

**SUPPORTING STATEMENT FOR EMERGENCY CLEARANCE OF ANNUAL  
NEGLECTED OR DELINQUENT SURVEY (ED FORM 4376)**

**A. Justification**

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Overview

We are requesting a three-year extension of the attached ED Form 4376 – Annual Report of Children in Institutions for Neglected or Delinquent Children, Adult Correctional Institutions, and Community Day Programs for Neglected and Delinquent Children. Approval of this form is needed in order to continue the on-going collection of data used to allocate funds authorized by Title I, Part A and Part D, Subparts 1 and 2 of the Elementary and Secondary Education Act (ESEA), as amended by (PL) 107-110, the No Child Left Behind Act (NCLB) for school years (SYs) 2008-09 and beyond. Congress appropriated \$13.9 billion for these programs for fiscal year 2008.

Part A of Title I provides financial assistance to local educational agencies (LEAs) to improve the teaching and learning of at-risk students in high-poverty schools. Part D, Subpart 1 provides assistance to State agencies that operate educational programs for children in institutions for neglected or delinquent (N or D) children, community day programs for N or D children, and adult correctional institutions.

Title I, Part A and Part D, Subpart 1 establish two statutory formulas for allocating funds to (1) LEAs and (2) State agencies responsible for providing a free public education to N or D children:

Title I, Part A Grants to LEAs

ESEA, Title I, Part A requires the Department of Education (ED) to determine LEA allocations. In calculating LEA allocations, ED must use annually collected data on the number of children living in locally operated institutions for N or D children.<sup>1</sup> These counts are based on October caseload data from the preceding fiscal year, which are to be submitted by January 15 of each year.

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1 Section 1124(c)(B) of ESEA defines children in local N or D institutions as those not in N or D institutions operated by the United States or counted in State institutions for purposes of the Title I, Part D, Subpart 1 State Agency Neglected and Delinquent program. Section 1432(4) further defines “institution for neglected children” and “institution for delinquent children and youth.”

ESEA also requires ED to obtain separate counts of children in local institutions for neglected children and children in local institutions for delinquent children because of the requirements for the Local Agency Program in Part D, Subpart 2 of Title I. Specifically, Section 1402(b) of Part D requires that State educational agencies (SEAs) retain funds generated by children living in local delinquent institutions and adult correctional facilities under the Title I, Part A formula in order to make subgrants to LEAs with high numbers or percentages of such children and youth.

#### Part D, Subpart 1, State Agency N or D Program

Under Part D, Subpart 1, ED must allocate funds to States using data on the number of children and youth under 21 years of age enrolled in the educational programs of State-operated or supported in institutions for N or D children, community day programs for N or D children, or adult correctional institutions. In order to be counted, section 1412(a) of the statute requires that children counted in the Part D, Subpart 1 allocation formula be enrolled in an educational program 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.

Section 1412(a)(2)(B) of ESEA further requires that the enrollment count be adjusted to reflect the relative length of an agency's annual educational program.

The attached form is designed to collect the data needed to calculate Title I LEA Grant allocations, distribute State Agency N or D funds, and to determine the amount States must retain for the Local Program. Part I, collects data by LEA on the number of children in local institutions for neglected children and in locally operated institutions for delinquent children or adult correctional facilities. Part II collects the data needed to allocate State agency N or D funds to States. Both parts are unchanged from the previously approved data collection survey.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

ED will use the data from Part I of ED form 4376 to determine school district allocations for the Title I, Part A LEA Grant program and the amount of funds an SEA must retain for purposes of the Title I, Part D, Subpart 2 Local Agency program for at-risk children. ED will use Part II of the survey form to collect the adjusted count of children enrolled in the educational programs of State-operated or supported institutions for N or D children, community day programs for N or D children, or adult

correctional institutions to determine State allocations for the Title I, Part D, Subpart 1 State Agency N or D program.

ED will send the survey out to each State educational agency (SEA), including the District of Columbia and Puerto Rico. The SEA will conduct a survey of the State and local institutions within the State in a manner it chooses and report the formula data to ED using this form and certify its accuracy and completeness. We expect that all 52 respondents will reply since the data collected will generate Federal funds. ED will use the information collected through ED Form 4376 to determine LEA allocations for the Title I, Part A program, State allocations for the Title I, Part D, Subpart 1 State Agency N or D program, and the amount States must retain for the Title I, Part D, Subpart 2 Local Agency program for at-risk children.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

As in the past ED will continue to make the attached survey form available electronically to each State. To help States complete Part I of the survey form, which asks for the local N or D information on an LEA basis, we will continue to provide electronically to each State a template that contains the names of the LEAs in that State and a space to enter the data. We will also provide States with an electronic version of Part II of the survey form, which they can use to provide information needed for the State Agency N or D program. We encourage States to submit the survey information to us electronically, followed by a signed certification page.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use of the purposes described in Item 2 above.*

The Title I statute requires that specific data on the number of N or D children in State and locally operated institutions be used in the allocation formula. There are no similar data on children in institutions for N or D children available from other sources that could be modified to meet the requirements of the Title I statutory formula.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

There is no impact on small entities.

6. *Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

If these data were not collected annually, the data requirements in the statutory formula could not be met.

7. *Explain any special circumstance that would cause an information collection to be conducted in a manner:*
  - *requiring respondents to report information to the agency more often than quarterly;*
  - *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
  - *requiring respondents to submit more than an original and two copies of any document;*
  - *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
  - *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
  - *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
  - *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
  - *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

This collection is consistent with 5 CFR 1320.5.

8. *If applicable, provide a copy and identify the date and page number of publication in the FEDERAL REGISTER of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments. Specifically address comments received on cost and hour burden.*

*Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be*

*recorded, disclosed, or reported.*

*Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that preclude consultation in a specific situation. These circumstances should be explained.*

Public comments, including those concerning data reporting requirements, were incorporated into the final Title I regulations for the Part A LEA Grants program and the Part D Programs for Children Who Are Neglected, Delinquent, or At-Risk of Dropping Out, which were published in the Federal Register on December 2, 2002. No comments have been received as a result of the notice period, which ended January 31, 2003. The public again had the opportunity to comment on the data reporting requirements when this data collection package was renewed in 2005. No comments were received at that time. Since the survey form remains unchanged, we do not anticipate any further comments.

ED has contacted the staffs within the Office of Family Assistance, Family Support Administration within the Department of Health and Human Services and the Department of Justice concerning the availability of data on N or D children. Neither agency has data meeting the statutory requirements that could be used to allocate Title I funds. In past years, data collected by ED on the number of children in State and local institutions for N or D children have been provided to the Council on Juvenile Justice and Delinquency Prevention because there were no other sources of data available at the national level on this population.

ED has collected formula data on N or D children since Title I was first authorized in 1965. The requirement for collecting data on N or D children and the instructions for reporting such data are discussed at national meetings with Title I State coordinators held annually. ED has apprised all of the Title I State coordinators of the need to continue collecting October case load data on the number of N or D children in locally operated institutions by LEA and data on the number of N or D children enrolled in educational programs operated by State agencies in order to determine Title I allocations for SYs 2008-09 and beyond.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payment is provided to respondents to complete the form.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.*

None. The data collected are not considered confidential. These are summary data aggregated at either the State or LEA level and have no names or means of identification associated with them.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

The purpose of the survey is to gather statistical information for purposes of determining formula allocations, and it does not ask questions of a sensitive nature that are considered private.

12. *Provide estimates of the hour burden of the collection of information.*

The total time needed for the 3,000 institutions and 52 States to collect and process these data would total 4,224 hours.

ED reexamined this estimate. From information furnished by four States, it appears that 4,224 national burden hours is still a reliable estimate. There are approximately 3,000 institutions for N or D children. Nationally, the work involved in collecting these data averages roughly 41 minutes (.68 hours) per institution. The amount of time varies by State. In New York, the average time is approximately 50 minutes per institution; in Nebraska, the average is approximately 40 minutes; in Massachusetts, 45 minutes; in New Hampshire, 39 minutes. In addition, States on the average require 42 person hours of work to collect and process these data. The total burden hours for the nation of 4,224 hours divided by the 3,052 respondents supports the average burden for each respondent of 1.38 hours. This takes into consideration the time required by the institution to collect its count and submit to the SEA and the SEA to collect the information from all the institutions within the State and prepare the survey form to submit to ED. The estimate also incorporates any additional time States may need to input LEA data that is submitted to ED. (See appendix showing how the estimate is derived.)

The estimated annual cost to the 3,052 respondents is \$105,600. This assumes that the total time needed at the 3,000 institutions and 52 States to collect and process these data would total 4,224 hours at a cost of \$25 per hour.

13. *Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)*

Not applicable because there are no start-up costs.

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

The annual cost to the Federal government is estimated to be \$3,600. This assumes one person working for about 120 hours to mail the survey and process the data received for purposes of the Title I formula, and follow-up with States concerning questions about the data submitted.

15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*

There is no change in the respondent burden from the N or D survey form that OMB approved in August 2005.

16. *For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

There will be no publication of these data. ED's Budget Service, Office of Elementary and Secondary Education (Student Achievement and School Accountability Office) and National Center for Education Statistics use these data to determine the annual Title I, LEA Grant, State Agency N or D, and Local Agency program allocations.

*17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

The expiration date for OMB approval will be displayed on ED form 4376.

*18. Explain each exception to the certification statement identified in Item 20, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.*

There are no exceptions to the certification statement of the OMB Form 83-I.

**B. Collection of Information Employing Statistical Methods**

The collection of these data does not employ statistical methods.

SASA/SBROWN/5/14/2008/260-0976/N&D/Paper2008/N & D Survey justification 2008  
cc: Hunkin/chron/State/writer



## APPENDIX

### ESTIMATE OF HOURS

#### State and local level

##### Institution level estimate

No. of institutions nationally	3,000
X Time needed to collect data at the institution level	<u>.68</u> hours 2,040 person hours

##### State level estimate

No. of States	52
X Time to process data at State level	<u>.42</u> hours 2,184

##### Total respondent hours

	4,224 hours
X Cost rate	<u>\$.25</u> per hour \$105,600

##### Average burden hours per respondent

Person hours required nationally for institutions and States to provide counts	4,224 hours
÷ Number of respondents	3,052
= Average burden hours per respondent	1.38 hours

#### Federal Level

Person hours	120
X Cost rate	<u>\$.30</u> per hour \$3,600