

Instructions for Identifying Eligible Institutions and Counting Children

Part I - Local Institutions

1. Identify eligible institutions. In order to be eligible to be counted, a child age 5 through 17 must live in a locally operated facility that meets the definition of an institution for neglected children, an institution for delinquent children, or an adult correctional institution as provided in section 1432(1) and (4) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) [available at: <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section6472&num=0&edition=prelim>] and, with respect to a locally operated correctional facility, as provided in 34 CFR § 200.90(c) [available at: https://www.ecfr.gov/cgi-bin/text-idx?SID=f8d01050f8886cbfec73f29038f6a3df&mc=true&node=se34.1.200_190&rgn=div8].
2. Report the October 2022 caseload data for children in eligible institutions. The State educational agency (SEA) must report only the number of children who were not counted in the enrollment data for the State agency Neglected or Delinquent (N or D) program under Title I, Part D, Subpart 1 of the ESEA and 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 2022.
3. Submit a separate count of children for each local educational agency (LEA) on the U.S. Department of Education's (ED's) list of LEAs in the following categories of institutions (a spreadsheet for your State that lists the LEAs on ED's list and their identification codes is included with the survey documents):
 - Any local institutions for neglected children that meet the following definition: "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).
 - Any local institutions for delinquent children that meet the following definition: "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). In this category also include children in local adult correctional institutions as defined in section 1432(1) of the ESEA and in 34 CFR § 200.90(c) (please see link above).

Although detailed information for each institution is not required, it may be helpful to provide these instructions to the individual institutions to assist them with their reporting.

Please note that the category (i.e., neglected or delinquent) of an institution does not change from year to year unless there has been an official change in the purpose for which the institution is operated. For example, if an institution is operated for the care of neglected children, but the majority of the children residing in the institution during October are children adjudicated to be delinquent, the children in that institution must still be reported as

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neglected children until the institution's charter or purpose is officially changed to show that it is an institution operated for the care of delinquent children. Consistency in reporting from year to year is necessary because changing the category of an institution each year based on the category of the majority of children served may affect an LEA's eligibility and hold harmless bases under the Title I, Part A formulas.

4. Count only children ages 5 through 17, inclusive. (The count of children ages 5 to 17, inclusive, includes any child who was ages 5 through 17 during any point of the 30-day count period.)
5. Verify the accuracy of the data to be submitted. Compare the October 2022 data to the data that were submitted last year. If there is a large increase or decrease in an LEA count, it is helpful for an SEA to identify the reason. For example, did a new institution begin operation? Did an institution close? Do new institutions meet eligibility requirements? Were October caseload data reported correctly? Were only children ages 5 through 17 reported in the count? While it is not necessary to provide ED the reason for a change in submitting the data, having this information available may assist the SEA in responding to any questions from ED about the data.

Part II - State-Operated or Supported Institutions

1. Identify eligible institutions or community day programs for N or D children for which a State agency is responsible for providing free public education and is providing a regular program of instruction as defined in 34 CFR § 200.90(b) [available at: https://www.ecfr.gov/cgi-bin/text-idx?SID=f8d01050f8886cbfec73f29038f6a3df&mc=true&node=se34.1.200_190&rgn=div8]. State operated or supported institutions for neglected children and institutions for delinquent children are also defined in 34 CFR §200.90(b). The average length of stay in an institution for neglected or delinquent children must be at least 30 days. Adult correctional institutions and community day programs are defined in section 1432 (1) and (3) of the ESEA, respectively [available at: <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section6472&num=0&edition=prelim>]. A child must be in an eligible institution or community day program in order to be counted.
2. Submit data on the number of children enrolled in a regular program of instruction for each eligible institution and community day program for the date specified by the State agency during calendar year 2022 in accordance with 34 CFR § 200.91(a)(2) [available at: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7c32dff8588d4a8facb50400072a016f&mc=true&n=sp34.1.200.d&r=SUBPART&ty=HTML#se34.1.200_191]. To be counted, a child or youth 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.

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The SEA must adjust the enrollment data for each institution to account for the relative length of a State agency's annual educational program in such institution in accordance with 34 CFR §200.91(b) before submitting the data to ED.

3. Count only children under 21 years of age (i.e., through age 20).
4. Verify the accuracy of the data to be submitted. Compare each State agency's enrollment data to the data that were submitted last year. If there is a large increase or decrease in a State agency's count, it is helpful for an SEA to identify the reason. For example, did a new institution begin operation or did an institution close? Were the enrollment data reported correctly and were data reported only for children and youth? Were the enrollment data adjusted correctly? While it is not necessary to provide ED the reason for a change in submitting the data, having this information available may assist the SEA in responding to any questions from ED about the data.

To assist an SEA with collecting the data needed to complete Part II, we have attached a worksheet (with instructions) that your SEA could use to gather the enrollment data from State-operated programs for N or D children, community day programs, or adult correctional institutions within your State (Attachment 3). SEAs are **not required** to use this optional worksheet or submit it to ED.