

OJJDP FY 2023 Title II
Year 3 Eligibility Assurances and Certifications
(Submit in [JustGrants](#))

The purpose of this portion of the application is for your state to assure and provide certification for its eligibility to participate in the Title II, Part B, Formula Grants Program in year 3 of the three-year state plan (FY 2023). Please refer to the [JJDP Act](#) Formula Grants Program requirements at 34 U.S.C. § 11133(a), which details the 33 requirements states must address and/or provide documentation for.

In order to receive formula grants under Title II, Part B, of the JJDP Act (34 U.S.C. §§ 11131–33), a state shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, projects, and activities. The state shall submit annual performance reports to the Administrator, which shall describe progress in implementing programs contained in the original plan, and shall describe how the state plan is supported by or takes account of scientific knowledge regarding adolescent development and behavior and regarding the effects of delinquency prevention programs and juvenile justice interventions on adolescents. Not later than 60 days after the date on which a plan or amended plan submitted under this subsection is finalized, a state shall make the plan or amended plan publicly available by posting the plan or amended plan on the state's publicly available website.

The state/territory of _____ assures that its state plan meets the following statutory state plan eligibility requirements for the Title II, Part B, Formula Grants Program: 34 U.S.C. § 11133(a)(16), (17), (19), (21), (24), (27), and (32):

- (16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, ethnicity, family income, and disability;
- (17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);
- (19) provide assurances that—(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of non-overtime work,
- (21) provide reasonable assurances that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, local, Tribal, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, Tribal, and other non-Federal funds;
- (24) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 2000, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services;
- (27) provide assurances that juvenile offenders whose placement is funded through section 472 of the Social Security Act (42 U.S.C. 672) receive the protections

specified in section 471 of such Act (42 U.S.C. 671), including a case plan and case plan review as defined in section 475 of such Act (42 U.S.C. 675);

- (32) provide an assurance that the agency of the State receiving funds under this title collaborates with the State educational agency receiving assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) to develop and implement a plan to ensure that, in order to support educational progress—

The state must submit a program narrative that addresses the following requirements: § 11133(a)(1), (2), (4), (5), (6), (7), (8), (9), (10), (18), (20), (22), (23), (25), (26), (28), (29), (30), (31) and (33), as part of its submission in JustGrants.

- (1) designate the State agency as designated by the chief executive officer of the State as the sole agency for supervising the preparation and administration of the plan;
- (2) contain satisfactory evidence that the state agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;
- (4) provide for the active consultation with and participation of units of local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of units of local government, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;
- (5) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66²/₃ per centum of funds received by the State under section 222 reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding funds made available to the state advisory group under section 222(d), shall be expended— (A) through programs of units of local government or combinations thereof, to the extent such programs are consistent with the State plan; (B) through programs of local private agencies, to the extent such programs are consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of local government or combination thereof; and (C) to provide funds for programs of Indian Tribes that agree to attempt to comply with the core requirements applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age.
- (6) provide for an equitable distribution of the assistance received under section 222 within the State, including in rural areas;
- (7)(A) provide for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State (including any geographical area in which an Indian tribe has jurisdiction), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State; and (B) contain—(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services; (ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency; (iii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; (iv) a plan to provide alternatives to detention for status offenders, survivors of commercial sexual exploitation, and others, where appropriate, such as specialized or problem-solving courts or diversion to home-based or community-based services or treatment for those youth in need of mental health, substance abuse, or co-occurring disorder services at the time such

juveniles first come into contact with the juvenile justice system; (v) a plan to reduce the number of children housed in secure detention and corrections facilities who are awaiting placement in residential treatment programs; (vi) a plan to engage family members, where appropriate, in the design and delivery of juvenile delinquency prevention and treatment services, particularly post-placement; (vii) a plan to use community-based services to respond to the needs of at-risk youth or youth who have come into contact with the juvenile justice system; (viii) a plan to promote evidence-based and trauma-informed programs and practices; and (ix) not later than 1 year after the date of enactment of the Juvenile Justice Reform Act of 2018, a plan which shall be implemented not later than 2 years after the date of enactment of the Juvenile Justice Reform Act of 2018, to— (I) eliminate the use of restraints of known pregnant juveniles housed in secure juvenile detention and correction facilities, during labor, delivery, and post-partum recovery, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others; and (II) eliminate the use of abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints on known pregnant juveniles, unless— (aa) credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others; or (bb) reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method;

- (8) provide for the coordination and maximum utilization of evidence-based and promising juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;
- (9) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for, with priority in funding given to entities meeting the criteria for evidence-based or promising programs
- (10) provide for the development of an adequate research, training, and evaluation capacity within the State;
- (18) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;
- (20) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;
- (22) provide that the State agency designated under paragraph (1) will— (A) to the extent practicable give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based; (B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that it considers necessary; and (C) not expend funds to carry out a program if the recipient of funds who carried out such program during the preceding 2-year period fails to demonstrate, before the expiration of such 2-year period, that such program achieved substantial success in achieving the goals specified in the application submitted by such recipient to the State agency;
- (23) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense— (A) an appropriate public agency shall be promptly notified that such status offender is held in custody for violating such order; (B) not later than 24 hours during which such status offender is so held, an authorized representative of such agency shall interview, in person, such status offender; (C) not later than 48 hours during which such status offender is so held— (i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such status offender;

(ii) such court shall conduct a hearing to determine— (I) whether there is reasonable cause to believe that such status offender violated such order; and (II) the appropriate placement of such status offender pending disposition of the violation alleged; and (iii) if such court determines the status offender should be placed in a secure detention facility or correctional facility for violating such order— (I) the court shall issue a written order that— (aa) identifies the valid court order that has been violated; (bb) specifies the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order; (cc) includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile; (dd) specifies the length of time, not to exceed 7 days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender’s release from such facility; and (ee) may not be renewed or extended; and (II) the court may not issue a second or subsequent order described in subclause (I) relating to a status offender unless the status offender violates a valid court order after the date on which the court issues an order described in subclause (I); and (D) there are procedures in place to ensure that any status offender held in a secure detention facility or correctional facility pursuant to a court order described in this paragraph does not remain in custody longer than 7 days or the length of time authorized by the court, whichever is shorter;

- (25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the State advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units;
- (26) provide that the State, to the maximum extent practicable, and in accordance with confidentiality concerns, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court, so as to provide for— (A) data in child abuse or neglect reports relating to juveniles entering the juvenile justice system with a prior reported history of arrest, court intake, probation and parole, juvenile detention, and corrections; and (B) a plan to use the data described in subparagraph (A) to provide necessary services for the treatment of such victims of child abuse or neglect;
- (28) provide for the coordinated use of funds provided under this title with other Federal and State funds directed at juvenile delinquency prevention and intervention programs;
- (29) describe the policies, procedures, and training in effect for the staff of juvenile State correctional facilities to eliminate the use of dangerous practices, unreasonable restraints, and unreasonable isolation, including by developing effective behavior management techniques;
- (30) describe— (A) the evidence-based methods that will be used to conduct mental health and substance abuse screening, assessment, referral, and treatment for juveniles who— (i) request a screening; (ii) show signs of needing a screening; or (iii) are held for a period of more than 24 hours in a secure facility that provides for an initial screening; and (B) how the State will seek, to the extent practicable, to provide or arrange for mental health and substance abuse disorder treatment for juveniles determined to be in need of such treatment;
- (31) describe how reentry planning by the State for juveniles will include— (A) a written case plan based on an assessment of needs that includes— (i) the pre-release and post-release plans for the juveniles; (ii) the living arrangement to which the juveniles are to be discharged; and (iii) any other plans developed for the juveniles based on an individualized assessment; and (B) review processes;
- (33) describe policies and procedures to— (A) screen for, identify, and document in records of the State the identification of victims of domestic human trafficking, or those at risk of such trafficking, upon intake; and (B) divert youth described in subparagraph (A) to appropriate programs or services, to the extent practicable.

The state must submit the State Advisory Group (SAG) roster pursuant to § 11133(a)(3), as part of its submission in JustGrants.

See *Compliance Data and R/ED Plans* [here](#) for additional information about what states must submit in the Compliance Monitoring Tool in order to meet the R/ED plan requirement under § 11133(a)(15).

With respect to the requirements in 34 U.S.C. § 11133(a)(11)(A), (12), and (13), your state must respond to the questions below and submit the following to address the core requirements of the Formula Grants Program under the JJDP Act and the implementing regulation at 28 C.F.R. Part 31, Subpart A.

1) Was your state determined to be in compliance with the deinstitutionalization of status offenders (DSO) core requirement for the October 1, 2020 – September 30, 2021 reporting period, pursuant to 34 U.S.C. § 11133(a)(11)?

Yes _____ No _____

If yes, please complete the Compliance Plans and Resources Certification located [here](#) and upload it to the OJJDP Compliance Monitoring Tool.

If no, your state must submit a plan that includes the following below.

Pursuant to 28 C.F.R. § 31.303(c), the state must:

- a. Describe its plan, procedure, and timetable covering the 3-year planning cycle for assuring that the DSO requirement will be met.
- b. Describe the barriers the state faces in achieving compliance with the DSO requirement.

This plan may include strategies for achieving and maintaining compliance, such as (1) a description of any state or local laws or pending legislation that impact or may impact compliance; (2) information on how the designated state agency and SAG will work together to address circumstances that have caused DSO violations to occur; (3) any recent or pending changes that could impact the state's compliance (e.g., staffing changes); and (4) detailed goals, objectives, and activities to achieve full compliance, including the title of the individual responsible for each activity and the date by which it will occur. Goals, objectives, and activities should be designed to address the circumstances in which DSO violations have occurred.

2) Was your state determined to be in compliance with all of the requirements of the separation of juveniles from adult inmates core requirement for the October 1, 2020 – September 30, 2021 reporting period, pursuant to 34 U.S.C. § 11133(a)(12)?

Yes _____ No _____

If yes, please complete the Compliance Plans and Resources Certification located [here](#) and upload it to the OJJDP Compliance Monitoring Tool.

If no, your state must submit a plan that includes the following below.

Pursuant to 28 C.F.R. § 31.303(d), a state must:

- a. Describe its plan and procedure covering the 3-year planning cycle for assuring that the separation requirement is met.
- b. Describe the barriers that may hinder the separation of the juveniles described above from adult inmates.

This plan may include strategies for achieving and maintaining compliance, such as (1) a description of any state or local laws or pending legislation that impact or may impact compliance; (2) information on how the designated state agency and SAG will work together to address circumstances that have caused separation violations to occur; (3) any changes that could impact the state's compliance (e.g., staffing changes); (4) detailed goals, objectives, and activities to achieve full compliance, including the title of the individual responsible for each activity and the date by which it will occur; and (5) an overall timetable for achieving compliance. Goals, objectives, and activities should be designed to address the circumstances in which separation violations have occurred.

In addition, your state must complete the Training Certification located [here](#), which assures that there is a policy in place to address the training requirement for their staff who work with both adult inmates and juveniles, including in collocated facilities.

3) Was your state determined to be in compliance with the jail removal core requirement for the October 1, 2020 – September 30, 2021 reporting period, pursuant to 34 U.S.C. § 11133(a)(13)?

Yes _____ No _____

If yes, please complete the Compliance Plans and Resources Certification located [here](#) and upload it to the OJJDP Compliance Monitoring Tool .

If no, your state must submit a plan that includes the following below.

Pursuant to 28 C.F.R. § 31.303(e), the state must:

- a. Describe its plan, procedure, and timetable for assuring that the jail and lockup removal requirement will be met.
- b. Describe the barriers that the state faces in meeting this requirement.

This plan may include strategies for achieving and maintaining compliance, such as (1) a description of any state or local laws or pending legislation that impact or may impact compliance; (2) information on how the designated state agency and SAG will work together to address circumstances that have caused jail removal violations to occur; (3) any recent or pending changes that could impact the state's compliance (e.g., staffing changes); and (4) detailed goals, objectives, and activities to achieve full compliance, including the title of the individual responsible for each activity and the date by which it will occur. Goals, objectives, and activities should be designed to address the circumstances in which jail removal violations have occurred.

In addition, your state must complete the Training Certification located [here](#), which assures that there is a policy in place to address the training requirement for their staff who work with both adult inmates and juveniles in colocated facilities.

4) Pursuant to the JJDP Act at 34 U.S.C. § 11133(a)(14), the state must provide for an effective system of monitoring jails, lockups, detention facilities, and correctional facilities to ensure that the DSO, section 223(a)(11)(B), separation, and jail removal requirements are met. This includes the annual reporting of compliance data for at least 85 percent of facilities required to report such data.

The state must provide a plan describing how its system for compliance monitoring meets each of the following elements of an effective compliance monitoring system. If the state's compliance monitoring policies and procedures manual fully details each of these elements, the state may provide a copy of this manual in lieu of separately describing each of the elements below.

(1) **Policy and procedures.** Pursuant to 28 C.F.R. § 31.303(f)(1)(i), the state must provide a written plan and procedure for annually monitoring jails, lockups, detention facilities, and correctional facilities. This plan must detail the state's implementation of key monitoring system elements.

(2) **Monitoring authority.** Pursuant to 34 U.S.C. § 11133(a)(2), the designated state agency must document that it maintains requisite authority to carry out responsibilities imposed by the Formula Grants Program. This includes authority to inspect and collect data from facilities in the monitoring universe.

(3) **Violation procedures.** Pursuant to 28 C.F.R. § 31.303(f)(1)(iii), the state's monitoring system must describe any procedures established for receiving, investigating, and reporting alleged violations of the DSO, section 223(a)(11)(B), Separation, and Jail Removal requirements. This description should include any legislative and administrative procedures and sanctions that exist.

(4) **Definition of terms.** States might have different definitions for juvenile and criminal justice terms than those in the JJDP Act at 34 U.S.C. § 11103 and provided at 28 C.F.R. § 31.304. It is

critical that any such differences are identified and fully documented. The state must indicate that where its definitions differ from federal definitions in the monitoring process, the latter will be used.

(5) **Identification of the monitoring universe.** All public and private secure detention facilities, secure correctional facilities, and jails and lockups for adults, must be identified and included in the monitoring universe, pursuant to 34 U.S.C. § 11133(a)(14).

(6) **Classification of monitoring universe.** The state must classify facilities in the monitoring universe to determine facility type (e.g., secure detention facility, secure correctional facility, or jail or lockup for adults (which category includes court holding facilities)). Factors to consider in determining a facility's classification include whether it is residential or nonresidential; and whether the population is juveniles-only, adults-only, or juveniles and adults. This information is critical to determining the applicability of the DSO, section 223(a)(11)(B), Separation, and Jail Removal requirements in each facility.

(7) **Inspection of facilities.** Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(C), the state must inspect facilities to confirm classification and to verify that they are maintaining adequate sight and sound separation between detained juveniles and adult inmates. Such inspections must also verify that facilities maintain adequate data to demonstrate compliance with the DSO, section 223(a)(11)(B), Separation, and Jail Removal requirements.

(8) **Data collection and verification.** Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(D), this is the actual collection and reporting of data to determine whether the facility is in compliance with the applicable core requirements. If the data are self-reported by the facility or are collected and reported by an agency other than the state agency designated pursuant to 34 U.S.C. § 11133(a)(1), the plan must provide a statistically valid procedure used to verify the reported data.

Note: The designated state agency implementing the Formula Grants Program is responsible for the state's compliance monitoring effort and the validity of the annual monitoring report; that agency may contract with a public or private agency to perform the monitoring function. ***If selecting another agency, the state must identify in its monitoring plan which agency it has authorized and/or tasked to assist in the monitoring functions. This plan should identify the funding amount and the name, address, and telephone number of the contractor. In addition, the plan should include the procedures and activities the state uses to monitor the contractual arrangement.***

CERTIFICATION

I certify that all of the information presented is correct, there has been appropriate coordination with subgrantees, and that the state will comply with the provisions of the Juvenile Justice and Delinquency Prevention Act (the Act) and all other federal laws. I acknowledge that failure to submit this completed form with all required compliance information to OJJDP signed by the appropriate certifying official, by Monday, August 21, 2023 will result in the state's ineligibility for FY 2023 formula grant funding.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621), and also may subject me and the applicant to civil penalties and administrative remedies for false claims or

otherwise (including under 31 U.S.C. §§ 3729–3730 and 3801–3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by the Department, including by OJP and by the Department’s Office of the Inspector General. I do hereby certify that if violation of any of these assurances or of the Act provisions occurs, OJJDP will be promptly notified in writing.

Signature of Certifying Official (Designated State Agency Head or Management Official Designee)

Printed Name of Certifying Official Title of Certifying Official

Name of State/Jurisdiction

Name of Designated State Agency

Date