Objective 4.2: Our partners have the support and flexibility they need without diminishing accountability for results.

National Need

National Concerns. When the Nation's governors met at the 1989 Education Summit at Charlottesville, Virginia, a top priority was to secure greater flexibility in the administration of Federal education programs in exchange for greater accountability for improved student achievement. The Department has worked hard to remove statutory and regulatory impediments to innovative education reforms, while continuing to ensure protection of basic civil rights and the proper expenditure of taxpayer dollars. Additionally, it is essential that we achieve improved service delivery to students through improved program effectiveness and compliance with Federal regulations, and increase understanding of audit requirements by state auditors. The 1994 reauthorization of the Elementary and Secondary Education Act (ESEA) significantly expanded opportunities for increasing both flexibility and accountability in the national education programs by allowing states to receive waivers of regulations if strong accountability mechanisms are in place. In addition, reengineering our grant system has increased the flexibility available to all grantees, including state agencies.

Our Role. ED administers the Education Flexibility Partnership Program (Ed-Flex), through which it grants Federal waiver authority to state education agencies (SEAs). This program is intended to allow states to waive certain Federal regulations or requirements, which may otherwise impede state efforts at comprehensive education reform. At the same time, Ed-Flex necessitates that strong accountability mechanisms be in place in order to ensure that the state be able to track and act upon the results and impacts of its reform efforts.

The Cooperative Audit Resolution and Oversight Initiative (CAROI) has successfully established networks of important Federal and state contacts to address issues and concerns in a flexible environment, strengthened state understanding of ED responsibilities, and avoided traditional time-consuming and resource-intensive audit resolution procedures.

The Office for Civil Rights (OCR) has established constructive and collaborative relationships with state and local education agencies to achieve the shared objectives of civil rights compliance and securing timely improvements for students. This too avoids the traditional and unproductive adversarial approach to addressing potential problems with states and local agencies.

Our Performance

How We Measure. The following indicators measure the Department's progress in providing the support and flexibility customers need. Collectively the indicators show progress at varying levels in the areas of granting flexibility and increasing understanding of program rules and requirements, issuing grants on a timely basis, resolving audit issues with states, and dealing with affected agencies in civil rights cases.

Indicator 4.2.a. Customers will increasingly report that they have greater flexibility and better understanding of the rules and requirements of education programs.

Assessment of Progress. Satisfactory progress. Overall, 72 percent of Title I districts surveyed reported that their flexibility in using Title I funds had increased since the 1994 reauthorization of

Elementary and Secondary Education Act (ESEA). Figure 4.2.a.1 provides information on the impact of specific changes on flexibility.

Figure 4.2.a.1

Extent to Which Districts Believe that Various 1994 Reauthorization Changes Increased Their Flexibility in Using Federal Funds (1997-1998)

	Not at All	Moderately	A Great Deal
Title I school-wide programs	39%	14%	47%
Waiver of Federal education provisions	61%	31%	8%
Consolidation of Federal administrative funds	49%	46%	5%
Shift in accountability emphasis from procedural compliance to student performance	12%	32%	56%

Source: Study of Education Resources and Federal Funding, Planning and Evaluation Service. *Frequency:* One time. *Next Update:* N/A. **Validation procedure:** Data gathered by professional survey research firm. **Limitation of data and planned improvements:** None noted.

Waivers provide customers greater flexibility in administering Federal education programs. Since the reauthorization of ESEA in 1994, the Department has received 836 requests for waivers from SEAs and local educational agencies (LEAs) in 49 states as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The number of waivers requested by SEAs and LEAs decreased steadily from 1995 to 1998, but increased by 34 percent in 1999 due to waivers related to the Class Size Reduction Act. Fifty percent of all waiver requests come from only seven states (in order of number of requests): Pennsylvania, North Carolina, California, Illinois, Florida, Hawaii, and Tennessee.

Of the 836 waiver requests received by the Department, 54 percent were approved and 10 percent were disapproved. The remainder were withdrawn. Waiver requests were typically withdrawn because districts learned that they had sufficient latitude under existing law to proceed without a waiver. Of the 533 for which ED took action, 446 were approved. This approval rate of 84 percent indicates that a significant amount of flexibility is available to states.

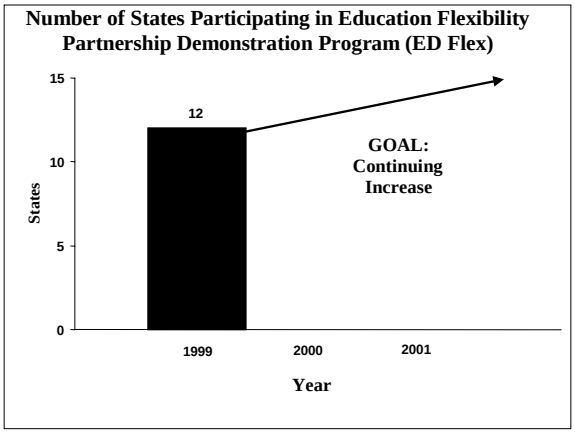
The Department has granted a total of 446 waivers since the implementation of the Federal waiver authorities. SEAs have received 135 waivers; the remaining 311 waivers have been granted to LEAs, representing just over 2 percent of school districts in the Nation. All waivers to date have been granted under the waiver authority in the Elementary and Secondary Education Act (ESEA), with the exception of one waiver related to the Perkins Vocational and Applied Technology Act which was granted under the Goals 2000 waiver authority in 1995. Recent studies show districts believe that the 1994 Reauthorization of the ESEA increased their flexibility in using Federal funds.

Indicator 4.2.b. The number of states participating in Ed-Flex will increase.

Assessment of Progress: On target. The Education Flexibility Partnership Demonstration Program was originally established in 1994 as a part of the Goals 2000: Educate America Act. Initially, the Department was permitted to grant Ed-Flex authority to six state education agencies (SEAs) that met the eligibility requirements. In 1996, Ed-Flex was amended—along with other parts of Goals 2000—to allow the U.S. Department of Education to grant such authority to six additional eligible SEAs, for a total of 12 states. See Figure 4.2.b.1.

On April 29, 1999, President Clinton signed into law the Education Flexibility Partnership Act of 1999. The new Ed-Flex eligibility requirements are now extended to all states and are closely linked to the standards, assessment, and accountability requirements outlined in Title I of the ESEA of 1994. Under the Ed-Flex program, the SEA, rather than the U.S. Department of Education, has the authority to make decisions about whether particular school districts and schools should be granted waivers of certain Federal education requirements.

Figure 4.2.b.1



Source: Program files. *Frequency:* Continuous. *Next Update:* N/A. **Validation procedure:** Subject to internal controls. **Limitation of data and planned procedures:** None noted.

For those states that already have Ed-Flex status, the overwhelming majority of waivers have been used to permit otherwise ineligible Title I schools to implement school-wide programs. States have also used these Ed-Flex waivers to waive certain Title I targeting provisions. The Department has published guidance to assist states in preparation of applications for Ed-Flex. One state has submitted an application and several additional states have indicated their intent to submit applications soon.

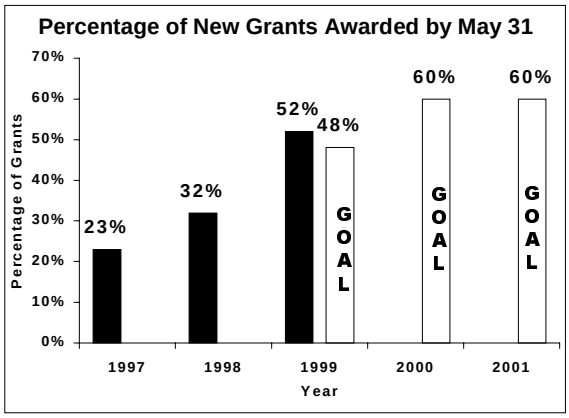
Indicator 4.2.c. Timely review and award of grants will give greater support and flexibility to our partners' administration of their grant projects.

Assessment of Progress. Target exceeded. ED is committed to making new grant awards in a timely fashion so that grantees can plan for successful implementation of their programs. ED's goal is to award the majority of grants by May 31 each year through reengineering the grant-making process. Figure 4.2.c.1 shows that more than half of ED grants now meet this time schedule.

A significant achievement in speeding the grant-making process occurred through a successful collaborative effort between ED and the Office of Management and Budget (OMB). Before any information-gathering application is released to the public, it must be cleared by OMB. ED and OMB worked together to streamline and shorten the clearance process, with the goal of getting application packages to prospective recipients sooner.

ED's reengineered grant-making process cut the average review and award time from 26 weeks to 11.5 weeks. During the past 2 years, a substantial improvement in the ability of grantees to administer their projects more effectively was made possible through ED regulatory amendments. These amendments provide grantees much greater flexibility in such areas of post-award administration as determining project length and making necessary changes in their project budget.

Figure 4.2.c.1



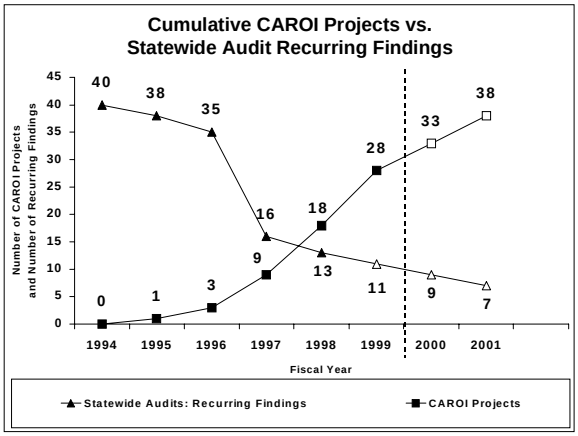
Source: Self-reports from Principal Offices. Grants Administration Payment System Reports. *Frequency:* Monthly. *Next Update:* N/A. **Validation procedure:** Data are validated against data runs done by the Grants Policy and Oversight Staff from the Grants Administration and Payment System. **Limitations of data and planned improvements:** No significant limitations.

Indicator 4.2.d. Recurring findings in statewide single audits and program review reports will decrease as the number of Cooperative Audit Resolution and Oversight Initiative (CAROI) projects increases with ED's state partners.

Assessment of Progress. Target met. Figure 4.2.d.1 shows that in 1999 the cumulative number of CAROI projects totaled 28 in 20 states. No 1999 data are available; however, prior years' data show that, overall, the Department is experiencing a reduction in recurring findings. The steady increase in CAROI projects and the related decrease in statewide audit recurring findings are positive indicators of how well the process is working.

In 1993, there were approximately 22 state audits under appeal and only 2 in 1998. This translates into a substantial cost reduction benefit for both state and Federal governments, because cooperation replaces litigation. These reductions in recurring findings and state audits under appeal were realized without compromising integrity, accountability, or the purpose of the funds. To put it simply, students receive the maximum benefit of education programs.

Figure 4.2.d.1



Source: ED's automated Central Audit Resolution System (CARS) database, and statewide single audits. *Frequency*: Updated as received. *Next Update:* Continuous. **Validation procedure:** Data are supplied by CARS, which, in turn, is based on information contained in single audits verified by independent auditors. **Limitations of data:** There are timing issues. Numbers may fluctuate because state single audits are submitted to ED at various times. The number of recurring findings (for a given year) will fluctuate until all audits for that year have been submitted. There is also a sizable lag time (2 years or more) in receiving data as a result of the time involved in conducting the audits and disseminating this information to Federal agencies.

How We Plan to Achieve Our Objective

How ED's Activities Support the Achievement of This Objective.

Flexibility is important in an increasingly diverse educational environment. Ed-Flex, our redesigned grants system, our new approach to audit resolution, and the new approaches being undertaken by the Office for Civil Rights are a few examples of ED's commitment to flexibility while maintaining high standards of accountability.

- **Flexibility.** ED will continue to review states' requests for waivers as we implement the new legislation and ensure accountability. We will work with states to assist them in improving reporting requirements to ensure that they possess and use strong accountability measures. We also will provide information about Ed-Flex throughout our Regional Service Teams (RST) so that Department employees can become better informed of the program's role in reform efforts within their regions. We will become advocates of the exchange that the statute is promoting: increased flexibility for increased standards.

- **Improve the timeliness of grant awards.** We will continue to ensure that formula and discretionary grants are issued to our partners in time, by requiring that each program office award a majority of grants by May 31. Announcing funding decisions to ED grantees earlier will give them longer lead times for planning and carrying out project activities, with the goal of positioning them to complete their project objectives successfully. This will be achieved in part by moving toward an electronic grant application and review process. Pilots for this effort will be started among a select group of programs in 2000. In addition, the Department is drafting regulatory amendments, which will implement some aspects of the grants redesign by giving grant programs greater flexibility in reviewing applications and, in many cases, fostering the goal of expedited grant awards.

- **Improve grant administration and partnership.** The Department will proceed with developing an electronic grant process and continue our project of developing new grant training for ED program staff. Our goal is to create, over the next several fiscal years, program staffs and grantees who meet higher standards in grant administration and accountability.

- **Strengthen cooperative audit resolution.** To build on our success in working with states, four new states have agreed to work with ED in implementing the Single Audit/Oversight Pilot Project during the 1999-00 school year. With our state partners, we will see what kinds of formal systems are in place in these states for tracking the results of the single audit process for LEAs receiving Federal education funds. Each year, the innovative partnerships among Federal, state, and local officials; auditors; and program managers continue to increase and provide creative and practical approaches to resolve audit findings and their underlying causes. As one of our state partners remarked, "This [CAROI] is a good partnership, based on 'we' not 'they'—children win!" In addition, in 1999, the Association of Government Accountants recognized CAROI as one of the "Best Practices" in government.

- **Expand integrated program reviews and review teams.** In collaboration with the states, we will use joint technical assistance and monitoring activities for elementary and secondary education programs to support a self-assessment process to encourage continuous improvement in states' administrations of these programs. We will also coordinate with the Council of Chief State School Officers to develop procedures for consolidated performance reporting. The Office of the Chief Financial Officer (OCFO) will continue to participate as a member of the Elementary and Secondary Education Integrated Review Teams to link better the cooperative audit resolution, monitoring, and technical assistance. The teams will conduct on-site monitoring visits to state education agencies on a

cyclical basis. OCFO staff bring a new dimension to the teams with their expertise, which includes cash management, indirect costs, and monitoring of subrecipient audits.

- **Increase civil rights partnerships: Building collaborative relationships in civil rights to maximize flexibility.** Building better and flexible relationships with recipients and other stakeholders is often the key to effective civil rights enforcement. Within the context of the Office for Civil Rights' (OCR) case resolutions, such relationships encourage the development of educationally sound agreements that promote educational excellence as well as equity, and foster broader ownership of resolution agreements, helping ensure that they will be fully implemented. OCR has successfully moved from operating a reactive, complaint-driven system to implementing a balanced enforcement program focused on ensuring equal access to high-quality education by responding promptly to complaints *and* initiating proactive activities that target resources for maximum impact. A Government Accounting Office (GAO) study dated February 23, 1999, acknowledged significant improvements in OCR operations between FY 1993 and FY 1997, specifically in the areas of time to process complaints, number of complaints processed annually, and average backlog of unprocessed complaints at year end. The GAO concluded, "OCR has improved its complaint resolution process in two major ways,…replacing a process that focused on investigating complaints with a more flexible system that focuses on resolving complaints as soon as possible,…allow[ing] complaints to be resolved at any point in the process [and]…[improving performance] by undertak[ing] several information and communication efforts."

How We Coordinate With Other Federal Agencies

- **Government-wide grants procedures**. ED takes part in interagency committees to define common, government-wide standards and methods for electronic grant making, which the Department will use in creating its own electronic grant process.

- **Information-sharing.** In our efforts to maximize the benefits of CAROI, we have initiated conversations with the Office of Management and Budget to present this initiative to other agencies as a possible collaborative tool with their state partners. We also plan to share the CAROI handbook with members of the Federal Chief Financial Officers Council and the President's Council on Integrity and Efficiency.

Challenges to Achieving Our Objective

Ed-Flex

Our biggest challenge is ensuring that states have strong and effective accountability systems and that these systems are used effectively in conjunction with the flexibility that is provided by Ed-Flex.

Cooperative Audit Resolution

The Cooperative Audit Resolution and Oversight Initiative (CAROI) is designed with flexibility to allow the user to customize it to best suit the needs of an individual situation and an agency's (Federal, state, or local) needs and specific issues. CAROI, however, faces many challenges (e.g., lack of trust, limited resources, additional training, fear of change) before it will be completely accepted. At this time, we are not able to measure program review findings. Most program offices do not have databases that track findings identified during program reviews. Databases in the program offices need to be created.

In many cases, ED programs are bound by statutory provisions for which we cannot offer flexibility. We are working with Congress to use simplified language, to the extent possible, in new legislation to allow for additional opportunities to promote flexibility in dealing with states.

Civil Rights

In some instances, recipients regard the Office for Civil Rights (OCR) as an adversary and fear negative public attention when OCR investigates civil rights issues. We have the opportunity to change recipients' attitudes toward civil rights compliance. By working collaboratively, OCR informs recipients about the requirements of Federal civil rights law and the prospective benefits of compliance. OCR also listens to the challenges and concerns of the recipients and supports them by providing educational models that meet their needs as well as civil rights standards. Fully engaging recipients in the resolution process helps ensure that the agreements are legally sound and support educational excellence.