

may appeal directly to the Secretary for a final determination.

(c) *LEAs containing two or more counties in their entirety.* If an LEA contains two or more counties in their entirety, the SEA shall allocate funds under paragraphs (a) and (b) of this section to each county as if such county were a separate LEA.

(Authority: 20 U.S.C. 6333-6335)

§ 200.21 Determination of the number of children eligible to be counted.

(a) *General.* An SEA shall count the number of children aged 5-17, inclusive, from low-income families and the number of children residing in local institutions for neglected children.

(b) *Children from low-income families.*

(1) An SEA shall count the number of children from low-income families in the school districts of the LEAs using the best available data. The SEA shall use the same measure of low-income throughout the State.

(2) An SEA may use one of the following options to obtain its count of children from low-income families:

(i) The factors under section 1124(c)(1) of the Act (excluding children in local institutions for neglected or delinquent children), which include—

(A) Census data on children in families below the poverty level;

(B) Data on children in families above poverty receiving payments under the program of Aid to Families with Dependent Children (AFDC); and

(C) Data on foster children.

(ii) Alternative data that an SEA determines best reflect the distribution of children from low-income families and that are adjusted to be equivalent in proportion to the total number of children counted under section 1124(c) of the Act (excluding children in local institutions for neglected or delinquent children).

(iii) Data that more accurately reflect the distribution of poverty.

(c) *Children in local institutions for neglected children.* The SEA shall count the number of children ages 5 to 17, inclusive, in the LEA who resided in a local institution for neglected children—and were not counted under subpart 1 of part D of title I (programs for neglected or delinquent children operated by State agencies)—for at least 30

consecutive days, at least one day of which was in the month of October of the preceding fiscal year.

(Authority: 20 U.S.C. 6333(c))

§ 200.22 Allocation of basic grants.

(a) *Eligibility.* An LEA is eligible for a basic grant if—

(1) In school year 1995-96, there are at least 10 children counted under § 200.21 in the LEA; and

(2) Beginning in school year 1996-97—

(i) There are at least 10 children counted under § 200.21 in the LEA; and

(ii) The number of those children is greater than two percent of the LEA's total population aged 5 to 17 years, inclusive.

(b) *Amount of the LEA grant.* An SEA shall allocate basic grant funds to eligible LEAs as provided in § 200.20, except that the SEA shall apply the hold-harmless provisions described in § 200.25.

(Authority: 20 U.S.C. 6333)

§ 200.23 Allocation of concentration grants.

(a) *Eligibility.* An LEA is eligible for a concentration grant if—

(1) The LEA is eligible for a basic grant under paragraph § 200.22(a); and

(2) The number of children counted under § 200.21 in the LEA exceeds—

(i) 6,500; or

(ii) 15 percent of the LEA's total population ages 5 to 17, inclusive.

(b) *Amount of the grant.* (1) Except as provided in paragraph (c) of this section, an SEA shall allocate a county's concentration grant funds only to LEAs that—

(i) Lie, in whole or in part, within the county; and

(ii) Meet the eligibility criteria in paragraph (a) of this section.

(2) An SEA shall allocate concentration grant funds to eligible LEAs as provided in § 200.20(a), except that the SEA shall apply the hold-harmless provision described in § 200.25(a).

(c) *Exceptions—(1) Eligible LEAs in ineligible counties.* (i) An SEA may reserve not more than two percent of the amount of concentration grant funds it receives to make direct allocations to

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eligible LEAs that are located in counties that do not receive a concentration grant allocation.

(ii) If an SEA plans to reserve concentration grant funds under paragraph (c)(1)(i) of this section, the SEA, before allocating any concentration grant funds under paragraph (b) of this section, shall—

(A) Determine which LEAs located in ineligible counties are eligible to receive concentration grant funds;

(B) Determine the appropriate amount to be reserved;

(C) Proportionately reduce the amount available for concentration grants for eligible counties or LEAs to provide the reserved amount, except that for school year 1996–97 an SEA may not reduce an LEA’s allocation below the hold-harmless amount determined under §200.25(a);

(D) Rank order the LEAs eligible for concentration grant funds that are located in ineligible counties according to the number or percentage of children counted under §200.21;

(E) Select in rank order, those LEAs that the SEA plans to provide concentration grant funds; and

(F) Distribute the reserved funds among the selected LEAs based on the number of children counted under §200.21.

(2) *Eligible counties with no eligible LEAs.* In a county in which no LEA meets the eligibility criteria in paragraph (a) of this section, an SEA shall—

(i) Identify those LEAs in which either the number or percentage of children counted under §200.21 exceeds the average number or percentage of those children in the county; and

(ii) Allocate concentration grant funds for the county among the LEAs identified in paragraph (c)(2)(i) of this section based on the number of children counted under §200.21 in each LEA compared to the number of those children in all those LEAs.

(3) *States receiving minimum allocations.* In a State that receives a minimum concentration grant under section 1124A(d) of the Act, the SEA shall—

(i) Allocate concentration grant funds among LEAs in the State under

paragraphs (a), (b), and (c)(1) and (2) of this section; or

(ii) Without regard to the counties in which the LEAs are located—

(A) Identify those LEAs in which either the number or percentage of children counted under §200.21 exceeds the average number or percentage of those children in the State; and

(B) Allocate concentration grant funds among the LEAs identified in paragraph (c)(3)(ii)(A) of this section based on the number of children counted under §200.21 in each LEA.

(Authority: 20 U.S.C. 6334)

§ 200.24 Allocation of targeted grants.

(a) *Eligibility.* An LEA is eligible for a targeted grant if—

(1) There are at least 10 children counted under §200.21 in the LEA; and

(2) The number of those children is at least five percent of the LEA’s total population ages 5 to 17 years, inclusive.

(b) *Weighted child count.* In determining an LEA’s grant, the SEA shall compute a weighted child count in accordance with section 1125(c) of the Act by taking the larger of—

(1) *Percent-weighted child count.* The number of children counted under §200.21 multiplied by the weights shown in the following table, with the weights applied in a step-wise manner so that only those children above each weighting threshold receive the higher weight:

LEA percentage of children counted under §200.21 as a percent of total children ages 5 through 17	Weights
0 to 14.265%	1.00
More than 14.265% up to 21.553%	1.75
More than 21.553% up to 29.223%	2.50
More than 29.223% up to 36.538%	3.25
More than 36.538%	4.00

or;

(2) *Number-weighted child count.* The number of children counted under §200.21 multiplied by the weights shown in the following table, with the weights applied in a step-wise manner so that only those children above each weighting threshold receive the higher weight:

LEA number of children counted under §200.21	Weights
1 to 575	1.0
576 to 1,870	1.5