



TITLE I, PART D, SUBPART 2

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

TEXAS EDUCATION AGENCY
Division of NCLB Program Coordination

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ABBREVIATIONS AND ACRONYMS

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| AYP | Adequately Yearly Progress |
| CSSO | Chief State Security Officer |
| ED | U.S. Department of Education |
| ESEA | Elementary and Secondary Education Act of 1965, as amended |
| GED | General Education Development program |
| GEPA | General Education Provisions Act |
| IDEA | Individuals with Disabilities Education Act |
| IEP | Individualized Education Program |
| LEA | Local Educational Agency |
| N or D | Neglected or Delinquent |
| PPE | Per-pupil expenditure |
| SA | State Agency (Texas Youth Commission and Windham School District) |
| TEA | Texas Educational Agency |
| TSY | 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 agencies (Texas Youth Commission and Windham School District) Neglected or Delinquent (N or D) program, through which ED provides Federal financial assistance to the Texas Education Agency (TEA) to enable them to award subgrants to the Texas Youth Commission and Windham School District to 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 the TEA 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.
3. Subpart 3 of Part D requires the Texas Youth Commission and Windham School District and LEAs to evaluate their programs 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.

LOCAL PROGRAMS FOR AT-RISK YOUTH (PART D, SUBPART 2)

A. Federal Allocation of Funds to States

A-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 delinquent children and adult correctional institutions that the TEA submits to ED. The Title I, Part A allocation tables that ED provides to TEA show the specific amount the State has available for Subpart 2 purposes.

A-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 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 allocation purposes; and
- Live in the institution for at least 30 consecutive days, at least 1 day of which is in October.

A-3. Based on the October caseload data used by ED, how does the TEA count children in a locally operated institution where some children are considered neglected and others are considered delinquent?

The TEA reviews 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 TEA will continue count all of the children in such an institution as delinquent unless its charter and purpose change. It is important that the TEA 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.

A-4. May the TEA 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.

B. Subgrants by States to LEAs

B-1. How does the TEA make Subpart 2 subgrants to LEAs?

From funds retained by the State for Subpart 2 purposes, the TEA 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.

B-2. How does the TEA determine LEA eligibility for a Subpart 2 subgrant?

Any LEA having reported at least ten children district-wide living within locally operated delinquent residential facilities for 30 consecutive days with at least one of the consecutive days falling in October is eligible for Subpart 2.

B-3. May the SEA change the amount of the Subpart 2 subgrant allocations?

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

B-4. What may an LEA do if it has Subpart 2 funds remaining at the end of the year?

The LEA may apply to the TEA to carry over the funds from one fiscal year to the next. With approval from the TEA, 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 TEA and LEA within 27 months of the date ED awards funds to the TEA.

B-5. 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.

C. LEA Applications

C-1. How does an LEA apply to the TEA for funds?

To receive Subpart 2 funds, each eligible LEA must apply to the TEA. 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.

C-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.

C-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 TEA 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.

D. Uses of Funds

D-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.

D-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 TEA application requirements, an LEA might be required to explain its rationale for choosing to serve a particular category of children who are at- risk.

D-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.

D-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.

D-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.

D-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.

D-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.

E. Program Requirements for Subpart 2 Programs

E-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.

E-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 the TEA, which 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 TEA. 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 TEA, as well as to teachers employed by the TEA or other entities under the TEA'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 TEA, 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 TEA'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.

F. Accountability

F-1. What are the monitoring responsibilities of the LEA under Subpart 2?

TEA is 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, the TEA 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.

II. PROGRAM EVALUATIONS

G. Evaluation Requirements

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

Each LEA that conducts a program for children and youth who are neglected, delinquent, or at-risk under Subpart 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 LEA shall use multiple and appropriate measures of student progress.

Each LEA must:

- Submit evaluation results to the TEA.
- 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.

G-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 LEAs use the same State or local assessment system developed for all children?

The 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 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.

G-3. Are the same criteria for adequate yearly progress (AYP) that the TEA has defined in its State Accountability Plan applied to 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, 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.