Internet at [www.ed.gov/legislation/ESEA/index.html](http://www.ed.gov/legislation/ESEA/index.html))

## Special Reports by the IEL Policy Exchange

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These and other IEL publications are available from the Institute for Educational Leadership, 1001 Connecticut Avenue NW, Suite 310, Washington, DC, 20036, (202) 822-8405, Fax (202) 872-4050, Email [iel@iel.org](mailto:iel@iel.org), Internet [www.iel.org](http://www.iel.org). There is no charge for shipping and handling on prepaid orders. For billed orders, the shipping and handling charges are \$2 for the first book and \$1 for each additional book up to \$5. Full text and summaries of select publications are also available on the Internet at [www.policyexchange.iel.org](http://www.policyexchange.iel.org).

*Solving the Maze of Federal Programs for Children & Families: Perspectives from Key Congressional Staff*, Special Report #1, 1993, \$10

*Linking Schools with Health & Social Services: Perspectives from Thomas Payzant on San Diego's New Beginnings*, Special Report #2, 1994, \$10

*Who Controls Major Federal Programs for Children & Families: Rube Goldberg Revisited*, Special Report #3, 1995, \$20 (includes two color posters)

*A Primer on Program Rules for Five Major Federal Programs—AFDC, Food Stamps, Medicaid, Section 8 Housing and Public Housing*, Special Report #4, 1995, \$15

*Workbook of Application Packets for San Diego Assistance Programs*, Special Report #5, 1995, \$40

*The ABC's of the Federal Budget Debate*, Special Report #6, 1996, \$5

*The New Oregon Trail: Accountability for Results*, Special Report #7, 1996, \$5

*Steer, Row or Abandon Ship? Rethinking the Federal Role for Children, Youth & Families*, Special Report #8, 1997, \$5

*Partnerships for Stronger Families: Building Intergovernmental Partnerships to Improve Results for Children and Families*, Special Report #9, 1997, \$5 (first ten copies at no cost)

*Mixed Results: Lessons Learned from a Case Study of Interagency Collaboration*, Special Report #10, 1998, \$5

*The Measure of Success: What Are the Policy Implications of the New National Indicators of Child Well-Being?*, Special Report #11, 1998, \$5

*Strategies to Achieve a Common Purpose: Turning Good Ideas into Good Policies*, Special Report #12, 1999, \$5

*The Federal Role in Helping Young People Transition from Foster Care: The Independent Living Program and More* (Transcript of a July 23, 1999, IEL Policy Exchange Seminar), Special Report #13, 1999, \$3

*Foster Care: A Guide to Who Controls Federal Programs, Policies and Purse Strings*, Special Report #14, 2000, \$2

## Other Publications by the IEL Policy Exchange

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*Understanding Flexibility in Federal Education Programs* (developed with the Center on Education Policy), 2000, \$5

*Standards Count: How Can the National Assessment of Educational Progress Make a Difference in the Next Ten Years?* (Papers prepared for the Tenth Anniversary Conference of the National Assessment Governing Board, produced cooperatively with the National Assessment Governing Board), 1998, no cost

*Flexibility in Federal Education Programs: A Guide Book for Community Innovation* (developed with the Center on Education Policy), 1997, \$4

*Simulation Hearing on Obtaining Federal and State Assistance* (Transcript of a March 27, 1995, Congressional Hearing), 1995, \$5

*Dollars and Sense: Diverse Perspectives on Block Grants and the Personal Responsibility Act* (produced cooperatively by the IEL Policy Exchange, the American Youth Policy Forum, and the Finance Project), 1995, \$5

*Comprehensive Strategies for Children and Families: Report on an October 4, 1994 Seminar* (co-sponsored by the Domestic Policy Council of the White House and the IEL Policy Exchange), 1994, \$10

## Publications by the Center on Education Policy

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*A Brief History of the Federal Role in Education: Why It Began and Why It's Still Needed.*

This booklet takes a historical look at the federal role in education, including when, why, and how it took shape, and which major themes have defined it over two centuries. Copies of the booklet are available from the Center of Education Policy and can also be downloaded from the Center's Website at [www.ctredpol.org](http://www.ctredpol.org).

*Why National Standards and Tests? Politics and the Quest for Better Schools.* This book is a behind-the-scenes look at how the Congress and the Executive Branch wrestled with the issues surrounding national standards and tests. Copies of the book can be ordered from Sage Publications by calling (805) 499-9774, sending an e-mail to [order@sagepub.com](mailto:order@sagepub.com), or by writing to Sage Publications, Inc., 2455 Teller Road, Thousand Oaks, CA, 91320-2218. The cost of each book is \$39.95, and shipping and handling charges apply.

*Lessons from Other Countries About Private School Aid.* This booklet discusses how other nations that provide aid to private schools also regulate them. Copies of the booklet are available from the Center on Education Policy and can also be downloaded from the Center's Website at [www.ctredpol.org](http://www.ctredpol.org).

*Public Schools and Citizenship and Public Schools: A Place Where Children Can Learn to Get Along With Others in a Diverse Society.* These short papers address the important role that public schools play in a democracy. Copies of these short papers are available from the Center on Education Policy and can also be downloaded from the Center's Website at [www.ctredpol.org](http://www.ctredpol.org).

*Did You Know* issue brief series. Each month, the Center produces a policy brief that addresses an important issue facing public education today. Copies of the issue briefs are available from the Center on Education Policy and can also be downloaded from the Center's Website at [www.ctredpol.org](http://www.ctredpol.org).

**The following Center on Education Policy publications can be ordered from Phi Delta Kappa, 408 North Union Street, P.O. Box 789, Bloomington, IN, 47402-0789, (800) 766-1156:**

*Do We Still Need Public Schools?* This booklet discusses the reasons behind the creation of public schools, examines whether those reasons are still valid today, and explores where we go from here. 1996, \$1 each (up to nine copies); \$0.50 each for ten or more copies. This booklet can also be downloaded from the Center's Website at [www.ctredpol.org](http://www.ctredpol.org).

*The Good — and the Not-So-Good — News About American Schools.* This booklet presents the basic facts about what our schools have done right and what our students have accomplished, as well as what they need to do better. 1996, \$1 each (up to nine copies); \$0.50 each for ten or more copies. This booklet can also be downloaded from the Center's Website at [www.ctredpol.org](http://www.ctredpol.org).

*Raising Student Achievement: Do Our Actions Match Our Words?* This booklet examines whether parents, students, and teachers are really committed to raising student achievement. 1996, \$1 each (up to nine copies); \$0.50 each for ten or more copies. This booklet can also be downloaded from the Center's Website at [www.ctredpol.org](http://www.ctredpol.org).

*National Issues in Education: Goals 2000 and School-to-Work.* This book is a compilation of essays written by the key players involved with the enactment of the Goals 2000: Educate America Act and the School-to-Work Opportunities Act. The authors of the essays represent the diverse points of view surrounding the enactment of these two laws. 1995, \$18.

*National Issues in Education: Elementary and Secondary Education Act.* This book is a compilation of essays written by the key players involved with the enactment of the 1994 reauthorization of the Elementary and Secondary Education Act. The authors of the essays represent the diverse points of view surrounding the enactment of this legislation. 1995, \$18.

You may contact the Center on Education Policy directly at 1001 Connecticut Avenue, NW, Suite 619, Washington, DC 20036, Tel: (202) 822-8065, Fax: (202) 822-6008, Email: [ctredpol@ctredpol.org](mailto:ctredpol@ctredpol.org), Website: [www.ctredpol.org](http://www.ctredpol.org).



The Institute for Educational Leadership is a nonprofit organization that helps institutions and individuals work together across boundaries to make better decisions and to take actions that improve the educational, social, and personal development of children and youth.

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The Center on Education Policy is the national, independent advocate for public education and for more effective public schools. The Center works to help Americans better understand the role of public education in a democracy and the need to improve the academic quality of public schools. We do not represent any special interests. Instead, we try to help citizens make sense of the conflicting opinions and perceptions about public education and create the conditions that will lead to better public schools.

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