

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Administration for Children and Families****45 CFR Part 1356**

RIN 0970-AC21

**Chafee National Youth in Transition Database**

**AGENCY:** Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

**ACTION:** Final rule.

**SUMMARY:** This final rule adds new regulations to require States to collect and report data to ACF on youth who are receiving independent living services and on the outcomes of certain youth who are in foster care or who age out of foster care. The final rule implements the data collection requirements of the Foster Care Independence Act of 1999 (Pub. L. 106-169) as incorporated into the Social Security Act.

**DATES:** *Effective Date:* April 28, 2008.

*Compliance Date:* A State must implement and comply with this rule no later than October 1, 2010.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The preamble to this final rule is organized as follows:

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**I. Background***A. Legislative History*

Each year thousands of young people are discharged from State foster care systems because they reach the age at which they are no longer eligible for out-of-home placement services. During the early 1980s, research and anecdotal evidence indicated that many young people who emancipated from foster care experienced numerous difficulties

in their attempts to achieve self-sufficiency. Rather than making a successful transition to living on their own, a significant percentage of these youth experienced homelessness, unemployment, victimization, and dependence on various types of public assistance.

In response to this problem, in 1986 President Reagan signed into law the Title IV-E Independent Living Initiative (Pub. L. 99-272). The law provided States with funding to make independent living services available to youth in foster care between the ages of 16 and 21. Several improvements were made to this law by the Foster Care Independence Act of 1999 (Pub. L. 106-169) signed by President Clinton on December 14, 1999. This law established the John H. Chafee Foster Care Independence Program (CFCIP) at section 477 of the Social Security Act (the Act). Compared to Public Law 99-272, the Foster Care Independence Act provides States with greater funding and flexibility to carry out programs to assist youth in making the transition from foster care to self-sufficiency. The legislation provides States with funding to identify and make available independent living services to youth "who are likely to remain in foster care" until at least age 18—thus removing the minimum age requirements for the receipt of independent living services. Public Law 106-169 also requires States to provide assistance and services to youth who age out of foster care, until age 21, and allows States to use part of their funding to provide room and board assistance to these youth. On January 17, 2002, President Bush signed into law the Promoting Safe and Stable Families Amendments of 2001 (Pub. L. 107-133), which provided States with funding specifically for post-secondary education and training vouchers for youth who are eligible for CFCIP services.

The Foster Care Independence Act of 1999 requires ACF to develop and implement a data collection system, in consultation with various stakeholders, to perform two functions: (1) Track the independent living services States provide to youth; and, (2) develop outcome measures that may be used to assess State performance in operating their independent living programs. With regard to services, the Act requires us to identify data elements to track the number and characteristics of children receiving services under section 477 of the Act and the type and quantity of services States provide. With regard to outcomes, section 477(f)(1) of the Act requires that we develop outcome measures, including measures of

educational attainment, receipt of a high school diploma, employment, avoidance of dependency, homelessness, non-marital childbirth, incarceration, and high-risk behaviors, and the data elements to track States' performance on the outcome measures. The law also requires that ACF impose a penalty in an amount that ranges from one to five percent of the State's annual allotment on any State that fails to comply with the reporting requirements. ACF must base a State's penalty amount on the degree of noncompliance (section 477(e)(2) and (3) of the Act).

*B. Rule Development*

In developing the rule we engaged in an extensive consultation process on the information that would comprise the NYTD. Our consultation included national discussion groups with child welfare agency administrators and independent living coordinators at the State, Tribal, and local levels; public and private agency youth service providers; technical assistance providers; child welfare advocates; group home staff and administrators; and current and former foster youth and foster parents. We also held conference calls with independent living coordinators and information technology managers from several States. Finally, we conducted a pilot test of the draft data elements in seven States and one Indian Tribe and formed a work group of national associations, resource centers and State and Tribal representatives to analyze the results of the pilot test.

After gathering the information from consultation and conducting further internal deliberations, we published a notice of proposed rulemaking (NPRM) on July 14, 2006 (71 FR 40346-40382) that outlined the National Youth in Transition Database proposal. During the 60-day comment period, we received 67 substantive and unduplicated letters containing approximately 225 comments and questions on the proposal. The commenters included representatives from 38 State child welfare agencies and 14 national child welfare organizations, associations or advocacy groups, among others.

We received widespread support for many of the general concepts of the NYTD, particularly the variety of service and outcomes data elements. Commenters had a number of suggestions for minor modifications or clarifications that they believed would enhance the rule and the NYTD. Commenters also raised a number of questions on matters that are beyond the scope of the NYTD proposal and final

rule. Most concerns from commenters centered around the timeframe for implementing the NYTD, the parameters of the reporting populations, cost and burden issues generally and particularly with regard to tracking youth who are no longer in foster care and the effect of penalties on State services and youth.

## II. The National Youth in Transition Database

### A. Overview of Changes and Regulatory Provisions

We did not significantly change the final NYTD from the proposal in most areas. Although many of the thoughtful comments led us to reconsider aspects of our proposals and make numerous technical revisions, we found compelling reasons to retain key elements of the NYTD. We were convinced to make changes in two major areas: (1) To extend the time States have to develop their information systems and internal procedures to be able to collect and report data to the NYTD, and (2) to exclude education and training vouchers from the Federal funds that are subject to a penalty if a State does not comply with the NYTD requirements. These major changes, along with all other changes, are discussed in more detail throughout the preamble. A final overview of the NYTD follows.

States will report to NYTD four types of information about youth: services provided to youth, youth characteristics, outcomes, and basic demographics. In terms of services, States will identify the type of independent living services or financial assistance that the State provides to youth. There are 11 broad service categories:

- Independent living needs assessment.
- Academic support.
- Post-secondary educational support.
- Career preparation.
- Employment programs or vocational training.
- Budget and financial management.
- Housing education and home management training.
- Health education and risk prevention.
- Family support and healthy marriage education.
- Mentoring.
- Supervised independent living.

The State also will identify the characteristics of each youth receiving independent living services, such as their education level and tribal membership.

In terms of outcomes, States must collect and report information on youth

who are or were in foster care that we can use to measure the collective outcomes of these youth and potentially assess the State's performance in this area. We will collect data on six general outcomes:

- Increase youth financial self-sufficiency.
- Improve youth educational (academic or vocational) attainment.
- Increase youth connections with adults.
- Reduce homelessness among youth.
- Reduce high-risk behavior among youth.
- Improve youth access to health insurance.

The States must survey young people who are or were previously in foster care regarding their outcomes information. States will collect information on these youth at three specific intervals: On or about the youth's 17th birthday while the youth is in foster care; two years later on or about the youth's 19th birthday; and again on or about the youth's 21st birthday. States must report on 19- and 21-year-olds who participated in data collection at age 17 while in foster care, even if they are no longer in the State's foster care system or receiving independent living services at ages 19 and 21. States will collect outcome information on a new baseline population of youth (17-year-olds in foster care) every three years.

Finally, States will identify basic demographic information, such as sex and race of each youth in each of the reporting populations.

States will report all four types of information (services, characteristics, outcomes if applicable in that year, and basic demographics) to the NYTD semi-annually on a Federal fiscal year basis. ACF will evaluate a State's data file against file submission and data compliance standards designed to ensure that we have quality data on youth. States that fail to achieve any of the compliance standards for a reporting period will be given an opportunity to submit to us corrected data. If a State's corrected data does not comply with the data standards, the State will be subject to a penalty in an amount that ranges from one to five percent of the State's annual CFCIP funding, depending on the level of noncompliance. The funds subject to a penalty will not include the State's education and training voucher allotment.

### B. Implementation Timeframe

Implementation of the NYTD will occur on October 1, 2010. This means that a State must begin to collect data on October 1, 2010 (Federal fiscal year

(FFY) 2011) and submit the first report period data to us by May 15, 2011, in accordance with the NYTD requirements in this final rule. This later implementation date is in direct response to comments raised by stakeholders in response to the NPRM.

In the NPRM preamble, we indicated that States would have at least a year between issuance of a final rule and the implementation date of the NYTD. We did not establish a specific implementation date at that time. However, a large number of commenters who represented the perspectives of States, advocates and other stakeholders, believed that a year was not enough time to comply with the NYTD requirements for a number of reasons. We carefully considered the information provided to us through comment, and reviewed our rationale for the one-year implementation timeframe. We found that the commenters raised issues to us that we had not fully considered in developing our original estimates of how long States would need to comply with this rule and we agree that a change is warranted.

Most commenters stated that implementing the NYTD would require changes to a State's Statewide Automated Child Welfare Information System (SACWIS). These changes would take more time than we originally suggested because the NYTD provisions which relate to youth who are still in foster care or who are receiving independent living services must be incorporated into a State's SACWIS in accordance with existing SACWIS rules in 45 CFR 1355.53(b)(5)(iii) and ACF-OISM-001 (1995). Forty-four States are in some stage of SACWIS development or operation and would thus need to make these changes in their SACWIS.

SACWIS changes often require a State to develop and award contracts to implement new programming and design features and secure new funding. The commenters pointed out that tight State budgets and long lead times needed to secure State appropriations mean that States are not guaranteed funding or legislative approval to implement the NYTD quickly. These combined issues can lead to a protracted period before the State has in hand final approval to even start developing a system, let alone begin the work required to change data systems to accommodate the new data requirements. We agree with these points as our own experiences interacting with States that are attempting to secure funding for SACWIS confirm that internal State processes for obtaining funding for

information system changes, and then implementing system changes take a significant amount of time.

In addition to concerns about SACWIS or development of other information system capability, commenters registered significant uncertainty about States' ability to comply with the outcomes component of the NYTD in the suggested timeframe. This was of particular concern to States, given their inexperience with administering an outcomes survey over an extended time to youth who have left foster care. We have acknowledged throughout the NPRM and final rule process that the outcomes component is one of the most challenging aspects of the NYTD. As such, we believe that we must give States a sufficient opportunity to conduct planning activities and take advantage of technical assistance.

Most commenters suggested that a two to three year implementation timeframe is more reasonable. We agree that a minimum of two years to implement the requirements of the NYTD is justified and have set the compliance date as October 1, 2010 accordingly. Providing less time than two years will not serve us or the States well in our mutual goals to understand and serve youth better. The later implementation date is designed to ensure that States are prepared and able to submit quality data on youth independent living services and youth outcomes. In the first year of start-up activities, ACF plans to provide intensive technical assistance to support States as they assess their system design and development needs. During the second year of start-up activities, we plan to continue technical assistance, release technical documents on file and transmission procedures, and support States as they conduct voluntary tests of their systems.

All compliance standards and the associated penalties will take effect during the first year of implementation and will not be delayed further as some commenters suggested. We do, however, hope to encourage States to submit data to us voluntarily prior to the required implementation date. Doing so could mean that States are able to test their systems prior to the compliance date, and we in turn can begin providing technical assistance based on States' actual experiences. We intend to issue guidance on whether and how we may be able to accept voluntary data submissions prior to the compliance date.

### C. Discussion of Non-Regulated Issues

We received a number of comments and questions on topics that are outside

the scope of this rulemaking. Such comments addressed general topics such as technical assistance requests, performance standards, ongoing consultation between various stakeholders on the CFCIP program and NYTD, technical questions about modifying SACWIS and strategies for tracking youth. The proper forum for these requests is through the ACF regional offices and our technical assistance providers.

### III. Section-by-Section Discussion of Final Rule

#### Section 1356.80 Scope

This section requires the State agency that administers or supervises the administration of the Chafee Foster Care Independence Program under section 477 of the Social Security Act to comply with the data collection and reporting requirements in this final rule. We did not receive comments on this section. We made a minor modification to the section to include State agencies that "supervise the administration" of the CFCIP in addition to those that directly administer the program in the scope of these NYTD requirements. This modification brings the scope statement in line with the statutory requirements for an administrating or supervisory State agency in section 477(b)(2) of the Act.

#### Section 1356.81 Reporting Population

This section describes the three reporting populations of youth on whom States must obtain services and outcomes information to report to the NYTD: The served, baseline and follow-up populations.

#### Served Population

In paragraph (a), we describe the served population as youth who receive an independent living service paid for or provided by the State agency during a six-month report period.

*Comment:* A number of commenters sought clarity on which youth comprise the served population and asked whether specific subgroups were a part of the population. Specifically, commenters asked whether tribal youth, youth involved with the juvenile justice system, youth who receive services through the staff of a group home or child care institution, and youth no longer in foster care would fall within the served population.

*Response:* In general, a youth is in the served population if during the report period, the youth received at least one independent living service paid for or provided by the State agency. We are making a minor amendment to the final

rule to remove the reference to "services" as only one independent living service is required during the report period for the youth to be a part of the served population. An independent living service is provided by the State agency if it is delivered by State agency staff or an agent of the State, including a foster parent, group home staff, child care institution staff or the service is provided pursuant to a contract between the State agency and a provider, agency or any other entity regardless of whether the contract includes funding for the particular service. Independent living services that are paid for or provided by the State agency can be delivered in a variety of formats. The served population is not limited on the Federal level by age, foster care status or placement type, although State eligibility rules for their independent living programs may restrict which youth receive independent living services. Therefore, tribal youth, youth involved with the juvenile justice system, youth who receive services through foster care providers and youth no longer in foster care are a part of the served population if they receive an independent living service paid for or provided by the State agency during the report period.

*Comment:* Some commenters suggested that we gather data in some way on youth who do not receive independent living services. Some commenters suggested that we require States to identify and explain why subgroups of youth do not receive services, such as youth who were eligible for independent living services in the State and/or youth who are referred to independent living. Other commenters suggested that we capture information on youth who do not receive independent living services outside of the NYTD.

*Response:* In developing the NPRM, we considered and rejected an approach to require States to identify and explain why youth do not receive independent living services. We explained in the NPRM that the statute's mandate is limited to collecting data on independent living services that youth receive (section 477(f)(1)(B)(i) of the Act). We believe that gathering information on why youth do not receive independent living services is better suited to research or evaluation activities and therefore we are not making a change to the final rule in this regard. We want to be clear, however, that we have designed the outcomes component of the NYTD to look at the outcomes of youth whether or not they receive independent living services that are paid for or provided by the State

agency. This outcomes information can be used in conjunction with information from the Adoption and Foster Care Analysis and Reporting System (AFCARS) to tell us more about youth who do not receive independent living services and how they fare.

*Comment:* Some commenters urged us to expand the served population to include youth who receive independent living services that are brokered or arranged by the State agency through an agreement with other public or private agencies, rather than just those independent living services that are paid for or provided by the State agency. Commenters believed that broadening the scope of the served population would be in keeping with CFCIP State plan requirements to coordinate services with other Federal, State and local programs serving youth. Further, commenters suggested that including services that are arranged, brokered, or offered through collaboration would better reflect the range of independent living services youth may receive.

*Response:* We carefully considered the issues raised by commenters but are not convinced that the suggestions to expand the served population, for example, to include those youth served through collaborations, agreements or other State agency arrangements that are neither paid for nor provided by the State agency, offers a significant improvement to the NYTD. We recognize that States collaborate with community partners in a variety of ways to benefit youth as required under the CFCIP State plan. However, including youth served as a result of those collaborations or otherwise arranged or brokered by the State agency in the served population is too far removed from the statutory mandate to collect data on youth served under the CFCIP. Further, we believe that expanding the served population to include youth who receive independent living services in their community that are neither paid for nor provided by the State agency would distort what we can learn about the services provided under the CFCIP.

Rather, we are interested in a State collecting and reporting information on youth who receive an independent living service due to the State agency's commitment of funds or resources to provide the service. Therefore, an independent living service is provided by the State agency if it is delivered by State agency staff or an agent of the State, including a foster parent, group home staff, or child care institution staff. The service is also provided by the State agency if it is provided to the youth pursuant to a contract for such services between the State agency and a

provider, public or private agency or any other entity, regardless of whether the contract includes funding for the particular service. Services that are paid for directly or indirectly by the State agency are included as well. We believe this definition of the served population is sufficiently broad, and, as such, are retaining the served population description as stated in the NPRM.

*Comment:* A commenter thought the served population definition was too broad and suggested that we limit it to foster care youth and former foster care youth who are 17 years old and receiving independent living services.

*Response:* As we discussed in the NPRM, the statute is clear that we are to collect data on all youth who receive independent living services under the CFCIP and does not carve out youth in foster care or former foster care youth of a certain age. Further, narrowing the reporting population in such a way may limit the information we can learn about how States are serving youth through the CFCIP. As such, we are not making the suggested change to the served population.

*Comment:* Several commenters sought clarification on how the served population was distinct from or related to the baseline and follow-up population.

*Response:* The NYTD has two separate but related components: independent living services and youth outcomes. The reporting populations are separate for each component, although not mutually exclusive.

States are to collect and report independent living services information on youth who fall within the served population. The served population is made up of youth who have received at least one independent living service that is paid for or provided by the State agency during a six-month report period. The youth's age and foster care status is not relevant to whether he or she is in the served population.

States are to collect and report outcomes information on youth who are in the baseline and follow-up populations. The baseline population is comprised of all 17-year-olds in foster care during a year in which such outcomes data is due (beginning in FFY 2011), regardless of whether the youth receives any services. The follow-up population is a subgroup of the baseline population: Youth who participated in the outcomes data collection when they were 17 years old, but who are now 19 or 21 years old. A few simple examples (that do not address sampling) illustrate how the reporting populations may overlap or diverge:

- *Example 1.* In December 2010, a youth turns 17 years old while in foster care and takes a budgeting class that is paid for by the State agency in January 2011. This youth would be part of the served population for the first report period of FFY 2011 (October 1, 2010 through March 31, 2011) and reported as receiving the "budget and financial management" service. The same youth would also be a part of the baseline population for whom the State must administer the outcomes survey. This is because FFY 2011 is a year in which the States must collect data on the baseline population, which is comprised of those youth in foster care who reach their 17th birthday in the FFY.

- *Example 2.* In November 2011, a different 17-year-old in foster care takes a budgeting class that is paid for by the State agency. This youth would be part of the served population for the first report period of FFY 2012. However there is no outcomes data collection due in FFY 2012, therefore, the youth is not in the baseline population.

- *Example 3.* In December 2012, the same youth from example 1 reaches 19 years old. By the end of March 2013, this youth had not received any independent living services that were paid for or provided by the State agency during the first report period (October 1, 2012 through March 31, 2013), so the youth is not a part of the served population. However, two years ago, this youth completed the outcomes survey as part of the baseline population. Therefore, the youth is a part of the follow-up population and the State is required to collect and report outcomes data for this youth.

#### Baseline Population

In paragraph (b), we describe the baseline population for the purpose of collecting outcome information as a youth who is in foster care as defined in 45 CFR 1355.20 and reaches his or her 17th birthday in FFY 2011, or reaches 17 in every third fiscal year following FFY 2011.

*Comment:* Some commenters raised questions and concerns about the lack of clarity in the description of the baseline population. Commenters requested specific guidance on whether the baseline population included youth in juvenile justice facilities, youth in placements of a short duration, youth placed in shelter care, youth in tribal custody, youth on trial home visits, youth in unlicensed, unapproved or unpaid placements, and youth who have run away from their foster care settings.

*Response:* We defined the baseline population as 17-year-olds in foster care

consistent with our regulatory definition of foster care in 45 CFR 1355.20 during a Federal fiscal year in which such data is required based on the implementation schedule. This means, that a youth will be in the baseline population if the youth is in foster care and 17 years old in FFYs 2011, or is in foster care and 17 years old in each third fiscal year following FFY 2011 (i.e., 2014, 2017, etc.). We made a minor change to the rule to specify the beginning fiscal year in which this data is required and the timetable upon which data on a new cohort of youth is due.

The baseline population includes 17-year-old youth who are in 24-hour substitute care under the State's placement and care responsibility who are in foster family homes (whether the foster parents are relatives of or unrelated to the child), group homes, shelter care and child care institutions, regardless of whether such homes or institutions are licensed, approved or paid. The baseline population includes children who may have run away from their foster care setting but who are still in the State agency's placement and care responsibility. The baseline population also includes youth who receive title IV-E foster care maintenance payments in the placement and care of another public agency (e.g., a juvenile justice agency or tribal agency) pursuant to a title IV-E agreement under section 472(a)(2)(B)(ii) of the Act.

The baseline population excludes youth in detention facilities, forestry camps, training schools and facilities primarily for the detention of youth adjudicated delinquent. The definition also excludes youth who are in the placement and care responsibility of a tribal agency unless the conditions specified above regarding title IV-E agreements apply. Youth who are at home but in the placement and care responsibility of the State agency also are excluded from the baseline reporting population, whether the State considers this a trial home visit, at-home supervision, after care or some other status. Since these youth are excluded from the baseline population, they are not in the follow-up population either.

We anticipate providing more detail through technical assistance and other guidance documents on how States may ensure that they are accurately including children in the baseline population.

*Comment:* Some commenters requested consistency between the NYTD baseline reporting population and the AFCARS foster care reporting population. One such commenter was concerned that an inconsistency would

diminish our ability to analyze data across the two databases.

*Response:* We do not believe that complete consistency between the NYTD baseline reporting population and the AFCARS foster care reporting population is necessary. AFCARS exists for a purpose separate and distinct from the NYTD. The AFCARS reporting population includes all children in foster care as defined in 45 CFR 1355.20 as does the NYTD, but extends slightly broader in specific circumstances, such as youth in detention and youth that are at home temporarily (see the ACF Child Welfare Policy Manual Section 2.7 at <http://www.acf.hhs.gov/programs/cb>). We are staying consistent with the definition of foster care for the NYTD to reflect part of the population of youth a State must serve under its CFCIP: Youth in foster care who are likely to age out of foster care. Further, one of the original reasons we chose the baseline reporting population was because it represents a readily accessible population of youth to whom States can administer the survey.

Finally, we do not agree that the slight differences between the AFCARS foster care and the NYTD baseline reporting populations diminish the analytic value of the NYTD. Since every youth reported in the baseline population will also be reported to AFCARS and the youth will be identified in the same way in both databases, we will have the necessary foundation for analysis of the foster care experiences of youth who are reported for their outcomes in the NYTD.

*Comment:* One commenter suggested that we specify that in order to be included in the baseline population a youth must have been in foster care for a minimum length of time to ensure that the youth had benefited from available independent living services.

*Response:* As we stated in the preamble to the NPRM, we decided not to require a minimum length of time in foster care because that approach overly complicated the data collection without a measurable benefit or a clear basis on which to determine the appropriate minimum length of time. We did not receive information that convinced us to change our approach and have not made this change to the final rule.

*Comment:* A commenter asked whether youth had to be in foster care on their 17th birthday to be included in the baseline population.

*Response:* A youth does not need to have his or her 17th birthday while in foster care, but consistent with the data collection rule in section 1356.82(a)(2), the youth must have been in foster care within 45 days following his or her 17th

birthday during the specified reporting year. More detailed guidance on the reporting populations will be forthcoming in technical assistance and policy documents, as needed.

#### Follow-up Population

Paragraph (c) defines the follow-up population as youth who turn 19 or 21 years old in a certain fiscal year who participated in the State's outcomes data collection as part of the baseline population at 17 years old.

*Comment:* Some commenters requested more clarity regarding the follow-up population or made statements that indicated their confusion about who was included in the population. A few other commenters asked specifically whether youth who remained in foster care at ages 19 and 21 would be in the follow-up population. Other commenters asked whether youth in the follow-up population at age 19 had to have participated in the outcomes data collection to be a part of the follow-up population at age 21.

*Response:* The follow-up population is comprised solely of youth who are either 19 or 21 years old who participated in the outcomes data collection as part of the baseline population at age 17. A youth is considered to have participated at age 17 if he or she provided at least one valid answer to a question in the outcomes survey. A youth who participated in the data collection at age 17, but not at age 19 for a reason other than being deceased remains a part of the follow-up population at age 21. A youth is in the follow-up population as described regardless of the youth's foster care status at ages 19 or 21 and regardless of whether the youth ever received independent living services.

*Comment:* A number of commenters wanted outcomes data collection to continue beyond age 21 to age 23 or older for a number of reasons. These commenters were concerned that we will get an incomplete view of college attendance and educational attainment, employment, marriage and other outcomes that are influenced by age if we stop collecting data at age 21. Alternatively, a commenter urged us not to extend the follow-up population of youth to age 23 unless there was demonstrable evidence that collecting such data was feasible.

*Response:* We appreciate the arguments in favor of an extended follow-up data collection activity and acknowledge that the system as designed may result in limited information on some of the more age-sensitive outcomes. However, as we

stated in the NPRM, we believe that adults who are 23 years old are even more likely to decline to participate in data collection and States are more likely to lose contact with much older youth. We received many comments that echoed these same concerns for 19- and 21-year olds. We believe that requiring States to collect outcomes information on an even older population is unreasonable and better suited for research or evaluation activities. Therefore, we are not adding an older follow-up population to the final rule.

#### *Section 1356.82 Data Collection Requirements*

This section specifies the data collection requirements for the served, baseline and follow-up populations.

In paragraph (a)(1), we require the State agency to collect information for the data elements specified in section 1356.83(b) and (c) for youth in the served population for as long as the youth receives services.

*Comment:* A couple of commenters supported the ongoing collection of client-level data on youth who receive independent living services.

*Response:* We agree that this is a valuable feature of the NYTD and are not making changes to the final rule.

In paragraph (a)(2), we require the State agency to collect information for the data elements specified in section 1356.83(b) and (d) for the baseline population. The State agency must collect this information on a new baseline population every three years and must collect this data within certain timeframes using specific survey questions.

*Comment:* A number of commenters supported the general concept of collecting outcomes information based on a staggered schedule with a new cohort of the baseline population (17-year-olds in foster care) beginning every three years. Two commenters suggested that we require States to reduce the time between the new cohorts of youth. Their concern was that the three-year span would lead to gaps in the data and would not be representative of youth receiving services or aging out of foster care.

*Response:* As we stated in the preamble to the NPRM, we chose this schedule in order to avoid imposing an unnecessary burden on States. Participants in the consultation process pointed out that youth outcomes generally do not change sufficiently to justify collecting the data annually, and collecting outcome data every three years should be sufficient to document trends and address the statutory

requirements. As such, no changes to the final rule are warranted.

*Comment:* A few commenters disagreed with the requirement to collect information on youth in the baseline population within 45 days following the youth's 17th birthday as required by section 1356.82(a)(2)(i) and (ii). One such commenter believed more time was needed to engage youth who may be resistant, who had run away, were institutionalized or incarcerated at the time of their 17th birthday. The commenters requested either a 90-day timeframe or the entire six-month report period to obtain the outcomes data from the youth.

*Response:* As stated in the preamble to the NPRM, we chose the 45-day timeframe as a compromise between requiring data collection to occur on the youth's 17th birthday and a longer timeframe which could lead to a less comparable baseline population. We still believe that the 45-day timeframe is responsive to the real-life scheduling constraints and does not create an unreasonable burden. We are, therefore, retaining the 45-day timeframe.

We would like to note, however, that youth who are incarcerated or are institutionalized in a psychiatric facility or hospital would not be a part of the baseline population because they are not in foster care according to the definition in 45 CFR 1355.20 (see earlier discussion on the baseline population). Youth who have run away from their foster care setting for the 45-day time span following their 17th birthday would be a part of the baseline population, but a State could report the youth as having run away in the outcomes reporting status element (section 1356.83(g)(34)) to explain why that youth's information was not collected.

In paragraph (a)(3), we require the State agency to collect information for the data elements specified in section 1356.83(b) and (e) for the follow-up population of 19- and 21-year-olds.

*Comment:* A number of commenters suggested that ACF should collect the outcome data and track the older youth rather than the States. In their view, this approach would resolve other concerns raised related to the State's burden to collect data and penalties for State non-compliance with the data collection, and could create consistency in outcomes data collection across the country.

*Response:* The statute mandates that we develop data collection requirements and impose penalties on States that do not comply with those requirements (section 477(e)(2) and (f) of the Act). As such, the statute creates an obligation

for States to meet the data collection requirements and not the Federal government.

*Comment:* A number of commenters asked practical questions about obtaining contact information for older youth. Specific inquiries included how to contact older youth who move out of State, using administrative databases to locate youth, or who would be the best individuals to administer the outcomes survey.

*Response:* We will provide States with policy guidance and/or technical assistance to address these issues. We do not believe that it is appropriate to address these concerns in regulation.

*Comment:* Some commenters were concerned that we did not regulate the method by which States must administer the outcomes survey to youth (e.g., in person, via the internet or over the phone). The concern was that this variability could impede data quality and limit the conclusions we could draw from the data.

*Response:* We acknowledge that the method a survey is administered may impact the quality of the data. However, we believe that States are too different to offer a single approach to this data collection and we are not in a position to regulate the best way to gather the data at this time. Further, we have set file and data standards for the data, including standards for youth participation, such that States will have an incentive to gather the best data possible (see discussion in section 1356.85). We hope to overcome any remaining challenges associated with survey variability through technical assistance rather than prescriptive rules. For these reasons, we are not regulating a specific data collection methodology in response to these comments.

*Comment:* A commenter was concerned about privacy rights or confidentiality issues that will make it difficult to track youth over time to complete the survey. Although information may be available about the youth through other systems, e.g., child support, the commenter asserts that the State cannot access that information because of confidentiality restrictions. The commenter requested that we address these issues.

*Response:* We do not believe that there are privacy or confidentiality concerns raised by the NYTD. The youth outcome survey is voluntary for the youth to complete, and it is up to the youth how much detailed contact information he or she will provide in order to be located upon exit from foster care. We understand that there may be information available to a State to locate the youth that can only be accessed with

the youth's permission. We will provide technical assistance to States to assist them in developing appropriate methods to track youth and garner youth participation.

In paragraph (b), we permit States to select a sample of 17-year-olds who participated in the outcomes data collection as a part of the baseline population to follow over time rather than the entire baseline population of youth who participated in the data collection in that State. When a State samples youth at age 17, the sample becomes the follow-up population and no further sampling of this population at ages 19 or 21 is permitted. Also in this paragraph we require a State to identify those youth in the follow-up population who are not in the sample.

*Comment:* A commenter believed that States should not use sampling but attempt to gather outcomes data from all 19- and 21-year-olds in the follow-up population. The commenter believed that this was a reasonable suggestion given that States were required to collect outcomes data on a staggered schedule.

*Response:* As stated in the preamble to the NPRM, we are providing States the option to sample in direct response to feedback we received during the consultation process. States requested that any outcomes survey of youth who had left foster care utilize sampling to mitigate the burden of tracking these youth. Nothing in the NYTD prohibits States that could track a subgroup of their follow-up population through sampling from collecting outcomes information on more youth or on the entire follow-up population. We are not making any changes to the final rule in response to this comment, however, we have made a change in paragraph 1356.82(b) to require States that sample to identify youth at age 19 who are not selected in the sample. This change is explained further in the discussion on section 1356.83(e).

#### *Section 1356.83 Reporting Requirements and Data Elements*

This section specifies the NYTD report periods, deadlines for reporting data to ACF and the data elements.

In paragraph (a), we require a State to submit the required data file to ACF on a semi-annual basis, within 45 days of the end of each report period.

*Comment:* A number of commenters offered alternative deadlines for submitting a data file to ACF that ranged from 60 to 90 days after the end of each report period. Some commenters cited concerns about having the same State workers prepare data files for the NYTD and simultaneously for AFCARS. A

couple of commenters believed that in order to generate a common identifier for youth reported to both AFCARS and the NYTD that a State would need to report their data to AFCARS first.

*Response:* Our experience has shown that States can meet the 45-day requirement for AFCARS and we expect States can meet it for the NYTD as well. We understand that States may use the same workers to extract files for AFCARS and the NYTD, but believe that 45 days is sufficient time to do both activities. Timely data is important so that ACF can conduct the analysis to share with the States and other stakeholders.

We do not believe the concern about common identifiers has merit. Although we are requiring a State to submit an identifier for a youth to the NYTD that is the same as the one submitted to AFCARS in certain circumstances, the way this is accomplished is through a standard encryption routine. When applied to a State identifier, the routine will generate the same encrypted result (i.e., the common identifier) each time. The act of submitting data to AFCARS or the NYTD is not what generates the common identifier so whether the data is submitted to AFCARS or the NYTD first is inconsequential. We are not making changes in response to this comment.

*Comment:* While one commenter supported the twice yearly reporting cycle, a number of other commenters suggested moving to an annual reporting cycle to reduce the burden on States. Some commenters believed that an annual report period would ease the burden of reporting data for States and ease penalty and outcome calculations for Federal officials. To keep the reporting cycles consistent with AFCARS, some commenters suggested moving AFCARS to an annual report period as well.

*Response:* As stated in the preamble to the NPRM, we considered a 12-month reporting period, but believed that a longer period increases the risk of inaccurate or missing data. Further, since we want to preserve our ability to analyze NYTD data along with AFCARS data, we want comparable reporting periods. The six-month report period for AFCARS is integral to a number of ACF priorities and legislative requirements.

*Comment:* A commenter suggested that local providers be allowed to report data directly to ACF without the involvement of the State agency in an effort to create additional efficiencies for States.

*Response:* We disagree with the suggestion to permit local providers to report a youth's data directly to the

Federal government, leaving out the State agency's involvement, for a number of reasons. The State agency is responsible for ensuring compliance with the NYTD requirements and standards under the risk of fiscal sanctions and, therefore, must be the responsible party for submitting data to ACF. Further, we do not believe that individual providers could ensure that all information on a youth (i.e., demographics, characteristics, services and outcomes, if applicable) could be reported in a single youth record as required by section 1356.83(f) if multiple providers have engaged a youth in a report period. Also, we do not see that such a process would be efficient for the State as it would have to maintain oversight of one or more entities that would submit information to ACF. However, States are not prohibited from contracting or otherwise working with private agencies to compile the information that States will ultimately submit to ACF. We are not changing the final rule to permit any entity other than the State agency to submit NYTD data to ACF.

In paragraphs (b) through (e), we require the State agency to report certain data elements for each youth depending on whether the youth is a part of the served, baseline, or follow-up populations.

We did not receive comments on these paragraphs. However, we are making a technical change to the reporting requirements for 19-year old youth in the follow-up population for those States that sample. In paragraph (e), we have amended the final rule to require a State that samples to identify the 19-year-old youth who participated in the outcomes data collection as part of the baseline population at age 17, who are not in the sample. This information is required so that we can determine whether the State meets the outcomes universe and participation rate standards (section 1356.85(b)). A State must identify such youth in the two semi-annual report periods for the Federal fiscal year in which the State reports actual outcomes information on 19-year-old youth who are in the sample (section 1356.83(g)(34)). States will not report information on non-sampled youth again when the youth reach the age of 21 years old.

This requirement stands in contrast to our proposal as described in the NPRM for a State to identify youth who will be in the follow-up sample at age 17. We proposed that States would report that information in a separate data element entitled "sampling status" for the semi-annual report periods in which baseline outcomes data is due on the 17-year-

olds (71 FR 40359 and 40361–2). However, the proposal was not viable because the sampling procedures in section 1356.84 require the State to select a sample based on a universe of all youth in a fiscal year who participate in the State's outcome data collection at age 17. Therefore, we erred in proposing that a State identify a sample at the end of each report period before the State could identify the appropriate and complete sampling frame of youth. The final rule provision for identifying youth who are not in the follow-up sample when such youth are aged 19 corrects this error. We don't expect this revision to be a concern to States as it will permit States more time to decide whether and how to sample.

In paragraph (f), we require the State agency to report all applicable data elements for an individual youth in a single record per report period. We did not receive comments on this paragraph and are not making changes to the final rule.

#### Data Element Descriptions

Paragraph (g) includes all of the data element descriptions for the NYTD.

#### State

In paragraph (g)(1), we request information on the State that reports the youth to the NYTD. We received no comments on this data element description and are not making any changes in the final rule.

#### Report Date

Paragraph (g)(2) describes the report date of the NYTD file which indicates the six-month period that the file encompasses. The report date is the month and year that corresponds with the end of the report period, which will always end on either March 31 or September 30 of any given year. We received no comments on this data element description and are not making any changes in the final rule.

#### Record Number

In paragraph (g)(3), we describe the record number as a unique, encrypted person identification number that the State must retain for the youth across all reporting periods. The State must use a consistent number for reporting the same youth to AFCARS and the NYTD.

*Comment:* A commenter noted that not all youth in the reporting populations will have an established common identifier. The commenter asserted that a State may need to conduct a labor-intensive and manual matching process to avoid identifying the same youth in multiple ways,

particularly for youth from the juvenile justice system.

*Response:* The State is required to use the same unique identifier for a NYTD youth as is used for AFCARS if that youth is or was in foster care in the State. The State is not required to use the same identifier used for the youth in other youth-serving systems. As we stated in the NPRM, this requirement is intended to allow us to perform case-level longitudinal cohort analysis. We believe the benefits of the usefulness of this data outweigh the burden on States to establish rules for a common identifier for youth across the NYTD and AFCARS data sets.

#### Date of Birth

In paragraph (g)(4), we require that a State report the youth's date of birth. We received no comments on this data element description and are not making any changes in the final rule.

#### Sex

In paragraph (g)(5), the State is to report the youth's sex.

*Comment:* Several commenters suggested that we not limit the data element on "sex" to male or female biology but permit youth to identify their sexual orientation and/or gender identity. These commenters believed that we should track youth services and outcomes for youth who identify themselves as gay, lesbian, bisexual, transgendered, or in some other way because such youth may be overrepresented in foster care, have unique service needs and be at increased risk for poor outcomes. Finally, a couple of commenters disagreed with our description of a youth's sex as his or her gender and recommended that we have an element that focuses on the youth's gender as a matter of identity separate from the youth's biological sex.

*Response:* We agree with the commenters that the words "sex" and "gender" are not synonymous. We are amending the regulation text to eliminate references to the youth's gender and instead refer to a youth's "sex" in reference to this element. However, we are not amending the data element to incorporate matters of gender identity or sexual orientation. This data element is for basic demographic purposes and we expect States to cull this information from its existing child welfare information system. The element is not intended to elicit from youth very personal information on sexual orientation, gender characteristics or sex development.

#### Race

In paragraphs (g)(6) through (g)(12) we describe the data elements in which a State must report the youth's race. These are separate elements that permit data collection and reporting on multiple races.

We received no comments on the race categories of Asian, Black or African American, Native Hawaiian or other Pacific Islander, and White and are making no changes to the final rule for those elements.

*Comment:* A couple of commenters noted that the description of American Indian or Alaska Native was the only race category that includes a condition of community affiliation. The commenters recommended that this condition be removed or that we provide additional guidance on categorizing persons who do not maintain tribal affiliation or community attachments but would otherwise consider themselves as American Indian or Alaska Native.

*Response:* We are not making a change to this element because it reflects the Office of Management and Budget's (OMB) definition of American Indian or Alaska Native (see OMB's Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity, at [http://www.whitehouse.gov/omb/infogreg/re\\_guidance2000update.pdf](http://www.whitehouse.gov/omb/infogreg/re_guidance2000update.pdf)) and is consistent with the AFCARS race category. Since race information is self-selected by the individual or the individual's parent, the person may choose the race category he/she believes best represents him/her.

*Comment:* A couple of commenters sought clarity on whether the race category of American Indian or Alaska Native includes youth who have an attachment or affiliation with a non-federally recognized tribe.

*Response:* The race category does include youth who identify with an American Indian or Alaska Native tribe regardless of whether that tribe is recognized by the Federal government. Because this race category is reflective of the OMB definition, we do not believe a change in the regulation text is warranted.

*Comment:* Several commenters were concerned that we proposed a race category of "declined" when there is not a comparable race category in either AFCARS or the National Child Abuse and Neglect Data System (NCANDS). These commenters noted that State child welfare information systems may not be programmed to record this information currently. The commenters also asked technical questions about

how they should report declined race information to AFCARS and NCANDS if they must make changes to their information systems.

*Response:* We have proposed a comparable change to the race categories in an NPRM on AFCARS published in the **Federal Register** on January 11, 2008. The changes to the AFCARS child race elements are described at 73 FR 2092 and 2130. NCANDS data is beyond the scope of this regulation.

*Comment:* A commenter noted that AFCARS does not permit a State to indicate that a person identifies with multiple races, including one which the person does not know and questioned whether there needed to be consistency for States reporting information across the data sets.

*Response:* As noted above, we have proposed regulatory changes to the AFCARS race elements to make this information comparable across the two data sets.

In reviewing this element, we noted the need to modify the final rule to remove the parenthetical remark that a youth or parent may be unable to communicate the youth's race "due to age, disability or abandonment." The phrasing of the parenthetical remark was unclear as to whom the conditions of age, disability or abandonment applied. Further, we believe that the statement confused the issue of self-identification of race information because it suggested that youth who were abandoned as infants or who were of a certain age would not be able to identify a race for themselves. Instead, we want to reaffirm that self-reporting or self-identification is the preferred method for a State to collect data on race and ethnicity. If this information is not available in a State's child welfare information system (i.e., collected for foster care purposes), the State should first solicit this information from a youth. If the youth is not able to communicate this information because of a severe disability or some other reason, the State should solicit race information from a parent. Once these avenues have been exhausted and these individuals have not been able to provide a response, the State may report the youth race as "unknown." Finally, we also modified the name of this element to be solely "unknown," as opposed to "unknown/unable to determine" to avoid confusion.

#### Hispanic or Latino Ethnicity

In paragraph (g)(13), we describe a youth of Hispanic or Latino ethnicity as a person of Cuban, Mexican, Puerto Rican, South or Central American, or

other Spanish culture or origin, regardless of race.

*Comment:* A couple of commenters raised a concern about reporting declined ethnicity information for the NYTD similar to their concerns regarding the race declined category.

*Response:* In the same AFCARS NPRM we mentioned above, we have proposed a comparable change to the ethnicity data. See the proposed changes at 73 FR 2092 and 2130.

#### Foster Care Status—Services

In paragraph (g)(14), we require a State to indicate whether a youth within the served population is in foster care consistent with the definition in 45 CFR 1355.20 at any point during the report period.

*Comment:* A commenter noted that some of the measures of permanency used in the Child and Family Services Reviews (CFSRs) are calculated based on the experiences of children who have been in foster care for eight or more days (71 FR 32969–32987, June 7, 2006 and 72 FR 2881–2890, January 23, 2007). The commenter requested that we consider using similar selection criteria for determining whether a youth in the served population is considered to be in foster care for NYTD purposes.

*Response:* We do not believe that the data selection rules we use for the purposes of calculating whether States achieve certain CFSR outcomes are appropriate for defining the parameters of the NYTD. We apply the 8-day exclusion for the purpose of the CFSR permanency measure and not as a condition for which children must be reported to AFCARS. For the NYTD we are requiring States to report data on a youth's receipt of independent living services and foster care status to permit us to determine appropriate performance measures at a later date which may or may not include selection rules. In other words, the data must be broad so that we have options for how to interpret and use the data.

We are not making any changes to this element description in the final rule. We would like to clarify here, however, that a youth is in foster care consistent with the definition of foster care in 45 CFR 1355.20, only if the youth has not yet reached the State's age of majority.

#### Local Agency

In paragraph (g)(15), we require a State to report either: (1) The county or equivalent jurisdictional unit that has primary responsibility for placement and care of a youth who is in foster care, or (2) the county with primary responsibility for providing services to a youth who is not in foster care. We

received no comments on this data element and are making only minor modifications to the language and adding a cross-reference to the definition of foster care in 45 CFR 1355.20.

#### Federally Recognized Tribe

In paragraph (g)(16), the State must report whether a youth is enrolled in or eligible for membership in a federally recognized tribe.

*Comment:* A few commenters requested more clarity on this element. In particular, commenters requested information on how to categorize youth whose eligibility or enrollment status is undetermined, how to report a youth who resides in a State without any federally recognized tribes and the overlap between this element and the race category of American Indian or Alaska Native.

*Response:* We are revising the name of the data element and the regulation text to clarify that we are seeking information on a youth's enrollment or eligibility for membership in a federally recognized tribe only. We understand that there may be a period of time in which the youth's tribal affiliation is undetermined, and if this remains the case when data reporting is due to us, the element should be reported as missing the information (i.e., a blank response). If a State is unsure about whether a youth meets the criteria for enrollment or is a member of the tribe, and the youth does not know this information, the State may contact the tribe(s) in question. Where a youth resides is irrelevant for determining whether the youth is eligible for membership or enrolled in a federally recognized tribe.

There are distinctions between this element and the race category of American Indian and Alaska Native. The race category is self-identified information and is indicative of how a person views him or herself and his affiliation with the original peoples of the Americas. The federally recognized tribe element focuses on either enrollment in or eligibility for membership in one of the over 560 federally recognized tribes only. The two categories, however, are not mutually exclusive.

*Comment:* A commenter suggested that a simpler description of the element we are interested in is whether the Indian Child Welfare Act (ICWA) applies for a youth.

*Response:* We disagree that the alternate suggestion to collect information on whether ICWA applies to a youth is a viable substitute for information on whether a young person

is enrolled in or eligible for membership in a federally recognized tribe. Narrowing the element to identify an ICWA-protected child would exclude youth over age 18 and those who are not involved in a custody proceeding before a State court from the NYTD population. As such, we are retaining this element as proposed.

#### Adjudicated Delinquent

In paragraph (g)(17), the State is to indicate whether a youth has been adjudicated by a Federal or State court as a juvenile delinquent.

*Comment:* Several commenters had concerns about the description of the data element "adjudicated delinquent." One commenter suggested that we instead require States to report whether a youth had ever been involved with the juvenile justice system. Other commenters were concerned about overrepresentation of delinquent youth in the dataset and States being held accountable for the outcomes of delinquent youth who had spent brief periods in foster care.

Another concern was one of comparability as some States have eligibility criteria which restrict the availability of independent living services to certain delinquent youth.

*Response:* We have reviewed our description of an adjudicated delinquent and believe that it accurately depicts what we are most interested in measuring, that is, whether a court has found that the youth has committed an act of delinquency. We believe that capturing whether a youth is involved with the juvenile justice system is too broad and are not making this change to the final rule.

In terms of services information, States will report information on the youth to whom the State agency provides an independent living service that is paid for or provided by the State agency. In terms of outcomes information, States will report all 17-year-olds in foster care as the baseline population and follow these youth over time. To the extent that youth who fall within these population are also adjudicated delinquent, such youth simply reflect the composition of the State's foster care and former foster care populations.

Finally, we believe that the concerns about comparability and accountability are premature, as we do not have State performance measures in place. We believe the information on youth characteristics will permit us to better interpret the data, elucidate where appropriate comparisons can be made, and guide how we measure State performance.

#### Educational Level

In paragraph (g)(18), we require the State to report the highest educational level attained by youth. We did not receive any comments on this data element or description and we are not making changes to the regulation text itself. However, we are changing the element name in Appendix A from "Last grade completed" to "Educational level" to match the regulation text.

#### Special Education Status

In paragraph (g)(19), the State is to indicate whether the youth is receiving special education, which is specifically designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. We received no comments on this description and are not making changes to the final rule.

#### Discussion on General Issues With the Services-Related Elements

Commenters had general recommendations and concerns regarding the service elements in paragraph (g)(20) through (g)(33). We address the general comments here and subsequently address each element in (g)(20) through (g)(33) individually.

*Comment:* Several commenters reported concerns that we were not proposing to quantify service information overall and/or with regard to specific service data elements. Several proposals were offered to do so. The commenters urged us to require States to report service quantity in a variety of ways, such as the length of the service period, the frequency of the service, actual service hours, number of sessions attended, or the amount of financial assistance, as applicable. These commenters believed that we would enhance our understanding of the services if we quantified a particular youth's service.

*Response:* We appreciate the commenters' concerns about the manner in which we proposed to collect the quantity of service data, but we still believe that our rationale articulated in the NPRM for quantifying services in a broad sense is compelling. As we explained, we considered requiring States to quantify the hours of services, but discovered through the pilot test that caseworkers and supervisors spent enormous amounts of time locating this information. Workers had to estimate or guess how long a youth received a service, which led us to question the accuracy of such information. A similar concern exists with requiring States to provide general quantity information, such as number of sessions attended, days or weeks of a service, or service

frequency. Primarily, the wide variety of independent living service types, content and curriculum make this information unlikely to be comparable in a way other than the unit of measurement. Even dollar amounts of financial assistance can only be fully interpreted with accompanying information on how States and youth use those funds. We believe that our proposal for the State to report whether the youth has received a service within a report period meets the statute's mandate regarding quantity and does not unduly burden workers for little clear benefit. Therefore, we are not making a change to the final rule to quantify a youth's services further in any manner suggested.

*Comment:* A few commenters raised concerns that the service data elements are defined too broadly, and suggested that providing more detailed definitions would permit us to better differentiate the service provided to the youth.

*Response:* In developing the NPRM and conducting the pilot test, we found wide variations among States in the variety of independent living services available and provided to youth. We learned from States that collecting more detailed information on services would overburden caseworkers unnecessarily. We explained in the NPRM that these reasons led us to limit the service categories to eleven broad categories. While we acknowledge that we may not be able to analyze the data on individual services (e.g., distinctions between youth who receive vocational training and youth who undertake an apprenticeship) we believe that the categories are distinguishable enough to provide information about the types of independent living services youth receive as required by the law. We are not further separating the service category data elements in the final rule in response to this comment.

*Comment:* A commenter believed that the services component of the NYTD should include some information on youth satisfaction with independent living services.

*Response:* We believe that consumer satisfaction information exceeds the statute's mandate to collect information on the number and characteristics of youth who receive independent living services and the type and quantity of those services (section 477(f)(1)(B) of the Act). Further, we believe that consumer satisfaction is best measured through program evaluation and not a national data collection.

*Comment:* Several commenters noted that service providers outside the State agency may typically pay or provide some of the independent living services

proposed and recommended that those services and providers be captured in NYTD.

*Response:* As stated earlier, we recognize that many State agencies collaborate and coordinate with other governmental agencies and private organizations that have their own resources to help youth achieve self-sufficiency. However, the statute requires us to collect information on those independent living services that the State provides under the CFCIP (section 477(f)(1)(B) of the Act). In the NPRM we took an expansive view of such services to include those that are provided by or funded by the State agency rather than strictly those services that are funded by the CFCIP allotment (see discussion at 71 FR 40349). As such, we believe that further extending the scope of this data collection to include any independent living service a youth may receive regardless of the source is too far removed from the statutory mandate. We are amending the service descriptions for several of the data elements to be clear that this data collection is limited to the purposes ascribed by law.

#### Independent Living Needs Assessment

In paragraph (g)(20), we require the State to report whether the youth received an independent living needs assessment, which is a systematic procedure to identify a youth's basic skills, emotional and social capabilities, and strengths and needs to match the youth with appropriate independent living services.

*Comment:* One commenter suggested a change in wording for the definition of independent living needs assessment to emphasize that the assessment identifies a youth's "strengths and training needs" instead of "strengths and weaknesses."

*Response:* We concur with the commenter that a change is warranted. Rather than the suggested language, however, we have amended the definition to read "strengths and needs," recognizing that the youth may also have other needs to be met by the program than training needs.

*Comment:* A commenter requested that the data element be changed to indicate whether the youth's needs assessment is still accurate and in effect at the time of the report period.

*Response:* We believe that a State reporting whether the youth received an independent living assessment within a six-month report period provides sufficient information for our purposes. The purpose of the element is to identify whether or not the State completed an assessment of the youth's

strengths and needs. Whether the report is current is not the primary issue. We believe that gathering information on the accuracy of an independent living service is beyond the scope of the NYTD and are not making the suggested change. We do not believe that it is reasonable to ask the caseworker, youth or administrator to evaluate and report the accuracy of such an assessment, as there is no requirement in the CFCIP for such an assessment.

*Comment:* A commenter believed that the independent living needs assessment element would provide little significant information about a certain State because that State routinely conducts an assessment when the youth becomes eligible for the independent living program and again at the point the youth ages out of the foster care system.

*Response:* We disagree that understanding whether youth receive independent living needs assessments, even for States that conduct them routinely, is insignificant. Rather, collecting information on the independent living services that a State provides to youth in each State and nationally is consistent with the statute's mandate and provides a frame of reference for interpreting youth outcomes.

#### Academic Support

In paragraph (g)(21), we request information on whether a youth received academic services designed to help a youth complete high school or obtain a General Equivalency Degree (GED).

*Comment:* A few commenters were concerned that this data element was not clearly defined.

*Response:* We have reviewed the regulatory language and do not see a need for change. We are quite specific that academic support includes activities such as academic counseling, preparation for a GED, tutoring, help with homework, literacy training, study skills training and help accessing educational resources. The element does not include the youth's attendance at high school or post-secondary supports.

#### Post-Secondary Educational Support

In paragraph (g)(22), we request information on whether the youth received support designed to help the youth enter or complete college.

*Comment:* One commenter asked for a clearer definition of support.

*Response:* We have reviewed the regulatory language and did not see a need for change. We are specifying the nature of the supports we mean in the regulatory definition, including test

preparation, college counseling, assistance applying for college and securing financial aid and tutoring while in college. The list is not all-inclusive, other supports such as college tours provided by the agency could fall within this definition. We have made a minor change to use the broader term of "post-secondary" versus college in the regulatory definition, so that we are clear that it includes all varieties of colleges (e.g., two-year colleges, four-year colleges, community and vocational colleges) and universities.

#### Career Preparation

In paragraph (g)(23), we require a State to report services that develop a youth's ability to find, apply for, and retain appropriate employment.

*Comment:* A couple of commenters suggested that we include a youth's participation in certain volunteer activities as part of the description of career preparation or as a part of the employment programs or vocational training data element described in paragraph (g)(24). Another commenter echoed inclusion of youth volunteer activities in NYTD as a separate service data element.

*Response:* Although volunteer activities may be a helpful component to a youth's development and preparation for work, we do not believe it is a service. Therefore, we are not making a change to the final rule to incorporate volunteer activities.

#### Employment Programs or Vocational Training

In paragraph (g)(24), we require a State to report whether a youth received programs and training designed to build a youth's skills for a specific trade, vocation or career through classes or on-site training.

*Comment:* A commenter suggested that instead of referring to vocational training as inclusive of training in occupational classes to build skills in "other current or emerging employment sectors" that the description refer to building skills in "other high-growth, high-demand industries."

*Response:* We understand that there are a variety of ways to capture this information, but do not see a need to modify the final rule in response to this suggestion.

#### Budget and Financial Management

In paragraph (g)(25), we require a State to indicate whether the youth receives training and other practical assistance related to budget and financial independent living skills. We received no comments on this data

element description and are not making any changes to the final rule.

#### Housing Education and Home Management Training

In paragraph (g)(26), the State is to indicate whether a youth receives instruction or support services regarding housing responsibilities and home management skills. The comments we received on this element have been addressed under the general issues on the services elements. We are not making any changes to the final rule.

#### Health Education and Risk Prevention

In paragraph (g)(27), the State must report if a youth received services related to health-related educational topics, but not the receipt of direct health services. The comments we received on this element have been addressed under the general issues on the services elements. We are not making any changes to the final rule.

#### Family Support/Healthy Marriage Education

In paragraph (g)(28) the State must report if a youth receives education on maintaining healthy families, including parenting and childcare skills, spousal communication, family violence prevention and responsible fatherhood.

*Comment:* One commenter expressed concern that the use of the term "healthy marriage" within the description of this element indicates a bias against non-traditional family compositions and does not take into account the youth's sexual orientation.

*Response:* We disagree that the data element indicates a bias for any family configuration. The focus of this element is to collect data on youth who receive education on positive family relationships, regardless of family configuration. States have the discretion to determine the content of such education and the extent to which it is individualized for youth.

#### Mentoring

In paragraph (g)(29), mentoring is defined as programs or services in which a youth meets regularly with a screened and trained adult on a one-on-one basis.

*Comment:* We received many comments suggesting modifications to the mentoring data element. A majority of these commenters urged us to broaden the definition to include informal relationships with adults, such as with parents of a youth's friends, coaches, teachers, ministers, former foster parents, former employers, and any other adult who provides positive support for the youth whether or not the

relationship is facilitated or funded through the child welfare agency. Several commenters also suggested that we remove from this service description the condition that mentors be screened and trained.

*Response:* ACF recognizes that youth may benefit from many different types of positive adult relationships that are not paid for or provided by the State agency; however, the purpose of this particular element is to collect data on mentoring as a service that is provided by the State agency. We will, however, gather data on positive adult relationships in the youth's life in the outcomes component of NYTD as described in paragraph (g)(48). We are not making any changes to the final rule in response to this comment.

*Comment:* A few commenters suggested that the data elements for mentoring and connection to adult described in paragraph (g)(48), be consolidated into a single element.

*Response:* While we can appreciate the desire to have fewer elements, we will retain the elements separately so that we can measure distinct concepts. The mentoring element is intended to capture whether youth are being mentored as a part of the independent living services they receive from the agency and the connection to adult element seeks information on whether youth are connected to adults as an outcome.

*Comment:* A commenter sought clarity on how a State would report to the NYTD a youth who had a formal mentor but the mentoring relationship was not facilitated or funded by the State agency or its agents.

*Response:* In the situation described, a State would indicate that the youth did not have mentoring as an independent living service in the data element described in paragraph (g)(29).

*Comment:* A commenter asked what kind of training was envisioned to qualify a mentor for the purposes of this data element. Another commenter posited that a mentoring relationship would be longstanding only if the person was a volunteer and unpaid. Finally, a commenter suggested that mentors could be an untapped resource to gather outcomes data on youth.

*Response:* All of the points raised by these commenters are matters that are at the discretion of the State. While the mentoring description limits the collection of data on those mentors that are screened and trained, we are not prescribing the extent of any screening or training. The training could range from an orientation to a structured mentoring curriculum. We agree that typically mentoring requires the

voluntary commitment of a caring individual, but we see no need to require that mentors be uncompensated. Finally, the extent to which the State agency chooses to involve mentors in some capacity in the collection of outcomes information from youth is an idea that may warrant further exploration, but would be completely up to the State agency.

#### Supervised Independent Living

In paragraph (g)(30), a State is to report whether a youth was served via a supervised independent living arrangements under the supervision of an agency, but without 24-hour a day supervision.

*Comment:* One commenter asked if a youth in a transitional living program should be reported as in a supervised independent living program. The commenter indicated that in a certain State, supervised independent living and transitional living were distinctly different even though they both offer a supervised living arrangement with less than 24-hour a day supervision by an adult and increased youth responsibilities.

*Response:* The commenter did not provide explicit details on its transitional living program; however, we understand that the Federal transitional living program provides grantees with funding to assist older, homeless youth in developing skills and resources to promote their independence and prevent future dependency on social services. This transitional living program provides housing and a range of services for youth ages 16 to 21, who are unable to return to their homes. Former foster care youth may be served by these transitional living programs, so whether to report a youth participating in such a program as receiving supervised independent living under this element depends on whether the youth's participation in the program is paid for or provided by the State agency and is otherwise consistent with the regulatory description.

#### Room and Board Financial Assistance

In paragraph (g)(31), the State is to report whether the youth is receiving room and board payments and other financial assistance such as rent deposits and utilities. We received no comments on this description, and we are not making changes to the final rule.

#### Educational Financial Assistance

In paragraph (g)(32), we describe educational financial assistance to include financial assistance for a youth's school books and materials,

tuition assistance, examination and application fees, and educational vouchers for college tuition or vocational education.

*Comment:* One commenter suggested we combine this element on educational financial assistance with the outcomes focused element of educational aid described in paragraph (g)(41), and for States to report on all youth in the served, baseline and follow-up populations.

*Response:* We are unable to combine the elements described in paragraph (g)(32) “educational financial assistance” and in paragraph (g)(41) “educational aid” because the applicable populations are different for each element as well as the scope and purpose of the elements. “Educational financial assistance” is a service element that refers to financial supports that the State agency pays for or provides for the youth whereas “educational aid” is an outcome element and refers to monies or other types of educational financial aid, from any source, that helps cover the youth’s educational expenses as an indicator of their financial self-sufficiency. We are retaining the two separate elements in the final rule so that we obtain data on both concepts.

#### Other Financial Assistance

In paragraph (g)(33) the State is to report whether a youth is receiving any other type of financial assistance from the State agency to assist the youth to live independently. We received no comments on this description, and we are not making changes to the final rule.

#### Discussion on General Issues With the Outcomes-Related Elements

Commenters raised general questions and concerns about the data elements that relate to youth outcomes described in paragraphs (g)(34) through (g)(58). We also address each of these elements separately.

*Comment:* One commenter was unclear about how ACF would obtain results about the increase, decrease or improvement of the six outcome measures. Another commenter questioned whether the survey questions could measure with validity the six outcomes of interest.

*Response:* The six outcomes outlined in this regulation will be measured based on the data reported by States through the elements in paragraphs 1356.83(g)(34) through (58). We formulated the survey questions and data elements after significant stakeholder involvement and a pilot test and believe that they will measure the outcomes specified. However, we have

not yet devised the specific performance measures upon which to assess State performance.

*Comment:* A couple of commenters asked whether the State is permitted to conduct data cross-matching with other administrative databases to gather data on youth, such as those maintained by States to support corrections, Temporary Assistance for Needy Families, Medicaid, employment, education, and child support.

*Response:* For outcomes data collection, ACF is requiring that the States use the survey method prescribed in 45 CFR 1356.82(a)(2). The State must administer the outcomes survey in appendix B to youth directly and therefore, the State may not provide information in the data elements described in paragraph (g)(37) through (g)(58) from any other source. On the other hand, information on the youth’s characteristics (e.g., adjudicated delinquent, educational level, foster care status, etc.) does not need to be collected from the youth directly and may come from a source of administrative data.

*Comment:* A commenter asked if we expect State agencies or the person administering the outcome survey to the youth to verify the answers youth provide.

*Response:* We are not clear what the commenter envisions as verifying youth information and can envision scenarios where this may or may not be acceptable. For example, the State may not ‘verify’ a youth’s answers to the outcomes survey against information from a third-party, such as whether the youth has been referred for a substance abuse assessment or counseling or whether the youth has children.

Alternatively, it may be appropriate for the State to devise a system of prompts in an outcomes survey administered on the internet that ask the youth to ‘verify’ whether he or she meant to provide a particular answer. Since verification techniques differ, we prefer to address specific questions about verification through policy guidance and technical assistance, as necessary.

*Comment:* A commenter requested clarification of the term “high risk behaviors.”

*Response:* Section 477(f)(1) of the Act requires that we develop outcome measures, one of which is a measure of high-risk behaviors. During the consultation process we determined that we would interpret this term for the purposes of the NYTD to refer to substance abuse, incarceration, and childbearing outside of marriage. These behaviors will be measured through outcome 5, reducing high-risk behavior

among young people using data reported to us in the elements described in paragraphs (g)(50) through (g)(53).

*Comment:* One commenter stated that youth who leave foster care may be hesitant about sharing their experiences with high risk behaviors with the State or Federal government.

*Response:* We have taken this into consideration and feel that the option to decline to answer is sufficient for youth who are hesitant about sharing their experiences related to high risk behavior.

*Comment:* One State asked if ACF would be providing detailed mapping forms with code tables for reporting the outcome data elements, which the commenter believed was necessary for accurate comparison or aggregate analysis.

*Response:* Detailed mapping forms and other technical information are not provided in the final rule. We will be providing technical assistance and guidance outside of the regulatory process to support States as they implement the NYTD.

#### Outcomes Reporting Status

In paragraph (g)(34), we require the State to indicate if the youth participated in the outcomes data collection, and, if not, the reason why the State was unable to collect the outcome information.

We did not receive comments on this paragraph but have made several modifications to the final rule. One change reflects the reduced number of data elements (from 60 to 58 elements). We have also added language specifying that when a youth does not participate in the outcomes data collection, most of the remaining outcomes elements should have blank responses.

Finally, we have added a new response option of “not in sample” for the State to identify the 19-year-old youth who are in the follow-up population but who were not selected in the State’s sample. See also the previous discussion on section 1356.83(e). Youth who are not in the sample do not need further categorization, as the remaining response options apply only to those youth who are in the sample. This response option will be used only by those States who sample, once every three years when outcomes data collection is due for 19-year-olds in the follow-up population.

The addition of this response option obviates the need for the separate element “sampling status” that we proposed in the NPRM. We have removed the sampling status data element formerly at paragraph (g)(37)

and renumbered the remaining elements accordingly.

#### Date of Outcome Data Collection

In paragraph (g)(35) we require a State to report the last date the State collects outcome information from the youth.

*Comment:* One commenter suggested modifying the element so that the State reflects just the month and year and not the day of the data collection. The commenter believed that because a State may gather outcome data on a youth from multiple sources, including parents, the last day of data collection may prove overly complicated.

*Response:* In the date of outcome data collection element, we require the State to report the last date that the outcome information is collected from the youth. The State cannot collect outcomes data from the youth's parent or guardian or an alternative source. The State reports the date when the outcomes survey is completed by the youth directly. For example, if the youth outcomes survey is administered in person by the youth's caseworker and the youth completes it over the course of two visits, the State must report the last date the survey is completed for this element. We reviewed the data element description in light of this comment and believe it is clear. We have made a modification to the description only to reflect the change in the number of data elements.

#### Foster Care Status—Outcomes

In paragraph (g)(36), the State must report the youth's foster care status at the time of the outcomes data collection. We did not receive comments on this paragraph and have made no changes to the regulation. However, we would like to note that a 19- or 21-year-old youth would only be in foster care consistent with the definition of foster care in 45 CFR 1355.20, if the youth has not yet reached the State's age of majority.

#### Current Employment Elements

In paragraph (g)(37) and (g)(38), the State must report whether the youth indicates that he or she is employed full-time or part-time, respectively, as of the date of information collection.

*Comment:* A few commenters were concerned that the NYTD does not require the State to report more details about the youth's employment status, such as the reason for unemployment, income level or salary information and number of hours worked. The commenters requested more detailed information on employment income level so that researchers could determine youth poverty levels and whether youth were engaged in other activities that explained their

employment status, such as college attendance, military enlistment, incarceration or illness.

*Response:* We believe that more detailed data on employment status is not central to the purposes of the NYTD. Even though we are not requiring more detailed information, States will report information in other elements that provides additional context consistent with the commenter's concern. If a youth reports that he or she is working full-time, but still requires public financial assistance, the State will report this information in the public financial assistance element as described in paragraph (g)(42). Youth who are attending college or some other type of higher education would have the opportunity to provide that information in the current enrollment and attendance element described in paragraph (g)(47). The NYTD also solicits information on whether youth have been incarcerated in the past, or cannot participate in outcomes data collection because they are incarcerated at that time. Youth who are enlisted in the military, inclusive of the reserves and the guard, are employed and should indicate their full-time or part-time working status accordingly. For these reasons, we are retaining the two elements as in the NPRM.

*Comment:* A commenter said that measuring full-time and part-time employment as of a specific collection date would not capture potentially long-term employment if it ended prior to the outcomes collection date.

*Response:* We made the choice to request information on employment on the date of the outcomes data collection in the NPRM after considering the various possible timeframes in which we could request this information. Since our primary goal is to gather information that will help us understand the experience of youth as a whole, and the State's performance, rather than assessing the outcomes for individual youth, we believe that the current employment status of the youth is sufficient for our purposes.

*Comment:* Several commenters noted that the NYTD did not have an element for reporting multiple jobs, and asked how a youth should report working multiple jobs in excess of 35 hours.

*Response:* We reviewed the data element descriptions of full-time and part-time employment in light of this comment and believe they lacked clarity about how to report multiple jobs. We are amending the final rule to specify that a youth who is employed at least 35 hours per week is considered working full-time and a youth who is employed 34 hours a week or less is

considered working part-time for the purposes of this element, regardless of whether such employment is in one or multiple jobs. We do not believe it is necessary for our purposes to solicit additional information on the number of jobs a youth holds.

#### Employment-Related Skills

In paragraph (g)(39), the State is to report whether the youth indicates that he or she has completed an apprenticeship, internship, or other type of on-the-job training in the past year.

*Comment:* One commenter believed that it would be helpful to find out if the youth had obtained employment-related skills during the previous two years, rather than just the previous year. As the survey is administered to youth in two-year intervals, the commenter believed this particular element should capture the youth's entire experiences since the prior survey.

*Response:* In creating this element we took into consideration what we believed was a reasonable time frame for a young person to recall employment-related training along with our desire to get the most accurate information possible from a youth. Since our primary goal is to gather information that will help us understand the experience of youth as a whole and the State's performance, rather than assessing the outcomes for individual youth, we believe that asking youth about employment-related skills in the last year is sufficient for our purposes. We are not making a change to the final rule in response to this comment.

#### Social Security

In paragraph (g)(40), the State is to report whether a youth indicates that he or she receives Social Security Income (SSI) or Social Security Disability Insurance (SSDI) directly or as a dependent beneficiary.

*Comment:* A few commenters asked for clarification on whether a State should report a youth who receives SSI/SSDI payments which are applied to the cost of foster care or only those that are paid to the youth directly. Commenters raised a concern that a youth may not know he/she was an SSI/SSDI recipient if such payments were applied to the cost of foster care and questioned whether the State should 'correct' a youth's response accordingly.

*Response:* If the youth is a SSI/SSDI beneficiary but his or her payment is going towards the cost of foster care, then the youth is receiving social security payments consistent with the description for the data element in paragraph (g)(40). However, the State is not to correct a youth's response if the

youth is a beneficiary but responds in the negative to the social security survey question. While we recognize that this may result in some cases of a youth answering the question incorrectly, we believe it is important to the integrity of the survey and data to represent the youth's understanding of his or her own circumstances. We do not believe any changes are warranted to the final rule in response to this comment.

#### Educational Aid

In paragraph (g)(41), the State is to report whether a youth indicates he or she is receiving a scholarship, education or training voucher, grant, stipend, student loan, or other type of educational financial assistance.

*Comment:* A commenter believed that the element was relevant only if the youth was enrolled in post-secondary training or education. The commenter believed that we would have difficulty interpreting a "no" response unless we included an additional response option for youth who are not enrolled in school.

*Response:* This data element is not limited to educational aid for those youth enrolled in post-secondary training or education. Rather, a youth would report current scholarships, grants, stipends, and vouchers for any education, including for a secondary education. The only limitation is with regard to a student loan which the government provides for obtaining a post-secondary education only. Finally, the State will report whether a youth indicates that he or she is enrolled and attending school currently in the element described in paragraph (g)(47).

*Comment:* A commenter believed the educational aid element to be too broad and would not reveal what kinds of aid the youth receives, i.e., Pell grants, ETV vouchers, or other scholarships. The commenter was also concerned that the reference to using educational aid for living expenses did not seem appropriate to the nature of the element or for youth under the age of 18.

*Response:* We proposed the educational aid element as an indicator of youth financial self-sufficiency. The element is not intended to elicit specific information on the types of aid the youth is using to attend school. However, we agree with the commenter that the reference to living expenses may be confusing and are removing the reference from the final rule. To be clear, we are seeking information on 17-, 19- and 21-year-olds' current use of aid that helps the youth attend school, rather than how that financial assistance is used (i.e., for room and board expenses, books, fees, etc.).

#### Public Financial Assistance

In paragraph (g)(42), we require a State to report whether the youth indicates that he or she is a current recipient of ongoing cash welfare payments from the government to cover some of his or her basic needs. We received no comments on this description. However, we have made some changes due to our concerns that this element was not broad enough to include the types of public financial assistance in which we were most interested. The element, as originally proposed, focused on a youth's receipt of cash assistance from a State's Temporary Assistance to Needy Families (TANF) or title IV-A program. We have since learned that States provide ongoing cash assistance designed to meet certain adults' basic needs in broader circumstances than those permitted under the TANF program. We are more interested in understanding whether the youth is receiving any type of public cash assistance and not just assistance that meets TANF requirements. Therefore, we have broadened the definition to refer more generically to ongoing welfare assistance. Further, we have specifically included language that clarifies that we are interested in financial payments for basic need versus other types of government assistance for particular purposes.

Finally, we discovered that the element was categorized incorrectly in Appendix A to the NPRM. We have corrected the appendix to clarify that the information on public financial assistance is collected on youth in the follow-up population who are no longer in foster care.

#### Public Food Assistance

In paragraph (g)(43) the State is to report whether the youth indicates that he or she has received public food assistance.

*Comment:* A few commenters suggested alternative approaches to gathering information on youth who receive food assistance. A commenter believed that we should amend the data element description to include a youth's use of "food pantries." Another commenter believed that we should require a State to report whether the youth has experienced "food insecurity" which means that the youth's access to food is limited by a lack of money or other resources. This commenter reasoned that the public food assistance element as proposed would not provide information on whether those youth who do not receive

public food assistance have a need for such assistance.

*Response:* We appreciate that there are other ways to determine whether youth have enough food to meet their needs and the ways in which youth may meet that need. However, we reviewed the element description and believe that it will provide the information we are seeking. The law requires us to track the youth's reliance on public assistance as an outcome and that is the primary reason for us selecting this element. Whether youth are hungry or lack sufficient and consistent access to foods is an important indicator of their well-being, but it is not an indicator that we identified during consultation as one that the State agency should be held accountable for and an outcome that could be measured easily in a data collection system. Finally, while community food pantries do provide food assistance, we do not consider them to be public assistance. We are making a minor modification to the title and description of this element to be clear that we are seeking information on "public food assistance" and not all kinds of food assistance. We do not believe further substantive changes are necessary in response to these comments.

#### Public Housing Assistance

In paragraph (g)(44), the State is to report whether a youth indicates that he or she is receiving government-funded housing assistance. We did not receive comments on this paragraph, however, we are making a minor modification to the title of the element to be clear that we are seeking information on "public housing assistance" as opposed to housing assistance from other sources. We are not making further changes to the final rule.

#### Other Financial Support

In paragraph (g)(45), the State must report whether a youth indicates that he or she receives any other periodic and/or significant financial resources or support.

*Comment:* A commenter suggested that the element be renamed "other financial support" to clearly indicate that only financial support was being identified in the element.

*Response:* We concur with the commenter and have amended the final rule accordingly.

*Comment:* A commenter asked for further clarification on reporting non-familial sources of support since the definition in the proposed Appendix B referred only to other support specifically from a spouse or family member.

*Response:* We reexamined the preamble to the NPRM, the proposed regulatory text and the definition in Appendix B and found that the definitions, as well as the examples and exclusions, were not consistent regarding this element. We have amended the final rule to ensure a consistent definition of other financial support and to be clear that such funds may not necessarily be uninterrupted payments but also may be significant funding sources of a temporary nature. An example of both a significant and non-familial financial support is funds from a legal settlement, which is listed in the regulation text.

#### Highest Educational Certification Received

In paragraph (g)(46), the State is to report the youth's stated highest educational certificate.

*Comment:* A commenter thought that this element should be revised to reflect all of a youth's educational achievements.

*Response:* We recognize the importance of educational achievements at all levels, but our intention with this element is to ascertain the highest level of educational certification a youth has received. This element addresses the statutory requirement to develop measures related to educational attainment. As such, we do not believe a change is warranted.

*Comment:* One commenter thought that high school diploma should be separated from GED, since long term outcomes in terms of later educational completion and earnings vary.

*Response:* While we recognize that long term outcomes may differ for youth who receive a high school diploma versus a GED, we feel that grouping them together for this data collection purpose still provides sufficient information regarding educational attainment and the transition from foster care to self-sufficiency. For this reason we are keeping high school diploma and GED as one response option for this element.

*Comment:* A commenter asked us to clarify how we used the terms "certificate" or "credential" so that they are more consistent with measures used by other Federal agencies and endorsed by some employers. The suggested language was that a certificate or credential is "an award made in recognition of an individual's attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation."

*Response:* We recognize that there are different ways for defining and

classifying degrees, certificates and credentials that a youth may receive. Since this survey is going to be completed by youth, we crafted the descriptions to be consistent with terms with which youth are familiar and that were relatively simple to understand. For this reason, we are not making changes to this description.

#### Current Enrollment and Attendance

In paragraph (g)(47), the State is to report the youth's stated enrollment in and attendance at school.

*Comment:* A commenter recommended allowing young adults to specify the type of school they currently attend, such as GED, vocational training or college.

*Response:* This element was developed to indicate if youth are making progress towards meeting educational goals by being enrolled and attending some kind of educational institution, not to identify where youth are specifically in school. We believe that the specific type of institution attended does not contribute substantially to our ability to identify educational attainment for youth as required by the statute. For this reason we are not amending the element to allow youth to specify the type of school they attend currently. However, we did make a minor modification to the final rule to be clearer about the situations when a youth is still considered to be enrolled in and attending school when that school is out of session.

#### Connection to Adult

In paragraph (g)(48), the State is to report whether a youth has stated his or her positive connection to an adult who serves in a mentor or substitute parent capacity.

*Comment:* A few commenters asked us to be clearer about which adults, particularly adult family members, youth could identify in this element. Also, a couple of commenters asked us to broaden the element to permit youth to select current family service workers or caseworkers as an adult to whom they are connected, as these relationships may be meaningful for a young person.

*Response:* We reviewed the description of this data element and are clarifying the definition of this element in the final rule. A connection to an adult can include adult relatives, parents or foster parents but specifically excludes spouses, partners, boyfriends or girlfriends and current caseworkers. While the relationship between a youth and a current caseworker can be a positive connection to an adult, we are attempting to determine if the youth has

a positive relationship to someone outside of the State agency staff who are employed to work with the youth.

#### Homelessness

In paragraph (g)(49), the State is to report whether the youth indicates he or she has experienced homelessness.

*Comment:* A few commenters were concerned that the NYTD did not specify the number of homeless incidents or the duration of homelessness. The commenters believed that this information would provide a clearer understanding of former foster youth experience(s) with homelessness. Another commenter requested more specific information on where youth are when they are homeless.

*Response:* During the consultation process some participants noted that it is important to measure the duration of homelessness because there is a difference in being homeless for a few nights versus part of a year. However, in order to lessen the data collection burden, we decided not to include a data element about the duration of a young person's experience with homelessness for several reasons. We believe that it may be difficult for youth to remember clearly the duration and episodes of homelessness, particularly since we are interested in capturing episodes that may have occurred several years ago. Additionally, we are not counting the number of homeless incidents because we believe that a youth's experience with homelessness, no matter how brief or how frequent, often has a significant impact on his/her life and ability to be self-sufficient in a way that other experiences do not.

*Comment:* Commenters pointed out several aspects of our proposed definition that were not clear. One commenter said that the phrasing "no regular place to live of his own" could be misinterpreted to mean that a youth may be homeless unless he owns or leases a home of his or her own. Another commenter believed that a youth should not indicate that he has experienced homelessness if "temporarily living with a friend" as in our proposed definition. A commenter also questioned whether the State should survey youth about homelessness if the youth is still in foster care.

*Response:* We reviewed the proposed definition of homelessness and agree that it lacked clarity and could lead to overreporting of the type of homelessness in which we are most interested. Therefore, we are amending the final rule to remove the language that caused confusion. We have also clarified in the definition that the

homelessness survey question is to be asked of all youth whether or not they are in foster care at the time of the data collection. This is important because when the question is posed to 17-year-olds, it asks for the youth's lifetime experience with homelessness. When the youth is 19 or 21, the question is different and solicits information on whether the youth was homeless at any time in the past two years. Even if a youth is in foster care on the date of outcomes data collection, the youth may have been homeless at some point during that timeframe.

*Comment:* A commenter wanted to know if the definition of homelessness was the same as for other Federal programs and funding streams such as the McKinney-Vento Homeless Assistance Act.

*Response:* There are many different definitions for homelessness in Federal programs that vary based on the intended purposes of those programs. Our definition of homelessness is based on, but not identical to, the definition used in the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302). Rather, we chose a simpler and more general definition of homelessness to use for our purposes which is that the youth has no regular or adequate place to live. This definition includes situations where the youth is living in a car, on the street, or staying in a homeless shelter.

*Comment:* One commenter suggested the development of a new measure to determine the relative stability of living circumstances for each 17-year-old during the previous 18 to 24 months prior to data collection. The commenter believed that such a measurement would clarify issues caused by the high correlation between high relative stability and positive transitional service outcomes.

*Response:* We are not clear which data elements the commenter believes would relate to this measure of stability or what the measure would entail; however, our intent at this time is to promulgate data elements that will allow us to develop appropriate outcome measurements at a later time.

#### Substance Abuse Referral

In paragraph (g)(50), the State is to report whether the youth indicates that he or she has had a referral or self-referral for alcohol or drug abuse assessment or counseling. We did not receive comments specific to this element description and we are not making changes to the final rule.

#### Incarceration

In paragraph (g)(51), the State is to report the youth's incarceration.

*Comment:* Several commenters were concerned that the definition of "incarceration" provided in the NPRM was inadequate for what the data element was trying to capture. Specifically, many thought that the term was too broad, and several suggested distinguishing between being arrested, being detained in a jail or juvenile/community detention facility because of an alleged crime, and being convicted. A couple of commenters were concerned that wrongful arrests might reinforce negative stereotypes about foster youth and unfairly stigmatize this population, particularly if the youth were detained for a minor infraction.

*Response:* We agree that the proposed definition of incarceration captured too many different concepts. As such, we are amending the final rule to focus more specifically on incarceration, rather than arrests or convictions, because the statute requires that we measure incarceration as an outcome (section 477(f)(1)(A) of the Act). We acknowledge that this element may capture information on youth who are incarcerated after a wrongful arrest and for minor infractions, but we do not have a clear basis upon which to exclude such information from this data collection.

*Comment:* Another commenter was concerned that as different States have different laws and definitions for incarceration, it could prejudice the outcome measure to use that term for a nationwide data collection.

*Response:* States may have different laws and/or definitions for incarceration, but we have included a specific definition for this data collection process in the final rule. Further, the purpose of this element is to present a broad picture of youth experiences with incarceration and not to pinpoint the type of alleged crimes or the nature of the convictions that may have led to the youth's incarceration.

*Comment:* One commenter suggested that we change the definition of incarceration in Appendix B from "an alleged crime \* \* \* committed by a youth" to "a crime \* \* \* allegedly committed by the youth."

*Response:* We agree and have amended Appendix B accordingly.

#### Children

In paragraph (g)(52) the State is to report whether the youth indicates that he or she gave birth to, or fathered, any children. We did not receive comments specific to this element description and are not making changes to the final rule.

#### Marriage at Child's Birth

In paragraph (g)(53), the State is to report whether the youth was married to the child's parent at the time of the birth of any children reported in the previous paragraph.

*Comment:* A few commenters suggested that the data element specify that the youth be married to the child's other "biological" parent, not just "other parent."

*Response:* We have examined this suggestion but do not believe a change is warranted. This element is crafted to focus on the outcome of "nonmarital childbirth" as required by the statute (section 477(f)(1)(A) of the Act). As such, we are interested in information on whether the youth is married to his or her child's other biological or legal parent at the time of the child's birth. We did, however, mistakenly specify the child's other "biological parent" rather than "other parent" in the NPRM preamble which may have generated this comment.

*Comment:* A commenter pointed out that in the description of the marriage at child's birth element in Appendix B we referred to any child born "in the past year" while the definition in the regulatory text refers to any child reported in the children element.

*Response:* The commenter is correct that we made an error. The two elements relate, so that if a youth reports that he or she had a child in his lifetime (if reporting at age 17) or had a child within the past two years (if reporting at age 19 or 21), then the marriage element relates to whether the youth was married at the time of the births during those respective timeframes. We are amending Appendix B accordingly.

#### Medicaid

In paragraph (g)(54), the State must report whether the youth indicates that he or she is participating in the State's Medicaid program. We did not receive comments on this paragraph and are making no changes to the final rule.

#### Other Health Insurance Coverage

In paragraph (g)(55), the State is to report whether a youth has indicated that he or she has health insurance other than Medicaid. We did not receive comments on this paragraph and are making no changes to the final rule.

#### Health Insurance Elements

In paragraphs (g)(56) through (g)(58), the State is to report the types of health insurance the youth indicates he or she possesses other than Medicaid.

*Comment:* Several commenters found that the health insurance elements

lacked clarity and simplicity. A commenter also noted that survey questions regarding other health insurance types had been omitted from the survey in Appendix B.

*Response:* We agree and have amended the final rule in a number of ways to respond to the commenters' concerns. The survey questions and elements are structured now to solicit all types of insurance types the youth has, rather than pinpointing a particular combination of insurance. For example, the youth will be asked separately whether he has insurance that covers medical health, mental health, and/or prescription drugs, rather than whether he has a plan that combines all three types. We have also added a response option of "I don't know" to the health insurance type elements in a way that permits the youth to identify the types of insurance that he or she knows and does not know about. We have eliminated a data element with this restructuring without any loss in the information collected. Finally, Appendix B specifies the survey questions that reflect these changes.

#### Recommendations for Additional Data Elements for Both the Services and Outcomes Components of NYTD

*Comment:* A commenter noted the absence of data elements in the NYTD that identify youth who have physical or mental disabilities. The commenter believes that information regarding disabilities is essential to a complete analysis of data on youths' employment and educational attainment.

*Response:* We agree that data on a youth's disabilities could inform our understanding of independent living services and youth outcomes. However, States already collect and report this information to AFCARS. Since we are requiring States to identify youth in the same way in both datasets, we believe we will have the foundation to analyze youth disabilities information from AFCARS in conjunction with the services and outcomes information from NYTD. We do not believe it necessary to require States to duplicate this information and are not making a change to the final rule.

*Comment:* A commenter suggested an additional characteristics element which identifies the youth's living arrangement, particularly whether youth are in a foster family home, child care institution or a supervised independent living arrangement. The commenter believed that this information could shed light on the likelihood of youth receiving informal or formal services.

*Response:* We disagree that all living arrangements need to be incorporated

into the NYTD as we do not believe that information on the setting in which an independent living service is delivered is essential to fulfilling the statutory mandate. One exception is that when a youth is in a supervised independent living arrangement it would be indicated as a service to the youth because it is more than just the child's placement. To the extent that other living arrangement information may reveal useful information, we can analyze the NYTD information in conjunction with AFCARS data on foster care settings. We are not making changes to the final rule to incorporate further living arrangement information.

*Comment:* Several commenters believed that the NYTD should have several elements on youth mental health. In particular, commenters requested elements to identify youth with mental health issues, report whether such youth are referred for or receive mental health assessments and services, and assess prevalence of mental health problems as an outcome. These commenters noted that some research indicates that youth in foster care have a higher rate of mental health issues, which if not treated effectively, can be significant barriers to self-sufficiency.

*Response:* We reexamined our exclusion of a mental health element in the NPRM and believe still that it is not appropriate for this data collection. During our consultation process, we ruled out the inclusion of elements on health utilization and outcomes, including mental health. We agreed with stakeholders that mental health is an important aspect of a youth's well-being, but it is not generally accepted as part of the responsibility of a State's independent living program. Further, mental health is an area that is challenging to measure in a straightforward manner. As such, we are not making a change to include mental health services or outcomes in the final rule.

*Comment:* One commenter suggested that it was not only important to know if youth needed health services, mental health services or prescription medications, but also if youth had been unable to access appropriate services.

*Response:* We are interested in determining to what extent youth have health insurance as a measure of their ability to access appropriate services to meet their needs. As stated previously, we ruled out measures of health care utilization during consultation and find no compelling reason to include them in the final rule.

*Comment:* A commenter recommended that we collect and use

data on the State agency's efforts to continue permanency planning for older youth despite their preparation for emancipation. The commenter suggested that this could be accomplished through services and outcomes data elements in NYTD or alternatively through AFCARS.

*Response:* The NYTD was designed to collect data specifically about services offered by the State's independent living program and outcomes related to those services. Although we recognize the potential value of an agency's continued permanency efforts for older youth, we believe that this dataset is not the appropriate venue for requesting information regarding permanency plans. Rather, to some extent, this information can be examined more closely through the existing AFCARS and the Child and Family Services Reviews.

*Comment:* One commenter noticed the omission of data elements that relate directly to a youth's use of education and training voucher (ETV) funding pursuant to section 477(h) of the Act and thought it would be useful to collect information on the drop-out rates of youth using the vouchers and the youths' reasons for dropping out of post-secondary education.

*Response:* A youth's receipt of an ETV is included in both the services and outcome elements as part of the "Educational Financial Assistance" service element and the "Educational Aid" outcomes element. This data collection system is not designed to be a program evaluation tool for any one specific CFCIP activity, and therefore adding specific questions regarding ETVs is not consistent with the intent of this regulation.

*Comment:* A commenter believed that we should incorporate additional elements to assess youth high-risk behavior due to sexual activity. The commenter proposed an element for teen pregnancy at ages 17, 19 and 21, in addition to born children, so that we could determine youth abortions or miscarriages. The commenter also proposed an element for recording sexual activity, particularly to obtain a complete understanding of male behavior that is not captured in pregnancy data.

*Response:* While we recognize that the suggested elements may provide a more complete picture of sexual activity, we are not persuaded that these are appropriate to measure in this data collection.

*Comment:* A commenter suggested that we require a State to report whether a youth possessed critical documents, including a birth certificate, driver's

license or other State-issued identification and social security card.

*Response:* We considered whether to include a youth's possession of critical documents as an outcome element during consultation but ruled it out because we determined that such information is more appropriate for program evaluation. We have not received compelling information that suggests a different approach and are not making changes to the final rule in this regard.

*Comment:* One commenter requested data elements that would more accurately reflect effectiveness of specific programs implemented pursuant to the Foster Care Independence Act.

*Response:* This data collection system is not designed to be a program evaluation tool for any one specific CFCIP program, which is why we have not included data elements related to the implementation of specific programs.

*Comment:* One commenter suggested adding an element that indicates the method of survey administration, which would make it possible to identify any potential biases in the outcomes data that may be associated with the various survey methods.

*Response:* We do not believe it is necessary to require this information through a data element; however, we will provide additional guidance outside of regulation on how States can provide us with additional information that explains or relates to their data submission.

#### Electronic Reporting

In paragraph (h), we require a State to submit NYTD data electronically.

*Comment:* We heard generally positive comments about using Extensible Mark-up Language (XML) to transmit data files. We also had several requests from commenters for more detail on how States should prepare their electronic files and submit their files to us.

*Response:* We appreciate that commenters responded to our request for feedback on using XML. We still are not regulating a particular method for submitting data here, but will provide States with detailed technical information on preparing and submitting their data files outside of regulation.

#### Section 1356.84 Sampling

In paragraph (a), we describe the option for a State to sample youth who participate in outcomes data collection at age 17 and collect outcomes data on the sample at ages 19 and 21.

*Comment:* Several commenters supported sampling for the follow-up population at ages 19 and 21 as a viable method to collect data in some States. Alternatively, a commenter objected to our proposal to allow a State to survey a sample of youth in the follow-up population. This commenter believed that it was reasonable to expect States to follow all youth over time given the staggered outcomes data collection schedule and the participation rates.

*Response:* We proposed to permit sampling because we believe that there are challenges inherent in States following very large populations of youth over time, including significant financial costs. As such, we are retaining the provision which permits States to sample.

In paragraph (b), we specify how the State must select the follow-up sample and describe the sampling universe. The State agency must use simple random sampling procedures based on random numbers generated by a computer program, unless ACF approves another sampling procedure.

*Comment:* A commenter interpreted our proposed requirements regarding sampling methodology to mean that a State must use a simple random sampling approach. The commenter believed that a stratified random sampling approach based on counties would be more appropriate for some States.

*Response:* We agree with the commenter that the simple random sampling approach may not be an appropriate method for all States. For this reason, we are retaining in the final rule our proposal for the use of an ACF-approved alternate sampling methodology. ACF will consider all alternate sampling methods proposed by a State that utilize accepted sampling methodologies. No changes are needed to the final rule in response to this comment.

In paragraph (c), we require the State to base the sample size on the number of youth in the baseline population who participated in the State agency's data collection at age 17. The State will use one of two formulas based on whether the sampling frame is less than or greater than 5,000 youth and will increase the resultant sample size by 30 percent to allow for attrition.

*Comment:* A commenter objected to using the number of 17-year-olds as reported in AFCARS to forecast the number of youth who will receive independent living services in the State's random sample since actual youth in foster care fluctuate over time. The commenter suggested that we

instead publish guidance which indicates actual sample sizes.

*Response:* There is no requirement to use AFCARS data for the sample. In the preamble to the NPRM we provided State-specific numbers of 17-year-olds in foster care and the potential sample sizes using AFCARS data for illustrative purposes only. However, the actual sample size will depend on the number of youth in the baseline population who participate in the outcomes data collection at age 17. States will then track this sample of youth over time and administer the outcomes survey when those youth turn age 19 and 21. No changes are warranted in response to this comment.

*Comment:* A commenter offered a strategy to decrease sample attrition which involves adding a series of questions to the survey about people who can be contacted by the State agency to help locate the youth over time.

*Response:* We agree with the sentiment expressed by the commenter that if a State solicits contact information from youth when administering the survey, it could increase the State's success in locating the youth later. Such a practice is allowable, however, we do not believe it is necessary to mandate particular tracking methods or otherwise amend our survey or sampling procedures in response to this comment. Rather, we intend to provide ongoing technical support of this nature to States in meeting the requirements of the NYTD.

#### Section 1356.85 Compliance

In this section we define the standards we will use to determine a State's compliance with NYTD and our process for determining whether the State is in compliance with the standards.

#### File Submission Standards

In paragraph (a), we specify the file submission standards. The State must achieve these minimal standards for timeliness, formatting, and quality information in order for us to process the State's data appropriately.

In paragraph (a)(1), we specify the timely data file standard. To be timely, we must receive the State's data file within 45 days of the end of each six-month report period, consistent with the reporting period and timeline specified in section 1356.83(a). There were no comments specific to this section other than those we addressed previously in the discussion of the submission deadline in section 1356.83(a). We are not making changes to the final rule.

In paragraph (a)(2) we specify the format file standard. To meet this standard the State must send us a data file in a format that meets our specifications.

*Comments:* A few commenters raised issues related to data file formatting specifications in the context of the availability of technical assistance and software programs (*i.e.*, utilities) that can be used to detect formatting errors in a data file prior to submitting a data file to ACF.

*Response:* At this time we cannot outline the exact transmission method and/or formatting requirements for the NYTD data as explained in the preamble to the NPRM. In brief, we have decided not to regulate the technical requirements for formatting or transmitting the NYTD data file. Instead, we will issue technical requirements and specifications through official ACF policy. We have learned through our experience with AFCARS that it is more prudent not to regulate the technical specifications for formatting and receiving data because of inevitable future advances in technology. Further, we will consider what form of technical assistance may be needed by State agencies to meet the NYTD file submission. No changes are needed in the final rule in response to these comments.

In paragraph (a)(3) we specify the error-free information file standard. A State must submit 100% error-free data for the basic demographic elements described in section 1356.83(g)(1) through (g)(5), (g)(14) and (g)(36) for every youth in the reporting population.

*Comment:* A few commenters were concerned that the proposed 100 percent error-free information standard was unreasonably high. One of these commenters requested that we lower the standard to 98 percent, particularly to accommodate larger States that may find such exact quality control challenging.

*Response:* The error-free information file standard is consistent with the importance we place on quality information for the seven basic elements: State, report date, record number, date of birth, sex, foster care status—services, and foster care status—outcomes. As we explained in the preamble of the NPRM, we believe the State agency can report readily on these seven elements, but more importantly, they are essential to our capacity to analyze the data and determine whether the State is in compliance with the remaining NYTD data standards. For example, these elements allow us to determine whether the youth should be surveyed for outcomes as part of the baseline population because the youth

is 17 years old and in foster care, and whether the State has achieved the foster care participation standard. We are not making changes to the final rule in response to this comment.

#### Data Standards

In paragraph (b), we specify the set of data standards a State must meet to be in compliance with NYTD requirements.

#### Error Free

In paragraph (b)(1), we require the State to meet the standard that the remaining data elements, *i.e.*, demographic, service and outcomes elements defined in section 1356.83(g)(6) through (13), (g)(15) through (35), and (g)(37) through (58), must be 90 percent error-free. No comments were received on this standard and we are not making any changes in the final rule.

#### Outcomes Universe

In paragraph (b)(2), we describe the outcomes universe standard. To meet this standard the State must submit complete or partial outcomes information or a reason explaining why there is no outcomes data for each youth in the follow-up population (or the sample) who participated in the outcomes data collection as part of the baseline population.

We received no comments on this section, but have modified the final rule to account for the provision at section 1356.83(e) which requires a State to identify youth who are not in the follow-up sample of 19-year-olds. The final rule now specifies that for those States that sample, the State must submit outcomes reporting status information on all 19-year-olds in the follow-up population, whether or not they are in the sample. States that sample will meet the outcomes universe standard if they submit at least the outcomes reporting status on all of the 21-year-olds in the follow-up sample.

#### Outcomes Participation Rates

In paragraph (b)(3), we require the State to obtain full or partial outcomes information from a certain percent of youth in the follow-up population.

*Comment:* A couple of commenters noted that we did not propose to adjust the calculation of the participation rate to exclude youth who are deceased or institutionalized consistent with accepted survey methodologies.

*Response:* After reviewing various survey methodologies, we believe that a change in the regulation is warranted. We are amending paragraph (b)(3) to exclude youth who are reported by the

State as deceased, incapacitated or incarcerated in the follow-up population in our calculation of the participation rate. Excluding individuals who should not participate due to the nature of the survey from the calculation of response rates is a standard practice. We will use the data States report in the outcomes reporting status element described in section 1356.83(g)(34) in calculating the participation rate. For example, for a State that does not sample there are 215 17-year-old youth in the baseline population who participate in the outcomes survey. Two years later, none of the 215 youth are in foster care and 5 of these youth become incapacitated, incarcerated or deceased. In another two years, 10 more of the original baseline youth become incapacitated, incarcerated or deceased. ACF will calculate whether the State has reported some outcomes information on 60% of the remaining 200 youth in the follow-up population at age 21 to determine whether the State has met its participation rate.

However, we want to be clear that even though outcomes information for incapacitated, incarcerated and deceased youth will be unavailable for the report period, a State must still report all other information for such youth. For example a State may not report outcome data for an incarcerated youth during a report period, but must report service information if she received independent living services that were paid for or provided by the State agency at some point in the report period. We will provide more technical guidance on these issues, as necessary, outside of regulation.

*Comment:* A few commenters objected to our basing compliance on a fixed participation rate at this time and suggested alternative approaches. One such commenter requested that we reconsider using a contact standard in which the State's compliance would be based on efforts to engage the youth rather than their actual participation. Another commenter suggested that we conduct a pilot study before deciding on any particular response rate, and a third suggested that we write into the regulation the option to reevaluate and revise the participation rates after implementation.

*Response:* As stated in the preamble to the NPRM, we ruled out using a contact rate standard upon which to base State compliance with the NYTD requirements. A contact rate would give the State credit for its efforts to solicit a youth's participation; however, we found difficulty in establishing an appropriate measure of a *bona fide*

contact. Further, a contact rate could not provide us with enough assurance that we would get sufficient data upon which to measure youth outcomes.

We do not believe another pilot study is warranted nor do we concur with the recommendation to build in an opportunity to lower the rate. We carefully considered the available research on similar populations of youth in our participation rate proposal and see no need to further delay implementation of the NYTD. Further, permitting a later reduction in the participation rates sets a low expectation that States will achieve the participation rate and suggests that we will not hold States accountable for achieving the rates. As such, we will retain specific participation rates in the final rule.

#### Foster Care Youth Participation Rate

In paragraph (b)(3)(i) we specify that the State 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).

*Comment:* Several commenters disagreed with the proposed foster care youth participation rate of 80 percent, asserting that it is not achievable. On the other hand, several other commenters believed that the foster care youth participation rate of 80 percent was achievable because locating youth who are still in the State agency's custody should not be problematic.

*Response:* In developing our proposal we carefully considered the available research on this population, what we believed was a reasonable expectation for States who still have responsibility for the youth's care and placement, and our necessity for ample information to meet the statutory mandate. We believe that the 80 percent participation rate is an appropriate standard and are retaining the proposed rate accordingly. *We want to be clear, however, that youth are only considered to be in foster care if they meet the definition in 45 CFR 1355.20, as referenced in section 1356.83(g)(36). This means that they must be children under the State's age of majority who are under the placement and care responsibility of the State title IV-B/IV-E agency.* We are not aware of any State in which 19- and 21-year-olds are in foster care in accordance with this definition at this time as typically States have defined their age of majority as 18. Therefore, in practical terms States will have to meet the 60 percent discharged youth participation rate.

#### Discharged Youth Participation Rate

In paragraph (b)(3)(ii), we specify the discharged youth participation rate. To comply, the State must report outcome information on at least 60 percent of youth who are in the follow-up population who are no longer in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36).

*Comment:* Many commenters disagreed with the proposed discharged youth participation rate of 60 percent because they assert that it will be difficult to track young adults who may not continue to receive services from the State agency. Some commenters recommended reducing the participation rate because they believed that States should not be held responsible for the actions of young adults for whom they have no control or authority. Several of the commenters who opposed the 60 percent standard came up with a variety of alternative approaches, such as lowering the rate for 21-year-old youth, applying the rate to only those youth who are receiving services, and initially lowering the rate and then raising it over time.

Alternatively, several commenters recommended that we increase the discharged youth participation rate to 70 percent or higher in hopes of achieving a more accurate picture of outcomes for former foster youth. These commenters were concerned that States would inadvertently report data on only the most successful youth which would skew the outcomes information.

*Response:* We reassessed the discharged youth participation rate in light of the comments on both sides of this issue and continue to believe that 60 percent is appropriate. While we agree that the process of collecting outcomes data from youth no longer in the State's foster care will be challenging, we are seeking a standard that will provide us with a level of confidence in the outcome information that is reported to us. After considering the research on response rates and reviewing the Office of Management and Budget's guidance on surveys (see various publications at <http://www.whitehouse.gov/omb/inforeg/statpolicy.html#pr>), we do not believe that a rate lower than 60 percent would serve our purposes. We believe that compliance with this standard may be more difficult during the early part of NYTD implementation since States must have tracking procedures in place at startup to later locate youth no longer receiving services. Therefore, we believe that we can address many of the commenters' concerns by giving States

two full fiscal years to implement the NYTD. We believe that giving States more time to develop tracking procedures and to utilize technical assistance to address the challenges in obtaining outcomes data from this population is a better alternative to compromising our standard for obtaining data.

#### Effect of Sampling on Participation Rates

In paragraph (b)(3)(iii), we explain how the outcome participation rates will be applied to State agencies that choose to sample in accordance with section 1356.84.

We received no comments on this section. However, we are making a wording change to this provision to clarify that in calculating the participation rate for States that sample, we will apply the appropriate rate to the required sample size inclusive of the 30 percent attrition allowance. The previous wording used the phrasing "minimum" sample size, which may have suggested that we would apply the participation rate against the number resulting from the formula prior to increasing the sample by 30 percent to allow for attrition.

#### Errors

In paragraph (c) we define further the concept of data in error.

In paragraph (c)(1) we define missing data as any element that has a blank response, when a blank response is not a valid response option as described in the data element descriptions in section 1356.83(g).

*Comment:* One commenter informed us that we could expect missing data since the States are able to indicate that a youth declined participation or is otherwise unavailable to participate in the outcomes data collection.

*Response:* We believe the commenter may misunderstand what we mean by "missing data" and would like to take this opportunity to clarify the term. Situations in which the State reports that the youth did not participate in the outcomes data collection is not a missing data error. Rather, this information may be a factor in calculating the outcomes data participation rates as described in section 1356.85(b)(3).

For the purposes of the NYTD, "missing data" occurs when an element has a blank response when this is not a valid response option, such as a missing record number or no date of birth. Blank responses are valid when the youth is not in the reporting population to which an element applies as described within the data element descriptions. For

example, a State should report blank responses in the outcomes elements for a 15-year-old youth in the served population. Blank responses are also valid in the outcomes elements (g)(37) through (g)(58) when a youth does not participate in the outcomes data collection element as described at section 1356.83(g)(34)(ii) through (ix). We will provide a more complete accounting of missing data and other errors outside of regulation.

In paragraph (c)(2) we define out-of-range data as 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). No comments were received on this section and we are not making changes in the final rule.

In paragraph (c)(3) we define internally inconsistent data as any element that fails an internal consistency check designed to evaluate the logical relationship between elements in each record. No comments were received on this section, and we are retaining this provision as proposed.

#### Review for Compliance

In paragraph (d) we describe our process of reviewing a State's data file for compliance with the aforementioned standards.

*Comment:* One commenter requested clarification as to whether the NYTD would allow the use of default values and/or default mapping procedures. The commenter maintained that State agencies are not permitted to use default values and/or default mapping procedures in their State AFCARS.

*Response:* Defaulting, from our perspective, is the practice of automatically converting missing data for an element into a valid response option. We reject this practice in AFCARS generally because defaulting results in a misleading and inaccurate account of the information or lack of information collected, and as such we will not accept the practice in the NYTD. We have provided guidance regarding the use of defaults in AFCARS (see the National Resource Center for Child Welfare Data and Technology's Web site [http://www.nrcwdt.org/rscs/rscs\\_facts\\_defaults.html](http://www.nrcwdt.org/rscs/rscs_facts_defaults.html)) and intend to do so for the NYTD as well. However, because of the technical nature of defaulting procedures, more information will be provided outside the regulatory process.

In subparagraph (d)(1)(i), we explain that as long as the State is in compliance with the file submission standards, ACF will continue to assess the remaining file for compliance with the data

standards. No comments were received on this section, and we are retaining this provision as proposed.

In subparagraph (d)(1)(ii), we explain that we will notify the State if the State has not met the file submission standards so that the State can submit corrected data. No comments were received on this section and no changes are warranted to the final rule.

In paragraph (d)(2), we explain that we may use other monitoring tools that are not explicitly mentioned in the regulation to determine whether the State meets all requirements of the NYTD.

No comments were received on this section, and we are not making changes in the final rule.

#### Submitting Corrected Data and Noncompliance.

In paragraph (e), we outline a State's opportunity to correct any data that does not meet the compliance standards. No comments were received on this section, and we are retaining the provision as proposed.

In paragraph (e)(1), we explain that a State must submit a corrected file no later than the end of the subsequent reporting period as defined in section 1356.83(a) (*i.e.*, by September 30 or March 31). No comments were received on this section, and we are not making changes in the final rule.

In paragraph (e)(2), we explain that we will make a final determination that a State is out of compliance if a State's corrected data file does not meet the compliance standards described in section 1356.85. Similarly, we explain that we will determine that a State is out of compliance if the State chooses not to submit a corrected data file or submits a corrected data file inconsistent with the requirements described in section 1356.85(e)(1). This final determination of noncompliance means that the State will be subject to the penalties described in section 1356.86. No comments were received on this section, and we are not making changes in the final rule.

#### Section 1356.86 Penalties for Noncompliance

This section sets forth a penalty structure for States agencies that are out of compliance with the NYTD standards following an opportunity to submit corrected data.

In paragraph (a) we define which funds will be subject to a penalty for a State agency that is out of compliance with NYTD standards.

*Comment:* We received many comments requesting that a State's annual allotment of ETV funds (section

477(h)(2) of the Act) be excluded from the penalty pool. Most of the commenters pointed out that unlike the general CFCIP funds which States can use broadly to fund independent living services, the ETV program provides direct financial assistance to former foster youth who are working productively to achieve independence through a higher education. Therefore, reducing ETV funds for a State's failure to comply with data collection requirements was contrary to the goals of the ETV program because it would deprive certain youth of an opportunity to pursue post-secondary education. Other commenters believed that including ETV funds in a penalty was inconsistent with Congressional intent because the data collection and penalty provisions in the law preceded the enactment of the ETV program. A few commenters maintained that a State's annual allotment of ETV funds should not be subject to a penalty for noncompliance with NYTD data requirements because those requirements are more focused on general independent living services rather than education and training vouchers.

*Response:* We have given serious consideration to the commenters concerns and are persuaded that there are good reasons for excluding ETV funds from the funds subject to a penalty for State noncompliance with the data requirements. When we look at the law as a whole, there is support for concluding that ETV funds should be excluded from the penalty pool because ETV funds may not generally be used for the data collection activities required by NYTD. The statute and our policy permit a State to use ETV funds only for vouchers to youth for higher education and the associated administrative activities necessary to provide the vouchers (section 477(h)(2) of the Act and Child Welfare Policy Manual Section 3.3F Q/A #1). Therefore, including ETV funds in the penalty pool for lack of compliance with NYTD requirements would have the incongruous consequence of depriving a State of funds which it could not use for NYTD.

We also reviewed the legislative history, and there is no indication that Congress considered the inclusion of the ETV funds in the data collection penalty pool. Rather, the legislative history indicates quite clearly that the ETV funds are authorized and appropriated separately from the CFCIP funds so that they could be dedicated to funding higher education for youth (House Report 107-281, pp. 12, 21-22). Including ETV funds in the penalty pool

would be contrary to the purpose of the program, and we are amending the final rule to exclude ETV from the calculation of the penalty.

*Comment:* A few commenters suggested that States should not be subject to a penalty for noncompliance with NYTD standards.

*Response:* Section 477(e)(2) of the Act requires us to assess a penalty against a State that fails to comply with the information collection plan as implemented by ACF. We crafted the penalty structure carefully within the statutory parameters with the goal of obtaining quality data that can be used to understand services and improve youth outcomes. As such, in line with the statute, we are retaining the penalty as proposed in the NPRM with the modification to exclude ETV funds from the calculation of the NYTD penalty pool.

In paragraph (b) we specify the penalty amounts that will be assessed for States we determine to be out of compliance with NYTD file submission and data standards.

*Comment:* Several commenters suggested that we provide financial incentives to State agencies that meet or exceed NYTD standards. The commenters suggested that we could integrate such State financial incentives into the penalty structure for State noncompliance with NYTD standards. One commenter disagreed with the approach to an incentive structure as we described in the NPRM and suggested we conceptualize incentives in terms of "added rewards rather than a penalty reduction."

*Response:* Section 477 of the Act does not make funds available to the States for achieving or exceeding a specified NYTD standard. Further, the requirement to assess a penalty against a State that fails to comply with a data reporting requirement is statutory and specified in section 477(e)(2) of the Act. Therefore, we cannot provide financial incentives. In the preamble of the NPRM, we described our initial thinking on how a penalty reduction could be an unconventional incentive that works within the statutory framework. However, we did not receive any comments that indicated that a penalty reduction would provide an incentive to States and we are not including it as a feature in the final rule.

*Comment:* Several commenters requested that we permit a State to use funds that would otherwise be penalized for noncompliance with NYTD requirements if the State agency agrees to correct the identified deficiencies in the State's data. These commenters referred to this as a

"reinvestment" approach that could replace the penalty structure for noncompliance with NYTD standards.

*Response:* The statute requires us to take a penalty for State noncompliance with NYTD data requirement pursuant to section 477(e)(2) of the Act. We believe that it would be contrary to the purposes of the statute to assess a penalty against a State agency for noncompliance and then subsequently make any portion of those funds available to the State. Therefore, we are not permitting States to reinvest penalized funds in the final rule.

In paragraph (b)(1), we specify that we will assess a penalty in the amount of two and one-half percent (2.5 percent) of the funds subject to a penalty for each reporting period in which we make a final determination that the State's data file does not comply with the file submission standards defined in section 1356.85(a).

*Comment:* A commenter was concerned that a file submission penalty in the amount of 2.5 percent would have a negative impact on the CFCIP independent living services available to youth in the State.

*Response:* The statute requires us to penalize States in an amount that ranges from 1 percent to 5 percent of their CFCIP allotment for not complying with the data collection requirements. As we explained in the preamble to the NPRM, we proposed to assess the largest possible penalty (for the reporting period) if the State did not achieve any one of the file submission timeliness, format, and quality standards. We reasoned that we will not have useable information in a timely fashion if the State agency does not meet such standards described in section 1356.85(a). We are not persuaded by the commenter that the amount specified is unreasonable and warrants a change to the final rule.

In paragraph (b)(2)(i), we specify that ACF will assess a penalty in the amount of one and one quarter percent (1.25 percent) 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).

*Comment:* One commenter expressed a concern that the 1.25 percent penalty for non-compliance with the data standard for error-free data for each reporting period, as defined in section 1356.85(b)(1), is too costly for States.

*Response:* As we stated in the NPRM, we have applied a significant penalty amount to the error-free compliance standard because we believe the State

must ensure that NYTD data reported to us meet important quality standards. Errors in the demographic, service, and outcome data (i.e., missing, out-of-range, and/or internally inconsistent data) significantly undermine the aims of the NYTD. Given the degree of importance of error-free data to this dataset, we have made no changes in the final rule in response to this comment.

In paragraph (b)(2)(ii), we specify that ACF will assess a penalty in the amount of one and one quarter percent (1.25 percent) 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 as defined in section 1356.85(b)(2). No comments were received on this section, and no changes have been made to the final rule.

In paragraph (b)(2)(iii) we specify that ACF will assess a penalty in the amount of one half of one percent (0.5 percent) 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 foster care youth participation rate defined in section 1356.85(b)(3)(i).

*Comment:* One commenter asked whether there are acceptable reasons for a State's inability to report youth outcomes information to us. If so, the commenter asked whether a State would be subject to a penalty if youth outcomes information could not be reported to us for such acceptable reasons.

*Response:* We are not prescribing 'acceptable reasons' for the State's inability to obtain outcomes information, rather the State must meet participation rates for the population as a whole to be in compliance with the NYTD requirements. We require the State to report the reason it is unable to collect outcomes information on a youth in the baseline or follow-up reporting populations through the outcomes reporting status data element described in section 1356.83(g)(34). The State will be held accountable for achieving 80 percent participation from the follow-up population in foster care and 60 percent participation from the follow-up population no longer in foster care. As noted in the discussion on section 1356.85(b)(3), there are three subgroups that we will not include in calculating whether a State achieved the youth participation rate (deceased, incapacitated and incarcerated), which means that the State will not be penalized for failing to collect outcomes data on these youth.

In paragraph (b)(2)(iv) we specify that ACF will assess a penalty in the amount

of one half of one percent (0.5 percent) 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 discharged youth participation rate standard defined in section 1356.85(b)(3)(ii).

*Comment:* We received a number of comments opposing a penalty for States that we find out of compliance with the discharged youth participation rate standard. Primarily, commenters believed we should not penalize States for not reporting information on youth for whom the State has no control or authority.

*Response:* As we stated in the NPRM, we recognize that collecting outcome data directly from youth discharged from foster care is one of the most challenging aspects of the NYTD. However, we consider the 0.5 percent penalty to be a relatively small penalty amount. Further, we chose a 0.5 percent penalty because the amount of the penalty had to be small enough so that in combination with other potential penalties, the maximum penalty would not be exceeded for the Federal fiscal year (5.0 percent). Additionally, we wanted to ensure that the penalties for failing to meet the participation rates did not exceed the penalties for a State failing to submit data on the outcomes universe. Thus, we have made no changes to the final rule in response to these comments.

In paragraph (c), we describe how we will take into account the assessed penalties in determining a final amount of a State's penalty for noncompliance with NYTD file submission and data standards.

*Comment:* One commenter disagreed with the approach to "round-up" the State agency penalty amount to one percent, if it is actually less than that.

*Response:* The statute at section 477(e)(2) of the Act requires us to assess a penalty in an amount of at least one percent of a State's CFCIP allotment for the Federal fiscal year for noncompliance with NYTD standards. As we discussed in the preamble to the NPRM, a State's assessed penalty could be less than one percent for the first reporting period because we proposed penalties based on State compliance for each six-month reporting period. In such a situation, we will determine that the State's penalty amount is one percent of the State's annual CFCIP allotment for the first reporting period accordingly. However, in the event that the State is in noncompliance with any standard in the subsequent six-month reporting period in the Federal fiscal year, we will not penalize the State

more than the actual calculated penalty amount for the fiscal year. We have made only minor editorial changes to this provision and no substantive changes in response to these comments.

In paragraph (d), we describe how we will notify States officially of our final determination that the State is out of compliance with the file submission or data standards following an opportunity for corrective action. We received no comments on this section, and we are not making changes in the final rule.

In paragraph (e), we explain that a State will be liable for applicable interest on the amount of funds we penalize, in accordance with the regulations at 45 CFR 30.13. We received no comments on this section and are not making changes in the final rule.

In paragraph (f), we explain that a State will have an opportunity to appeal a final determination that the State is out of compliance to the HHS Departmental Appeals Board (DAB) consistent with DAB regulations in 45 CFR part 16. We received no comments on this section. However, we are making a couple of technical changes to refer consistently to the body as the Departmental Appeals Board and remove the language in the NPRM that referred to an appeal of "any subsequent withholding or reduction of funds." We have made this change to clarify that a State can appeal ACF's final determination of noncompliance which will include an assessment of a financial penalty, but that there is not an opportunity for appeal to the DAB associated with ACF's withholding of funds that is separate from the final determination of noncompliance.

#### *Comments on Cost and Burden Estimates*

*Comment:* One commenter stated that this rule was an "unfunded mandate."

*Response:* The Unfunded Mandates Reform Act requires us to assess whether the rule imposes mandates on governments or the private sector that will result in an annual expenditure of \$100 million or more. We have determined that the approximate annual costs to States to comply with the information collection requirements identified in the "Paperwork Reduction Act" section will be approximately \$13 million, which includes costs that may be reimbursed by the Federal government as SACWIS expenditures. The hour burden associated with the information collection requirements is anticipated to be approximately \$3 million for all States annually, some of which may be paid for with CFCIP

funds. Therefore, this rule will not impose costs of \$100 million or more.

*Comment:* A commenter requested that we clarify the components of the NYTD requirements that we require to be incorporated into SACWIS and therefore may be claimed as title IV-E administrative costs under SACWIS.

*Response:* States that have elected to build a SACWIS must incorporate NYTD information collection and reporting activities related to children in foster care into their SACWIS system. Regulations at 45 CFR 1355.53(b)(3) and (4) as well as policy at ACF-OISM-001 (part IV) direct States to incorporate all case management and service functions for children in foster care into their SACWIS. Specific components of the NYTD that are included in a State's SACWIS are subject to the APD process. More specific guidance on SACWIS requirements and allowable costs will be issued outside of this regulation.

*Comment:* A couple of commenters requested guidance on the Federal funding sources States may use to pay for the costs related to the NYTD and whether title IV-E reimbursement is available for States that do not incorporate NYTD functionality into their SACWIS systems.

*Response:* A State may use CFCIP funds for any and all costs associated with implementing the NYTD. A State with a SACWIS must incorporate NYTD information collection and reporting activities related to children in foster care into their SACWIS system and may claim such information system costs as administrative costs under title IV-E to the extent they are allowable and consistent with a State's APD and cost allocation plan (45 CFR 1355.50-1355.57 and 1356.60(e)).

A State may not claim reimbursement under title IV-E for NYTD information system costs that are not incorporated into an approved APD for a SACWIS. The authority to claim information systems costs under title IV-E in section 1356.60(d) is limited to collecting and reporting data necessary to meet the AFCARS requirements in 45 CFR 1355.40 and those necessary for the proper and efficient administration of the title IV-E State plan and not the CFCIP plan.

*Comment:* A number of commenters requested additional Federal funding to meet aspects of the NYTD requirements, particularly those related to the outcomes component. For example, commenters requested funds for contracting out the responsibility to track and survey older youth for their outcomes, for fiscal incentives to encourage the participation of youth in the outcomes survey, and for

entitlement funding to reimburse States for some portion of the information system costs that are not currently reimbursable under SACWIS or for those States that do not have a SACWIS. These commenters believed that the Federal government should offset the costs associated with complying with this rule to eliminate the possibility of States reducing the level of services to youth.

*Response:* There is no additional Federal funding set-aside for the NYTD. The CFCIP program was created with a mandate for States to collect data, but the statute does not set-aside funds for that specific purpose. As mentioned previously, in addition to CFCIP funds, certain costs may be eligible for Federal financial participation under title IV-E at the 50 percent matching rate depending on whether the costs to develop and implement the NYTD are allowable costs under a State's APD for SACWIS. In these ways, the Federal government is providing funding to assist States in complying with the NYTD requirements.

*Comment:* Many commenters disagreed with our description of the cost to the States as a result of this rule as minor per Executive Order 12866. These commenters asserted the NPRM underestimates the actual costs the States would incur to implement the mandates of this rule, a few of whom provided their own estimates, although most did not. The commenters' estimates addressed different aspects of the costs. Two commenters estimated that tracking costs for approximately 240 to 300 youth in the follow-up population would cost \$36,000 to \$54,000 per year. Another commenter estimated State information technology costs at between \$100,000 and \$150,000 for the first 5 years of implementation. A different commenter suggested the overall costs of the rule to be between \$200,000–\$300,000 during the first three years of implementation.

*Response:* The comments we received from States regarding anticipated start-up and annual costs are in line with our original estimates. We expect that, on average, business process start-up costs, travel and training, process development, IT start-up operational and maintenance costs will be approximately \$250,000 per State per year. Many of these costs can be matched at 50 percent Federal financial participation for a State that has a SACWIS. We originally characterized these costs as minor, but we are aware of the impact the cost of implementation will have on States. In order to be in compliance with the statutory requirements we must collect the

necessary independent living service and youth outcome information.

*Comment:* Several commenters acknowledged that costs to implement this rule would vary across the States. A commenter believed that smaller States would be disproportionately impacted by this rule because system development costs are independent of the size of the population served, *i.e.*, States with smaller service populations would have to devote a greater percentage of their Federal CFCIP funds to meet the NYTD requirements relative to States with larger service populations of youth targeted by this rule. Another commenter explained that county-administered States would find implementation of this rule more challenging because of the increased responsibility to coordinate among the counties.

*Response:* We recognize that the reporting and recordkeeping burden is disproportionately higher for small States because they need to develop the same functionality as large States regardless of the number of youth reported. Some State costs are not affected by the number of youth in the reporting population. We also recognize that county-administered States may face more challenges in implementation; but see no need to change the rule in response. Each State will have different costs depending on its population of youth and the changes required in its information system and business procedures to meet the requirements in the regulation.

*Comment:* Many comments we received noted that current State agency staff are already overburdened with meeting existing expectations, and are, therefore, unable to implement this rule. In this vein, many commenters expressed a concern that we underestimated the costs of implementing this rule by not factoring in the cost of hiring extra staff and/or specialized staff to meet the requirements of the NYTD.

*Response:* We realize that some States may wish to hire additional staff to implement this rule. However, in general, we do not think that that implementing the NYTD will put an excessive burden on State agency staff given our burden estimates. We do acknowledge that the NYTD represents a change in the way that some State agencies conduct their business and there is burden associated with that change. Our estimates take into consideration a range of State costs, inclusive of staff time, that may result from this rule.

*Comment:* We received many comments that disagreed with our

determination of burden estimates and asserted that we underestimated the actual amount of staff time that is required to collect and record services, demographic and characteristics data; track the whereabouts of the youth in the follow-up population; garner youth consent; and collect and report outcome survey data. A couple of commenters believed that more realistic estimates to collect outcomes data from youth would be between 30 to 60 minutes. Another commenter estimated it would take one quarter hour for staff just to report outcome data, and the collection of such data would require extra time. A final commenter believed that we should pilot test the final NYTD to come up with better estimates of hour burden.

*Response:* We have reexamined our initial estimates related to collecting and recording services, demographics, characteristics data as well the outcome data. The estimate for the average amount of staff time per youth to collect and record services, demographic and characteristics data of 30 minutes per youth per reporting period is based on a pilot test and on experience with AFCARS and other data systems. Most, if not all, of the information required for these three areas should be readily available either in the case file or through the case worker. We do not expect that the time spent collecting and recording this information for each youth will take longer than 30 minutes on average.

We do agree with the commenters that the estimate in the NPRM for completing the youth outcomes survey is low and have adjusted our estimate upwards to take into account the necessary time for the youth to complete the survey and for the State to incorporate that information into the State's database. In reexamining the number of questions on the outcomes survey, we estimate that it will take youth approximately one half hour to complete the survey and 15 more minutes for States to record the outcomes information.

#### IV. Impact Analysis

##### *Executive Order 12866*

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this final rule is consistent with these priorities and principles. In particular, we have determined that a regulation is the best and most cost-effective way to implement the statutory mandate for a data collection system to track the independent living services

States provide to youth and develop outcome measures that may be used to assess State performance. Moreover, we have consulted with the Office of Management and Budget (OMB) and determined that these rules meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were subject to OMB review.

*Regulatory Flexibility Analysis*

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant impact on a substantial number of small entities. This final rule does not affect small entities because it is applicable only to State agencies that administer child and family services programs and the title IV-E CFCIP program.

*Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act (Pub. L. 104-4) requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation). This rule does not impose any mandates on State, local or tribal governments, or the private sector that will result in an annual expenditure of \$100 million or more.

We estimate State costs per year will be approximately \$250,000 per State for an annual total of about \$13 million per year. Many of the costs that States incur as a result of the NYTD may be eligible for Federal financial participation under title IV-E at the 50 percent rate. We therefore estimate the Federal government to reimburse States for approximately \$6.5 million of their costs annually. States may also use their allotment of Federal CFCIP funds to implement NYTD. Additional costs to the Federal government to develop and implement a system to collect NYTD data are expected to be minimal.

*Paperwork Reduction Act*

Under the Paperwork Reduction Act (Pub. L. 104-13), all Departments are required to submit to OMB for review and approval any reporting or record-keeping requirements inherent in a proposed or final rule. This final rule contains information collection requirements in sections 1356.82 and 1356.83 that the Department has submitted to OMB for its review. ACF will publish a second **Federal Register** notice when the associated information collection requirements have been approved by OMB and are effective. The respondents to the information collection in this final rule are State agencies.

The Department requires this collection of information to address the

data collection requirements of the John H. Chafee Foster Care Independence Program. Specifically, the law requires the Secretary to track youth demographics, characteristics and independent living services and to develop outcome measures that can be used to assess the performance of States in operating independent living programs.

This information collection will be comprised of a:

(1) *Data File*. The State's submission to ACF of two semi-annual data files that contain information on all data elements regarding youth services, demographics, characteristics and outcomes. A State will collect this information on an ongoing basis. The total annual burden will vary from year to year; the burden will be lower in years in which States do not have to collect information on youth outcomes. Years in which a State must expend effort to track or maintain contacts with youth as they age from 17 years old through 21 and collect outcomes data will have the highest total burden hours; and,

(2) *Youth Outcome Survey*. A survey composed of up to 22 questions on youth outcomes (that correspond with 22 data elements in the first instrument) to be completed by youth in the baseline and/or follow-up populations.

The following are estimates:

FFY 2011

Instruments (subcomponents)	Number of respondents	Number of responses per respondent	Average burden per response (hrs)	Total burden hours (hrs)
1. Data File .....	52	2	1,355	140,920
Services .....			1,259	130,936
Outcomes .....			*96	9,958
Tracking .....			0	0
2. Youth Outcome Survey .....	39,832	1	0.5	19,916
Total burden for both collections .....				160,836

\*Number is rounded.

FFY 2012

Instruments (subcomponents)	Number of respondents	Number of responses per respondent	Average burden per response (hrs)	Total burden hours (hrs)
1. Data File .....	52	2	1642	170,768
Services .....			1,259	130,936
Outcomes .....			0	0
Tracking .....			383	39,832
2. Youth Outcome Survey .....	0	0	0	0
Total burden for both collections .....				170,768

FFY 2013

Instruments (subcomponents)	Number of respondents	Number of responses per respondent	Average burden per response (hrs)	Total burden hours (hrs)
1. Data File .....	52	2	1719	178,737
Services .....			1,259	130,936
Outcomes .....			*77	7,969
Tracking .....			383	39,832
2. Youth Outcome Survey .....	31,876	1	0.5	15,938
Total burden for both collections .....				194,675

Burden Estimates in FFY 2010

In FFY 2010, States will have to begin changing their internal business procedures and information systems to meet the information collection requirements in the subsequent fiscal year. However, actual data collection and reporting is required in the subsequent fiscal year so there is no hour burden associated with the information collection for FY 2010 in accordance with the PRA.

Burden Estimates in FFY 2011

With regard to the data file instrument, we estimate that there will be approximately 2,518 youth who receive services annually per State. Each State will expend on average approximately 30 minutes (0.5 hours) to collect the services, demographics and characteristics information from those youth resulting in an hour burden of 1,259 per State each report period. FFY 2011 will be the first year the State administers the youth outcomes survey for the baseline population of 17-year-olds in foster care. We estimate on average 15 minutes (0.25 hours) for States to record the youth survey outcome information that will be reported in the data file. We estimate that there will be approximately 766 17-year-old youth in foster care at this time resulting in 96 burden hours to record this information each report period. We are not estimating a burden related to maintaining contacts with youth (*i.e.*, tracking) during this year as we expect States to know the whereabouts of the 17-years-olds still in foster care. Total hour burden for the data file instrument is 140,920.

With regard to the youth outcome survey instrument, we are estimating that it will take the estimated 39,832 youth nationwide approximately 30 minutes to complete the outcomes survey, resulting in a total of 19,916 burden hours.

Burden Estimates in FFY 2012

With regard to the data file instrument, we estimate the same 1,259 hour burden per State per report period

associated with collecting and reporting youth independent living services, demographics and characteristics information as in the previous year. In FFY 2012, however, there will be no youth outcome survey administered, so there is no burden associated with such reporting. However, States will have to maintain contacts with youth who have participated in the baseline population at age 17 so that they can solicit their participation in the youth outcomes data instrument collection when such youth turn 19-years-old. Therefore, we have estimated that each State will spend approximately 30 minutes (0.5 hours) per youth per report period to track approximately 766 youth, resulting in a total burden of 383 burden hours per State. Total hour burden for this instrument in year 2 is 170,768.

There is no outcomes data collection in FFY 2012, so there are no hour burdens associated with the youth outcome survey instrument.

Burden Estimates in FFY 2013

With regard to the data file instrument, the only difference from the previous year is with regard to the addition of an estimate for outcomes data recording and reporting related to the 19-year-olds in the follow-up population. We are estimating on average 15 minutes (0.25 hours) for States to record the outcomes information that will be reported in the data file for the approximately 613 youth in each State per report period. The number of youth is reduced as we expect States to obtain the participation of 80 percent of those youth who participated previously at age 17 (766). This results in approximately 77 burden hours per State per report period. Total hour burden for the data file is 178,737.

With regard to the outcome survey instrument, we are estimating that it will take the estimated 31,876 youth nationwide approximately 30 minutes to complete the outcomes survey, resulting in a total of 15,938 burden hours. Again, we have estimated that approximately 80 percent of the youth who participated in the outcomes data

collection at age 17 will participate again at age 19 during this fiscal year.

The three year average hour burden (FFYs 2011 through 2013) for both data files is 175,426.

The reader should note that the numbers of youth used for this estimate is based on the same data cited in the NPRM (see 71 FR 40369 to 40370). More recent AFCARS data indicate that the number of youth in foster care has declined somewhat, but since these numbers can fluctuate, we thought it best to use the same numbers for comparison purposes and to minimize confusion. The actual number of youth in any given year may change and affect these estimates, as would the decision of a State to sample youth rather than follow the larger population of youth who participate in the outcomes data collection. Finally, we chose to separate the year burdens into multiple charts to aid the reader in distinguishing the hour burdens associated with different fiscal years of implementation.

Congressional Review

This regulation is not a major rule as defined in 5 U.S.C. Chapter 8.

Assessment of Federal Regulations on Policies and Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing criteria specified in the law. These regulations will not have a significant impact on family well-being as defined in the legislation. By tracking independent living services provided to youth, developing outcome measures, and assessing a State's performance in operating an independent living program, we expect that States will be able to improve their programs for youth in foster care based on an understanding of how their services affect youth outcomes through this data, which will lead to positive influences on the

behavior and personal responsibility of youth.

#### Executive Order 13132

Executive Order 13132 on Federalism requires that Federal agencies consult with State and local government officials in the development of regulatory policies with Federalism implications. Consistent with Executive Order 13132, we specifically solicit comment from State and local government officials on this final rule.

#### List of Subjects in 45 CFR Part 1356

Adoption and Foster Care.

[Catalog of Federal Domestic Assistance Program Number 93.658, Foster Care Maintenance]

Dated: September 7, 2007.

**Daniel C. Schneider,**

*Acting Assistant Secretary for Children and Families.*

Approved: November 9, 2007.

**Michael O. Leavitt,**

*Secretary, Department of Health and Human Services.*

■ For the reasons set out in the preamble, 45 CFR part 1356 is amended as follows:

#### PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV—E

■ 1. The authority citation for part 1356 continues to read as follows:

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

■ 2. Add §§ 1356.80 through 1356.86 to part 1356 to read as follows:

#### § 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 the 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 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.

(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, or "not applicable" for youth participating solely in Medicaid. 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.

**§ 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 30.13.

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

■ 3. Add Appendices A, B, and C to part 1356 to read as follows:

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS

Element #	Element name	Responses options	Applicable population
1	State	2 digit FIPS code.	All youth in served, baseline and follow-up populations.
2	Report date	CYYMM. CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12).	
3	Record number	Encrypted, unique person identification number.	
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. No. Unknown. Declined.	

## APPENDIX A TO PART 1356—NYTD DATA ELEMENTS—Continued

Element #	Element name	Responses options	Applicable population
14 .....	Foster care status—services .....	Yes .....	Served population only.
15 .....	Local agency .....	No. FIPS code(s). Centralized unit.	
16 .....	Federally-recognized tribe .....	Yes. No.	Served population only.
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 .....	Yes. No.	
28 .....	Family Support/Healthy Marriage Education .....	Yes. No.	
29 .....	Mentoring .....	Yes. No.	
30 .....	Supervised independent living .....	Yes. No.	
31 .....	Room and board financial assistance .....	Yes. No.	
32 .....	Education financial assistance .....	Yes. No.	
33 .....	Other financial assistance .....	Yes. No.	
34 .....	Outcomes reporting status .....	Youth Participated .....	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).
		Youth Declined	
		Parent Declined	
		Youth Incapacitated	
		Incarcerated.	
		Runaway/Missing.	
		Unable to locate/invite.	
		Death.	
		Not in sample.	
35 .....	Date of outcome data collection .....	CCYYMMDD .....	Baseline and follow-up populations.
		CC= century year (i.e., 20).	
		YY = decade year (00–99).	
		MM = month (01–12).	
		DD= day (01–31).	
36 .....	Foster care status-outcomes .....	Yes. No.	
37 .....	Current full-time employment .....	Yes. No. Declined.	

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS—Continued

Element #	Element name	Responses options	Applicable population	
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 .....	Follow-up population <i>not</i> in foster care.	
43 .....	Public food assistance .....	No. Not applicable. Declined.		
44 .....	Public housing assistance .....	Yes. No. Not applicable. Declined.		
45 .....	Other financial support .....	Yes .....	Baseline and follow-up population.	
46 .....	Highest educational certification received .....	No. Declined. 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. No. Declined.		
48 .....	Connection to adult .....	Yes. No. Declined.		
49 .....	Homelessness .....	Yes. No. Declined.		
50 .....	Substance abuse referral .....	Yes. No. Declined.		
51 .....	Incarceration .....	Yes. No. Declined.		
52 .....	Children .....	Yes. No. Declined.		
53 .....	Marriage at child's birth .....	Yes. No. Not applicable. Declined.		
54 .....	Medicaid .....	Yes. No. Don't know. Declined.		
55 .....	Other health insurance coverage .....	Yes .....		Baseline and follow-up population.
56 .....	Health insurance type—medical .....	No. Don't know. Not applicable. Declined. Yes. Don't know. Not applicable.		

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS—Continued

Element #	Element name	Responses options	Applicable population
57 .....	Health insurance type—mental health .....	Declined. Yes. No. Don't know. Not applicable.	
58 .....	Health insurance type—prescription drugs .....	Declined. 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		
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).
Social Security (40) .....	Currently are you receiving social security payments (Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), or dependents' payments)? Yes ..... No ..... Declined .....	These are payments from the government to meet basic needs for food, clothing, and shelter of a person with a disability. A youth may be receiving these payments because of a parent or guardian's disability, rather than his/her own.
Educational Aid (41) .....	Currently are you using a scholarship, grant, stipend, student loan, voucher, or other type of educational financial aid to cover any educational expenses? Yes ..... No ..... Declined .....	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.
Other financial support (45) .....	Currently are you receiving any periodic and/or significant financial resources or support from another source not previously indicated and excluding paid employment? Yes ..... No ..... Declined .....	This means periodic and/or significant financial support from a spouse or family member (biological, foster or adoptive), child support that the youth receives or funds from a legal settlement. This 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 help that does not benefit the youth directly in supporting himself or herself.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Topic/element #	Question to youth and response options	Definition
Highest educational certification received (46) ..	What is the highest educational degree or certification that you have received? <input type="checkbox"/> High school diploma/GED ..... <input type="checkbox"/> Vocational certificate ..... <input type="checkbox"/> Vocational license ..... <input type="checkbox"/> Associate's degree (e.g., A.A.) ..... <input type="checkbox"/> Bachelor's degree (e.g., B.A. or B.S.) ..... <input type="checkbox"/> Higher degree ..... <input type="checkbox"/> None of the above ..... <input type="checkbox"/> Declined .....	"Vocational certificate" means 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. "Vocational license" means a document that indicates that the State or local government recognizes an individual as a qualified professional in a particular trade or business. An Associate's degree is generally a two-year degree from a community college, and a Bachelor's degree is a four-year degree from a college or university. "Higher degree" indicates a graduate degree, such as a Masters or Doctorate degree. "None of the above" means that the youth has not received any of the above educational certifications.
Current enrollment and attendance (47) .....	Currently are you enrolled in and attending high school, GED classes, post-high school vocational training, or college? <input type="checkbox"/> Yes ..... <input type="checkbox"/> No ..... <input type="checkbox"/> Declined .....	This means both enrolled in <i>and attending</i> high school, GED classes, or postsecondary vocational training or college. 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 (e.g., Spring break, summer vacation, etc.).
Connection to adult (48) .....	Currently is there at least one adult in your life, other than your caseworker, to whom you can go for advice or emotional support? <input type="checkbox"/> Yes ..... <input type="checkbox"/> No ..... <input type="checkbox"/> Declined .....	This refers to an adult who the youth can go to for advice or guidance when there is a decision to make or a problem to solve, or for companionship to share personal achievements. 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. The adult must be easily accessible to the youth, either by telephone or in person.
Homelessness (49) .....	Have you ever been homeless? OR .....  In the past two years, were you homeless at any time? <input type="checkbox"/> Yes ..... <input type="checkbox"/> No ..... <input type="checkbox"/> Declined.	"Homeless" means that the youth had no regular or adequate place to live. This includes living in a car, or on the street, or staying in a homeless or other temporary shelter.
Substance abuse referral (50) .....	Have you ever referred yourself or has someone else referred you for an alcohol or drug abuse assessment or counseling? OR .....  In the past two years, did you refer yourself, or had someone else referred you for an alcohol or drug abuse assessment or counseling? <input type="checkbox"/> Yes ..... <input type="checkbox"/> No ..... <input type="checkbox"/> Declined.	This includes either self-referring or being referred by a social worker, school staff, physician, mental health worker, foster parent, or other adult for an alcohol or drug abuse assessment or counseling. Alcohol or drug abuse assessment is a process designed to determine if someone has a problem with alcohol or drug use.
Incarceration (51) .....	Have you ever been confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime? OR .....	This means that the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with a crime (misdemeanor or felony) allegedly committed by the youth.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Topic/element #	Question to youth and response options	Definition
Children (52) .....	In the past two years, were you confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime? Yes ..... No ..... Declined.	
Marriage at Child's Birth (53) .....	Have you ever given birth or fathered any children that were born? OR ..... In the past two years, did you give birth to or father any children that were born? Yes ..... No ..... Declined.	This means giving birth to or fathering at least one child that was born. If males do not know, answer "No."  This means that when every child was born the youth was married to the other parent of the child.
Medicaid (54) .....	If you responded yes to the previous question, were you married to the child's other parent at the time each child was born? Yes ..... No ..... Declined .....	This means that when every child was born the youth was married to the other parent of the child.
Other Health insurance Coverage (55) .....	Currently are you on Medicaid [or use the name of the State's medical assistance program under title XIX]? Yes ..... No ..... Don't know ..... Declined .....	Medicaid (or the State medical assistance program) is a health insurance program funded by the government.
Health insurance type—medical (56) .....	Currently do you have health insurance, other than Medicaid? Yes ..... No ..... Don't know ..... Declined .....	"Health insurance" means having a third party pay for all or part of health care. Youth might have health insurance such as group coverage offered by employers or schools, or individual policies that cover medical and/or mental health care and/or prescription drugs, or youth might be covered under parents' insurance. This also could include access to free health care through a college, Indian Tribe, or other source.
Health insurance type—mental health (57) .....	Does your health insurance include coverage for medical services? Yes ..... Don't know ..... 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.
Health insurance type—prescription drugs (58) .....	Does your health insurance include coverage for mental health services? Yes ..... No ..... Don't know ..... Declined .....	This means that the youth's health insurance covers at least some mental health services. This question is for only those youth who responded "yes" to having health insurance with medical coverage.
Health insurance type—prescription drugs (58) .....	Does your health insurance include coverage for prescription drugs? Yes ..... No ..... Don't know ..... Declined .....	This means that the youth's health insurance covers at least some prescription drugs. This question is for only those youth who responded "yes" to having health insurance with medical coverage.

ADDITIONAL OUTCOMES INFORMATION TO COLLECT FROM YOUTH OUT OF FOSTER CARE

Public financial assistance (42) .....	Currently are you receiving ongoing welfare payments from the government to support your basic needs? [The State may add and/or substitute the name(s) of the State's welfare program]. Yes ..... No ..... Declined .....	This refers to ongoing welfare payments from the government to support your basic needs. Do not consider payments or subsidies for specific purposes, such as unemployment insurance, child care subsidies, education assistance, food stamps or housing assistance in this category.
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APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Topic/element #	Question to youth and response options	Definition
Public food assistance (43) .....	Currently are you receiving public food assistance? <input type="checkbox"/> Yes .....	Public food assistance includes food stamps, which are government-issued coupons or debit cards that recipients can use to buy eligible food at authorized stores. Public food assistance also includes assistance from the Women, Infants and Children (WIC) program.
	<input type="checkbox"/> No .....	
	<input type="checkbox"/> Declined .....	
Public housing assistance (44) .....	Currently are you receiving any sort of housing assistance from the government, such as living in public housing or receiving a housing voucher? <input type="checkbox"/> Yes .....	Public housing is rental housing provided by the government to keep rents affordable for eligible individuals and families, and a housing voucher allows participants to choose their own housing while the government pays part of the housing costs. This does not include payments from the child welfare agency for room and board payments.
	<input type="checkbox"/> No .....	
	<input type="checkbox"/> Declined .....	

**Appendix C to Part 1356—Calculating Sample Size for NYTD Follow-Up Populations**

population of one to 5,000 youth, because the sample is more than five percent of the population.

*1. Using Finite Population Correction*

The Finite Population Correction (FPC) is applied when the sample is drawn from a

$$\bullet \text{ Sample size with FPC} = \frac{(\text{Py})(\text{Pn}) + \text{Std. error}^2}{\text{Std. error}^2 + \frac{(\text{Py})(\text{Pn})}{N}}$$

• (Py)(Pn), an estimate of the percent of responses to a dichotomous variable, is (.50)(.50) for the most conservative estimate.

$$\bullet \text{ Standard error} = \frac{\text{Acceptable level of error}}{Z \text{ coefficient}}$$

• Acceptable level of error = .05 (results are plus or minus five percentage points from the actual score)

• Z = 1.645 (90 percent confidence interval)

$$\bullet \text{ Standard error, 90 percent confidence interval} = \frac{.05}{1.645} = .0303951$$

• 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.

$$\bullet \text{ Sample size without FPC, 90 percent confidence interval} = \frac{(\text{Py})(\text{Pn})}{\text{Std. Error}^2} = \frac{(.50)(.50)}{(.0303951)^2} = 271$$