

Revised Subsidy Grant Administrative Rules (Effective June 29, 2009)

5139-67-01 Definitions.

For the purpose of implementing Chapter 5139-67 of the Administrative Code, the following terms have the following definitions:

(A) "Administrative costs" means those costs related to the overall administration of the grant.

(B) "Base allocation" means the amount of state subsidy grant (youth services grant) funds a county will be eligible to receive, based on the formula found in section 5139.34 of the Revised Code.

(C) "Capital construction projects" means the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement or improvement of capital facilities as defined in section 154.01 of the Revised Code.

(D) "Chargeable bed days" means the number of bed days in an institution or community corrections facility for which reductions are made in the computation of the court's variable allocation; these do not include bed days which fall under the definition of public safety beds in section 5139.01 of the Revised Code; these do include the first five days of a youth's absence from an institution of the department or a community corrections facility.

(E) "Commitment" means the transfer of the physical and legal custody of a youth who is at least ten years of age but less than eighteen years of age from the court to the department for having committed an act that, if committed by an adult, would be a felony.

(F) "Community corrections facility" means a state funded facility operated for the sole purpose of providing treatment and rehabilitation to juvenile felony delinquents in lieu of a commitment to the department, as defined in section 5139.36 of the Revised Code.

(G) "Department" means the Ohio department of youth services.

(H) "Fair market value" means the cost of equipment, property, or services which would be paid by a prudent buyer in a given community. Prudence is based on comparison shopping and selection. Payment rates should conform closely to the going rate in the community for a given service.

(I) "Felony delinquent" means any child who is adjudicated a delinquent for having committed an act that, if committed by an adult, would be a felony. This includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department for having committed an act as a Juvenile that, if committed by an adult, would be a felony.

(J) "Felony delinquent care and custody fund (FDCC)" means the fund into which "Reclaim Ohio" (variable allocation) and youth services grant funds (base allocation) are deposited and from which they are disbursed.

(K) "Fiscal agent" means the county fiscal representative responsible for oversight of department grant funds.

(L) "Fiscal year" means the state fiscal year period of July first through June thirtieth.

(M) "Funding application" means a document completed by a county/juvenile court which reflects projected expenditures according to the established standard program areas in standard budget categories and is used to allocate and disburse funds under section 5139.34 and 5139.43 of the Revised Code.

(N) "Grant" means funds disbursed to the counties in accordance with sections 5139.34 and 5139.43 of the Revised Code.

(O) "Indirect cost" means a fixed charge by the county for handling the grant and providing payroll and other related services.

(P) "Institution" means a state facility created by the general assembly that is under the management and control of the department or a private facility with which the department has contracted for the institutional care and custody of felony delinquents, except for youth placed in accordance with section 5139.38 of the Revised Code.

(Q) "Minority youth" means any youth that is not caucasian.

(R) "Program amendment" means a programmatic or budgetary change in a program.

(S) "Public safety beds" means a county's variable allocation is not adversely affected by bed days for any youth who are committed for a category I or II offense (aggravated murder, attempted aggravated murder, murder, attempted murder, kidnapping, rape, voluntary manslaughter, involuntary manslaughter (F1), felonious sexual penetration, and aggravated arson) as defined in sections 2151.26 and 5139.01 of the Revised Code with the exception of

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aggravated burglary and aggravated robbery; felony delinquents who are subject to and serving a three year period of commitment pursuant to divisions (A) and (B) of section 2152.17 of the Revised Code for an act other than a violation of 2911.11 of the Revised Code that would be a category I or II offense; felony delinquents committed to the department by the juvenile court of a county that has had one-tenth of one percent or less of the statewide adjudications for felony delinquents as averaged for the past four fiscal years for which data is available and who are in the custody of an institution or a community corrections facility; youth adjudicated and recommitted for the commission of an offense committed while in a department institution; youth serving disciplinary time as defined in section 5139.01 of the Revised Code; or youth who have violated the terms and conditions of their supervised release, have had that release revoked, and are serving time beyond the initial thirty day period of institutionalization as defined in section 5139.01 of the Revised Code.

(T) "Recommitment" means the commitment for a new period of incarceration in an institution for a youth who is already in the legal custody of the department.

(U) "Revocation" means the legal process through which a juvenile court returns a youth, who has violated the post-release terms and conditions, to the department for institutionalization pursuant to the applicable divisions of section 5139.52 of the Revised Code.

(V) "Standard program area" means the categories established by the department from which programs are developed and data reported.

(W) "Supplanting" means using grant funds to take the place of county money to fund the juvenile court's budget or related programs. Funds must be used to increase or enhance services to youth, and may not be used to pay for services which are already provided with county funds. Local funds for these services may not be decreased as a result of these grant funds.

(X) "Variable allocation" means the "Reclaim Ohio" allocation.

5139-67-02 Responsibilities of the department.

In administering the program, the department shall do all of the following:

(A) Establish procedures and time frames for submitting grant agreement and funding applications and other documents as required by this grant;

(B) Determine each juvenile court's base and variable allocations and notify each juvenile court of its allocations;

(C) Review and approve each grant agreement and funding application based on compliance with the Administrative Code and the Revised Code;

(D) Provide technical assistance and training to the juvenile courts relative to all rules and procedures of the grant; and assist in planning, program development, implementation and evaluation of this grant;

(E) Disburse the base allocation to the counties in accordance with the requirements of section 5139.34 of the Revised Code, if all required reports have been received;

(F) Disburse the variable funds to the counties in accordance with section 5139.43 of the Revised Code if all required reports have been received;

(G) Monitor the court's grant funded programs for compliance.

5139-67-03 Responsibilities of the county.

Grant funds received by the county:

(A) Shall not be commingled with any other funds;

(B) Shall be deposited in the felony delinquent care and custody fund;

(C) May be used to fund capital construction projects only in an amount that does not exceed fifteen per cent of the base allocation amount for the current fiscal year;

(D) Shall be disbursed for use by the juvenile courts as follows:

(1) For use in the provision of programs and services for delinquent, unruly and juvenile traffic offenders;

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(2) For use in prevention, early intervention, diversion, treatment and rehabilitation programs that are provided for alleged or adjudicated unruly or delinquent children or children at risk of becoming unruly and delinquent children, and juvenile traffic offenders.

(E) Shall not revert to the county general fund at the end of any fiscal year;

(F) Shall carry over from the end of any fiscal year to the next fiscal year in the felony delinquent care and custody fund;

(G) Shall be in addition to, and not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, juvenile traffic offenders or non-adjudicated youth supported by county moneys;

(H) Shall be in addition to, and not be used to supplant, county funds.

5139-67-04 Responsibilities of the juvenile court.

The juvenile court shall:

(A) Submit a signed grant agreement and funding application by a date determined by the department;

(B) Submit financial expenditure reports, other fiscal reports, program reports, statistical reports, and other information on forms and according to the time frame established by the department;

(C) Deposit grant funds into the felony delinquent care and custody fund;

(D) Provide treatment and rehabilitation programs and services for adjudicated felony delinquents that are alternatives to commitments to the department;

(E) Provide early intervention, treatment and rehabilitation programs for youth adjudicated delinquent, unruly, and juvenile traffic offenders;

(F) Provide out of home placement of youth only in detention centers, community rehabilitation centers, or community corrections facilities approved by the department pursuant to standards adopted by the department; licensed by an authorized state agency; or accredited by a national organization, such as the American Correctional Association, and recognized by the department;

(G) Develop effective programs for youth which preserve their rights and dignity. Program activities must be safe, productive, humane, and adequately supervised;

(H) Monitor and evaluate the effectiveness of all programs funded through the grant;

(I) Maintain records as needed to allow the department to conduct program monitoring and evaluation and fiscal audits;

(J) Participate in any program and fiscal monitoring and evaluation conducted by or on behalf of the department;

(K) Be required to have on file for auditing purposes any written agreements with contractors or other service agreements;

(L) Refer to standard program areas as defined by the department when developing programs. If the court wishes to develop a program not found in the standard program areas, they shall contact subsidy staff to request the establishment of a new standard program area;

(M) Ensure equal access of minority youth to the programs funded through this grant;

(N) If the juvenile court fails to submit the required funding application and grant agreement, fiscal reports, statistical reports or other required reports, the department shall not make base or variable allocation payments to the county until the information is received;

(O) In the event that a variable allocation payment is withheld under the conditions of paragraph (N) of this rule or section 5139.43 of the Revised Code, and the juvenile court does not comply with the conditions of paragraph (N) of this rule or section 5139.43 of the Revised Code within one hundred eighty days of the due date established by the department, the payment shall not be made to the county;

(P) Not use grant funds to support programs or services that do not comply with core requirements of the federal Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5633;

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(Q) Not use grant funds to support programs or services that research has shown to be ineffective;

(R) Not use grant funds to support programs or services, such as sex offender programs, that do not meet applicable standards as established in the Administrative Code.

5139-67-05 Fiscal restrictions and requirements.

(A) All expenditures must be directly related to approved programs and must be in accordance with the approved funding application;

(B) All obligations must be incurred within the grant period and liquidated by September thirtieth of the following state fiscal year, only excepting unemployment and worker's compensation expenses, which are recognized in the year that they are paid;

(C) If any cash balance remains at the end of the fiscal year, it shall be carried over into the next fiscal year within the felony delinquent care and custody fund and shall not be reverted to the county's general fund;

(D) All purchases are subject to county purchasing policies and procedures, except that purchases of direct service for youth do not have to be competitively bid pursuant to section 121.37 of the Revised Code. If no county purchasing procedures exist, state purchasing procedures shall be followed;

(E) Cost of equipment, property, services or any other budgeted items must be at fair market value, or that which would be paid by a prudent buyer in a given community. Prudence is based on comparison shopping or selection. Payment rates should conform closely to the going rate in the community for a given service;

(F) Should a county employee be employed and paid by the subsidy grant in addition to his/her full time job, the work must be performed on the employee's own time outside his/her full time job and compensation must be reasonable and consistent with fair market value. Hours worked for both jobs must be clearly documented;

(G) Any overtime premiums paid to court employees must be prorated among the various activities of the employee and not charged exclusively to grant funds unless the employee works full time on the grant. Overtime rates can be paid only if, and in proportion to the time, the employee worked on the grant during the relevant time period;

(H) Funds provided shall be in addition to, and shall not be used to supplant, existing county funding or any usual annual increase in county funding of the juvenile court or any program or service for delinquent children, unruly children, juvenile traffic offenders or non-adjudicated youth funded by the county;

(I) The department shall suspend funding to a subsidy grant funded program if it finds failure to comply with the administrative rules promulgated by the department;

(J) Administrative costs are limited to those essential to the management of the grant and should be reflected in the "program administration" standard program area. Indirect costs are unallowable within the grant;

(K) All costs incurred in fund-raising activities are unallowable within the grant;

(L) All costs for awards and social functions for staff are unallowable within the grant;

(M) Contributions and donations are unallowable within the grant;

(N) All costs related to licensing, professional fees, or dues for personnel, unless required by the job, are unallowable within the grant;

(O) College tuition reimbursement for employees is unallowable within the grant;

(P) All costs for staff amusement, social activities, and incidental costs relating thereto, such as meals, beverages, lodging, rentals, transportation and gratuities are unallowable within the grant;

(Q) Reimbursement for travel expenses for training and the costs of training are limited to that related to court services to youth. Records for travel and training expenses which clearly identify the trainees, locations of travel, and breakdown of expenses shall be maintained;

(R) Capital construction projects are not allowable except as noted under section 5139.34 of the Revised Code;

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(S) Checking accounts are a non-allowable expense with grant funds in accordance with state auditor sections 307.55 and 319.16 of the Revised Code;

(T) If a court receives a reimbursement from an outside entity for an expense for which costs were shared, the reimbursed funds shall be deposited in to the felony delinquent care and custody fund with a clear audit trail denoting the original expense;

(U) Expenditures shall not exceed an approved program or an approved line item by twenty per cent or five thousand dollars, whichever is less. A funding application amendment must be submitted for the department's prior approval for any expenses which would exceed these limits or if the expenditure would alter the nature of the program;

(V) Up to one thousand dollars may be moved between or within programs into existing line items of programs in a funding application. In such cases, the juvenile court will submit amended budget forms to the department. Transfers of more than one thousand dollars require that a funding application amendment be submitted to the department for approval prior to the transfer;

(W) At the time of separation from employment, the department will only recognize accrued vacation/sick leave expense liability in proportion to the percentage of the employment period during which the employee was employed in programs funded by the subsidy grant and paid from grant funds, pursuant to statutory and county policy limits;

(X) In the event that a county's application is not approved by July 1 of the fiscal year, then the county is still approved for allowable expenses and programs that were approved in the previous fiscal year; however, no new programs and expenditures are allowable until the application for the new fiscal year has been approved.

5139-67-06 Audit requirements and record retention.

The department and the county shall adhere to the following:

(A) Each county receiving grant funds shall in writing request the auditor of state, or an accounting firm authorized by the auditor of state, to perform additional procedures as part of the audit performed under section 117.11 of the Revised Code. The cost of performing the additional audit procedures shall be paid from the felony delinquent care and custody fund;

(1) The scope of the additional procedures shall include legal compliance with section 5139.34 and division (C) of section 5139.43 of the Revised Code;

(2) The scope of the additional procedures shall also include examination of revenues and expenses, cash balance, outstanding obligations and internal controls;

(3) The county will provide a copy of applicable sections of the audit report upon request of the department;

(B) It shall be the responsibility of the department to perform the following auditing functions:

(1) Pre-audit the grant applications, program amendments, and requests for funds to ensure that the fiscal forms have been submitted and completed in accordance with fiscal guidelines of the department;

(2) Interim exceptions. Within sixty days of the date of the filing of the reports under rule 5139-67-04 of the Administrative Code, the department shall, in writing, notify the administrative juvenile judge and the board of county commissioners of its intention to take interim exceptions to any of the actual and projected costs therein reported. The department shall include in this notification a sum certain by which it proposed to either increase or decrease the budget and/or expenditures incurred during the fiscal year covered by this report;

(C) The department may perform an audit of the county felony delinquent care and custody fund;

(D) When a county is selected for audit, per the department's audit schedule, the department will perform an audit of the fiscal records in accordance with generally accepted auditing standards, including such tests of the funding records and such auditing procedures considered necessary under the circumstances. The scope of the audit will encompass, but may not be limited to the following:

(1) An examination of financial transactions, funds, and reports pertaining to the approved funding application;

(2) An evaluation of compliance with the established rules;

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(E) Upon the completion of the audit examination, an audit report shall be issued which shall include a statement regarding:

- (1) The expenditures of funds, and;
- (2) Compliance with applicable regulations and the approved funding application, with approved revisions and amendments;

(F) Audit and actual exceptions. Within one hundred twenty days of the date the department conducts an audit as required under paragraph (D) of this rule, the department shall, in writing, notify the administrative juvenile judge and board of county commissioners of its intention to take exception to any of the actual costs therein reported. The county fiscal agent shall be required to refund to the department from the county general revenue fund the amount of the exception to the reported costs within forty-five days of notification unless an appeal of the exception is filed;

(G) Appeal of exceptions: if within forty-five days of the date of department notification to take exception under paragraph (A) or (B) of this rule, the administrative juvenile judge or the board of county commissioners does not file with the department a request for appeal, the action proposed in the department of youth services notification to take exception shall be final and binding. If an appeal is filed, the director of the department shall notify the court of the decision regarding the appeal within forty-five days. The actions proposed in the department's notification to take exception may be made final and binding before the expiration of the forty-five days within which the county may appeal if the administrative juvenile judge and board of county commissioners waive, in writing, the provisions of this paragraph. If the determination is made that the appeal of the exception is denied, the county fiscal agent shall be required to refund to the department from the county general revenue fund the amount of the exception to the reported costs within thirty days of notification of the appeal decision;

(H) With reasonable advance notice, provide the department access to records, including any or all documents related to the felony delinquent care and custody fund;

(I) Maintain accurate fund records which indicate all income and expenditures for the felony delinquent care and custody fund;

(J) Keep the records current and legible;

(K) Support all income and expenditures with documentation to provide a clear audit trail for every financial transaction;

(L) Proper inventory schedules must be maintained for all equipment items purchased with grant funds. Inventories must include the following information for all equipment: number, purchase price, date of acquisition, vendor, condition and location;

(M) County-established guidelines will be used for the salvage of unusable, damaged, and/or unrepairable equipment taken out of the juvenile court or projects funded by the youth services grant. If no county guidelines exist, state guidelines shall be followed;

(N) The administrative juvenile court judge and board of county commissioners must maintain all records related to this chapter until the department has accepted a final closing expenditures report for the last year for which the record documents or supports a cost or expenditure, or for three years, whichever is longer.

5139-67-07 Reconciliation.

(A) If the juvenile court believes there are errors in the calculation of chargeable bed days, the juvenile court shall submit a bed day reconciliation form to the department's bureau of subsidies and grants. No corrective adjustments can be made without this form being received;

(B) If an error is found during the same fiscal year in which the error took place, the adjustment will be made in the current fiscal year's total of chargeable bed days;

(C) If an error is found following the fiscal year in which the error took place and if the error is found prior to May of the following fiscal year then the adjustment shall be made to the prior fiscal year's total of chargeable bed days.

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5139-67-08 Internal control.

It shall be the responsibility of the juvenile court to evaluate its systems of internal accounting and administrative controls on an ongoing basis to provide assurance that:

- (A) Resources are utilized efficiently, effectively and in compliance with applicable law;
- (B) Obligations and costs are in compliance with applicable law;
- (C) Funds, property and other assets and resources are safeguarded against waste, loss, unauthorized use and misappropriation;
- (D) Revenues, expenditures and transfers of assets, resources, or funds applicable to operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports, and to maintain accountability over the state's resources.

5139-67-09 Responsibilities of the advisory committee.

The Reclaim advisory committee shall:

- (A) Be comprised of the following members:
 - (1) Two juvenile judges appointed by the Ohio association of juvenile court judges;
 - (2) The director of the Department of Youth Services, or his designee;
 - (3) The director of the Office of Budget and Management, or his designee;
 - (4) A member of the senate committee dealing with finance or criminal justice issues, appointed by the president of the senate;
 - (5) A member of the house of representatives committee dealing with finance or criminal justice, appointed by the speaker of the house of representatives;
 - (6) A member of the board of county commissioners, appointed by the county commissioners association of Ohio;
 - (7) Two juvenile court administrators, appointed by the Ohio association of juvenile court judges;
- (B) Meet at least once during each quarter of the calendar year, or more frequently at the call of the chairman, to conduct the business of the committee set forth in sections 5139.41 and 5139.44;
- (C) Advise the Department of Youth Services, Office of Budget and Management, and the general assembly on any changes that the committee believes should be made to the Reclaim Ohio program.

5139-67-10 Withholding and reallocation of funds.

(A) The maximum balance carry over at the end of each respective fiscal year in the felony delinquent care and custody fund in any county, from funds allocated to the county pursuant to sections 5139.34 and 5139.41 of the Revised Code in previous years, shall not exceed an amount to be calculated as provided in the formula set forth in section 5139.43 of the Revised Code, unless that county has applied by the due date established by the department for, and been granted, an exemption by the department after considering the following factors, supported by a written plan to bring the court into compliance with this rule on forms and according to the time frame established by the department:

- (1) Changes in the number of charged bed days;
- (2) Fluctuation in moneys allocated by the department;
- (3) Fluctuation in moneys expended by a county;
- (4) Fluctuation in community resources, grant match funds and county funding levels;
- (5) Interruptions in programming;
- (6) Program start-up;
- (7) Use of funds to support initiatives of the department, such as re-entry services for youth on parole or initiatives to address disproportionate minority contact;
- (8) Extraordinary circumstances that the juvenile court could not have anticipated;

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(B) Any moneys exceeding the maximum balance carry over shall be withheld from future payments, unless an exemption has been granted, and reallocated by the department as approved by the director in consultation with the reclaim advisory committee;

(C) If a payment is made to a county juvenile court and it is later determined through fiscal reports submitted by the county to the department that the payment should have been withheld, the department shall notify the court in writing and the county shall refund, within thirty days of notification, the amount that should have been withheld.