ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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	4. Key Words: Titles IV-B and IV-E of the Social Security Act; Fostering Connections to Success and Increasing Adoptions Act; Multiethnic Placement Act, Final Rule	

INFORMATION MEMORANDUM

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

SUBJECT: Interim Final Rule for Title IV-E of the Social Security Act including provisions and technical amendments necessary to implement a Tribal title IV-E program.

LEGAL AND RELATED REFERENCES: Title IV-E of the Social Security Act; the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law (P.L.) 110-351); 45 CFR 1355 and Appendices; and 45 CFR 1356.

PURPOSE: The purpose of this Information Memorandum (IM) is to inform State, Tribal and Territorial Titles IV-B and IV-E agencies of an interim final rule on the title IV-E program.

INFORMATION: In October 2008, P.L. 110-351 was enacted. The law authorized Federally recognized Indian Tribes, Tribal organizations, and Tribal consortia to directly-operate title IV-E programs for the first time and required that ACF publish interim final rules to carry out the amendments made to title IV-E of the Act to authorize Indian Tribes to directly-operate title IV-E programs. An interim final rule was published on January 6, 2012 in the Federal Register (77 FR 896) that amends the Federal regulations at 45 CFR 1355 and Appendices A-E, and 45 CFR 1356. In sum, this final rule:

- applies existing requirements of title IV-E and the implementing regulations to Tribal title IV-E agencies in the same manner as they apply to State title IV-E agencies, with limited statutory exceptions;
- creates two new regulatory sections:
    - section 1356.67 - State title IV-E agency procedures for the transfer of placement and care responsibility of a child in foster care to a Tribal title IV-E agency;

- section 1356.68 - Tribal title IV-E agency requirements for in-kind administrative and training contributions from third-party sources; and
- includes conforming and technical amendments to existing regulatory requirements that clarify implementation of the title IV-E programs.

EFFECTIVE Date: The interim final rule will be effective February 6, 2012, 30 days after publication.

INQUIRES TO**:** Children's Bureau Regional Program Managers

/s/
Bryan Samuels
Commissioner
Administration on Children, Youth
and Families

Attachments:
Interim Final Rule (77 FR 896)
Children's Bureau Regional Program Managers
45 CFR Parts 1355 and 1356 as amended by the IFR – DRAFT prepared by the Children's Bureau

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Please consult the Code of Federal Regulations for official or legal citations. This document has been prepared by Children's Bureau staff and may not be cited as an authoritative source.

SUBCHAPTER G—THE ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES, FOSTER CARE MAINTENANCE PAYMENTS, ADOPTION ASSISTANCE AND CHILD AND FAMILY SERVICES

PART 1355—GENERAL

AUTHORITY: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq.; 42 U.S.C. 1302.

§ 1355.10 Scope.

Unless otherwise specified, part 1355 applies to States and Indian Tribes and contains general requirements for Federal financial participation under titles IV-B and IV-E of the Social Security Act.

§ 1355.20 Definitions.

(a) Unless otherwise specified, the following terms as they appear in 45 CFR parts 1355, 1356 and 1357 of this title are defined as follows—

Act means the Social Security Act, as amended.

ACYF means the Administration on Children, Youth and Families, Administration for Children and Families (ACF), U. S. Department of Health and Human Services.

Adoption means the method provided by State law or for a Tribal title IV-E agency, Tribal law, which establishes the legal relationship of parent and child between persons who are not so related by birth, with the same mutual rights and obligations that exist between children and their birth parents. This relationship can only be termed "adoption" after the legal process is complete.

Child abuse and neglect means the definition contained in 42 U.S.C. 5106(g)(2).

Child care institution means a private child care institution, or a public child care institution which accommodates no more than twenty-five children, and is licensed by the licensing authority responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing. The licensing authority must be a State authority in the State in which the child care institution is located, a Tribal authority with respect to a child care institution on or near an Indian Reservation, or a Tribal authority of a Tribal title IV-E agency with respect to a child care institution in the Tribal title IV-E agency's service area. This definition must not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

Commissioner means the Commissioner on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services.

Date a child is considered to have entered foster care means the earlier of: The date of the first judicial finding that the child has been subjected to child abuse or neglect; or, the date that is 60 calendar days after the date on which the child is removed from the home pursuant to §1356.21(k). A title IV-E agency may use a date earlier than that required in

this paragraph, such as the date the child is physically removed from the home. This definition determines the date used in calculating all time period requirements for the periodic reviews, permanency hearings, and termination of parental rights provision in section 475(5) of the Act and for providing time-limited reunification services described at section 431(a)(7) of the Act. The definition has no relationship to establishing initial title IV-E eligibility.

Department means the United States Department of Health and Human Services.

Detention facility in the context of the definition of child care institution in section 472(c)(2) of the Act means a physically restricting facility for the care of children who require secure custody pending court adjudication, court disposition, execution of a court order or after commitment.

Entity, as used in §1355.38, means any organization or agency (e.g., a private child placing agency) that is separate and independent of the title IV-E agency; performs title IV-E functions pursuant to a contract or subcontract with the title IV-E agency; and, receives title IV-E funds. A State or Tribal court is not an "entity" for the purposes of §1355.38 except if an administrative arm of the State or Tribal court carries out title IV-E administrative functions pursuant to a contract with the title IV-E agency.

Foster care means 24-hour substitute care for children placed away from their parents or guardians and for whom the title IV-E agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.

Foster care maintenance payments are payments made on behalf of a child eligible for title IV-E foster care to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel for a child's visitation with family, or other caretakers. Local travel associated with providing the items listed above is also an allowable expense. In the case of child care institutions, such term must include the reasonable costs of administration and operation of such institutions as are necessarily required to provide the items described in the preceding sentences. "Daily supervision" for which foster care maintenance payments may be made includes:

(1) *Foster family care* —licensed child care, when work responsibilities preclude foster parents from being at home when the child for whom they have care and responsibility in foster care is not in school, licensed child care when the foster parent is required to participate, without the child, in activities associated with parenting a child in foster care that are beyond the scope of ordinary parental duties, such as attendance at administrative or judicial reviews, case conferences, or foster parent training. Payments to cover these costs may be: included in the basic foster care maintenance payment; a separate payment to the foster parent, or a separate payment to the child care provider; and

(2) *Child care institutions* —routine day-to-day direction and arrangements to ensure the well-being and safety of the child.

Foster family home means, for the purpose of title IV-E eligibility, the home of an individual or family licensed or approved as meeting the standards established by the licensing or approval authority(ies), that provides 24-hour out-of-home care for children. The licensing authority must be a State authority in the State in which the foster family home is located, a Tribal authority with respect to a foster family home on or near an Indian Reservation, or a Tribal authority of a Tribal title IV-E agency with respect to a foster family home in the Tribal title IV-E agency's service area. The term may include group homes, agency-operated boarding homes or other facilities licensed or approved for the purpose of providing foster care by the State or Tribal agency responsible for approval or licensing of such facilities. Foster family homes that are approved must be held to the same standards as foster family homes that are licensed. Anything less than full licensure or approval is insufficient for meeting title IV-E eligibility requirements. Title IV-E agencies may, however, claim title IV-E reimbursement during the period of time between the date a prospective foster family home satisfies all requirements for licensure or approval and the date the actual license is issued, not to exceed 60 days.

Full review means the joint Federal and title IV-E agency review of all federally-assisted child and family services programs, including family preservation and support services, child protective services, foster care, adoption, and independent living services, for the purpose of determining the title IV-E agency's substantial conformity with the plan requirements of titles IV-B and IV-E as listed in §1355.34 of this part. A full review consists of two phases, the statewide assessment (or for a Tribal title IV-E agency, an assessment of the service area) and a subsequent on-site review, as described in §1355.33 of this part.

Legal guardianship means a judicially-created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision-making. The term *legal guardian* means the caretaker in such a relationship.

National Child Abuse and Neglect Data System (NCANDS) means the voluntary national data collection and analysis system established by the Administration for Children and Families in response to a requirement in the Child Abuse Prevention and Treatment Act (Pub. L. 93–247), as amended.

Partial review means

(1) For the purpose of the child and family services review, the joint Federal and State/Tribal review of one or more federally-assisted child and family services program(s), including family preservation and support services, child protective services, foster care, adoption, and independent living services. A partial review may consist of any of the components of the full review, as mutually agreed upon by the title IV-E agency and the Administration for Children and Families as being sufficient to determine substantial conformity of the reviewed components with the plan requirements of titles IV-B and IV-E as listed in §1355.34 of this part;

(2) For the purpose of title IV-B and title IV-E State plan compliance issues that are outside the prescribed child and family services review format, e.g., compliance with AFCARS requirements, a review of State laws, policies, regulations, or other information appropriate to the nature of the concern, to determine State compliance; or

(3) For the purpose of title IV-E plan compliance issues for a Tribal title IV-E agency which are outside of the prescribed child and family services review format, a review of Tribal laws, policies, regulations, or other information appropriate to the nature of the concern, to determine plan compliance.

Permanency hearing means:

(1) The hearing required by section 475(5)(C) of the Act to determine the permanency plan for a child in foster care. Within this context, the court (including a Tribal court) or administrative body determines whether and, if applicable, when the child will be:

(i) Returned to the parent;

(ii) Placed for adoption, with the title IV-E agency filing a petition for termination of parental rights;

(iii) Referred for legal guardianship;

(iv) Placed permanently with a fit and willing relative; or

(v) Placed in another planned permanent living arrangement, but only in cases where the title IV-E agency has documented to the State or Tribal court a compelling reason for determining that it would not be in the best interests of the child to follow one of the four specified options above.

(2) The permanency hearing must be held no later than 12 months after the date the child is considered to have entered foster care in accordance with the definition at §1355.20 of this part or within 30 days of a judicial determination that reasonable efforts to reunify the child and family are not required. After the initial permanency hearing, subsequent permanency hearings must be held not less frequently than every 12 months during the continuation of foster care. The permanency hearing must be conducted by a family or juvenile court or another court of competent jurisdiction or by an administrative body appointed or approved by the court which is not a part of or under the supervision or direction of the title IV-E agency. Paper reviews, *ex parte* hearings, agreed orders, or other actions or hearings which are not open to the participation of the parents of the child, the child (if of appropriate age), and foster parents or preadoptive parents (if any) are not permanency hearings.

State means, for title IV-B, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa. For title IV-E the term “State” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

State agency means the State agency administering or supervising the administration of the title IV-B and title IV-E State plans and the title XX social services block grant program. An exception to this requirement is permitted by section 103(d) of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272). Section 103(d) provides that, if on December 1, 1974, the title IV-B program (in a State or local agency) and the social services program under section 402(a)(3) of the Act (the predecessor program to

title XX) were administered by separate agencies, that separate administration of the programs could continue at State option.

Statewide assessment(or Tribal assessment) means the initial phase of a full review of all federally-assisted child and family services programs in the States (or for a Tribal title IV-E agency, in the service area), including family preservation and support services, child protective services, foster care, adoption, and independent living services as described in §1355.33(b) of this part, for the purpose of determining substantial conformity with the plan requirements of titles IV-B and IV-E as listed in §1355.34 of this part.

Title IV-E agency means the State or Tribal agency administering or supervising the administration of the title IV-B and title IV-E plans.

Tribal agency means, for the purpose of title IV-E, the agency of the Indian tribe, Indian Tribal Organization (as those terms are defined in section 479B(a) of the Act) or consortium of Indian tribes that is administering or supervising the administration of the title IV-E and title IV-B, subpart 1 plan.

(b) Unless otherwise specified, the definitions contained in section 475 of the Act apply to all programs under titles IV-E and IV-B of the Act.

§ 1355.21 Plan requirements for titles IV-E and IV-B.

(a) The plans for titles IV-E and IV-B must provide for safeguards on the use and disclosure of information which meet the requirements contained in section 471(a)(8) of the Act.

(b) The plans for titles IV-E and IV-B must provide for compliance with the Department's regulations applicable to the State and/or Tribe as listed in 45 CFR 1355.30.

(c) The State agency and the Indian Tribe must make available for public review and inspection the Child and Family Services Plan (CFSP) and the Annual Progress and Services Reports. (See 45 CFR 1357.15 and 1357.16.) The title IV-E agency also must make available for public review and inspection the title IV-E Plan.

§ 1355.25 Principles of child and family services.

The following principles, most often identified by practitioners and others as helping to assure effective services for children, youth, and families, should guide the States and Indian Tribes in developing, operating, and improving the continuum of child and family services.

(a) The safety and well-being of children and of all family members is paramount. When safety can be assured, strengthening and preserving families is seen as the best way to promote the healthy development of children. One important way to keep children safe is to stop violence in the family including violence against their mothers.

(b) Services are focused on the family as a whole; service providers work with families as partners in identifying and meeting individual and family needs; family strengths are identified, enhanced, respected, and mobilized to help families solve the problems which compromise their functioning and well-being.

(c) Services promote the healthy development of children and youth, promote permanency for all children and help prepare youth emancipating from the foster care system for self-sufficiency and independent living.

(d) Services may focus on prevention, protection, or other short or long-term interventions to meet the needs of the family and the best interests and need of the individual(s) who may be placed in out-of-home care.

(e) Services are timely, flexible, coordinated, and accessible to families and individuals, principally delivered in the home or the community, and are delivered in a manner that is respectful of and builds on the strengths of the community and cultural groups.

(f) Services are organized as a continuum, designed to achieve measurable outcomes, and are linked to a wide variety of supports and services which can be crucial to meeting families' and children's needs, for example, housing, substance abuse treatment, mental health, health, education, job training, child care, and informal support networks.

(g) Most child and family services are community-based, involve community organizations, parents and residents in their design and delivery, and are accountable to the community and the client's needs.

(h) Services are intensive enough and of sufficient duration to keep children safe and meet family needs. The actual level of intensity and length of time needed to ensure safety and assist the family may vary greatly between preventive (family support) and crisis intervention services (family preservation), based on the changing needs of children and families at various times in their lives. A family or an individual does not need to be in crisis in order to receive services.

§ 1355.30 Other applicable regulations.

Except as specified, the following regulations are applicable to State and Tribal programs funded under titles IV-B and IV-E of the Act.

(a) 45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.

(b) 45 CFR Part 30—Claims Collection.

(c) 2 CFR Part 376—Nonprocurement Debarment and Suspension.

(d) 2 CFR Part 382—Requirements for Drug-Free Workplace (Financial Assistance).

(e) 45 CFR Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964.

(f) 45 CFR Part 81—Practice and Procedure for Hearings Under Part 80 of This Title.

(g) 45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance.

(h) 45 CFR Part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance.

(i) 45 CFR Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Part 92 of this title is applicable to title IV-B programs and the John H. Chafee Foster Care Independence Program under Section 477 of the Act that are operated by States and/or Tribes. Part 92

of this title is applicable to title IV-E foster care and adoption assistance programs operated by a State title IV-E agency, except that section 92.24 Matching or cost sharing and section 92.41 Financial Reporting do not apply. Part 92 of this title is applicable to title IV-E foster care and adoption assistance programs operated by a Tribal title IV-E agency pursuant to section 479B, except that section 92.41 and the sections specified in §1356.68 do not apply to a Tribal title IV-E agency.

(j) 45 CFR Part 93—New Restrictions on Lobbying.

(k) 45 CFR Part 95—General Administration—Grant Programs (Public Assistance and Medical Assistance). Part 95 of this title is applicable to State and Indian Tribe operated title IV-B and title IV-E programs, except:

(1) Notwithstanding 45 CFR 95.1(a), subpart A, Time Limits for States to File Claims, does not apply to State and Indian Tribe-operated title IV-B (subparts 1 and 2) program and the John H. Chafee Foster Care Independence Program; and

(2) 45 CFR Part 95 Subpart E, Cost Allocation Plans, is not applicable to Indian Tribe-operated title IV-E foster care and adoption assistance pursuant to section 479B of the Act (ACYF-CB-PI-10-13).

(l) 45 CFR Part 97—Consolidation of Grants to the Insular Areas. (Applicable only to the title IV-B programs).

(m) 45 CFR Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities. Only one section is applicable: 45 CFR 100.12, How may a State simplify, consolidate, or substitute federally required State plans? This section is applicable to a State title IV-E agency only.

(n) 45 CFR Part 201—Grants to States for Public Assistance Programs. Only the following sections are applicable:

(1) §201.5—Grants. Applicable to title IV-E foster care and adoption assistance only.

(2) §201.6—Withholding of payment; reduction of Federal financial participation in the costs of social services and training. Applicable only to an unapprovable change in an approved plan, or the failure of the agency to change its approved plan to conform to a new Federal requirement for approval of plans.

(3) §201.15—Deferral of claims for Federal financial participation. Applicable only to title IV-E foster care and adoption assistance.

(4) §201.66—Repayment of Federal funds by installments. Applicable only to title IV-E foster care and adoption assistance.

(o) 45 CFR Part 204.1—Submittal of State Plans for Governor's Review. Applicable to State title IV-E agencies only.

(p) 45 CFR Part 205—General Administration—Public Assistance Programs. Only the following sections are applicable:

(1) §205.5—Plan amendments.

(2) §205.10—Hearings.

(3) §205.50—Safeguarding information for the financial assistance programs.

(4) §205.100—Single State agency.

§ 1355.31 Elements of the child and family services review system.

Scope. Sections 1355.32 through 1355.37 of this part apply to reviews of child and family services programs under subparts 1 and 2 of title IV-B of the Act, and reviews of foster care and adoption assistance programs under title IV-E of the Act.

§ 1355.32 Timetable for the reviews.

(a) Initial reviews. Each State must complete an initial full review as described in §1355.33 of this part during the four-year period after the final rule becomes effective. Each Tribal title IV-E agency must complete an initial full review as described in §1355.33 of this part, during the four-year period after the ACF determines that the Tribe has approved title IV-B, subpart 1 and 2 and title IV-E plans and has sufficient cases for ACF to apply the procedures in §1355.33(c).

(b) *Reviews following the initial review.* (1) A title IV-E agency found to be operating in substantial conformity during an initial or subsequent review, as defined in §1355.34 of this part, must:

(i) Complete a full review every five years; and

(ii) Submit a completed statewide assessment, or in the case of a Tribal title IV-E agency, a completed Tribal assessment of the service area, to ACF three years after the on-site review. The assessment will be reviewed jointly by the title IV-E agency and ACF to determine the State's or Indian Tribe's continuing substantial conformity with the plan requirements subject to review. No formal approval of this interim assessment by ACF is required.

(2) A program found not to be operating in substantial conformity during an initial or subsequent review will:

(i) Be required to develop and implement a program improvement plan, as defined in §1355.35 of this part; and

(ii) Begin a full review two years after approval of the program improvement plan.

(c) Reinstatement of reviews based on information that a title IV-E agency is not in substantial conformity. (1) ACF may require a full or a partial review at any time, based on any information, regardless of the source, that indicates the title IV-E agency may no longer be operating in substantial conformity.

(2) Prior to reinstating a full or partial review, ACF will conduct an inquiry and require the title IV-E agency to submit additional data whenever ACF receives information that the title IV-E agency may not be in substantial conformity.

(3) If the additional information and inquiry indicates to ACF's satisfaction that the title IV-E agency is operating in substantial conformity, ACF will not proceed with any further review of the issue addressed by the inquiry. This inquiry will not substitute for the full reviews conducted by ACF under §1355.32(b).

(4) ACF may proceed with a full or partial review if the title IV-E agency does not provide the additional information as requested, or the additional information confirms that the title IV-E agency may not be operating in substantial conformity.

(d) Partial reviews based on noncompliance with plan requirements that are outside the scope of a child and family services review. When ACF becomes aware of a title IV-B or

title IV-E compliance issue that is outside the scope of the child and family services review process, we will:

(1) Conduct an inquiry and require the title IV-E agency to submit additional data.

(2) If the additional information and inquiry indicates to ACF's satisfaction that the title IV-E agency is in compliance, we will not proceed with any further review of the issue addressed by the inquiry.

(3) ACF will institute a partial review, appropriate to the nature of the concern, if the title IV-E agency does not provide the additional information as requested, or the additional information confirms that the title IV-E agency may not be in compliance.

(4) If the partial review determines that the title IV-E agency is not in compliance with the applicable plan requirement, the title IV-E agency must enter into a program improvement plan designed to bring the title IV-E agency into compliance, if the provisions for such a plan are applicable. The terms, action steps and time-frames of the program improvement plan will be developed on a case-by-case basis by ACF and the title IV-E agency. The program improvement plan must take into consideration the extent of noncompliance and the impact of the noncompliance on the safety, permanency or well-being of children and families served through the title IV-E agency's title IV-B or IV-E allocation. If the title IV-E agency remains out of compliance, the title IV-E agency will be subject to a penalty related to the extent of the noncompliance.

(5) Review of AFCARS compliance will take place in accordance with 45 CFR 1355.40.

§ 1355.33 Procedures for the review.

(a) The full child and family services reviews will:

(1) Consist of a two-phase process that includes a statewide assessment and an on-site review; and

(2) Be conducted by a team of Federal, and State or Tribal reviewers that includes:

(i) Staff of the child and family services agency, including the offices that represent the service areas that are the focus of any particular review;

(ii) Representatives selected by the title IV-E agency, in collaboration with the ACF Regional Office, from those with whom the title IV-E agency was required to consult in developing its CFSP, as described and required in 45 CFR part 1357.15(l);

(iii) Federal staff of HHS; and

(iv) Other individuals, as deemed appropriate and agreed upon by the title IV-E agency and ACF.

(b) Statewide or Tribal Assessment. The first phase of the full review will be a statewide assessment, or for a Tribal title IV-E agency a service area assessment, conducted by the title IV-E agency's internal and external members of the review team. The assessment must:

(1) Address each systemic factor under review including the statewide/Tribal information system; case review system; quality assurance system; staff training; service array; agency responsiveness to the community; and foster and adoptive parent licensing, recruitment and retention;

(2) Assess the outcome areas of safety, permanence, and well-being of children and families served by the title IV-E agency using data from AFCARS and NCANDS. For the initial review, ACF may approve another data source to substitute for AFCARS, and in all reviews, ACF may approve another data source to substitute for NCANDS. The title IV-E agency must also analyze and explain its performance in meeting the national standards for the statewide/Tribal service area data indicators;

(3) Assess the characteristics of the title IV-E agency that have the most significant impact on the agency's capacity to deliver services to children and families that will lead to improved outcomes;

(4) Assess the strengths and areas of the title IV-E agency's child and family services programs that require further examination through an on-site review;

(5) Include a listing of all the persons external to the title IV-E agency who participated in the preparation of the assessment pursuant to §§1355.33(a)(2)(ii) and (iv); and

(6) Be completed and submitted to ACF within 4 months of the date that ACF transmits the information for the assessment to the title IV-E agency.

(c) On-site review. The second phase of the full review will be an on-site review.

(1) The on-site review will cover the title IV-E agency's programs under titles IV-B and IV-E of the Act, including in-home services and foster care. It will be jointly planned by the title IV-E agency and ACF, and guided by information in the completed assessment that identifies areas in need of improvement or further review.

(2) The on-site review may be concentrated in several specific political subdivisions or jurisdictions of the title IV-E agency, as agreed upon by the ACF and the title IV-E agency; however, for a State title IV-E agency, a State's largest metropolitan subdivision must be one of the locations selected.

(3) ACF has final approval of the selection of specific areas of the title IV-E agency's child and family services continuum described in paragraph (c)(1) of this section and selection of the political subdivisions referenced in paragraph (c)(2) of this section.

(4) Sources of information collected during the on-site review to determine substantial conformity must include, but are not limited to:

(i) Case records on children and families served by the agency;

(ii) Interviews with children and families whose case records have been reviewed and who are, or have been, recipients of services of the agency;

(iii) Interviews with caseworkers, foster parents, and service providers for the cases selected for the on-site review; and

(iv) Interviews with key stakeholders, both internal and external to the agency, which, at a minimum, must include those individuals who participated in the development of the State's or Tribal title IV-E agency's CFSP required at 45 CFR 1357.15(1), courts, administrative review bodies, children's guardians ad litem and other individuals or bodies assigned responsibility for representing the best interests of the child.

(5) The sample will range from 30–50 cases. Foster care cases must be drawn randomly from AFCARS, or, for the initial review, from another source approved by ACF and include children who entered foster care during the year under review. In-home cases must be drawn randomly from NCANDS or from another source approved by ACF.

To ensure that all program areas are adequately represented, the sample size may be increased.

(6) The sample of 30–50 cases reviewed on-site will be selected from a randomly drawn oversample of no more than 150 foster care and 150 in-home services cases. The oversample must be statistically significant at a 90 percent compliance rate (95 percent in subsequent reviews), with a tolerable sampling error of 5 percent and a confidence coefficient of 95 percent. The additional cases in the oversample not selected for the on-site review will form the sample of cases to be reviewed, if needed, in order to resolve discrepancies between the statewide/Tribal assessment and the on-site review in accordance with paragraph (d)(2) of this section.

(d) Resolution of discrepancies between the assessment and the findings of the on-site portion of the review. Discrepancies between the statewide or Tribal assessment and the findings of the on-site portion of the review will be resolved by either of the following means, at the title IV-E agency's option:

(1) The submission of additional information by the title IV-E agency; or

(2) ACF and the title IV-E agency will review additional cases using only those indicators in which the discrepancy occurred. ACF and the title IV-E agency will determine jointly the number of additional cases to be reviewed, not to exceed 150 foster care cases or 150 in-home services cases to be selected as specified in paragraph (c)(6) of this section.

(e) Partial review. A partial child and family services review, when required, will be planned and conducted jointly by ACF and the title IV-E agency based on the nature of the concern. A partial review does not substitute for the full reviews as required under §1355.32(b).

(f) Notification. Within 30 calendar days following either a partial child and family services review, full child and family services review, or the resolution of a discrepancy between the assessment and the findings of the on-site portion of the review, ACF will notify the title IV-E agency in writing of whether the title IV-E agency is, or is not, operating in substantial conformity.

§ 1355.34 Criteria for determining substantial conformity.

(a) Criteria to be satisfied. ACF will determine a title IV-E agency's substantial conformity with title IV-B and title IV-E plan requirements based on the following:

(1) Its ability to meet national standards, set by the Secretary, for the statewide/Tribal service area data indicators associated with specific outcomes for children and families;

(2) Its ability to meet criteria related to outcomes for children and families; and

(3) Its ability to meet criteria related to the title IV-E agency's capacity to deliver services leading to improved outcomes.

(b) *Criteria related to outcomes.* (1) A title IV-E agency's substantial conformity will be determined by its ability to substantially achieve the following child and family service outcomes:

(i) *In the area of child safety:*

(A) Children are, first and foremost, protected from abuse and neglect; and,

(B) Children are safely maintained in their own homes whenever possible and appropriate;

(ii) *In the area of permanency for children:*

(A) Children have permanency and stability in their living situations; and

(B) The continuity of family relationships and connections is preserved for children; and

(iii) *In the area of child and family well-being:*

(A) Families have enhanced capacity to provide for their children's needs;

(B) Children receive appropriate services to meet their educational needs; and

(C) Children receive adequate services to meet their physical and mental health needs.

(2) A title IV-E agency's level of achievement with regard to each outcome reflects the extent to which a title IV-E agency has:

(i) Met the national standard(s) for the statewide/Tribal service area data indicator(s) associated with that outcome, if applicable; and,

(ii) Implemented the following CFSP requirements or assurances:

(A) The requirements in 45 CFR 1357.15(p) regarding services designed to assure the safety and protection of children and the preservation and support of families;

(B) The requirements in 45 CFR 1357.15(q) regarding the permanency provisions for children and families in sections 422 and 471 of the Act;

(C) The requirements in section 422(b)(7) of the Act regarding recruitment of potential foster and adoptive families;

(D) The assurances as required by section 422(b)(8)(B) of the Act regarding policies and procedures for abandoned children;

(E) The requirements in section 422(b)(9) of the Act regarding the State's compliance with the Indian Child Welfare Act;

(F) The requirements in section 422(b)(10) of the Act regarding a title IV-E agency's plan for effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements; and,

(G) The requirements in section 471(a)(15) of the Act regarding reasonable efforts to prevent removals of children from their homes, to make it possible for children in foster care to safely return to their homes, or, when the child is not able to return home, to place the child in accordance with the permanency plan and complete the steps necessary to finalize the permanent placement.

(3) A title IV-E agency will be determined to be in substantial conformity if its performance on:

(i) Each statewide/Tribal service area data indicator developed pursuant to paragraph (b)(4) of this section meets the national standard described in paragraph (b)(5) of this section; and,

(ii) Each outcome listed in paragraph (b)(1) of this section is rated as “substantially achieved” in 95 percent of the cases examined during the on-site review (90 percent of the cases for an initial review). Information from various sources (case records, interviews) will be examined for each outcome and a determination made as to the degree to which each outcome has been achieved for each case reviewed.

(4) The Secretary may, using AFCARS and NCANDS, develop statewide/Tribal service area data indicators for each of the specific outcomes described in paragraph (b)(1) of this section for use in determining substantial conformity. The Secretary may add, amend, or suspend any such statewide/Tribal service area data indicator(s) when appropriate. To the extent practical and feasible, the statewide/Tribal service area data indicators will be consistent with those developed in accordance with section 203 of the Adoption and Safe Families Act of 1997 (Pub. L. 105–89).

(5) The initial national standards for the statewide data indicators described in paragraph (b)(4) of this section will be based on the 75th percentile of all State performance for that indicator, as reported in AFCARS or NCANDS. The Secretary may adjust these national standards if appropriate. The initial national standard will be set using the following data sources:

(i) The 1997 and 1998 submissions to NCANDS (or the most recent and complete 2 years available), for those statewide data indicators associated with the safety outcomes; and,

(ii) The 1998b, 1999c, and 2000a submissions to AFCARS (or the most recent and complete report periods available), for those statewide data indicators associated with the permanency outcomes.

(c) Criteria related to title IV-E agency capacity to deliver services leading to improved outcomes for children and families. In addition to the criteria related to outcomes contained in paragraph (b) of this section, the title IV-E agency also must satisfy criteria related to the delivery of services. Based on information from the assessment and onsite review, the title IV-E agency must meet the following criteria for each systemic factor in paragraphs (c)(2) through (c)(7) of this section to be considered in substantial conformity: All of the plan requirements associated with the systemic factor must be in place, and no more than one of the plan requirements fails to function as described in paragraphs (c)(2) through (c)(7) of this section. The systemic factor in paragraph (c)(1) of this section, is rated on the basis of only one plan requirement. To be considered in substantial conformity, the plan requirement associated with statewide/Tribal information system capacity must be both in place and functioning as described in the requirement. ACF will use a rating scale to make the determinations of substantial conformity. The systemic factors under review are:

(1) Statewide/Tribal information system*:* The State/Tribal title IV-E agency is operating a statewide/Tribal information system that, at a minimum, can readily identify the status, demographic characteristics, location, and goals for the placement of every child who is (or within the immediately preceding 12 months, has been) in foster care (section 422(b)(8)(A)(i) of the Act);

(2) *Case review system:* The title IV-E agency has procedures in place that:

(i) Provide, for each child, a written case plan to be developed jointly with the child's parent(s) that includes provisions: for placing the child in the least restrictive, most family-like placement appropriate to his/her needs, and in close proximity to the parents' home where such placement is in the child's best interests; for visits with a child placed out of State/Tribal service area at least every 12 months by a caseworker of the agency or of the agency in the State/Tribal service area where the child is placed; and for

documentation of the steps taken to make and finalize an adoptive or other permanent placement when the child cannot return home (sections 422(b)(8)(A)(ii), 471(a)(16) and 475(5)(A) of the Act);

(ii) Provide for periodic review of the status of each child no less frequently than once every six months by either a court or by administrative review (sections 422(b)(8)(A)(ii), 471(a)(16) and 475(5)(B) of the Act);

(iii) Assure that each child in foster care under the supervision of the title IV-E agency has a permanency hearing in a family or juvenile court or another court of competent jurisdiction (including a Tribal court), or by an administrative body appointed or approved by the court, which is not a part of or under the supervision or direction of the title IV-E agency, no later than 12 months from the date the child entered foster care (and not less frequently than every 12 months thereafter during the continuation of foster care) (sections 422(b)(8)(A)(ii), 471(a)(16) and 475(5)(C) of the Act);

(iv) Provide a process for termination of parental rights proceedings in accordance with sections 422(b)(8)(A)(ii), 475(5)(E) and (F) of the Act; and,

(v) Provide foster parents, preadoptive parents, and relative caregivers of children in foster care with notice of and an opportunity to be heard in permanency hearings and six-month periodic reviews held with respect to the child (sections 422(b)(8)(A)(ii), 475(5)(G) of the Act, and 45 CFR 1356.21(o)).

(3) *Quality assurance system:* The title IV-E agency has developed and implemented standards to ensure that children in foster care placements are provided quality services that protect the safety and health of the children (section 471(a)(22)) and is operating an identifiable quality assurance system (45 CFR 1357.15(u)) as described in the CFSP that:

(i) Is in place in the jurisdictions within the State/Tribal service area where services included in the CFSP are provided;

(ii) Is able to evaluate the adequacy and quality of services provided under the CFSP;

(iii) Is able to identify the strengths and needs of the service delivery system it evaluates;

(iv) Provides reports to agency administrators on the quality of services evaluated and needs for improvement; and

(v) Evaluates measures implemented to address identified problems.

(4) *Staff training:* The title IV-E agency is operating a staff development and training program (45 CFR 1357.15(t)) that:

(i) Supports the goals and objectives in the title IV-E agency's CFSP;

(ii) Addresses services provided under both subparts of title IV-B and the training plan under title IV-E of the Act;

(iii) Provides training for all staff who provide family preservation and support services, child protective services, foster care services, adoption services and independent living services soon after they are employed and that includes the basic skills and knowledge required for their positions;

(iv) Provides ongoing training for staff that addresses the skills and knowledge base needed to carry out their duties with regard to the services included in the CFSP; and,

(v) Provides training for current or prospective foster parents, adoptive parents, and the staff of State/Tribal-licensed or State/Tribal-approved child care institutions providing

care to foster and adopted children receiving assistance under title IV-E that addresses the skills and knowledge base needed to carry out their duties with regard to caring for foster and adopted children.

(5) *Service array:* Information from the assessment and on-site review determines that the title IV-E agency has in place an array of services (45 CFR 1357.15(n) and section 422(b)(8)(A)(iii) and (iv) of the Act) that includes, at a minimum:

(i) Services that assess the strengths and needs of children and families assisted by the agency and are used to determine other service needs;

(ii) Services that address the needs of the family, as well as the individual child, in order to create a safe home environment;

(iii) Services designed to enable children at risk of foster care placement to remain with their families when their safety and well-being can be reasonably assured;

(iv) Services designed to help children achieve permanency by returning to families from which they have been removed, where appropriate, be placed for adoption or with a legal guardian or in some other planned, permanent living arrangement, and through post-legal adoption services;

(v) Services that are accessible to families and children in all political subdivisions and/or the entire service area covered in the CFSP; and,

(vi) Services that can be individualized to meet the unique needs of children and families served by the agency.

(6) *Agency responsiveness to the community:*

(i) The title IV-E agency, in implementing the provisions of the CFSP, engages in ongoing consultation with a broad array of individuals and organizations representing the State/Tribal and county/local agencies responsible for implementing the CFSP and other major stakeholders in the services delivery system including, at a minimum, Tribal representatives, consumers, service providers, foster care providers, the juvenile court, and other public and private child and family serving agencies (45 CFR 1357.15(l)(3));

(ii) The agency develops, in consultation with these or similar representatives, annual reports of progress and services delivered pursuant to the CFSP (45 CFR 1357.16(a));

(iii) There is evidence that the agency's goals and objectives included in the CFSP reflect consideration of the major concerns of stakeholders consulted in developing the plan and on an ongoing basis (45 CFR 1357.15(m)); and

(iv) There is evidence that the services under the plan are coordinated with services or benefits under other Federal or federally-assisted programs serving the same populations to achieve the goals and objectives in the plan (45 CFR 1357.15(m)).

(7) *Foster and adoptive parent licensing, recruitment and retention:*

(i) The State or Tribe has established and maintains standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes (section 471(a)(10) of the Act);

(ii) The standards so established are applied by the State or Tribe to every licensed or approved foster family home or child care institution receiving funds under title IV-E or IV-B of the Act (section 471(a)(10) of the Act);

(iii) The title IV-E agency complies with the safety requirements for foster care and adoptive placements in accordance with sections 471(a)(16), 471(a)(20) and 475(1) of the Act and 45 CFR 1356.30;

(iv) The title IV-E agency has in place an identifiable process for assuring the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State or Tribe for whom foster and adoptive homes are needed (section 422(b)(7) of the Act); and,

(v) The title IV-E agency has developed and implemented plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children (section 422(b)(10) of the Act).

(d) *Availability of review instruments.* ACF will make available to the title IV-E agencies copies of the review instruments, which will contain the specific standards to be used to determine substantial conformity, on an ongoing basis, whenever significant revisions to the instruments are made.

§ 1355.35 Program improvement plans.

(a) *Mandatory program improvement plan.* (1) Title IV-E agencies found not to be operating in substantial conformity shall develop a program improvement plan. The program improvement plan must:

(i) Be developed jointly by title IV-E agency and Federal staff in consultation with the review team;

(ii) Identify the areas in which the title IV-E agency's program is not in substantial conformity;

(iii)Set forth the goals, the action steps required to correct each identified weakness or deficiency, and dates by which each action step is to be completed in order to improve the specific areas;

(iv) Set forth the amount of progress the statewide/Tribal data will make toward meeting the national standards;

(v) Establish benchmarks that will be used to measure the title IV-E agency's progress in implementing the program improvement plan and describe the methods that will be used to evaluate progress;

(vi) Identify how the action steps in the plan build on and make progress over prior program improvement plans;

(vii) Identify the technical assistance needs and sources of technical assistance, both Federal and non-Federal, which will be used to make the necessary improvements identified in the program improvement plan.

(2) In the event that ACF and the title IV-E agency cannot reach consensus regarding the content of a program improvement plan or the degree of program or data improvement to be achieved, ACF retains the final authority to assign the contents of the plan and/or the degree of improvement required for successful completion of the plan. Under such circumstances, ACF will render a written rationale for assigning such content or degree of improvement.

(b) *Voluntary program improvement plan.* Title IV-E agencies found to be operating in substantial conformity may voluntarily develop and implement a program improvement plan in collaboration with the ACF Regional Office, under the following circumstances:

(1) The title IV-E agency and Regional Office agree that there are areas of the title IV-E agency's child and family services programs in need of improvement which can be addressed through the development and implementation of a voluntary program improvement plan;

(2) ACF approval of the voluntary program improvement plan will not be required; and

(3) No penalty will be assessed for the title IV-E agency's failure to achieve the goals described in the voluntary program improvement plan.

(c) *Approval of program improvement plans.* (1) A title IV-E agency determined not to be in substantial conformity must submit a program improvement plan to ACF for approval within 90 calendar days from the date the title IV-E agency receives the written notification from ACF that it is not operating in substantial conformity.

(2) Any program improvement plan will be approved by ACF if it meets the provisions of paragraph (a) of this section.

(3) If the program improvement plan does not meet the provisions of paragraph (a) of this section, the title IV-E agency will have 30 calendar days from the date it receives notice from ACF that the plan has not been approved to revise and resubmit the plan for approval.

(4) If the title IV-E agency does not submit a revised program improvement plan according to the provisions of paragraph (c)(3) of this section or if the plan does not meet the provisions of paragraph (a) of this section, withholding of funds pursuant to the provisions of §1355.36 of this part will begin.

(d) *Duration of program improvement plans.* (1) ACF retains the authority to establish time frames for the program improvement plan consistent with the seriousness and complexity of the remedies required for any areas determined not in substantial conformity, not to exceed two years.

(2) Particularly egregious areas of nonconformity impacting child safety must receive priority in both the content and time frames of the program improvement plans and must be addressed in less than two years.

(3) The Secretary may approve extensions of deadlines in a program improvement plan not to exceed one year. The circumstances under which requests for extensions will be approved are expected to be rare. The title IV-E agency must provide compelling documentation of the need for such an extension. Requests for extensions must be received by ACF at least 60 days prior to the affected completion date.

(4) Title IV-E agencies must provide quarterly status reports (unless ACF and the title IV-E agency agree to less frequent reports) to ACF. Such reports must inform ACF of progress in implementing the measures of the plan.

(e) *Evaluating program improvement plans.* Program improvement plans will be evaluated jointly by the title IV-E agency and ACF, in collaboration with other members of the review team, as described in the title IV-E agency’s program improvement plan and in accordance with the following criteria:

(1) The methods and information used to measure progress must be sufficient to determine when and whether the title IV-E agency is operating in substantial conformity or has reached the negotiated standard with respect to statewide/Tribal service area data indicators that failed to meet the national standard for that indicator;

(2) The frequency of evaluating progress will be determined jointly by the title IV-E agency and Federal team members, but no less than annually. Evaluation of progress will be performed in conjunction with the annual updates of the title IV-E agency's CFSP, as described in paragraph (f) of this section;

(3) Action steps may be jointly determined by the title IV-E agency and ACF to be achieved prior to projected completion dates, and will not require any further evaluation at a later date; and

(4) The title IV-E agency and ACF may jointly renegotiate the terms and conditions of the program improvement plan as needed, provided that:

(i) The renegotiated plan is designed to correct the areas of the title IV-E agency's program determined not to be in substantial conformity and/or achieve a standard for the statewide/Tribal service area data indicators that is acceptable to ACF;

(ii) The amount of time needed to implement the provisions of the plan does not extend beyond three years from the date the original program improvement plan was approved;

(iii) The terms of the renegotiated plan are approved by ACF; and

(iv) The Secretary approves any extensions beyond the two-year limit.

(f) *Integration of program improvement plans with CFSP planning.* The elements of the program improvement plan must be incorporated into the goals and objectives of the title IV-E agency's CFSP. Progress in implementing the program improvement plan must be included in the annual reviews and progress reports related to the CFSP required in 45 CFR 1357.16.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0970-0214. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.)

§ 1355.36 Withholding Federal funds due to failure to achieve substantial conformity or failure to successfully complete a program improvement plan.

(a) *For the purposes of this section:*

(1) The term “title IV-B funds” refers to the title IV-E agency's combined allocation of title IV-B subpart 1 and subpart 2 funds; and

(2) The term “title IV-E funds” refers to the title IV-E agency's reimbursement for administrative costs for the foster care program under title IV-E.

(b) *Determination of the amount of Federal funds to be withheld.* ACF will determine the amount of title IV-B and IV-E funds to be withheld due to a finding that the title IV-E agency is not operating in substantial conformity, as follows:

(1) A title IV-E agency will have the opportunity to develop and complete a program improvement plan prior to any withholding of funds.

(2) Title IV-B and IV-E funds will not be withheld from a title IV-E agency if the determination of nonconformity was caused by the title IV-E agency's correct use of formal written statements of Federal law or policy provided the title IV-E agency by DHHS.

(3) A portion of the title IV-E agency's title IV-B and IV-E funds will be withheld by ACF for the year under review and for each succeeding year until the title IV-E agency either successfully completes a program improvement plan or is found to be operating in substantial conformity.

(4) The amount of title IV-B and title IV-E funds subject to withholding due to a determination that a title IV-E agency is not operating in substantial conformity is based on a pool of funds defined as follows:

(i) The title IV-E agency's allotment of title IV-B funds for each of the years to which the withholding applies; and

(ii) An amount equivalent to 10 percent of the title IV-E agency's Federal claims for title IV-E foster care administrative costs for each of the years to which withholding applies;

(5) The amount of funds to be withheld from the pool in paragraph (b)(4) of this section will be computed as follows:

(i) Except as provided for in paragraphs (b)(7) and (b)(8) of this section, an amount equivalent to one percent of the funds described in paragraph (b)(4) of this section for each of the years to which withholding applies will be withheld for each of the seven outcomes listed in §1355.34(b)(1) of this part that is determined not to be in substantial conformity; and

(ii) Except as provided for in paragraphs (b)(7) and (b)(8) of this section, an amount equivalent to one percent of the funds described in paragraph (b)(4) of this section for each of the years to which withholding applies will be withheld for each of the seven systemic factors listed in §1355.34(c) of this part that is determined not to be in substantial conformity.

(6) Except as provided for in paragraphs (b)(7), (b)(8), and (e)(4) of this section, in the event the title IV-E agency is determined to be in nonconformity on each of the seven outcomes and each of the seven systemic factors subject to review, the maximum amount of title IV-B and title IV-E funds to be withheld due to the title IV-E agency's failure to comply is 14 percent per year of the funds described in paragraph (b)(4) of this section for each year.

(7) Title IV-E agencies determined not to be in substantial conformity that fail to correct the areas of nonconformity through the successful completion of a program improvement plan, and are determined to be in nonconformity on the second full review following the first full review in which a determination of nonconformity was made will be subject to increased withholding as follows:

(i) The amount of funds described in paragraph (b)(5) of this section will increase to two percent for each of the seven outcomes and each of the seven systemic factors that continues in nonconformity since the immediately preceding child and family services review;

(ii) The increased withholding of funds for areas of continuous nonconformity is subject to the provisions of paragraphs (c), (d), and (e) of this section;

(iii) The maximum amount of title IV-B and title IV-E funds to be withheld due to the title IV-E agency's failure to comply on the second full review following the first full review in which the determination of nonconformity was made is 28 percent of the funds described in paragraph (b)(4) of this section for each year to which the withholding of funds applies.

(8) Title IV-E agencies determined not to be in substantial conformity that fail to correct the areas of nonconformity through the successful completion of a program improvement plan, and are determined to be in nonconformity on the third and any subsequent full reviews following the first full review in which a determination of nonconformity was made will be subject to increased withholding as follows:

(i) The amount of funds described in paragraph (b)(5) of this section will increase to three percent for each of the seven outcomes and each of the seven systemic factors that continues in nonconformity since the immediately preceding child and family services review;

(ii) The increased withholding of funds for areas of continuous nonconformity is subject to the provisions of paragraphs (c), (d), and (e) of this section;

(iii) The maximum amount of title IV-B and title IV-E funds to be withheld due to the title IV-E agency's failure to comply on the third and any subsequent full reviews following the first full review in which the determination of nonconformity was made is 42 percent of the funds described in paragraph (b)(4) of this section for each year to which the withholding of funds applies.

(c) *Suspension of withholding.* (1) For title IV-E agencies determined not to be operating in substantial conformity, ACF will suspend the withholding of the title IV-E agencies' title IV-B and title IV-E funds during the time that a program improvement plan is in effect, provided that:

(i) The program improvement plan conforms to the provisions of §1355.35 of this part; and

(ii) The title IV-E agency is actively implementing the provisions of the program improvement plan.

(2) Suspension of the withholding of funds is limited to three years following each review, or the amount of time approved for implementation of the program improvement plan, whichever is less.

(d) *Terminating the withholding of funds.* For title IV-E agencies determined not to be in substantial conformity, ACF will terminate the withholding of the title IV-E agency's title IV-B and title IV-E funds related to the nonconformity upon determination by the title IV-E agency and ACF that the title IV-E agency has achieved substantial conformity or has successfully completed a program improvement plan. ACF will rescind the withholding of the portion of title IV-B and title IV-E funds related to specific goals or action steps as of the date at the end of the quarter in which they were determined to have been achieved.

(e) *Withholding of funds.* (1) Title IV-E agencies determined not to be in substantial conformity that fail to successfully complete a program improvement plan will be

notified by ACF of this final determination of nonconformity in writing within 10 business days after the relevant completion date specified in the plan, and advised of the amount of title IV-B and title IV-E funds which are to be withheld.

(2) Title IV-B and title IV-E funds will be withheld based on the following:

(i) If the title IV-E agency fails to submit status reports in accordance with §1355.35(d)(4), or if such reports indicate that the title IV-E agency is not making satisfactory progress toward achieving goals or actions steps, funds will be withheld at that time for a period beginning October 1 of the fiscal year for which the determination of nonconformity was made and ending on the specified completion date for the affected goal or action step.

(ii) Funds related to goals and action steps that have not been achieved by the specified completion date will be withheld at that time for a period beginning October 1 of the fiscal year for which the determination of nonconformity was made and ending on the completion date of the affected goal or action step; and

(iii) The withholding of funds commensurate with the level of nonconformity at the end of the program improvement plan will begin at the latest completion date specified in the program improvement plan and will continue until a subsequent full review determines the title IV-E agency to be in substantial conformity or the title IV-E agency successfully completes a program improvement plan developed as a result of that subsequent full review.

(3) When the date the title IV-E agency is determined to be in substantial conformity or to have successfully completed a program improvement plan falls within a specific quarter, the amount of funds to be withheld will be computed to the end of that quarter.

(4) A title IV-E agency that refuses to participate in the development or implementation of a program improvement plan, as required by ACF, will be subject to the maximum increased withholding of 42 percent of its title IV-B and title IV-E funds, as described in paragraph (b)(8) of this section, for each year or portion thereof to which the withholding of funds applies.

(5) The title IV-E agency will be liable for interest on the amount of funds withheld by the Department, in accordance with the provisions of 45 CFR 30.18.

§ 1355.37 Opportunity for Public Inspection of Review Reports and Materials.

The title IV-E agency must make available for public review and inspection all statewide or Tribal assessments (§1355.33(b)), report of findings (§1355.33(e)), and program improvement plans (§1355.35(a)) developed as a result of a full or partial child and family services review.

§ 1355.38 Enforcement of section 471(a)(18) of the Act regarding the removal of barriers to interethnic adoption.

(a) *Determination that a violation has occurred in the absence of a court finding.* (1) If ACF becomes aware of a possible section 471(a)(18) violation, whether in the course of a child and family services review, the filing of a complaint, or through some other

mechanism, it will refer such a case to the Department's Office for Civil Rights (OCR) for investigation.

(2) Based on the findings of the OCR investigation, ACF will determine if a violation of section 471(a)(18) has occurred. A section 471(a)(18) violation occurs if a title IV-E agency or an entity in the State/Tribe:

(i) Has denied to any person the opportunity to become an adoptive or foster parent on the basis of the race, color, or national origin of the person, or of the child, involved;

(ii) Has delayed or denied the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved; or,

(iii) With respect to a title IV-E agency, maintains any statute, regulation, policy, procedure, or practice that on its face, is a violation as defined in paragraphs (a)(2)(i) and (2)(ii) of this section.

(3) ACF will provide the title IV-E agency or entity with written notification of its determination.

(4) If there has been no violation, there will be no further action. If ACF determines that there has been a violation of section 471(a)(18), it will take enforcement action as described in this section.

(5) Compliance with the Indian Child Welfare Act of 1978 (Pub. L. 95–608) does not constitute a violation of section 471(a)(18).

(b) *Corrective action and penalties for violations with respect to a person or based on a court finding.* (1) A title IV-E agency or entity found to be in violation of section 471(a)(18) of the Act with respect to a person, as described in paragraphs (a)(2)(i) and (a)(2)(ii) of this section, will be penalized in accordance with paragraph (g)(2) of this section. A title IV-E agency or entity determined to be in violation of section 471(a)(18) of the Act as a result of a court finding will be penalized in accordance with paragraph (g)(4) of this section. The title IV-E agency may develop, obtain approval of, and implement a plan of corrective action any time after it receives written notification from ACF that it is in violation of section 471(a)(18) of the Act.

(2) Corrective action plans are subject to ACF approval.

(3) If the corrective action plan does not meet the provisions of paragraph (d) of this section, the title IV-E agency must revise and resubmit the plan for approval until it has an approved plan.

(4) A title IV-E agency or entity found to be in violation of section 471(a)(18) of the Act by a court must notify ACF within 30 days from the date of entry of the final judgment once all appeals have been exhausted, declined, or the appeal period has expired.

(c) *Corrective action for violations resulting from a title IV-E agency's statute, regulation, policy, procedure, or practice.* (1) A title IV-E agency found to have committed a violation of the type described in paragraph (a)(2)(iii) of this section must develop and submit a corrective action plan within 30 days of receiving written notification from ACF that it is in violation of section 471(a)(18). Once the plan is approved the title IV-E agency will have to complete the corrective action and come into compliance. If the title IV-E agency fails to complete the corrective action plan within six

months and come into compliance, a penalty will be imposed in accordance with paragraph (g)(3) of this section.

(2) Corrective action plans are subject to ACF approval.

(3) If the corrective action plan does not meet the provisions of paragraph (d) of this section, the title IV-E agency must revise and resubmit the plan within 30 days from the date it receives a written notice from ACF that the plan has not been approved. If the title IV-E agency does not submit a revised corrective action plan according to the provisions of paragraph (d) of this section, withholding of funds pursuant to the provisions of paragraph (g) of this section will apply.

(d) *Contents of a corrective action plan.* A corrective action plan must:

(1) Identify the issues to be addressed;

(2) Set forth the steps for taking corrective action;

(3) Identify any technical assistance needs and Federal and non-Federal sources of technical assistance which will be used to complete the action steps; and,

(4) Specify the completion date. This date will be no later than 6 months from the date ACF approves the corrective action plan.

(e) *Evaluation of corrective action plans.* ACF will evaluate corrective action plans and notify the title IV-E agency (in writing) of its success or failure to complete the plan within 30 calendar days. If the title IV-E agency has failed to complete the corrective action plan, ACF will calculate the amount of reduction in the title IV-E agency's title IV-E payment and include this information in the written notification of failure to complete the plan.

(f) *Funds to be withheld.* The term "title IV-E funds" refers to the amount of Federal funds advanced or paid to the title IV-E agency for allowable costs incurred by a title IV-E agency for: foster care maintenance payments, adoption assistance payments, administrative costs, and training costs under title IV-E and includes the title IV-E agency's allotment for the Chafee Foster Care Independence Program under section 477 of the Act.

(g) *Reduction of title IV-E funds.* (1) Title IV-E funds shall be reduced in specified amounts in accordance with paragraph (h) of this section under the following circumstances:

(i) A determination that a title IV-E agency or entity is in violation of section 471(a)(18) of the Act with respect to a person as described in paragraphs (a)(2)(i) and (a)(2)(ii) of this section, or:

(ii) After a title IV-E agency's failure to implement and complete a corrective action plan and come into compliance as described in paragraph (c) of this section.

(2) Once ACF notifies a title IV-E agency (in writing) that it has committed a section 471(a)(18) violation with respect to a person, the title IV-E agency's title IV-E funds will be reduced for the fiscal quarter in which the title IV-E agency received written notification and for each succeeding quarter within that fiscal year or until the title IV-E agency completes a corrective action plan and comes into compliance, whichever is earlier. Once ACF notifies an entity (in writing) that it has committed a section 471(a)(18) violation with respect to a person, the entity must remit to the Secretary all

title IV-E funds paid to it by the title IV-E agency during the quarter in which the entity is notified of the violation.

(3) For title IV-E agencies that fail to complete a corrective action plan within 6 months, title IV-E funds will be reduced by ACF for the fiscal quarter in which the title IV-E agency received notification of its violation. The reduction will continue for each succeeding quarter within that fiscal year or until the title IV-E agency completes the corrective action plan and comes into compliance, whichever is earlier.

(4) If, as a result of a court finding, a title IV-E agency or entity is determined to be in violation of section 471(a)(18) of the Act, ACF will assess a penalty without further investigation. Once the title IV-E agency is notified (in writing) of the violation, its title IV-E funds will be reduced for the fiscal quarter in which the court finding was made and for each succeeding quarter within that fiscal year or until the title IV-E agency completes a corrective action plan and comes into compliance, whichever is sooner. Once an entity is notified (in writing) of the violation, the entity must remit to the Secretary all title IV-E funds paid to it by the title IV-E agency during the quarter in which the court finding was made.

(5) The maximum number of quarters that a title IV-E agency will have its title IV-E funds reduced due to a finding of a title IV-E agency's failure to conform to section 471(a)(18) of the Act is limited to the number of quarters within the fiscal year in which a determination of nonconformity was made. However, an uncorrected violation may result in a subsequent review, another finding, and additional penalties.

(6) No penalty will be imposed for a court finding of a violation of section 471(a)(18) until the judgement is final and all appeals have been exhausted, declined, or the appeal period has expired.

(h) *Determination of the amount of reduction of Federal funds.* ACF will determine the reduction in title IV-E funds due to a section 471(a)(18) violation in accordance with section 474(d)(1) and (2) of the Act.

(1) Title IV-E agencies that violate section 471(a)(18) with respect to a person or fail to implement or complete a corrective action plan as described in paragraph (c) of this section will be subject to a penalty. The penalty structure will follow section 474(d)(1) of the Act. Penalties will be levied for the quarter of the fiscal year in which the title IV-E agency is notified of its section 471(a)(18) violation, and for each succeeding quarter within that fiscal year until the title IV-E agency comes into compliance with section 471(a)(18). The reduction in title IV-E funds will be computed as follows:

(i) 2 percent of the title IV-E agency's title IV-E funds for the fiscal year quarter, as defined in paragraph (f) of this section, for the first finding of noncompliance in that fiscal year;

(ii) 3 percent of the title IV-E agency's title IV-E funds for the fiscal year quarter, as defined in paragraph (f) of this section, for the second finding of noncompliance in that fiscal year;

(iii) 5 percent of the title IV-E agency's title IV-E funds for the fiscal year quarter, as defined in paragraph (f) of this section, for the third or subsequent finding of noncompliance in that fiscal year.

(2) Any entity (other than the title IV-E agency) which violates section 471(a)(18) of the Act during a fiscal quarter must remit to the Secretary all title IV-E funds paid to it by the title IV-E agency in accordance with the procedures in paragraphs (g)(2) or (g)(4) of this section.

(3) No fiscal year payment to a title IV-E agency will be reduced by more than 5 percent of its title IV-E funds, as defined in paragraph (f) of this section, where the title IV-E agency has been determined to be out of compliance with section 471(a)(18) of the Act.

(4) The title IV-E agency or entity, as applicable, will be liable for interest on the amount of funds reduced by the Department, in accordance with the provisions of 45 CFR 30.18.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0970-0214. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.)

§ 1355.39 Administrative and judicial review.

A title IV-E agency determined not to be in substantial conformity with titles IV-B and IV-E plan requirements, or a title IV-E agency or entity in violation of section 471(a)(18) of the Act:

(a) May appeal, pursuant to 45 CFR part 16, the final determination and any subsequent withholding of, or reduction in, funds to the HHS Departmental Appeals Board within 60 days after receipt of a notice of nonconformity described in §1355.36(e)(1) of this part, or receipt of a notice of noncompliance by ACF as described in §1355.38(a)(3) of this part; and

(b) Will have the opportunity to obtain judicial review of an adverse decision of the Departmental Appeals Board within 60 days after the title IV-E agency or entity receives notice of the decision by the Board. Appeals of adverse Department Appeals Board decisions must be made to the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the program is located.

(c) The procedure described in paragraphs (a) and (b) of this section will not apply to a finding that a title IV-E agency or entity has been determined to be in violation of section 471(a)(18) which is based on a judicial decision.

§ 1355.40 Foster care and adoption data collection.

(a) *Scope of the data collection system.* (1) Each title IV-E agency which administers or supervises the administration of titles IV-B and IV-E must implement a system to collect data. The data reporting system must meet the requirements of §1355.40(b) and electronically report certain data regarding children in foster care and adoption. The foster care data elements are listed and defined in Appendix A to this part and the adoption data elements are listed and defined in Appendix B to this part.

(2) For the purposes of foster care reporting, each data transmission must include all children in foster care for whom the title IV-E agency has responsibility for placement, care, or supervision. This includes American Indian children covered under the assurances in section 422(b)(8) of the Act on the same basis as any other child. For children in care less than 30 days, only a core set of information will be required, as noted in Appendix A to this part. For children who enter foster care prior to October 1, 1995 and who are still in the system, core data elements will be required; in addition, the title IV-E agency also will be required to report on the most recent case plan goal affecting those children. For children in the Tribal title IV-E agency's placement and care responsibility who are placed outside of the Tribal service area, the Indian Tribe placing the child and making foster care payment submits and continually updates the data for each such child.

(3) For the purposes of adoption reporting, data are required to be transmitted by the title IV-E agency on all adopted children who were placed by the title IV-E agency, and on all adopted children for whom the agency is providing adoption assistance (either ongoing or for nonrecurring expenses), care or services directly or by contract or agreement with other private or public agencies. Full adoption data as specified in appendix B to this part are required only for children adopted after the implementation date of October 1, 1994. For children adopted prior to October 1, 1994, who are continuing to receive title IV-E subsidies, aggregate data are to be reported. For a child adopted out-of-State, the title IV-E agency which placed the child submits the data. Similarly, the Tribal title IV-E agency which placed the child outside of the Tribal service area for adoption submits the data.

(b) *Foster care and adoption reporting requirements.* (1) The title IV-E agency shall transmit semi-annually, within 45 days of the end of the reporting period (i.e., by May 15 and November 14), information on each child in foster care and each child adopted during the reporting period. The information to be reported consists of the data elements found in appendices A and B to this part. The data must be extracted from the data system as of the last day of the reporting period and must be submitted in electronic form as described in appendix C to this part and in record layouts as delineated in appendix D to this part.

(2) For foster care information, the child-specific data to be transmitted must reflect the data in the information system when the data are extracted. Dates of removal from the home and discharge from foster care must be entered in accordance with paragraph (d)(1) of this section. The date of the most recent periodic review (either administrative or court) must be entered for children who have been in foster care for more than nine months. Entry of this date constitutes title IV-E agency certification that the data on the child have been reviewed and are current.

(3) Adoption data are to be reported during the reporting period in which the adoption is legalized or, at the title IV-E agency's option, in the following reporting period if the adoption is legalized within the last 60 days of the reporting period. For a semi-annual period in which no adoptions have been legalized, the title IV-E agency must report such an occurrence.

(4) A summary file of the semi-annual data transmission must be submitted and will be used to verify the completeness of the title IV-E agency's detailed submission for the reporting period.

(5) A variety of internal data consistency checks will be used to judge the internal consistency of the semi-annual detailed data submission. These are specified in Appendix E to this part.

(c) *Missing data standards.* (1) The term "missing data" refers to instances where no data have been entered, if applicable, for a particular data element. In addition, all data elements which fail a consistency check for a particular case will be converted to missing data. All data which are "out of range" (i.e., the response is beyond the parameters allowed for that particular data element) will also be converted to missing data. Details of the circumstances under which data will be converted to missing data are specified in appendix E to this part. Data elements with responses of "cannot be determined" or "not yet determined" are not considered as having missing data.

(2) Substantial noncompliance occurs when missing data exceed 10 percent for any one data element.

(d) *Timeliness of foster care data reports.* For each child, a computer generated transaction date must reflect the actual date of data entry and must accompany the date of latest removal from the home and the date of exit from foster care. Ninety percent of the subject transactions must have been entered into the system within 60 days of the event (removal from home or discharge from foster care) or the title IV-E agency will be found in substantial noncompliance.

(e) Substantial Noncompliance. Failure by a title IV-E agency to meet any of the standards described in paragraphs (a) through (d) of this section is considered a substantial failure to meet the requirements of the title IV-E plan.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0980–0267. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.)

§ 1355.50 Purpose of this part.

This part sets forth the requirements and procedures title IV-E agencies must meet in order to receive Federal financial participation for the planning, design, development, installation and operation of statewide or Tribal automated child welfare information systems authorized under section 474(a)(3)(c) of the Act.

§ 1355.52 Funding authority for statewide or Tribal automated child welfare information systems (SACWIS/TACWIS).

(a) Title IV-E agencies may receive Federal reimbursement at the 50 percent level for expenditures related to the planning, design, development and installation of a statewide or Tribal automated child welfare information system, to the extent such system:

(1) Provides for the title IV-E agency to collect and electronically report certain data required by section 479(b) of the Act and §1355.40 of this part;

(2) To the extent practicable, provides for an interface with the data collection system for child abuse and neglect;

(3) To the extent practicable, provides for an interface with and retrieval of information from the State or Tribal automated information system that collects information relating to the eligibility of individuals under title IV-A of the Act; and

(4) Provides for more efficient, economical and effective administration of the programs carried out under a plan approved under title IV-B and title IV-E.

(b) Title IV-E agencies may also be reimbursed for the full amount of expenditures for the hardware components for such systems at the rates provided under paragraph (a) of this section.

(c) Expenditures for the operation of the automated information system described in paragraph (a) of this section are eligible for FFP at the 50 percent matching rate.

§ 1355.53 Conditions for approval of funding.

(a) As a condition of funding, the SACWIS or TACWIS must be designed, developed (or an existing system enhanced), and installed in accordance with an approved advance planning document (APD). The APD must provide for a design which, when implemented, will produce a comprehensive system, which is effective and efficient, to improve the program management and administration of the plans for titles IV-B and IV-E as provided under this section.

(b) At a minimum, the system must provide for effective management, tracking and reporting by providing automated procedures and processes to:

(1) Meet the Adoption and Foster Care reporting requirements through the collection, maintenance, integrity checking and electronic transmission of the data elements specified by the Adoption and Foster Care Analysis and Reporting System (AFCARS) requirements mandated under section 479(b) of the Act and Sec. 1355.40 of this part;

(2) Provide, for electronic exchanges and referrals, as appropriate, with the following systems within the State or Tribe, unless the title IV-E agency demonstrates that such interface or integration would not be practicable because of systems limitations or cost constraints:

(i) Systems operated under title IV-A,

(ii) National Child Abuse and Neglect Data Systems (NCANDS),

(iii) Systems operated under title XIX, and

(iv) Systems operated under title IV-D;

(3) Support the provisions of section 422(a) by providing for the automated collection, maintenance, management and reporting of information on all children in foster care under the responsibility of the title IV-E agency, including statewide data (or in the case of a Tribal title IV-E agency, service area data) from which the demographic characteristics, location, and goals for foster care children can be determined;

(4) Collect and manage information necessary to facilitate the delivery of client services, the acceptance and referral of clients, client registration, and the evaluation of the need for services, including child welfare services under title IV-B Subparts 1 and 2, family preservation and family support services, family reunificication and permanent placement;

(5) Collect and manage information necessary to determine eligibility for:

(i) The foster care program,

(ii) The adoption assistance program, and

(iii) The independent living program;

(6) Support necessary case assessment activities;

(7) Monitor case plan development, payment authorization and issuance, review and management, including eligibility determinations and redeterminations; and

(8) Ensure the confidentiality and security of the information and the system.

(c) A system established under paragraph (a) of this section may also provide support in meeting the following program functions:

(1) Resource management, including automated procedures to assist in managing service providers, facilities, contracts and recruitment activities associated with foster care and adoptive families;

(2) Tracking and maintenance of legal and court information, and preparation of appropriate notifications to relevant parties;

(3) Administration and management of staff and workloads;

(4) Licensing verification; and

(5) Risk analysis.

(d) The system may also provide for interface with other automated information systems, including, but not limited to, accounting and licensing systems, court and juvenile justice systems, vital statistics and education, as appropriate.

(e) If the cost benefit analysis submitted as part of the APD indicates that adherence to paragraphs (c) and (d) of this section would not be cost beneficial, final approval of the APD may be withheld until resolution is reached on the level of automation appropriate to meet the title IV-E agency’s needs.

(f) A Statewide or Tribal automated child welfare information system may be designed, developed and installed on a phased basis, in order to allow title IV-E agencies to implement AFCARS requirements expeditiously, in accordance with section 479(b) of the Act, as long as the approved APD includes the title IV-E agency's plan for full implementation of a comprehensive system which meets all functional and data requirements as specified in paragraphs (a) and (b) of this section, and a system design which will support these enhancements on a phased basis.

(g) The system must perform Quality Assurance functions to provide for the review of case files for accuracy, completeness and compliance with Federal requirements, State standards and where applicable, Tribal standards.

§ 1355.54 Submittal of advance planning documents.

The title IV-E agency must submit an APD for a statewide automated child welfare information system, signed by the appropriate official, in accordance with procedures specified by 45 CFR part 95, subpart F.

§ 1355.55 Review and assessment of the system developed with enhanced funds.

(a) ACF will, on a continuing basis, review, assess and inspect the planning, design, development, installation and operation of the SACWIS or TACWIS to determine the extent to which such systems:

(1) Meet Sec. 1355.53 of this chapter,

(2) Meet the goals and objectives stated in the approved APD,

(3) Meet the schedule, budget, and other conditions of the approved APD, and

(4) Comply with the automated data processing services and acquisitions procedures and requirements of 45 CFR part 95, subpart F.

(b) [Reserved]

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0970-007. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.)

§ 1355.56 Failure to meet the conditions of the approved APD.

(a) If ACF finds that the title IV-E agency fails to meet any of the conditions cited in §1355.53, or to substantially comply with the criteria, requirements and other undertakings prescribed by the approved APD, approval of the APD may be suspended.

(b) If the approval of an APD is suspended during the planning, design, development, installation, or operation of the system:

(1) The title IV-E agency will be given written notice of the suspension. This notice shall state:

(i) The reason for the suspension,

(ii) The date of the suspension,

(iii) Whether the suspended system complies with criteria for 50 percent FFP, and

(iv) The actions required by the title IV-E agency for future enhanced funding.

(2) The suspension will be effective as of the date the title IV-E agency failed to comply with the approved APD;

(3) The suspension shall remain in effect until ACF determines that such system complies with prescribed criteria, requirements, and other undertakings for future Federal funding.

(4) Should a title IV-E agency cease development of an approved system, either by voluntary withdrawal or as a result of Federal suspension, all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) will be subject to recoupment.

§ 1355.57 Cost allocation.

(a) All expenditures of a title IV-E agency to plan, design, develop, install, and operate the data collection and information retrieval system described in Sec. 1355.53 of this part shall be treated as necessary for the proper and efficient administration of the title IV-E plan, without regard to whether the system may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under the title IV-E plan.

(b) Cost allocation and distribution for the planning, design, development, installation and operation must be in accordance with Sec. 95.631 of this title and section 474(c) of the Act, if the SACWIS or TACWIS includes functions, processing, information collection and management, equipment or services that are not directly related to the administration of the programs carried out under the plan approved under title IV-B or IV-E.

Appendix A to Part 1355—Foster Care Data Elements

Section I—Foster Care Data Elements

Data elements preceded by "**" are the only data elements required for children who have been in care less than 30 days. For children who entered care prior to October 1, 1995, data elements preceded by either "**" and "***" are the only data elements required. This means that, for these two categories of children, these are the only data elements to which the missing data standard will be applied.

I. General Information

**A. Title IV-E agency _____

**B. Report date---- (mo.) ---- (yr.)

**C. Local Agency (County or Equivalent Jurisdiction)_____

**D. Record Number_____

E. Date of Most Recent Periodic Review (If Applicable)---- (mo.) ---- (day) ---- (yr.)

II. Child's Demographic Information

**A. Date of Birth ---- (mo.) ---- (day) ---- (yr.)

**B. Sex --------

Male: 1

Female: 2

C. Race/Ethnicity

1. Race

a. American Indian or Alaska Native

b. Asian

c. Black or African American

d. Native Hawaiian or Other Pacific Islander

e. White
f. Unable to Determine
2. Hispanic or Latino Ethnicity------
Yes: 1
No: 2
Unable to Determine: 3
D. Has this child been clinically diagnosed as having a disability(ies)? --------
Yes: 1
No: 2
Not Yet Determined: 3
1. If yes, indicate each type of disability found with a ``1''
Mental Retardation ------
Visually or Hearing Impaired ------
Physically Disabled ------
Emotionally Disturbed (DSM III)
Other Medically Diagnosed Condition Requiring Special Care ------
E. 1. Has this child ever been adopted? --------
Yes: 1
No: 2
Unable to Determine: 3
2. If yes, how old was the child when the adoption was legalized? --------
Less than 2 years old: 1
2 to 5 years old: 2
6 to 12 years old: 3
13 years old or older: 4
Unable to Determine: 5
III. Removal/Placement Setting Indicators
A. Removal Episodes
Date of First Removal From Home ---- (mo.) ---- (day) ---- (yr.)
Total Number of Removals From Home to Date --------
Date Child was Discharged From Last Foster Care Episode (If Applicable) ---- (mo.) ---- (day) ---- (yr.)
**Date of Latest Removal From Home ---- (mo.) ---- (day) ---- (yr.)
** Transaction Date ---- (mo.) ---- (day) ---- (yr.)
B. Placement Settings
Date of Placement in Current Foster Care Setting ---- (mo.) ---- (day) ------ (yr.)
Number of Previous Placement Settings During This Removal Episode --------
IV. Circumstances of Removal
A. Manner of Removal From Home for Current Placement Episode --------
Voluntary: 1
Court Ordered: 2
Not Yet Determined: 3
B. Actions or Conditions Associated With Child's Removal: (Indicate all that apply with a ``1'')

Physical Abuse (Alleged/Reported)_____
Sexual Abuse (Alleged/Reported)_____
Neglect (Alleged/Reported)_____
Alcohol Abuse (Parent)_____
Drug Abuse (Parent)_____
Alcohol Abuse (Child)_____
Drug Abuse (Child)_____
Child's Disability_____
Child's Behavior Problem_____
Death of Parent(s)_____
Incarceration of Parent(s)_____
Caretaker's Inability to Cope Due to Illness or Other Reasons_____
Abandonment_____
Relinquishment_____
Inadequate Housing_____
**V. Current Placement Setting_____
**A. Pre-Adoptive Home: 1
Foster Family Home (Relative): 2
Foster Family Home (Non-Relative): 3
Group Home: 4
Institution: 5
Supervised Independent Living: 6
Runaway: 7
Trial Home Visit: 8
**B. Is Current Placement Out-of-State/Tribal service area?_____
Yes (Out-of-State/Tribal service area Placement): 1
No (In State/Tribal service area Placement): 2
***VI. Most Recent Case Plan Goal_____
Reunify With Parent(s) or Principal Caretaker(s): 1
Live With Other Relative(s): 2
Adoption: 3
Long Term Foster Care: 4
Emancipation: 5
Guardianship: 6
Case Plan Goal Not Yet Established: 7
VII. Principal Caretaker(s) Information
A. Caretaker Family Structure_____
Married Couple: 1
Unmarried Couple: 2
Single Female: 3
Single Male: 4
Unable to Determine: 5
B. Year of Birth

1st Principal Caretaker_____
2nd Principal Caretaker (If Applicable)_____
VIII. Parental Rights Termination (If Applicable)
A. Mother ---- (mo.) ---- (day) ---- (yr.)
B. Legal or Putative Father ---- (mo.) ---- (day) ---- (yr.)
IX. Foster Family Home--Parent(s) Data (To be answered only if Section V., Part A. CURRENT PLACEMENT SETTING is 1, 2 or 3)
A. Foster Family Structure_____
Married Couple: 1
Unmarried Couple: 2
Single Female: 3
Single Male: 4
B. Year of Birth
1st Foster Caretaker_____
2nd Foster Caretaker (If Applicable)_____
C. Race/Ethnicity
1. Race of 1st Foster Caretaker
a. American Indian or Alaska Native
b. Asian
c. Black or African American
d. Native Hawaiian or Other Pacific Islander
e. White
f. Unable to Determine
2. Hispanic or Latino Ethnicity of 1st Foster Caretaker------
Yes: 1
No: 2
Unable to Determine: 3
3. Race of 2nd Foster Caretaker (If Applicable)
a. American Indian or Alaska Native
b. Asian
c. Black or African American
d. Native Hawaiian or Other Pacific Islander
e. White
f. Unable to Determine
4. Hispanic or Latino Ethnicity of 2nd Foster Caretaker (If applicable)------
_____
Yes: 1
No: 2
Unable to Determine: 3
X. Outcome Information
**A. Date of Discharge From Foster Care ---- (mo.) ---- (day) ---- (yr.)
**Transaction Date ---- (mo.) ---- (day) ---- (yr.)
**B. Reason for Discharge_____
Reunification With Parents or Primary Caretakers: 1

Living With Other Relative(s): 2
Adoption: 3
Emancipation: 4
Guardianship: 5
Transfer to Another Agency: 6
Runaway: 7
Death of Child: 8

XI. Source(s) of Federal Financial Support/Assistance for Child
(Indicate all that apply with a ``1")

Title IV-E (Foster Care)_____
Title IV-E (Adoption Assistance)_____
Title IV-A (Aid to Families with Dependent Children)_____
Title IV-D (Child Support)_____
Title XIX (Medicaid)_____
SSI or Other Social Security Act Benefits_____
None of the Above_____

XII. Amount of the monthly foster care payment (regardless of sources). ----------.

Section II--Definitions of and Instructions for Foster Care Data Elements

Reporting population. The population to be included in this reporting system includes all children in foster care under the responsibility of the title IV-E agency administering or supervising the administration of the title IV-B Child and Family Services State plan and the title IV-E plan; that is, all children who are required to be provided the assurances of section 422(b)(8) of the Social Security Act.

This population includes all children supervised by or under the responsibility of another public agency with which the title IV-E agency has an agreement under title IV-E and on whose behalf the title IV-E agency makes title IV-E foster care maintenance payments.

Foster care is defined as 24 hour substitute care for children outside their own homes. The reporting system includes all children who have or had been in foster care at least 24 hours. The foster care settings include, but are not limited to:

--Family foster homes
--Relative foster homes (whether payments are being made or not)
--Group homes
--Emergency shelters
--Residential facilities
--Child care institutions
--Pre-adoptive homes

Foster care does not include children who are in their own homes under the responsibility of the title IV-E agency. However, children who are at home on a trial basis may be included even though they are not considered to be in foster care. If they are

included, element number V. CURRENT PLACEMENT SETTING must be given the value of ``8''.

I. General Information

A. Title IV-E agency**--for a State, the U.S. Postal Service two letter abbreviation for the State submitting the report. For a Tribal title IV-E agency, the abbreviation provided by ACF.

B. Report Date**--The last month and the year for the reporting period.

C. Local Agency**--Identity of the county or equivalent unit which has responsibility for the case. The 5 digit Federal Information Processing Standard (FIPS) must be used or other ACF-provided code.

D. Record Number**--The sequential number which the title IV-E agency uses to transmit data to the Department of Health and Human Services (DHHS) or a unique number which follows the child as long as he or she is in foster care. The record number cannot be linked to the child's case I.D. number except at the title IV-E agency level.

E. Date of Most Recent Periodic Review (If applicable)--For children who have been in care seven months or longer, enter the month, day and year of the most recent administrative or court review, including dispositional hearing. For children who have been in care less than seven months, leave the field blank. An entry in this field certifies that the child's computer record is current up to this date.

II. Child's Demographic Information

A. Date of Birth**--Month, day and year of the child's birth. If the child is abandoned or the date of birth is otherwise unknown, enter an approximate date of birth. Use the 15th as the day of birth.

B. Sex**--Indicate as appropriate.

C. Race/Ethnicity**

1. Race--In general, a person's race is determined by how they define themselves or by how others define them. In the case of young children, parents determine the race of the child. Indicate all races (a through e) that apply with a ``1.'' For those that do not apply, indicate a ``0.'' Indicate ``f. Unable to Determine'' with a ``1'' if it applies and a ``0'' if it does not.

American Indian or Alaska Native--A person having origins in any of the original peoples of North or South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian--A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American--A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Other Pacific Islander--A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White--A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Unable to Determine--The specific race category is ``unable to determine'' because the child is very young or is severely disabled and no person is available to identify the child's race. ``Unable to determine'' is also used if the parent, relative or guardian is unwilling to identify the child's race.

2. Hispanic or Latino Ethnicity--Answer ``yes'' if the child is of Mexican, Puerto Rican, Cuban, Central or South American origin, or a person of other Spanish cultural origin regardless of race. Whether or not a person is Hispanic or Latino is determined by how they define themselves or by how others define them. In the case of young children, parents determine the ethnicity of the child. ``Unable to Determine'' is used because the child is very young or is severely disabled and no person is available to determine whether or not the child is Hispanic or Latino. ``Unable to determine'' is also used if the parent, relative or guardian is unwilling to identify the child's ethnicity.

D. Has the child been clinically diagnosed as having a disability(ies)? ``Yes'' indicates that a qualified professional has clinically diagnosed the child as having at least one of the disabilities listed below. ``No'' indicates that a qualified professional has conducted a clinical assessment of the child and has determined that the child has no disabilities. ``Not Yet Determined'' indicates that a clinical assessment of the child by a qualified professional has not been conducted.

1. Indicate Each Type of Disability With a ``1''

Mental Retardation--Significantly subaverage general cognitive and motor functioning existing concurrently with deficits in adaptive behavior manifested during the developmental period that adversely affect a child's/youth's socialization and learning.

Visually or Hearing Impaired--Having a visual impairment that may significantly affect educational performance or development; or a hearing impairment, whether permanent or fluctuating, that adversely affects educational performance.

Physically Disabled--A physical condition that adversely affects the child's day-to-day motor functioning, such as cerebral palsy, spina bifida, multiple sclerosis, orthopedic impairments, and other physical disabilities.

Emotionally Disturbed (DSM III)--A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree: An inability to build or maintain satisfactory interpersonal relationships; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal problems. The term includes persons who are schizophrenic or autistic. The term does not include persons who are socially maladjusted, unless it is determined that they are also seriously emotionally disturbed. The diagnosis is based on the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) (DSM III) or the most recent edition.

Other Medically Diagnosed Conditions Requiring Special Care-- Conditions other than those noted above which require special medical care such as chronic illnesses. Included are children diagnosed as HIV positive or with AIDS.

E. 1. Has this child ever been adopted? If this child has ever been legally adopted, enter ``yes.'' If the child has never been legally adopted, enter ``no''. Enter ``Unable to

Determine" if the child has been abandoned or the child's parent(s) are otherwise not available to provide the information.

2. If yes, how old was the child when the adoption was legalized? Enter the number which represents the appropriate age range. If uncertain, use an estimate. If no one is available to provide the information, enter ``Unable to Determine."

III. Removal/Placement Setting Indicators

A. Removal Episodes--The removal of the child from his/her normal place of residence resulting in his/her placement in a foster care setting.

Date of First Removal From Home--Month, day and year the child was removed from home for the first time for purpose of placement in a foster care setting. If the current[1] removal is the first removal, enter the date of the current removal.

Total Number of Removals from Home to Date--The number of times the child was removed from home, including the current removal.

Date Child was Discharged From Last Foster Care Episode (If Applicable)--For children with prior removals, enter the month, day and year they were discharged from care for the episode immediately prior to the current episode. For children with no prior removals, leave blank.

Date of Latest Removal From Home**--Month, day and year the child was last removed from his/her home for the purpose of being placed in foster care. This would be the date for the current episode or, if the child has exited foster care, the date of removal for the most recent removal.

Transaction Date**--A computer generated date which accurately indicates the month, day and year the response to ``Date of Latest Removal From Home" was entered into the information system.

B. Placement Settings.

Date of Placement in Current Foster Care Setting--Month, day and year the child moved into the current foster home, facility, residence, shelter, institution, etc. for purposes of continued foster care.

Number of Previous Placement Settings During This Removal Episode-- Enter the number of places the child has lived, including the current setting, during the current removal episode. Do not include trial home visits as a placement setting.

IV. Circumstances of Removal

A. Manner of Removal From Home for Current Placement Episode.

Voluntary Placement Agreement--An official voluntary placement agreement has been executed between the caretaker and the agency. The placement remains voluntary even if a subsequent court order is issued to continue the child in foster care.

Court Ordered--The court has issued an order which is the basis of the child's removal.

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[1] For children who have exited foster care, ``current" refers to the most recent removal episode and the most recent placement setting.

Not Yet Determined--A voluntary placement agreement has not been signed or a court order has not been issued. This will mostly occur in very short-term cases. When either a voluntary placement agreement is signed or a court order issued, the record should be updated to reflect the manner of removal at that time.

B. Actions or Conditions Associated With Child's Removal (Indicate all that apply with a ``1".)

Physical Abuse--Alleged or substantiated physical abuse, injury or maltreatment of the child by a person responsible for the child's welfare.

Sexual Abuse--Alleged or substantiated sexual abuse or exploitation of a child by a person who is responsible for the child's welfare.

Neglect--Alleged or substantiated negligent treatment or maltreatment, including failure to provide adequate food, clothing, shelter or care.

Alcohol Abuse (Parent)--Principal caretaker's compulsive use of alcohol that is not of a temporary nature.

Drug Abuse (Parent)--Principal caretaker's compulsive use of drugs that is not of a temporary nature.

Alcohol Abuse (Child)--Child's compulsive use of or need for alcohol. This element should include infants addicted at birth.

Drug Abuse (Child)--Child's compulsive use of or need for narcotics. This element should include infants addicted at birth.

Child's Disability--Clinical diagnosis by a qualified professional of one or more of the following: Mental retardation; emotional disturbance; specific learning disability; hearing, speech or sight impairment; physical disability; or other clinically diagnosed handicap. Include only if the disability(ies) was at least one of the factors which led to the child's removal.

Child's Behavior Problem--Behavior in the school and/or community that adversely affects socialization, learning, growth, and moral development. These may include adjudicated or nonadjudicated child behavior problems. This would include the child's running away from home or other placement.

Death of Parent(s)--Family stress or inability to care for child due to death of a parent or caretaker.

Incarceration of Parent(s)--Temporary or permanent placement of a parent or caretaker in jail that adversely affects care for the child.

Caretaker's Inability to Cope Due to Illness or Other Reasons-- Physical or emotional illness or disabling condition adversely affecting the caretaker's ability to care for the child.

Abandonment--Child left alone or with others; caretaker did not return or make whereabouts known.

Relinquishment--Parent(s), in writing, assigned the physical and legal custody of the child to the agency for the purpose of having the child adopted.

Inadequate Housing--Housing facilities were substandard, overcrowded, unsafe or otherwise inadequate resulting in their not being appropriate for the parents and child to reside together. Also includes homelessness.

V. Current Placement Setting**

A. Identify the type of setting in which the child currently lives.

Pre-Adoptive Home--A home in which the family intends to adopt the child. The family may or may not be receiving a foster care payment or an adoption subsidy on behalf of the child.

Foster Family Home (Relative)--A licensed or unlicensed home of the child's relatives regarded by the title IV-E agency as a foster care living arrangement for the child.

Foster Family Home (Non-Relative)--A licensed foster family home regarded by the title IV-E agency as a foster care living arrangement.

Group Home--A licensed or approved home providing 24-hour care for children in a small group setting that generally has from seven to twelve children.

Institution--A child care facility operated by a public or private agency and providing 24-hour care and/or treatment for children who require separation from their own homes and group living experience. These facilities may include: Child care institutions; residential treatment facilities; maternity homes; etc.

Supervised Independent Living--An alternative transitional living arrangement where the child is under the supervision of the agency but without 24 hour adult supervision, is receiving financial support from the child welfare agency, and is in a setting which provides the opportunity for increased responsibility for self care.

Runaway--The child has run away from the foster care setting.

Trial Home Visit--The child has been in a foster care placement, but, under title IV-E agency supervision, has been returned to the principal caretaker for a limited and specified period of time.

B. Is current placement setting outside of the State or Tribal service area?

``Yes'' indicates that the current placement setting is located outside of the State or the Tribal service area of the Tribal title IV-E agency making the report.

``No'' indicates that the child continues to reside within the State or the Tribal service area of the Tribal title IV-E agency making the report.

Note: Only the title IV-E agency with placement and care responsibility for the child should include the child in this reporting system.

VI. Most Recent Case Plan Goal***

Indicate the most recent case plan goal for the child based on the latest review of the child's case plan--whether a court review or an administrative review. If the child has been in care less than six months, enter the goal in the case record as determined by the caseworker.

Reunify With Parents or Principal Caretaker(s)--The goal is to keep the child in foster care for a limited time to enable the agency to work with the family with whom the child had been living prior to entering foster care in order to reestablish a stable family environment.

Live With Other Relatives--The goal is to have the child live permanently with a relative or relatives other than the ones from whom the child was removed. This could include guardianship by a relative(s).

Adoption--The goal is to facilitate the child's adoption by relatives, foster parents or other unrelated individuals.

Long Term Foster Care--Because of specific factors or conditions, it is not appropriate or possible to return the child home or place her or him for adoption, and the goal is to maintain the child in a long term foster care placement.

Emancipation--Because of specific factors or conditions, it is not appropriate or possible to return the child home, have a child live permanently with a relative or have the child be adopted; therefore, the goal is to maintain the child in a foster care setting until the child reaches the age of majority.

Guardianship--The goal is to facilitate the child's placement with an agency or unrelated caretaker, with whom he or she was not living prior to entering foster care, and whom a court of competent jurisdiction has designated as legal guardian.

Case Plan Goal Not Yet Established--No case plan goal has yet been established other then the care and protection of the child.

VII. Principal Caretaker(s) Information

A. Caretaker Family Structure--Select from the four alternatives-- married couple, unmarried couple, single female, single male—the category which best describes the type of adult caretaker(s) from whom the child was removed for the current foster care episode. Enter ``Unable to Determine'' if the child has been abandoned or the child's caretakers are otherwise unknown.

B. Year of Birth--Enter the year of birth for up to two caretakers. If the response to data element VII. A--Caretaker Family Structure, was 1 or 2, enter data for two caretakers. If the response was 3 or 4, enter data only for the first caretaker. If the exact year of birth is unknown, enter an estimated year of birth.

VIII. Parental Rights Termination

Enter the month, day and year that the court terminated the parental rights. If the parents are known to be deceased, enter the date of death.

IX. Family Foster Home--Parent(s) Data

Provide information only if data element in Section V., Part A. CURRENT PLACEMENT SETTING is 1, 2, or 3.

A. Foster Family Structure--Select from the four alternatives-- married couple, unmarried couple, single female, single male—the category which best describes the nature of the foster parents with whom the child is living in the current foster care episode.

B. Year of Birth--Enter the year of birth for up to two foster parents. If the response to data element IX. A.--Foster Family Structure, was 1 or 2, enter data for two caretakers. If the response was 3 or 4, enter data only for the first caretaker. If the exact year of birth is unknown, enter an estimated year of birth.

C. Race--Indicate the race for each of the foster parent(s). See instructions and definitions for the race categories under data element II.C.1. Use ``f. Unable to Determine'' only when a parent is unwilling to identify his or her race. Hispanic or Latino Ethnicity--Indicate the ethnicity for each of the foster parent(s). See instructions and definitions under data element II.C.2. Use ``f. Unable to Determine'' only when a parent is unwilling to identify his or her ethnicity.

X. Outcome Information

Enter data only for children who have exited foster care during the reporting period.

A. Date of Discharge From Foster Care**--Enter the month, day and year the child was discharged from foster care. If the child has not been discharged from care, leave blank.

Transaction Date**--A computer generated date which accurately indicates the month, day and year the response to ``Date of Discharge from Foster Care'' was entered into the information system.

B. Reason for Discharge**.

Reunification With Parents or Primary Caretakers--The child was returned to his or her principal caretaker(s)' home.

Living With Other Relatives--The child went to live with a relative other than the one from whose home he or she was removed.

Adoption--The child was legally adopted.

Emancipation--The child reached majority according to the law by virtue of age, marriage, etc.

Guardianship--Permanent custody of the child was awarded to an individual.

Transfer to Another Agency--Responsibility for the care of the child was awarded to another agency--either in or outside of the State or Tribal service area.

Runaway--The child ran away from the foster care placement.

Death of Child--The child died while in foster care.

XI. Source(s) of Federal Support/Assistance for Child (Indicate All That Apply With a ``1''.)

Title IV-E (Foster Care)--Title IV-E foster care maintenance payments are being paid on behalf of the child.

Title IV-E (Adoption Subsidy)--Title IV-E adoption subsidy is being paid on behalf of the child who is in an adoptive home, but the adoption has not been legalized.

Title IV-A (Aid to Families With Dependent Children)--Child is living with relative(s) whose source of support is an AFDC payment for the child.

Title IV-D (Child Support)--Child support funds are being paid to the State agency on behalf of the child by assignment from the receiving parent.

Title XIX (Medicaid)--Child is eligible for and may be receiving assistance under title XIX.

SSI or Other Social Security Act Benefits--Child is receiving support under title XVI or other Social Security Act titles not included in this section.

None of the Above--Child is receiving support only from the title IV-E agency, or from some other source (Federal or non-Federal) which is not indicated above.

XII. Amount of the monthly foster care payment (regardless of sources)

Enter the monthly payment paid on behalf of the child regardless of source (i.e., Federal, State, county, municipality, tribal, and private payments). If title IV-E is paid on behalf of the child the amount indicated should be the total computable amount. If the payment made on behalf of the child is not the same each month, indicate the amount of the last full monthly payment made during the reporting period. If no monthly payment has been made during the period, enter all zeros.

Appendix B to Part 1355—Adoption Data Elements

Section I—Adoption Data Elements

I. General Information

A. Title IV-E agency _____

B. Report Date ----(mo.) ----(day) ----(yr.)

C. Record Number_____

D. Did the Title IV-E Agency Have Any Involvement in This Adoption? ____

Yes: 1

No: 2

II. Child's Demographic Information

A. Date of Birth ----(mo) ----(day) ----(yr.)

B. Sex ----

Male: 1

Female: 2

C. Race/Ethnicity

1. Race

a. American Indian or Alaska Native

b. Asian

c. Black or African American

d. Native Hawaiian or Other Pacific Islander

e. White

f. Unable to Determine

2. Hispanic or Latino Ethnicity------
Yes: 1
No: 2
Unable to determine: 3

III. Special Needs Status
A. Has the title IV-E agency determined that this child has special needs? ____
Yes: 1
No: 2
B. If yes, indicate the primary basis for determining that this child has special needs ---
---
Racial/Original Background: 1
Age: 2
Membership in a Sibling Group to be Placed for Adoption Together: 3
Medical Conditions or Mental, Physical or Emotional Disabilities: 4
Other: 5
1. If III. B was ``4," indicate with a ``1" the type(s) of disability(ies)
Mental Retardation --------
Visually or Hearing Impaired --------
Physically Disabled --------
Emotionally Disturbed (DSM III) --------
Other Medically Diagnosed Condition Requiring Special Care --------
IV. Birth Parents
A. Year of Birth --------
Mother, If known --------
Father (Putative or Legal), if known --------
B. Was the mother married at the time of the child's birth? --------
Yes: 1
No: 2
Unable to Determine: 3
V. Court Actions
A. Dates of Termination of Parental Rights
Mother ----(mo.) ----(day) ----(yr.)
Father ----(mo.) ----(day) ----(yr.)
B. Date Adoption Legalized ----(mo.) ----(day) ----(yr.)
VI. Adoptive Parents
A. Family Structure --------
Married Couple: 1
Unmarried Couple: 2
Single Female: 3
Single Male: 4
B. Year of Birth
Mother (if Applicable) --------
Father (if Applicable) --------

C. Race/Ethnicity
1. Adoptive Mother's Race (If Applicable)
a. American Indian or Alaska Native
b. Asian
c. Black or African American
d. Native Hawaiian or Other Pacific Islander
e. White
f. Unable to Determine
2. Hispanic or Latino Ethnicity of Mother (If Applicable)------
Yes: 1
No: 2
Unable to Determine: 3
3. Adoptive Father's Race (If Applicable)
a. American Indian or Alaska Native
b. Asian
c. Black or African American
d. Native Hawaiian or Other Pacific Islander
e. White
f. Unable to Determine
4. Hispanic or Latino Ethnicity of Father (If Applicable)------
Yes: 1
No: 2
Unable to Determine: 3
D. Relationship of Adoptive Parent(s) to the Child (Indicate with a ``1" all that apply)
Stepparent
Other Relative of Child by Birth or Marriage --------
Foster Parent of Child --------
Non-Relative --------

VII. Placement Information
A. Child Was Placed From ____
Within State/Tribal Service Area: 1
Another State/Tribal Service Area: 2
Another Country: 3
B. Child Was Placed by --------
Public Agency: 1
Private Agency: 2
Tribal Agency: 3
Independent Person: 4
Birth Parent: 5

VIII. Financial Adoption Support
A. Is a monthly financial subsidy being paid for this child? --------
Yes: 1

No: 2
B. If yes, the monthly amount --------
C. If VIII. A is yes, is the subsidy paid under Title IV-E adoption assistance? --------
Yes: 1
No: 2

Section II—Definitions of Instructions for Adoption Data Elements

Reporting population

The title IV-E agency must report on all children who are adopted in the State or Tribal service area during the reporting period and in whose adoption the title IV-E agency has had any involvement. Failure to report on these adoptions will result in assessed finding of noncompliance. Reports on all other adoptions are encouraged but are voluntary. Therefore, reports on the following are mandated:

(a) All children adopted who had been in foster care under the responsibility and care of the child welfare agency and who were subsequently adopted whether special needs or not and whether subsidies are provided or not;

(b) All special needs children who were adopted in the State or Tribal service area, whether or not they were in the public foster care system prior to their adoption and for whom non-recurring expenses were reimbursed; and

(c) All children adopted for whom an adoption assistance payment or service is being provided based on arrangements made by or through the title IV-E agency.

These children must be identified by answering "yes" to data element I.D. Children who are reported by the title IV-E agency, but for whom there has not been any title IV-E agency involvement, and whose reporting, therefore, has not been mandated, are identified by answering "no" to element I.D.

I. General Information

A. Title IV-E agency—For a State, the U.S. Postal Service two letter abbreviation for the State submitting the report. For a Tribal title IV-E agency, the two letter abbreviation provided by ACF.

B. Report Date—The last month and the year for the reporting period.

C. Record Number—The sequential number which the title IV-E agency uses to transmit data to the Department of Health and Human Services (DHHS). The record number cannot be linked to the child except at the title IV-E agency level.

D. Did the title IV-E Agency Have Any Involvement in This Adoption?

Indicate whether the title IV-E agency had any involvement in this adoption, that is, whether the adopted child belongs to one of the following categories:

• A child who had been in foster care under the responsibility and care of the child welfare agency and who was subsequently adopted whether special needs or not and whether a subsidy was provided;

• A special needs child who was adopted in the State or Tribal service area, whether or not he/she was in the public foster care system prior to his/her adoption and for whom non-recurring expenses were reimbursed; or

• A child for whom an adoption assistance payment or service is being provided based on arrangements made by or through the title IV-E agency.

II. Child's Demographic Information

A. Date of Birth--Month and year of the child's birth. If the child was abandoned or the date of birth is otherwise unknown, enter an approximate date of birth.

B. Sex--Indicate as appropriate.

C. Race/Ethnicity

1. Race--In general, a person's race is determined by how they define themselves or by how others define them. In the case of young children, parents determine the race of the child. Indicate all races (a-e) that apply with a ``1." For those that do not apply, indicate a ``0." Indicate ``f. Unable to Determine" with a 1" if it applies and a ``0" if it does not.

American Indian or Alaska Native--A person having origins in any of the original peoples of North or South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian--A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American--A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Other Pacific Islander--A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White--A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Unable to Determine--The specific race category is ``unable to determine" because the child is very young or is severely disabled and no person is available to identify the child's race. ``Unable to determine" is also used if the parent, relative or guardian is unwilling to identify the child's race.

2. Hispanic or Latino Ethnicity--Answer ``yes" if the child is of Mexican, Puerto Rican, Cuban, Central or South American origin, or a person of other Spanish cultural origin regardless of race. Whether or not a person is Hispanic or Latino is determined by how they define themselves or by how others define them. In the case of young children, parents determine the ethnicity of the child. ``Unable to Determine" is used because the child is very young or is severely disabled and no other person is available to determine whether or not the child is Hispanic or Latino. ``Unable to determine" is also used if the parent, relative or guardian is unwilling to identify the child's ethnicity.

III. Special Needs Status

A. Has the title IV-E Agency Determined That the Child has Special Needs?

Use the title IV-E agency definition of special needs as it pertains to a child eligible for an adoption subsidy under title IV-E.

B. Primary Factor or Condition for Special Needs—Indicate only the primary factor or condition for categorization as special needs and only as it is defined by the title IV-E agency.

Racial/Original Background—Primary condition or factor for special needs is racial/original background as defined by the title IV-E agency.

Age—Primary factor or condition for special needs is age of the child as defined by the title IV-E agency.

Membership in a Sibling Group to be Placed for Adoption Together—Primary factor or condition for special needs is membership in a sibling group as defined by the title IV-E agency.

Medical Conditions of Mental, Physical, or Emotional Disabilities—Primary factor or condition for special needs is the child's medical condition as defined by the title IV-E agency, but clinically diagnosed by a qualified professional.

When this is the response to question B, then item 1 below must be answered.

1. Types of Disabilities--Data are only to be entered if response to III.B was ``4." Indicate with a ``1" the types of disabilities.

Mental Retardation--Significantly subaverage general cognitive and motor functioning existing concurrently with deficits in adaptive behavior manifested during the developmental period that adversely affect a child's/youth's socialization and learning.

Visually or Hearing Impaired--Having a visual impairment that may significantly affect educational performance or development; or a hearing impairment, whether permanent or fluctuating, that adversely affects educational performance.

Physically Disabled--A physical condition that adversely affects the child's day-to-day motor functioning, such as cerebral palsy, spina bifida, multiple sclerosis, orthopedic impairments, and other physical disabilities.

Emotionally Disturbed (DSM III)--A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree: An inability to build or maintain satisfactory interpersonal relationships; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal problems. The term includes persons who are schizophrenic or autistic. The term does not include persons who are socially maladjusted, unless it is determined that they are also seriously emotionally disturbed. Diagnosis is based on the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) (DSM III) or the most recent edition.

Other Medically Diagnosed Conditions Requiring Special Care--
Conditions other than those noted above which require special medical care such as chronic illnesses. Included are children diagnosed as HIV positive or with AIDS.

IV. Birth Parents

A. Year of Birth—Enter the year of birth for both parents, if known. If the child was abandoned and no information was available on either one or both parents, leave blank for the parent(s) for which no information was available.

B. Was the Mother Married at the Time of the Child's Birth?

Indicate whether the mother was married at time of the child's birth; include common law marriage if legal in the State or Tribe. If the child was abandoned and no information was available on the mother, enter "Unable to Determine."

V. Court Actions

A. Dates of Termination of Parental Rights--Enter the month, day and year that the court terminated parental rights. If the parents are known to be deceased, enter the date of death.

B. Date Adoption Legalized--Enter the date the court issued the final adoption decree.

VI. Adoptive Parents

A. Family Structure--Select from the four alternatives—married couple, unmarried couple, single female, single male--the category which best describes the nature of the adoptive parent(s) family structure.

B. Year of Birth--Enter the year of birth for up to two adoptive parents. If the response to data element IV.A--Family Structure, was 1 or 2, enter data for two parents. If the response was 3 or 4, enter data only for the appropriate parent. If the exact year of birth is unknown, enter an estimated year of birth.

C. Race/Ethnicity--Indicate the race/ethnicity for each of the adoptive parent(s). See instructions and definitions for the race/ethnicity categories under data element II.C. Use ``f. Unable to Determine'' only when a parent is unwilling to identify his or her race or ethnicity.

D. Relationship to Adoptive Parent(s)--Indicate the prior relationship(s) the child had with the adoptive parent(s).

Stepparent--Spouse of the child's birth mother or birth father.

Other Relative of Child by Birth or Marriage--A relative through the birth parents by blood or marriage.

Foster Parent of Child--Child was placed in a non-relative foster family home with a family which later adopted him or her. The initial placement could have been for the purpose of adoption or for the purpose of foster care.

Non-Relative--Adoptive parent fits into none of the categories above.

VII. Placement Information

A. Child Was Placed From: Indicate the location of the individual or agency that had custody or responsibility for the child at the time of initiation of adoption proceedings.

Within State or Tribal service area—Responsibility for the child resided with an individual or agency within the State or service area of the Tribal title IV-E agency filing the report.

Another State or Tribal service area—Responsibility for the child resided with an individual or agency in another State, Tribal service area, or territory of the United States.

Another Country—Immediately prior to the adoptive placement, the child was residing in another country and was not a citizen of the United States.

B. Child Was Placed By: Indicate the individual or agency which placed the child for adoption.

Public Agency—A unit of State or local government.

Private Agency—A for-profit or non-profit agency or institution.

Tribal Agency—A unit within one of the Federally recognized Indian Tribes, Indian Tribal Organizations, or Indian Tribal consortia.

Independent Person—A doctor, a lawyer or some other individual.

Birth Parent—The parent(s) placed the child directly with the Adoptive parent(s).

VIII. Adoption Support

A. Is The Child Receiving a Monthly Subsidy?

Enter “yes” if this child was adopted with an adoption assistance agreement under which regular subsidies (Federal, State, or Tribal) are paid.

B. Monthly Amount—Indicate the monthly amount of the subsidy. The amount of the subsidy should be rounded to the nearest dollar. Indicate “0” if the subsidy includes only benefits under titles XIX or XX of the Social Security Act.

C. If VIII.A is “Yes,” is Child Receiving Title IV-E Adoption Subsidy?

If VIII.A is “yes,” indicate whether the subsidy is claimed by the title IV-E agency for reimbursement under title IV-E. Do not include title IV-E non-recurring costs in this item.

Appendix C to Part 1355—Electronic Data Transmission Format

All AFCARS data to be sent from title IV-E agencies to the Department are to be in electronic form. In order to meet this general specification, the Department will offer as much flexibility as possible. Technical assistance will be provided to negotiate a method of transmission best suited to the title IV-E agency's environment.

There will be four semi-annual electronic data transmissions from the title IV-E agency to the Administration for Children and Families (ACF).

Regardless of the electronic data transmission methodology selected, certain criteria must be met by the title IV-E agency:

(1) Records must be written using ASCII standard character format.

(2) All elements must be comprised of integer (numeric) value(s).

Element character length specifications refer to the maximum number of numeric values permitted for that element. See Appendix D.

(3) All records must be a fixed length. The Foster Care Detailed Data Elements Record is 150 characters long and the Adoption Detailed Data Elements Record is 72 characters long. The Foster Care Summary Data Elements Record and the Adoption Summary Data Elements Record are each 172 characters long.

(4) All title IV-E agencies must inform the Department, in writing, of the method of transfer they intend to use.

Appendix D to Part 1355—Foster Care and Adoption Record Layouts

A. Foster Care

1. Foster Care Semi-Annual Detailed Data Elements Record

a. The record will consist of 66 data elements.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) All data must be numeric. Enter the appropriate value for each element.

(2) Enter date values in year, month and day order (YYYYMMDD), e.g., 19991030 for October 30, 1999, or year and month order (YYYYMM), e.g., 199910 for October 1999. Leave the element value blank if dates are not applicable.

(3) For elements 8, 11-15, 26-40, 52, 54 and 59-65, which are ``select all that apply'' elements, enter a ``1'' for each element that applies, enter a zero for non-applicable elements.

(4) Transaction Date—is a computer generated date indicating when the datum (Elements 21 or 55) is entered into the title IV-E agency's automated information system.

(5) Report the status of all children in foster care as of the last day of the reporting period. Also, provide data for all children who were discharged from foster care at any time during the reporting period, or in the previous reporting period, if not previously reported.

c. Foster Care Semi-Annual Detailed Data Elements Record Layout follows:

Element No.	Appendix A data element	Data element description	No. of numeric characters
01	I.A	Title IV-E agency.	2
02	I.B	Report period ending date.	6
03	I.C	Local agency FIPS code (county or equivalent jurisdiction) or other ACF assigned code.	5
04	I.E	Record number.	12
05	II.A	Date of most recent periodic review.	8
06	II.B	Child's date of birth.	8
07	II.C.1	Sex.	1
08		Race.	1
08a		American Indian or Alaska native.	1

08b		Asian.	1
08c		Black or African American.	1
08d		Native Hawaiian or Other Pacific Islander.	1
08e		White.	1
08f		Unable to Determine.	1
09	II.C.2	Hispanic or Latino Ethnicity.	1
10	II.D	Has this child been clinically diagnosed as having a disability(ies).	
		Indicate each type of disability of the child with a "1" for elements 11-15 and a zero for disabilities that do not apply.	
11	II.D.1a	Mental retardation.	1
12	II.D.1b	Visually or hearing impaired.	1
13	II.D.1c	Physically disabled.	1
14	II.D.1d	Emotionally disturbed (DSM III).	1
15	II.D.1e	Other medically diagnosed condition requiring special care.	1
16	II.E.1	Has this child ever been adopted.	1
17	II.E.2	If yes, how old was the child when the adoption was legalized?	1
18	III.A.1	Date of first removal from the home.	8
19	III.A.2	Total number of removals from home to date.	2
20	III.A.3	Date child was discharged from last foster care episode.	8
21	III.A.4	Date of latest removal from home.	8
22	III.A.5	Removal transaction date.	8
23	III.B.1	Date of placement in current foster care setting.	8
24	III.B.2	Number of previous placement settings during this removal episode.	2
25	IV.A	Manner of removal from home for current placement episode.	1
		Actions or conditions associated with child's removal: Indicate with a "1" for elements 26-40 and a zero for conditions that do not apply.	
26	IV.B.1	Physical abuse (alleged/reported).	1
27	IV.B.2	Sexual abuse (alleged/reported).	1
28	IV.B.3	Neglect (alleged/reported).	1
29	IV.B.4	Alcohol abuse (parent).	1
30	IV.B.5	Drug abuse (parent).	1
31	IV.B.6	Alcohol abuse (child).	1

32	IV.B.7	Drug abuse (child).	1
33	IV.B.8	Child's disability.	1
34	IV.B.9	Child's behavior problem.	1
35	IV.B.10	Death of parent(s).	1
36	IV.B.11	Incarceration of parent(s).	1
37	IV.B.12	Caretaker's inability to cope due to illness or other reasons.	1
38	IV.B.13	Abandonment.	1
39	IV.B.14	Relinquishment.	1
40	IV.B.15	Inadequate housing.	1
41	V.A	Current placement setting.	1
42	V.B	Out of State/Tribal service area placement.	1
43	VI	Most recent case plan goal.	1
44	VII.A	Caretaker family structure.	1
45	VII.B.1	Year of birth (1st principal caretaker).	4
46	VII.B.2	Year of birth (2nd principal caretaker).	4
47	VIII.A	Date of mother's parental rights termination.	8
48	VIII.B	Date of legal or putative father's parental rights.	8
49	IX.A	Foster family structure.	1
50	IX.B.1	Year of birth (1st foster caretaker).	4
51	IX.B.2	Year of birth (2nd foster caretaker).	4
52	IX.C.1	Race of 1st foster caretaker.	1
52a		American Indian or Alaska Native	1
52b		Asian	1
52c		Black or Asian American.	1
52d		Native Hawaiian or Other Pacific Islander.	1
52e		White.	1
52f		Unable to Determine.	1
53	IX.C.2	Hispanic of Latino ethnicity of 1st foster caretaker.	1
54	IX.C.3	Race of 2nd foster caretaker.	1
54a		American Indian or Alaska Native	1
54		Asian	1
54c		Black or African American.	1
54d		Native Hawaiian or Other pacific islander.	1
54e		White.	1
54f		Unable to Determine.	1
55	IX.C.4	Hispanic of Latino ethnicity of 2nd foster caretaker.	1
56	X.A.1	Date of discharge from foster care.	8
57	X.A.2	Foster care discharge transaction date.	8

58	X.B	Reason for discharge.	1
		Sources of Federal support/assistance for child; indicate with a "1" for elements 58-64 and a zero for sources that do not apply.	
59	XI.A	Title IV-E (Foster Care).	1
60	XI.B	Title IV-E (Adoption Assistance).	1
61	XI.C	Title IV-A (Aid to Families with Dependent Children).	1
62	XI.D	Title IV-D (Child Support).	1
63	XI.E	Title XIX (Medicaid).	1
64	XI.F	SSI or other Social Security Act benefits.	1
65	XI.G	None of the above.	1
66	XII	Amount of monthly foster care payment (regardless of source).	5
Total characters			197

2. Foster Care Semi-Annual Summary Data Elements Record

a. The record will consist of 22 data elements.

The values for these data elements are generated by processing all records in the semi-annual detailed data transmission and computing the summary values for Elements 1 and 3-22. Element 2 is the semi-annual report period ending date. In calculating the age range for the child, the last day of the reporting period is to be used.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) Enter the appropriate value for each element.

(2) For all elements where the total is zero, enter a numeric zero.

(3) Enter date values in year, month order (YYYYMM), e.g.,199912 for December 1999.

c. Foster Care Semi-Annual Summary Data Elements Record Layout follows:

Element No.	Summary data file	No. of characters
01	Number of records	8
02	Report period ending date (YYYYMM)	6
03	Children in care under 1 year	8
04	Children in care 1 year old	8
05	Children in care 2 years old	8
06	Children in care 3 years old	8
07	Children in care 4 years old	8
08	Children in care 5 years old	8
09	Children in care 6 years old	8
10	Children in care 7 years old	8
11	Children in care 8 years old	8

12 ..... Children in care 9 years old 8
13 ..... Children in care 10 years old 8
14 ..... Children in care 11 years old 8
15 ..... Children in care 12 years old 8
16 ..... Children in care 13 years old 8
17 ..... Children in care 14 years old 8
18 ..... Children in care 15 years old 8
19 ..... Children in care 16 years old 8
20 ..... Children in care 17 years old 8
21 ..... Children in care 18 years old 8
22 ..... Children in care over 18 years old 8
Record Length 174

B. Adoption

1. Adoption Semi-Annual Detailed Data Elements Record

a. The record will consist of 37 data elements.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) Enter the appropriate value for each element.

(2) Enter date values in year, month and day order (YYYYMMDD), e.g., 19991030 for October 30, 1999, or year and month (YYYYMM), e.g., 199910 for October 1999. Leave the element value blank if dates are not applicable.

(3) For elements 7, 11-15, 25, 27 and 29-32 which are ``select all that apply'' elements, enter a ``1'' for each element that applies; enter a zero for non-applicable elements.

c. Adoption Semi-Annual Detailed Data Elements Record Layout follows:

Element No.	Appendix A data element	Data element description	No. of numeric characters
01	I.A	Title IV-E agency.	2
02	I.B	Report period ending date.	6
03	I.C	Record number.	6
04	I.D	Title IV-E agency involvement.	1
05	II.A	Date of birth.	6
06	II.B	Sex.	1
07	II.C.1	Race.	1
07a		American Indian or Alaska native.	1
07b		Asian.	1
07c		Black or African American.	1
07d		Native Hawaiian or Other Pacific Islander.	1
07e		White.	1
07f		Unable to Determine.	1
08	II.C.2	Hispanic or Latino Ethnicity.	1

09	III.A	Has the title IV-E agency determined that this child has special needs.	1
10	III.B	Primary basis for special needs.	1
		Indicate a primary basis of special needs with a "1" for elements 11-15. Enter a zero for special needs that do not apply.	
11	III.B.1.a	Mental retardation.	1
12	III.B.1.b	Visually or hearing impaired.	1
13	III.B.1.c	Physically disabled.	1
14	III.B.1.d	Emotionally disturbed (DSM III).	1
15	III.B.1.e	Other medically diagnosed condition requiring special care.	1
16	IV.A.1	Mother's year of birth	4
17	IV.A.2	Father's (Putative of legal) year of birth.	4
18	IV.B	Was the mother married at time of child's birth.	1
19	V.A.1	Date of mother's termination of parental rights.	8
20	V.A.2	Date of father's termination of parental rights.	8
21	V.B	Date adoption legalized.	8
22	VI.A	Adoptive parents family structure.	1
23	VI.B.1	Mother's year of birth (if applicable).	4
24	VI.B.2	Father's year of birth (if applicable).	4
25	VI.C.1	Adoptive mother's race.	1
25a		American Indian or Alaska native.	1
25b		Asian.	1
25c		Black or African American.	1
25d		Native Hawaiian or Other Pacific Islander.	1
25e		White.	1
25f		Unable to Determine.	1
26	VI.C.2	Hispanic or Latino Ethnicity.	1
27	VI.C.3	Adoptive father's race	1
27a		American Indian or Alaska native.	1
27b		Asian.	1
27c		Black or African American.	1
27d		Native Hawaiian or Other Pacific Islander.	1
27e		White.	1
27f		Unable to Determine.	1
28	VI.C.4	Hispanic or Latino Ethnicity.	1
		Indicate each type of relationship of adoptive parent(s) to the child with a "1"	

		for elements 29-32. Enter a zero for relationships that do not apply below.	
29	VI.D.1	Stepparent.	1
30	VI.D.2	Other relative of child by birth or marriage.	1
31	VI.D.3	Foster parent of child.	1
32	VI.D.4	Other non-relative.	1
33	VII.A	Child was placed from	1
34	VII.B	Child was placed by	1
35	VIII.A	Is this child receiving a monthly subsidy.	1
36	VIII.B	If VIII.B is "yes," What is the monthly amount.	5
37	VIII.C	If VII.B is "yes," Is the child receiving title IV-E adoption assistance?.	1
Total characters			111

2. Adoption Semi-Annual Summary Data Elements Record

a. The record will consist of 22 data elements.

The values for these data elements are generated by processing all records in the semi-annual detailed data transmission and computing the summary values for Elements 1 and 3-22. Element 2 is the semi-annual report period ending date. In calculating the age range for the child, the last day of the reporting period is to be used.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) Enter the appropriate value for each element.

(2) For all elements where the total is zero, enter a numeric zero.

(3) Enter data values in year, month order (YYYYMM), e.g., 199912 for December 1999.

c. Adoption Semi-Annual Summary Data Element Record Layout follows:

Element No.	Summary data file	No. of characters
01	Number of records	8
02	Report period ending date (YYYYMM)	6
03	Children adopted Under 1 year old	8
04	Children adopted 1 year old	8
05	Children adopted 2 years old	8
06	Children adopted 3 years old	8
07	Children adopted 4 years old	8
08	Children adopted 5 years old	8
09	Children adopted 6 years old	8
10	Children adopted 7 years old	8
11	Children adopted 8 years old	8
12	Children adopted 9 years old	8

13	Children adopted 10 years old	8
14	Children adopted 11 years old	8
15	Children adopted 12 years old	8
16	Children adopted 13 years old	8
17	Children adopted 14 years old	8
18	Children adopted 15 years old	8
19	Children adopted 16 years old	8
20	Children adopted 17 years old	8
21	Children adopted 18 years old	8
22	Children adopted over 18 years old	8
Record Length		174

Appendix E to Part 1355—Data Standards

All data submissions will be evaluated to determine the completeness and internal consistency of the data. Four types of assessments will be conducted on both the foster care and adoption data submissions. The results of these assessments will determine the applicability of a substantial non-compliance determination with the title IV-E plan. The four types of assessments are:

- Comparisons of the detailed data to summary data;
- Internal consistency checks of the detailed data;
- An assessment of the status of missing data; and
- Timeliness, an assessment of how current the submitted data are.

A. Foster Care

1. Summary Data Elements Submission Standards

A summary file must accompany the Detailed Data Elements submission. Both transmissions must be sent through electronic means (see appendix C for details). This summary will be used to verify basic counts of records on the detailed data received.

a. The summary file must be a discrete file separate from the semi-annual reporting period detailed data file. The record layout for the summary file is included in appendix D. section A.2.c. All data must be included. If the value for a numeric field is zero, zero must be entered.

b. The Department will develop a second summary file by computing the values from the detailed data file received from the title IV-E agency. The two summary files (the one submitted by the title IV-E agency and the one created during Federal processing) will be compared, field by field. If the two files match, further validation of the detailed data

elements will commence. (See Section A.2 below.) If the two summary files do not match, we will assume that there has been an error in transmission and will request a retransmission from the title IV-E agency within 24 hours of the time the title IV-E agency has been notified. In addition, a log of these occurrences will be kept as a means of cataloging problems and offering suggestions on improved procedures.

2. Detailed Data File Submission Standards

a. Internal Consistency Validations.

Internal consistency validations involve evaluating the logical relationships between data elements in a detailed record. For example, a child cannot be discharged from foster care before he or she has been removed from his or her home. Thus, the Date of Latest Removal From Home data element must be a date prior to the Date of Discharge. If this is not case, an internal inconsistency will be detected and an ``error'' indicated in the detailed data file.

A number of data elements have ``if applicable'' contingency relationships with other data elements in the detailed record. For example, if the Foster Family Structure has only a single parent, then the appropriate sex of the Single Female/Male element in the ``Year of Birth'' and ``Race/Origin'' elements must be completed and the ``non-applicable'' fields for these elements are to be filled with zero's or, for dates, left blank.

The internal consistency validations that will be performed on the foster care detailed data are as follows:

(1) The Local Agency must be the county or a county equivalent unit which has responsibility for the case. The 5 digit Federal Information Processing Standard (FIPS) or other ACF assigned code must be used.

(2) If Date of Latest Removal From Home (Element 21) is less than nine months prior to the Report Period Ending Date (Element 2) then the Date of Most Recent Periodic Review (Element 5) may be left blank.

(3) If Date of Latest Removal From Home (Element 21) is greater than nine months from Report Date (Element 2) then the Date of Most Recent Periodic Review (Element 5) must not be more than nine months prior to the Report Date (Element 2).

(4) If a child is identified as having a disability(ies) (Element 10), at least one Type of Disability Condition (Elements 11-15) must be indicated. Enter a zero (0) for disabilities that do not apply.

(5) If the Total Number of Removals From Home to Date (Element 19) is one (1), the Date Child was Discharged From Last Foster Care Episode (Element 20) must be blank.

(6) If the Total Number of Removals From Home to Date (Element 19) is two or more, then the Date Child was Discharged From Last Foster Care Episode (Element 20) must not be blank.

(7) If Data Child was Discharged From Last Foster Care Episode (Element 20) exists, then this date must be a date prior to the Date of Latest Removal From Home (Element 21).

(8) The Date of Latest Removal From Home (Element 21) must be prior to the Date of Placement in Current Foster Care Setting (Element 23).

(9) At least one element between elements 26 and 40 must be answered by selecting a ``1''. Enter a zero (0) for conditions that do not apply.

(10) If Current Placement Setting (Element 41) is a value that indicates that the child is not in a foster family or a pre-adoptive home, then elements 49-55 must be zero (0).

(11) At least one element between elements 59 and 65 must be answered by selecting a ``1''. Enter a zero for sources that do not apply.

(12) If the answer to the question, ``Has this child ever been adopted?'' (Element 16) is ``1'' (Yes), then the question, ``How old was the child when the adoption was legalized?'' (Element 17) must have an answer from ``1'' to ``5.''

(13) If the Date of Most Recent Periodic Review (Element 5) is not blank, then Manner of Removal From Home for Current Placement Episode (Element 25) cannot be option 3, ``Not Yet Determined.''

(14) If Reason for Discharge (Element 58) is option 3, ``Adoption,'' then Parental Rights Termination dates (Elements 46 and 47) must not be blank.

(15) If the Date of Latest Removal From Home (Element 21) is present, the Date of Latest Removal From Home Transaction Date (Element 22) must be present and must be later than or equal to the Date of Latest Removal From Home (Element 21).

(16) If the Date of Discharge From Foster Care (Element 56) is present, the Date of Discharge From Foster Care Transaction Date (Element 57) must be present and must be later than or equal to the Date of Discharge From Foster Care (Element 56).

(17) If the Date of Discharge From Foster Care (Element 56) is present, it must be after the Date of Latest Removal From Home (Element 21).

(18) In Elements 8, 52, and 54, race categories (``a'' through ``e'') and ``f. Unable to Determine'' cannot be coded ``0,'' for it does not apply. If any of the race categories apply and are coded as ``1'' then ``f. Unable to Determine'' cannot also apply.

b. Out-of-Range Standards.

Out-of-range standards relate to the occurrence of values in response to data elements that exceed, either positively or negatively, the acceptable range of responses to the question. For example, if the acceptable responses to the element, Sex of the Adoptive Child, is ``1'' for a male and ``2'' for a female, but the datum provided in the element is ``3,'' this represents an out-of-range response situation.

Out-of-range comparisons will be made for all elements. The acceptable values are described in Appendix A, Section I.

3. Missing Data Standards

The term ``missing data'' refers to instances where data for an element are required but are not present in the submission.

Data elements with values of ``Unable to Determine,'' ``Not Yet Determined'' or which are not applicable, are not considered missing.

a. In addition, the following situations will result in converting data values to a missing data status:

(1) Data elements whose values fail internal consistency validations as outlined in A.2.a.(1)-(18) above, and

(2) Data elements whose values are out-of-range.

b. The maximum amount of allowable missing data is dependent on the data elements as described below:

(1) No Missing Data.

The data for the elements listed below must be present in all records in the submission. If any record contains missing data for any of these elements, the entire submission will be considered missing and processing will not proceed.

Element No.	Element name
01	Title IV-E agency.
02	Report date.
03	Local agency FIPS code or other ACF assigned code.
04	Record number.

(2) Less Than Ten Percent Missing Data.

The data for the elements listed below cannot have ten percent or more missing data without incurring a finding of substantial noncompliance with the title IV-E plan.

Element No.	Element description
05	Date of most recent periodic review.
06	Child's date of birth.
07	Child's sex.
08	Child's race.
09	Child's Hispanic or Latino Ethnicity
10	Does child have a disability(ies)?
11-15	Type of disability (at least one must be selected).
16	Has child been adopted?
17	How old was child when adoption was legalized?
18	Date of first removal from home.
19	Total number of removals from home to date.
20	Date child was discharged from last foster care.
21	Date of latest removal from home.
22	Removal transaction date.
23	Date of placement in current foster care setting.
24	Number of previous placement settings during this removal episode.
25	Manner of removal from home for current placement episode.
26-40	Actions or conditions associated with child's removal (at least one must be selected).

```
41.............................  Current placement setting.
42.............................  Out of State/Tribal service area
placement.
43.............................  Most recent case plan goal.
44.............................  Caretaker family structure.
45.............................  Year of birth of 1st principal
                                  caretaker.
46.............................  Year of birth of 2nd principal
                                  caretaker.
47.............................  Date of mother's parental rights
                                  termination.
48.............................  Legal of putative father parental
                                  rights termination date.
49.............................  Foster family structure.
50.............................  Year of birth of 1st foster
                                  caretaker.
51.............................  Year of birth of 2nd foster
                                  caretaker.
52.............................  Race of 1st foster caretaker.
53.............................  Hispanic or Latino Ethnicity of 1st
                                  foster caretaker
54.............................  Race of 2nd foster caretaker.
55.............................  Hispanic or Latino Ethnicity of 2nd
                                  foster caretaker
56.............................  Date of discharge from foster care.
57.............................  Foster care discharge transaction
                                  date.
58.............................  Reason for discharge.
59-65..........................  Sources of Federal
support/assistance for child (at least one must be selected).
66.............................  Amount of monthly foster care
payment(regardless of source).
-------------------------------------------------------------------------
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c. Determination of substantial noncompliance with the title IV-E plan.

Missing data are a major factor in determining substantial non-compliance with the title IV-E plan.

(1) Selection Rules.

All data elements will be used in calculating missing data unless one of the following limiting rules applies to the detailed case record.

(a) If Date of Latest Removal From Home (Element 21) and the Date of Discharge From Foster Care (Element 56) is less than 30 days, then the following date elements are the only ones to be used in evaluating the missing data provisions for purposes of a determination of substantial noncompliance with the title IV-E plan:

Elements

1 to 4

6 to 9

21 and 22

41 and 42

56 to 58

(b) If Date of Latest Removal From Home (Element 18) is prior to October 1, 1995, then the following data elements are the only ones to be used in evaluating the missing data provisions for purposes of a determination of substantial noncompliance with the title IV-E plan:

Elements
1 to 4
6 to 9
21 and 22
41 and 43
56 to 58

(2) Determination of substantial noncompliance with the title IV-E plan.
The percentage calculation will be performed for each data element. The total number of detailed records that are included by the selection rules in 3.c.(1), will serve as the denominator. The number of missing data occurrences for each element will serve as the numerator. The result will be multiplied by one hundred. The determination of substantial noncompliance with the title IV-E plan is made when any one element's missing data percentage is ten percent or greater.

4. Timeliness of Foster Care Data Reports

The semi-annual reporting periods will be as of the end of March and September for each year. Title IV-E agencies are required to submit reports within 45 calendar days after the end of the semi-annual reporting period.
Computer generated transaction dates indicate the date when key foster care events are entered into the title IV-E agency’s computer system. The intent of these transaction dates is to ensure that information about the status of children in foster care is recorded and, thus, reported in a timely manner.
b. Date of Discharge From Foster Care
The Date of Discharge From Foster Care Transaction Date (Element 57) must not be more than 60 days after the Date of Discharge From Foster Care (Element 56) event. For purposes of a determination of substantial noncompliance with the title IV-E plan, ninety percent of the records in a detailed data submission, must indicate that:
(1) The difference between the Date of Latest Removal From Home Transaction Date (Element 22) and the Date of Latest Removal From Home (Element 21) event is 60 days or less;
and, where applicable,
(2) The difference between the Date of Discharge From Foster Care Transaction Date (Element 57), and the Date of Discharge From Foster Care (Element 56) event is 60 days or less.

B. Adoption

1. Summary Data Elements File Submission Standards

A summary file must accompany the detailed Data Elements File submission. Both files must be sent through electronic means (see appendix C for details). This summary will be used to verify the completeness of the Detailed Data File submission received.

a. The summary file should be a discrete file separate from the semi-annual reporting period detailed data file. The record layout for the summary file is included in appendix D, section B.2.c. All data must be included. If the value for a numeric field is zero, zero must be entered.

b. The Department will develop a second summary file by computing the values from the detailed data file received from the title IV-E agency. The two summary files (the one submitted by the title IV-E agency and the one created during Federal processing) will be compared, field by field. If the two files match, further validation of the detailed data elements will commence. (See section B.2 below.) If the two summary files do not match, we will assume that there has been an error in transmission and will request a retransmission from the title IV-E agency within 24 hours of the time the title IV-E agency has been notified. In addition, a log of these occurrences will be kept as a means of cataloging problems and offering suggestions on improved procedures.

2. Detailed Data Elements File Submission Standards

a. Internal Consistency Validations

Internal consistency validations involve evaluating the logical relationships between data elements in a detailed record. For example, an adoption cannot be finalized until parental rights have been terminated. Thus, the dates of Mother/Father Termination of Parental Rights, elements must be present and the dates must be prior to the ``Date Adoption Legalized." If this is not the case, an internal inconsistency will be detected and an ``error" indicated in the detailed data file.

A number of data elements have ``if applicable" contingency relationships with other data elements in the detailed record. For example, if the Adoptive Parent is single, then the appropriate sex of the single female/male element in the ``Family Structure," ``Year of Birth" and ``Race/Origin" elements must be completed and the ``non-applicable" fields for these elements are to be filled with zeros or left blank.

The internal consistency validations that will be performed on the adoption detailed data are as follows:

(1) The Child's Date of Birth (Element 5) must be later than both the Mother's and Father's Year of Birth (Elements 16 and 17) unless either of these is unknown.)

(2) If the title IV-E agency has determined that the child is a special needs child (Element 9), then “the primary basis for determining that this child has special needs” (Element 10) must be completed. If “the primary basis for determining that this child has special needs” (Element 10) is answered by option “4,” then at least one element between

Elements 11–15, “Type of Disability,” must be selected. Enter a zero (0) for disabilities that do not apply.

(3) Dates of Parental Rights Termination (Elements 19 and 20) must be completed and must be prior to the Date Adoption Legalized (Element 21).

(4) If ``Is a monthly financial subsidy being paid for this child'' (Element 35) is answered negatively, ``2'', then Element 36 must be zero (0) and ``Is the subsidy paid under Title IV-E adoption assistance'' (Element 37) must be a ``2''.

(5) If the “Child Was Placed By” (Element 34) is answered with option 1, “Public Agency,” then the question, “Did the title IV-E Agency Have any Involvement in This Adoption” (Element 4) must be “1”.

(6) If the “Relationship of Adoptive Parent(s) to the Child,” “Foster Parent of Child” (Element 31) is selected, then the question, “Did the title IV-E Agency Have any Involvement in This Adoption” (Element 4) must be “1”.

(7) If “Is a monthly financial subsidy being paid for this child?” (Element 35) answered “1,” then the question, “Did the title IV-E Agency Have any Involvement in This Adoption” (Element 4) must be “1.”

(8) If the ``Family Structure'' (Element 22) is option 3, Single Female, then the Mother's Year of Birth (Element 23), the ``Adoptive Mother's Race'' (Element 25) and ``Hispanic or Latino Ethnicity'' (Element 26) must be completed. Similarly, if the ``Family Structure'' (Element 22) is option 4, Single Male, then the Father's Year of Birth (Element 24), the Adoptive Father's Race'' (Element 27) and ``Hispanic or Latino Ethnicity'' (Element 28) must be completed. If the ``Family Structure'' (Element 22) is option 1 or 2, then both Mother's and Father's ``Year of Birth,'' ``Race'' and ``Hispanic or Latino Ethnicity'' must be completed.

(9) In Elements 7, 25, and 27, race categories (``a'' through ``e'') and ``f. Unable to Determine'' cannot be coded ``0,'' for it does not apply. If any of the race categories apply and are coded as ``1'' then ``f. Unable to Determine'' cannot also apply.

b. Out-of-Range Standards.

Out-of-range standards relate to the occurrence of values in response to data elements that exceed, either positively or negatively, the acceptable range of responses to the question. For example, if the acceptable response to the element, Sex of the Adoptive Child, is ``1'' for a male and ``2'' for a female, but the datum provided in the element is ``3,'' this represents an out-of-range response situation.

Out-of-range comparisons will be made for all elements. The acceptable values are described in appendix B, section I.

3. Missing Data Standards

The term ``missing data'' refers to instances where data for an element are required but are not present in the submission. Data elements with values of ``Unable to Determine,'' ``Other'' or which are not applicable, are not considered missing.

a. In addition, the following situations will result in converting data values to a missing data status:

(1) Data elements whose values fail internal consistency validations as outlined in 2.a.(1)-(9) above, and

(2) Data elements whose values are out-of-range.

b. The maximum amount of allowable missing data is dependent on the data elements as described below.

(1) No Missing Data.

Element No.	Element name
01	Title IV-E agency.
02	Report date.
03	Record number.
04	Did the title IV-E agency have any involvement in this adoption?

(2) Less Than Ten Percent Missing Data

The data for the elements listed below cannot have ten percent or more missing data without incurring a determination of substantial non-compliance with the title IV-E plan.

Element No.	Element name
05	Child's date of birth.
06	Child's sex.
07	Child's race.
08	Is the child of Hispanic or Latino ethnicity?
09	Does child have special needs?
10	Indicate the primary basis for determining that the child has special needs. (If Element 09 is yes, you must answer this question.)
11-15	Type of special need (at least one must be selected.)
16	Mother's year of birth.
17	Father's year of birth.
18	Was mother married at time of child's birth?
19	Date of mother's termination of parental rights.
20	Date of father's termination of parental rights.
21	Date adoption legalized.
22	Adoptive parent(s)' family structure.
23	Mother's year of birth.
24	Father's year of birth.
25	Adoptive mother's race.
26	Hispanic or Latino ethnicity of mother
27	Adoptive father's race.

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28.............................  Hispanic or Latino ethnicity of
                                  father
29-32..........................  Relationship of adoptive parent(s)to
                                  child (at least one must be
                                  selected.)
33.............................  Child placed from.
34.............................  Child placed by.
35.............................  Is a monthly financial subsidy paid
                                  for this child?
36.............................  If yes, the monthly amount is?
37.............................  Is the child receiving Title IV-E
                                  adoption assistance? (If Element 35
                                  is a ``1'' (Yes) an answer to this
                                  question is required.)
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c. Determination of substantial non-compliance with the title IV-E plan.

Missing data are a major factor in determining substantial noncompliance with the title IV-E plan.

(1) Selection Rules.

Only the adoption records with a “1” (Yes) answer in Element 4, “Did the title IV-E Agency have any Involvement in this adoption” will be subject to a determination of substantial non-compliance with the title IV-E plan.

(2) Determination of substantial non-compliance with the title IV-E plan.

The percentage calculation will be performed for each data element. The total number of detailed records will serve as the denominator and the number of missing data occurrences for each element will serve as the numerator. The result will be multiplied by one hundred. The determination of substantial non-compliance with the title IV-E plan is made when any one element's missing data percentage is ten percent or greater.

4. Timeliness of Adoption Data Reports

The semi-annual reporting periods will be as of the end of March and September for each year. The title IV-E agency is required to submit reports within 45 calendar days after the end of the semi-annual reporting period.

For determinations of substantial non-compliance with the title IV-E plan purposes, however, no specific timeliness of data standards apply. Data on adoptions should be submitted as promptly after finalization as possible.

The desired approach to reporting adoption data is that adoptions should be reported during the reporting period in which the adoption is legalized. Or, at the title IV-E agency's option, they can be reported in the following reporting period if the adoption is legalized within the last 60 days of the reporting period.

Negative reports must be submitted for any semi-annual period in which no adoptions have been legalized.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV-E

AUTHORITY: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq.; 42 U.S.C. 1302.

§ 1356.10 Scope.

This part applies to title IV-E agency programs for foster care maintenance payments, adoption assistance payments, related foster care and adoption administrative and training expenditures, and the independent living services program under title IV-E of the Act.

§ 1356.20 Title IV-E plan document and submission requirements.

(a) To be in compliance with the title IV-E plan requirements and to be eligible to receive Federal financial participation (FFP) in the costs of foster care maintenance payments and adoption assistance under this part, a title IV-E agency must have a plan approved by the Secretary that meets the requirements of this part, part 1355, section 471(a) of the Act and for Tribal title IV-E agencies, section 479B(c) of the Act. The title IV-E plan must be submitted to the appropriate Regional Office, ACYF, in a form determined by the title IV-E agency.

(b) Failure by a title IV-E agency to comply with the requirements and standards for the data reporting system for foster care and adoption (§1355.40 of this chapter) shall be considered a substantial failure by the title IV-E agency in complying with the plan..

(c) The following procedures for approval of plans and amendments apply to the title IV-E program:

(1) Plan. The plan consists of written documents furnished by the title IV-E agency to cover its program under part E of title IV. After approval of the original plan by the Commissioner, ACYF, all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are required to be submitted currently so that ACYF may determine whether the plan continues to meet Federal requirements and policies.

(2) Submittal. Plans and revisions of the plans are submitted first to the State governor or his/her designee, or the Tribal leader or his/her designee for review and then to the regional office, ACYF. Title IV-E agencies are encouraged to obtain consultation of the regional staff when a plan is in process of preparation or revision.

(3) Review. Staff in the regional offices are responsible for review of plans and amendments. They also initiate discussion with the title IV-E agency on clarification of significant aspects of the plan which come to their attention in the course of this review. Plan material on which the regional staff has questions concerning the application of Federal policy is referred with recommendations as required to the central office for technical assistance. Comments and suggestions, including those of consultants in

specified areas, may be prepared by the central office for use by the regional staff in negotiations with the title IV-E agency.

(4) Action. ACYF has the authority to approve plans and amendments thereto which provide for the administration of foster care maintenance payments and adoption assistance programs under section 471 of the Act. The Commissioner, ACYF, retains the authority to determine that proposed plan material is not approvable, or that a previously approved plan no longer meets the requirements for approval. The Regional Office, ACYF, formally notifies the title IV-E agency of the actions taken on plans or revisions.

(5) Basis for approval. Determinations as to whether plans (including plan amendments and administrative practice under the plans) originally meet or continue to meet, the requirements for approval are based on relevant Federal statutes and regulations.

(6) Prompt approval of plans. The determination as to whether a plan submitted for approval conforms to the requirements for approval under the Act and regulations issued pursuant thereto shall be made promptly and not later than the 45th day following the date on which the plan submittal is received in the regional office, unless the Regional Office, ACYF, has secured from the title IV-E agency a written agreement to extend that period.

(7) Prompt approval of plan amendments. Any amendment of an approved plan may, at the option of the title IV-E agency, be considered as a submission of a new plan. If the title IV-E agency requests that such amendment be so considered, the determination as to its conformity with the requirements for approval shall be made promptly and not later than the 45th day following the date on which such a request is received in the regional office with respect to an amendment that has been received in such office, unless the Regional Office, ACYF, has secured from the title IV-E agency a written agreement to extend that period. In absence of request by a title IV-E agency that an amendment of an approved plan shall be considered as a submission of a new plan, the procedures under §201.6 (a) and (b) shall be applicable.

(8) Effective date. The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted, and with respect to expenditures for assistance under such plan, may not be earlier than the first day on which the plan is in operation on a statewide basis or, in the case of a Tribal title IV-E agency, in operation in the Tribal title IV-E agency's entire service area. The same applies with respect to plan amendments.

(d) Once the title IV-E plan has been submitted and approved, it shall remain in effect until amendments are required. An amendment is required if there is any significant and relevant change in the information or assurances in the plan, or the organization, policies or operations described in the plan.

§ 1356.21 Foster care maintenance payments program implementation requirements.

(a) Statutory and regulatory requirements of the Federal foster care program. To implement the foster care maintenance payments program provisions of the title IV-E plan and to be eligible to receive Federal financial participation (FFP) for foster care

maintenance payments under this part, a title IV-E agency must meet the requirements of this section, 45 CFR 1356.22, 45 CFR 1356.30, and sections 472, 475(1), 475(4), 475(5), 475(6), and for a Tribal title IV-E agency section 479(B)(c)(1)(C)(ii)(II) of the Act.

(b) Reasonable efforts. The title IV-E agency must make reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured; to effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible. In order to satisfy the "reasonable efforts" requirements of section 471(a)(15) (as implemented through section 472(a)(2) of the Act), the title IV-E agency must meet the requirements of paragraphs (b) and (d) of this section. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health and safety must be the paramount concern.

(1) *Judicial determination of reasonable efforts to prevent a child's removal from the home.* (i) When a child is removed from his/her home, the judicial determination as to whether reasonable efforts were made, or were not required to prevent the removal, in accordance with paragraph (b)(3) of this section, must be made no later than 60 days from the date the child is removed from the home pursuant to paragraph (k)(1)(ii) of this section.

(ii) If the determination concerning reasonable efforts to prevent the removal is not made as specified in paragraph (b)(1)(i) of this section, the child is not eligible under the title IV-E foster care maintenance payments program for the duration of that stay in foster care.

(2) *Judicial determination of reasonable efforts to finalize a permanency plan.* (i) The title IV-E agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve months of the date the child is considered to have entered foster care in accordance with the definition at §1355.20 of this part, and at least once every twelve months thereafter while the child is in foster care.

(ii) If such a judicial determination regarding reasonable efforts to finalize a permanency plan is not made in accordance with the schedule prescribed in paragraph (b)(2)(i) of this section, the child becomes ineligible under title IV-E at the end of the month in which the judicial determination was required to have been made, and remains ineligible until such a determination is made.

(3) Circumstances in which reasonable efforts are not required to prevent a child's removal from home or to reunify the child and family. Reasonable efforts to prevent a child's removal from home or to reunify the child and family are not required if the title IV-E agency obtains a judicial determination that such efforts are not required because:

(i) A court of competent jurisdiction has determined that the parent has subjected the child to aggravated circumstances (as defined in State, or for a Tribal title IV-E agency,

Tribal law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

(ii) A court of competent jurisdiction has determined that the parent has been convicted of:

(A) Murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(B) Voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or such a voluntary manslaughter; or

(D) A felony assault that results in serious bodily injury to the child or another child of the parent; or,

(iii) The parental rights of the parent with respect to a sibling have been terminated involuntarily.

(4) *Concurrent planning.* Reasonable efforts to finalize an alternate permanency plan may be made concurrently with reasonable efforts to reunify the child and family.

(5) *Use of the Federal Parent Locator Service.* The State agency may seek the services of the Federal Parent Locator Service to search for absent parents at any point in order to facilitate a permanency plan.

(c) Contrary to the welfare determination. Under section 472(a)(2) of the Act, a child's removal from the home must have been the result of a judicial determination (unless the child was removed pursuant to a voluntary placement agreement) to the effect that continuation of residence in the home would be contrary to the welfare, or that placement would be in the best interest, of the child. The contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care.

(d) *Documentation of judicial determinations.* The judicial determinations regarding contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, must be explicitly documented and must be made on a case-by-case basis and so stated in the court order.

(1) If the reasonable efforts and contrary to the welfare judicial determinations are not included as required in the court orders identified in paragraphs (b) and (c) of this section, a transcript of the court proceedings is the only other documentation that will be accepted to verify that these required determinations have been made.

(2) Neither affidavits nor nunc pro tunc orders will be accepted as verification documentation in support of reasonable efforts and contrary to the welfare judicial determinations except for a Tribal title IV-E agency for the first 12 months that agency's title IV-E plan is in effect as provided for in section 479B(c)(1)(C)(ii)(I) of the Act.

(3) Court orders that reference State or Tribal law to substantiate judicial determinations are not acceptable, even if such law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be ordered after reasonable efforts have been made.

(e) *Trial home visits.* A trial home visit may not exceed six months in duration, unless a court orders a longer trial home visit. If a trial home visit extends beyond six months and has not been authorized by the court, or exceeds the time period the court has deemed appropriate, and the child is subsequently returned to foster care, that placement must then be considered a new placement and title IV-E eligibility must be newly established. Under these circumstances the judicial determinations regarding contrary to the welfare and reasonable efforts to prevent removal are required.

(f) *Case review system.* In order to satisfy the provisions of section 471(a)(16) of the Act regarding a case review system, each title IV-E agency's case review system must meet the requirements of sections 475(5) and 475(6) of the Act.

(g) *Case plan requirements.* In order to satisfy the case plan requirements of sections 471(a)(16), 475(1) and 475(5)(A) and (D) of the Act, the title IV-E agency must promulgate policy materials and instructions for use by staff to determine the appropriateness of and necessity for the foster care placement of the child. The case plan for each child must:

(1) Be a written document, which is a discrete part of the case record, in a format determined by the title IV-E agency, which is developed jointly with the parent(s) or guardian of the child in foster care; and

(2) Be developed within a reasonable period, to be established by the title IV-E agency, but in no event later than 60 days from the child's removal from the home pursuant to paragraph (k) of this section;

(3) Include a discussion of how the case plan is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s) when the case plan goal is reunification and a discussion of how the placement is consistent with the best interests and special needs of the child. (FFP is not available when a court orders a placement with a specific foster care provider);

(4) Include a description of the services offered and provided to prevent removal of the child from the home and to reunify the family; and

(5) Document the steps to finalize a placement when the case plan goal is or becomes adoption or placement in another permanent home in accordance with sections 475(1)(E) and (5)(E) of the Act. When the case plan goal is adoption, at a minimum, such documentation shall include child-specific recruitment efforts such as the use of State, Tribal, regional, and national adoption exchanges including electronic exchange systems.

(h) *Application of the permanency hearing requirements.* (1) To meet the requirements of the permanency hearing, the title IV-E agency must, among other requirements, comply with section 475(5)(C) of the Act.

(2) In accordance with paragraph (b)(3) of this section, when a court determines that reasonable efforts to return the child home are not required, a permanency hearing must

be held within 30 days of that determination, unless the requirements of the permanency hearing are fulfilled at the hearing in which the court determines that reasonable efforts to reunify the child and family are not required.

(3) If the title IV-E agency concludes, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency plan for a child is placement in another planned permanent living arrangement, the title IV-E agency must document to the court the compelling reason for the alternate plan. Examples of a compelling reason for establishing such a permanency plan may include:

(i) The case of an older teen who specifically requests that emancipation be established as his/her permanency plan;

(ii) The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising him/her to the age of majority and to facilitate visitation with the disabled parent; or,

(iii) the Tribe has identified another planned permanent living arrangement for the child.

(4) When an administrative body, appointed or approved by the court, conducts the permanency hearing, the procedural safeguards set forth in the definition of *permanency hearing* must be so extended by the administrative body.

(i) *Application of the requirements for filing a petition to terminate parental rights at section 475(5)(E) of the Social Security Act.* (1) Subject to the exceptions in paragraph (i)(2) of this section, the title IV-E agency must file a petition (or, if such a petition has been filed by another party, seek to be joined as a party to the petition) to terminate the parental rights of a parent(s):

(i) Whose child has been in foster care under the responsibility of the title IV-E agency for 15 of the most recent 22 months. The petition must be filed by the end of the child's fifteenth month in foster care. In calculating when to file a petition for termination of parental rights, the title IV-E agency:

(A) Must calculate the 15 out of the most recent 22 month period from the date the child is considered to have entered foster care as defined at section 475(5)(F) of the Act and §1355.20 of this part;

(B) Must use a cumulative method of calculation when a child experiences multiple exits from and entries into foster care during the 22 month period;

(C) Must not include trial home visits or runaway episodes in calculating 15 months in foster care; and,

(D) Need only apply section 475(5)(E) of the Act to a child once if the title IV-E agency does not file a petition because one of the exceptions at paragraph (i)(2) of this section applies;

(ii) Whose child has been determined by a court of competent jurisdiction to be an abandoned infant (as defined under State or for a Tribal title IV-E agency, Tribal law). The petition to terminate parental rights must be filed within 60 days of the judicial determination that the child is an abandoned infant; or,

(iii) Who has been convicted of one of the felonies listed at paragraph (b)(3)(ii) of this section. Under such circumstances, the petition to terminate parental rights must be filed within 60 days of a judicial determination that reasonable efforts to reunify the child and parent are not required.

(2) The title IV-E agency may elect not to file or join a petition to terminate the parental rights of a parent per paragraph (i)(1) of this section if:

(i) At the option of the title IV-E agency, the child is being cared for by a relative;

(ii) The title IV-E agency has documented in the case plan (which must be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the individual child. Compelling reasons for not filing a petition to terminate parental rights include, but are not limited to:

(A) Adoption is not the appropriate permanency goal for the child; or,

(B) No grounds to file a petition to terminate parental rights exist; or,

(C) The child is an unaccompanied refugee minor as defined in 45 CFR 400.111; or

(D) There are international legal obligations or compelling foreign policy reasons that would preclude terminating parental rights; or

(iii) The title IV-E agency has not provided to the family, consistent with the time period in the case plan, services that the title IV-E agency deems necessary for the safe return of the child to the home, when reasonable efforts to reunify the family are required.

(3) When the title IV-E agency files or joins a petition to terminate parental rights in accordance with paragraph (i)(1) of this section, it must concurrently begin to identify, recruit, process, and approve a qualified adoptive family for the child.

(j) *Child of a minor parent in foster care.* Foster care maintenance payments made on behalf of a child placed in a foster family home or child care institution, who is the parent of a son or daughter in the same home or institution, must include amounts which are necessary to cover costs incurred on behalf of the child's son or daughter. Said costs must be limited to funds expended on items listed in the definition of *foster care maintenance payments* in §1355.20 of this part.

(k) *Removal from the home of a specified relative.* (1) For the purposes of meeting the requirements of section 472(a)(1) of the Act, a removal from the home must occur pursuant to:

(i) A voluntary placement agreement entered into by a parent or guardian which leads to a physical or constructive removal (i.e., a non-physical or paper removal of custody) of the child from the home; or

(ii) A judicial order for a physical or constructive removal of the child from a parent or specified relative.

(2) A removal has not occurred in situations where legal custody is removed from the parent or relative and the child remains with the same relative in that home under supervision by the title IV-E agency.

(3) A child is considered constructively removed on the date of the first judicial order removing custody, even temporarily, from the appropriate specified relative or the date that the voluntary placement agreement is signed by all relevant parties.

(l) *Living with a specified relative.* For purposes of meeting the requirements for living with a specified relative prior to removal from the home under section 472(a)(1) of the Act, all of the conditions under section 472(a)(3), and for Tribal title IV-E agencies section 479B(c)(1)(C)(ii)(II) of the Act, one of the two following situations must apply:

(1) The child was living with the parent or specified relative, and was AFDC eligible in that home in the month of the voluntary placement agreement or initiation of court proceedings; or

(2) The child had been living with the parent or specified relative within six months of the month of the voluntary placement agreement or the initiation of court proceedings, and the child would have been AFDC eligible in that month if s/he had still been living in that home.

(m) *Review of payments and licensing standards.* In meeting the requirements of section 471(a)(11) of the Act, the title IV-E agency must review at reasonable, specific, time-limited periods to be established by the agency:

(1) The amount of the payments made for foster care maintenance and adoption assistance to assure their continued appropriateness; and

(2) The licensing or approval standards for child care institutions and foster family homes.

(n) *Foster care goals.* The specific foster care goals required under section 471(a)(14) of the Act must be incorporated into State law or Tribal law by statute, code, resolution, Tribal proceedings or administrative regulation with the force of law.

(o) Notice and right to be heard. The title IV-E agency must provide the foster parent(s) of a child and any preadoptive parent or relative providing care for the child with timely notice of and the opportunity to be heard in any proceedings held with respect to the child during the time the child is in the care of such foster parent, preadoptive parent, or relative caregiver. Notice of and opportunity to be heard does not include the right to standing as a party to the case.

§ 1356.22 Implementation requirements for children voluntarily placed in foster care.

(a) As a condition of receipt of Federal financial participation (FFP) in foster care maintenance payments for a dependent child removed from his home under a voluntary placement agreement, the title IV-E agency must meet the requirements of:

(1) Section 472 of the Act, as amended;

(2) Sections 422(b)(8) and 475(5) of the Act;

(3) 45 CFR 1356.21(e), (f), (g), (h), and (i); and

(4) The requirements of this section.

(b) Federal financial participation is available only for voluntary foster care maintenance expenditures made within the first 180 days of the child's placement in foster care unless there has been a judicial determination by a court of competent jurisdiction, within the first 180 days of such placement, to the effect that the continued voluntary placement is in the best interests of the child.

(c) The title IV-E agency must establish and maintain a uniform procedure or system, consistent with State or Tribal law, for revocation by the parent(s) of a voluntary placement agreement and return of the child.

§ 1356.30 Safety requirements for foster care and adoptive home providers.

(a) The title IV-E agency must provide documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents.

(b) The title IV-E agency may not approve or license any prospective foster or adoptive parent, nor may the title IV-E agency claim FFP for any foster care maintenance or adoption assistance payment made on behalf of a child placed in a foster home operated under the auspices of a child placing agency or on behalf of a child placed in an adoptive home through a private adoption agency, if the title IV-E agency finds that, based on a criminal records check conducted in accordance with paragraph (a) of this section, a court of competent jurisdiction has determined that the prospective foster or adoptive parent has been convicted of a felony involving:

(1) Child abuse or neglect;

(2) Spousal abuse;

(3) A crime against a child or children (including child pornography); or,

(4) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

(c) The title IV-E agency may not approve or license any prospective foster or adoptive parent, nor may the title IV-E agency claim FFP for any foster care maintenance or adoption assistance payment made on behalf of a child placed in a foster home operated under the auspices of a child placing agency or on behalf of a child placed in an adoptive home through a private adoption agency, if the title IV-E agency finds, based on a criminal records check conducted in accordance with paragraph (a) of this section, that a court of competent jurisdiction has determined that the prospective foster or adoptive parent has, within the last five years, been convicted of a felony involving:

(1) Physical assault;

(2) Battery; or,

(3) A drug-related offense.

(d) [Reserved]

(e) In all cases where the State opted out of the criminal records check requirement, as permitted prior to the amendments made by section 152 of Pub. L. 109-248, the licensing file for that foster or adoptive family must contain documentation which verifies that safety considerations with respect to the caretaker(s) have been addressed.

(f) In order for a child care institution to be eligible for title IV-E funding, the licensing file for the institution must contain documentation which verifies that safety considerations with respect to the staff of the institution have been addressed.

§ 1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.

(a) To implement the adoption assistance program provisions of the title IV-E plan and to be eligible for Federal financial participation in adoption assistance payments under this part, the title IV-E agency must meet the requirements of this section and section 471(a), applicable provisions of section 473, and section 475(3) of the Act.

(b) The adoption assistance agreement for payments pursuant to section 473(a)(2) must meet the requirements of section 475(3) of the Act and must:

(1) Be signed and in effect at the time of or prior to the final decree of adoption. A copy of the signed agreement must be given to each party; and

(2) Specify its duration; and

(3) Specify the nature and amount of any payment, services and assistance to be provided under such agreement and, for purposes of eligibility under title XIX of the Act, specify that the child is eligible for Medicaid services; and

(4) Specify, with respect to agreements entered into on or after October 1, 1983, that the agreement shall remain in effect regardless of the place of residence of the adoptive parents at any given time.

(c) There must be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments.

(d) In the event an adoptive family moves from one place of residence to another, the family may apply for social services on behalf of the adoptive child in the new place of residence. If a needed service(s) specified in the adoption assistance agreement is not available in the new place of residence, the title IV-E agency making the original adoption assistance payment remains financially responsible for providing the specified service(s).

(e) A title IV-E agency may make an adoption assistance agreement with adopting parent(s) who reside in another State or a Tribal service area. If so, all provisions of this section apply.

(f) The title IV-E agency must actively seek ways to promote the adoption assistance program.

§ 1356.41 Nonrecurring expenses of adoption.

(a) The amount of the payment made for nonrecurring expenses of adoption shall be determined through agreement between the adopting parent(s) and the title IV-E agency administering the program. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

(b) The agreement for nonrecurring expenses may be a separate document or a part of an agreement for either State, Tribal, or Federal adoption assistance payments or services.

(c) There must be no income eligibility requirement (means test) for adopting parents in determining whether payments for nonrecurring expenses of adoption shall be made. However, parents cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

(d) For purposes of payment of nonrecurring expenses of adoption, the title IV-E agency must determine that the child is a “child with special needs” as defined in section

473(c) of the Act, and that the child has been placed for adoption in accordance with applicable laws; the child need not meet the categorical eligibility requirements at section 473(a)(2).

(e)(1) The title IV-E agency must notify all appropriate courts and all public and licensed private nonprofit adoption agencies of the availability of funds for the nonrecurring expenses of adoption of children with special needs as well as where and how interested persons may apply for these funds. This information should routinely be made available to all persons who inquire about adoption services.

(2) The agreement for nonrecurring expenses must be signed at the time of or prior to the final decree of adoption. Claims must be filed with the title IV-E agency within two years of the date of the final decree of adoption.

(f)(1) Funds expended by the title IV-E agency under an adoption assistance agreement, with respect to nonrecurring adoption expenses incurred by or on behalf of parents who adopt a child with special needs, shall be considered an administrative expenditure of the title IV-E Adoption Assistance Program. Federal reimbursement is available at a 50 percent matching rate, for title IV-E expenditures up to $2,000, for any adoptive placement.

(2) Title IV-E agencies may set a reasonable lower maximum which must be based on reasonable charges, consistent with State, Tribal, and local practices, for special needs adoptions within the State or Tribal service area. The basis for setting a lower maximum must be documented and available for public inspection.

(3) In cases where siblings are placed and adopted, either separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

(g) Federal financial participation for nonrecurring expenses of adoption is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made either directly by the title IV-E agency or through another public or licensed nonprofit private agency.

(h) When the adoption of the child involves placement outside the State or Tribal service area, the title IV-E agency that enters into an adoption assistance agreement under section 473(a)(1)(B)(ii) of the Act or under a State or Tribal subsidy program will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is placement outside the State or Tribal service area but no agreement for other Federal, Tribal, or State adoption assistance, the title IV-E agency in which the final adoption decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the requirements of section 473(c).

(i) The term “nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State, Tribal or Federal law, and which have not been reimbursed from other sources or other funds. “Other expenses which are directly related to the legal adoption of a child with special needs” means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption study, including health and psychological examination, supervision

of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.

(j) Failure to honor all eligible claims will be considered non-compliance by the title IV-E agency with Title IV-E of the Act.

(k) A title IV-E expenditure is considered made in the quarter during which the payment was made by a title IV-E agency to a private nonprofit agency, individual or vendor payee.

§ 1356.50 Withholding of funds for non-compliance with the approved title IV-E plan.

(a) To be in compliance with the title IV-E plan requirements, a title IV-E agency must meet the requirements of the Act and 45 CFR 1356.20, 1356.21, 1356.30, and 1356.40 of this part.

(b) To be in compliance with the title IV-E plan requirements, a title IV-E agency that chooses to claim FFP for voluntary placements must meet the requirements of the Act, 45 CFR 1356.22 and paragraph (a) of this section; and

(c) For purposes of this section, the procedures in §1355.39 of this chapter apply.

§ 1356.60 Fiscal requirements (title IV-E).

(a) *Federal matching funds for foster care maintenance and adoption assistance payments.* (1) Federal financial participation (FFP) is available to title IV-E agencies under an approved title IV-E plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in section 475(4) of the Act, made in accordance with 45 CFR 1356.20 through 1356.30 of this part, section 472 of the Act, and for a Tribal title IV-E agency, section 479(B) of the Act;

(ii) Adoption assistance payments made in accordance with 45 CFR 1356.20 and 1356.40, applicable provisions of section 473, section 475(3) and, for a Tribal title IV-E agency, section 479B of the Act.

(2) Federal financial participation is available at the rate of the Federal medical assistance percentage as defined in section 1905(b), 474(a)(1) and (2) and 479B(d) of the Act as applicable, definitions, and pertinent regulations as promulgated by the Secretary, or his designee.

(b) <u>Federal matching funds for title IV-E agency training for foster care and adoption assistance under title IV-E</u>. (1) Federal financial participation is available at the rate of seventy-five percent (75%) in the costs of:

(i) Training personnel employed or preparing for employment by the title IV-E agency administering the plan, and;

(ii) Providing short-term training (including travel and per diem expenses) to current or prospective foster or adoptive parents and the members of the state licensed or approved child care institutions providing care to foster and adopted children receiving title IV-E assistance.

(2) All training activities and costs funded under title IV-E shall be included in the agency's training plan for title IV-B.

(3) Short and long term training at educational institutions and in-service training may be provided in accordance with the provisions of §§235.63 through 235.66(a) of this title.

(c) Federal matching funds for other title IV-E agency administrative expenditures for foster care and adoption assistance under title IV-E. Federal financial participation is available at the rate of fifty percent (50%) for administrative expenditures necessary for the proper and efficient administration of the title IV-E plan. The State's cost allocation plan shall identify which costs are allocated and claimed under this program.

(1) The determination and redetermination of eligibility, fair hearings and appeals, rate setting and other costs directly related only to the administration of the foster care program under this part are deemed allowable administrative costs under this paragraph. They may not be claimed under any other section or Federal program.

(2) The following are examples of allowable administrative costs necessary for the administration of the foster care program:

(i) Referral to services;

(ii) Preparation for and participation in judicial determinations;

(iii) Placement of the child;

(iv) Development of the case plan;

(v) Case reviews;

(vi) Case management and supervision;

(vii) Recruitment and licensing of foster homes and institutions;

(viii) Rate setting; and

(ix) A proportionate share of related agency overhead.

(x) Costs related to data collection and reporting.

(3) Allowable administrative costs do not include the costs of social services provided to the child, the child's family or foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors or home conditions.

(d) *Cost of the data collection system.* (1) Costs related to data collection system initiation, implementation and operation may be charged as an administrative cost of title IV-E at the 50 percent matching rate subject to the restrictions in paragraph (d) (2) of this section

(2) For information systems used for purposes other than those specified by section 479 of the Act, costs must be allocated and must bear the same ratio as the foster care and adoption population bears to the total population contained in the information system as verified by reports from all other programs included in the system.

(e) Federal matching funds for SACWIS/TACWIS. All expenditures of a title IV-E agency to plan, design, develop, install and operate the Statewide or Tribal automated child welfare information system approved under §1355.52 of this chapter, shall be treated as necessary for the proper and efficient administration of the title IV-E plan without regard to whether the system may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance or adoption assistance payments may be made under this part.

§§ 1356.65-1356.70 [Reserved]

§ 1356.67 Procedures for the transfer of placement and care responsibility of a child from a State to a Tribal title IV-E agency or an Indian tribe with a title IV-E agreement.

(a) Each State with a title IV-E plan approved under section 471 of the Act must establish and maintain procedures, in consultation with Indian tribes, for the transfer of responsibility for the placement and care of a child under a State title IV-E plan to a Tribal title IV-E agency or an Indian tribe with a title IV-E agreement in a way that does not affect a child's eligibility for, or payment of, title IV-E and the child's eligibility for medical assistance under title XIX of the Act.

(b) The procedures must, at a minimum, provide for the State to:

(1) Determine, if the eligibility determination is not already completed, the child's eligibility under section 472 or 473 of the Act at the time of the transfer of placement and care responsibility of a child to a Tribal title IV-E agency or an Indian tribe with a title IV-E agreement.

(2) Provide essential documents and information necessary to continue a child's eligibility under title IV-E and Medicaid programs under Title XIX to the Tribal title IV-E agency, including, but not limited to providing:

(i) All judicial determinations to the effect that continuation in the home from which the child was removed would be contrary to the welfare of the child and that reasonable efforts described in section 471(a)(15) of the Act have been made;

(ii) Other documentation the State has that relates to the child's title IV-E eligibility under sections 472 and 473 of the Act;

(iii) Information and documentation available to the agency regarding the child's eligibility or potential eligibility for other Federal benefits;

(iv) The case plan developed pursuant to section 475(1) of the Act, including health and education records of the child pursuant to section 475(1)(C) of the Act; and

(v) Information and documentation of the child's placement settings, including a copy of the most recent provider's license or approval.

§ 1356.68 Tribal title IV-E agency requirements for in-kind administrative and training contributions from third-party sources.

(a) <u>Option to claim in-kind expenditures from third-party sources for non-Federal share of administrative and training costs</u>. A Tribal title IV-E agency may claim allowable in-kind expenditures from third-party sources for the purpose of determining the non-Federal share of administrative or training costs subject to paragraphs (b) through (d).

(b) <u>In-kind expenditures for fiscal years 2010 and 2011.</u> (1) <u>Administrative costs.</u> A Tribal title IV-E agency may claim allowable in-kind expenditures from third-party sources of up to 25 percent of the total administrative funds expended during a fiscal quarter pursuant to section 474(a)(3)(C), (D) or (E).

(2) Training costs. A Tribal title IV-E agency may claim in-kind training expenditures of up to 12 percent of the total training funds expended during a fiscal year quarter pursuant to section 474(a)(3)(A) and (B), but only from the following sources:

(i) A State or local government;

(ii) An Indian Tribe, Tribal organization, or Tribal consortium other than the Indian Tribe, organization, or consortium submitting the title IV-E plan;

(iii) A public institution of higher education;

(iv) A Tribal College or University (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)); and

(v) A private charitable organization.

(c) In-kind expenditures for fiscal years 2012 and thereafter. (1) Administrative costs. A Tribal title IV-E agency may claim in-kind expenditures from third-party sources of up to 50 percent of the total administrative funds expended during a fiscal quarter pursuant to section 474(a)(3)(C), (D) or (E).

(2) Training costs. A Tribal title IV-E agency may claim in-kind training expenditures of up to 25 percent (or 30 percent consistent with section 203(b) of Pub. L. 110-351) of the total training funds expended during each quarter of fiscal year 2012 pursuant to section 474(a)(3)(A) and (B). For fiscal year 2013 and thereafter, a Tribal title IV-E agency may claim in-kind training expenditures of up to 25 percent of the total training funds expended during a fiscal quarter pursuant to section 474(a)(3)(A) and (B).

(3) Third-party sources. A Tribal title IV-E agency may claim in-kind training expenditures for training funds from any allowable third-party source.

§ 1356.71 Federal review of the eligibility of children in foster care and the eligibility of foster care providers in title IV-E programs.

(a) *Purpose, scope and overview of the process.* (1) This section sets forth requirements governing Federal reviews of compliance with the title IV-E eligibility provisions as they apply to children and foster care providers under paragraphs (a) and (b) of section 472 of the Act.

(2) The requirements of this section apply to title IV-E agencies that receive Federal payments for foster care under title IV-E of the Act.

(3) The review process begins with a primary review of foster care cases for the title IV-E eligibility requirements.

(i) Title IV-E agencies in substantial compliance. Title IV-E agencies determined to be in substantial compliance based on the primary review will be subject to another review in three years.

(ii) Title IV-E agencies not in substantial compliance. Title IV-E agencies that are determined not to be in substantial compliance based on the primary review will develop and implement a program improvement plan designed to correct the areas of noncompliance. A secondary review will be conducted after the completion of the program improvement plan. A subsequent primary review will be held three years from the date of the secondary review.

(b) *Composition of review team and preliminary activities preceding an on-site review.* (1) The review team must be composed of representatives of the title IV-E agency, and ACF's Regional and Central Offices.

(2) The title IV-E agency must provide ACF with the complete payment history for each of the sample and oversample cases prior to the on-site review.

(c) *Sampling guidance and conduct of review.* (1) The list of sampling units in the target population (*i.e.,* the sampling frame) will be drawn by ACF statistical staff from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data which are transmitted by the title IV-E agency to ACF. The sampling frame will consist of cases of children who were eligible for foster care maintenance payments during the reporting period reflected in a title IV-E agency's most recent AFCARS data submission. For the initial primary review, if these data are not available or are deficient, an alternative sampling frame, consistent with one AFCARS six-month reporting period, will be selected by ACF in conjunction with the title IV-E agency.

(2) A sample of 80 cases (plus a 10 percent oversample of eight cases) from the title IV-E foster care program will be selected for the primary review utilizing probability sampling methodologies. Usually, the chosen methodology will be simple random sampling, but other probability samples may be utilized, when necessary and appropriate.

(3) Cases from the oversample will be substituted and reviewed for each of the original sample of 80 cases which is found to be in error.

(4) At the completion of the primary review, the review team will determine the number of ineligible cases. When the total number of ineligible cases does not exceed eight, ACF can conclude with a probability of 88 percent that in a population of 1000 or more cases the population ineligibility case error rate is less than 15 percent and the title IV-E agency will be considered in substantial compliance. For primary reviews held subsequent to the initial primary reviews, the acceptable population ineligibility case error rate threshold will be reduced from less than 15 percent (eight or fewer ineligible cases) to less than 10 percent (four or fewer ineligible cases). A title IV-E agency which meets this standard is considered to be in "substantial compliance" (see paragraph (h) of this section). A disallowance will be assessed for the ineligible cases for the period of time the cases are ineligible.

(5) A title IV-E agency which has been determined to be in "noncompliance" (*i.e.,* not in substantial compliance) will be required to develop a program improvement plan according to the specifications discussed in paragraph (i) of this section, as well as undergo a secondary review. For the secondary review, a sample of 150 cases (plus a 10 percent oversample of 15 cases) will be drawn from the most recent AFCARS submission. Usually, the chosen methodology will be simple random sampling, but other probability samples may be utilized, when necessary and appropriate. Cases from the oversample will be substituted and reviewed for each of the original sample of 150 cases which is found to be in error.

(6) At the completion of the secondary review, the review team will calculate both the sample case ineligibility and dollar error rates for the cases determined ineligible during the review. An extrapolated disallowance equal to the lower limit of a 90 percent confidence interval for the population total dollars in error for the amount of time

corresponding to the AFCARS reporting period will be assessed if both the child/provider (case) ineligibility and dollar error rates exceed 10 percent. If neither, or only one, of the error rates exceeds 10 percent, a disallowance will be assessed for the ineligible cases for the period of time the cases are ineligible.

(d) *Requirements subject to review.* Title IV-E agencies will be reviewed against the requirements of title IV-E of the Act regarding:

(1) The eligibility of the children on whose behalf the foster care maintenance payments are made (section 472(a)(1)–(4) of the Act) to include:

(i) Judicial determinations regarding "reasonable efforts" and "contrary to the welfare" in accordance with §1356.21(b) and (c), respectively;

(ii) Voluntary placement agreements in accordance with §1356.22;

(iii) Responsibility for placement and care vested with the title IV-E or other public agency per section 472(a)(2)(B) of the Act;

(iv) Placement in a licensed foster family home or child care institution; and,

(v) Eligibility for AFDC under such State plan as it was in effect on July 16, 1996 per section 472(a)(3) or 479B(c)(1)(C)(ii)(II) of the Act, as appropriate.

(2) Allowable payments made to foster care providers who comport with sections 471(a)(10), 471(a)(20), 472(b) and (c), and 479B(c)(2) of the Act and §1356.30.

(e) *Review instrument.* A title IV-E foster care eligibility review checklist will be used when conducting the eligibility review.

(f) *Eligibility determination—child.* The case record of the child must contain sufficient documentation to verify a child's eligibility in accordance with paragraph (d)(1) of this section, in order to substantiate payments made on the child's behalf.

(g) *Eligibility determination—provider.* (1) For each case being reviewed, the title IV-E agency must make available a licensing file which contains the licensing history, including a copy of the certificate of licensure/approval or letter of approval, for each of the providers in the following categories:

(i) Public child care institutions with 25 children or less in residence;

(ii) Private child care institutions;

(iii) Group homes; and

(iv) Foster family homes, including relative homes.

(2) The licensing file must contain documentation that the title IV-E agency has complied with the safety requirements for foster and adoptive placements in accordance with §1356.30.

(3) If the licensing file does not contain sufficient information to support a child's placement in a licensed facility, the title IV-E agency may provide supplemental information from other sources (*e.g.,* a computerized database).

(h) *Standards of compliance.* (1) Disallowances will be taken, and plans for program improvement required, based on the extent to which a title IV-E agency is not in substantial compliance with recipient or provider eligibility provisions of title IV-E, or applicable regulations in 45 CFR parts 1355 and 1356.

(2) Substantial compliance and noncompliance are defined as follows:

(i) *Substantial compliance* —For the primary review (of the sample of 80 cases), no more than eight of the title IV-E cases reviewed may be determined to be ineligible. (This

critical number of allowable "errors," *i.e.,* ineligible cases, is reduced to four errors or less in primary reviews held subsequent to the initial primary review). For the secondary review (if required), *substantial compliance* means either the case ineligibility or dollar error rate does not exceed 10 percent.

(ii) *Noncompliance* —means not in substantial compliance. For the primary review (of the sample of 80 cases), nine or more of the title IV-E cases reviewed must be determined to be ineligible. (This critical number of allowable "errors," *i.e.,* ineligible cases, is reduced to five or more in primary reviews subsequent to the initial primary review). For the secondary review (if required), *noncompliance* means both the case ineligibility and dollar error rates exceed 10 percent.

(3) ACF will notify the title IV-E agency in writing within 30 calendar days after the completion of the review of whether the title IV-E agency is, or is not, operating in substantial compliance.

(4) Title IV-E agencies which are determined to be in substantial compliance must undergo a subsequent review after a minimum of three years.

(i) *Program improvement plans.* (1) Title IV-E agencies which are determined to be in noncompliance with recipient or provider eligibility provisions of title IV-E, or applicable regulations in 45 CFR Parts 1355 and 1356, will develop a program improvement plan designed to correct the areas determined not to be in substantial compliance. The program improvement plan will:

(i) Be developed jointly by title IV-E agency and Federal staff;

(ii) Identify the areas in which the title IV-E agency's program is not in substantial compliance;

(iii) Not extend beyond one year. A title IV-E agency will have a maximum of one year in which to implement and complete the provisions of the program improvement plan unless State/Tribal legislative action is required. In such instances, an extension may be granted with the title IV-E agency and ACF negotiating the terms and length of such extension that shall not exceed the last day of the first legislative session after the date of the program improvement plan; and

(iv) Include:

(A) Specific goals;

(B) The action steps required to correct each identified weakness or deficiency; and,

(C) a date by which each of the action steps is to be completed.

(2) Title IV-E agencies determined not to be in substantial compliance as a result of a primary review must submit the program improvement plan to ACF for approval within 90 calendar days from the date the title IV-E agency receives written notification that it is not in substantial compliance. This deadline may be extended an additional 30 calendar days when a title IV-E agency submits additional documentation to ACF in support of cases determined to be ineligible as a result of the on-site eligibility review.

(3) The ACF Regional Office will intermittently review, in conjunction with the title IV-E agency, the title IV-E agency's progress in completing the prescribed action steps in the program improvement plan.

(4) If a title IV-E agency does not submit an approvable program improvement plan in accordance with the provisions of paragraphs (i)(1) and (2) of this section, ACF will move to a secondary review in accordance with paragraph (c) of this section.

(j) *Disallowance of funds.* The amount of funds to be disallowed will be determined by the extent to which a title IV-E agency is not in substantial compliance with recipient or provider eligibility provisions of title IV-E, or applicable regulations in 45 CFR parts 1355 and 1356.

(1) Title IV-E agencies which are in found to be in substantial compliance during the primary or secondary review will have disallowances (if any) determined on the basis of individual cases reviewed and found to be in error. The amount of disallowance will be computed on the basis of payments associated with ineligible cases for the entire period of time that each case has been ineligible.

(2) Title IV-E agencies which are found to be in noncompliance during the primary review will have disallowances determined on the basis of individual cases reviewed and found to be in error, and must implement a program improvement plan in accordance with the provisions contained within it. A secondary review will be conducted no later than during the AFCARS reporting period which immediately follows the program improvement plan completion date on a sample of 150 cases drawn from the title IV-E agency's most recent AFCARS data. If both the case ineligibility and dollar error rates exceed 10 percent, the title IV-E agency is not in compliance and an additional disallowance will be determined based on extrapolation from the sample to the universe of claims paid for the duration of the AFCARS reporting period (*i.e.,* all title IV-E funds expended for a case during the quarter(s) that case is ineligible, including administrative costs). If either the case ineligibility or dollar rate does not exceed 10 percent, the amount of disallowance will be computed on the basis of payments associated with ineligible cases for the entire period of time the case has been determined to be ineligible.

(3) The title IV-E agency will be liable for interest on the amount of funds disallowed by the Department, in accordance with the provisions of 45 CFR 30.18.

(4) Title IV-E agencies may appeal any disallowance actions taken by ACF to the HHS Departmental Appeals Board in accordance with regulations at 45 CFR part 16.

§ 1356.80 Scope of the National Youth in Transition Database.

The requirements of the National Youth in Transition Database (NYTD) §§1356.81 through 1356.86 of this part apply to the agency in any State, the District of Columbia, or Territory, that administers, or supervises the administration of the Chafee Foster Care Independence Program (CFCIP) under section 477 of the Social Security Act (the Act).

§ 1356.81 Reporting population.

The reporting population is comprised of all youth in the following categories:

(a) *Served population* . Each youth who receives an independent living service paid for or provided by the State agency during the reporting period.

(b) *Baseline population* . Each youth who is in foster care as defined in 45 CFR 1355.20 and reaches his or her 17th birthday during Federal fiscal year (FFY) 2011, and such youth who reach a 17th birthday during every third year thereafter.

(c) *Follow-up population* . Each youth who reaches his or her 19th or 21st birthday in a Federal fiscal year and had participated in data collection as part of the baseline population, as specified in section 1356.82(a)(2) of this part. A youth has participated in the outcomes data collection if the State agency reports to ACF a valid response (*i.e.* , a response option other than "declined" and "not applicable") to any of the outcomes-related elements described in section 1356.83(g)(37) through (g)(58) of this part.

§ 1356.82 Data collection requirements.

(a) The State agency must collect applicable information as specified in section 1356.83 of this part on the reporting population defined in section 1356.81 of this part in accordance with the following:

(1) For each youth in the served population, the State agency must collect information for the data elements specified in section 1356.83(b) and 1356.83(c) of this part on an ongoing basis, for as long as the youth receives services.

(2) For each youth in the baseline population, the State agency must collect information for the data elements specified in section 1356.83(b) and 1356.83(d) of this part. The State agency must collect this information on a new baseline population every three years.

(i) For each youth in foster care who turns age 17 in FFY 2011, the State agency must collect this information within 45 days following the youth's 17th birthday, but not before that birthday.

(ii) Every third Federal fiscal year thereafter, the State agency must collect this information on each youth in foster care who turns age 17 during the year within 45 days following the youth's 17th birthday, but not before that birthday.

(iii) The State agency must collect this information using the survey questions in appendix B of this part entitled "Information to collect from all youth surveyed for outcomes, whether in foster care or not."

(3) For each youth in the follow-up population, the State agency must collect information on the data elements specified in sections 1356.83(b) and 1356.83(e) of this part within the reporting period of the youth's 19th and 21st birthday. The State agency must collect the information using the appropriate survey questions in appendix B of this part, depending upon whether the youth is in foster care.

(b) The State agency may select a sample of the 17-year-olds in the baseline population to follow over time consistent with the sampling requirements described in section 1356.84 of this part to satisfy the data collection requirements in paragraph (a)(3) of this section for the follow-up population. A State that samples must identify the youth at age 19 who participated in the outcomes data collection as part of the baseline population at age 17 who are not in the sample in accordance with 45 CFR 1356.83(e).

§ 1356.83 Reporting requirements and data elements.

(a) *Reporting periods and deadlines*. The six-month reporting periods are from October 1 to March 31 and April 1 to September 30. The State agency must submit data files that include the information specified in this section to ACF on a semi-annual basis, within 45 days of the end of the reporting period (i.e., by May 15 and November 14).

(b) *Data elements for all youth*. The State agency must report the data elements described in paragraphs (g)(1) through (g)(13) of this section for each youth in the entire reporting population defined in section 1356.81 of this part.

(c) *Data elements for served youth*. The State agency must report the data elements described in paragraphs (g)(14) through (g)(33) of this section for each youth in the served population defined in section 1356.81(a) of this part.

(d) *Data elements for baseline youth*. The State agency must report the data elements described in paragraphs (g)(34) through (g)(58) of this section for each youth in the baseline population defined in section 1356.81(b) of this part.

(e) *Data elements for follow-up youth*. The State agency must report the data elements described in paragraphs (g)(34) through (g)(58) of this section for each youth in the follow-up population defined in section 1356.81(c) of this part or alternatively, for each youth selected in accordance with the sampling procedures in section 1356.84 of this part. A State that samples must identify in the outcomes reporting status element described in paragraph (g)(34), the 19-year-old youth who participated in the outcomes data collection as a part of the baseline population at age 17, who are not in the sample.

(f) *Single youth record*. The State agency must report all applicable data elements for an individual youth in one record per reporting period.

(g) *Data element descriptions*. For each element described in paragraphs (g)(1) through (58) of this section, the State agency must indicate the applicable response as instructed.

(1) *State*. State means the State responsible for reporting on the youth. Indicate the first two digits of the State's Federal Information Processing Standard (FIPS) code for the State submitting the report to ACF.

(2) *Report date*. The report date corresponds with the end of the current reporting period. Indicate the last month and the year of the reporting period.

(3) *Record number*. The record number is the encrypted, unique person identification number for the youth. The State agency must apply and retain the same encryption routine or method for the person identification number across all reporting periods. The record number must be encrypted in accordance with ACF standards. Indicate the record number for the youth.

(i) If the youth is in foster care as defined in 45 CFR 1355.20 or was during the current or previous reporting period, the State agency must use and report to the NYTD the same person identification number for the youth the State agency reports to AFCARS. The person identification number must remain the same for the youth wherever the youth is living and in any subsequent NYTD reports.

(ii) If the youth was never in the State's foster care system as defined in 45 CFR 1355.20, the State agency must assign a person identification number that must remain the same for the youth wherever the youth is living and in any subsequent reports to NYTD.

(4) *Date of birth*. The youth's date of birth. Indicate the year, month, and day of the youth's birth.

(5) *Sex*. The youth's sex. Indicate whether the youth is male or female as appropriate.

(6) *Race: American Indian or Alaska Native*. In general, a youth's race is determined by the youth or the youth's parent(s). An American Indian or Alaska Native youth has origins in any of the original peoples of North or South America (including Central America), and maintains tribal affiliation or community attachment. Indicate whether this racial category applies for the youth, with a ``yes'' or ``no.''

(7) *Race: Asian*. In general, a youth's race is determined by the youth or the youth's parent(s). An Asian youth has origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. Indicate whether this racial category applies for the youth, with a ``yes'' or ``no.''

(8) *Race: Black or African American*. In general, a youth's race is determined by the youth or the youth's parent(s). A Black or African American youth has origins in any of the black racial groups of Africa. Indicate whether this racial category applies for the youth, with a ``yes'' or ``no.''

(9) *Race: Native Hawaiian or Other Pacific Islander*. In general, a youth's race is determined by the youth or the youth's parent(s). A Native Hawaiian or Other Pacific Islander youth has origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. Indicate whether this racial category applies for the youth, with a ``yes'' or ``no.''

(10) *Race: White*. In general, a youth's race is determined by the youth or the youth's parent(s). A White youth has origins in any of the original peoples of Europe, the Middle East, or North Africa. Indicate whether this racial category applies for the youth, with a ``yes'' or ``no.''

(11) *Race: unknown*. The race, or at least one race of the youth is unknown, or the youth and/or parent is not able to communicate the youth's race. Indicate whether this category applies for the youth, with a ``yes'' or ``no.''

(12) *Race: declined*. The youth or parent has declined to identify a race. Indicate whether this category applies for the youth, with a ``yes'' or ``no.''

(13) *Hispanic or Latino ethnicity*. In general, a youth's ethnicity is determined by the youth or the youth's parent(s). A youth is of Hispanic or Latino ethnicity if the youth is a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Indicate which category applies, with ``yes,'' ``no,'' ``unknown'' or ``declined,'' as appropriate. ``Unknown'' means that the youth and/or parent is unable to communicate the youth's ethnicity. ``Declined'' means that the youth or parent has declined to identify the youth's Hispanic or Latino ethnicity.

(14) *Foster care status--services*. The youth receiving services is or was in foster care during the reporting period if the youth is or was in the placement and care responsibility of the State title IV-B/IV-E agency in accordance with the definition of foster care in 45 CFR 1355.20. Indicate whether the youth is or was in foster care at any point during the reporting period, with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(15) *Local agency*. The local agency is the county or equivalent jurisdictional unit that has primary responsibility for placement and care of a youth who is in foster care consistent with the definition in 45 CFR 1355.20, or that has primary responsibility for providing services to a youth who is not in foster care. Indicate the five-digit Federal Information Processing Standard (FIPS) code(s) that corresponds to the identity of the county or equivalent unit jurisdiction(s) that meets these criteria during the reporting period. If a youth who is not in foster care is provided services by a centralized unit only, rather than a county agency, indicate ``centralized unit.'' If the youth is not in the served population this element must be left blank.

(16) *Federally recognized tribe*. The youth is enrolled in or eligible for membership in a federally recognized tribe. The term “federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450 et seq.). Indicate ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(17) *Adjudicated delinquent*. Adjudicated delinquent means that a State or Federal court of competent jurisdiction has adjudicated the youth as a delinquent. Indicate ``yes,'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(18) *Educational level*. Educational level means the highest educational level completed by the youth. For example, for a youth currently in 11th grade, ``10th grade'' is the highest educational level completed. Post-secondary education or training refers to any post-secondary education or training, other than an education pursued at a college or university. College refers to completing at least a semester of study at a college or university. Indicate the highest educational level completed by the youth during the reporting period. If the youth is not in the served population this element must be left blank.

(19) *Special education*. The term ``special education,'' means specifically designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. Indicate whether the youth has received special education instruction during the reporting period with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(20) *Independent living needs assessment*. An independent living needs assessment is a systematic procedure to identify a youth's basic skills, emotional and social capabilities, strengths, and needs to match the youth with appropriate independent living services. An independent living needs assessment may address knowledge of basic living skills, job readiness, money management abilities, decision-making skills, goal setting, task completion, and transitional living needs. Indicate whether the youth received an independent living needs assessment that was paid for or provided by the State agency during the reporting period with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(21) *Academic support*. Academic supports are services designed to help a youth complete high school or obtain a General Equivalency Degree (GED). Such services include the following: Academic counseling; preparation for a GED, including assistance in applying for or studying for a GED exam; tutoring; help with homework; study skills training; literacy training; and help accessing educational resources. Academic support does not include a youth's general attendance in high school. Indicate whether the youth received academic supports during the reporting period that were paid for or provided by the State agency with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(22) *Post-secondary educational support*. Post-secondary educational support are services designed to help a youth enter or complete a post-secondary education and include the following: Classes for test preparation, such as the Scholastic Aptitude Test (SAT); counseling about college; information about financial aid and scholarships; help completing college or loan applications; or tutoring while in college. Indicate whether the youth received post-secondary educational support during the reporting period that was paid for or provided by the State agency with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(23) *Career preparation*. Career preparation services focus on developing a youth's ability to find, apply for, and retain appropriate employment. Career preparation includes the following types of instruction and support services: Vocational and career assessment, including career exploration and planning, guidance in setting and assessing vocational and career interests and skills, and help in matching interests and abilities with vocational goals; job seeking and job placement support, including identifying potential employers, writing resumes, completing job applications, developing interview skills, job shadowing, receiving job referrals, using career resource libraries, understanding employee benefits coverage, and securing work permits; retention support, including job coaching; learning how to work with employers and other employees; understanding workplace values such as timeliness and appearance; and understanding authority and customer relationships. Indicate whether the youth received career preparation services during the reporting period that was paid for or provided by the State agency with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(24) *Employment programs or vocational training*. Employment programs and vocational training are designed to build a youth's skills for a specific trade, vocation, or career through classes or on-site training. Employment programs include a youth's participation in an apprenticeship, internship, or summer employment program and do not include summer or after-school jobs secured by the youth alone. Vocational training includes a youth's participation in vocational or trade programs and the receipt of training in occupational classes for such skills as cosmetology, auto mechanics, building trades, nursing, computer science, and other current or emerging employment sectors. Indicate whether the youth attended an employment program or received vocational training during the reporting period that was paid for or provided by the State agency, with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(25) *Budget and financial management*. Budget and financial management assistance includes the following types of training and practice: Living within a budget; opening and using a checking and savings account; balancing a checkbook; developing consumer awareness and smart shopping skills; accessing information about credit, loans and taxes; and filling out tax forms. Indicate whether the youth received budget and financial management assistance during the reporting period that was paid for or provided by the State agency with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(26) *Housing education and home management training*. Housing education includes assistance or training in locating and maintaining housing, including filling out a rental application and acquiring a lease, handling security deposits and utilities, understanding practices for keeping a healthy and safe home, understanding tenants rights and responsibilities, and handling landlord complaints. Home management includes instruction in food preparation, laundry, housekeeping, living cooperatively, meal planning, grocery shopping and basic maintenance and repairs. Indicate whether the youth received housing education or home management training during the reporting period that was paid for or provided by the State agency with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(27) *Health education and risk prevention*. Health education and risk prevention includes providing information about: Hygiene, nutrition, fitness and exercise, and first aid; medical and dental care benefits, health care resources and insurance, prenatal care and maintaining personal medical records; sex education, abstinence education, and HIV prevention, including education and information about sexual development and sexuality, pregnancy prevention and family planning, and sexually transmitted diseases and AIDS; substance abuse prevention and intervention, including education and information about the effects and consequences of substance use (alcohol, drugs, tobacco) and substance avoidance and intervention. Health education and risk prevention does not include the youth's actual receipt of direct medical care or substance abuse treatment. Indicate whether the youth received these services during the reporting period that were paid for or provided by the State agency with a ``yes'' or ``no'' as appropriate. If the youth is not in he served population this element must be left blank.

(28) *Family support and healthy marriage education*. Such services include education and information about safe and stable families, healthy marriages, spousal communication, parenting, responsible fatherhood, childcare skills, teen parenting, and domestic and family violence prevention. Indicate whether the youth received these services that were paid for or provided by the State agency during the reporting period with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(29) *Mentoring*. Mentoring means that the youth has been matched with a screened and trained adult for a one-on-one relationship that involves the two meeting on a regular basis. Mentoring can be short-term, but it may also support the development of a long-term relationship. While youth often are connected to adult role models through school, work, or family, this service category only includes a mentor relationship that has been facilitated, paid for or provided by the State agency or its staff. Indicate whether the

youth received mentoring services that were paid for or provided by the State agency during the reporting period with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(30) *Supervised independent living*. Supervised independent living means that the youth is living independently under a supervised arrangement that is paid for or provided by the State agency. A youth in supervised independent living is not supervised 24 hours a day by an
adult and often is provided with increased responsibilities, such as paying bills, assuming leases, and working with a landlord, while under the supervision of an adult. Indicate whether the youth was living in a supervised independent living setting that was paid or provided by the State agency during the reporting period with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(31) *Room and board financial assistance*. Room and board financial assistance is a payment that is paid for or provided by the State agency for room and board, including rent deposits, utilities, and other household start-up expenses. Indicate whether the youth received financial assistance for room and board that was paid for or provided by during the reporting period with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(32) *Education financial assistance*. Education financial assistance is a payment that is paid for or provided by the State agency for education or training, including allowances to purchase textbooks, uniforms, computers, and other educational supplies; tuition assistance; scholarships; payment for educational preparation and support services (i.e., tutoring), and payment for GED and other educational tests. This financial assistance also includes vouchers for tuition or vocational education or tuition waiver programs paid for or provided by the State agency. Indicate whether the youth received education financial assistance during the reporting period that was paid for or provided by the State agency with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(33) *Other financial assistance*. Other financial assistance includes any other payments made or provided by the State agency to help the youth live independently. Indicate whether the youth received any other financial assistance that was paid for or provided by the State agency during the reporting period with a ``yes'' or ``no'' as appropriate. If the youth is not in the served population this element must be left blank.

(34) *Outcomes reporting status*. The outcomes reporting status represents the youth's participation, or lack thereof, in the outcomes data collection. If the State agency collects and reports information on any of the data elements in paragraphs (g)(37) through (g)(58) of this section for a youth in the baseline or follow-up sample or population, indicate that the youth participated. If a youth is in the baseline or follow-up sample or population, but the State agency is unable to collect the information, indicate the reason and leave the data elements in paragraph (g)(37) through (g)(58) of this section blank. If a 19-year old youth in the follow-up population is not in the sample, indicate that the youth is not in the sample. If the youth is not in the baseline or follow-up population this element must be left blank.

(i) *Youth participated*. The youth participated in the outcome survey, either fully or partially.

(ii) *Youth declined*. The State agency located the youth successfully and invited the youth's participation, but the youth declined to participate in the data collection.

(iii) *Parent declined*. The State agency invited the youth's participation, but the youth's parent/guardian declined to grant permission. This response may be used only when the youth has not reached the age of majority in the State and State law or policy requires a parent/guardian's permission for the youth to participate in information collection activities.

(iv) *Incapacitated*. The youth has a permanent or temporary mental or physical condition that prevents him or her from participating in the outcomes data collection.

(v) *Incarcerated*. The youth is unable to participate in the outcomes data collection because of his or her incarceration.

(vi) *Runaway/missing*. A youth in foster care is known to have run away or be missing from his or her foster care placement.

(vii) *Unable to locate/invite*. The State agency could not locate a youth who is not in foster care or otherwise invite such a youth's participation.

(viii) *Death*. The youth died prior to his participation in the outcomes data collection.

(ix) *Not in sample*. The 19-year-old youth participated in the outcomes data collection as a part of the baseline population at age 17, but the youth is not in the State's follow-up sample. This response option applies only when the outcomes data collection is required on the follow-up population of 19-year-old youth.

(35) *Date of outcome data collection*. The date of outcome data collection is the latest date that the agency collected data from a youth for the elements described in paragraphs (g)(38) through (g)(58) of this section. Indicate the month, day and year of the outcomes data collection. If the youth is not in the baseline or follow-up population this element must be left blank.

(36) *Foster care status--outcomes*. The youth is in foster care if the youth is under the placement and care responsibility of the State title IV-B/IV-E agency in accordance with the definition of foster care in 45 CFR 1355.20. Indicate whether the youth is in foster care on the date of outcomes data collection with a ``yes'' or ``no'' as appropriate. If the youth is not in the baseline or follow-up population this element must be left blank.

(37) *Current full-time employment*. A youth is employed full-time if employed at least 35 hours per week, in one or multiple jobs, as of the date of the outcome data collection. Indicate whether the youth is employed full-time, with a ``yes'' or ``no'' as appropriate. If the youth does not answer this question indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(38) *Current part-time employment*. A youth is employed part-time if employed between one and 34 hours per week, in one or multiple jobs, as of the date of the outcome data collection. Indicate whether the youth is employed part-time, with a ``yes'' or ``no.'' If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(39) *Employment-related skills*. A youth has obtained employment-related skills if the youth completed an apprenticeship, internship, or other on-the-job training, either paid or

unpaid, in the past year. The experience must help the youth acquire employment-related skills, such as specific trade skills such as carpentry or auto mechanics, or office skills such as word processing or use of office equipment. Indicate whether the youth has obtained employment-related skills, with a ``yes'' or ``no'' as appropriate. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(40) *Social Security*. A youth is receiving some form of Social Security if receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), either directly or as a dependent beneficiary as of the date of the outcome data collection. SSI payments are made to eligible low-income persons with disabilities. SSDI payments are made to persons with a certain amount of work history who become disabled. A youth may receive SSDI payments through a parent. Indicate whether the youth is receiving a form of Social Security payments, with a ``yes'' or ``no'' as appropriate. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(41) *Educational aid*. A youth is receiving educational aid if using a scholarship, voucher (including education or training vouchers pursuant to section 477(h)(2) of the Social Security Act), grant, stipend, student loan, or other type of educational financial aid to cover educational expenses as of the date of the outcome data collection. Scholarships, grants, and stipends are funds awarded for spending on expenses related to gaining an education. ``Student loan'' means a government-guaranteed, low-interest loan for students in post-secondary education. Indicate whether the youth is receiving educational aid with a ``yes'' or ``no'' as appropriate. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(42) *Public financial assistance*. A youth is receiving public financial assistance if receiving ongoing cash welfare payments from the government to cover some of his or her basic needs, as of the date of the outcome data collection. Public financial assistance does not include government payments or subsidies for specific purposes, such as unemployment insurance, child care subsidies, education assistance, food stamps or housing assistance. Indicate whether the youth is receiving public financial assistance, with ``yes'' or ``no'' as appropriate, and ``not applicable'' for a youth still in foster care. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(43) *Public food assistance*. A youth is receiving public food assistance if receiving food stamps in any form (i.e., government-sponsored checks, coupons or debit cards) to buy eligible food at authorized stores as of the date of the outcome data collection. This definition includes receiving public food assistance through the Women, Infants, and Children (WIC) program. Indicate whether the youth is receiving some form of public food assistance with ``yes'' or ``no,'' and ``not applicable'' for a youth still in foster care. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(44) *Public housing assistance*. A youth is receiving public housing assistance if the youth is living in government-funded public housing, or receiving a government-funded

housing voucher to pay for part of his/her housing costs as of the date of the outcome data collection. CFCIP room and board payments are not included in this definition. Indicate whether the youth is receiving housing assistance with ``yes'' or ``no'' and ``not applicable'' for a youth still in foster care. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(45) *Other financial support*. A youth has other financial support if receiving any other periodic and/or significant financial resources or
support from another source not listed in the elements described in paragraphs (g)(41) through (g)(44) of this section as of the date of outcome data collection. Such support can include payments from a spouse or family member (biological, foster or adoptive), child support that the youth receives for him or herself, or funds from a legal settlement. This definition does not include occasional gifts, such as birthday or graduation checks or small donations of food or personal incidentals, child care subsidies, child support for a youth's child, or other financial support which does not benefit the youth directly in supporting himself or herself. Indicate whether the youth is receiving any other financial support with a ``yes'' or ``no.'' If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(46) *Highest educational certification received*. A youth has received an education certificate if the youth has a high school diploma or general equivalency degree (GED), vocational certificate, vocational license, associate's degree (e.g., A.A.), bachelor's degree (e.g., B.A. or B.S.), or a higher degree as of the date of the outcome data collection. Indicate the highest degree that the youth has received. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(i) A vocational certificate is a document stating that a person has received education or training that qualifies him or her for a particular job, e.g., auto mechanics or cosmetology.

(ii) A vocational license is a document that indicates that the State or local government recognizes an individual as a qualified professional in a particular trade or business.

(iii) An associate's degree is generally a two-year degree from a community college.

(iv) A bachelor's degree is a four-year degree from a college or university.

(v) A higher degree indicates a graduate degree, such as a Master's Degree or a Juris Doctor (J.D.).

(vi) None of the above means that the youth has not received any of the above educational certifications.

(47) *Current enrollment and attendance*. Indicate whether the youth is enrolled in and attending high school, GED classes, or postsecondary vocational training or college, as of the date of the outcome data collection. A youth is still considered enrolled in and attending school if the youth would otherwise be enrolled in and attending a school that is currently out of session. Indicate whether the youth is currently enrolled and attending school with a ``yes'' or ``no.'' If the youth does not answer this question, indicate

``declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(48) *Connection to adult*. A youth has a connection to an adult if, as of the date of the outcome data collection, the youth knows an adult who he or she can go to for advice or guidance when there is a decision to make or a problem to solve, or for companionship when celebrating personal achievements. The adult must be easily accessible to the youth, either by telephone or in person. This can include, but is not limited to adult relatives, parents or foster parents. The definition excludes spouses, partners, boyfriends or girlfriends and current caseworkers. Indicate whether the youth has such a connection with an adult with a ``yes" or ``no." If the youth does not answer this question, indicate ``declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(49) *Homelessness*. A youth is considered to have experienced homelessness if the youth had no regular or adequate place to live. This definition includes situations where the youth is living in a car or on the street, or staying in a homeless or other temporary shelter. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experiences. For a 19- or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. Indicate if the youth has been homeless with a ``yes" or ``no." If the youth does not answer this question, indicate ``declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(50) *Substance abuse referral*. A youth has received a substance abuse referral if the youth was referred for an alcohol or drug abuse assessment or counseling. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19-or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. This definition includes either a self-referral or referral by a social worker, school staff, physician, mental health worker, foster parent, or other adult. Alcohol or drug abuse assessment is a process designed to determine if someone has a problem with alcohol or drug use. Indicate whether the youth had a substance abuse referral with a ``yes" or ``no." If the youth does not answer this question, indicate ``declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(51) *Incarceration*. A youth is considered to have been incarcerated if the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with allegedly committing a crime (misdemeanor or felony). For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19-or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. Indicate whether the youth was incarcerated with a ``yes" or ``no". If the youth does not answer this question, indicate ``declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(52) *Children*. A youth is considered to have a child if the youth has given birth herself, or the youth has fathered any children who were born. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a

19-or 21-year-old youth in the follow-up population, the data element refers to children born to the youth in the past two years only. This refers to biological parenthood. Indicate whether the youth had a child with a ``yes'' or ``no.'' If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(53) *Marriage at child's birth*. A youth is married at the time of the child's birth if he or she was united in matrimony according to the laws of the State to the child's other parent. Indicate whether the youth was married to the child's other parent at the time of the birth of any child reported in the element described in paragraph (g)(52) of this section with a ``yes'' or ``no''. If the youth does not answer this question, indicate ``declined.'' If the answer to the element described in paragraph (g)(52) of this section is ``no,'' indicate ``not applicable.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(54) *Medicaid*. A youth is receiving Medicaid if the youth is participating in a Medicaid-funded State program, which is a medical assistance program supported by the Federal and State government under title XIX of the Social Security Act as of the date of outcomes data collection. Indicate whether the youth receives Medicaid with ``yes,'' ``no,'' or ``don't know'' as appropriate. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(55) *Other health insurance coverage*. A youth has other health insurance if the youth has a third party pay (other than Medicaid) for all or part of the costs of medical care, mental health care, and/or prescription drugs, as of the date of the outcome data collection. This definition includes group coverage offered by employers, schools or associations, an individual health plan, self-employed plans, or inclusion in a parent's insurance plan. This also could include access to free health care through a college, Indian Health Service, or other source. Medical or drug discount cards or plans are not insurance.

Indicate “yes”', “no”, or “don't know,” as appropriate. If the youth does not answer this question, indicate “declined.” If the youth is not in the baseline or follow-up population this element must be left blank.

(56) *Health insurance type: Medical*. If the youth has indicated that he or she has health insurance coverage in the element described in paragraph (g)(55) of this section, indicate whether the youth has insurance that pays for all or part of medical health care services. Indicate ``yes'', ``no'', or ``don't know'' as appropriate, or ``not applicable'' if the youth did not indicate any health insurance coverage. If the youth does not answer this question, indicate ``declined.'' If the youth is not in the baseline or follow-up population this element must be left blank.

(57) *Health insurance type: Mental health*. If the youth has indicated that he or she has medical health insurance coverage as described in paragraph (g)(56) of this section, indicate whether the youth has insurance that pays for all or part of the costs for mental health care services, such as counseling or therapy. Indicate ``yes'', ``no'', or ``don't know'' as appropriate, or ``not applicable'' if the youth did not indicate having medical health insurance coverage. If the youth does not answer this question, indicate

``declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(58) *Health insurance type: Prescription drugs*. If the youth has indicated that he or she has medical health insurance coverage as described in paragraph (g)(56) of this section, indicate whether the youth has insurance coverage that pays for part or all of the costs of some prescription drugs. Indicate ``yes", ``no", or ``don't know" as appropriate, or ``not applicable" if the youth did not indicate having medical health insurance coverage. If the youth does not answer this question, indicate ``declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(h*) Electronic reporting*. The State agency must report all data to ACF electronically according to ACF's specifications and appendix A of this part.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number OMB 0970-0340. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.)

§ 1356.84 Sampling.

(a) The State agency may collect and report the information required in section 1356.83(e) of this part on a sample of the baseline population consistent with the sampling requirements described in paragraphs (b) and (c) of this section.

(b) The State agency must select the follow-up sample using simple random sampling procedures based on random numbers generated by a computer program, unless ACF approves another sampling procedure. The sampling universe consists of youth in the baseline population consistent with 45 CFR 1356.81(b) who participated in the State agency's data collection at age 17.

(c) The sample size is based on the number of youth in the baseline population who participated in the State agency's data collection at age 17.

(1) If the number of youth in the baseline population who participated in the outcome data collection at age 17 is 5,000 or less, the State agency must calculate the sample size using the formula in appendix C of this part, with the Finite Population Correction (FPC). The State agency must increase the resulting number by 30 percent to allow for attrition, but the sample size may not be larger than the number of youth who participated in data collection at age 17.

(2) If the number of youth in the baseline population who participated in the outcome data collection at age 17 is greater than 5,000, the State agency must calculate the sample size using the formula in appendix C of this part, without the FPC. The State agency must increase the resulting number by 30 percent to allow for attrition, but the sample size must not be larger than the number of youth who participated in data collection at age 17.

§ 1356.85 Compliance.

(a) *File submission standards.* A State agency must submit a data file in accordance with the following file submission standards:

(1) *Timely data.* The data file must be received in accordance with the reporting period and timeline described in section 1356.83(a) of this part;

(2) *Format.* The data file must be in a format that meets ACF's specifications; and

(3) *Error-free information.* The file must contain data in the general and demographic elements described in section 1356.83(g)(1) through (g)(5), (g)(14), and (g)(36) of this part that is 100 percent error-free as defined in paragraph (c) of this section.

(b) *Data standards.* A State agency also must submit a file that meets the following data standards:

(1) *Error-free.* The data for the applicable demographic, service and outcomes elements defined in section 1356.83(g)(6) through (13), (g)(15) through (35) and (g)(37) through (58) of this part must be 90 percent error-free as described and assessed according to paragraph (c) of this section.

(2) *Outcomes universe.* In any Federal fiscal year for which the State agency is required to submit information on the follow-up population, the State agency must submit a youth record containing at least outcomes data for the outcomes status element described in section 1356.83(g)(34) of this part on each youth for whom the State agency reported outcome information as part of the baseline population. Alternatively, if the State agency has elected to conduct sampling in accordance with section 1356.84 of this part, the State agency must submit a record containing at least outcomes data for the outcomes status element described in section 1356.83(g)(34) of this part on each 19-year-old youth in the follow-up population, inclusive of those youth who are not in the sample, and each 21-year-old youth in the follow-up sample.

(3) *Outcomes participation rate.* The State agency must report outcome information on each youth in the follow-up population at the rates described in paragraphs (b)(3)(i) through (iii) of this section. A youth has participated in the outcomes data collection if the State agency collected and reported a valid response (i.e., a response option other than "declined" or "not applicable") to any of the outcomes-related elements described in section 1356.83(g)(37) through (g)(58) of this part. ACF will exclude from the calculation of the participation rate any youth in the follow-up population who is reported as deceased, incapacitated or incarcerated in section 1356.83(g)(34) at the time information on the follow-up population is required.

(i) *Foster care youth participation rate.* The State agency must report outcome information on at least 80 percent of youth in the follow-up population who are in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36) of this part.

(ii) *Discharged youth participation rate.* The State agency must report outcome information on at least 60 percent of youth in the follow-up population who are not in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36) of this part.

(iii) *Effect of sampling on participation rates.* For State agencies electing to sample in accordance with section 1356.84 and appendix C of this part, ACF will apply the outcome participation rates in paragraphs (b)(2)(i) and (ii) of this section to the required sample size for the State.

(c) *Errors.* ACF will assess each State agency's data file for the following types of errors: Missing data, out-of-range data, or internally inconsistent data. The amount of errors acceptable for each reporting period is described in paragraphs (a) and (b) of this section.

(1) Missing data is any element that has a blank response when a blank response is not a valid response option as described in section 1356.83(g) of this part.

(2) Out-of-range data is any element that contains a value that is outside the parameters of acceptable responses or exceeds, either positively or negatively, the acceptable range of response options as described in section 1356.83(g) of this part; and

(3) Internally inconsistent data is any element that fails an internal consistency check designed to evaluate the logical relationship between elements in each record. The evaluation will identify all elements involved in a particular check as in error.

(d) *Review for compliance.* (1) ACF will determine whether a State agency's data file for each reporting period is in compliance with the file submission standards and data standards in paragraphs (a) and (b) of this section.

(i) For State agencies that achieve the file submission standards, ACF will determine whether the State agency's data file meets the data standards.

(ii) For State agencies that do not achieve the file submission standards or data standards, ACF will notify the State agency that they have an opportunity to submit a corrected data file by the end of the subsequent reporting period in accordance with paragraph (e) of this section.

(2) ACF may use monitoring tools or assessment procedures to determine whether the State agency is meeting all the requirements of section 1356.81 through 1356.85 of this part.

(e) *Submitting corrected data and noncompliance.* A State agency that does not submit a data file that meets the standards in section 1356.85 of this part will have an opportunity to submit a corrected data file in accordance with paragraphs (e)(1) and (e)(2) of this section.

(1) A State agency must submit a corrected data file no later than the end of the subsequent reporting period as defined in section 1356.83(a) of this part (i.e., by September 30 or March 31).

(2) If a State agency fails to submit a corrected data file that meets the compliance standards in section 1356.85 of this part and the deadline in paragraph (e)(1) of this section, ACF will make a final determination that the State is out of compliance, notify the State agency, and apply penalties as defined in section 1356.86 of this part.

§ 1356.86 Penalties for noncompliance.

(a) *Definition of Federal funds subject to a penalty*. The funds that

are subject to a penalty are the CFCIP funds allocated or reallocated to the State agency under section 477(c)(1) of the Act for the Federal fiscal year that corresponds with the reporting period for which the State agency was required originally to submit data according to section 1356.83(a) of this part.

(b) *Assessed penalty amounts*. ACF will assess penalties in the following amounts, depending on the area of noncompliance:

(1) *Penalty for not meeting file submission standards*. ACF will assess a penalty in an amount equivalent to two and one half percent (2.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the file submission standards defined in section 1356.85(a) of this part.

(2) *Penalty for not meeting certain data standards*. ACF will assess a penalty in an amount equivalent to:

(i) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the data standard for error-free data as defined in section 1356.85(b)(1) of this part.

(ii) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the outcome universe standard defined in section 1356.85(b)(2) of this part.

(iii) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for youth in foster care standard defined in section 1356.85(b)(3)(i) of this part.

(iv) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for discharged youth standard defined in section 1356.85(b)(3)(ii) of this part.

(c) *Calculation of the penalty amount*. ACF will add together any assessed penalty amounts described in paragraphs (b)(1) or (b)(2) of this section to determine the total calculated penalty result. If the total calculated penalty result is less than one percent of the funds subject to a penalty, the State agency will be penalized in the amount of one percent.

(d) *Notification of penalty amount*. ACF will advise the State agency in writing of a final determination of noncompliance and the amount of the total calculated penalty as determined in paragraph (c) of this section.

(e) *Interest*. The State agency will be liable for interest on the amount of funds penalized by the Department, in accordance with the provisions of 45 CFR 30.18.

(f) *Appeals*. The State agency may appeal, pursuant to 45 CFR part 16, ACF's final determination to the HHS Departmental Appeals Board.

Appendix A to Part 1356—NYTD Data Elements

Element #	Element name	Responses options	Applicable population
55	Other health insurance coverage	Yes No Don't know Declined	Baseline and follow-up population.
56	Health insurance type—medical	Yes No Don't know Not applicable Declined	

Appendix B to Part 1356—NYTD Youth Outcome Survey

Topic/element	Question to youth and response options	Definition
INFORMATION TO COLLECT FROM ALL YOUTH SURVEYED FOR OUTCOMES, WHETHER IN FOSTER CARE OR NOT		
Health insurance type—medical (56)	Does your health insurance include coverage for medical services? --Yes --No --Don't know --Not Applicable --Declined	This means that the youth's health insurance covers at least some medical services or procedures. This question is for only those youth who responded "yes" to having health insurance.

APPENDIX C TO PART 1356—CALCULATING SAMPLE SIZE FOR NYTD FOLLOW-UP POPULATIONS

1. Using Finite Population Correction

The Finite Population Correction (FPC) is applied when the sample is drawn from a population of one to 5,000 youth, because the sample is more than five percent of the population.

- $$\text{Sample size with FPC} = \frac{(Py)\ (Pn) + \text{Std. error}^2}{\text{Std. error}^2 + \frac{(Py)\ (Pn)}{N}}$$

• (Py)(Pn), an estimate of the percent of responses to a dichotomous variable, is (.50)(.50) for the most conservative estimate.

- $$\text{Standard error} = \frac{\text{Acceptable level of error}}{\text{Z coefficient}}$$

• Acceptable level of error = .05 (results are plus or minus five percentage points from the actual score)
• Z = 1.645 (90 percent confidence interval)

- $$\text{Standard error, 90 percent confidence interval} = \frac{.05}{1.645} = .0303951$$

• N = number of youth from whom the sample is being drawn

2. Not Using Finite Population Correction

The FPC is not applied when the sample is drawn from a population of over 5,000 youth.

- $$\text{Sample size without FPC, 90 percent confidence interval} = \frac{(Py)\,(Pn)}{\text{Std. Error}^2} = \frac{(.50)\,(.50)}{(.0303951)^2} = 271$$