

## § 1355.31

## 45 CFR Ch. XIII (10–1–23 Edition)

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

(o) 45 CFR 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.

[61 FR 58654, Nov. 18, 1996, as amended at 66 FR 58675, Nov. 23, 2001; 77 FR 926, Jan. 6, 2012; 81 FR 3022, Jan. 20, 2016]

### § 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.

[77 FR 926, Jan. 6, 2012]

### § 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 timeframes 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.

[65 FR 4076, Jan. 25, 2000, as amended at 66 FR 58675, Nov. 23, 2001; 77 FR 926, Jan. 6, 2012]

#### § 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 1357.15(1);

(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.