

needs of this population. This guidance will be organized to provide guidance related specifically to the Part D, Subpart 1 State agency N or D program and the Subpart 2 local agency program.

Changes: None.

Comment: For the Part D, Subpart 2 local agency program, a commenter asked for clarification about the distinction in funds and services between delinquent and at-risk children and youth. The commenter further asked if LEAs may reserve a portion of their funds for at-risk students who have not been adjudicated delinquent or must LEAs use those funds only for delinquent youth transferring from institutions into the district's schools.

Discussion: LEAs must use a portion of its Title I, Part D, Subpart 2 funds to operate a dropout prevention program for at-risk youth in local schools in the LEA. At the same time, the LEA must also use some of its Subpart 2 funds for programs that will serve children and youth in locally operated correctional facilities and in locally operated institutions or community day programs for delinquent children and youth in accordance with the requirements in section 1425 of Title I.

The statute, however, provides that if more than 30 percent of the children or youth in a local correctional facility or delinquent institution within an LEA do not reside in the LEA after leaving the facility or institution, the LEA is not required to operate a dropout prevention program in a local school.

Changes: None.

Comment: One commenter expressed concern about the low status of "prison education," particularly in his State, where the lack of support for juvenile institutions has reduced both the number and the quality of course offerings and has relegated correctional education to a supplemental or support role. The commenter indicated that there should be more recognition of the status of correctional education and hopes that the Title I program in these institutions will help N or D children and youth attain the high standards expressed in Goals 2000 and State school reform initiatives.

Discussion: The Secretary expects consolidated State plans for ESEA programs or individual State plans for Part D funds to provide an overall plan for meeting the needs of N or D children and youth and, where applicable, youth at-risk of dropping out of school that is integrated with the State's other educational programs.

Changes: None.

Comment: One commenter expressed concern that section 1603 of Title I does not require that the membership of the

State's Committee of Practitioners include a representative from State agencies (SAs) operating N or D institutions.

Discussion: Section 1603 of Title I requires that the Committee of Practitioners review and comment on all proposed rules, regulations, and policies relating to programs authorized in Title I, including Part D. The Secretary expects that a representative from SAs operating Title I N or D programs will be included on the Committee of Practitioners so it can address issues related to the State agency N or D program.

Changes: None.

Comment: A commenter noted that the regulations do not address how an SEA awards Part D, Subpart 2 grants to LEAs with high numbers or percentages of youth residing in locally operated correctional facilities for youth (including institutions and community day programs or schools that serve delinquent children and youth).

Discussion: The SEA has flexibility in establishing the criteria used to determine which LEAs have high numbers or percentages of children and youth in local correctional facilities or institutions and community day programs for delinquent children. Once an SEA determines which LEAs are eligible, the SEA may award Part D, Subpart 2 subgrant to eligible LEAs through a formula or on a discretionary basis.

Changes: None.

Section 200.50 Program Definitions

Comment: One commenter expressed concern that the definition for locally operated correctional facility does not include institutions or community day programs that serve neglected children and that the Part D, Subpart 2 local agency program does not address the educational needs of these neglected children.

Discussion: The specific educational needs of neglected children are met through several Title I programs. The State agency N or D program, authorized in Part D, Subpart 1 of Title I, serves the needs of neglected children in State-operated or supported institutions or community day programs. Part A, section 1113 of Title I requires that an LEA receiving Title I funds reserve funds to meet the educational needs of children in local institutions for neglected children. If the LEA is unable or unwilling to provide services to children in local institutions for neglected children, the State educational agency must reduce the LEA's allocation by the amount generated by the neglected children and

assign those funds to another agency or LEA that agrees to assume educational responsibility for those children.

Changes: None.

Section 200.51 SEA Counts of Eligible Children

Comment: One commenter strongly supported the change requiring the use of enrollment rather than average daily attendance.

Discussion: Section 200.51 of the regulations follows the statute, which requires that counts used for allocating Part D, State agency N or D funds be based on the number of children and youth under aged 21 enrolled in a regular program of instruction for 20 hours per week if in a institution or community day program for N or D children and youth and 15 hours per week if in an adult correctional facility.

Changes: None.

Comment: One commenter objected to requirements in the proposed regulations that State agency N or D allocations be based on counts of children enrolled in a regular program of instruction for 20 hours per week if in an institutions or community day program for N or D children; and only children and youth in institutions with an average length of stay of 30 days or more can be counted. The commenter argued these requirements will result in an under count of the children and youth that State institutions serve and does not take turnover into account.

Discussion: The criteria that children be enrolled in a regular program of instruction for 15 or 20 hours of instruction per week, depending on the type of institution, reflect statutory requirements. The statute, however, addresses the issue of turnover in part by requiring that enrollment be adjusted to take into consideration the relative length of the program's school year.

Although short-term institutions such as detention, diagnostic, and reception centers provide basic education services for youth, the Secretary believes that Title I services are most effective when their duration is longer and is requiring in regulations that the average length of stay in institutions and programs eligible for Title I funds average at least 30 days.

Changes: None.

Subpart E—General Provisions

Section 200.60 Reservation of Funds for State Administration and School Improvement

Comment: One commenter argued that Congress appropriated fiscal year 1995 funds specifically for School Improvement as a limitation or cap on