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Health, Education and Human Services Division

B-278816

December 15, 1997

The Honorable Ron Wyden
United States Senate

Subject: Education Programs: Information on the Ed-Flex Demonstration Project

Dear Senator Wyden:

The Congress has expressed increasing concern about the proliferation of federal education programs. In recent testimony before the Education Task Force of the Senate Committee on the Budget, we discussed several issues that arise because multiple education programs are currently scattered throughout the federal government.¹ At that hearing, you asked us to provide additional information on the Education Flexibility Partnership Demonstration Program ("Ed-Flex"), a demonstration project within the federal Department of Education. Under the Ed-Flex project, the Department of Education delegates to selected states its power to grant individual school districts temporary exceptions (waivers) from certain individual federal requirements. As we agreed with your staff, we describe in this correspondence the Ed-Flex project and discuss whether Ed-Flex is structured to address the issues associated with multiple federal programs. However, as agreed, we did not evaluate the overall effect of the Ed-Flex project.

To obtain information for this correspondence, we reviewed the relevant legislation, interviewed Department of Education officials, and reviewed agency documents. We performed this work in November and December 1997 in accordance with generally accepted government auditing standards.

¹See Federal Education Funding: Multiple Programs and Lack of Data Raise Efficiency and Effectiveness Concerns (GAO/T-HEHS-98-46, Nov. 6, 1997).

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RESULTS IN BRIEF

Under the Ed-Flex project, 12 states have been given limited authority to waive certain federal requirements affecting local school districts and schools.² Ed-Flex delegates federal authority to the states rather than expanding the scope of waiver authority generally available for education programs. Because the Department retains its own waiver authority outside the Ed-Flex states, school districts in other states may also request similar waivers. Instead of these waivers being approved at the state level, as in an Ed-Flex state, the waivers are approved at the federal level through the Department of Education. For both Ed-Flex states and the federal Department of Education, the authority to grant waivers is restricted to specific requirements within specific programs. For example, neither the requirements of the Individuals with Disabilities Education Act nor any program's health and safety requirements can be waived. Waivers can be granted, however, for some requirements under Title I, such as those allocating funds within a school district. Through Ed-Flex, the Department hopes to (1) simplify the waiver process and (2) assist the twelve states in implementing education reforms that are designed to help all children reach challenging academic standards.

The Ed-Flex demonstration is generally not structured to address the issues that result from the large number of federal programs administered by different departments and agencies such as (1) additional complexity in acquiring information about federal requirements, (2) increased difficulty in obtaining and analyzing information on program participation and educational outcomes, and (3) the potential for reduced flexibility in the use of federal funds. Because waivers cannot reduce the number of agencies or programs, they do not and cannot make fundamental changes in the underlying structure or design of federal assistance in education. Since Ed-Flex does not ensure coordination across agencies and programs, it is also not well-positioned to streamline the different administrative processes a school district must follow. In addition, waivers do not simplify the challenge of obtaining the information necessary to characterize federal programs or evaluate their effect. Although waivers of federal regulations—whether administered through Ed-Flex or through the federal Department of Education—cannot provide additional funding flexibility across all federal

²The 12 Ed-Flex states are Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Michigan, New Mexico, Ohio, Oregon, Texas, and Vermont.

programs, they can increase a school district's flexibility within a covered federal program.

BACKGROUND

The federal government has established a large number of education programs that are often targeted to specific groups and frequently provide comparable services. For example, in fiscal year 1996, 127 federally funded programs were targeted to at-risk and delinquent youths, and many of these programs appear to fund parallel services.³ Similarly, in fiscal year 1993 the federal government's 86 teacher training programs often provided comparable types of services, and, in fiscal year 1992, many of the 34 major early childhood programs also provided similar services, to overlapping target groups.⁴

Each of these federal programs establishes requirements that states or local school districts or both must follow in implementing a program. Some of these programs—such as the Safe and Drug Free Schools program—impose few restrictions while others are more prescriptive. For example, the Department of Education has issued no program-specific regulations for either the Goals 2000 or the Safe and Drug Free Schools program.⁵ In contrast, the Title I program generally restricts how districts allocate federal dollars among schools, the services that these dollars may fund, and the children who may benefit.

Some federal agencies, including the Department of Education, have the authority to waive certain federal requirements under specific programs. Thus, a state or district or even a school may be granted an exemption from certain requirements for a given period of time. The extent to which

³See At-Risk and Delinquent Youth: Fiscal Year 1996 Programs (GAO/HEHS-97-211R, Sept. 2, 1997).

⁴See Multiple Teacher Training Programs: Information on Budgets, Services, and Target Groups (GAO/HEHS-95-71FS, Feb. 22, 1995) and Early Childhood Programs: Multiple Programs and Overlapping Target Groups (GAO/HEHS-95-4FS, Oct. 31, 1994).

⁵States implementing these programs must conform to general and administrative regulations, however.

waivers are available and the scope of the agency's authority to issue waivers vary from agency to agency and from program to program.

THE ED-FLEX DEMONSTRATION PROJECT

Ed-Flex Delegates Existing Waiver Authority From the Federal Government to Selected States

The Goals 2000: Educate America Act, which authorizes Ed-Flex, allows the Secretary of Education to authorize up to 12 states to waive certain requirements applicable to several major federal education programs.⁶ However, state and school districts in non-Ed-Flex states may also request similar waivers. Instead of these waivers being approved at the state level, as in an Ed-Flex state, the waivers are approved at the federal level through the Department of Education. According to the Department of Education, the purpose of Ed-Flex is to use these waivers to simplify the waiver process and to assist the states in removing potential regulatory barriers to the successful implementation of comprehensive school reform plans. Waivers granted under Ed-Flex can provide local school districts with greater flexibility in using federal funds. The Department of Education's Ed-Flex guidance says that because the Department of Education emphasizes holding local school districts accountable for results in administering its waiver authority, Ed-Flex states are expected to do the same.

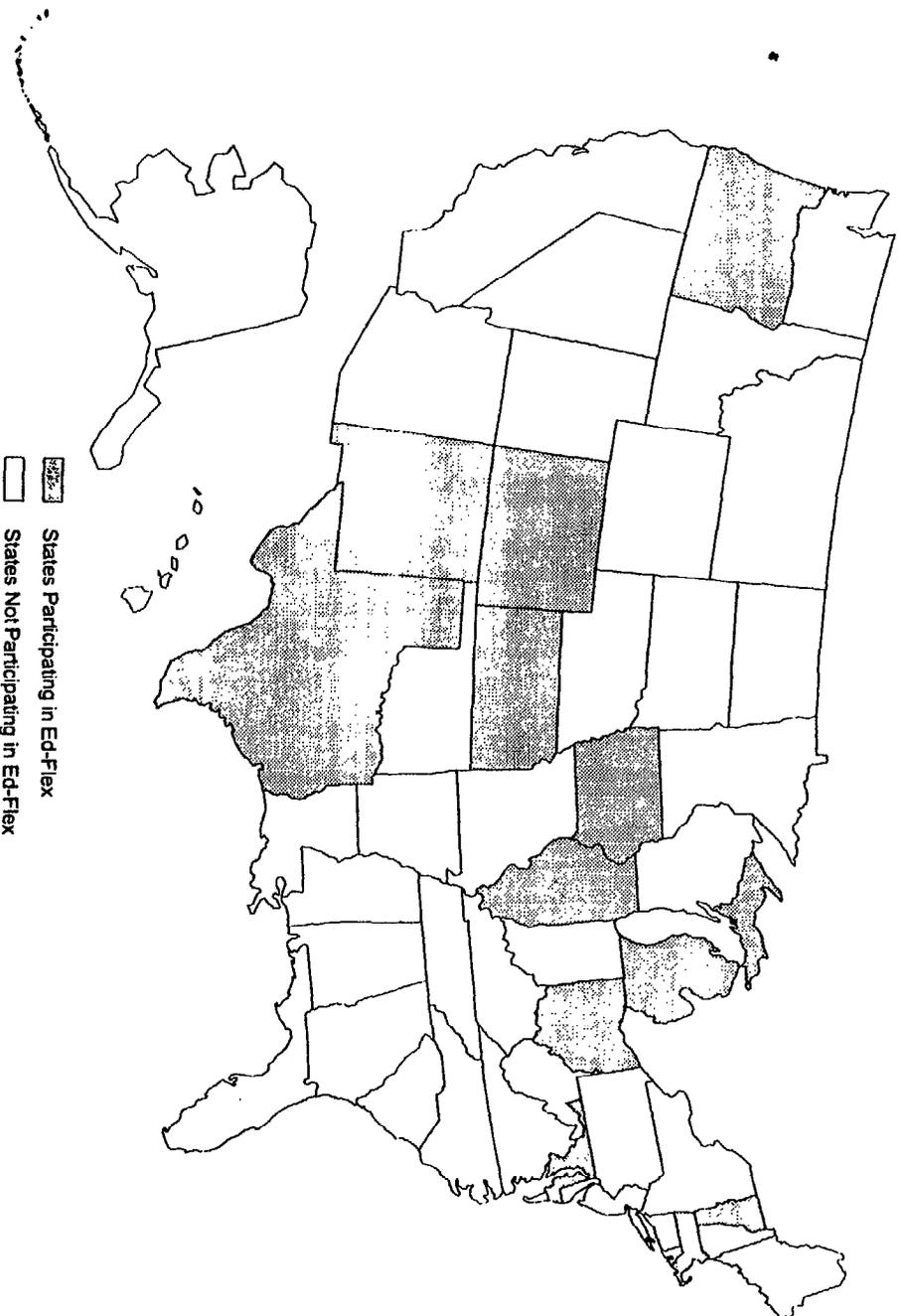
Under Ed-Flex, the state rather than the federal Department of Education has the power to waive certain requirements. To be eligible to apply for Ed-Flex status, a state educational agency is required to (1) have a Goals 2000 State improvement plan that is approved by the Secretary of Education and (2) waive associated state-imposed requirements relating to education while holding the school districts and schools accountable for the performance of

⁶Six Ed-Flex designations, authorized in the original Goals 2000 legislation, had to be awarded to three large states (states with populations of 3.5 million or more) and three small states (states with populations of less than 3.5 million). An additional six states were authorized by the 1996 Omnibus Appropriations Act. However, there is no requirement that the additional six designations be divided evenly between large and small states.

their students.⁷ Thirteen states applied for designation as an Ed-Flex state. Six state educational agencies were awarded Ed-Flex status between February 1995 and March 1996, and an additional six states were awarded Ed-Flex status between May 1996 and July 1997 (see figure 1). The thirteenth state that applied for Ed-Flex status withdrew its application when it determined that it could not waive its state statutory or regulatory education requirements.

⁷States may receive Goals 2000 funding without having a state plan approved by the Secretary of Education, but states without an approved plan are not eligible to apply for Ed-Flex status.

Figure 1: States Participating in the Ed-Flex Demonstration



Source: U.S. Department of Education.

Ed-Flex Waiver Authority
Is Limited in Scope

Under the Ed-Flex project, a state's waiver authority is limited to specific programs and requirements administered by the Department of Education. For example, the Individuals with Disabilities Education Act (IDEA) and the Bilingual Education Program are not subject to Ed-Flex waiver authority. Ed-Flex states may waive certain federal statutory or regulatory requirements applicable to one or more of the following six programs or acts:

- Title I of the Elementary and Secondary Education Act of 1965 (ESEA)—Helping Disadvantaged Children Meet High Standards—provides funding to help local school districts give additional assistance to disadvantaged children.
- Title II of ESEA—Eisenhower Professional Development Program—provides funding to local school districts to provide teacher training and professional development in mathematics and science.
- Title IV of ESEA—Safe and Drug-Free Schools and Communities—provides funding for programs to prevent violence and substance abuse.
- Title VI of ESEA—Innovative Education Program Strategies—provides funding to assist school districts in developing innovative programs in several areas, including adult education and family literacy.
- Part C of Title VII of ESEA—Emergency Immigrant Education—provides funding for the educational needs of immigrant children.
- The Carl D. Perkins Vocational and Applied Technology Education Act provides support for vocational and technical education programs at the secondary and postsecondary levels.

Ed-Flex states may waive some requirements of the General Education Provisions Act and the Education Department General Administrative Regulations (EDGAR) that apply to these programs. For example, Texas waived one EDGAR provision that requires written approval before transferring training funds to another budget category. However, Ed-Flex states are not authorized to waive any federal regulatory or statutory

requirement relating to (1) health and safety, (2) civil rights, (3) maintenance of effort, (4) comparability of services, (5) the equitable participation of students and professional staff in private schools, (6) parental participation and involvement, and (7) the distribution of funds to state or local education agencies.

Although the Ed-Flex states have the same authority in terms of the specific requirements they may and may not waive, the waiver powers can be more extensive in some states than in others. Of the 12 Ed-Flex states, 7—Colorado, Maryland, Michigan, New Mexico, Ohio, Texas, and Vermont—have the authority to grant both statewide waivers (that can be used by any district in the state) and individual waivers (that can be used by only the district that applied and was approved for the waiver). The remaining five states—Illinois, Iowa, Kansas, Massachusetts, and Oregon—have the authority to grant waivers to individual school districts but do not have the authority to grant waivers statewide.

Department of Education and Ed-Flex States
Report Similar Experiences With Waivers

In its September 30, 1997, report to the Congress, the Department of Education reported that it received relatively few waiver requests from school districts. Similarly, the Ed-Flex states granted relatively few waivers during the first 2 years of the project (see table 1). Three states—Colorado, Maryland, and Oregon—granted only one waiver each for the 1995-96 and 1996-97 school years.

Table 1: Waivers Granted in Ed-Flex States in 1995-96 and 1996-97 School Years

State	Individual school districts	Statewide
Colorado	1	0
Kansas	14	Not applicable
Maryland	1	0
Massachusetts	6	Not applicable
New Mexico	0 ^a	0
Ohio	14	2
Oregon	1	Not applicable
Texas	15	8
Vermont	3	0

Note: The table lists 9 of the 12 Ed-Flex states. Illinois, Iowa, and Michigan were selected to participate in the Ed-Flex project in July 1997.

^aNew Mexico was granted Ed-Flex status in August 1996.

Ed-Flex states and the Department of Education have also seen and approved similar types of waiver requests, most of which have sought to change the way funds are distributed or to broaden the range of individuals who may benefit. For example, for both Ed-Flex states and the Department of Education, waivers of the provisions for targeting Title I funds within a school district accounted for the largest number of requested and approved waivers. These waivers allow school districts to distribute Title I funds according to criteria established by the district rather than adhering solely to the prescribed formula. Two other common types of waiver requests are frequently received and granted by both the Ed-Flex states and the Department of Education. First, some school districts have requested waivers to make it easier for individual schools to implement the federal Title I program as a schoolwide project. (When operating Title I as a schoolwide project, the school can use its Title I funds to implement a plan to improve the education of all students in the school, not

just students who are eligible under Title I.) Second, another common type of waiver allows individual school districts to use funds provided under the Eisenhower professional development program for areas other than mathematics and science, such as reading or social studies.

ED-FLEX IS GENERALLY NOT
STRUCTURED TO ADDRESS ISSUES
RESULTING FROM MULTIPLE PROGRAMS

In many very different areas—from education to land management and from employment training to food safety—federal assistance has been widely fragmented, often into large numbers of programs administered by many federal departments and agencies. The proliferation of federal programs can be perceived as imposing special burdens on the local organizations that are responsible for delivering federally funded services in their communities. Multiple programs may require these organizations to deal with many different people in different agencies and departments to manage separate application requirements and reporting expectations. The profusion of federal programs may also impede efforts to learn how to make programs more effective by obtaining and analyzing information on program participation and outcomes. In addition, the multiplicity of federal programs may contribute to providing less flexibility in the use of funds than some recipients would like. Waivers in general, including those granted under the Ed-Flex project, are designed to deal with particular problems associated with specific individual program requirements; they are not designed to address the cumulative effect of multiple federal programs.

Ed-Flex Waivers Cannot Reduce
the Large Number of Administering Agencies
Associated With Multiple Programs

Program waivers cannot reduce the number of administering federal agencies and programs that apply to education. As a result, states and local school districts may still be faced with a difficult task in obtaining information and technical assistance, fulfilling separate program application and reporting requirements, and otherwise managing large numbers of federal programs. Neither Ed-Flex states nor the Department of Education can waive all the requirements of any one program, nor can they waive any requirements for programs expressly excluded from the waiver authority. By obtaining waivers for specific regulations, a district may be able to reduce paperwork requirements within a single federal program. However, because waivers do

not make changes in the underlying structure of federal programs, the Ed-Flex project is not positioned to streamline the number of different administrative processes a school district must follow, nor can waivers simplify the school district's need to be aware of and coordinate with individuals in different departments and agencies.

Ed-Flex Waivers Are Not Structured
to Facilitate Program Evaluation

The Ed-Flex project is not designed to solve the problems multiple programs create for program evaluation. The sheer number of departments and agencies that spend federal education dollars makes it hard to aggregate existing information among federal programs and obtain and analyze information on program participation and educational outcomes. Basic definitions and measures of participation and outcomes can differ across programs or even across states within a single program.

The overall effect of Ed-Flex waivers on program evaluation is not clear. Depending on how each individual state chooses to use its authority, Ed-Flex waivers could provide some potentially useful if limited information, or they could make filling information gaps even more difficult. For example, if Ed-Flex waivers are used to align federal reporting requirements with state requirements, differences in how states define and report information on federal programs could increase, making aggregation and comparison more difficult. In addition, as Ed-Flex creates more variation in the requirements and as the administration of federal programs varies across states, researchers are faced with data that are more difficult to aggregate and a greater number of potentially confounding factors.

In contrast, the accountability measures established by states with respect to particular waivers could provide useful information about how federal programs are working. However, the information gathered under Ed-Flex can be useful only if it is sufficiently specific and detailed. For example, Texas' Ed-Flex report states that districts that apply Eisenhower funds to areas other than mathematics and science must meet specific numerical targets for improvement in student test scores in mathematics and science; districts that do not achieve these targets will not be granted a continuation of the waiver. As a result, as these waivers are implemented and reviewed, Texas state officials can gather and analyze data that could be useful to other states and the education research community. In contrast, several other states that are also allowing districts to apply Eisenhower funds to other areas have not established specific and

measurable criteria, potentially making it more difficult for others to build on their experience.

Ed-Flex Waivers Cannot Provide Additional Funding Flexibility Across All Programs but Can Within the Scope of a Covered Program

The large number of federal education programs may sometimes be associated with somewhat limited flexibility for local organizations in how they use federal funds. Many potentially overlapping programs were created to target newly identified clients (such as at-risk children), to focus on crucial services (such as teacher training), or to promote new program delivery approaches (such as credit programs in addition to grants). As a result, many federal programs are structured to restrict individuals who may benefit, services that can be purchased, and funding distribution.

Waivers cannot address the inflexibility that may arise from these numerous, narrowly targeted categorical programs. Waivers do not allow states to alter the distribution of federal funds to school districts, nor can they be used to move funds from one federal program to another. Further, both the Department of Education and the Ed-Flex states may grant waivers only if they are consistent with the program's original purpose, and certain key restrictions may be an integral part of the program's purpose.

However, waivers can provide districts with more flexibility restriction by restriction, program by program. Some school districts (both inside and outside Ed-Flex states) have used waivers to ease some funding restrictions within the confines of an individual federal program. For example, some districts have used waivers to allow more schools to implement Title I schoolwide projects, which allow schools greater flexibility in determining which students can benefit from Title I services. Under both the Secretary of Education's waiver authority and Ed-Flex, the use of waivers to make funding more flexible within programs has been somewhat controversial. Some states and districts have endorsed the use of these waivers because they believe that the waivers have allowed federal dollars to better serve local needs. In its Ed-Flex application, Ohio stated that it expects Ed-Flex to encourage innovation on the part of local school districts. However, other observers have been less enthusiastic about the potential effect of these waivers because they believe that such waivers (particularly under Title I) might dilute the effect of program funding for the specific target group being served.

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AGENCY COMMENTS

We received comments on this correspondence from the Department of Education, and we incorporated them as appropriate. The Department generally agreed with our characterization of the Ed-Flex project.

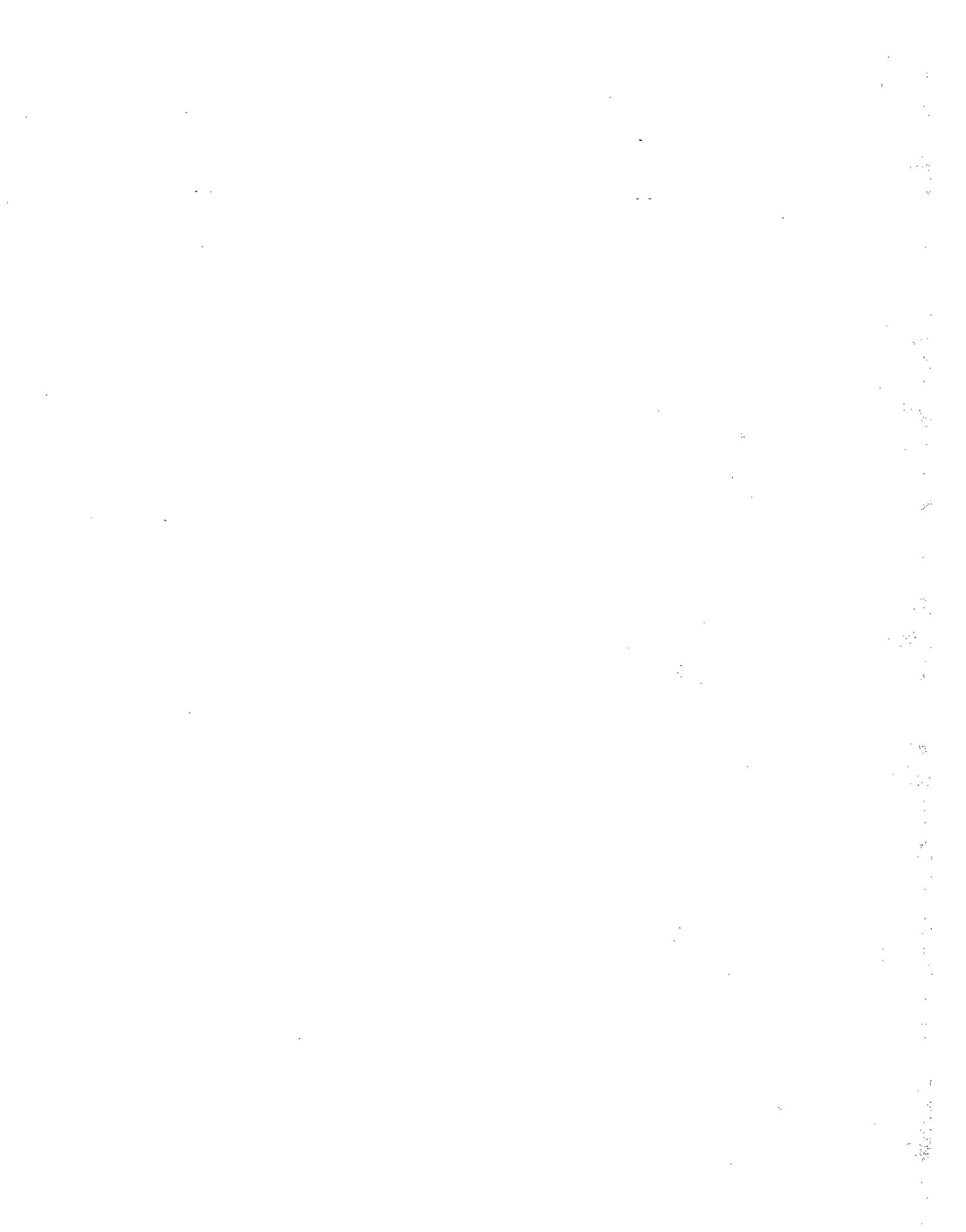
If you have any questions, please call me at (202) 512-7014. Major contributors to this correspondence included Harriet C. Ganson, Assistant Director; Sarah L. Glavin, Senior Economist; Arthur T. Merriam Jr., Senior Evaluator, and Linda W. Stokes, Senior Evaluator.

Sincerely yours,



Carlotta C. Joyner
Director, Education and
Employment Issues

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