



Fiscal Issues, Annual Counts and Facility Eligibility

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Presenters:

Todd Stephenson • *Management and Program Analyst, OESE, SSA*

Elizabeth Witt • *Education Program Specialist, OESE, SSA*



**The National Technical
Assistance Center**
for the Education of Neglected or
Delinquent Children and Youth (NDTAC)
neglected-delinquent.ed.gov

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Agenda

- Fiscal Issues
 - Allocations
 - Administrative Reservation
- Annual Counts and Facility Eligibility
 - Annual Counts
 - Facilities That May Receive Services
 - Title I, Part A Neglected Reservation
- Q and A





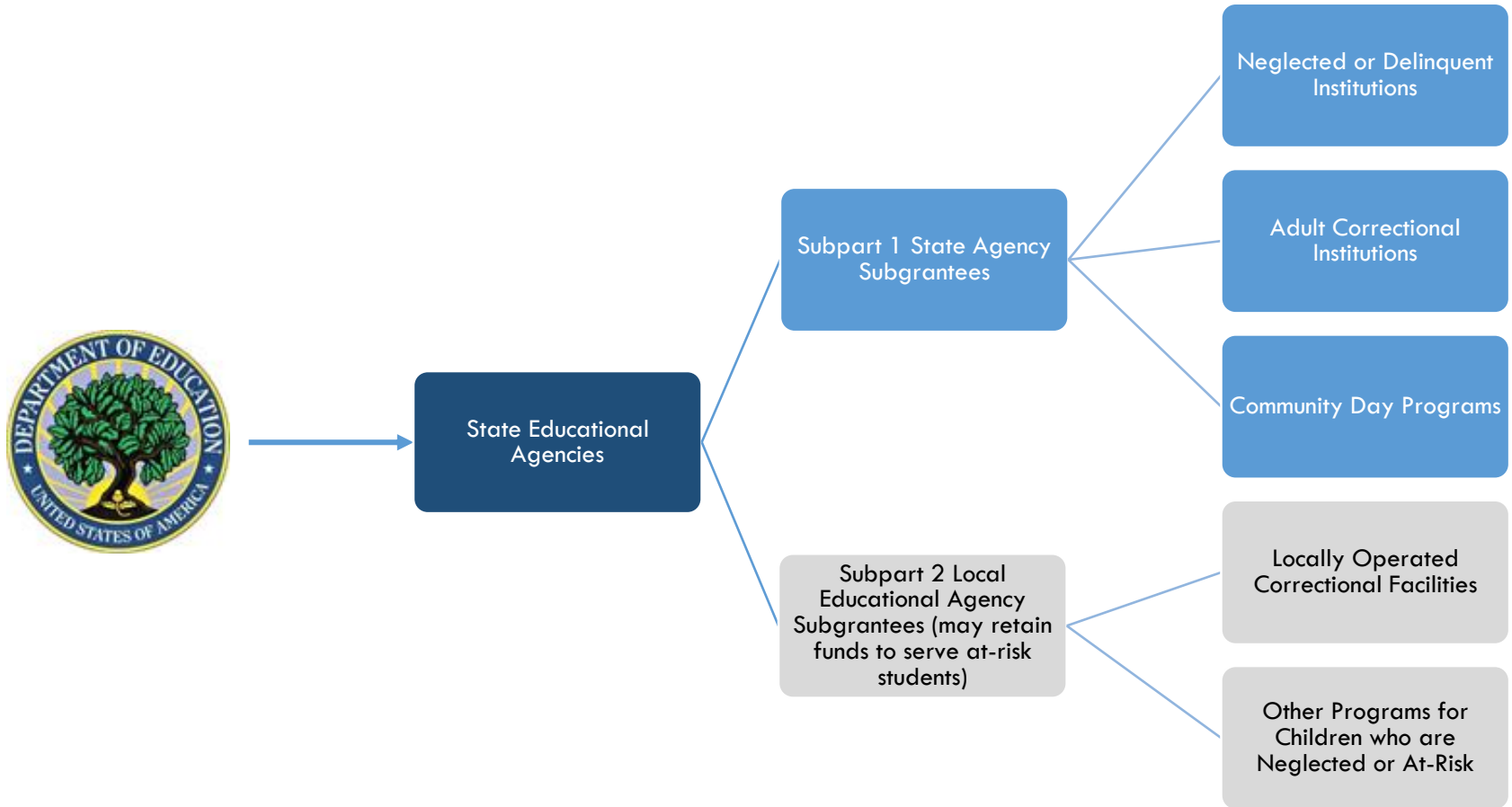
Fiscal Issues



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Allocations—Flow of Title I, Part D Funds



Allocations

- FY 2020 **preliminary** allocation information for Subparts 1 and 2 was provided through ED program listserv on January 23, 2020.
- FY 20 **final** allocation information for Subparts 1 and 2 was provided through ED program listserv on June 11, 2020.
- FY 2020 funds awarded on July 1, 2020.

Note on FY 2021 (school year 2021-2022) allocations—There is not yet an appropriation that establishes the amount of funds available for Title I, Part A; Title I, Part D, Subpart 1, and other programs administered by ED.



Allocations: Detail on FY 2020 Funding

- Subpart 1 has been level-funded since FY 2014: \$47,614,000 (\$46,423,650 to SEAs). 51 States received funds in FY 2020
- Subpart 2: portion of the State's Title I, Part A grant
 - FY 2018: \$107,168,539
 - FY 2019: \$104,250,352
 - FY 2020: \$103,377,205 (47 States have reported counts of children in local facilities for delinquent children and thus must use a portion of their Title I, Part A award for Subpart 2—one more than previous few years)



Allocations: Setting Aside Funds for Administration

SEC. 1004. STATE ADMINISTRATION.

IN GENERAL.—Except as provided in subsection (b), to carry out administrative duties assigned under parts A, C, and D of this title, each State may reserve the greater of—

- a) 1 percent of the amounts received under such parts; or
- b) \$400,000 (\$50,000 in the case of each outlying area).

EXCEPTION.—If the sum of the amounts appropriated for parts A, C, and D of this title is equal to or greater than \$14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive, if \$14,000,000,000 were allocated among the States for parts A, C, and D of this title.



Allocations: Setting Aside Funds for Administration

- Since FY 2008 the appropriations for Parts A, C, and D has exceeded \$14 billion and thus this cap has applied.
- In FY 2020, the total for A+C+D is \$16,732,167,000.
- ED calculated the administrative maximum for Part D as if the total allocation for Subpart 1 were \$39,839,191 rather than \$47,614,000. ED completed similar calculations for Parts A and C.
- Flexibility: a State may use funds it reserves from its Title I, Parts A, C, and Part D Subpart 1 awards to administer any of these Title I programs.





Annual Counts and Facility Eligibility



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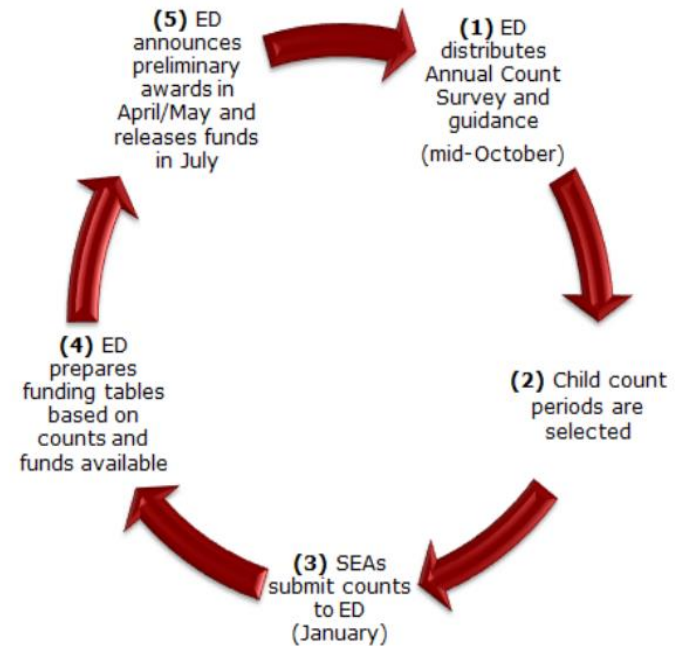
Annual Count Process

PURPOSE

- Provide the Department with data required for Title I, Parts A and D, allocations.
- For use in the computation of grants to local educational agencies and State agencies responsible for providing free public education for children in institutions or community day programs for neglected or delinquent children.

REQUIREMENTS

- Annual collection required by statute for all State educational agencies.
- No sampling or estimating is to be used in preparing this report.
- Data are subject to audit and must be supportable from documented records.



Count of **State-Operated** or Supported N or D Institutions

- From what **time period** do States report the count for State-operated institutions?
 - 34 CFR 200.91(a)(2): A date that is consistent for all facilities in the State, and
 - “A school day in the calendar year preceding the year in which funds become available”—For FY 2021 funds, that could be any school day in calendar year 2020
- **Which children** are counted:
 - Number of students *in State-operated N or D facilities* (adult or juvenile), or in State-operated *community day programs*.
 - Counted students must
 - Be enrolled in a regular program of instruction provided by the State agency for at least--
 - 20 hours per week if in an institution for N or D children or a community day program for N or D children;
 - Or 15 hours per week if in an adult correctional institution.
 - Be under 21 years of age at the time of the count



Count of **State-Operated** or Supported N or D Institutions

Which facilities are included in the State count?

- An **institution for neglected children and youth** is a public or private residential facility, other than a foster home (that is, children who are not in the foster care system), 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; and
 - Have had an average length of stay in the institution of at least 30 days. (34 CFR § 200.90(b))



Count of **State-Operated** or Supported N or D Institutions

Which facilities are included in the State count?

- An **institution for delinquent children and youth** is a public or private residential facility that is operated primarily for the care of children and youth who:
 - Have been adjudicated to be delinquent or in need of supervision; and
 - Have had an average length of stay in the institution of at least 30 days. (34 CFR § 200.90(b)).
- State-operated **community day program** is a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth. (ESEA section 1432(3)).



Count of **State-Operated** or Supported N or D Institutions

How does ED use this State count in its allocation calculations?

The State count is used to determine the State's ***Subpart 1*** allocation.



Count of **Local** Neglected or Delinquent Institutions

From what time period do States report the count for locally-operated institutions?

- A 30 consecutive day count period that includes at least 1 day in October (Oct. 2020 for FY 2021 (school year 2021-2022) funds).

Which children does the State count for **the locally-operated institution counts**?

- Children residing in locally operated institutions for neglected or delinquent children who are ages 5 through 17, inclusive at the time of the count. (The count includes any child who was ages 5 through 17 during any point of the 30-day count period.)
- Counted students must live in an eligible institution for at least one day during a 30 consecutive day period, at least one day of which falls within the month of October (Oct. 2020 for FY 2021 funds).



Count of **Local** Neglected or Delinquent Institutions

Which facilities are included in the State's Local N and D counts?

- **Local institution for Neglected children:** “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” (section 1432(4)(A) of the ESEA) (**emphasis added**).
- **Local institution for Delinquent children:** “A public or private **residential** facility for the care of children who have been adjudicated to be delinquent or in need of supervision” (section 1432(4)(B) of the ESEA) (**emphasis added**). Also includes children in local adult correctional institutions as defined in section 1432(1).

For the purpose of reporting the count, a facility must be categorized as either neglected or delinquent, NOT BOTH, even if it includes students who are neglected and other students who are delinquent. The category of an institution should not change from year to year unless there has been an official change in the purpose for which the institution is operated.



Count of **Local** Neglected or Delinquent Institutions

How does ED use the local counts in its allocation calculations?

- **Local Delinquent Count** is used to calculate the State's ***Subpart 2 allocation*** (received as a portion of the State's Title I, Part A grant). The SEA awards these funds to LEAs.
- **Local Neglected Count** figures into the LEA ***Title I-A allocation for the LEA*** in which the facility is located (some States award these funds as a I-A subgrant separate from the LEA's main I-A subgrant).



A State has two State Agencies, each of which operates one facility. One of the facilities is likely to close soon. Should the State include the soon-to-close facility in its State-level count for Subpart 1 funds?

If the facility is open on the date of the official count, it should be included. If the facility is closed by the time the SEA makes sub-awards to State agencies, the SEA should reallocate all Subpart 1 funds to the State Agency that remains open.



An LEA has a private residential facility for delinquent students located within its borders. May the facility be included in the local delinquent count?

The definition of a delinquent facility in section 1432(4)(B) of the ESEA includes private, as well as public, facilities. If the private facility otherwise meets the definition (i.e., it is residential; it provides care to children who have been *adjudicated* to be delinquent or in need of supervision; etc.), it may be included in the count.



Recent Questions Received about State and Local Counts

A rehabilitation/psychiatric facility in my LEA serves children who have been admitted by their families because they have serious behavioral problems. Can the facility be counted as a local delinquent facility?

Some rehabilitation and psychiatric facilities may meet the definition of a delinquent or neglected facility. If they do, they may be included in the local count. In this case, however, because the students have been admitted to the facility by their parents and not because they have been adjudicated as delinquent, the facility most likely cannot be included in the count.



Recent Questions Received about State and Local Counts

A facility in an LEA houses neglected students in group homes. These homes are not traditional neglected facilities but are more like group foster homes. Should these facilities be included in the local neglected count?

The definition of a neglected facility excludes foster homes. In this case, it would be a good idea to consult the State child welfare agency to see if the students housed in these group homes are counted as and reported to the U.S. Department of Health and Human Services (HHS) through form ACF-4125 as children in foster care. If so, the facilities may not be counted as a neglected facility. If these children are not reported to HHS as foster children, it may be possible to count the facility as a local neglected facility if it otherwise meets the definition.



Key factor in determining if a facility should be included in the count:

Does the facility meet the statutory definition?



Which Students/Facilities May Receive Services?

While States' decisions about which children and facilities to include in (or exclude from) the annual counts must be based on statutory and regulatory requirements, SEAs and LEAs have considerable flexibility and discretion in determining which students may be **served** with grant funds available for activities under Subparts 1 and 2 of Title I, Part D.



Which Students/Facilities May Receive Services?

Subpart 1—While funds are awarded among SAs based on their proportion of the submitted State count, there is some flexibility in regards to who is served.

- Fewer than the total number of students in the count—An SA that receives Subpart 1 funds must assess the educational needs of all eligible children and youth in eligible institutions and community day programs. Using assessment data, an SA can **select those most in need of special assistance**. If available funds are insufficient to meet the needs of all eligible youth, those most in need should be served first.



Which Students/Facilities May Receive Services?

Subpart 1—While funds are awarded among SAs based on their proportion of the submitted State count, there is some flexibility in regards to who is served.

- More than the total number of students in the count—Section 1416 authorizes an SA that provides free public education in an N or D institution (other than an adult correctional institution) or attending a N or D community day program to use Subpart 1 funds to serve all children (including those not part of the count) and upgrade the entire educational effort of that institution or program by implementing an **institution-wide program**.



Which Students/Facilities May Receive Services?

Subpart 2 Flexibility —

- An SEA can award Subpart 2 funds by formula to LEAs, based on the same local delinquent count that it submitted to ED or **based on other data and LEA eligibility criteria** that the SEA chooses to use. Funds may also be awarded competitively.
- An LEA that receives Subpart 2 funds can award a subgrant or contract to a local facility or provide services itself to eligible students enrolled in the LEA or residing in facilities.
- Even though Subpart 2 funds are generated only by local delinquent counts, Subpart 2 funds can also be used to provide services to neglected students, as well as to students enrolled in the LEA who meet the “at-risk” definition (and who are not part of the count).



Which Students/Facilities May Receive Services?

Particularly under Subpart 2, States and LEAs may serve “**at-risk**” students who may be neither neglected nor delinquent and who are not included in the counts.

Section 1432(2): “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 1 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.”



Title I, Part A Neglected Reservation

Section 1113(c)(3)(A)(ii) of the ESEA requires LEAs that have a local facility that generated a neglected count to determine the amount of a required reservation to meet the needs of neglected students based on its total Title I allocation **prior** to any allowable expenditures or transfers of funds.

The Title I-A neglected reservation is specific to the LEA where the facility that generated the count is located. This reservation comes from an LEA's Title I, Part A allocation and the ESEA is specific about whom this reservation serves.



Title I, Part A Neglected Reservation

The LEA is required to set aside sufficient IA-funds to provide I-A services to neglected students that are comparable to the I-A services provided to other I-A students in the LEA.

Reserving funds to provide comparable services does not necessarily require that an LEA reserve an amount that is exactly proportional to the number of neglected children of all children counted in the Title I, Part A formula, although that is a commonly used approach.



Title I, Part A Neglected Reservation

Services provided with this reservation are Title I, Part A services (for example, additional support in reading, mathematics, or science, designed to improve the academic achievement of children in the facility). Such services are related to, but not the same as, Subpart 2 services these students might also be receiving.

It is important for the SEA to support LEAs in administering their Title I, Part A and Subpart 2 subgrants in a coordinated way. LEAs that have both types of funds may need help understanding the purposes, flexibilities, and opportunities to support at-risk children served by both programs.



Title I, Part A Neglected Reservation

What happens if an LEA is unable or unwilling to provide the required Title I, Part A services to children in a facility for neglected children?

ESEA section 1126(a) requires the State to receive the portion of the LEA's Title I, Part A allocation that is attributable to the neglected children and use these funds to ensure that these children receive Title I, Part A services.



Title I, Part A Optional Reservation for Children in Local Delinquent Facilities

LEAs also have the option to reserve Title I, Part A funds to provide Title I, Part A services to students in delinquent facilities.

- An LEA might reserve Title I, Part A funds to add to or coordinate with the Subpart 2 services that students in a delinquent facility are receiving.
- An LEA with a local D count that has not received a Subpart 2 grant may wish to reserve Title I, Part A funds for the students in the D facility.



Upcoming Annual Count Activities

September 2020: ED will send the annual count survey materials to States to collect counts of children in State-operated and locally-operated facilities for neglected or delinquent children that ED will use to calculate FY 2021 (school year 2020-2021) allocations for Title I, Parts A and D.

Please send questions about reporting these counts to:
NorD-DataFY2021@ed.gov and TitleI-D@ed.gov

January 15, 2021: The annual count data will be due to ED.





Questions?



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Contact Information

Todd Stephenson

U.S. Department of Education

OESE, SSA

Todd.Stephenson@ed.gov

NorD-DataFY2021@ed.gov

Elizabeth Witt

U.S. Department of Education

OESE, SSA, TLSP

Elizabeth.Witt@ed.gov

TitleI-D@ed.gov

