



**TITLE I, PART D:  
NEGLECTED, DELINQUENT, AND AT-RISK  
YOUTH**

PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH  
WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK (N OR D)

**NONREGULATORY GUIDANCE**



**UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, DC**

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## **ABBREVIATIONS AND ACRONYMS**

<b>AYP</b>	Adequately Yearly Progress
<b>CSSO</b>	Chief State School Officer
<b>ED</b>	U.S. Department of Education
<b>ESEA</b>	Elementary and Secondary Education Act of 1965, as amended
<b>GED</b>	General Education Development program
<b>GEPA</b>	General Education Provisions Act
<b>IDEA</b>	Individuals with Disabilities Education Act
<b>IEP</b>	Individualized Education Program
<b>LEA</b>	Local Educational Agency
<b>N or D</b>	Neglected or Delinquent
<b>PPE</b>	Per-pupil expenditure
<b>SA</b>	State Agency
<b>SEA</b>	State Educational Agency
<b>TSY</b>	Training School for Youth

## **INTRODUCTION**

The Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk, authorized by Title I, Part D of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (20 USC 6421 et seq.) include two programs, one for State programs and another for local programs:

1. Subpart 1 establishes the State agency Neglected or Delinquent (N or D) program, through which ED provides Federal financial assistance to State educational agencies (SEAs) to enable them to award subgrants to State agencies (SAs) that operate educational programs for children and youth in institutions or community day programs for children who are neglected, delinquent and at-risk and for children and youth in adult correctional facilities.
2. Subpart 2 authorizes ED to award grants to SEAs to enable them to award subgrants to local educational agencies (LEAs) to provide programs that serve children and youth who are in locally operated correctional facilities or are attending community day programs for delinquent children and youth. Additionally, Subpart 2 programs may provide assistance to children and youth who are neglected or at-risk of dropping out of school.

Subpart 3 of Part D requires SAs and LEAs to evaluate their programs at least once every 3 years to determine, by using multiple and appropriate evaluation measures, the programs' effects on student achievement.

### **WHAT ARE THE PURPOSES OF THE TITLE I, PART D PROGRAM?**

The purposes of Title I, Part D are to: (1) improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that they have the opportunity to meet the same challenging State academic content and State student achievement standards that all children in the State are expected to meet; (2) provide these children with services to enable them to transition successfully from institutionalization to further schooling or employment; and (3) prevent at-risk youth from dropping out of school as well as to provide dropouts and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

### **WHAT IS THE PURPOSE OF THIS GUIDANCE?**

This guidance replaces prior 1997 nonregulatory guidance for the Title I, Part D program. The guidance describes the requirements of the Subpart 1 SA and Subpart 2 LEA programs and the evaluation requirements in Subpart 3. The guidance also provides suggestions for addressing many of these requirements. This document does not impose any new requirements beyond those in the ESEA and other applicable Federal statutes and regulations. Title I, Part D program regulations can be found in 34 CFR 200.90 and 200.91. States may wish to consider the guidance in developing their own guidelines and standards; however, they are free to develop alternative approaches that meet applicable Federal statutory and regulatory requirements.

## **I. STATE AGENCY PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN (PART D, SUBPART 1)**

### **A. Federal Allocation of Funds**

#### **A-1. How does ED allocate Subpart 1 funds to SEAs?**

ED determines State allocations through a formula based on annual counts of N or D children and youth, aged 20 or younger, who are in (1) State-operated adult correctional facilities and who are enrolled in a regular program of instruction for at least **15** hours per week; and (2) State N or D institutions or community day programs for children and youth who are enrolled in a regular program of instruction for at least **20** hours per week. That count is then multiplied by 40 percent of the State's per-pupil expenditure (PPE) and proportionately reduced to the amount appropriated. The SEA is responsible for annually collecting and submitting counts of eligible children and youths from individual SAs that operate programs for N or D children and youth within the State.

In determining the count of N or D children and youth in a State for allocation purposes:

1. An SA must specify the date on which the count was taken of children and youth who are N or D and enrolled in a regular program of education. That date must: (a) be consistent for all institutions or community day programs operated by the SA, and (b) represent a school day in the calendar year preceding the year in which funds became available.
2. The SEA must adjust the count of children and youth enrolled in a regular program of instruction to reflect the relative length of the SA's annual programs by (a) multiplying the number of children and youth enrolled, by the number of days per year the regular program of instruction operates, and (b) dividing that number by a number that represents the number of school days in the academic year for the State (e.g., 180).

#### **A-2. How does an SA determine the number of children and youth to include in the annual survey of eligible children, which the SEA submits to ED for determining Subpart 1 allocations?**

Exhibit 1 [Pages 3-4] illustrates (1) the steps an SA uses in determining the count of children and youth who are N or D enrolled in a regular program of instruction for at least 15 hours a week in adult correctional facilities, and for at least 20 hours per week in State N or D facilities and community day programs; and (2) the steps an SA should use in adjusting the count to reflect the relative length of the SA's annual program.

The SA is responsible for totaling the adjusted enrollment counts for children and youth in all of the N or D institutions, adult correctional facilities, or community day programs that it operates and then for providing the adjusted count to the SEA. The State count submitted to ED by the SEA is the sum of the individual SA counts.

# Exhibit 1: OMB Number

**ANNUAL REPORT OF CHILDREN IN STATE AGENCY INSTITUTIONS FOR NEGLECTED OR DELINQUENT CHILDREN, ADULT CORRECTIONAL INSTITUTIONS, AND COMMUNITY DAY PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN**

**PART I - INSTITUTION AND STATE AGENCY**

1. Name and address of institution, community day program, or adult correctional institution	2. Name and address of State agency
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**PART II - BASIS FOR ELIGIBILITY**

	YES	NO
1. Is a regular program of instruction provided for the children in the institution or community day school?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the State agency responsible for providing free public education for the children in the institution or community day program?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the average length of stay in the institution or community day program at least 30 days?	<input type="checkbox"/>	<input type="checkbox"/>

IF ANSWER TO ALL THREE QUESTIONS ABOVE IS YES, PROCEED TO PART III.

**PART III - TYPE OF INSTITUTION AND ENROLLMENT**

CATEGORY (Check one)	NUMBER OF CHILDREN UNDER 21 ENROLLED IN A REGULAR PROGRAM OF INSTRUCTION SUPPORTED BY STATE FUNDS FOR AT LEAST	
	20 hours per week	15 hours per week
<input type="checkbox"/> INSTITUTION FOR NEGLECTED CHILDREN  A public or private residential facility, other than a foster home, that is operated primarily for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> INSTITUTION FOR DELINQUENT CHILDREN AND YOUTH  A public or private residential facility that is operated primarily for the care of children who have been adjudicated to be delinquent or in need of supervision.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> COMMUNITY DAY PROGRAM  A regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> ADULT CORRECTIONAL INSTITUTION  A facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age.	<input type="checkbox"/>	<input type="checkbox"/>

**PART IV - ADJUSTED ENROLLMENT TO REFLECT THE RELATIVE LENGTH OF THE STATE AGENCY'S ANNUAL PROGRAM**

Enrollment (from Part III)		No. of Days Per Year Educational Program Operates		DIVIDED BY		Adjusted Enrollment
<input type="checkbox"/>	X	<input type="checkbox"/>	BY	180	=	<input type="checkbox"/>

**PART V - CERTIFICATION**

I certify that the information provided meets the requirements of Title I, Part D, Subpart 1 and is, to the best of my knowledge, complete and accurate.

\_\_\_\_\_  
(Typed name of institution official)

\_\_\_\_\_  
(Signature and date)

**1810-0060**



## Exhibit 1 (continued)

### WORKSHEET INSTRUCTIONS

#### **PART I - INSTITUTION AND STATE AGENCY**

Enter the names of the institution and State agency. A separate form must be completed for each institution.

#### **PART II - BASIS FOR ELIGIBILITY**

Respond "yes" or "no" to each of the three questions. If the answer is no to any one of these questions, the institution or community day program does not qualify.

- I. In question 1 a "**regular program of instruction**" means an education program (not beyond grade 12) in an institution or a community day program for neglected or delinquent children that consists of classroom instruction in basic school subjects such as reading, mathematics, and vocationally oriented subjects, and that is supported by non-Federal funds. Neither the manufacture of goods within the institution nor activities related to institutional maintenance are considered classroom instruction.
- II. In question 2 a "**State agency**" means an agency of State government responsible for providing free public education for children in institutions for neglected or delinquent children, community day programs for neglected or delinquent children, and adult correctional institutions.
- III. In question 3 an "**average length of stay**" is calculated by determining the length of time each child entering the institution stays and dividing that number by the total number of children passing through that institution during a given year. The average length of stay for all children in the institution must equal at least 30 days. An individual child in an institution, however, would not necessarily have to stay for 30 days.

#### **PART III - TYPE OF INSTITUTION AND ENROLLMENT**

##### Category

Check the category that fits the definition of the institution. Do not report institutions that do not meet any of the four definitions.

##### Enrollment

For the category of institution checked, furnish the number of children under 21, through age 20, enrolled in a State-funded regular program of instruction on a date in calendar year 2004, specified by the State agency. The date specified by the State agency must be consistent for all institutions or community day programs operated by the State agency, and the date must represent a school day within calendar year 2004.

In order to be counted as enrolled, a child must be enrolled in a State-funded regular program of instruction for at least:

- IV. 20 hours per week if in an institution for neglected or delinquent children or a community day program for neglected or delinquent children; or
- V. 15 hours per week if in an adult correctional institution.

#### **PART IV - ADJUSTED ENROLLMENT TO REFLECT THE RELATIVE LENGTH OF THE STATE AGENCY'S ANNUAL PROGRAM**

Multiply the enrollment determined in Part III by the number of days in the year that the educational program operates. Divide that number by 180 (or the number of school days for your State) to determine the adjusted enrollment.

#### **PART V - CERTIFICATION**

The appropriate institution and State agency official should sign certifying that the information provided meets the requirements of Title I, Part D, Subpart 1 and is complete and accurate. (Note, because these data will generate Federal funds, they are subject to audit and must be supportable from documented records.)

**A-3. May SAs include out-of-State children in annual survey counts for the Subpart 1 fund allocation?**

**Yes.** If out-of-State N or D children and youth reside in an institution located within a State, those children are eligible to be included in the State’s count, provided those children and youth are under the age of 21 and are enrolled in a regular program of instruction operated or supported by SAs in institutions or community day programs for N or D children and youth and adult correctional institutions as specified in 34 CFR 200.91(a) and (b) of the Title I, Part D regulations.

**A-4. How is a “regular program of instruction” defined?**

As noted in item A-1, Subpart 1 allocations are based on counts of children and youth who are N or D and who are in a “regular program of instruction.” Section 200.90(b) of the Title I, Part D regulations defines a “regular program of instruction” as an educational program (not beyond grade 12) that is in an institution or in a community day program for children who are N or D and that consists of classroom instruction in basic school subjects, such as reading, mathematics, and vocationally-oriented subjects, and is supported by non-federal funds. Neither the manufacture of goods within the institution or program nor activities related to institutional maintenance are considered classroom instruction.

**A-5. Must the 15 or 20 hours of instruction that an SA is required to provide to qualify for Subpart 1 funds be entirely from State funding, or could the instruction time include education programs funded by other Federal agencies?**

The State’s regular program of instruction must be State funded and must meet the required number of hours; the instructional program cannot include additional instructional time provided with Title I of ESEA or other Federal funds.

**A-6. May an SEA transfer funds from Subpart 1 to Subpart 2?**

**No.** Subpart 1 and Subpart 2 have separate authorizations. Only SAs are eligible to receive funds from SEAs under Subpart 1, and only LEAs are eligible to receive funds from SEAs under Subpart 2.

**B. State Subgrants to Eligible State Agencies**

**B-1. How does the SEA make subgrants to SAs?**

Once ED determines a State’s Subpart 1 allocation, the SEA makes subgrants to each SA on the basis of its proportionate share of the State’s adjusted enrollment count of children and youth who are N or D.

**B-2. What are the eligibility requirements for an SA to receive Subpart 1 funds?**

An SA is eligible to receive Subpart 1 funds if it is responsible for providing free public education for children and youth who are in educational programs in N or D institutions, who attend community day programs for children who are N or D, or who are in adult correctional institutions. To receive funds, the SA must apply to the SEA.

The number of eligible SAs in a State may vary. Almost all States have one agency, usually named the Department of Correction(s), that administers adult correctional institutions and may also administer institutions for youth who are delinquent. States also may have a Department of Youth Services, or part of such an agency (e.g., a Division of Youth Services within a Department of Human Services), that administers institutions for children and youth who are delinquent. In States serving children who are neglected, a separate SA often administers institutions for these children. Several States have created a correctional education agency that provides education to students in institutions and community day programs.

**B-3. In order to receive a subgrant under Subpart 1, must the SA directly operate schools for children and youth who are N or D?**

**No.** The SA may provide educational services directly in State-operated schools, through contracts or other arrangements with another SA, an LEA, a junior or community college, a private provider, or a university. Whether or not services are provided directly by the SA, the SA is responsible for ensuring that the program operates in accordance with all applicable statutory and regulatory requirements.

**B-4. Is an SEA eligible to receive Subpart 1 funds as an SA?**

**Yes.** An SEA may be an eligible SA if it receives a specific State appropriation for the education of children who are N or D and provides educational services to children and youth who are N or D, either directly or through another agency, such as an LEA, another SA, or an institution of higher education. Regardless of whether the SEA is an eligible SA, the SEA has administrative responsibility for ensuring that the program operates in accordance with all applicable statutory and regulatory requirements.

**B-5. Can an SA allocate its Subpart 1 funds to one facility rather than to each facility that generated a count?**

**Yes.** With SEA approval, the SA determines the facilities to which it allocates Subpart 1 funds. The SA has the discretion, based on its needs assessment, to concentrate Subpart 1 services on those institutions that have children and youth with the greatest need.

**B-6. If an SA does not submit an application for Subpart 1 funds, should the SEA return Subpart 1 grant funds to ED?**

The SEA should consider providing these funds to one or more SAs, or use the funds directly to provide services, with the SEA serving as an SA. However, if the funds cannot be used in these ways, they must be returned to ED.

## **C. Carryover of Subpart 1 Funds**

### **C-1. Can the SEA allow an SA to carry over Subpart 1 funds?**

**Yes.** If the SEA determines that the amount of an SA's subgrant exceeds the amount needed by the SA, it may allow the SA to carry over the excess funds for use in subsequent years. The SEA also may decide to reallocate the excess funds to another SA to use for Subpart 1 purposes.

### **C-2. Is there a carryover limitation for the SA's programs for N or D children?**

**No.** There is no carryover limitation. Most States apply carryover amounts to the next year. With SEA approval, an SA may carry over funds from one fiscal year to the next. However, under section 421(b) of the General Education Provisions Act (GEPA), both the SEA and the SA must obligate all funds made available in a given fiscal year within 27 months.

## **D. Eligible Institutions under Subpart 1**

### **D-1. What types of institutions are eligible to receive Subpart 1 funds from SAs?**

Once an SA receives Subpart 1 funds, it distributes the funds to eligible institutions within its jurisdiction in accordance with the needs assessment described in its application submitted to the SEA. An eligible institution generally is a public or private facility that operates for the care of children who are N or D and that provides free public education and a regular program of instruction to the children and youth who are in the institution. Eligible institutions may vary from facilities for orphans to minimum-security facilities for juvenile delinquents to maximum-security facilities in adult correctional institutions or prisons. Institutions must be one of the four following types:

- An *adult correctional institution* is a facility in which persons (including persons under 21 years of age) are confined as a result of conviction for a criminal offense. An adult correctional institution that confines persons under 21 years of age is eligible to receive Subpart 1 funds if it provides them with a regular program of instruction (not beyond grade 12) by using State funds.
- An *institution for delinquent children and youth* is, as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who have been adjudicated delinquent or in need of supervision and have had an average length of stay in the institution of at least 30 days.
- An *institution for neglected children and youth* is, as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who have been committed to the institution or voluntarily placed in the institution under applicable State law due to (1) abandonment; (2) neglect; or (3) death of their parents or guardians and have had an average length of stay in the institution of at least 30 days.

- A *community day program* is a regular program of instruction provided by an SA at a community day school operated specifically for neglected or delinquent children and youth.

**D-2. Are short-term institutions (those with an average length of stay of fewer than 30 days) eligible to receive Subpart 1 funds?**

**No.** Although some short-term institutions, such as detention, diagnostic, and reception centers, provide basic education services for youth, Subpart 1 services are most effective in institutions where the duration of the stay is longer. Therefore, the average length of stay or participation in an institution for delinquent children and youth, an institution for neglected children and youth or an adult correctional facility should be at least 30 days for these institutions to be eligible to receive Subpart 1 funds (see 34 CFR 200.90(b) of the Title I, Part D regulations). This average length of stay requirement does not apply to community day school programs serving neglected or delinquent children and youth.

**D-3. May an SA use its Subpart 1 allocation to serve children and youth in privately operated facilities?**

**Yes.** Subpart 1 authorizes the SEA to provide financial support to SAs that operate educational programs for children and youth in institutions or community day programs for children who are N or D as well as for children or youth in adult correctional facilities. An SA may contract with private facilities to serve N or D children and youth. However, the SA is responsible for ensuring that a private facility operates a program in accordance with all applicable statutory and regulatory requirements.

**D-4. May a State include SA N or D children and youth served in private facilities in the annual count of eligible children submitted to ED for Subpart 1 allocation purposes?**

**Yes,** provided that the N or D children and youth counted are (1) the responsibility of the SA; (2) under the age of 21; and (3) enrolled in a regular program of instruction operated or supported by SAs in institutions or community day programs for N or D children and youth and adult correctional institutions as specified in 34 CFR 200.91 of the Title I, Part D regulations.

**E. Eligible Children and Youth**

**E-1. Which children and youth are eligible for services under Subpart 1?**

To participate in the SA's N or D program, a child or youth must be:

- 21 years of age or younger;
- Entitled to free public education up to grade 12; and
- Enrolled in a regular program of instruction at either an eligible institution or community day program for the required length of time (20 hours per week if in an institution or community day program for youth who are N or D; 15 hours per week if in an adult correctional institution).

E-2. Is a youth who has completed the General Education Development (GED) program eligible to receive Subpart 1 services?

**Yes.** A student aged 21 or younger who is otherwise eligible to receive services under Subpart 1 (see item E-1 above) and who has earned a GED, but takes courses that lead to a high school diploma, is eligible to receive Subpart 1 services. Earning a high school diploma would fall within the definition of “regular program instruction” found in 34 CFR 200.90(b) of the Title I, Part D regulations, that is limited to an educational program not beyond grade 12. Subpart 1 funds also may be used for dual-enrollment courses in which a student concurrently earns high school and college credit, but may not be used for courses that award college credits only. Additionally, Subpart 1 funds may be used for placement services designed to place the youth in a university, college, or junior college program, such as SAT and ACT preparation courses, as well as for fees associated with college applications.

**E-3. How does an SA identify and select children and youth to be served?**

An SA that receives Subpart 1 funds must assess, on the basis of educationally objective criteria, the educational needs of all eligible children and youth in eligible institutions and community day programs. The needs assessment enables the SA to identify the unique educational needs of these children and youth and the general instructional areas on which the program will focus. Using the assessment data, an SA can select those most in need of special assistance and determine the specific needs of participating children and youth to ensure that the services provided will be of sufficient size, scope, and quality to enable the participants to make significant progress toward meeting State performance standards. If available funds are insufficient to meet the needs of all eligible youth, those most in need should be served first.

**F. State Plan**

**F-1. What is required in the Subpart 1 State plan?**

To receive Subpart 1 funds, an SEA must submit for ED approval either (1) an individual State plan in accordance with section 1414(a) of ESEA; or (2) a *consolidated plan* that meets the requirements of section 9302 of ESEA. Whether the State plan is submitted individually or as part of a consolidated plan, it must describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving the academic, vocational, and technical skills of children in the program. The SEA must also provide assurances that the agency will both monitor and evaluate subgrantees.

**F-2. May a State plan be revised?**

**Yes.** The statute allows for plans to be reviewed and revised periodically by States. However, if substantive changes are made to a State plan, those changes must be submitted to ED for approval.

**G. State Agency Applications**

**G-1. What are the requirements of a Subpart 1 SA application?**

Section 1414 of ESEA enumerates the 19 required elements of SA applications to SEAs. For example, SA applications must describe the procedures to be used to assess the educational needs of the children to be served; how the SA will carry out the program evaluation requirements of section 9601 of ESEA; how the results of the most recent evaluation will be used to plan and improve the program; and how the SA will endeavor to coordinate with businesses for training and mentoring of participating children and youth.

**G-2. May an SEA approve an SA's application for more than 1 year?**

**Yes.** If an SA operates a program or project under Subpart 1 in which individual children or youth are likely to participate for more than 1 year, the SEA may approve the SA's application for a subgrant under this subpart for a period not to exceed three years.

**G-3. How often must SA applications to the SEA be updated?**

Although the law allows the SEA to approve an SA's application for up to three years, the SEA may require an SA to update annually information included in its original application if substantial changes occur in the numbers and needs of the children to be served or the services to be provided.

**G-4. When must an SA submit its application to the SEA?**

Each SEA sets the deadline for submission of applications. Therefore, the deadline may vary from State to State.

**G-5. Who prescribes the format of the application an SA submits for its Subpart 1 subgrant?**

The SEA prescribes the format for the SA application and determines the specific information the SA must submit as part of its application and to carry out its responsibilities under Subpart 1. The SEA, however, may not use the application process to impose requirements that are inconsistent with the requirements under Title I of ESEA or other applicable Federal statutes and regulations.

**G-6. May an SA submit an application that consists only of separate applications from each of its facilities?**

**No.** The SA must submit its own application addressing the requirements in section 1414(c) of ESEA because the SA is the entity that applies for and receives the Subpart 1 subgrant and is responsible for the administration and control of funds. However, the SA may incorporate individual program plans from each of its facilities into its application.

**G-7. Does an SA apply to the SEA for Subpart 1 funds when a contractor or other party provides the education services to children in institutions or community day programs?**

**Yes.** The SA, not the contractor, must apply to the SEA for funds because the SA is responsible for providing a free public education to the children in the institutions and community day programs. The SA may contract with or arrange for another agency (such as an LEA, a junior or community college, a private provider, or a university) to provide the education services either at the institution or off-site. An SA, however, is responsible for exercising administrative control over the program and ensuring that the contractor or other party complies with all applicable statutory and regulatory requirements.

**G-8. May the SA allow individual institutions to apply directly to the SEA for a Subpart 1 grant?**

**No.** Only an SA may apply to the SEA for Subpart 1 funds.

**G-9. If the eligible SA is the SEA, must it complete an SA application that is approved by the chief state school officer (CSSO)?**

**Yes.** An SEA that receives Subpart 1 funds as an SA must have an application on file that meets all the SEA's requirements for an SA application. The CSSO may delegate responsibility for the approval of this application to the appropriate official within the SEA.

**G-10. If the subgrantee under Subpart 1 is the SEA, does the SEA compute maintenance of effort, and how should it monitor itself to ensure compliance?**

Like other SAs, the SEA must compute maintenance of effort, and the CSSO should monitor the Subpart 1 program for compliance with all statutes and regulations.

**G-11. What are the monitoring responsibilities of the SEA for SAs under Subpart 1?**

SEAs are required to monitor their grantees for implementation of requirements of the program statute and regulations. Those requirements include monitoring the implementation of the SA program under Subpart 1. Additionally, SAs are responsible for monitoring every facility or institution with which they have contracted for services.

**H. Use of Funds**

**H-1. What activities may Subpart 1 funds support?**

Under the authorizing statute, an SA must use Subpart 1 funds to support educational services that (1) except for institution-wide projects (see section 1415(a)(2)(B)(i)), are provided to children and youth identified by the SA as failing, or most at-risk of failing, to meet the State's challenging academic content and student academic achievement standards; and (2) supplement and improve the quality of educational services provided to these children and youth by the SA. The statute further provides that Subpart 1 funds may be used to acquire equipment that will be used to help the children and youth the SA serves to meet challenging State academic content

and student academic achievement standards, and to cover the costs of meeting the evaluation requirements of section 9601 of ESEA.

Projects may use Subpart 1 funds to pay the necessary and reasonable costs that provide a variety of services, including reading, mathematics, language arts, and vocationally oriented programs that include academic classroom instruction so long as these are supplementary services and materials. For example, past Subpart 1 projects have used funds to:

- Hire additional teachers, aides, educational counselors, and other staff members to provide additional instruction in areas of greatest need;
- Train teachers, aides, and other staff members who are actively involved in providing Title I services;
- Procure needed educational materials and equipment for Title I instruction, including books, computers, audiovisual equipment and supplies, and classroom materials for industrial arts and vocational training; and
- Hire transition coordinators or buy new equipment to assist students' transitions (e.g., purchasing scanners to scan individualized education program (IEP) documents).

The following three examples describe how several projects for N or D children and youth have used their funds.

#### **Use of Funds—Example 1**

A project in one State provided in-service training to help teachers of Title I programs improve their relationships with the regular teachers and students in several juvenile institutions. By maintaining a staff-to-student ratio of 1:8, the teachers were able to offer individualized instruction and attention to meet students' academic and social needs, particularly in the area of learning basic academic skills and self-discipline. Title I and regular teachers met daily to share information about students and learning strategies.

#### **Use of Funds—Example 2**

A State's Department of Correctional Education developed a curriculum guide for social living skills for both its adult and juvenile populations to address the fact that many of the individuals in these institutions had not previously had opportunities to learn and practice these skills. Teachers in Title I programs used this guide to improve the academic and social skills of incarcerated juvenile students. Students entering the program were given a criterion-referenced test on social living skills. The results of this test and other evaluations were then used to identify the deficiencies in academic and social skills that the social skills curriculum guide was designed to address.

### **Use of Funds—Example 3**

In a Midwestern State, Title I and regular classroom teachers in one project collaborated to integrate academic curricula across several content areas. Teachers used thematic learning that focused on problem solving, cooperative learning, and writing. Themes were limited to several weeks' duration to allow students with short stays in the institution to participate fully. Areas of instruction included:

- Carrying out historical and geographical research;
- Writing research reports, short stories, and poetry;
- Using mathematics to solve real-life problems;
- Creating products in the performing and visual arts; and
- Assessing individual social skills.

#### **H-2. May Subpart 1 funds be used for regular education instructional activities?**

**No.** An SA must use Subpart 1 funds to provide services that supplement, not supplant, those services that would, in the absence of Subpart 1 funds, be provided to children participating in the regular school educational program. However, Subpart 1 funds may be used to increase the total number of hours of instruction in any subject area that students receive with State or local funds.

#### **H-3. May an SEA reserve 1 percent from its Subpart 1 allocation for State administration activities?**

**Yes.** Section 1004 of ESEA authorizes an SEA to reserve for State administration up to 1 percent from funds allocated to the State under Title I, Part A (Grants to LEAs), Part C (Migrant Education), and Part D, Subpart 1 (State Agency Neglected or Delinquent Program). The 1 percent reservation is a maximum. An SEA may reserve less than 1 percent from each of Parts A, C, and D (Subpart 1) of Title I of ESEA. Moreover, an SEA does not need to reserve the same percentage from each part.

If the amount calculated as available to be reserved for State administration through this process totals less than \$400,000 (\$50,000 in the case of an Outlying Area), an SEA may reserve up to \$400,000. In any State reserving \$400,000 for State administration, the SEA is not required to reserve funds proportionately from each of Parts A, C, and D (Subpart 1) and may, for example, take the reserve entirely out of Title I, Part A funds. However, in reserving \$400,000, an SEA may not reserve more funds for State administration from Part C or Part D than it would have, had it reserved proportionate funds from Parts A, C, and D. (For more details about this process, see page 32 of the guidance on SEA allocation procedures found at <http://www.ed.gov/programs/titleiparta/seaguidanceforadjustingallocations.doc>.)

## **I. Parental Involvement**

### **I-1. What are the SA's parental involvement requirements?**

In its application, an SA must assure that it will work with parents to secure their assistance in improving their children's and youth's educational achievement and, as appropriate, preventing further involvement in delinquent activities. Although distance and other factors may limit the involvement of parents, an SA, to the extent possible, must give parents the opportunity to participate in their children's and youth's educational plans. In cases where such an arrangement may not be practicable, a person such as an instructional staff member or someone who is responsible for the individual's education may act in place of that person's parent.

## **J. Institution-wide Projects**

### **J-1. What are institution-wide projects?**

Section 1416 of Title I, Part D, Subpart 1 of ESEA authorizes an SA that provides free public education for children and youth in an institution for N or D children and youth (other than an adult correctional institution) or attending a community-day program for N or D children and youth to use Subpart 1 funds to serve all children in, and upgrade the entire educational effort of, that institution or program, provided the SEA has approved the SA's comprehensive plan for that institution or program. (Requirements for the comprehensive plan are specified in section 1416(1) through (8) of ESEA.) The purpose of the institution-wide approach is similar to that of school-wide programs operated under Title I, Part A. The authority enables an SA to:

- Focus on strategies built on institution-wide reforms that improve the overall educational program of an institution, rather than on add-on services for individual students;
- Combine Part D, Subpart 1 funds with other State and Federal funds for education programs to support comprehensive approaches that meet the educational needs of all children and youth in N or D institutions; and
- Use Part D, Subpart 1 funds more flexibly.

An SA operating an institution-wide project is not required to identify particular children in an institution as eligible for services, or to show that Subpart 1 funds pay for supplemental services that would otherwise not be provided, or to account for Federal dollars separately. Instead, an SA may use these funds in any manner it chooses, so long as the use is consistent with the SA's comprehensive plan approved by the SEA.

### **Institution-wide Projects—Example**

A State's Training School for Youth (TSY), an institution that serves preadjudicated and adjudicated boys and girls, uses its Subpart 1 funds in combination with other Federal and State funds to provide a comprehensive educational program that helps its students meet high academic standards. The TSY academic program has several key components:

- *Staff development.* In addition to providing instructors and other education staff with ongoing training in teaching this population of students, the staff development component emphasizes collaboration between the teaching staff and correctional staff at the institution.
- *Instructional materials and strategies.* Along with the purchase and use of appropriate technology to enhance teaching and student learning, a crucial element of this component is training staff to use the equipment effectively and helping students to take advantage of the technology as part of the TSY effort to have students take responsibility for their own learning.
- *Transitional aides and classroom aides.* In addition to supporting teaching assistants who help students develop academic and life skills, TSY makes use of bilingual teacher aides to serve a growing Hispanic population who have a limited knowledge of English. Aides also provide counseling services for youth who are returning to their home communities and schools.
- *Linkages with the community.* An important component in helping students make the transition back to their communities is the development of links with local social service agencies in each student's home community and school.
- *Tutors and mentors.* The TSY program also provides tutors and mentors in the residential units outside school hours.
- *Assessment of student progress.* The TSY assesses the reading and math skills of all students who remain at the institution for at least 6 months.

### **J-2. How does an SA apply to operate an institution-wide project?**

An SA applies for institution-wide project funding under Subpart 1 by submitting a comprehensive plan to the SEA. Section 1416 of Title I of ESEA requires that the plan developed by an SA for an institution-wide project in a specific institution include eight elements. For example, the plan must provide a comprehensive assessment of the educational needs of all children and youth in the institution or program and must describe the measures and procedures that the program will use to assess student progress.

**J-3. May an adult correctional institution use its funds for an institution-wide project?**

**No.** Institution-wide programs may only be operated in an institution for neglected or delinquent children and youth, or for neglected or delinquent children and youth attending a community day program.

**J-4. Must an SA’s plan for institution-wide projects include a comprehensive assessment of the educational needs of children who are neglected in a program to be conducted in an institution specifically for these children?**

**Yes.**

**K. Transition Services**

**K-1. What are an SA’s requirements for providing transition services?**

Helping institutionalized children and youth who are N or D and those in adult correctional facilities to make the transition into the community for further education or employment is an important element in the success of the Subpart 1 program. Section 1418 of ESEA requires that each SA reserve not less than 15 percent or more than 30 percent of the amount it receives in any year under Subpart 1 to support “transition services” for these children and youth. An SA also may use the reserved funds to provide transition educational services to children and youth in schools other than State-operated institutions.

The SA should describe in its Subpart 1 application budget the required reservation of 15 to 30 percent of Title I, Part D funds for transition services. SEAs may wish to identify a section of the SA application for this provision. Exhibit 2 [Page 17] shows an example from one State of such an application.

**K-2. What are examples of transition services?**

Transition services focus on helping children and youth who are N or D to reenter school successfully or to find employment after they leave the institution and return to the local community. Allowable activities include but are not limited to:

- Pupil services, including counseling, psychological, and social work services designed to meet the needs of children and youth who are N or D;
- Services of in-school advocates to act on behalf of individual children and youth who are N or D;
- Tutoring and mentoring;
- Reentry orientation programs, including transition centers and reentry centers in high schools;

Title I, Part D, Subpart 1					
<b>Part 1: Funding Requirements</b>					
<b>a. Reservation of Funds:</b> Each state agency shall reserve <b>not less than 15 percent and not more than 30 percent</b> of the agency's current-year Title I, Part D, Subpart 1 entitlement to support transition activities. Enter the estimated percent of the Title I, Part D, Subpart 1 current-year entitlement that will be reserved for transition activities.					%
<b>b. Transition activities conducted with Reserved Funds:</b>					
<input type="checkbox"/> Projects that facilitate the transition of children and youth from state-operated institutions to schools served by LEAs.					
<input type="checkbox"/> Preplacement programs that allow adjudicated or incarcerated youth who are age 20 or younger and have received a secondary school diploma or its recognized equivalent to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings.					
<input type="checkbox"/> Worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment.					
<input type="checkbox"/> Counseling services (personal, vocational and technical, and/or academic).					
<input type="checkbox"/> Placement services designed to place the youth in a university, college, or junior college program.					
<input type="checkbox"/> Dissemination of information concerning, and assistance in obtaining, available student financial aid.					
<input type="checkbox"/> Job placement services.					
<input type="checkbox"/> Other (Specify):					
<input type="checkbox"/> Other (Specify):					
<b>Part 2: Planned Expenditures for Title I, Part D, Subpart 1 Funds</b>					
Indicate the types of instructional activities to be implemented with Title I, Part D, Subpart 1 funds, whether for program-specific activities ("T," for Targeted services) or on institution-wide activities ("I," for Institution-wide).					
<b>T</b>	<b>I</b>	<b>Activities</b>	<b>T</b>	<b>I</b>	<b>Activities</b>
<input type="checkbox"/>	<input type="checkbox"/>	Research-based Math Programs/strategies	<input type="checkbox"/>	<input type="checkbox"/>	Research-based Social Studies Programs/strategies
<input type="checkbox"/>	<input type="checkbox"/>	Research-based Reading Programs/strategies	<input type="checkbox"/>	<input type="checkbox"/>	Research-based Individualized Instruction
<input type="checkbox"/>	<input type="checkbox"/>	Research-based Science Programs/strategies	<input type="checkbox"/>	<input type="checkbox"/>	Research-based Small-group Instruction
<input type="checkbox"/>	<input type="checkbox"/>	Professional Development	<input type="checkbox"/>	<input type="checkbox"/>	Computer-aided Instruction
<input type="checkbox"/>	<input type="checkbox"/>	Research-based Arts Programs/strategies	<input type="checkbox"/>	<input type="checkbox"/>	Research-based Foreign Language Programs/strategies
<input type="checkbox"/>	<input type="checkbox"/>	Tutorials	<input type="checkbox"/>	<input type="checkbox"/>	Extended-learning Opportunities
<input type="checkbox"/>	<input type="checkbox"/>	Research-based Writing Programs/strategies	<input type="checkbox"/>	<input type="checkbox"/>	Parental Involvement Strategies
<input type="checkbox"/>	<input type="checkbox"/>	Other (Specify):			
<input type="checkbox"/>	<input type="checkbox"/>	Other (Specify):			
<input type="checkbox"/>	<input type="checkbox"/>	Other (Specify):			
<input type="checkbox"/>	<input type="checkbox"/>	Other (Specify):			
<b>Part 3: Fund Sources Combined on Title I, Part D, Subpart 1 Institution-wide Projects</b>					
Indicate which fund sources will be combined in a Title I, Part D, Subpart 1 Institution-wide campus budget to upgrade the entire educational program as reflected in the Campus Improvement Plan. The <b>intent and purpose</b> of any program whose funds are combined in an institutionwide campus budget <b>must be met</b> .					
<input type="checkbox"/> No Institution-wide Programs		<input type="checkbox"/> Title III, Part A–LEP			
<input type="checkbox"/> Title I, Part D, Subpart 1		<input type="checkbox"/> Title IV, Part A–Safe and Drug-Free Schools and Communities			
<input type="checkbox"/> Title II, Part A–Teacher and Principal Training and Recruiting		<input type="checkbox"/> Title V, Part A–Innovative Programs			

- Instruction and training at alternative schools and learning centers; and
- Parental involvement activities and parent counseling.

SAs may carry out transition activities in a variety of settings. For example, an SA may provide alternative schooling in group homes and transition centers that are operated directly by the SA or through a contract. Group homes might care for the released youth 24 hours a day; provide classroom instruction; arrange for work-study programs, parent consultation, and counseling; and act as a liaison to the local school system.

An SA could also use a wide range of local resources and placements to provide transition activities. For example an SA could arrange for children and youth leaving a facility to 1) attend public or private institutions with LEAs paying assessment or application fees; or 2) participate in local vocational education programs, GED preparation programs offered by community colleges, or entrance into job training programs for older youth.

### **Transition Activities—Example**

A State’s Transition Program for Juvenile Offenders provides a modified teaching schedule that facilitates transitional support, a structured student/teacher interview process, and systemic and continual monitoring of student progress. The modified teaching schedule allows all housing unit and special education teachers to devote one day a week to transition activities. The housing unit teachers use their “transition day” to interview and advise students in the institutions and the community, while each special education teacher acts as an education liaison between the housing unit teacher and the parole officer. Permanent substitute teachers are assigned to the teachers’ classrooms on those days.

Structured student/teacher interviews assist students in making a successful transition back to school, work, or the community. This ongoing interaction between student and teacher also allows teachers to help students develop academic and vocational goals and objectives that focus on activities the students will undertake once they return to the community. To ensure that students are making progress toward their academic and vocational goals, systemic and continual monitoring is conducted as part of the overall transition program. The housing unit teacher responsible for monitoring student progress works with both the student and parole officers throughout the transition process.

### **K-3. Do pre-release activities, as well as post-release activities, count as transition services?**

**Yes.** “Transition” includes within-institution pre-release activities as well as post-release activities.

**K-4. Do activities undertaken with the 15–30 percent transition reservation have to be transition activities not in any way already provided by the institution’s school program?**

**No.** The list of activities suggested in section 1418 of ESEA includes many activities that institutional programs already provide. However, transition activities, like other activities funded by Subpart 1, must supplement and not supplant services that would in the absence of Subpart 1 funds be provided through State or local funds.

Funds reserved for transition purposes do not need to be broken out for each activity on a cost basis. A statement of activities is sufficient to demonstrate compliance with section 1418 of ESEA. The example below shows what one State might report to ED to demonstrate compliance.

**Compliance with Transition Reservation Requirements—Example**

A State reports to ED the following:

“Of the \$67,000 one SA receives under Subpart 1, \$10,500 (or 15 percent) is used for transition in the following ways: onsite transition planning, course materials, software, and assessment to provide classroom activities on preemployment aptitude and interest building; workplace social and behavioral skill-building; guidance services, GED preparation, and assessments; developing transition plans; assisting with transfer from the institution; providing referrals; teaching money management skills; teaching how to access community and agency resources; and assisting with college information.”

**K-5. May a State waive the transition reservation requirement if an SA has an existing comprehensive transition system?**

**No.** A State may not waive the reservation requirements for SA transition services. If a State has what it regards as a comprehensive transition system, Subpart 1 funds may be used only to supplement that system.

## **II. LOCAL PROGRAMS FOR AT-RISK YOUTH (PART D, SUBPART 2)**

### **L. Federal Allocation of Funds to States**

#### **L-1. How does ED allocate Subpart 2 funds to States?**

ED determines Subpart 2 fund allocations when it calculates annual Title I, Part A LEA allocations. ED calculates Subpart 2 fund allocations for each State based on the October caseload data on the number of children and youth ages 5 through 17 living in local institutions for neglected and delinquent children and adult correctional institutions that the SEA submits to ED. The caseload data must be for 30 consecutive days, at least one day of which is in October. The Title I, Part A allocation tables that ED provides to each SEA show the specific amount the State has available for Subpart 2 purposes.

#### **L-2. How does ED identify children to be counted for Subpart 2 purposes?**

Based on the October caseload data ED uses to determine eligibility under Subpart 2, a child or youth must:

- Be age 5 through 17;
- Live in a locally operated facility that meets the definition of an institution for neglected children, an institution for delinquent children and youth or an adult correctional institution as provided in section 1432(1) or (4)(B) of Subpart 2—and not be counted in the enrollment data submitted to ED for Subpart 1 State agency N or D program allocation purposes; and
- Live in the institution for at least one day during the 30-day count period.

#### **L-3. Based on the October caseload data used by ED, how should the SEA count children in a locally operated institution where some children are considered neglected and others are considered delinquent?**

The SEA should look at the purpose of the institution. For example, if the institution was chartered as a facility that serves delinquent children, yet the majority of children served in that institution are considered neglected because they were committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians, all of the children in that institution should be counted as delinquents. The SEA should continue to count all of the children in such an institution as delinquent unless its charter and purpose change. It is important that the SEA be consistent in how it reports these data every year. A change in an institution's categorization without a change in its charter and purpose would improperly affect the LEA eligibility and allocations under Title I, Part A formulas.

**L-4. May an SEA include out-of-State children and youth who reside in locally operated institutions in the count of children in locally operated institutions for delinquent children and adult correctional facilities it submits to ED?**

**Yes.** The count is based on the October caseload count of any children who reside in the facility regardless of the child's or youth's State of origin.

**M. Subgrants by States to LEAs**

**M-1. How does an SEA make Subpart 2 subgrants to LEAs?**

From funds retained by the State for Subpart 2 purposes, the SEA awards subgrants to eligible LEAs with high numbers or percentages of children and youth in locally operated correctional facilities for children and youth not operated by the State, including public or private institutions and community day programs or schools that serve delinquent children and youth.

The SEA has the option of awarding subgrants to eligible LEAs by formula or through a discretionary grant process. If an SEA chooses to award Subpart 2 subgrants on a discretionary basis, it may establish criteria or priorities or both, consistent with State requirements for awarding grants. If an SEA distributes funds through a formula, it may allocate funds proportionately among the eligible LEAs based on each LEA's proportionate share of children in correctional facilities or delinquent institutions. In either case, the SEA must develop procedures for determining and notifying LEAs within the State that they are eligible to receive Subpart 2 funds.

**M-2. How does an SEA determine LEA eligibility for a Subpart 2 subgrant?**

The SEA has broad discretion in determining LEA eligibility. For example, in defining high numbers of children and youth residing in locally operated correctional facilities, an SEA might choose to aggregate the number of children and youth residing in locally operated correctional facilities and institutions, community day programs and schools that serve delinquent children across the State and divide by the numbers of LEAs containing such institutions or facilities. Any LEA with a number higher than the State average, or a minimum number established by the State, could be considered to have a high number. In determining what represents a high percentage, an SEA might, for example, consider an LEA in which the locally operated correctional facilities and institutions, community day programs and schools that serve delinquent children, serve children totaling more than 10 percent of the LEA's total school-age population as having a high percentage.

**M-3. In making subgrants to LEAs, must an SEA use the same data ED used to determine Subpart 2 allocations?**

**No.** The SEA is not required to use the same data for purposes of making subgrants. In allocating Subpart 2 funds to States, ED uses an October caseload count of children and youth living in locally operated correctional facilities or institutions for children who are delinquent. However, when determining whether an LEA has a high number or

percentage of such children and providing allocations, the SEA may include children and youth participating in locally operated community day school programs and schools not operated by the State that serve children and youth who are delinquent and who do not live in a facility.

**M-4. May the SEA change the amount of the Subpart 2 subgrant allocations?**

**Yes.** The SEA may reduce or terminate funds on the basis of the LEA's inability to demonstrate student progress.

**M-5. What may an LEA do if it has Subpart 2 funds remaining at the end of the year?**

The LEA may apply to the SEA to carry over the funds from one fiscal year to the next. With approval from the SEA, the LEA can retain the funds. However, section 421(b) of GEPA requires that funds made available for a given fiscal year be obligated by both the SEA and LEA within 27 months of the date ED awards funds to the SEA.

**M-6. Is an LEA that received Subpart 2 funds in the previous year entitled to receive a "hold-harmless" allocation?**

**No.** The hold-harmless provisions of Title I, Part A do not apply to subgrants received by LEAs under Subpart 2.

**N. LEA Applications**

**N-1. How does an LEA apply to the SEA for funds?**

To receive Subpart 2 funds, each eligible LEA must apply to the SEA as outlined in section 1423 of ESEA. An LEA application must include (1) a description of the program(s) to be assisted with the Subpart 2 funds, and (2) a description of the formal agreements, regarding the program to be assisted, between the LEA and the local correctional facilities and alternative school programs that serve children and youth involved with the juvenile justice system.

The application also must include, as appropriate, a description of how participating schools will coordinate with locally operated correctional facilities working with delinquent children and youth that have entered into a formal agreement with the LEA to ensure that the children and youth in the local correctional facilities are participating in an education program that is comparable to the one the LEA operates in the school that such children and youth would otherwise attend. In determining if the education program in a correctional facility is comparable, the LEA may wish to use criteria that indicate, for example, whether the program meets State academic achievement standards, whether the program offers the subjects required for each grade level, and whether the subjects offered provide credits toward a high school diploma.

For those LEAs that use Subpart 2 funds to support LEA-operated alternative programs for children and youth who are at-risk, the SEA may require an LEA to describe the

procedures it uses to select participating schools and children. Although the statute makes no specific provisions for selecting schools within an LEA to receive Subpart 2 funds to serve children and youth who are at-risk, an SEA may require an LEA to allocate funds based on need, which could reflect concentration of poverty, dropout rates, or some other reasonable objective indicator of educational need.

**N-2. May an agency other than an LEA apply for Subpart 2 funds?**

**No.** Only LEAs are eligible to apply. An LEA, however, may apply and subcontract with another agency to provide services. In such instances, the LEA must exercise administrative control and assume responsibility for monitoring the contract to ensure compliance with applicable statutory and regulatory requirements.

**N-3. How does the LEA determine the eligibility of children and youth to receive services under Subpart 2?**

All children and youth in local correctional facilities are eligible to be served through the age of 21. In local participating schools, all youth who are eligible for services under Title I, Parts A or C of ESEA are eligible if the school receives Title I funds.

If a school receiving Subpart 2 funds is not a Title I, Part A school, the LEA may identify the at-risk youth enrolled in the school for Part D services by such categories as:

- Children and youth who have been adjudicated within the juvenile justice system but have returned to a school operated by the school district (using the best available records and data available to identify these individuals);
- Migrant children or youth (based on their eligibility for services under Title I, Part C of ESEA);
- Immigrant children or youth;
- Gang members (based on definitions established by the SEA or LEA);
- Pregnant and parenting youth through the age of 21;
- Children who are at-risk of school failure or who have failed before;
- Children who have limited English proficiency; and
- Children who have dropped out of school.

## **O. Uses of Funds**

### **O-1. What are the requirements for the use of Subpart 2 funds?**

An LEA receiving Subpart 2 funds may use the funds to operate programs that involve collaboration with locally operated facilities with which the LEA has established formal agreements regarding the services to be provided:

- To carry out high-quality education programs that prepare children and youth to complete high school, enter training or employment programs, or further their education;
- To provide activities that facilitate the transition of such children and youth from the correctional program in an institution to further education or employment; and
- To operate dropout prevention programs in local schools for children and youth who are at-risk of dropping out or youth returning from correctional facilities.

An LEA also may use Subpart 2 funds, as appropriate, for:

- Dropout prevention programs that serve at-risk children and youth. An at-risk child or youth means a school-aged individual who is at-risk of academic failure, has a drug or alcohol problem, is pregnant or is a parent, has previously come into contact with the juvenile justice system, is at least 1 year behind the expected grade level for the age of the individual, is a migrant or an immigrant, has limited English proficiency, is a gang member, has previously dropped out of school, or has a high absenteeism rate at school.
- Coordination of health and social services for children and youth who are at-risk (e.g., day care, drug and/or alcohol abuse counseling and mental health services) if there is a likelihood that providing such services will help these children complete their education.
- Special programs that meet the unique academic needs of children and youth who are at-risk, including vocational and technical education, special education, career counseling, curriculum-based entrepreneurship education and assistance in securing of student loans or grants for postsecondary education.
- Programs providing mentoring and peer mediation.

An LEA receiving Subpart 2 funds must use a portion of its funds to operate a dropout prevention program for students returning from a locally operated correctional facility. However, an LEA that serves a school operated by a locally operated correctional facility, in which more than 30 percent of the children and youth attending the school will reside outside the boundaries served by the LEA upon leaving the facility, is not required to operate a dropout prevention program within the school and may use all of its Subpart

2 funds for programs in locally operated correctional facilities, provided that those facilities have a formal agreement with the LEA.

**O-2. May an LEA decide that Subpart 2 funds should be targeted to a particular category of at-risk youth, such as children with limited English proficiency or immigrant youth, rather than other categories of youth, without documenting that those children have the greatest need?**

**Yes.** An LEA may target Subpart 2 funds to meet the needs of one or more categories of children and youth who are at-risk without documenting that such a category or categories have greater needs than other categories. However, depending on SEA application requirements, an LEA might be required to explain its rationale for choosing to serve a particular category of children who are at-risk.

**O-3. If a detention center closes and the LEA that was providing Subpart 2 services to the center has a dropout-prevention program, may the LEA use the supplies and equipment for its dropout program or does the inventory have to go to another facility served by the LEA?**

The supplies may be shifted to a program that meets the requirements of Subpart 2, such as the LEA's dropout-prevention program.

**O-4. May Subpart 2 funds be used for administration or program coordination at the LEA level?**

**Yes.** Subpart 2 funds may be used for program administration or program coordination if it is reasonable and necessary and the activities have a clear and direct effect on the improvement of services for students. For example, under these circumstances, funds could be used to hire an administration staff person to facilitate student records transfer.

**O-5. May Subpart 2 funds be used by an LEA to support training in vocational and technical skills and GED prep in an independently operated institution for youth who are delinquent?**

**Yes,** so long as the program application is approved by the LEA and meets the statutory requirements in Subpart 2.

**O-6. May LEAs provide services to delinquent children in community day programs under Subpart 2?**

**Yes.** 34 CFR 200.91(c) defines a "locally operated correctional facility" to include a local public or private institution and community day program or school not operated by the State that serves delinquent children and youth.

**O-7. In addition to allocating Subpart 2 funds, may an LEA reserve funds from Title I, Part A of the ESEA, to serve children and youth in local correctional facilities and institutions for youth who are delinquent?**

**Yes.** 34 CFR 200.77(a)(3) of the Title I, Part A, regulations allows an LEA, where appropriate, to reserve funds that are reasonable and necessary to provide services to children in local institutions for delinquent children and neglected or delinquent children in community day programs.

**P. Program Requirements for Subpart 2 Programs**

**P-1. What are the program implementation requirements under Subpart 2?**

Each locally operated correctional facility that receives assistance under Subpart 2 must have a formal agreement with the LEA outlining the programs and services to be provided to its population with Subpart 2 funds. Each correctional facility must:

- Where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to students with an IEP under Part B of the Individuals with Disabilities Education Act (IDEA);
- Notify the local school of the child or youth if the child or youth is identified while in the facility as being in need of special education and related services;
- Where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;
- Provide support programs that encourage children and youth who have dropped out of school to reenter school once they have completed their term at the correctional facility, or provide them with the skills necessary to gain employment or to seek a secondary school diploma or its recognized equivalent;
- Work to ensure that the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth who have disabilities taking into consideration the unique needs of such children and youth;
- Ensure that educational programs in the correctional facility are related to assisting students to meet high academic achievement standards;
- Use, to the extent possible, technology to assist in coordinating educational programs between the correctional facility and the community school;
- Where feasible, involve parents in efforts to improve the educational achievement of their children and to prevent further involvement of such children in delinquent activities;

- Coordinate Subpart 2 funds with other Federal, State, and local funds to provide services to participating children and youth, such as funds made available under Title I of the Workforce Investment Act of 1998 (P.L. 105-220) and vocational and technical education funds;
- Coordinate Subpart 2 programs with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and
- Work, where appropriate, with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth.

**P-2. Do the requirements for highly qualified teachers apply to teachers who work in such entities as juvenile institutions, correctional institutions, and other alternative educational settings?**

**It depends.** Section 1119 of Title I of ESEA requires each SEA that receives Title I, Part A funds to develop (and implement) a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified. This requirement extends to all teachers of core academic subjects who are employed by agencies or entities under the authority of the SEA. As a result, it applies to teachers employed by LEAs that must meet annual measurable objectives for ensuring that teachers are highly qualified set by the SEA, as well as to teachers employed by the SEA or other entities under the SEA's authority. Thus, if entities such as juvenile institutions, correctional institutions, and other alternative educational settings either are LEAs under State law or are under the authority of the SEA, teachers of core academic subjects employed by those entities must be highly qualified.

If, however, the entities that employ these teachers are neither LEAs as defined under State law nor under the SEA's authority, the section 1119 requirements regarding highly qualified teachers do not apply. Nevertheless, it is critical that all students, regardless of school setting, are able to achieve to the State's academic content and academic achievement standards. Therefore, all educational entities—whether covered by the highly qualified teacher requirements or not—are urged to ensure that students have teachers with the content knowledge and skills needed to help them succeed.

**Q. Accountability**

**Q-1. What are the monitoring responsibilities of the SEA and the LEA under Subpart 2?**

SEAs are required to monitor the grantee's implementation of the LEA program funded under Subpart 2. Additionally, LEAs are responsible for monitoring every facility or institution with which they have contracted for services to ensure that the facility or institution is carrying out its responsibilities as outlined in its formal agreement and is complying with all applicable statutory and regulatory requirements. In accounting for how effectively Subpart 2 funds are used by the LEA, an SEA may:

- Reduce or terminate funding for LEA-based projects supported with Subpart 2 funds if the projects do not show progress in reducing dropout rates over a 3-year period; and
- Require that local correctional facilities and institutions for delinquent children and youth demonstrate, after receiving assistance under Subpart 2 for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after they are released.

### III. PROGRAM EVALUATIONS (PART D, SUBPART 3)

#### R. Evaluation Requirements

R-1. What are program evaluation requirements For Subpart 1 And 2 Programs?

Each SA or LEA that conducts a program for children and youth who are neglected, delinquent, or at-risk under Subparts 1 and 2 must evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age, not less than once every 3 years to determine the program's effect on the ability of participants to maintain and improve educational achievement; accrue school credits that meet State requirements for grade promotion and secondary school graduation; make the transition to a regular program or other education program operated by an LEA; complete secondary school (or secondary school equivalency requirements); and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth and, as appropriate, participate in postsecondary education and job training. In conducting each evaluation, an SA or LEA shall use multiple and appropriate measures of student progress.

Each SA and LEA must:

- Submit evaluation results to the SEA and ED.
- Use the results of evaluations to plan and improve subsequent programs for participating children and youth.

Part D programs should be designed with the expectation that children and youth will have the opportunity to meet the same challenging State academic content and academic achievement standards that all children in the State are expected to meet. To the extent feasible, evaluations should be tied to the standards and assessment system that the State or school district has developed for all children.

**R-2. In assessing the effect of Title I, Part D State and local programs for children and youth who are N or D or at-risk, must SEAs and LEAs use the same State or local assessment system developed for all children?**

The SA or LEA must determine which tests are the most appropriate assessments of its N or D students' progress. For example, tests designed to be administered as pre- and post-tests at the time a youth enters a facility and then, again, when he or she leaves, may be more appropriate measures of progress than annual State assessments. If it is determined that the State assessments are not available or would not provide accurate information about the progress of children in institutions, the SA or LEA may select other assessments (as well as any additional indicators to measure the progress of these programs) that are more appropriate and reflect the progress of those children toward meeting the State's standards.

**R-3. Are the same criteria for adequate yearly progress (AYP) that the SEA has defined in its State Accountability Plan applied to SA and LEA programs for children and youth who are neglected, delinquent, or at-risk when evaluating these programs?**

In many cases, State definitions of AYP may not provide an appropriate indication of progress for programs that serve children and youth in institutions for children who are N or D. Because of high turnover and limited length of stay of children and youth in many of these institutions, SAs and LEAs may not be able to use the same measures as are applied to children who attend school in a more traditional setting. Frequently, most students in these institutions who receive instruction for different lengths of stay are not available during the time period in which the assessments are given, and it is therefore very difficult to measure progress over time. In addition, many of the students do not reside in an institution for a full academic year, and the AYP provisions of Title I of ESEA are based on assessment results for students who are in the schools of an LEA for at least one full academic year. However, programs serving the population of children and youth who are neglected, delinquent or at-risk must develop State-approved criteria by which the effects of these programs on participants will be evaluated.