

Obioma Okogbue, NDTAC

01:09:08

Hi, everyone. So the next section is, is it eligible? And so, we all know that eligibility determinations can be one of the

more difficult parts of this job, and so we're hoping that this interactive session that uses live polling case scenarios, that it helps you put your knowledge to the test. And we want you all, as participants, to weigh in on whether you think the facility qualifies for Title I, Part D sub..

subgrantee funding, and in cases where they do qualify, do you think it should be subpart 1 or subpart 2? And each scenario, we're hoping, comes with a guided discussion to unpack the reasoning, why you think it's eligible or not, so that we can address any common misconceptions that we may have.

And we hope that whether you're a newcomer who's trying to build your foundation of eligibility, or you're a veteran who is like, I understand it, we hope that y'all can get something great out of this session.

Alright, I will turn it over to Heather.

And Kelsey says, eligible to be served or counted.

in my life.

Heather Denny, USED

01:10:13

Good question!

Obioma Okogbue, NDTAC

01:10:16

Jen.

Heather Denny, USED

01:10:17

I like that she's already asking questions.

It depends! Some of these might be counted, some of these might be served. We do want you to know, though, that this slide deck, you will be able to use it if you want to, even though we're probably not going to get to all of these. So, let's get to question number one.

An LEA has been providing services to a local delinquent facility. The facility is a therapeutic boarding school.

for girls.

Girls placed at the facility are placed there by their parents. Parents pay for the cost of housing and educating children. Girls receive counseling for delinquent behaviors.

Is this facility eligible under Title I, Part D?

Kristine Chan, NDTAC

01:11:07

Na-na-na-na-na-na.

Heather Denny, USED

01:11:11

And I love all the no's!

And someone very clearly said, no, they are not adjudicated.

That is correct!

So...

This is not eligible because, and here are the three answers, as much as you all are just quick to say no, I would really encourage you to take a careful look at your facilities. We continue to see

different states serving ineligible facilities because the facility claims it's a delinquent facility, and that the children are delinquent, but they are not adjudicated. So, continue to take a close look at your facilities.

Second question!

A local charter school has always been identified as a neglected facility.

Charter school operates a dormitory to provide education and residential care for children of single parents.

The facility notes that these children suffer from neglect.

Because of their family's situation.

Is this a neglected facility?

Looking good!

Let's go to the answer.

And again, it is a no, you are correct, because under the definition.

it has to meet neglect first under your state's law. So, neglect can vary somewhat from state to state, because it is dependent on your state law.

Children have to have been abandoned?

or been orphaned. And neglect is not subjective as determined by an LEA. Like, one LEA just can't say, well, we think these are neglected kids.

It has to be your state law.

And it has to be that the children were placed in the facility because of that definition of neglect.

Question number 3!

An LEA provides educational services to a delinquent facility located within its boundaries.

The facility is a lockdown group home?

Students are placed in the facility by the Office of Juvenile Justice, and OJJ contracts with the LEA to provide services.

Is it Subpart 2 or Subpart 1?

Okay.

This one was tricky! Oops, somebody, somebody got the right answer.

Yes, and Shannon just said, depends on who's responsible for providing education services. So let's go to the answer, Christine.

This one is a Subpart 1 facility!

Even though an LEA is providing the services.

They are contracted to do that by the state agency.

So the state agency is responsible for the education of the children.

Not the LEA. The LEA is just a contractor.

So this is where we're going to really encourage you to dig in and read the fine print, because...

It can be tricky.

Let's look at question 4!

A local facility operates a military boot camp style program for students.

Facility collaborates with the National Guard, but they're a non-profit.

Students have previously dropped out, they're credit deficient.

Students in the program are considered to be at risk. Many of them have had encounters with law enforcement.

Some have previous convictions for minor offenses.

Is this facility eligible under Subpart 1 or Subpart 2?

Okay, let's look at the answer.

And I see some com- some comments about at risk. So, first off.

This facility is not eligible under either Subpart 1 or Subpart 2.

First, it's not a state agency, and it's not operated by a state agency, so it can't be Subpart One.

Under Subpart 2, the students are not adjudicated.

And the reason that it also cannot be at-risk is because at-risk programs

Yes, Christine, you want to flip back to the question?

programs can only operate within an LEA's buildings.

So, if the students at this facility come to the LEA for services, they can be served by the LEA's at-risk program.

But at-risk programs do not operate off-site.

Outside of a school's building.

So it could be in the school district's alternative school, in the school district's alternative to expulsion program,

If the school district has a particular high school or middle school at which it wants to operate an at-risk program, yes.

But at-risk programs do not operate in... in facilities.

Those have to be facility-based programs that meet the definition of either a delinquent program or a community day program for delinquent students.

Anybody have any more questions about that one?

And yes, David, it could be some kind of a diversion program. And unfortunately, Title I-D sort of hasn't caught up to...

The way that many Judges and communities are, working with

Youth before adjudication, kind of that diversion

Where they don't go to judges, but they just meet with probation or parole.

A transition program for former adjudicated youth, It... could...

possibly be, but a transition program happens with a Subpart 1 facility, That is, then,

Helping students transition, so... If you're talking about a facility that is taking placements from Subpart 1 facilities.

That may also be a subpar one facility, like, we'd really have to sort of talk through the specifics.

If you have something... That feels a little squishy, and you're not sure how it fits.

Is everybody good with this one? Can we go on to question 5?

Okay.

Here's question 5!

A boarding school operated by a religious charity claims it is a neglected facility.

Students all come from the surrounding community, and that community suffers from generational poverty, high rates of drug abuse, high rates of community violence.

Which includes domestic violence, murder, sexual assault, and.

Tina LaChelle

01:19:46

Suicide. Can I ask your first and last name, please? Yes, Tina...

Kristine Chan, NDTAC

01:19:52

One second, I'm going to mute...

Heather Denny, USED

01:20:02

Okay, am I unmuted again?

Daron Clark, NDTAC

01:20:06

You are. You're gonna...

Heather Denny, USED

01:20:07

Okay, good.

The community's a food desert.

It lacks basic services. Unemployment rate is high. Dropout rate is high. So the facility says the children are neglected due to the environment in which their parents are raising them, and the community in which they live.

And many of these things do meet the state's definition of neglect.

And while this particular scenario is from a very particular community. I think many of us can see that communities like this exist in many states, right?

This could be an in...

inner city, this could be Appalachia, this could be a reservation community, this could be an impoverished rural community, like, there are many communities like this across the country.

And so, yes, let's go to the answer.

As many of you were clear, This is, again, a no.

Because the parents, yes, have placed their child in this facility, right? They choose to put their children here, parents have determined this is the best educational placement for their child.

The definition of neglect may have to be based on tribal law if this facility is located in a reservation community, so you may not be looking at your state laws around neglect, you may be looking at tribal law.

And again, neglect is not subjective, it is based on state law. So really taking a look at

How do children get placed in these facilities if the facility does not meet that placement? It's not a neglected facility.

And this one, folks, is really more of an eligibility-to-be-counted question. Obviously, under... unless this was a state agency, we wouldn't be serving this facility under Subpart 2. We would just be counting it.

Let's look at question 6.

The state's Department of Health and Human Services operates a number of facilities for the care of children with severe developmental delays.

All costs associated with the care of these children are covered by the state's Medicaid program, and parents must sign over custody of their children to the state when placing them in this facility.

Is this an eligible neglected facility?

Yes, Wes, yes, but it's tricky, yeah, this is a tricky one. We tried to throw in some tricky ones.

Monica says, I want further details.

Horido says, it depends!

Melanie!

Signing over custody constitute neglect. Okay, let's go to the answer.

I like how Wes is blaming his cat.

So, in this case, yes, children placed in this facility have been surrendered to the custody of the state. So, legally, the child has been abandoned. Yes.

Signing over custody is abandonment.

Not the same as, like, dumping a child at a hospital, but it is legally abandonment, so yeah, you're looking at why are the children in the facility.

Do they meet the legal definition of neglect? And so, if this is a Subpart 1 facility operated by the state.

These could be served under Title Id Subpart I.

So you're looking at who is responsible for the education of these children, and in this case, it is the state

That has custody of these children now.

Okay, question 7.

Your state has a children's mental health facility!

It serves children from across the state, and they serve children for a variety of services.

Many patients are privately placed, but some are placed in the facility by child welfare or by the juvenile court system.

Is this 1 or 2?

Is it delinquent or neglected?

Kristine Chan, NDTAC

01:25:22

I think you stumped everybody.

Heather Denny, USED

01:25:43

Yeah, this is a tricky one, too.

Okay.

So let's look at the answer.

So the first question, which a bunch of you touched on, is what is the group of children primarily served by this facility?

If the majority of children are placed by the court or the juvenile justice system, it might be a delinquent facility.

If the majority of children are placed by the state's child welfare system, this might be a neglected facility.

If the majority of children are placed by their families, this is probably not eligible, even though they occasionally accept placements by state agencies.

So this is one of those that you gotta dig into.

And look at what's the primary purpose of this facility.

And Kathy Cross had a question about abandonment.

And my answer probably got buried in all the chat, which is okay. Most of your states will have a state law that defines abandonment, and so I would look at your state statute and see what does my state say abandonment is?

And that would then be your definition. So if the parent disappears for... three weeks in my state, it's abandonment. Or if parent disappears for 2 months and can't be located, it's abandonment. Or parent legally signs over custody of child to the state, that's abandonment. So you're looking for a state definition. If you don't have one.

We can have that conversation, but my guess is most of your states, somewhere in statute, have some kind of a definition of what abandonment is.

We can do one last question, maybe, to keep us on track. How do you determine majority?

Which was Jody's question she just put in. So, you're looking at, Scott makes it complicated.

MDE Jyoti Wadhwa

01:27:55

Because it can change from year to year for some facilities.

Heather Denny, USED

01:27:59

It can change from year to year, and we generally don't recommend that you flip-flop back and forth.

You need to come up, kind of, with an agreement with that facility, like, hey, if we're gonna base that on this year.

over the course of a year, and I wouldn't look at just your count, like.

When you take your eligibility counts for a local facility.

Yes, in that 30-day period, maybe most kids are adjudicated, but over the course of a school year.

Most children in the facility are neglected.

So, you want to look at, like, the overall, what is the majority purpose of this facility in a given year?

You don't want to flip-flop back and forth. I mean, that's hard for an LEA, because this year they get a grant, and next year they don't, and then they get one again.

It's difficult to have a consistent program, then, if you're flip-flopping.

So...

Sitting down with that facility and saying, okay, if you're a neglected facility, this is how services will be provided.

If you're a delinquent facility, this is how services will be provided. Once we make a determination, unless something really changes with your purpose.

Long-term, then you're gonna be this thing, until you tell us that you're not this thing anymore.

So... Is there a clean and fast answer? Unfortunately, no.

When you're looking at... The primary purpose?

you're really looking at who are the majority of kids in the facility. There is no number in the law as to what a majority is. You, as the state coordinator, need to determine that.

I would say you need to justify it, and you need to have that written down, because the minute you make a special rule for one facility, some other facility will come and argue with you about why they're also eligible.

So be clear. Be clear about how you determine eligibility. Be clear about what your rules are for determining eligibility, so that you don't...

You know, put yourself in a corner that you can't get out of, because... Somebody, somebody will catch you.

Yes, I think this one, federal agency operated in your state for unaccompanied juveniles who violated immigration law.

In this case, correct.

let's look at the answer really quick, and then I will turn over the rest of this to Christine. So, in this case, yes, this is a federally operated agency, so it doesn't really matter who it is, if it's Border Patrol, you know, if it's ICE, if it's the Office of Immigration Resettlement, it doesn't really matter who it is. These are federal programs, so they are not eligible under Subpart 1.

And they're not eligible under Subpart 2.

And so it really becomes a question of who's operating this facility, who's placing kids here, and if they tell you, oh, it's a federal agency, then no.

The federal agency is responsible for educating those children.

So with that, there are a number of questions that we didn't get to. The answers are there. If you need to discuss any of these, feel free to reach out to us. We're happy to give you more information on

On the eligibility game!