

# What the “Every Student Succeeds Act” Means for Youth in and Returning from the Juvenile Justice System

## **Q: What is the *Every Student Succeeds Act*?**

On December 10, 2015, President Obama signed into law the *Every Student Succeeds Act* (ESSA). The ESSA reauthorizes the Elementary and Secondary Education Act, the key federal law governing K-12 education, originally signed into law in 1965, and last reauthorized as No Child Left Behind in 2002. The ESSA is the first major overhaul of the federal elementary and secondary education law in over a decade. Among its many new provisions, the law now requires states to ensure certain new protections for students in and returning to the community from the juvenile justice system.

## **Q: Why were provisions regarding youth in the juvenile justice system included in the ESSA?**

Young people involved in and returning from the juvenile justice system are some of the country’s most educationally disadvantaged students. Research shows they are chronically behind in school, and approximately two out of three young people returning from the juvenile justice system drop out.<sup>1</sup> Important new provisions included in the ESSA will help support and improve access to education inside correctional facilities. Additionally, for young people placed in correctional facilities or institutions for neglected or delinquent children and youth, the new provisions will support their positive reentry into the community.

## **Q: What is Title I, Part D of the ESSA?**

Title I, Part D has three broad goals to:

1. Improve educational services in local, tribal, or State institutions for neglected and delinquent children and youth in order to provide opportunity to meet State academic standards;
2. Improve youth transition from institutionalization to further schooling or employment; and

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<sup>1</sup> Southern Education Foundation, *Just Learning: The Imperative to Transform Juvenile Justice Systems into Effective Educational Systems—A Study of Juvenile Justice Schools in the South and the Nation 18* (2014) (internal citations omitted), <http://www.southerneducation.org/getattachment/cf39e156-5992-4050-bd03-fb34cc5bf7e3/Just-Learning.aspx>.

3. Prevent dropout of youth, and provide young people returning from correctional facilities or institutions for neglected and delinquent children and youth with reentry support to ensure their continued education and involvement of their families and communities.

Title I, Part D of the ESSA provides federal funds to State educational agencies to establish or improve educational programs for neglected, delinquent, or “at-risk” children and youth. Funding is distributed in two parts. In Subpart 1, State educational agencies receive funds by formula, which they then subgrant to state agencies serving neglected or delinquent children or youth. In Subpart 2, State educational agencies award funds to local educational agencies in the State with high numbers of children and youth in locally operated juvenile correctional facilities (including community day programs).

States that accept funding through Title I, Part D have to provide certain assurances and comply with reporting and other obligations. Currently, all 50 states, DC, and Puerto Rico receive Title I, Part D funding, and the programming reaches hundreds of thousands of young people.<sup>2</sup>

For more information, please visit the website of the National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth (NDTAC): <http://www.neglected-delinquent.org/what-title-i-part-d>.

**Q: How does Title I, Part D of the ESSA promote smooth transitions for youth in the juvenile justice system who are sent to correctional facilities?**

Youth in the juvenile justice system often are thrown off course as they move between schools in the community and justice system placements. State and local educational and justice system agencies must coordinate to eliminate gaps in a young person’s education and ensure that youth are placed in appropriate educational programs that meet their needs. When there is a lack of planning for these transitions, and records or credits do not transfer with youth, youth fall behind in school and are at an increased risk of dropping out. Youth returning from justice placements too often are prohibited from reenrolling in school immediately; sometimes are placed in inferior “alternative education” settings; or are told to seek a GED or other high school equivalent even if that is not the best option.

The ESSA places increased emphasis on smooth transitions from community school districts to educational programs in justice system placements, and back again to an appropriate educational setting upon reentry. States receiving Title I, Part D funding must ensure increased coordination between justice system placements and school districts—not only when youth reenter the community from placement, but now also when they enter one.

The protections include:

- **Educational assessment:** State agencies must establish procedures for youth to be assessed to identify educational needs when they enter a juvenile justice facility, when practicable.

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<sup>2</sup> NDTAC, Title I, Part D, Subparts 1 and 2, Annual Performance Overview, School Year 2012-13 3, 6 (May 2015), [www.neglected-delinquent.org/sites/default/files/NDTAC\\_Ann\\_Perf\\_Ovw\\_508.pdf](http://www.neglected-delinquent.org/sites/default/files/NDTAC_Ann_Perf_Ovw_508.pdf) (In the 2012-13 school year, Subpart 1 of Title I, Part D served 90,262 students in 50 states, D.C. and Puerto Rico and Subpart 2 reached 311,503 students in local educational agencies in 46 states).

- **Records transfer:** Correctional facilities<sup>3</sup> must work with a youth’s family and the local educational agency to make sure relevant academic records and plans regarding the continuation of educational services for the youth are shared and transfer with the youth to the facility.
- **Reentry planning:** Correctional facilities<sup>4</sup> must work with the local education agency to coordinate educational services so as to minimize disruption to a youth’s education when he/she exits the facility.
- **Credit transfer:** State educational agencies must ensure the timely transfer of credits earned while in juvenile justice placements.
- **Timely and appropriate re-enrollment:** State educational agencies must establish procedures to ensure youth leaving correctional facilities are timely re-enrolled in a secondary school or in a reentry program that best meets their needs, and local educational agencies seeking Title I, Part D Subpart 2 funds must offer programs to facilitate the transition of reentering youth.
- **Education opportunities upon reentry:** State educational agencies must provide opportunities for reentering students to participate in credit-bearing coursework while in secondary school, postsecondary education, or career and technical education programming. As appropriate, local agencies seeking funding must forge partnerships with higher education institutions or local businesses to facilitate post-secondary and workforce success for reentering youth. This may include opportunities for youth exiting correctional facilities to enroll in credit-bearing coursework while in secondary school; enroll in post-secondary education; and participate in career and technical education programming.
- **High school diplomas:** State agencies as well as correctional facilities must assist youth in the juvenile justice system in attaining traditional high school diplomas. Moreover, one accountability standard for local education agencies is devoted to increasing the number of youth attaining high school diplomas in the four-year adjusted cohort graduation rate or the extended-year cohort graduation rate established by the state, and states and local jurisdictions must collect program evaluation data on the number of youth served who graduate on time.

**Q: What are some of the other protections the ESSA puts into place for juvenile justice-involved youth through Title I, Part D?**

- **Family involvement:** The ESSA expands the purpose of Title I, Part D to include family and community involvement.

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<sup>3</sup> This applies to those correctional facilities that have an agreement with a local educational agency under Section 1423(2) of Title I, Part D to provide services to children and youth under this Subpart of the law.

<sup>4</sup> *Id.*

- **Students in tribal institutions:** The ESSA expands the purpose of Title I, Part D to improve educational services for youth in tribal institutions for neglected and delinquent children and youth. Additionally, state agencies should utilize funding on transition services for youth moving between institutions and schools operated or funded by the Bureau of Indian Education. Local educational agencies can also use Title I, Part D funding for programs supporting “at-risk” Indian children and youth, including those who are in correctional facilities operated by the Secretary of the Interior or Indian tribes.
- **Dual-status youth:** States agencies seeking funding under Title I, Part D Subpart 1, to the extent feasible, must note when a young person has come into contact with both the child welfare and juvenile justice systems, and deliver evidence-based services and interventions to keep such a youth in school. Additionally, states may use funds to provide targeted services for youth who have come into contact with both the child welfare and juvenile justice systems.
- **At-risk youth definition:** The definition of “at-risk” youth under Title I, Part D is expanded to include youth who are at risk of being adjudicated dependent or delinquent, as well as youth who have had any contact with the child welfare system. (Note that Title I, Part D does not define what constitutes “contact” with the system.) The ESSA also adds English Language Learners to the definition. Other students previously and still considered “at risk” under Title I, Part D are those who are at risk of academic failure; have a drug or alcohol problem; are pregnant or parenting; are gang members; are at least one year behind in school; have high rates of absenteeism; or have previously dropped out.

**Q: Do you want more information about the ESSA, and juvenile justice and education?**

We encourage you to join a free national listserv dedicated to education for justice-involved youth by emailing Kate Burdick from Juvenile Law Center at [kburdick@jlc.org](mailto:kburdick@jlc.org). Please also email Kate if you have questions or need additional information related to this fact sheet. The organizations listed below promote access to education for youth involved in and returning from the juvenile and adult criminal justice systems, and they jointly present this fact sheet:

Juvenile Law Center

Robert F. Kennedy Juvenile Justice Collaborative

National Center for Youth Law, FosterEd Initiative

Southern Poverty Law Center

Education Law Center-PA

The American Bar Association Center on Children and the Law

Open Society Policy Center