

Title I, Part D, Subpart 2 Frequently Asked Questions

This document provides the answers to program-related questions received by the Division. You can also navigate through the document using the Bookmarks in your PDF viewer. The newest questions that have been added will be noted by “*” and in red font.

For questions or additional information, please contact us at ESSASupport@tea.texas.gov.

Questions and responses are organized by the following topic areas:

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Definitions

Q1: What does “Pay for success initiatives” mean? Is this a particular initiative or could it be activities the district is implementing to promote student success?

A1: The definition of Pay for success initiative can be found in Section 8101 (40) which reads: (40) PAY FOR SUCCESS INITIATIVE.—The term “pay for success initiative” means a performance-based grant, contract, or cooperative agreement awarded by a public entity in which a commitment is made to pay for improved outcomes that result in social benefit and direct cost savings or cost avoidance to the public sector. Such an initiative shall include—

- A. a feasibility study on the initiative describing how the proposed intervention is based on evidence of effectiveness;
- B. a rigorous, third-party evaluation that uses experimental or quasi-experimental design or other research methodologies that allow for the strongest possible causal inferences to determine whether the initiative has met its proposed outcomes;
- C. an annual, publicly available report on the progress of the initiative; and
- D. a requirement that payments are made to the recipient of a grant, contract, or cooperative agreement only when agreed upon outcomes are achieved, except that the entity may make payments to the third party conducting the evaluation described in subparagraph (B).

Q2: What is the difference between a neglected facility and a delinquent facility?

A1: As per statute, under Sec. 1432 (4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH- The term institution for neglected or delinquent children and youth' means —

(A) 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; or

(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

Q3: What does “at-risk” means? Is it related to state comp ed?

A3: As per statute, section 1432: “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 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.”

Thus, “at-risk programs” are programs implemented by the LEA to assist such youth. It is not related to the state compensatory education program.

Eligibility

Q1: How can we determine if a student is under the conservatorship of the Texas Department of Family and Protective Services (DFPS)?

A1: The LEA can contact someone on the [DFPS list](#) to see if they can assist. Generally, the facility would have a list of which students are under the conservatorship of DFPS.

Q2: One LEA has a facility listed as Neglected and Delinquent, this year the facility confirms that none of the students have been adjudicated there, would they classify as neglected?

A2: The LEA will have to make the determination as far as classification. See answer to question 2 in the Definitions section of this document.

Q3: Does it matter if an LEA wants to have a facility that is promoted as an adult facility?

A3: Keep in mind that for the purposes of student count, the ages of qualifying students must be between 5 years old and 17 years old. Furthermore, the agreement will have to talk about how the LEA is helping to supplement what this facility is already providing. Please consider: “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 a residential facility; 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.”

Q4: Does the LEA have to serve every facility within its boundaries?

A4: The LEA, usually through the District Improvement Plan, identifies the need to partner with a facility. In the event that there are multiple facilities, the LEA makes the decision which facilities to serve; while also documenting how did the LEA arrive to that decision.

***Q5: Does the LEA have to serve every facility within its boundaries?**

***A5: The LEA, usually through the District Improvement Plan, identifies the need to partner with a facility. In the event that there are multiple facilities, the LEA makes the decision regarding which facilities to serve, while also documenting how the LEA arrived at that decision.**

Requirements

Q1: Does Title I, Part D, Subpart 1 and Subpart 2 have to follow Title I, Part A Requirements for paraprofessionals?

A1: The requirements regarding the qualifications and certification of paraprofessionals under sections 1111(g)(2)(M) and 1112(c)(6) of the ESEA do not apply to programs operated under Title I, Part D. Rather, these requirements apply only to programs supported by Title I, Part A. Please note, however, that this includes Title I, Part A programs operated in neglected and delinquent facilities. For example, a local educational agency (LEA) that reserves Title I, Part A funds in the ESSA application PS3201 to provide services in local institutions for neglected and delinquent would need to meet requirements.

There are no similar requirements regarding paraprofessional qualifications and certification under Title I, Part D. However, per Section H-1 of the nonregulatory guidance, a State agency or LEA may use its Title I, Part D funds for professional development training for teachers and other staff members, including paraprofessionals, who provide Title I, Part D services.

Q2: Is there a translation requirement for Title I, Part D, Subpart 2 like there is for Title I, Part A?

*A2: In regards to the Title I, Part D, Subpart 2 program, the statute does not set a translation requirement. However, it would be best practice to have information available for families in a language they can understand. It is advised that the LEA follows its policies and procedures in this regard.

*Q3: On the Compliance report, the question about evaluating the program no less than once every three years. If this was not completed this year, but was within the last 3 years, would the district be in compliance? Also, is there any idea of what format would be acceptable for this evaluation?

A3: The evaluation process must be completed no less than once every three years. If the LEA conducted a program evaluation at the end of 2019-2020 school year, the LEA would have to conduct the next evaluation no later than the end of the 2022-2023 school year in order to be in compliance.

The LEA has the freedom to choose and evaluate the program as it sees fit according to its needs. Section 1431(a) does list five items that should be considered: (1) maintain and improve educational achievement and to graduate from high school, (2) accrue school credits that meet State requirements for grade promotion and high school graduation, (3) transition to a regular program or other LEA, (4) complete secondary school (or equivalent) and obtain employment after leaving the facility and (5) as appropriate, participation in postsecondary education and job training programs.

Formal Agreements

Q1: I heard that it is possible to have an agreement within the last 2 years, is that true?

A1: The system (eGrants) should validate the date of the agreement between October 1 of the previous calendar year and September 1 of the current year. If the agreement is older, it would need to be reviewed.

Q2: Is it required to have an agreement?

A2: The Formal Agreement of Services is a statutory requirement which can be found in Sec. 1423.

Q3: Does the LEA have to upload their TID Formal Agreement in ESSA Reports?

A3: No. The Formal Agreement is a document kept at the LEA level. However, it must be readily available upon request from TEA.

Funding

Q1: What is the determination on how a LEA gets funding?

A1: In accordance with the Texas Education Agency, [ESSA Funding Reference Manual](#), in order to receive Title I, Part D, Subpart 2 funds, the Local Educational Agency (LEA) must be serving 10 or more delinquent students at residential facilities for neglected and delinquent children.

Nonetheless, all neglected and delinquent children reported impact the States allocation amount for Title I, Part A and Title I, Part D, Subpart 2 grant awards from the federal Title I, Part A formula. October caseload counts reported by LEAs should include all children served regardless of subsequent eligibility to receive a grant award.

Q2: If in the facility we have students from other districts, do we still get funding for them?

A2: When the LEA fills out the Annual Survey of Children in Local Residential Facilities for the Neglected or Delinquent (SC9000) they should count the students in the facility. This is what is used to calculate funding. If there are students from somewhere else, the LEA that fills out the survey is the one that claims the funding.

Q3: If our state survey is used to receive the allocation from the USDE, is the state allocation then based on data from 1 to 2 years prior to the school year we are in?

A3: State reported neglected and delinquent counts do not determine state allocation amounts, but are part of the formula children counts used in USDE Title I, Part A formulas. SC9000 – October Caseload Counts of Neglected/Delinquent in Residential Facilities collected this year (2020) will be certified and sent to USDE January 2021. These neglected and delinquent counts collected will be used by USDE Title I, Part A formulas (along with updated Census poverty and foster care counts) when calculating the state’s Title I, Part A shares from the Basic, Concentration, Targeted, and Education Finance Incentive Grant (EFIG) grant appropriation amounts for the 2021-2022 funding year that begins July 1, 2021.

Q4: If the state numbers dropped significantly, is there a hold-harmless clause like we had for Migrant?

A4: No, not directly. As mentioned above, delinquent counts are part of the Title I, Part A formula children counts used to create each state’s share of Title I, Part A from the Basic, Concentration, Targeted, and EFIG grant appropriations. When calculating Title I, Part A for all states from these 4 grants, state delinquent counts creates each state’s “delinquent share” from each state’s Title I, Part A Basic, Concentration, Targeted, and EFIG calculated amounts. These delinquent share amounts become each state’s Title I, Part D, Subpart 2 amount. Because Title I, Part A statute has a hold-harmless provision that guarantees 85, 90, or 95 percent of each formula LEAs eligible prior-year amount and the Title I, Part D, Subpart 2 grant is treated as a special formula LEA in Title I, Part A formulas, a 95 percent hold-harmless is implied for this subgrant.

Q5: What if there are more than one facility? How does that work?

A5: If the LEA has more than one facility located within its boundaries, it may decide to put all Title I, Part D funding in one or divide among several facilities. The LEA is not required to serve all eligible Neglected or Delinquent facilities within its boundaries.

Q6: If an LEA has unspent Title I, Part D, Subpart 2 funds, they have a non-operational facility at this time, and they do not accept any new Title I, Part D, Subpart 2 money, would they have access to any carryover funds the following year?

A6: Typically, an LEA would not be eligible for a carryover-only project. However, if an LEA had two facilities and closed one, they would typically get to keep all of the carryover funds in the subsequent year.

Q7: Title I, Part D, Subpart 2 does not have a Supplement Not Supplant (SNS) provision, correct?

A7: “There is a specific “supplement not supplant” requirement under Title I, Part D, Subpart 1, in Section 1415. There is no similar statutory requirement in regard to Subpart 2. While Subpart 2 does not include a specific “supplement, not supplant” requirement, The U.S. Department of Education strongly encourages the supplemental use of Subpart 2 funds.

In addition, please note the allowable uses of funds under Subpart 2 outlined in Section 1424:

IN GENERAL—

1. 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;
2. dropout prevention programs which serve at-risk children and youth;
3. the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;
4. 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;
5. 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 local educational agency that are operated by the Secretary of the Interior or Indian tribes; and pay for success initiatives.”

Q8: Can a LEA spend funds on a facility that is not listed on the SC9000?

A8: The SC9000 lists the eligible facilities for the LEA. The LEA would have to add the new facility to the SC9000 before they start providing services to students in that new facility.

Q9: If a facility closes, what happens to the facility’s assets/materials that have been purchased with Title I, Part D Subpart 2 funds over the years?

A9: For facilities under Title I, Part D, Subpart 2, the Department of Education Nonregulatory Guidance states: “If a detention center closes [...] The supplies may be shifted to a program that meets the requirements of Subpart 2, such as the LEA’s dropout-prevention program.”

Q10: Can Title I, Part A Funds be used at a facility? If so, does the LEA need a Campus Improvement Plan to comply with the Title I, Part A rules and regulations?

A10: Yes, LEA’s can reserve Title I, Part A funds to provide services to students residing in local facilities for the neglected and to students residing in local facilities for the delinquent. The LEA would need to make sure that they have included the reserved funds on Schedule PS3101 of the ESSA Consolidated Application. Since the funds are being reserved at the LEA level, the use of funds would need to have been identified in the LEA’s comprehensive needs assessment and noted in the district improvement plan.

Q11: The LEA has been notified that a facility will be closing. What is the process for assets/materials (such as Chromebooks, etc.) that have been purchased with Title I, Part D funds over the years?

A11: For facilities under Title I, Part D, Subpart 2, the [Department of Education Non-Regulatory Guidance](#) states:

“If a detention center closes [...] The supplies may be shifted to a program that meets the requirements of Subpart 2, such as the LEAs dropout-prevention program.”

Please document the transition of supplies accordingly.

Q12: Are you allowed to transfer funds from Title I, Part D to Title I, Part A?

A12: You are only allowed to transfer funds from Title II, Part A, and Title IV, Part A. No other programs are eligible to transfer funds.

Q13: Since there is no SNS provision for Title I, Part D Subpart 2, could we use these funds for personnel?

A13: Yes. Title I, Part D Subpart 2 does not have a Supplement Not Supplant provision. When determining if Title I, Part D Subpart 2 funds can be used for payroll it is important to ensure that the use of funds is reasonable and necessary to carry out the intent and purpose of the Title I, Part D Subpart 2 program. If the LEA wants to pay for a teacher’s salary from the Title, I Part D Subpart 2 funds, it should be prepared to justify how doing so fits with the program purpose.

The purpose of the Title, I Part D, Subpart 2 is to support the operation of local education agency programs that involve collaboration with locally operated correctional facilities:

- To carry out high-quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;
- To provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and
- To operate programs in local schools, including schools operated or funded by the Bureau of Indian Education, for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

An LEA would need to be able to document that the use of funds would meet such intent and purpose of the Title I, Part D Subpart 2 program. Typically, the LEA would have identified the need in their District Improvement Plan. For audit and/or random validation purposes, the LEA would need to keep documentation that supports the funds being charged to Title I, Part D Subpart 2. It would also be advisable to note the Title I, Part D Subpart 2 duties in the job description for audit and/or random validation purposes.

Use of funds

Q1: Is the LEA allowed to use funds to serve students who are not in a facility?

A1: Yes, the LEA can conduct dropout prevention programs for at-risk students enrolled at the LEA. However, the Title I, Part D, Subpart 2 statute [Section 1422 (d)] states that transitional and supportive programs operated in LEAs under this subpart shall be designed primarily to meet the transitional and academic needs of students returning to LEAs or alternative education programs from correctional facilities. The provision of a dropout prevention program for at-risk students should not have a negative impact on meeting the transitional and academic needs of students who are returning to the LEA from correctional facilities.

The following is guidance we received from USDE:

“Several of the Subpart 2 uses of funds in ESEA section 1424 lend themselves to a prevention focus, both preventing recidivism and preventing students from entering juvenile justice facilities in the first place:

- 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 day care, 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 participation 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.”

Q2: Can the LEA use part of its Subpart 2 subgrant to cover administrative costs?

A2: Yes. The LEA can use part of its Subpart 2 subgrant to cover administrative costs associated with running the subgrant at the LEA level, as long as the amount reserved for administrative costs is reasonable and necessary.

Q3: Is the LEA obligated to provide services to the neglected/delinquent facilities using Title I, Part A and/or Title I, Part D funds?

A3: Since this question covers more than one program, we will provide the answers based on each program.

Title I, Part D, Subpart 2: If the LEA did not apply for Title I, Part D funds, the LEA is not obligated to provide services to facilities for the delinquent or neglected youth that are located within the LEA's boundaries. The relationship between a facility and an LEA is often born out of the scope of their identified needs. However, if the LEA has applied for Title I, Part D funds, then the LEA is required to provide services and all the Title I, Part D requirements apply.

Title I, Part A: If the LEA applies for Title I, Part A funds, the LEA is required to reserve funds for children in local institutions for neglected children and if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day programs. [Section 1113(c)(3)(A)(ii) & (iii)] The reservation amounts are required to be noted on the PS3101 in the ESSA Consolidated Grant Application. The amount would be based on the needs identified and no less than \$100.

PS3102

Q1: On section #6 of the PS3102 Title I, Part D, Subpart 2 schedule, is the LEA required to implement all the activities listed? What if they only implement some?

A2: The LEA should indicate in section #6 all the activities they are planning to implement with Title I, Part D, Subpart 2 funds. It is not necessary for the LEA to amend if they decide not to conduct one of the activities; however, if an activity is not checked and the LEA does want to conduct the activity, the LEA will need to amend.

SC9000

Q1: If I want to declare a new facility, but I do not have access to the SC9000, how do I proceed?

A1: At any point in time, you are welcome to declare a new facility within your boundaries by emailing compliance@tea.texas.gov so that it will appear in your next ESSA Consolidated Application. Typically, however, this is done when you submit your ESSA Consolidated Application and you declare a new facility. Please be aware that, either way, there will be a process of verification to ensure that the newly claimed facility meets the definition of the law and is eligible to receive Title I, Part D services.

Q2: Has there been any consideration from the USDE to delay the 2021-2022 Annual Report on Neglected or Delinquent Children due to circumstances LEAs may have encountered due to COVID-19?

A2: As per the U.S. Education Department, "Section 1124(c)4)(B) of the ESEA requires that, with respect to FY 2021 Title I allocations, the local neglected and delinquent counts come from

October of the preceding fiscal year (i.e., October 2020). Thus, ED does not have discretion to change these dates.”

Q3: Who makes the determination of a facility being either neglected or delinquent?

A3: The LEA is responsible for ensuring the facility is selecting the correct population (neglected or delinquent) on the SC9000. The federal directive has been for LEAs to submit type of population by the student majority. The LEA may not classify the facility as both on the SC9000.

Q4: Is it allowed to count students who are under the conservatorship of the Texas Department of Family and Protective Services (DFPS)?

A4: For the purpose of the SC9000, children under the conservatorship of DFPS, are not eligible.