



New Hampshire | LIVE FREE AND LEARN
Department of Education

New Hampshire Department of Education Title I, Part D, Subpart 2 Guidance

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Purpose

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 Every Student Succeed Act (ESSA) includes two programs, one for state agency (SA) programs (Subpart 1) and another for local agency programs (Subpart 2). This guidance document is specifically for Title I, Part D, Subpart 2.

The Title I, Part D, Subpart 2 grant was authorized by Congress to assist Local Educational Agencies (LEAs) and local correctional facilities to address the academic and support needs of at-risk children and youth. The purpose of Subpart 2 is to support the operation of LEA programs that:

- improve educational services for children and youth in local institutions so that such children and youth have the opportunity to meet the same challenging State academic standards that all children in the State are expected to meet;
- provide such children and youth with the services needed to make a successful transition to further education or employment; and
- prevent at-risk youth from dropping out of school, and 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 and the involvement of their families and communities.

Guidance

This guidance document is specifically for Title I, Part D, Subpart 2 to inform LEAs on how to effectively manage, allocate, and utilize Title I, Part D, Subpart 2 funds 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.

Annual Count

Basis For Eligibility for the Annual Count

The State Educational Agency (SEA) annually collects information on the location and number of children who live in local institutions for neglected or delinquent (N or D) children or who are in local adult correctional facilities. This information is reported to the United States Department of Education (ED) to calculate the amount of Title I, Part D, Subpart 2 funds for LEAs to operate local programs for at-risk children authorized by Title I, Part D, Subpart 2, of the ESEA.

To be eligible to participate in the annual survey, the following conditions must be met, as provided in [section 1432\(1\) and \(4\) of the ESEA](#) and, with respect to a locally operated correctional facility, as provided in [34 CFR § 200.90\(c\)](#):

1. The LEA must serve children and youth in locally operated N or D facilities (i.e., not funded by the state), including public or private institutions.
2. The facility must meet the definition of an institution for children who are neglected, an institution for children who are delinquent, or an adult correctional institution (please see the Definitions section for details).
3. The children or youth, age 5 through 17, must be residents of a live-in institution or facility for at least one day within the 30-day count window of October 1 to October 30. Children can be from in-state or out-of-state. Children and youth must not be counted in the SA Annual Count or other Title I funding stream count.

Facility Classification

An important step in submitting the annual count is classifying the facility as either an institution for neglected students or an institution for delinquent students. Please note that the category (i.e., neglected or delinquent) of an institution does not change from year to year unless there has been an official change in the purpose for which the institution is operated. Even if a facility serves both neglected and delinquent students, the students must all be counted as either neglected or delinquent based on the facility designation.

For example, if an institution is operated for the care of neglected children, but the majority of the children residing in the institution during October are children adjudicated to be delinquent, the children in that institution must still be reported as neglected children until the institution's charter or purpose is officially changed to show that it is an institution operated for the care of delinquent children.

The term "*institution for neglected children and youth*" means a public or private residential facility, other than a foster home, that is operated 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*. [[20 USC 6472: Definitions](#)] Programs where students are placed privately by their parents or guardians do not meet the definition of a neglected institution.

The term "*institution for delinquent children and youth*" means a public or private residential facility for the care of children who have been *adjudicated to be delinquent or in need of supervision*. The term "adjudicated" generally means that an official judicial determination has been made (e.g., by a court or other tribunal), rather than a determination by a parent or guardian, that a child is delinquent or in need of supervision. Additionally, the adjudication requirement applies to both delinquency and in need of supervision. [20 USC 6472: Definitions](#).

Basis For Eligibility for Title I, Part D, Subpart 2 Funds

An LEA must participate in the October Annual Count to be eligible to receive Title I, Part D, Subpart 2 funds. The SEA awards subgrants to eligible LEAs with high numbers or percentages of children and youth residing in locally operated correctional facilities, or community day programs for delinquent children and youth not operated by the State within their boundaries ([ESSA Section 1422\(a\)](#)). Funds are distributed through a formula and allocated proportionately among the eligible LEAs based on each LEA's proportionate share of children and youth in correctional facilities or delinquent institutions. Eligible LEAs will be notified that they are eligible to apply for and receive Subpart 2 funds based on the annual count results ([ESEA section 1422\(c\)](#)).

Applying for Funds

To receive Subpart 2 funds, each eligible LEA must apply through the New Hampshire Department of Education (NHED) ESEA Consolidated Application. The LEA is required to provide the following information:

1. A description of the program to be assisted;
2. A description of formal agreements, regarding the program to be assisted, between—
 - A. The LEA; and
 - B. Correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system, including such facilities operated by the Secretary of the Interior and Indian Tribes;
3. As appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend (i.e., an education program of similar quality and scope);
4. A description of the program operated by participating schools to facilitate the successful transition of children and youth returning from correctional facilities and, as appropriate, the 32 types of services that such schools will provide such children and youth and other at-risk children and youth;
5. A description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;
6. As appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities, at-risk children or youth, and other participating children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;
7. As appropriate, a description of any partnerships with institutions of higher education or local businesses to facilitate postsecondary education and workforce success for children and youth returning from correctional facilities, such as through participation in credit-bearing coursework while in secondary school, enrollment in postsecondary education, participation in career and technical education programming, and mentoring services for participating students;
8. As appropriate, a description of how the program will involve parents and family members in efforts to improve the educational achievement of their children or youth, assist in dropout prevention activities, and prevent the involvement of their children or youth in delinquent activities;
9. A description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under Title I of the Workforce Innovation and Opportunity Act and

career and technical education programs serving at-risk children and youth;

10. A description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;
11. As appropriate, a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities;
12. A description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing IEP; and
13. As appropriate, a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a traditional public school program. ([ESEA section 1423](#)).

Only LEAs are eligible to apply. An LEA, however, once it receives a Subpart 2 subgrant from NHED, may then enter into an arrangement with another entity to provide services ([ESEA section 1424\(b\)](#)). In such instances, the LEA must exercise administrative control and assume responsibility for monitoring to ensure compliance with applicable statutory and regulatory requirements.

Eligibility for Services

All children and youth aged 21 and younger who reside in a locally operated correctional facility are eligible to be served. In addition, children and youth returning from correctional facilities to attend a school in the LEA are also eligible for Subpart 2 services. Finally, the LEA may also serve other at-risk children and youth in local schools.

The term “at-risk,” when used with respect to a child, youth, or student, means a school-aged individual who is at-risk of academic failure, dependency adjudication, or delinquency adjudication; has a drug or alcohol problem; is pregnant or is a parent; has come into contact with the juvenile justice system or child welfare system in the past; is at least one year behind the expected grade level for the age of the individual; is an English learner; is a gang member; has dropped out of school in the past; or has a high absenteeism rate at school. ([ESEA section 1432\(2\)](#)). This may include students who are receiving services under other Federal, State, or local programs, such as students identified as homeless or migratory students.

Statutory and regulatory requirements dictate which children, youth and facilities are eligible to be included in the annual counts, but LEAs have considerable flexibility and discretion in determining which students may be served with Subpart 2 funds. In many instances, this means that the students counted will not be the same students receiving services. For example, at-risk children and youth who do not reside in locally operated correctional facilities would not be included in the annual count but could be served with Subpart 2 funds in a local school that is part of the eligible LEA.

Program Requirements

There are implementation requirements for locally operated correctional facilities under Subpart 2. The LEA provides the following assurances through the ESEA Consolidated Application:

1. Where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to a student with an IEP under part B of the IDEA
2. If the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the need of the child or youth;
3. Where feasible, provide transition assistance to help the child or youth stay in school,
4. including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;
5. Provide support programs that encourage children and youth who have dropped out of school to reenter

school and attain a regular high school diploma once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a regular high school diploma or its recognized equivalent;

6. Work to ensure that the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;
7. Ensure that educational programs in the correctional facility are designed to assist students to meet the challenging State academic standards;
8. To the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;
9. Where feasible, involve parents in efforts to improve the educational achievement of their children and youth and prevent the further involvement of such children and youth in delinquent activities;
10. Coordinate funds received under this subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of the Workforce Innovation and Opportunity Act, and career and technical education funds;
11. Coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;
12. If appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth;
13. Upon the child's or youth's entry into the correctional facility, work with the child's or youth's family members or guardians and the LEA that most recently provided services to the child or youth (if applicable) to ensure that the relevant and appropriate academic records and plans regarding the continuation of educational services for such child or youth are shared jointly between the correctional facility and LEA in order to facilitate the transition of such children and youth between the LEA and the correctional facility; and
14. Consult with the LEA for a period jointly determined necessary by the correctional facility and LEA upon discharge from that facility, to coordinate educational services so as to minimize disruption to the child's or youth's achievement ([ESEA section 1425](#)).

Formal Agreements

Each LEA receiving funds under Title I, Part D, Subpart 2 must ensure a formal agreement is developed with correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system institution that will provide the programs for residential neglected and delinquent youth ([20 U.S.C. 6453 \(2\)](#), [20 U.S.C. 6455](#)).

The formal agreement must clarify the roles and responsibilities of each party to ensure that students have the same opportunities as their peers in public education. The agreement must include LEA/institution representatives and, if applicable, third-party personnel in the development process; and the formal agreement must clearly delineate the responsibilities and timelines of all appropriate parties from each entity.

The agreement must include how the LEA and the correctional institution will work together to ensure:

- if a child or youth is identified as in need of special education services while in the correctional facility, the facility will have a process to notify the local school of the child or youth of such need;

- the LEA and the institution provide support programs that encourage children and youth who have dropped out of school to reenter school and attain a regular high school diploma once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a regular high school diploma or its recognized equivalent;
- the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;
- that educational programs in the correctional facility are related to assisting students to meet the challenging State academic standards;
- funds received under this subpart are coordinated with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Workforce Innovation and Opportunity Act, and career and technical education funds;
- programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs are coordinated with, if applicable;
- upon the child's or youth's entry into the correctional facility, the child's or youth's family members and the local educational agency that most recently provided services to the child or youth (if applicable) are worked with to ensure that the relevant and appropriate academic records and plans regarding the continuation of educational services for such child or youth are shared jointly between the correctional facility and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the correctional facility; and
- the local educational agency is consulted with for a period jointly determined necessary by the correctional facility and local educational agency upon discharge from that facility, to coordinate educational services to minimize disruption to the child's or youth's achievement.

The National Technical Assistance Center for the Education of Neglected or Delinquent Youth (NDTAC) provides [guidance on developing a Formal Agreement between the LEA and the correctional institution](#).

Use of Funds

An LEA may use Subpart 2 funds for:

- Programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education
- Dropout prevention programs which serve at-risk children and youth;
- The coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including childcare, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;
- Special programs to meet the unique academic needs of participating children and youth, including career and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education;
- Programs providing mentoring and peer mediation;
- Programs for at-risk Indian children and youth, including such children and youth in correctional facilities in the area served by the LEA that are operated by the Secretary of the Interior or Indian Tribes;
- Pay for success initiatives ([ESEA section 1424\(a\)](#)).

Family and Community Engagement

Family engagement activities are most effective when they are linked to learning, focus on building relationships between home and school, build the development of the whole child, are group activities, and allow for interaction. Educational programs housed within facilities should build programs that are system-wide, integrated into the program's structures and processes, and sustainable. Facilities should focus on a range of activities that engage families from the time a student enters the facility until the student transitions to a new program. Many of the same types of activities offered to families in a regular public school may be adapted to meet the needs of the families of children and youth in facilities. However, facilities should be mindful that families may not be located near the facility where their child is currently staying and should offer virtual opportunities for families that are unable to travel. Suggested activities include:

- A school website with links to parent/family handbooks, staff bios, curriculum, and other activities that students may participate in, including athletics, career and technical education, and fine arts;
- A welcome letter and periodic newsletters that are emailed or printed and mailed to families that may not have internet access, including communications written in a language that families can understand;
- On-site and virtual family engagement events that may include resources for families and students, opportunities for families to meet with teachers, and opportunities for families to tour the school building or classrooms;
- Family engagement activities and information focused on the social-emotional development of their child/youth;
- Involving families in their child's transition back to the home community by inviting them to participate in meetings, providing them with resources, providing a copy of their school records, and connecting families to community-based resources.

LEA Obligations

Transitional and supportive programs

One of the main purposes of Title I, Part D, Subpart 2 is to provide support for LEAs to operate programs within their local schools to support students returning from locally operated correctional facilities. These programs must be designed primarily to meet the transitional and academic needs of students returning to LEAs or alternative education programs from correctional facilities. While an LEA can provide services to students at-risk of dropping out of school, those services must not have a negative impact on meeting such transitional and academic needs of the students returning from correctional facilities. ([ESEA section 1422\(d\)](#)).

Special Rule: If more than 30% of the students coming from the correctional facility will be living outside the LEA's area (and presumably attending schools in other districts), the LEA is not obligated to run special programs to help those students transition back into the regular schools ([ESEA section 1422\(b\)](#)).

LEAs may use their Subpart 2 funds to support a point of contact to assist eligible youth and their families with timely re-enrollment, transfer of records, coordination of services, academic support, monitoring progress, and planning for postsecondary education and employment.

Required documentation of a transition program for students must include a focus on a smooth and successful return into the community. As applicable, evidence may include:

- Transition programming description
- Progress monitoring data
- Career and Technical Education program syllabus or outline
- Roles and responsibilities of the transition coordinator or similar position
- Agendas or emails demonstrating within organization and/or cross-agency work supporting student

transition

- Credit recovery practices
- Post-secondary guidance

Student Information

The educational records of students who transfer between LEAs and placements in local facilities should include all information necessary to provide the student with continuity in their education. For example, records may include transcripts with credits attempted and earned, grades, education plans (including individual education plans (IEPs) and 504 plans), and other relevant academic information. This may include information from child welfare agencies when children have been involved in both systems. Record transfer procedures must be included within the Memorandum of Understanding (MOU) established between the LEA and the facility.

Coordination with IDEA, Part B

An LEA that applies for Title I, Part D, Subpart 2 funds must describe the efforts participating schools will make to ensure that correctional facilities working with children and youth are aware of a student's existing IEP. The LEA is required to implement the IEPs of students with disabilities that have an existing IEP or hold an IEP team meeting to modify its contents. ([34 C.F.R. § 300.323\(e\)](#)).

An LEA that is responsible for providing educational services to children and youth who are housed in a locally operated correctional facility is also responsible for identifying, evaluating, and serving those students under IDEA, Part B. ([34 C.F.R. §§ 300.111\(a\)\(1\)\(i\)](#), [300.300\(a\)](#), [300.301](#), [300.323](#)). These services include the provision of timely evaluations, including the continuation of evaluations that may have begun in another LEA or in a correctional facility, the provision of a free and appropriate public education (FAPE), and the provision of such services in the least restrictive environment (LRE). ([34 C.F.R. §§ 300.101](#), [300.114](#), [300.301\(c\)\(1\)](#)). LEAs should work with the local delinquent facilities to transfer records, including special education records and evaluation information, in a timely manner in accordance with State law ([RSA 194:31-a](#)).

Program Evaluation

Each LEA that conducts a program under Title I, Part D, Subpart 2 shall evaluate the program, not less than once every three years, to determine the program's impact ([ESSA Section 1431\(a\)](#)). Each LEA shall submit the program evaluation results to the SEA and use the results to plan and improve subsequent programs for participating children and youth ([20 U.S.C. 6471](#), [20 U.S.C. 6456](#)).

When evaluating the program, consider the following:

- What data is available to determine the program's impact 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 and delinquent children and youth; and
 - as appropriate, participate in post-secondary education and job training programs?

Based on the data, what programs or strategies are improving outcomes?

- Provide an example of when the school has adjusted or changed strategies because the data was showing that it was not resulting in student growth.

Program evaluation records will be requested during the monitoring of an LEA Title I, Part D program. The documentation must include:

- A disaggregation of student achievement data by gender, race, ethnicity, and age. Using the data, include an analysis of the program and student success for each institution.

and

- A description of how each institution uses data to maintain and improve educational achievement, operate and enhance transitional programs, and facilitate credit accrual for the purpose of grade promotion, graduation, or an equivalent graduation program.

Residential facilities with less than 10 students in a category (gender, race, ethnicity, and age) are exempt from the program evaluation requirement as the number of students in a category would be insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student ([ESSA Section 1431\(b\)](#)).

Resources

- [Title I, Part D Statue](#)
- [National Technical Assistance Center for the Education of Neglected or Delinquent Youth](#)
- [Title I, Part D Nonregulatory Guidance Local Agency Programs For Delinquent and At-Risk Youth \(Part D, Subpart 2\)](#)
- [Conducting a Needs Assessment](#)
- [Formal Agreement Resources](#)
- [Title I, Part D Nonregulatory Guidance Program Evaluations \(Part D, Subpart 3\)](#)

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