

(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.

[73 FR 10365, Feb. 26, 2008]

**§ 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 non-compliance:

(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 non-compliance 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 30.13.

(f) *Appeals.* The State agency may appeal, pursuant to 45 CFR part 16, ACF's final determination to the HHS Departmental Appeals Board.

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APPENDIX A TO PART 1356—NYTD DATA ELEMENTS

Element #	Element name	Responses options	Applicable population
1 .....	State .....	2 digit FIPS code.	
2 .....	Report date .....	CYYMM. CC= century year (i.e., 20). YY = decade year (00-99). MM = month (01-12).	

Element #	Element name	Responses options	Applicable population	
3	Record number	Encrypted, unique person identification number.	All youth in served, baseline and follow-up populations.	
4	Date of birth	CCYYMMDD. CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12). DD= day (01–31).		
5	Sex	Male. Female.		
6	Race—American Indian or Alaska Native	Yes		
7	Race—Asian	No. Yes.		
8	Race—Black or African American	No. Yes.		
9	Race—Native Hawaiian or Other Pacific Islander.	No. Yes.		
10	Race—White	No. Yes.		
11	Race—Unknown	No. Yes.		
12	Race—Declined	No. Yes.		
13	Hispanic or Latino Ethnicity	No. Yes. Unknown. Declined.		
14	Foster care status—services	Yes No		Served population only.
15	Local agency	FIPS code(s). Centralized unit.		Served population only.
16	Federally-recognized tribe	Yes. No.		
17	Adjudicated delinquent	Yes. No.		
18	Education level	Less than 6th grade .... 6th grade. 7th grade. 8th grade. 9th grade. 10th grade. 11th grade. 12th grade. Postsecondary education or training College, at least one semester.		
19	Special education	Yes. No.		
20	Independent living needs assessment	Yes. No.		
21	Academic support	Yes. No.		
22	Post-secondary educational support	Yes. No.		
23	Career preparation	Yes. No.		
24	Employment programs or vocational training	Yes. No.		
25	Budget and financial management	Yes. No.		
26	Housing education and home management training.	Yes. No.		
27	Health education and risk prevention	No. Yes. No.		
28	Family Support/Healthy Marriage Education	Yes.		

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Element #	Element name	Responses options	Applicable population
29 .....	Mentoring .....	No. Yes.	
30 .....	Supervised independent living .....	No. Yes.	
31 .....	Room and board financial assistance .....	No. Yes.	
32 .....	Education financial assistance .....	No. Yes.	
33 .....	Other financial assistance .....	No. Yes.	
34 .....	Outcomes reporting status .....	Youth Participated ..... Youth Declined Parent Declined Youth Incapacitated Incarcerated. Runaway/Missing. Unable to locate/invite. Death. Not in sample.	Baseline and follow-up populations (with the exception of the response option "not in sample" which is applicable to 19-year olds in the follow-up only).
35 .....	Date of outcome data collection .....	CCYYMMDD ..... CC= century year (i.e., 20). YY = decade year (00-99). MM = month (01-12). DD= day (01-31).	Baseline and follow-up populations.
36 .....	Foster care status-outcomes .....	Yes. No.	
37 .....	Current full-time employment .....	Yes. No. Declined.	
38 .....	Current part-time employment .....	Yes. No. Declined.	
39 .....	Employment-related skills .....	Yes. No. Declined.	
40 .....	Social Security .....	Yes. No. Declined.	
41 .....	Educational aid .....	Yes. No. Declined.	
42 .....	Public financial assistance .....	Yes ..... No. Not applicable. Declined.	Follow-up population <i>not</i> in foster care.
43 .....	Public food assistance .....	Yes. No. Not applicable. Declined.	
44 .....	Public housing assistance .....	Yes. No. Not applicable. Declined.	
45 .....	Other financial support .....	Yes ..... No. Declined.	Baseline and follow-up population.
46 .....	Highest educational certification received .....	High school diploma/ GED. Vocational certificate. Vocational license. Associate's degree. Bachelor's degree. Higher degree. None of the above. Declined.	
47 .....	Current enrollment and attendance .....	Yes.	

Element #	Element name	Responses options	Applicable population
48	Connection to adult	No. Declined. Yes.	Baseline and follow-up population.
49	Homelessness	No. Declined. Yes.	
50	Substance abuse referral	No. Declined. Yes.	
51	Incarceration	No. Declined. Yes.	
52	Children	No. Declined. Yes.	
53	Marriage at child's birth	No. Declined. Yes.	
54	Medicaid	No. Declined. Yes.	
55	Other health insurance coverage	No. Declined. Don't know. Yes	
56	Health insurance type—medical	No. Declined. Don't know. Not applicable. Yes.	
57	Health insurance type—mental health	No. Declined. Don't know. Not applicable. Yes.	
58	Health insurance type—prescription drugs	No. Declined. Don't know. Not applicable. Yes.	

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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		
Current full-time employment (37)	Currently are you employed full-time? Yes No Declined	"Full-time" means working at least 35 hours per week at one or multiple jobs.
Current part-time employment (38)	Currently are you employed part-time? Yes No Declined	"Part-time" means working at least 1–34 hours per week at one or multiple jobs.
Employment-related skills (39)	In the past year, did you complete an apprenticeship, internship, or other on-the-job training, either paid or unpaid? Yes No Declined	This means apprenticeships, internships, or other on-the-job trainings, either paid or unpaid, that helped the youth acquire employment-related skills (which can include specific trade skills such as carpentry or auto mechanics, or office skills such as word processing or use of office equipment).