

**DEPARTMENT OF EDUCATION****34 CFR Chapter VI****[ED-2024-OPE-0073]****Transitioning Gang-Involved Youth to Higher Education Program**

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Final priority and definition.

**SUMMARY:** The Department of Education (Department) issues a priority and definition for use in the Transitioning Gang-Involved Youth to Higher Education Program. The Department may use the priority and definition for competitions in fiscal year (FY) 2024 and later years. This priority and definition will support projects for organizations that work directly with gang-involved youth to help such youth pursue higher education opportunities that will lead to postsecondary certification or credentials.

**DATES:** This priority and definition are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Jymece Seward, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5C113, Washington, DC 20202-4260. Telephone: 202-453-6138. Email: [Jymece.Seward@ed.gov](mailto:Jymece.Seward@ed.gov).

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

**SUPPLEMENTARY INFORMATION:**

*Purpose of Program:* The purpose of the Transitioning Gang-Involved Youth to Higher Education (TGIY) Program is to provide a funding opportunity for organizations that work directly with gang-involved youth to help such youth pursue higher education opportunities that will lead to postsecondary certification or credentials.

*Assistance Listing Number:* 84.116Y.

*Program Authority:* 20 U.S.C. 1138-1138d; Explanatory Statement accompanying Division D of the Further Consolidated Appropriations Act, 2024 (Pub. L. 118-47).

We published a notice of proposed priority and definition in the *Federal Register* on June 6, 2024 (89 FR 48356)

(NPP). That document contained background information and the Department's reasons for proposing the particular priority and definition. There are no differences between the proposed priority and definition and the final priority and definition.

*Public Comment:* In response to our invitation in the NPP, 11 parties submitted comments on the priority and definition. Generally, we do not address technical and other minor changes, or suggested changes that the law does not authorize us to make under applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority and definition.

*Analysis of Comments and Changes:* An analysis of the comments and of any changes in the priority and definition since publication of the NPP follows.

**General Comments:**

*Comments:* Four commenters expressed support for the program. One noted that the 14-24 age range is a key period for positive intervention and that the criteria in the definition of "gang-involved youth" related to gang identity, permanence, organization, and elevated criminal activity align with established research on gang dynamics. One commenter supported the alignment of the criteria in the definition of "gang-involved youth" with the criteria used by the U.S. Department of Justice's Gang Center.

*Discussion:* We appreciate the support of the grant program and the priority and the definition.

*Changes:* None.

*Comments:* One commenter suggested that this program should be run by the Bureau of Prisons.

*Discussion:* Congress has authorized funding for this program with appropriated funds for the U.S. Department of Education since FY 2021.

*Changes:* None.

**Priority:**

*Comments:* One commenter suggested broadening the program scope to include supporting, in addition to gang-involved youth, youth who are at high-risk of gang involvement.

*Discussion:* While we recognize the need for supports for the broader population, the priority is aligned with the congressional directive that the Department provide a funding opportunity for organizations that work directly with gang-involved youth to help such youth pursue higher education opportunities.

*Changes:* None.

*Comments:* One commenter suggested that organizations that provide services unrelated to gang-involved youth should be allowed to apply for projects.

*Discussion:* There is nothing in the priority that limits organizations that provide services unrelated to gang-involved youth from applying for funding, as long as the proposed project itself is for work directly related to gang-involved youth.

*Changes:* None.

*Comments:* One commenter suggested that we require applicants to provide in their application their annual success rate with respect to gang-involved youth pursuing higher education opportunities.

*Discussion:* Under this program, organizations can propose new projects that align with the purpose of the grant program such that they are likely to lead to the intended outcomes for participating youth. That said, through the selection criteria, which are scored for each applicant, the peer reviewers determine the quality of the proposed projects and the ability of the applicants to be able to implement them.

*Changes:* None.

*Comments:* One commenter noted that the Department should look favorably upon applications that incorporate evidence-based practices, such as trauma-informed care, mentoring, and job readiness training, alongside the educational components.

*Discussion:* Although the final priority does not include an evidence requirement, the Department plans to use selection criteria from 34 CFR 75.210 (General selection criteria) to evaluate the extent to which proposed projects incorporate evidence-based practices, including as part of the project design and the project evaluation.

*Changes:* None.

*Comments:* One commenter suggested that the Department give priority to applications from agencies that have a mission of providing licensed, high-quality counseling and follow-up support services to young people who are identified as "at risk" to the influences of gang membership, including youth who are currently or were formerly involved with a gang; staffing, or a plan for staffing, sufficient to ensure a manageable caseload, the leeway for consistently scheduled follow-ups on progress, and the capacity to provide other support services; and a strong information and referral base from which they can further empower clients to seek assistance from other programs and services that could support them in a more holistic manner to help them reach their educational goals.

*Discussion:* The Department intends to use selection criteria from 34 CFR 75.210 (General selection criteria) to evaluate the quality of the project services and the project personnel, among other things.

*Changes:* None.

**Definition:**

*Comments:* Three commenters suggested changing the term “gang-involved youth.” One commenter suggested changing it to “gang-impacted” as a way to help reduce stigma, encourage help-seeking behavior, address root causes, and enhance research and policy development. One commenter recommended that we use “youth who are gang involved,” and another commenter suggested that given the age range of 14-24, the group be defined as “gang-influenced youth and young adults.”

*Discussion:* We appreciate the commenters’ feedback, but “gang-involved youth” is the term used in the appropriations language provided by Congress for this program since FY 2021.

*Changes:* None.

*Comments:* One commenter suggested that the age range for gang-involved youth be expanded to 12 to 24 years old.

*Discussion:* Given the focus of the grant program on preparing youth for postsecondary education opportunities, having the age range start at 14 better aligns with the goals of the program. Furthermore, this age range aligns with the age range in the definition of “disconnected youth”—a population that may overlap with gang-involved youth—established by the

Department for use in its discretionary grant programs.

(Secretary's Supplemental Priorities and Definitions for Discretionary Grants Programs published in the *Federal Register* on December 10, 2021 (86 FR 70612)). Aligning these definitions will promote consistency in the administration of the Department's discretionary grant programs.

*Changes:* None.

### **Final Priority**

The Secretary establishes the following priority for use in the TGIY Program.

*Projects for Organizations to Work Directly with Gang-Involved Youth to Help Such Youth Pursue Higher Education Opportunities.*

To meet this priority, an eligible applicant must demonstrate that the project will work directly with gang-involved youth to help such youth pursue higher education opportunities.

### *Types of Priorities*

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

### **Final Definition**

The Secretary establishes the following definition for use in the TGIY Program.

*Gang-involved youth* means an individual, between the ages 14 and 24, who is or was involved in a group that meets the following criteria: the group has three or more members who share an identity, typically linked to a name and often other symbols; members view themselves as a gang and are recognized by others as a gang; the group has some permanence and a degree of organization; and the group is involved in an elevated level of criminal activity.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use this priority and definition, we invite applications through a notice in the *Federal Register*.

***Executive Orders 12866, 13563, and 14094***

*Regulatory Impact Analysis*

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$200 million or more (adjusted every three years by the Administrator of Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities, or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866, as amended by Executive Order 14094.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866, as amended by Executive Order 14094. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing this final priority and definition only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

The potential costs associated with the priority and definition are minimal, while the potential benefits are significant. The Department believes that this final regulatory action will not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program will outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be burdensome for eligible applicants, including small entities.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened

federalism. The Executive order relies on processes developed by State and local governments for coordination and review of Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Regulatory Flexibility Act Certification*

The Secretary certifies that the final priority and definition will not have a significant economic impact on a substantial number of small entities.

The small entities that this final regulatory action will affect are institutions of higher education that meet the eligibility requirements described in section 241(1) of the Higher Education Act of 1965, as amended. The Secretary believes that the costs imposed on applicants by the final priority and definition will be limited to paperwork burden related to preparing an application and that the benefits will outweigh any costs incurred by applicants.

Participation in this program is voluntary. For this reason, the final priority and definition will impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for TGIY funds, an eligible applicant would evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving a TGIY grant. Eligible applicants most likely would apply only if they determine that the likely benefits

exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to seek funding from other sources to work directly with gang-involved youth to help them pursue higher education opportunities that will lead to postsecondary certification or credentials.

This final regulatory action will not have a significant economic impact on a small entity once it receives a grant because it will be able to meet the costs of compliance using the funds provided under this program.

*Paperwork Reduction Act of 1995*

This final priority and definition do not contain any information collection requirements.

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

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*www.govinfo.gov*. At this site you can view this document, as well as all other Department documents published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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**Nasser Paydar,**

*Assistant Secretary for*

*Postsecondary Education.*

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