

(d) *Extensions.* If the responsible HHS official extends the time or the date by which a grant recipient has to make requests or to submit material, it must notify the grant recipient in writing.

(e) *Decision.* (1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grant recipient has adequately corrected what led to suspension, and will render a decision within five days after the informal meeting. If no informal meeting is held, the responsible HHS official will render a decision within five days after it receives written material from all concerned parties.

(2) If the responsible HHS official finds the grant recipient failed to show cause why ACF should not suspend financial assistance, the official may suspend financial assistance, in whole or in part, and under terms and conditions as he or she deems appropriate.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B) are applicable or the grant recipient requests the suspension continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grant recipient to operate the program until the grant recipient's suspension is lifted, or as otherwise provided under section 646(a)(5)(B) of the Act.

(f) *Obligations incurred during suspension.* New obligations the grant recipient incurs while under suspension are not allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allowable costs which the grant recipient could not reasonably avoid during the suspension period will be allowed if they result from obligations the grant recipient properly incurred before suspension and not in anticipation of suspension or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to satisfy cost sharing or matching requirements.

(g) *Modify or rescind suspension.* The responsible HHS official may modify or

rescind suspension at any time, if the grant recipient can satisfactorily show that it has adequately corrected what led to suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for additional 30 day periods if the cause of the suspension has not been corrected.

#### **§ 1304.4 Emergency suspension without advance notice.**

(a) *Grounds to suspend financial assistance without advance notice.* The responsible HHS official may suspend financial assistance, in whole or in part, without prior notice and an opportunity to show cause if there is an emergency situation, such as a serious risk for substantial injury to property or loss of project funds, a federal, state, or local criminal statute violation, or harm to staff or participants' health and safety.

(b) *Emergency suspension notification requirements.* (1) The emergency suspension notification must:

(i) Specify the grounds for the suspension;

(ii) Include terms and conditions of any full or partial suspension;

(iii) Inform that grant recipient it cannot make or incur any new expenditures or obligations under suspended portion of the program; and,

(iv) Advise that within five days after the emergency suspension becomes effective, the grant recipient may request, in writing, an informal meeting with the responsible HHS official to show why the basis for the suspension was not valid and should be rescinded and that the grant recipient has corrected any deficiencies.

(2) The responsible HHS official must promptly transmit the emergency suspension notification to the grant recipient that shows the date of receipt. The emergency suspension becomes effective upon delivery of the notification or upon the date the grant recipient refuses delivery, or upon return of the notification unclaimed.

(3) Within two workdays after the grant recipient receives the emergency suspension notification, the grant recipient must send a copy of the notice

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to delegate agencies affected by the suspension.

(4) The responsible HHS official must inform affected delegate agencies that they have the right to participate in the informal meeting.

(c) *Opportunity to show cause.* If the grant recipient requests an informal meeting, the responsible HHS official must schedule a meeting within five workdays after it receives the grant recipient's request. The suspension will continue until the grant recipient has been afforded such opportunity and until the responsible HHS official renders a decision. Notwithstanding provisions in this section, the responsible HHS official may proceed to deny refunding or to initiate termination proceedings at any time even though the grant recipient's financial assistance has been suspended in whole or in part.

(d) *Decision.* (1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grant recipient has adequately corrected what led to suspension, and render a decision within five work days after the informal meeting.

(2) If the responsible HHS official finds the grant recipient failed to show cause why suspension should be rescinded, the responsible HHS official may continue the suspension, in whole or in part, and under the terms and conditions specified in the emergency suspension notification.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B) are applicable or the grant recipient requests the suspension to continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grant recipient to operate the program until either the grant recipient's emergency suspension is lifted or a new grant recipient is selected.

(e) *Obligations incurred during suspension.* Any new obligations the grant recipient incurs during the suspension period will not be allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allow-

able costs which the grant recipient could not reasonably avoid during the suspension period will be allowed if those costs result from obligations properly incurred before suspension and not in anticipation of suspension, denial of refunding or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to satisfy cost sharing or matching requirements.

(f) *Modify or rescind suspension.* The responsible HHS official may modify or rescind suspension at any time, if the grant recipient can satisfactorily show that it has adequately corrected what led to the suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for additional 30 day periods if the cause of the suspension has not been corrected.

### § 1304.5 Termination and denial of refunding.

(a) *Grounds to terminate financial assistance or deny a grant recipient's application for refunding.* (1) A responsible HHS official may terminate financial assistance in whole or in part to a grant recipient or deny a grant recipient's application for refunding.

(2) The responsible HHS official may terminate financial assistance in whole or in part, or deny refunding to a grant recipient for any one or for all of the following reasons:

(i) The grant recipient is no longer financially viable;

(ii) The grant recipient has lost the requisite legal status or permits;

(iii) The grant recipient has failed to timely correct one or more deficiencies as defined in the Act;

(iv) The grant recipient has failed to comply with eligibility requirements;

(v) The grant recipient has failed to comply with the Head Start grants administration or fiscal requirements set forth in 45 CFR part 1303;

(vi) The grant recipient has failed to comply with requirements in the Act;

(vii) The grant recipient is debarred from receiving federal grants or contracts; or