







## Introduction

This tipsheet is designed to support State educational agencies (SEAs) and their subgrantees in identifying institutions with eligible children and youth to be **served** under Title I, Part D of the Elementary and Secondary Education Act of 1965 (ESEA). Understanding the distinction between being **included in the annual count** for funding purposes and **being eligible to be served** is essential for ensuring that all qualifying children and youth, particularly those who are neglected, delinquent, or at-risk, have access to the educational and transitional support services they need. While an NDTAC companion tipsheet focuses on criteria for [including institutions in the annual count](#), this tipsheet emphasizes the requirements to determine which State agencies (SA) and local educational agencies (LEA) are eligible to receive a subgrant under Title I, Part D and which students may be served by those subgrants, regardless of their inclusion in the annual count.

This tipsheet has four primary sections:

 <b><u>Section I:</u></b> <a href="#">State Institutions with Children and Youth Eligible to be Served by Title I, Part D</a>	 <b><u>Section II:</u></b> <a href="#">Local Institutions with Children and Youth Eligible to be Served by Title I, Part D</a>	 <b><u>Section III:</u></b> <a href="#">Related Title I, Part A Information</a>	 <b><u>Section IV:</u></b> <a href="#">Helpful Tips in Determining which Institutions are Eligible to Receive Title I, Part D Services</a>
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Section I and Section II outline the types of institutions and programs that may be eligible for services under Subpart 1 (SAs) and Subpart 2 (LEAs) of Title I, Part D. Section III provides related information about Title I, Part A funds. The last section shares helpful tips and strategies that State coordinators can use to identify which institutions are eligible to receive Title I, Part D subgrants or services.

## Section I: State Institutions with Children and Youth Eligible to be Served by Title I, Part D

Under [ESEA section 1411](#), an SA is eligible to receive a Subpart 1 subgrant from the SEA if the SA is responsible for providing free public education to children and youth in one or more of the following institutions below.

**An institution for neglected children and youth**, as determined by the SEA, is a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who (1) 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 (2) have had an average length of stay in the institution of at least 30 days. ([ESEA section 1432\(4\)\(A\)](#); [34 C.F.R. § 200.90\(b\)](#)).

**An institution for delinquent children and youth**, as determined by the SEA, is a public or private residential facility that is operated primarily for the care of children and youth who (1) have been adjudicated to be delinquent or in need of supervision and (2) have had an average length of stay in the institution of at least 30 days. ([ESEA section 1432\(4\)\(B\)](#); [34 C.F.R. § 200.90\(b\)](#)).

**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. ([ESEA section 1432\(3\)](#)).

**Adult correctional institution** is a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense. ([ESEA section 1432\(1\)](#)).

As noted previously, the SA must provide free public education to children and youth. That education must be a **regular program of instruction**, meaning an educational 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 career and technical education, 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. ([34 C.F.R. § 200.90\(b\)](#)).

### Key Requirement Charts

Children and youth are eligible to receive services under Subpart 1 if they are:

- 21 years of age and younger ([34 C.F.R. §§ 200.90\(a\)](#) and [200.103\(b\)\(1\)](#));
- Entitled to free public education up to grade 12 ([34 C.F.R. §§ 200.90\(a\)](#) and [200.103\(b\)\(1\)](#)); and
- Enrolled in a regular program of instruction at either an eligible institution or community day program for the required length of time, including:
  - 20 hours per week if in a neglected or delinquent institution or community day program that serves juveniles; or

- 15 hours per week if in an adult correctional institution ([ESEA section 1412\(a\)\(1\)\(A\)](#); [34 C.F.R. § 200.90\(b\)](#)).

The charts below provide key considerations for determining which SAs, institutions, and children and youth are eligible to receive services under Title I, Part D, Subpart 1. Responses to **all questions** must be a “yes” for neglected and delinquent children and youth to be served.

<b>State Institution for Neglected Children and Youth</b>	
<b>Key Requirements*</b>	<b>Response</b>
Is the SA responsible for providing free public education to the children and youth in this program? [ <a href="#">ESEA section 1411</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are students placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians? [ <a href="#">ESEA section 1432(4)(A)</a> ; <a href="#">34 C.F.R. § 200.90(b)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the primary purpose of the facility to care for children and youth who are neglected? [ <a href="#">ESEA section 1432(4)(A)</a> ; <a href="#">34 C.F.R. § 200.90(b)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do the students in the institution have an average length of stay of at least 30 days? [ <a href="#">34 C.F.R. § 200.90(b)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program serve students who are age 21 or younger? [ <a href="#">34 CFR 200.103(b)(1)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the students enrolled in a regular program of instruction for at least 20 hours per week? [ <a href="#">ESEA section 1412(a)(1)(A)(ii)(I)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>State Institution for Delinquent Children and Youth</b>	
<b>Key Requirements*</b>	<b>Response</b>
Is the SA responsible for providing free public education to the children and youth in this program? [ <a href="#">ESEA section 1411</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have the students in the institution been adjudicated to be delinquent or in need of supervision? [ <a href="#">ESEA section 1432(4)(B)</a> ; <a href="#">34 C.F.R. § 200.90(b)</a> ]  <i>Note the term “adjudicated” generally refers to a judicial determination (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.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the primary purpose of the facility to care for children and youth who have been adjudicated to be delinquent or in need of supervision? [ <a href="#">ESEA section 1432(4)(B)</a> ; <a href="#">34 C.F.R. § 200.90(b)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do the students in the institution have an average length of stay of at least 30 days? [ <a href="#">34 C.F.R. § 200.90(b)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program serve students who are age 21 or younger? [ <a href="#">34 CFR 200.103(b)(1)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No

Are the students enrolled in a regular program of instruction for at least 20 hours per week? [ <a href="#">ESEA section 1412(a)(1)(A)(ii)(I)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<b>Community Day Program</b>	
<b>Key Requirements*</b>	<b>Response</b>
Is the SA responsible for providing free public education to the children and youth in this program? [ <a href="#">ESEA section 1411</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program operate specifically for neglected or delinquent children and youth? [ <a href="#">ESEA section 1432(3)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program serve students that are age 21 or younger? [ <a href="#">34 CFR 200.103(b)(1)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the students enrolled in a regular program of instruction for at least 20 hours per week? [ <a href="#">ESEA section 1412(a)(1)(A)(ii)(II)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Adult Correctional Institution</b>	
<b>Key Requirements*</b>	<b>Response</b>
Is the SA responsible for providing free public education to the children and youth in this program? [ <a href="#">ESEA section 1411</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the students enrolled in a regular program of instruction for at least 15 hours per week? [ <a href="#">ESEA section 1412(a)(1)(A)(i)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program serve students that are age 21 or younger? [ <a href="#">34 CFR 200.103(b)(1)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No

\*Responses to all questions must be “yes” to confirm eligibility for a subgrant or service under Title I, Part D, Subpart 1.

## Section II: Local Institutions with Children and Youth Eligible to be Served by Title I, Part D

Under Title I, Part D, Subpart 2, SEAs award subgrants to LEAs with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs) ([ESEA section 1422\(a\)](#)). For an LEA to be eligible to receive a Subpart 2 subgrant, the LEA must have an eligible locally operated correctional facility, including community day programs that serve delinquent children and youth, within its boundaries.

**Locally operated correctional facility for delinquent children and youth** is a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age. The term also includes a local public or private institution and community day program or school not operated by the State that serves delinquent children and youth. [[34 C.F.R. § 200.90\(c\)](#)].

**Locally operated community day program** is a local public or private institution and community day program or school not operated by the State that serves delinquent children and youth. [[34 C.F.R. § 200.90\(c\)](#)]

In addition to providing educational services to locally operated correctional facilities within their boundaries, LEAs may use Subpart 2 funds to support dropout prevention and intervention programs for “at-risk” youth if doing so does not have a negative impact on meeting the transitional and academic needs of students returning to LEAs from correctional facilities. ([ESEA section 1422\(d\)](#)).

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, or is an English learner, gang member, or has dropped out of school in the past, or has a high absenteeism rate at school ([ESEA section 1432\(2\)](#)).

### Key Requirement Charts

Children and youth are eligible to receive services under Subpart 2 if they are:

- Up to age 21 and reside in a locally operated correctional facility, including a locally operated community day program ([ESEA sections 1421 and 1424](#); [34 C.F.R. §§ 200.90\(a\) and 200.103\(b\)\(1\)](#));
- Returning from a correctional facility to a school in the LEA ([ESEA sections 1421 and 1424](#)); or
- At-risk, per statutory definition noted above, and attend a local school ([ESEA sections 1421 and 1424](#)).

The charts below provide key considerations for determining institutions with eligible children and youth to be served under Title I, Part D, Subpart 2. Responses to **all questions** must be a “yes” for delinquent and at-risk children and youth to be served.

<b>Locally Operated Correctional Facility</b>	
<b>Key Requirements*</b>	<b>Response</b>
Is the institution locally operated (public or private)? [ <a href="#">ESEA section 1421</a> ; <a href="#">34 C.F.R. § 200.90(c)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have the students in the institution been adjudicated delinquent or in need of supervision? [ <a href="#">ESEA section 1432(4)(b)</a> ; <a href="#">34 C.F.R. § 200.90(c)</a> ]  <i>Note the term “adjudicated” generally refers to a judicial determination (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.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do the students live in the facility? [ <a href="#">ESEA section 1432(4)(b)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program serve students that are up to age 21? [ <a href="#">34 C.F.R. § 200.90(c)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Locally Operated Community Day Program</b>	
<b>Key Requirements*</b>	<b>Response</b>
Is the program locally operated (public or private)? [ <a href="#">ESEA section 1421</a> ; <a href="#">34 C.F.R. § 200.90(c)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have the students in the community day program been adjudicated delinquent or in need of supervision? [ <a href="#">ESEA section 1432(4)(b)</a> ; <a href="#">34 C.F.R. § 200.90(c)</a> ]  <i>Note the term “adjudicated” generally refers to a judicial determination (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. The students must be adjudicated to the community day program to be considered eligible.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program serve students that are up to age 21? [ <a href="#">34 C.F.R. § 200.90(c)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>At-Risk Programs in Eligible LEAs</b>	
<b>Key Requirements*</b>	<b>Response</b>
Does the program serve students who meet the statutory definition of “at-risk” meaning a child, youth, or student: 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, or is an English learner, gang member, or has dropped out of school in the past, or has a high absenteeism rate at school? [ <a href="#">ESEA section 1432(2)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the at-risk program operate in an LEA that already receives Title I, Part D funding? [ <a href="#">ESEA sections 1421 and 1424</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the program serve students that are up to age 21? [ <a href="#">34 C.F.R. § 200.90(c)</a> ]	<input type="checkbox"/> Yes <input type="checkbox"/> No

\*For this institution to be eligible to receive Title I, Part D services from the LEA subgrant, responses to all questions must be “yes.”

## Section III: Related Title I, Part A Information

In addition to Title I, Part D, Subpart 2, LEAs have responsibilities under Title I, Part A to provide educational services to children and youth in locally operated neglected institutions through what is known as the **neglected reservation**. LEAs must:

- Reserve Title I funds to provide services comparable to those provided to children in Title I schools to children in local institutions for neglected children. ([ESEA section 1113\(c\)\(3\)\(A\)\(ii\)](#); [34 C.F.R. § 200.77\(a\)\(2\)](#))
- Determine the amount of the reservation based on its total Title I allocation prior to any allowable expenditures or transfer of funds. ([ESEA section 1113\(c\)\(3\)\(B\)](#); [34 C.F.R. § 200.77\(a\)\(4\)](#))

While the neglected reservation is a Title I, Part A requirement, it plays a vital role in supporting students who may also qualify for services under Title I, Part D, Subpart 2, if they meet the statutory definition of “at-risk.” Therefore, coordinating the neglected count used for the Title I, Part A reservation with Title I, Part D planning helps ensure that LEAs do not overlook students when they can benefit from supplemental services under both programs ([Title I, Part D Non-Regulatory Guidance, Question O-17](#)).

In addition to the required Title I reservation for children in a local neglected facility, [ESEA section 1113\(c\)\(3\)\(A\)\(iii\)](#) and [34 C.F.R. § 200.77\(a\)\(3\)](#) allow an LEA, where appropriate, to reserve Title I, Part A funds that are reasonable and necessary to provide services designed to improve the academic achievement of children and youth in local institutions for delinquent children and youth, and neglected or delinquent children and youth in community day programs. The flexibility to reserve Title I, Part A funds for this purpose enables an LEA to supplement services that it already supports with Subpart 2 funds or add additional services under Title I, Part A that are not already provided under Subpart 2. ([Title I, Part D Non-Regulatory Guidance, Question O-16](#)).

Additionally, if a local institution for delinquent children and youth or a community day program meets the definition of “elementary school” in [ESEA section 8101\(19\)](#) or “secondary school” in [ESEA section 8101\(45\)](#), the school may be eligible to receive Title I, Part A funds from its LEA under [ESEA section 1113](#). This is another way that children and youth in local correctional facilities and institutions for youth who are delinquent can receive support from Title I, Part A, in addition to the funds it may be receiving under a Subpart 2 allocation. ([Title I, Part D Non-Regulatory Guidance, Question O-16](#)).

## Section IV: Helpful Tips in Determining which Institutions are Eligible to Receive Title I, Part D Services

The following factors are additional considerations for identifying which institutions have eligible children and youth to be served by Title I, Part D.

### **Classify an institution based on its primary purpose**

If a facility is designed primarily to care for youth who have been adjudicated delinquent or under juvenile justice supervision, it may be classified as a delinquent institution. In contrast, if the facility primarily serves youth who have experienced neglect, abandonment, or abuse and are in the custody of a child welfare agency, it may be classified as a neglected institution. Note that the category of an institution (i.e.,

delinquent or neglected) does not change from year to year unless there has been an official change in the purpose for which the institution is operated. When the classification is unclear, reviewing the facility or program's licensing documents, intake criteria, and their charter or mission statement can help determine whether it meets the definition of a neglected or delinquent institution under Title I, Part D. Requesting documentation is key. State coordinators should feel confident asking SAs or LEAs for evidence such as operating licenses, contracts, or written descriptions of the student population served and the educational program offered.

Residential facilities that provide behavioral health services may be eligible for a Title I, Part D subgrant or services if the primary purpose of the institution is to serve youth who are neglected or delinquent. However, if the primary purpose of the program is to provide behavioral healthcare to students served through insurance or privately placed by parents and only occasionally serve youth who are neglected or delinquent, the facility would not be eligible. The core intent of Title I, Part D funding is to support only institutions whose main purpose is the care of neglected or delinquent youth populations.

### **Title I, Part D subgrants**

Understanding whether an institution falls under Subpart 1 or Subpart 2 depends largely on who is responsible for the educational program. State-run juvenile correctional facilities, neglected facilities, or community day programs are generally eligible under Subpart 1 because the SA is responsible for providing free public education in these facilities. Locally operated correctional facilities, including locally run juvenile detention centers or community day programs fall under Subpart 2. The overseeing agency is a key indicator when making this determination because the same type of institution or program may fall under different subparts depending on who is responsible for the education of children and youth within the facility. Note that facility operations and populations can shift from year to year, so, it is good practice for State coordinators to review and verify their subgrantees' and program's eligibility on an annual basis. These changes can affect whether the facility qualifies under Subpart 1 or Subpart 2, or whether it is eligible to be served at all under Title I, Part D.

### **Coordination between Title I, Part A and Part D is a valuable strategy**

LEAs are required to reserve Title I, Part A funds for students in locally operated neglected institutions. These same facilities may also serve students who are eligible for additional support under Title I, Part D, Subpart 2, if the LEA operates an at-risk program. State coordinators can encourage LEAs to review the eligibility of students identified under Title I, Part A neglected reservation to determine whether they also qualify for services through the at-risk program. Coordinating these two programs ensures that students receive comprehensive support without duplication.

### **Distinction between eligibility to be counted for funding purposes and eligibility to receive services**

Some institutions may not meet the residential requirements for inclusion in the Annual Count, but youth in those settings may still be served by Title I, Part D funds if they meet the broader program eligibility requirements above. For more information, readers should refer to the tipsheet [\*Identifying Neglected and Delinquent Institutions with Eligible Children to be Included in the Annual Count.\*](#)

## **EDFacts can provide additional insights on eligibility**

Data reported through EDFacts can offer valuable insights into the eligibility of facilities to receive Title I, Part D subgrants or services. Subgrantees' responses to data reporting systems can help identify facilities that may warrant further review. For example, if a facility reports that 100 percent of its students have individualized education plans (IEPs), this may suggest that it exclusively serves students with disabilities, indicating it may not meet the eligibility criteria to receive Title I, Part D funds or services. Similarly, if a facility repeatedly classifies itself under "other programs" for facility and program category, this may signal a need for further investigation. In such cases, it is important to gather additional information about the facility's purpose, the characteristics of the population it serves, and the processes through which students are placed there, to determine whether it aligns with Title I, Part D eligibility requirements.

## **Conclusion**

Title I, Part D allows for a wide range of services, but eligibility depends on understanding the type of institution, the status of students to be served, and the agency responsible for educating the students. A careful review of each institution using the tips and tables above will help ensure that eligible children and youth have access to the educational services they need. Additional resources and references are listed below that will assist State coordinators in understanding the other components of the program's requirements, such as the annual count process.

## **Additional Resources**

- [Facility Eligibility Webinar: A Closer Look at Eligibility Requirements under Title I, Part D of the ESEA of 1965](#)
- [Identifying Neglected and Delinquent Institutions with Eligible Children to be Included in the Annual Count](#)
- [The Annual Count Toolkit: Determining Formula Counts for Title I, Part D Funding Allocations](#)
- [Annual Count Subpart 1 Self-paced Learning Guide](#)
- [Annual Count Subpart 2 Self-paced Learning Guide](#)
- [Within-District Allocations Under Title I, Part A Of the Elementary and Secondary Education Act of 1965, as Amended](#)
- [Title I, Part D Program Administration Planning Toolkit](#)

## **Questions? Contact the Department of ED or NDTAC**

- Title I, Part D Program Office: [Titlei-d@ed.gov](mailto:Titlei-d@ed.gov)
- NDTAC Helpline: [ndtac@longevityconsulting.com](mailto:ndtac@longevityconsulting.com)

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