



Recommendation 92-8

Administration of the Office of Juvenile Justice and Delinquency Prevention's Formula Grant Program

(Adopted December 11, 1992)

In 1974 Congress enacted the Juvenile Justice and Delinquency Prevention ("JJDP") Act, which created the Office of Juvenile Justice and Delinquency Prevention ("OJJDP" or "the Office") within the U.S. Department of Justice. Among OJJDP's responsibilities, then and now, is the administering of a program of formula grants to states and local governments. While the overall purposes of the formula grant program were broadly framed,¹ the statute also required states to achieve several very specific substantive outcomes. Compliance with those mandates,² as well as with a variety of other administrative and procedural requirements, continues to determine eligibility for formula grant funds from OJJDP.

Monitoring for levels of state compliance, determining grant eligibility status, reviewing submitted plans and reports, and responding to technical assistance requests all fall to OJJDP's State Relations and Assistance Division (SRAD). Its administration of the formula grant program is guided by a substantial body of regulations, rules, policies and interpretations OJJDP has developed over the years. Mechanisms such as waivers, exceptions, and de minimis criteria—characteristic features of many regulatory and grant programs—have been adopted by either Congress or the agency over the years.

The Conference, in response to a request from OJJDP, studied OJJDP's administration of the formula grant program, including its efforts to monitor and assist state compliance with the statutory mandates and requirements. As part of this study, the Conference examined issues of communication and consultation with states, coordination and collaboration at various levels of government, consistency and clarity of policy elaboration, staffing, and training.

¹ Funds may be used for a broad variety of programs and services related to juvenile justice and the treatment and prevention of juvenile delinquency. State participation in the formula grant program is strictly voluntary, with state funding levels determined on the basis of relative population under age 18.

² The three substantive mandates are as follows:

1. Juveniles who are accused or convicted of status offenses (conduct not considered criminal if committed by an adult, such as running away or truancy) and non-offenders (such as abused, dependent, or neglected children) must not be placed in secure detention or secure correctional facilities.
2. Juveniles who are accused or adjudicated of delinquency or status offenses must not have regular contact with incarcerated adults where both juveniles and adults are confined in the same institution.
3. No juvenile may be detained or confined in any adult jail or lockup.



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Recommendation

1. Policymaking

(a) The Department of Justice should ensure that overall policy, priorities, and objectives for all Federal juvenile delinquency programs and activities are coordinated so that related activities and programs advance efforts by OJJDP and the states to achieve and maintain compliance with the substantive mandates of the JJD Act.

(b) OJJDP should (1) create, and ensure adherence to, internal operating guidelines and (2) assign formula grant staff responsibilities, so important issues of policy or interpretation are identified and dealt with promptly. Once such an issue has been finally resolved, the Office's policy or interpretation should be made available promptly by appropriate means—whether the Federal Register or otherwise—to all state juvenile justice specialists,³ the National Coalition of State Juvenile Justice Advisory Groups,⁴ and other groups and entities, that may have a substantial interest in the policy or interpretation.

(c) In all instances where issues of policy or interpretation may substantially affect interested persons or organizations or the interests of one or more states, the Office should engage in pre-decisional consultation with the affected persons or entities. OJJDP, in selecting a mode of consultation, should take into account the scope and impact of the policy or interpretation and other matters relevant to effective communication of views and efficient decisionmaking.

(d) The Office should ensure the reasons underlying its policies and interpretations, including changes and clarifications, are clearly explained in documents announcing them.

(e) The Office should develop adequate internal procedures to ensure that consistent advice regarding the requirements applicable to the formula grant program is afforded to affected states by the OJJDP state representatives.

³ State juvenile justice specialists serve as the states' primary staff liaison with OJJDP.

⁴ The Coalition consists of the members of the state advisory groups that are appointed by the governors of all states participating in the formula grant program. The JJD Act provides for the Coalition to play an advisory role to Congress and the Administrator of OJJDP on program operations and related matters.



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2. OJJDP Staffing

(a) The Office should have a general attorney assigned primarily to advising OJJDP state representatives⁵ the SRAD Director, and OJJDP's Administrator concerning general legal issues arising in OJJDP's grant administration.

(b) The Office should take steps to ensure the evaluation of monitoring data and other information relevant to determining compliance and waiver of grant termination is even-handed and takes into full account Office policies and interpretations. In so doing, the Office should consider reestablishing the position of "monitoring coordinator."

(c) The Office should refrain from so frequently shifting the state assignments of the OJJDP state representatives that the value of familiarity with state programs is lost.

3. Background and Training of OJJDP and State Formula Grant Personnel

(a) The Office should accord due weight to prior general training or experience in the area of juvenile justice and grants management in hiring applicants for the position of state representative.

(b) The Office should train both new and experienced state representatives to ensure that they:

(i) Are fully informed with regard to their roles and responsibilities;

(ii) Have adequate knowledge regarding the Office's procedures and practices for the conduct of their work;

(iii) Have a firm working knowledge of the relevant state and Federal statutes, regulations, and guidelines applicable to the formula grant program; and

(iv) Are kept apprised of recent developments in relevant Office policy and in the area of juvenile justice generally that may affect their work as state representatives.

(c) The Office should ensure that adequate training is provided to states' juvenile justice specialists for their role in the implementation of the formula grant program. This should include regularly scheduled training programs for new and experienced state juvenile justice

⁵ OJJDP state representatives serve in a liaison role between OJJDP and the states, communicating and interpreting federal policy, reviewing state plans and performance, and providing technical assistance to state agencies.



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specialists. The programs should (i) be timed so necessary training is provided soon after new specialists take their positions, and (ii) make sure training materials are updated expeditiously to reflect new developments in Office policy and interpretation, juvenile justice generally, and state compliance efforts.

4. Information Dissemination to States

(a) As part of its research and program development functions, the Office should collect information that may be helpful to the states in complying with the statutory mandates; the Office should disseminate this information to state juvenile justice specialists in a timely fashion and accessible format.

(b) The Office should create procedures to ensure that states will be (i) fully consulted in a timely manner regarding applications for special emphasis grants awarded to projects in their respective jurisdictions and (ii) regularly informed about the progress, results, and lessons of those projects.

(c) The Office should advise all states in a timely fashion concerning promising approaches to achieving and maintaining compliance with the substantive mandates of the JJDP Act.

(d) The Office should ensure state-submitted monitoring data and other information by which it determines compliance and waiver are widely available both to the states and the public generally.

(e) A study should be undertaken to determine whether restructuring of, or improving communications between, the four divisions that have responsibilities for establishing juvenile delinquency and prevention programs, evaluating effective strategies, fostering promising approaches, and disseminating information would help the Office achieve its goals.

5. Enforcement and Administration

To enhance administration of the program, Congress should repeal the existing provision of the JJDP Act that authorizes waiver of the requirement that states submit annual monitoring reports to OJJDP. It should also retain the current requirement the Office periodically audit state monitoring systems to ensure their reliability.



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Citations:

57 FR 61765 (December 29, 1992)

__ FR ____ (2011)

1992 ACUS 43 (vol 1)