
45 C.F.R. § 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

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