



## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Administration for Children and Families**

#### **45 CFR Part 1351**

#### **RIN 0970-AC43**

### **Runaway and Homeless Youth**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule reflects existing statutory requirements in the Runaway and Homeless Youth Act and changes made via the Reconnecting Homeless Youth Act of 2008. More specifically, the rule establishes program performance standards for Runaway and Homeless Youth grantees providing services to eligible youth and their families. Revisions have been made to the rule regarding additional requirements that apply to the Basic Center, Transitional Living, and Street Outreach Programs, including non-discrimination, background checks, outreach, and training. Furthermore, the rule updates existing regulations to reflect statutory changes made to the Runaway and Homeless Youth Act, and updates procedures for soliciting and awarding grants. This final

rule makes changes to the proposed rule published on April 14, 2014, and is in response to public comments recommending ways to improve the rule.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]. However, compliance with the new performance standards is not required until the beginning of the next budget period after promulgation of this final rule.

**FOR FURTHER INFORMATION CONTACT:** Christopher Holloway, (202) 205-9560 (not a toll-free call). Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m. Eastern Time.

**SUPPLEMENTARY INFORMATION:**

**I. Statutory Authority**

This final rule is published under the authority granted to the Secretary of Health and Human Services by the Runaway and Homeless Youth Act (Title III of the Juvenile Justice and Delinquency Prevention Act of 1974), 42 U.S.C. 5701 *et seq.* as amended by the Reconnecting Homeless Youth Act of 2008 (Pub. L. 110-378). Specifically, under 42 U.S.C. 5702, “the Secretary of Health and Human Services...may issue such rules as the Secretary considers necessary or appropriate to carry out the purposes of this subchapter.”

## **II. Background**

The Runaway and Homeless Youth Act (“the Act”) authorizes three major grant programs administered by the Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), in the Department of Health and Human Services (HHS). These programs support local efforts to assist youth who have run away or are homeless.

The Basic Center Grant Program (hereafter referred to as the Basic Center Program) funds grants to community-based public and nonprofit private agencies (and combinations of such entities) to establish and operate local centers to provide services for runaway and homeless youth and for the families of such youth. Services provided include the provision of outreach, crisis intervention, temporary shelter, counseling, family unification, and aftercare services to runaway and homeless youth and their families. Basic Center projects generally serve youth under 18 years of age and can provide up to 21 days of shelter.

The Transitional Living Grant Program (hereafter referred to as the Transitional Living Program) provides grants to public and private organizations to establish and operate transitional living youth projects for homeless youth, including for community-based shelter including group homes, host family homes, and

supervised apartments for youth, ages 16 to under 22, who cannot safely live with their own families. Transitional Living projects provide a safe, stable, and nurturing environment for up to 21 months. Young people who have not yet reached their 18<sup>th</sup> birthday at the end of the 21-month period may continue to receive services until they turn 18. Services include counseling in basic life skills, interpersonal skill building, educational advancement, job attainment skills, and physical and mental health care. These services are designed to help youth who are homeless develop the skills necessary to make a successful transition to self-sufficient living. The Transitional Living Program also funds Maternity Group Homes, which are specifically designed to meet the needs of pregnant and parenting youth.

The Sexual Abuse Prevention Program (hereafter referred to as the Street Outreach Program) provides grants to nonprofit private agencies for street-based outreach and education, including treatment, counseling, provision of information, and referrals for runaway, homeless, and street youth 21 years and younger who have been subjected to or are at risk of being subjected to sexual abuse, prostitution or sexual exploitation.

The Act also authorizes additional activities conducted through grants, including grants for research, evaluation, and service projects; grants for a national communications system to assist runaway and homeless youth in communicating

with their families and service providers; and grants for technical assistance and training. This final rule covers all of these activities.

The Reconnecting Homeless Youth Act of 2008 (hereafter referred to as “the 2008 Act”) (Pub. L. 110-378) reauthorized the Runaway and Homeless Youth Act (hereafter referred to as “the Act”) through federal fiscal year (FY) 2013, and made a number of changes to the Act, including a requirement for the establishment of performance standards. Specifically, section 386A of the 2008 Act, Performance Standards, requires that: (1) HHS issue rules that specify performance standards; (2) HHS consult with grantees and national nonprofit organizations concerned with youth homelessness in developing those standards; and (3) HHS integrate the performance standards into the HHS processes for grant making, monitoring, and evaluation for the three major grant programs under the Act.

We have already implemented elements of these statutory mandates through funding opportunity announcements, technical assistance and training, and data collection. This final rule allows us to complete implementation of these legislative requirements. In addition, it will bring the program’s codified regulations, last updated August 17, 2000 (65 FR 50139), into conformity with existing statutory provisions, the administrative and managerial procedures we already use in accordance with the 2008 Act, and previous statutory changes. We intend to provide technical assistance to grantees that focuses on effective

implementation of these performance standards, and to implement them as new budget periods begin, after promulgation of this final rule, rather than in the middle of an existing budget period.

### **III. Consultation and the Development of the Final Rule**

In keeping with the requirements of the 2008 Act, the Family and Youth Services Bureau (FYSB) sought input from grantees and other stakeholders prior to the development of the proposed rule. In April 2009, FYSB conducted a consultation forum that brought together forty-four individuals including subject experts, technical assistance providers, Runaway and Homeless Youth (RHY) grantees, federal staff, persons with extensive program monitoring experience, and national, regional and statewide youth servicing organization representatives.

FYSB also obtained stakeholder perspectives and other information to inform the proposed rule in a number of additional ways. Since 2008, we have conducted national conferences bringing together all stakeholder groups and allowing for broad, informal exchanges of views. One such conference, the 2008 Runaway and Homeless Youth Grantee Conference was attended by 442 participants (including representatives from 252 grantee organizations) to share ideas, promising approaches, and best practices. Participants met in over 30 different workshops addressing both universal issues and specific programmatic needs of the three major RHY programs. Through the Runaway and Homeless Youth

Training and Technical Assistance Centers, we have conducted an extensive training, technical assistance, and monitoring effort aimed not only at assisting grantees, but also at obtaining their feedback on operational issues. In tandem with these efforts, we conducted an in-depth review of existing regulatory and sub-regulatory issuances and developed a comprehensive set of on-site review materials, in use since February 2009.

These consultative processes provided valuable input that we used in formulating the performance and procedural standards. Importantly, the input we received emphasized that:

- The standards should promote an integrated, holistic approach to service delivery.
- The standards should be responsive to the complex social identities (i.e., race, ethnicity, nationality, religion/spirituality, gender identity/expression, sexual orientation, socioeconomic status, disability, language, beliefs, values, behavior patterns, or customs) of clients.
- The standards should serve as models for program quality and encourage programs to strive for excellence.
- The standards should achieve a balance between clarity and precision of regulatory intent and regulatory flexibility so that programs can be most responsive to local needs, settings, and circumstances.

- The standards should place emphasis on family-focused aspects of the program by strengthening links with local community providers, and helping families identify and address individualized goals.
- Standards of any kind—whether performance or procedural—should facilitate rather than impede local flexibility in creating and operating effective programs that respond to local needs and priorities.
- Standards should not unnecessarily impose burdensome requirements that would divert local resources away from service.

We retained these principles in developing the final rule. As we stated in the proposed rule, we believe that “Regular measurement of progress toward specified outcomes is a vital component of any effort at managing-for-results.” (Harry P. Hatry, Performance Measurement, Urban Institute Press, 2006).

However, we recognized that effective, workable, and successful performance standards are extremely difficult to formulate and often need amending over time. Among the difficulties encountered are: (1) some of the most important goals may be qualitative rather than quantitative; (2) near-term results may not correctly signal long-term effects; (3) measurement and appraisal may reduce the resources available for services; and (4) local circumstances may vary and achieving a lower absolute result in some settings may actually reflect superior performance over other settings because difficulties were greater. Despite these difficulties, we have increasingly incorporated performance measures and standards into the Runaway and Homeless Youth Program’s ongoing operations

to drive program improvement and help assure accountability. The standards and measures in this rule are appropriate, realistic, and consistent with the underlying complexity of the problems and processes involved in serving homeless and runaway youth.

In the proposed rule preamble, we stated that we welcomed comments on whether our proposed standards struck the proper balance in meeting the objectives stated above, including measuring the most important program goals that are feasible to measure, preserving flexibility to grantees, and minimizing unnecessary burden. We asked for suggestions, particularly those supported by research or evaluative evidence, for improvements in the proposed standards. To assist in such comments, we provided specific regulatory text that commenters could review and suggest changes. As described later in this preamble, we received useful and detailed comments from individuals, providers, advocacy groups, government agencies, and others that have assisted us in making the decisions reflected in this final rule.

As a result of the consultative and rulemaking process, this final rule codifies a targeted number of process and procedural requirements in order to minimize burden to grantees and to provide grantees flexibility in meeting their performance standards and in dealing with unique circumstances in their communities. This final rule reflects that there are many effective practices that

are best handled through technical assistance and training rather than established as regulatory standards.

We will work closely with our grantees in implementation of this final rule through our training and technical assistance activities to ensure they thoroughly understand the new standards and reporting requirements.

#### **IV. Scope of the Final Rule**

This final rule establishes Runaway and Homeless Youth Program Performance Standards to help assess the quality and effectiveness of the Runaway and Homeless Youth Program nationally by providing indicators of successful outcomes for youth. The performance standards will be used to monitor individual grantee performance in achieving the purposes of the Act. Program projects will also be subject to other requirements including other applicable regulations (e.g., civil rights regulations), and those cited in funding opportunity announcements.

This final rule also makes largely technical changes to existing program rules to conform to current law and to correct outdated provisions. Equally important, it revises our regulatory provisions on making awards to reflect the performance standards and to reflect onsite review and monitoring procedures that have been in place for a number of years.

This final rule is effective 30 days after publication in the Federal Register; however, compliance with the new performance standards will not be required until the beginning of the next budget period (October 1) after the effective date of the final rule. This will allow existing grantees time to come into compliance with the new standards, and provide time for us to assist grantees, and avoid confusion that may result from changing standards in the middle of budget periods. To assist grantees, we will provide them with guidance on best practices for implementing the standards. We will also conduct additional technical assistance to help grantee agencies understand and implement the new standards. We intend the final rule to complement our other efforts to strengthen Runaway and Homeless Youth grantee monitoring and to improve the overall program.

## **V. Summary of Public Comments**

We received 72 responsive and unique comments or sets of comments on the proposed rule, not including comments that were word-for-word identical. Multiple organizations and individuals endorsed several of these comment sets, and the total number of commenting individuals and organizations was about 300. About a dozen comments expressed overall support for the rule and made no specific suggestions for change.

Without exception, the substantive comments reflect an understanding of the many problems affecting runaway and homeless youth, and of the many challenges that arise in administering programs for these youth. This understanding was evident in not only comments from advocacy groups and other organized commenters, but also the comments from individual service providers and from concerned individuals. We were able to accommodate many, but not all, of the recommendations in these comments. In some cases, the statute gives us little or no flexibility to accept commenter recommendations. In other cases, we agree that the comment raises an important issue, but not that the issue can or should be addressed through this regulation. Many recommendations in the comments address issues that we believe are best addressed either in implementation guidance, in funding opportunity announcements, or in individual decisions by service providers themselves. Other issues raised involved the respective roles of federal and state governments, or of other agencies or programs involved in the lives of these youth (e.g., housing programs, juvenile justice system). In our response to each issue raised by commenters, we address these factors insofar as they affect the decision in the final rule. These exceptions aside, we accepted many dozens of suggested changes in whole or in part, and believe that the comments were helpful in improving the final rule.

## **VI. Section-by-Section Discussion of the Regulatory Provisions, Issues, and Comments**

We received a number of comments that did not address a particular section of the proposed rule either directly or by inference. We address those first.

Comment: One commenter said that the law needs to make room for faith-based programs.

Response: We did not make any changes to the final rule in response to this comment because the existing ACF Policy on Grants to Faith-Based Organizations already establishes ACF's commitment to partnering with faith-based organizations.

More specifically, the ACF Policy on Grants to Faith-Based Organizations states the following: "This administration is committed to providing the full range of legally permissible services to people who need them, and to doing so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. At the same time, we also are committed to finding ways for organizations to partner with us even if they object to providing specific services on religious grounds." The full policy can be found here: <http://www.acf.hhs.gov/acf-policy-on-grants-to-faith-based-organizations>.

Comment: One commenter pointed out that our background preamble discussion of transitional housing being a “long-term environment,” in light of the 21-month period for which such housing can be provided in the Transitional Living Program as compared to the 21-day period allowed in the Basic Center Program, is not seen as a long-term solution in housing programs administered by HUD.

Response: We agree that the Transitional Living Program services are not permanent housing solutions, or even long-term when compared to the housing options that HUD offers. As indicated throughout the proposed and final rules, one of the major priorities of the RHY Program is, whenever reasonably and safely possible, to return youth to their family homes for support until they can find their own longer-term solutions, or, when reunification is not possible, to assist youth in establishing more permanent arrangements. Within the context of the Continuum of Care Program, as defined by HUD, and its housing and service structure, TLP is considered transitional housing and BCP is considered emergency shelter. Neither is considered to be a permanent placement. We have therefore deleted references to “long-term” transitional living services throughout this rule.

Comment: One commenter asked that we add a requirement that youth served by these programs be actively involved in developing these services, through meaningful leadership positions and involvement in policy development and evaluation. Research supporting this position was provided.

Response: The idea is worth future consideration. We think it would likely present concerns if established as a regulatory requirement at this point in time, in part because it was not presented as a proposal for the public, including stakeholders, to comment on.

### **Subpart A. Definition of Terms**

The significant terms in §1351.1 reflect current statutory terminology and operating practice. We proposed to revise a number of existing definitions, to add a number of definitions, to delete a few definitions that we do not believe are useful or necessary, and to change the format of the definitions. We requested comment on each new or revised definition. The additions and revisions are intended to reflect both recent changes to the statute and important practices in the administration of the program. The definitions section applies to all grants under the Act. Each individual definition only applies where it is applicable to each type of grant. We received comments on many, but not all, of the definitions.

We are leaving unchanged and as proposed the definitions on which we received no comments. These include the following terms: Act, client, drop-in center, drug abuse education and prevention services, runaway and homeless youth project, short-term training, state, supervised apartments, and technical assistance.

### *Act*

We received no comments on this definition and have retained it in this final rule.

### *Aftercare*

We proposed to revise the definition of Aftercare to read: ‘Aftercare means additional services provided beyond the period of residential stay that offer continuity and supportive follow-up to youth served by the program.’

Comment: We received one comment on this definition. That comment suggested that we not limit this term to residential care, pointing out that aftercare could apply to non-residential services. The commenter also suggested adding a reference to the family.

Response: The only two programs affected by this regulation that would have an aftercare component are residential programs (BCP and TLP), so it is not appropriate to expand the aftercare definition to programs that are not residential. Regarding the request to add references to families receiving aftercare services, our statutory mission under §312(b)(5) of the Act includes a provision to “develop an adequate plan for providing counseling and aftercare services to such youth, [and] for encouraging the involvement of their parents or legal guardians in counseling...” We interpret the statute as intending the aftercare provision to be

provided for youth specifically but we do encourage parental involvement. Therefore, we have retained the proposed rule language in this final rule.

### *Area*

We proposed to delete the existing regulatory definition of “area” in the NPRM because a precise definition is not required for the purposes of the program. Receiving no comments, we have deleted it in this final rule.

### *Background Check*

We received a dozen unique comments on this definition and/or on the related requirement in proposed § 1351.20(l), which is numbered §1351.23(j) in this final rule, (requirements that apply to all Runaway and Homeless Youth Program local services grants) that all grantees “shall conduct complete background checks on all employees and volunteers.” These comments represent in total over a hundred individuals and organizations. Most of the comments argued that the definition and/or requirement as worded were too broad and would be both expensive, time consuming (weeks for responses from some states), and disruptive of program operations.

Comments: Several comments objected to making this a national background check, rather than one focused on state records. These comments argued that this would be both burdensome and time consuming. One commenter

suggested adding consultants as individuals who should be subject to background checks.

Several commenters objected to subjecting volunteers to the same check as employees (e.g., checking employment records and driving records for volunteers). Other commenters felt that the proposed definition was ambiguous as to what was required for volunteers' background checks. In particular, several commenters pointed out that many volunteers may be one-time attendees at particular events, that some staff and volunteers may not work directly with youth, and that some volunteers may not have unsupervised contact with youth; these commenters recommended exemptions in cases such as these. As examples, volunteers might be used to cook hot meals on holidays, might be guest speakers, or might visit one time as a member of a community group.

Several commenters asked whether the driving record check would apply only to those who transport youth. One commenter pointed out that some kinds of criminal backgrounds do not pose serious risk of harm to the grantee or clients, and asked for clarification that employment of such persons (who might have committed minor crimes as youth) not be prohibited. Several commenters noted that there was ambiguity as to what kind of national check might be required and several pointed out that at least one state performed an out-of-state check only for states in which the person has recently lived.

Response: In order to provide clarity, we have revised the final rule to address many of the above comments. We agree that the proposed rule needed more clarity regarding what kinds of background checks are required. As a result, we have revised the final rule at § 1351.23(j) to clarify that grantees shall conduct a background check on all employees, contractors, volunteers, and consultants who have regular and unsupervised private contact with youth served by the grantee, and on all adults who reside in or operate host homes.

We do not agree with the comments that request background checks only include state records. Both state and national records are necessary for youth safety. However, we did revise the final rule to provide clarity on which background checks are required.

We did not address background check fees in this rule. We understand programs may bear costs associated with background checks and we encourage programs to use the resources available to them and consider ways to allocate funds differently to cover these costs.

In the interest of youth safety and to be mindful that all parties have an obligation to exercise due diligence, our proposed definition and related requirements for background checks have been revised in the final rule. We have revised the definition of background check for employees, consultants, contractors, and employment applicants to include: State or tribal criminal history records

(including fingerprint checks); Federal Bureau of Investigation criminal history records including fingerprint checks, (to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award); a child abuse and neglect registry check (to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award); and a sex offender registries check.

The plans, procedures, and standards must identify background check findings that would disqualify an applicant from consideration for employment to provide services for which assistance is made available in accordance with this part. To further protect children's safety, in § 1351.20(l), which is numbered § 1351.23(j) in this final rule, we also require that programs document the justification for any hire where an arrest, pending criminal charge, or conviction is present.

#### *Budget period*

In the NPRM, we proposed defining the term Budget Period as "*Budget period* means the interval of time into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes." We received no comments on this definition. However, this definition was used only in proposed § 1351.34, which, as described below, has been removed from this final rule. Therefore, we are also removing this definition from the final rule.

### *Case management*

Case management is a central concept in serving client youth, and we proposed to add a definition to read: Case management means assessing the needs of the client and, as appropriate, arranging, coordinating, monitoring, evaluating, and advocating for a package of services to meet the specific needs of the client.

Comment: We received one comment on this definition, asking that we add the phrase “identification of needs.”

Response: In the interest of clarity we have made the requested change, and have also included new language making clear that identifying the needs of a client should be done in consultation with the client.

### *Client*

We did not receive any comments on this definition and therefore have retained the proposed definition in the final rule.

### *Congregate care*

We proposed congregate care to read: Congregate care means a shelter type that combines living quarters and restroom facilities with centralized dining services, shared living spaces, and access to social and recreational activities.

Comments: We received two comments on the definition of congregate care suggesting that it too closely aligned with the definition of family home.

Response: We agree with the comments and have adjusted the definition to add the qualification that a congregate care shelter is not a family home.

### *Contact*

Contacting homeless youth is a core function of the entire program, and the primary function of the Street Outreach Program. We proposed to define Contact to read: Contact means the engagement between Street Outreach Program staff and homeless youth in need of services that could reasonably lead to shelter or significant harm reduction. Closely related to this definition, and dependent on this definition, is §1351.32, where we proposed as a performance measure for the Street Outreach Program the total number of contacts made by the project, giving the projects credit for repeatedly reaching youth.

Comment: We received twelve comments on, either, the definition of contact, the performance measure, or both. Some comments represented multiple individuals and organizations, about 200 in total. Several of these comments argued that the definition should include explicit references to locations frequented by homeless youth. Most argued it should be broadened to include street youth at risk of homelessness or runaway status, not just those already in

those situations, pointing out that the statute uses the term “at risk” in describing the purpose of the Street Outreach Program.

Response: We appreciate these comments and have made most of the suggested changes. Although the multiple settings in which youth might be contacted are implicit in the proposed definition, we agree that it adds clarity to list some of them. We agree that “at risk” youth should count as contacts and are adding this to the definition. Accordingly, we have revised the definition to say that Contact includes “youth who are at risk of homelessness or runaway status or homeless youth in need of services that could reasonably lead to shelter or significant harm reduction” and have added a sentence saying, “[t]his contact may occur on the streets, at a drop-in center, or at other locations known to be frequented by homeless, runaway, or street youth.”

#### *Core competencies of youth worker*

Core competencies are essential in providing services that lead to improved outcomes for clients. We proposed to add a definition for core competencies of youth worker to read: core competencies of youth worker means the ability to demonstrate skills in six domain areas: (1) professionalism (including, but not limited to, consistent and reliable job performance, awareness and use of professional ethics to guide practice), (2) applied positive youth development approach (including, but not limited to, skills to develop a positive youth development plan and identifying the client’s strengths in order to best apply a

positive youth development framework), (3) cultural and human diversity (including, but not limited to, gaining knowledge and skills to meet the needs of clients of a different race, ethnicity, nationality, religion/spirituality, gender identity/expression, sexual orientation), (4) applied human development (including, but not limited to, understanding the needs of those at risk and with special needs), (5) relationship and communication (including, but not limited to, working with clients in a collaborative manner), and (6) developmental practice methods (including, but not limited to, utilizing methods focused on genuine relationships, health and safety, intervention planning).

Comment: We received six unique comments on the definition of core competencies of youth workers. One commenter expressed the hope that items number (3) and (4) mean to address and include lesbian, gay, bisexual, transgender, and/or questioning (LGBTQ) youth. Another commenter recommended that item number (6) add the importance of working within an “ecological framework” that understands family and community and the role of the worker and client within that framework. Two commenters expressed the hope that youth workers will progress toward becoming certified by either state or national certifying bodies, and are guided in their professional development by competency domains and manuals developed by a national certifying body. One commenter said that all staff need not be trained in all competencies.

Response: We appreciate these comments and have made no changes in the final rule. The details of skills development among youth workers within the domain areas we identify will depend on education, training, and on-the-job experience, much of which will be unique to individual workers and their work assignments. We expect that such education and training will often utilize the perspectives and materials mentioned in the comments, but see no reason to add such detail in a codified rule. Regarding lesbian, gay, bisexual, transgender or questioning (LGBTQ) youth, we do intend the core competencies of youth workers to address and include the needs of these youth, and believe that this is clear in the standards as written. As for the comment on not all staff needing training in all competencies, we agree. We address this in the final text of §1351.23. We expect youth workers to complete core competency training in order to effectively fulfill their job responsibilities working with runaway and homeless youth. We do not expect that every staff person to be trained in core competencies, but all staff members who work directly with youth should receive training sufficient to meet the stated core-competencies of youth workers.

### *Counseling services*

We proposed to revise the definition of counseling services to include runaway prevention and intervention related services as follows: Counseling services means the provision of guidance, support, referrals for services including, but not limited to, health services, and advice to runaway or otherwise homeless youth and their families, as well as to youth and families when a young person is at risk

of running away. These services are designed to alleviate the problems that have put a youth at risk of running away or contributed to his or her running away or being homeless. We received six unique comments on our proposed revision, several of them endorsed by many individuals or organizations.

Comment: One commenter asked why the first sentence of the definition didn't directly say homeless.

Response: We think that the definition as worded, which includes the phrase "runaway or otherwise homeless youth", clearly includes homeless youth, and have not made this change.

Comment: One commenter said that counseling services should explicitly include therapeutic services, including trauma-informed psychotherapy.

Relatedly, two other comments recommended removing the word "advice" and replacing it with "clinical services" to include mental health counseling and psychotherapy.

Response: We do not agree with the comments suggesting that we require therapeutic or clinical mental health care services in place of "advice." The Act does not authorize grantees to provide health care services directly and our grants do not include funding for professional health care providers. Our grantees' counseling services are intended to provide both advice and referrals

when mental health services are needed (see our following discussion of health care services). Accordingly, we have not made this change.

Comment: Two commenters said that many youth were “forced out” of family homes because of their sexual orientation or gender identity, that a term such as “where appropriate and in the best interest of youth” should condition the language concerning advice and counseling for families, and that the word “families” should include “individuals identified by such youth as family” (to include legally unrelated individuals with whom youth have “strong, supportive relationships”). These comments pointed out that parental abandonment or rejection is often the cause of runaway or homeless status among LGBTQ youth.

Response: We agree with the commenters who focused on the point that youth are often “forced out” of family homes. As to advice and counseling, the Act expresses a strong preference for reuniting youth and their families, and therefore, we expect grantees to work towards reunification as appropriate and safe for youth. Sometimes it will be impossible to locate families; the youth or family or both may refuse counseling; or some other impediment to reunification may arise. Grantees are not expected to achieve the impossible. Taking into consideration the statute and this comment, we have added language that counseling should be provided “as appropriate.” We have also added the phrase “in consultation with clients” to emphasize that these services and advice must reflect the unique situation that faces each particular youth.

Furthermore, based on a comment received urging ACF to specifically prohibit conversion therapy in § 1351.19 of the proposed rule we are adding a sentence to the definition of “counseling services” to specifically exclude conversion therapy and referrals to conversion therapy by adding language at the end of the definition that says “[a]ny treatment or referral to treatment that aims to change someone’s sexual orientation, gender identity or gender expression is prohibited.” This change is described further in the comments to § 1351.19 of the proposed rule in this preamble.

*Demonstrably frequented by or reachable*

We proposed to delete the existing regulatory definition of “Demonstrably frequented by or reachable”. The definition is unnecessary. No commenters raised any concern over this change and this final rule deletes it.

*Drop-in center*

We received no comments on the proposed definition and have left it unchanged in the regulatory text.

*Drug abuse education and prevention services*

Drug abuse education and prevention services are important, and are defined under that term in the Act (section 387(1)). We proposed to broaden the substance of the statutory definition in regulatory text to read: ‘Drug abuse

education and prevention services means services to prevent or reduce drug and/or alcohol abuse by runaway and homeless youth, and may include (1) individual, family, group, and peer counseling; (2) drop-in services; (3) assistance to runaway and homeless youth in rural areas (including the development of community support groups); (4) information and training relating to drug and/or alcohol abuse by runaway and homeless youth to individuals involved in providing services to such youth; and (5) activities to improve the availability of local drug and/or alcohol abuse prevention services to runaway and homeless youth.’ Our reasons for the broadening of this definition are two-fold. First, we note that the RHY statute explicitly contemplates services to address alcohol abuse in section 387(5). Second, the inclusion of alcohol abuse in addition to drug abuse is standard practice in the substance abuse field as is demonstrated in the definition used by the Substance Abuse and Mental Health Services Administration: ‘substance abuse means the abuse of alcohol or other drugs.’ We received no comments on this definition and it is retained as proposed.

#### *Health care services*

In the proposed rule, the definition of health care services read: ‘Health care services means physical, mental, behavioral and dental health services and, in the case of Maternity Group Homes mean those provided to the child of the youth; and where applicable and allowable within a program, family or household members of the youth shall receive information on appropriate health related services.’

Comment: We received four unique comments on the proposed definition, some of these representing multiple individuals and organizations. Three comments pointed out that the language as drafted did not clearly cover both youth and any children of these youth. A fourth comment generally praised the proposed definition, but raised two issues, one concerning the need for longer-term treatment, and one concerning the confidentiality of private health information that might be provided to family members.

Response: We have revised the definition to state more clearly that health care is not only for the client youth, but also in some cases for the child of the youth. We agree that longer-term treatment and privacy of medical information are important issues. We do not believe, however, that they should be addressed in a definition and respond to this comment in our discussion of requirements concerning referral services and information confidentiality. Additionally, based on a comment received in § 1351.19 of the proposed rule to specifically prohibit conversion therapy, we are adding a sentence to the definition of “health care services” in § 1351.1 to specifically exclude conversion therapy and referrals to conversion therapy by adding language at the end of the definition that says “[a]ny treatment or referral to treatment that aims to change someone’s sexual orientation, gender identity, or gender expression is prohibited.”

*Home-based services*

We proposed to follow the substance of the statutory definition (section 387(2)) of home-based services to read as follows: Home-based services means services provided to youth and their families for the purpose of preventing such youth from running away or otherwise becoming separated from their families and assisting runaway youth to return to their families. It includes services that are provided in the residences of families (to the extent practicable), including intensive individual and family counseling and training related to life skills and parenting.

Comment: We received three unique comments on the proposed definition of home-based services, representing in total about 50 individuals and organizations. One commenter suggested that we retitle this definition to refer to “family support and reunifications services” rather than “home-based” services, to reflect the clear purpose of the services as defined. This commenter also recommended adding a definition for supportive housing to capture the need for in-home services when the youth does not live with his or her family. The other commenters said that the definition should specifically allow for the case where family reunification is not in the best interest of the youth.

Response: We have not changed the definition. The term “home-based” is the statutory term used in the Runaway and Homeless Youth Act and we see no compelling reason to depart from the terminology of the statute. The commenters are correct that the focus is on family reunification, but we think “home-based” is well understood to mean services provided in the home of the

youth's family. Underlying both sets of comments is the point that there will be cases where family reunification is not in the best interest of the youth. We agree with this point. However, nothing in this definition (or elsewhere in the rule) prevents or inhibits either youth or their service providers from considering that question and reaching a decision that home-based services are not possible or appropriate in a particular case, even though they are the preferred outcome in the great majority of cases. We deal further with the issue of "best interest of the youth" in our discussion of additional requirements that apply to all local services grants.

#### *Homeless youth*

Homeless youth is an essential definition because it identifies individuals eligible to be served under the Act. We proposed to revise the previous definition to read as follows, paraphrasing the Act (section 387(3)): 'Homeless youth means an individual who cannot live safely with a parent, guardian or relative, and who has no other safe alternative living arrangement. For purposes of Basic Center Program eligibility, a homeless youth must be less than 18 years of age (or higher if allowed by a state or local law or regulation that applies to licensure requirements for child- or youth-serving facilities). For purposes of Transitional Living Program eligibility, a homeless youth cannot be less than 16 years of age and must be less than 22 years of age (unless the individual commenced his or her stay before age 22, and the maximum service period has not ended).'

Comment: We received six unique comments on this definition, one endorsed by many individuals and organizations, focusing on a number of specific issues. One commenter asked if a youth could stay in the Basic Center program if an individual enrolled before age 18 and turned 18 while in the programs, or whether that meant that the newly 18 year old individual would become his or her own legal guardian. Another asked whether the Basic Center age could be raised to 19. Two commenters asked whether the age for Transitional Living could be raised, mentioning 24, 24 ½, or 25 as options. One commenter recommended that the term “guardian” be replaced by “legal guardian.” One commenter requested clarification that “safety” be interpreted broadly to include not only safety from physical harm, but also from emotional and mental harm. Another comment noted conflicts between state laws and federal policies which include different ages for services. The commenter also noted that the terms “cannot live safely” and “no other safe alternative” are not included in some state definitions but are included in the federal definition of youth homelessness.

Response: These age limits and the restrictions related to safe environments are taken from the federal statute’s definition of homeless youth in section 387(3) of the Act. We agree that there are circumstances where these strict limitations may inhibit service provision, but note that nothing prevents a state government, a local government, or a private organization from funding services directly for older youth or those who otherwise do not qualify under federal law. Regarding the Basic Center program age limits, section 387(3)(A)(i) says in the case of a

youth seeking shelter in a center under the Basic Center program, a homeless youth is “less than 18 years of age or is less than a higher maximum age if the State where the center is located has an applicable State or local law (including a regulation) that permits such higher maximum age in compliance with licensure requirements for child- and youth-serving facilities.” For the Transitional Living Program, section 387(3)(A)(ii) says youth who can be served in the program must be not less than 16 years of age and either (I) less than 22 years of age; or (II) not less than 22 years of age, as the expiration of the maximum period of stay permitted if such individual commences such stay before reaching 22 years of age.

The word “guardian” normally means an officially appointed legal guardian, but for consistency with other text we have added the word “legal” to our definition. We agree with the comment that “safe” and “safely” encompass avoiding mental (including emotional) and physical harm. We further note that Runaway and Homeless Youth projects must also serve youth at risk of running away or becoming homeless, which is particularly important when either physical or mental abuse or family instability is involved. Finally, while there are some instances in which state definitions of “youth homelessness” differ from federal law, the federal statutory language which governs RHY programs is very specific and cannot be amended without action from Congress. This definition aligns with the existing statutory language in the Act.

### *Host family home*

We proposed host family home to read: Host family home means a family or single adult home that provides shelter to a homeless youth.

Comment: We received four unique comments on this definition, with over 100 individuals and organizations endorsing one set of comments. Two comments said that our definitions of congregate care and host family home were essentially identical. A third comment said that in at least one state what we called a host family home would be allowed to serve two homeless youth, not merely a single youth. The fourth comment asked why the word family was used rather than host, and whether a home could be a family home if only one adult was present.

Response: While we agree that the definitions of 'congregate care' and 'host family home' contain similar elements, we do not agree that our definitions are essentially identical. A host family home implies the presence of a person or family who rents or owns the building or apartment and uses it as its own domicile, and takes in or "hosts" one or possibly two homeless youth who will live with the person or family. If no homeless youth are present, it is still that person's or family's domicile. For clarity, we have revised the definition to include that a host family home means a home or domicile. A family retains discretion as to whether it hosts a particular youth or any youth. In contrast, a congregate care shelter need not be and ordinarily would not be the domicile of a family, would

ordinarily serve a larger number of homeless youth, would have essentially all spaces shared, and would have organized social and recreational activities. Congregate care facilities are also normally licensed as shelters, whereas a family host home may be able to host unrelated individuals without a license. As to calling the home by that term, we were following the statutory terminology. As our definition states, a family may be a single adult. We do agree that there are circumstances where a family might be willing and able to host more than one youth (for example, multiple siblings), and have revised the definition to allow for that option.

### *Intake*

Intake services are essential functions under the Act. We proposed to define intake to read: 'Intake means a process for gathering information to assess eligibility and the services required to meet the immediate needs of the client.'

Comment: We received three comments on the definition of intake, One commenter recommended that the intake definition include a clause stating that "intake may occur in the context of a community-level coordinated entry or assessment system," with the justification that HUD has Continuum of Care regulations that can serve an important intake role. Another comment made the same point about the HUD process without recommending specific language. One commenter suggested that it would be beneficial for the program if ACF

encouraged grantees to participate in broader planning processes within Continuum of Care areas.

Response: We agree that all the comments raise valid concerns. We have added to the intake definition: ‘The intake process may be operated independently but grantees should, at minimum, ensure they are working with their local Continuum of Care to ensure that referrals are coordinated and youth have access to all of the community's resources, given the major role that HUD-funded programs perform in serving homeless individuals of all ages. We have not, however, limited it to any particular system or process, since states or communities need flexibility to experiment or supplement. We did not include a planning and coordination requirement in the definition, as it more appropriately belongs in our requirements. We proposed a requirement for participating in training and technical assistance related to coordinated services in local networks in proposed § 1351.20(a), which applies to all local service grants, and are revising it in this final rule to include participation in coordinated networks (one of which would be Continuum of Care areas).

#### *Juvenile justice system*

Extremely important in this program are interfaces between Runaway and Homeless Youth projects and the juvenile justice system. We received no comments on our proposed language but have recognized that only the term “juvenile justice system” is referenced in the Act and in other places in regulatory

text. For this reason, we have deleted the words “institutions, or authorities” from the defined term.

*“Law enforcement structure” and “a locality”*

In the proposed rule, we stated that “law enforcement structure” and “a locality” are definitions that are unnecessary in these regulations and accordingly we proposed to delete them. We received no comments on these proposals, and the final rule deletes these definitions.

*Maternity group home*

For runaway and homeless youth who are pregnant or who have children, congregate or scattered-site maternity-related services are essential.

Accordingly, we proposed: ‘Maternity group home means a community-based, adult-supervised transitional living arrangement where client oversight is provided on site or on-call 24 hours a day and that provides pregnant or parenting youth and their children with a supportive environment in which to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and ensure the well-being of their children.’

Comment: We received one comment. The commenter asked what was meant by “transitional” and what justification there would be for placement into other

settings such as individual apartments if more time were needed to assess youth functioning.

Response: For the purposes of the RHY Maternity Group Home program, “transitional” simply means that these services are temporary and limited either by age and/or by function. For example, maternity group homes may be specifically tailored to serve pregnant or parenting youth who are transitioning to self-sufficiency. The basic purpose of a maternity group home is to prepare youth for a more permanent home, and the duties of a group home include assessing readiness for that change. The final rule leaves this definition unchanged.

### *Outreach*

We proposed to add a definition for outreach to read as follows: ‘Outreach means finding runaway, homeless, and street youth, or youth at risk of becoming runaway or homeless, who might not use services due to lack of awareness or active avoidance, providing information to them about services and benefits, and encouraging the use of appropriate services.’ Outreach includes low-barrier services such as food packs and personal hygiene packs.

Comment: We received two comments on this definition. One commenter asked if a drop-in center could perform properly, and be funded, without performing a street outreach function. The other commenter suggested that the definition

include, as one outreach service purpose, providing information about housing options and family reunification.

Response: We think that both commenters raise good points but the first does not distinguish between the definition of a function and the obligations of grantees. Our definitions are not intended to prescribe the obligations of grantees, but simply to describe the function or service to reduce ambiguity. Regarding the first comment, while many grantees may perform both drop-in center and outreach functions, our rules do not require that all grantees perform both functions. These are distinct services. We do not prohibit outreach providers from giving additional information, beyond that which is part of the core function. Regarding the second comment, our standards for Street Outreach Program grantees require them to provide services that are designed to assist clients in leaving the streets, which may include housing or family reunification (see § 1351.27 of the final rule) as well as to perform outreach services. Accordingly, we have not changed the definition of outreach in the final rule.

#### *Risk and protective factors*

We include risk and protective factors under the list of technical assistance or short-term training that may be determined as necessary by HHS as a condition of funding. Therefore, we proposed a definition of risk and protective factors to read: 'Risk and protective factors mean those factors that are measurable characteristics of a youth that can occur at multiple levels, including biological,

psychological, family, community, and cultural levels, that precede and are associated with an outcome. Risk factors are associated with higher likelihood of problematic outcomes, and protective factors are associated with lower likelihood of problematic outcomes. While we received no comments on this change, it was deemed appropriate to frame protective factors as positive impact outcomes and so we have made minor wording changes to reflect that protective factors are associated with a higher likelihood of positive outcomes. We made other minor changes in order to mirror the definition used across the federal government and on the Youth.gov website.

### *Runaway youth*

Another core statutory term is runaway youth. We proposed to update the existing definition to reflect the Act (section 387(4)) and to read: Runaway youth means an individual under 18 years of age who absents himself or herself from home or a place of legal residence without the permission of a parent or legal guardian.

Comment: We received one comment on the proposed definition. This comment, representing the views of many individuals and organizations, supported our proposed definition but asked whether it limited the ability of grantees to serve youth who leave their place of legal residence at the behest of a parent or legal guardian.

Response: We appreciate the importance of this question, since it is vital that the program serve youth who are forced or coerced to leave their homes. The answer, however, is not to change the definition of runaway youth, but to recognize that the program serves both runaway and homeless youth, and that the latter group includes those who have lost their family home, such as through physical or verbal pressure from parents or guardians. Therefore, we have left this definition unchanged in this final rule.

*Runaway and Homeless Youth project*

We received no comments on the proposed definition and it is unchanged in the final rule.

*Safe and appropriate exits*

We proposed to add a definition of Safe and Appropriate Settings When Exiting Basic Center Program Services or Transitional Living Program Services. The proposed definition said that Safe and Appropriate Settings When Exiting Basic Center Program Services or Transitional Living Program Services means settings that reflect achievement of the intended purposes of the Basic Center and Transitional Living Programs as outlined in section 382(a) of the Act. Safe and appropriate settings when exiting Basic Center Program Services or Transitional Living Program Services are *not* exits:

- to another shelter;
- to the street;

- to a private residence, other than a youth who is staying stably with family, if the youth is not paying rent;
- to another residential program if the youth is not paying rent or if the youth's transition to the other residential program was unplanned;
- to a correctional institute or detention center if the youth became involved in activities that lead to this exit after entering the program;
- to an unspecified other living situation; or
- to a living situation that is not known.

By defining "Safe and Appropriate Settings when exiting Basic Center Program services or Transitional Living Program services," our intent was to move the field beyond just finding a place for the youth to stay. However, as discussed in the following responses to the several dozen comments we received, all requesting clarifications or changes to the proposed definition, we have made significant changes to the definition in the final rule. Almost all commenters found the proposed limitations on safe and appropriate settings to be inconsistent with commonly used best practices and some desirable outcomes. Some of these commenters also raised concerns about achieving performance standards with such restrictions in the definition.

Comment: We received many unique comments arguing that in some situations a youth may need to go to another shelter, including shelters that provide for special needs. Most of these commenters pointed out that a minor is allowed to

stay in a Basic Center for 21 days, and if not unified with this family or placed in Foster Care in that period of time might appropriately go to a Transitional Living Program, which provides services up to 21 months. Also, one commenter pointed out 21 days is often not enough time to resolve issues and transition to a stable family arrangement.

Response: We agree. Indeed, one of the appropriate exits from the Basic Shelter Program is to the Transitional Living Program. We have revised the final rule to delete “another shelter” from the list of unsafe exits.

Comment: Many unique comments addressed the clause concerning exit to a private residence. Most of these pointed out that the private residence of a friend might not involve rent payment and might be an appropriate exit, that in most cases minors will not be able to sign a lease and pay rent, and that some programs such as Job Corps, Foster Care, and Transitional Living do not charge rent. Several commenters pointed out subsidized housing sometimes involves rent-free accommodation until the renter has income. These commenters recommended that we delete this prohibition on the use of free rental housing. Some commenters also recommended that we redefine family to include unrelated individuals thought of as family by the youth.

Response: We agree that payment of rent is not a useful demarcation and have modified the definition accordingly, both as it applies to private residences and

other residential programs. We also agree that there are cases where stays with an adult relative who is not a member of the immediate family (e.g., grandparent, aunt, or uncle), with an adult family friend, or with an adult friend, would be appropriate exits. Accordingly, we have modified the clause on private residences to allow for such situations, where they involve a stable arrangement. To address the recommendations about unrelated individuals, we revised the rule to allow for placement with unrelated individuals in some cases.

Comment: Several commenters addressed other possible safe exits that were not clearly addressed under the clauses on either private housing or other residential programs. The commenters who raised the issue about supportive housing (rent free or not rent-free) also implicitly made the point that some older homeless youth will be placed into their own housing units, without any other resident. One commenter asserted that the proposed clause concerning other residential programs did not clearly include Child Welfare Services.

Response: We agree that the pertinent clauses under the definition as proposed were ambiguous as to supportive housing as well as Foster Care or other Child Welfare Services. We have revised the clause on other residential programs to more clearly include such programs. In particular, our recognition of planned exits to other residential programs as being safe is intended to cover exits to permanent housing and to permanent supportive housing, as well as to foster home placement.

Comment: Several commenters recommended that we drop from the list of unsafe exits the case where a youth's activities after entering the program lead to placement in a correctional institute or detention center. The commenters argued that clearing up prior warrants might lead to jail time, or that this could create barriers to serving youth with many prior law enforcement encounters, such as human trafficked youth. One commenter was concerned that it could count against discharge rates for shelter providers.

Response: We do not agree that clearing up warrants that apply to actions before the youth entered the program come within this definition. The proposed definition was worded to exclude such actions. We do not believe distinguishing prior and new law enforcement encounters and issues will be difficult for grantees or will create barriers. Within the Runaway and Homeless Youth Program, we are committed to building capacity amongst RHY providers to identify and assist trafficking victims through training and funding opportunity announcements. We are also running a demonstration program initiative with our RHY and family violence program to expand outreach to service providers that may have contact with domestic victims of human trafficking. Since many programs for human trafficking victims are run by law enforcement, we have slightly refined our definition of exits that are not safe and appropriate.

Comment: One commenter asked that we exempt an exit to a living situation that is not known by short stay residents who leave the program after fewer than seven days of residence.

Response: We agree that transitory stays are a problem. Nonetheless, those that result in exits to unknown destinations must be characterized as unsuccessful. We have not accepted the proposed change.

Comment: One commenter asked that we delete “unplanned” exits to another residential program from the list of unsafe exits.

Response: We agree that there are cases in which the needs assessment, counseling, and guidance provided by the program will not have identified some particular option that would be beneficial. Indeed, the client himself may find that option, or learn of it from other sources to which he had been referred. We have changed the language to refer to “inconsistent with the youth’s needs.”

Comment: We received several comments arguing that it would be better to define safe and appropriate exits in terms of those that are safe rather than those that are not, or alternatively as those that are both. One listing of safe exits included independent living, residential apprenticeships, higher education, family, mental health or substance abuse program, military service, or any other planned residential program.

Response: We agree that defining safe and appropriate exits in terms of those that are safe and are not safe is a good approach and have changed this in the final regulatory text. We have crafted language in an effort to demonstrate what safe and appropriate exits generally look like and have incorporated some of the concepts suggested so that a safe and appropriate exit will include: (1) to the private residence of a parent, guardian, another adult relative, or adult family friend that has the youth's best interest in mind and can provide a stable arrangement; (2) to another residential program if the youth's transition to the other residential program is consistent with the youth's needs; or (3) to independent living if that is consistent with the youth's needs and abilities. In addition, we note that in comments received, commenters referred to "safe and appropriate exits" instead of the longer title proposed that read "safe and appropriate settings when exiting Basic Center Program services or Transitional Living Program services." For this reason, we have shortened the definition to only refer to "safe and appropriate exits" in this final rule.

#### *Service plan or treatment plan*

We also proposed to define a service plan, sometimes called a treatment plan, to read: Service plan or treatment plan means a written plan of action based on the assessment of client needs and strengths and engagement in joint problem solving with the client that identifies problems, sets goals, and describes a strategy for achieving those goals. To the extent possible, the plan should incorporate the use of evidence-based or evidence-informed interventions.

Comment: We received two unique comments on this proposed definition. One commenter asked whether training and technical assistance will include information on evidence-based practices. The other comment (joined by many individuals and organizations) pointed out that the preamble text, but not the regulatory text, included the concept of safety planning. That comment also asked that safety planning include suicide prevention and other mental health crises.

Response: FYSB will provide training and technical assistance to grantees by sharing evidence-based service planning practices. As to safety planning, we acknowledge the oversight and have added safety planning to the regulatory definition in the final rule. We have revised the proposed definition to include, in the final rule, “As appropriate, the service and treatment plans should address both physical and mental safety issues.” This covers all such issues, but does not require that plans explicitly address every unforeseen circumstance.

#### *Short-term training*

We received no comments and the final rule contains the proposed definition unchanged.

#### *State*

We did not receive any comments and have left this definition unchanged in the final rule.

### *Street youth*

We proposed to define street youth to read: ‘Street youth means an individual who is a runaway youth or an indefinitely or intermittently homeless youth who spends a significant amount of time on the street or in other areas that increase the risk to such youth for sexual abuse, sexual exploitation, prostitution, or drug and/or alcohol abuse. For purposes of this definition, youth means an individual who is age 21 or less.’ This definition reflects the statutory language from the Act (section 387(6)).

Comment: We received one comment, which asked why we used age 21 or less in the definition.

Response: The statute defines street youth to include a runaway youth or indefinitely or intermittently homeless youth. The statutory definition of homeless youth as defined in section 387(3) states that youth must be less than 22 years old. Accordingly, we have made no change in the final rule.

### *Supervised apartments*

We received no comments on the definition of ‘supervised apartments’ and have left the regulatory text unchanged in this final rule.

*Technical assistance*

We received no comments on this definition and have left it unchanged in the final rule.

*Temporary shelter*

Finally, we proposed to update the definition of temporary shelter to read:

‘Temporary shelter means all shelter settings in which runaway and homeless youth are provided room and board, crisis intervention, and other services on a 24-hour basis for up to 21 days.’

Comment: We received three unique comments on the proposed definition. One commenter said that 21 days was too short and should be extended to 30 days. One said that the definition should say explicitly up to 21 days “or until such time as the statute allows.” One said that the federal rule should allow longer periods of stay “where permitted by state law.”

Response: We appreciate these suggestions. Regarding the 21 day time limit, the Act is explicit at §311(a)(2)(B) that services provided through the Basic Center Program shall include “safe and appropriate shelter provided for not to exceed 21 days.” As to state law, nothing precludes a state or private organization from subsidizing longer stays with state or private funding. We have modified the definition to make clear that 21 days is a restriction on the use of

RHY funds through the Basic Center Program, not a restriction on the length of stay permitted by the facility. Temporary shelter is now defined as all Basic Center Program shelter settings in which runaway and homeless youth are provided room and board, crisis intervention, and other services on a 24-hour basis for up to 21 days. The 21 day restriction is on the use of RHY funds through the Basic Center Program, not a restriction on the length of stay permitted by the facility.

We also received a number of comments suggesting that we add definitions to the final rule. We address these suggestions below.

*Culturally and linguistically appropriate services*

Comment: One comment endorsed by about 50 individuals and organizations recommended that we add a definition for “culturally and linguistically appropriate services.” This comment acknowledged that throughout the proposed rule ACYF had demonstrated a clear intent that grantees provide services that are culturally sensitive and that meet the needs of diverse youth. The commenters suggested that this obligation be defined and that the definition include as its only substantive content reference to a set of service and governance standards that are promoted by the U.S. Public Health Service for use in health care settings (these standards are titled “Culturally and Linguistically Appropriate Standards in Health and Health Care,” and abbreviated CLAS). In effect, the commenters proposed that we make CLAS a binding standard for our grantees.

Response:

Though this final rule does not adopt the CLAS standards, it maintains the proposed rule's intent that grantees provide culturally and linguistically sensitive services and we include training on this for grantees in § 1351.23(a) of this final regulation.

### *Family*

Comment: One commenter asked that we add a definition for "family," pointing out that many LGBTQ youth have adopted "families of choice" with adults or caregivers other than their parents or legal guardians. Other commenters made similar points in comments on specific definitions or requirements that referred to families.

Response: We appreciate and agree with the underlying concern. In key places in the proposed and final rule, we make clear that while family reunification with the legal parents or guardian is the preferred option and in most cases in the best interest of youth, we allow for exceptions. While we are not defining the term "family", we have revised language throughout this final rule to allow for flexibility in instances where it may not be safe or appropriate for the grantee to contact a client's parents or legal guardians.

### *Supportive housing*

Comment: We received one comment requesting that we add a definition for supportive housing.

Response: In as much as supportive housing is not a service provided through these grants, we see no need to define it or any other type of non-time-limited housing. Aftercare plans can, as appropriate, address this or any other service.

### **Subpart B. Runaway and Homeless Youth Program Grants**

The previous rule contained a number of sections dealing with the purposes of the program, eligibility for grants, priority for grants, matching requirements, the period of grant awards, allowable costs, application procedures, criteria for grant funding decisions, and additional information for grantees. We proposed revisions to all of these sections as well as to the title of the subpart to be Runaway and Homeless Youth Program Grants. These sections apply to all grants under the program.

### **Purpose**

Currently §1351.10 asks, “What is the purpose of the Runaway and Homeless Youth Program grant?” We proposed to re-title this section “What is the purpose of Runaway and Homeless Youth Program grants?” This change in title reflects the growth of the program over time from the core Basic Center Program to a broader range of grant types and purposes. Relatedly, we proposed to amend the statement of purpose to emphasize not only transitional living services and

other services added in recent years, but also the increasing emphasis on prevention and identifying the vulnerability of these youth. Under the proposal, the purpose of Runaway and Homeless Youth Program grants would be to establish or strengthen community-based projects to provide runaway prevention, outreach, shelter, and transition services to runaway, homeless, or street youth or youth at risk of running away or becoming homeless. We stated that youth who have become homeless or who leave and remain away from home without parental permission are disproportionately subject to serious health, behavioral, and emotional problems.<sup>1,2</sup> They lack sufficient resources to obtain care and may live on the street for extended periods, unable to achieve stable, safe living arrangements, during which they may be in danger.<sup>3, 4</sup> Many are urgently in need of temporary shelter and services,<sup>5</sup> including services that are linguistically appropriate, responsive to their complex social identities (i.e., race, ethnicity, nationality, age, religion/spirituality, gender identity/expression, sexual orientation, socioeconomic status, physical ability, language, beliefs, values, behavior patterns, or customs), and acknowledge the environment they

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<sup>1</sup> Whitbeck, LB; Johnson, KD; Hoyt, DR & Cauce, AM. (2004). Mental disorder and comorbidity among runaway and homeless adolescents. *Journal of Adolescent Health*. 35(2): 132.

<sup>2</sup> Cauce, AM, et al. (2000). The characteristics and mental health of homeless adolescents. *Journal of Emotional and Behavioral Disorders*. 8(4):230.

<sup>3</sup> Whitbeck, LB; Chen, X; Hoyt, DR; Tyler, KA & Johnson, KD. (2004). Mental disorder, subsistence strategies, and victimization among gay, lesbian, and bisexual homeless and runaway adolescents. *The Journal of Sex Research*. 41(4):329.

<sup>4</sup> Greene, JM; Ennet, ST & Ringwalk, CL. (1999). Prevalence and correlates of survival sex among runaway and homeless youth. *American Journal of Public Health*. 89(9):1406.

<sup>5</sup> Clark, R. & Robertson, M .J. (1996). *Surviving for the Moment: A Report on Homeless Youth in San Francisco*. Berkeley: Alcohol Research Group.

come from. We proposed that services should have a positive youth development approach that ensures a young person has a sense of safety and structure; belonging and membership; self-worth and social contribution; independence and control over one's life; skills to develop plans for the future and set goals; and, closeness in interpersonal relationships.<sup>6</sup> To make a successful transition to adulthood, runaway youth, homeless youth, and other street youth also need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment. HHS operates three programs to carry out these purposes through direct local services: the Basic Center Program, the Transitional Living Program (including Maternity Group Homes), and the Street Outreach Program. HHS conducts three additional activities to support achievement of these purposes: research, evaluation, and service projects; a national communications system to assist runaway and homeless youth in communicating with service providers; and technical assistance and training. The proposed rule covers all of these activities.

Comment: We received several comments on the purpose of the program. Two commenters praised the proposed text for its inclusion of LGBTQ in its statement of the need to serve all runaway and homeless youth. One commenter praised the statement of purpose and proposed that we adopt the U.S. Public Health Service's guidelines of Culturally and Linguistically Appropriate Services in

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<sup>6</sup> Taylor-Seehafer, MA. (2004). Positive youth development: Reducing the health risks of homeless youth. *MCN, American Journal of Maternal Child Nursing*. 29(1):36.

Health Care (CLAS) as standards. A third commenter stated that we should add “trauma-informed care” as one of two practice frameworks for youth intervention to this section.

Response: As previously explained, though this final rule does not adopt the CLAS standards, it maintains the proposed rule’s intent that grantees provide culturally and linguistically sensitive services and we include training on this for grantees in § 1351.23(a) of this final regulation. As to “trauma-informed care,” we believe that the statement of purpose already encompasses this and other practices on dealing with the traumatic circumstances that affect runaway and homeless youth. The proposed text is adopted virtually without change (or with only stylistic changes) to the final rule.

### **Eligibility for Grants**

The existing rule asks in §1351.11 “Who is eligible to apply for a Runaway and Homeless Youth Program grant?” The eligibility requirements of the program have not changed significantly over the years but we proposed changes to this section to conform the regulatory language to the current statute. We proposed to state that all ‘public (state and local) and private non-profit entities, and coordinated networks of such entities, are eligible to apply for a Runaway and Homeless Youth Program grant unless they are part of the law enforcement structure or the juvenile justice system.’ While specific regulatory language is not needed, we pointed out that most faith-based organizations meet the regulatory definition of non-profit. We received

no comments on this section. However, because we are removing the definition of “law enforcement structure” in this final rule, we have deleted the reference to “law enforcement structure” in this section.

### **Priority for Awards**

The existing regulation addresses priority for awards. In consideration of the numerous comments and varying points of view on these issues, we proposed significant and streamlined changes to the language regarding grant award priorities in § 1351.12. We received more than a half dozen unique comments on the proposed priorities and on ways to improve or refine them.

Comment: Several commenters stated that our proposed language did not clearly show consistency with the statutory preference for awarding grants to applicants with past experience in serving runaway or otherwise homeless youth and recommended regulatory language to say this. One commenter suggested preference for grantees seeking continuation funding. One commenter gave specific recommendations for the amount of preference, e.g. 1 to 2 points for 10 years of successful experience. Another commenter recognized that the language did allow credit for experience but asked what objective measures or weights could be used. Several commenters recommended that points be given for successful monitoring visits. One of these stated that his project had been funded annually since 1986 but was dropped from funding despite successful performance and excellent monitoring

scores. This commenter argued there should be an appeal process in case of mistakes in the award process.

Response: With respect to the comments raising the issue of the statutory preference for prior experience, it is important to note that the proposed regulatory text mirrors the statutory language exactly. We note that the statute itself does not require us to give preference to an applicant with prior experience who has not performed as well as other applicants are likely to perform. The RHY statute requires that performance standards are incorporated into grantmaking, monitoring, and evaluation. For clarity and consistency, this requirement was added to the regulatory text. As to those comments proposing specific weights for our priorities or asking that those weights be included in the final rule, or suggesting other priorities for existing grantees, we are also not making those suggested changes. Annual funding opportunity announcements (FOAs) provide far more flexibility than codified regulations to enable HHS to tailor detailed rating factors or their weights to best accommodate the needs of the particular activities. We will, however, consider the specific proposals we received in modifying our priorities and rating methods in the next round of FOAs.

Comment: A number of commenters addressed our proposed preference for applications costing \$200,000 or less. Most of these commenters noted that the statute imposes this dollar limit only on the Basic Center Program. Some commenters also criticized what one called a “flat cap” on a funding preference for

Street Outreach and Transitional Living projects with budgets of \$200,000 or less, and expressed concern that this is an absolute priority. One commenter pointed out that the proposed preference would reduce incentives to obtain other public or private resources, and recommended that at the very least the preference not include in-kind resources. This same commenter also argued that larger organizations with multiple grants could use creative accounting techniques to allocate overhead costs. Several of the commenters on this issue also pointed out that this priority would penalize more effective programs with higher budgets. . Some of these commenters also suggested that the dollar limit created adverse incentives with respect to hard to serve youth or the most disadvantaged youth, such as many LGBTQ youth.

Response: We agree with comments that pointed out that the statutory limit relates only to the Basic Center Program and have revised the regulatory text in paragraph (a) to follow section 313(b)(2) of the Act which only applies a preference for applications less than \$200,000 to Basic Center grants. We have added a clause to this provision to say that the preference will be for applications less than \$200,000 “or such figure as Congress may specify” to account for future statutory changes. In addition, we have added in statutory language for prioritizing other types of RHY grants.

In paragraph (b), for the Transitional Living Program, we added language from section 322(b) of the Act for prioritizing grants which says “[i]n selecting eligible

applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1)”, which references Transitional Living Programs.

In paragraph (c), we have added language from section 351(b) of the Act which says that in selecting applicants to receive grants under the Street Outreach Program, the Secretary shall give priority to public and nonprofit private agencies that have experience in providing services to runaway and homeless and street youth.

In paragraph (d), for the national communications system, we have added language that follows section 331 of the Act with a slight modification. The current statutory requirement is that the “Secretary shall give priority to grant applicants that have experience in providing telephone services to runaway and homeless youth.” To account for changes in technology, in this final rule we will prioritize grantees who have experience providing “electronic communications services” to runaway and homeless youth, including telephone, Internet, mobile applications, and other technology-driven services. This change is in keeping with the purposes of the provision and advances those purposes. We note that section 303 of the Act authorizes the Secretary to issue rules she considers necessary or appropriate to carry out the purposes of the Act.

In paragraph (e), to prioritize grants for research, evaluation, demonstration and service projects, we added language to this section in accordance with section 343(b) and (c) of the Act.

In paragraph (f), we added language to specify that the performance standards will be integrated into the grantmaking, monitoring, and evaluation processes for the Basic Center Program, Transitional Living Program, and the Street Outreach Program. We also indicated that specific details about how performance standards will be considered, along with examples of performance documentation, will be provided in the annual funding opportunity announcements.

To be clear, a grant application in an amount larger than \$200,000 from a project with demonstrated or likely superior performance can indeed receive an award.

We also understand that serving disadvantaged youth can require additional financial investment. We want to emphasize our dedication to ensuring that all youth are served, including LGBTQ youth (as noted by the commenter) and youth who have experienced adverse circumstances, including physical and mental abuse, drug use, human trafficking, and other circumstances. We will address additional criteria for prioritizing grants to serve these vulnerable young people within our annual FOAs.

Comment: One commenter recommended that funding priority under § 1351.12 be given to applicants currently accredited by a national accrediting body.

Response: Accreditation is another example of a possible future criterion for use in setting priorities or rating factors in annual FOAs. From currently available evidence, we do not have a sufficient basis to justify including such preference in a codified rule.

Comment: A commenter endorsed by many individuals and organizations argued a priority be added to § 1351.12 for applicants providing services without discrimination on the basis of sexual orientation or gender identity and that can best provide services meeting the needs of LGBT youth. This commenter also suggested adoption of “culturally and linguistically appropriate” (CLAS) services as a priority, and for adoption of nondiscrimination requirements at 42 U.S.C. 18116 (section 1557 of the Affordable Care Act).

Response: These civil rights issues are dealt with elsewhere in this final rule preamble and in sections of the final rule text. For example, see §§ 1351.20 through 1351.22 which discuss additional requirements for RHY grantees.

Based on comments received and for clarity, we have revised the final rule language in this section to mirror the language in the Act.

### **Matching requirements**

We proposed a change to §1351.13 regarding matching share. The previous regulatory language conflicted with the updated statute on the amount of funding required by grantees to satisfy the match requirement. The previous language required a non-federal match amount which was at least equal to 10 percent of the federal funds received. To align the statute and the regulations, we proposed that the federal share of the project represents 90 percent of the total project cost supported by the federal government, thus the remaining 10 percent represents the required project match cost by the grantee. This may be a cash or in-kind contribution.

We note that the language of the statute is phrased in terms implying an exact 10 percent matching share, but HHS has always taken the position that the language should not be interpreted to prevent grantees from spending additional funds from their own resources. We received no comments on these proposed changes and have left them unchanged in the final rule.

### **Project period**

We did not propose changes to § 1351.14, providing that the period for which a grant will be awarded is generally one year, renewable annually. We received no comments on this section and have left it unchanged.

### **Supportable costs**

We proposed minor changes to update the language under § 1315.15 to more fully describe costs allowed under Runaway and Homeless Youth Program grants. Costs that can be supported include, but are not limited to, staff training and core services such as outreach, intake, case management, data collection, temporary shelter, transitional living arrangements, referral services, counseling services, and aftercare services. We proposed to retain the existing prohibition against acquisition or renovation costs that exceed 15 percent of the grant award, subject to potential waiver. We also proposed adding language that clarifies that research and evaluation, communications, and technical assistance grants are allowable costs that pertain to their unique purposes.

Comment: We received one comment on these provisions. That commenter recommended that the list of supportable costs be amended to include transition to permanent housing. Examples were suggested, including first month of rent, move in costs, or utility fees.

Response: The proposed definition excluded no reasonable costs related to achieving the goals of the program, other than a few specific limitations and those listed in costs not allowable. It used the phrase “include, but are not limited to.” Hence, in some circumstances we may pay for costs related to transition to permanent housing. It would be inappropriate, however, to pay for costs that are the legal obligation of another program. We have not changed the language in the final rule.

## **Costs Not Allowable**

We proposed a change to the language under § 1351.16, now § 1351.16(a) of the final rule, that currently states only that capital costs for new facilities are not allowed under Runaway and Homeless Youth Program grants. We proposed retaining this prohibition and also explicitly prohibiting payment for the operating costs of existing community centers or other facilities that are used partially or incidentally for services to runaway or homeless youth clients. This does not mean that a reasonable fraction of utility or other overhead costs could not be charged to our grant when a facility provides multiple services, but it does mean that such fraction would have to be based on a reasonable cost allocation method approved by HHS, such as proportion of square footage devoted exclusively to each service in the facility. Separable costs of the Runaway and Homeless Youth project are, of course, fully reimbursable. The reason for this clarification is that we have seen proposed project budgets that include disproportionate allocations of facility-wide or overhead costs to Runaway and Homeless Youth projects that use only a small portion of the facility. We received no comments on this section and have left it unchanged in the final rule.

However, we have revised the final rule by adding a new § 1351.16(b) that states, “A Runaway and Homeless Youth Program grant does not cover any treatment or referral to treatment that aims to change someone’s sexual orientation, gender identity or gender expression.” This is further discussed later in the preamble.

## **Application procedures**

The current rule under § 1351.17 provides that HHS will publish program announcements of availability of grant funds annually in the *Federal Register*, and includes specific but outdated procedures for obtaining announcements and submitting applications. We proposed to change § 1351.17 to address three changes since the rule was last revised. First, proposed paragraph (a) recognized that we now rely primarily on the Internet (rather than the *Federal Register*) for publication of our funding opportunity announcements. Second, under proposed paragraph (b) we allowed for electronic submission of completed grant applications through the federal government's <http://www.grants.gov> web site. We would continue to allow for paper applications for grants. Third, our proposed language said that we will publish such announcements periodically rather than annually. The timing and frequency varies by type of grant and has changed over time. We received no comments on these proposed changes but are seeking to maximize flexibility as technology and procedures change in the future. Therefore, we have changed the language to say that an applicant should follow instructions included in funding opportunity announcements, which describe procedures for receipt and review of applications.

## **Funding Criteria**

Under existing §1351.18 we listed a number of criteria that we use for deciding which grant applications to fund. We proposed small technical changes to these criteria.

Under paragraph (a) we proposed to retain the criteria that proposed projects meet funding priorities. We also added a clause making specific reference to our use of FOAs to establish specific details of the broad requirements, standards, and evaluation criteria contained in the proposed rule. Under the proposal, in reviewing applications, HHS would take into consideration whether the grant application meets the particular priorities, requirements, standards, or evaluation criteria established in funding opportunity announcements. We renumbered these criteria accordingly.

In paragraph (b), we proposed to modify and combine the current requirements of paragraphs (b) and (c) for demonstrating “need” to require that the likely estimated number of unserved runaway and homeless youth in the area exceed the capacity of existing services. That is, we would not require a census-like count of such youth, but merely a reasonable estimate that the number of such youth exceeds the capacity of existing services.

We received no comments on subsections (a) or (b) and the proposed text in these subsections are unchanged in the final rule.

Under proposed paragraph (c), we proposed to retain the existing requirement that runaway and homeless youth centers maintain a minimum residential capacity of four and a maximum of 20 youth in a single structure (except where the applicant assures that the state where the center or locally controlled facility is located has a state or local law or regulation that requires a higher maximum to comply with licensure requirements for child and youth serving facilities as authorized in §312(b)(2) of the Act) for all youth residing at the shelter on any given night. We proposed to clarify that the capacity standards apply only to grants that include such centers. We also proposed to revise the regulation to require centers to have the number of staff sufficient to assure adequate supervision of and treatment for the number of clients served rather than a mandatory ratio of staff to clients. This change is for consistency with the statute at section 312(b)(2)(B) of the Act. While we are not aware of any uniform best practice for establishing such a ratio, an agency would refer to state laws and licensing regulations as they pertain to runaway and homeless youth shelters for guidelines. If no runaway and homeless youth shelter laws and licensing regulations have been established in a state, the agency would refer to state child welfare laws and regulations for youth. Agencies would be required to cite the guidelines they are following for the staff ratios they deem to be appropriate. To clarify this, we have added language to paragraph (c) to say that criteria used when determining which grant applications to fund must consider the guidelines followed for determining the appropriate staff ratio.

Comment: We received one comment on proposed §1351.18(c) on residential capacity, asking whether there should be a minimum number of youth to be served by host family homes (such as 4) and when federal requirements take precedence over state or local licensing requirements.

Response: We do not believe there should be any minimum number of youth served in host family homes. Some of the best domiciles may involve room for, or willingness to supervise and host, just one youth. Our residential capacity requirements are not intended to preempt state or local rules in any way, and we specifically allow state or local licensure requirements to impose higher maximum standards.

Under paragraph (d), we proposed to slightly modify the criteria under current paragraph (e) removing the language concerning the 72-hour timeframe from admission for the program to make contact with family. The requirement is contained in Subpart C, at new § 1351.24(e).

We received six unique comments on this section, and address the concerns of these commenters separately below.

Comment: Section 1351.18(d) of our funding criteria contains our proposed provision on making “best interest of the child” an important requirement.

Several comments on other sections had mentioned a concern over making that

criterion clear. One commenter recommended that this term also be incorporated into the definitions of counseling services, health care services, and home-based services; addressed or added in three paragraphs of this section, and added to sections on requirements for Basic Center projects and performance standards for these grantees. Two other commenters on best interest of the child also suggested amending the proposed language dealing with alternative living arrangements.

Response: We placed this important requirement in our section on overall criteria for funding priorities, a core section of the rule. We agree that the best interest of the child will in some cases prevent either counseling with or reunification with the family. In some cases (e.g., involving sexual orientation or gender identity) the family will have forced the youth to leave and be unwilling to discuss the matter, and in some cases physical abuse or other criminal behaviors will prevent family involvement. We appreciate that there are many other specific provisions where we could add requirements or references to best interest of the child and we do reference the best interest of the child consistently throughout this rule. It is in this section that we explicitly make best interest of the child one of the major priorities to be addressed in all funding awards and all runaway and homeless youth services. Our proposed language explicitly conditioned joint involvement of youth and family to cases “when possible.” We did not intend “possible” to mean only literal impossibility (though this will sometimes be the case), but “reasonably possible,” and taking into account the circumstances of each case

and the best interest of the client youth. We have revised the rule to reflect this. Consistent with section 312 of the statute, our proposed language also required that grantees develop adequate “plans,” which includes in this context carefully considered methods and procedures for handling the most difficult circumstances and situations where family involvement may not be reasonably possible. We think that the proposed rule language provides a clear “best interest” policy applicable to all services for the client youth, and have not revised either this section or other sections in response to these comments.

As for the comments suggesting that we revise the text concerning best interest of the child to more clearly indicate that alternative living arrangements (not just to return home or to law enforcement) are an option that will sometimes be in the best interest of the child, we agree that alternative living arrangements should be considered when developing plans for Basic Center grantees. We have modified the language to cite the statute more closely, which says in section 312(b)(3) that such grantees “shall develop adequate plans for contacting the parents or other relatives of the youth and ensuring the safe return of the youth according to the best interests of the youth, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway and homeless youth center, and for providing for other appropriate alternative living arrangements.”

We proposed to retain the language in paragraphs (f) through (h) of the previous version of this regulation and renumber them (e) through (g). This language ensures that HHS criteria for deciding which RHY grant applications to fund include:

- (e) Plans for the delivery of aftercare or counseling services to runaway or otherwise homeless youth and their families;
- (f) Whether the estimated cost to HHS for the Runaway and Homeless Youth project is reasonable considering the anticipated results; and
- (g) Whether the proposed personnel are well qualified and the applicant agency has adequate facilities and resources.

We added a new paragraph (h) to ensure that HHS criteria for deciding which RHY grant applications to fund includes past performance on a RHY grant, including but not limited to program performance standards. In fact, paragraph (h) clearly states our intent to consider a grantee's past performance, including measures associated with the performance standards outlined in §§ 1351.30, 1351.31, and 1351.32, when deciding which RHY grantee applications to fund.

Paragraphs (i) and (j) outline funding criteria for whether the proposed project design, if well executed, is capable of attaining program objectives. The paragraphs also outline funding criteria for whether the grant application is consistent with the provisions of the Act and these regulations. These

paragraphs were unchanged. A new paragraph (k) was proposed to include other factors as outlined in the funding opportunity announcements.

Comment: One commenter discussing §1351.18 argued for adding a reference to a new civil rights law, and for requiring “culturally and linguistically appropriate services” in five separate paragraphs within this section. This same commenter argued for adding such a reference or requirement in many other sections of the rule.

Response: The final rule maintains the proposed rule’s intent that grantees provide culturally and linguistically sensitive services. See § 1351.23(a) of this final regulation.

Comment: One commenter asked that we include appeals procedures to deal with mistakes in the review process and involve regional staff in the grant review process to § 1351.18.

Response: This rule governs primarily the operation of the Runaway and Homeless Program by grantees, and does not address or govern the internal administrative processes of the federal government. Hence, while we appreciate the suggestions as to the grant review process, we do not address them in the final rule. We will take them into account in our internal decision making. We note that we already involve regional staff in the grant review process, since they

bring unique expertise and knowledge of local conditions and grantees to that process. In addition, in accordance with the HHS Grants Policy Statement, “The decision not to award a grant, or to award a grant at a particular funding level, is discretionary and is not subject to appeal to any OPDIV or HHS official or board.”

Comment: Two commenters asked that we add as a criterion to § 1351.18 “demonstrated engagement in efforts with the local Continuum of Care” activity and one of these suggested adding partnerships with adult homeless agencies as a requirement. One of these commenters also recommended that grant applicants should show that they are integrating Runaway and Homeless Youth Management Information System (RHYMIS) reporting with the HUD Homeless Management Information System (HMIS) reporting.

Response: Coordination with other agencies and programs is very important to the program, both to improve outcomes and to reduce wasted or duplicative effort. Continuum of Care is one of the most important of these in many areas served by our grantees. We have chosen not to make such coordination a criterion for funding decisions on individual grant awards, but have instead included it in our additional requirements, discussed in our response to comments on the next section of the rule. As for program reporting, the integration of these two systems is proceeding and once completed will be enforced under § 1351.23(c) of the final rule. See our subsequent discussion of that subsection.

## **Other Federal Requirements and Program Policies**

After reviewing comments, the final rule has expanded upon § 1351.19 of the proposed rule to provide clarity by separating the section into §§ 1351.20 through 1351.22 in subpart A of the final rule. This is discussed in detail below. Under the previous rule, § 1351.19 contains a list of other rules and regulations that apply to applicants for, or recipients, of program funds. These include, for example, regulations concerning civil rights obligations of recipients and regulations concerning fraud, waste, and abuse. We proposed amending that rule to include additional rules that also are specifically intended to apply to all HHS grantees or, in some cases, to all federal grantees.

The expanded list under proposed paragraph (a) included rules related to civil rights requirements, to other client protections, to administrative requirements in HHS grant programs, and to preventing fraud or abuse. This expanded list does not attempt to list all of the federal laws and regulations (e.g., provisions of the Internal Revenue Code regarding non-profit status, minimum wage requirements, and numerous others) that pertain to organizations that may be grant applicants or awardees. The provisions we listed here are not for the most part administered through either the Administration for Children and Families or its Runaway and Homeless Youth Program (though the agency may in some instances assist in their enforcement), but by other HHS components or by other federal agencies that set the conditions and enforcement mechanisms that apply to those provisions, and that

determine whether and in what circumstances grant-related penalties may apply. For example, the HHS Office for Civil Rights enforces civil rights protections. This section already contains in paragraph (b) several additional provisions, mainly client confidentiality protections, that we did not propose to change, as well as new and expanded protections concerning protection of youth and providing non-discriminatory services that comprehensively address individual needs. In paragraph (c), we proposed to update our reference to the Act as defined in the proposed rule. We also proposed to amend the title of the section to include “other Federal Requirements” in the title. We received no comments on many of these subsections and have left the language of those subsections unchanged in the final rule.

Comment: We received several comments on § 1351.19 suggesting that we add a civil rights law, 42 USC 18116, enacted as section 1557 of the Affordable Care Act (ACA), to the list of applicable rules in subsection (a). This statute prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities, including those funded by federal grants or established under Title I of ACA. Existing laws and regulations already prohibit most of these types of discrimination, at least for federal grantees and in some cases for all or most service providers, whether or not involving health. The most notable addition in the recently enacted statute is the prohibition against sex discrimination in the provision of health care services. Current sex discrimination regulations applicable directly to grantees cover only those grantees providing education

services (of course, there also exist employment-related prohibitions on sex discrimination by private or public employers that are enforced by yet other agencies, such as the Equal Employment Opportunity Commission, regardless of grantee status). Some persons, including these commenters, hope or expect that this new and far broader prohibition on sex discrimination will extend to sexual orientation and gender identity.

Response: Section 1351.22 has been added to address discrimination in RHY grantee programs and facilities. The new language added in § 1351.22(a) prohibits discrimination on the basis of sex, sexual orientation, and gender identity and expression. This section clarifies the intent of the section as initially written in the notice of proposed rulemaking (NPRM). To be clear, the rule does not bar grantees from considering the needs of each applicant and the health and safety of other beneficiaries when determining eligibility for programs, activities, or services. Language has been added in § 1351.22 making this part of coordinated entry explicitly permissible.

A preceding clause at § 1351.20 includes references to 45 CFR Part 86 and 92, both which prohibit discrimination on the basis of sex, which includes gender identity. The former rule, at 45 CFR 86.31, applies to education programs or activities that are carried out under various HHS-funded grant programs including RHY grants. The latter rule, at 45 CFR Part 92, applies to the provision of mental health counseling and other health activities carried out by the RHY programs.

Section 1351.20 of the final rule lists fourteen codified regulations that apply or potentially apply to all federal grantees (as applicable). Title 42 U.S.C. 18116 was enacted in 2010 and conforming regulations were issued on May 18, 2016 at 45 CFR Part 92, entitled “Nondiscrimination in Health Programs and Activities,” which implements the prohibition of discrimination under section 1557 of the Affordable Care Act (ACA) of 2010. These regulations prohibit discrimination on the basis of sex, including gender identity in HHS-funded health programs or activities. To the extent that an RHY grantee operates health programs or activities, any part of which receives federal financial assistance, section 1557 and the corresponding regulations under 45 CFR Part 92 will apply to that health program or activity.

For these reasons we revised our list of regulations that apply or potentially apply to Runaway and Homeless Youth Program grantees to include 45 CFR Part 92.

Comment: Another commenter asked that we apply the language of a New York State nondiscrimination statute to Runaway and Homeless Youth grantees, on behalf of LGBTQ youth. The commenter stated that the New York law explicitly prohibits programs, program staff, and program volunteers from engaging in or condoning discrimination or harassment on the basis of race, creed, national origin, age, sex, sexual orientation, gender identity or expression, marital status, religion, or disability. Other commenters asked that we not merely require that our grantees be

responsive to the needs of LGBTQ youth, but also prohibit discrimination against such youth.

Response: We have included language in § 1351.22 of the final rule that requires service delivery and staff training to comprehensively address the individual strengths and needs of youth as well as be language appropriate, gender appropriate (interventions that are sensitive to the diverse experiences of male, female, and transgender youth), and culturally sensitive and respectful of the complex social identities of youth (i.e., race, ethnicity, nationality, age, religion/spirituality, gender identity/expression, sexual orientation, socioeconomic status, physical or cognitive ability, language, beliefs, values, behavior patterns, or customs). No runaway youth or homeless youth shall, on any of the foregoing bases, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part under the Act. Additionally, after publication of this rule, we will produce a best-practices guide focused on sheltering and serving LGBTQ youth. This document will serve as a tool for grantees and will include information about how to create safe and affirming spaces for transgender youth.

Comment: One commenter asked that we specifically prohibit for LGBTQ youth so-called “conversion therapy,” meaning “[a]ny treatment or referral to treatment that aims to change someone’s sexual orientation, gender identity or gender expression.”

Response: We are not aware of any instance where an RHY grantee has used “conversion therapy” or “reparative therapy” to aim to change an individual’s sexual orientation or gender identity. However, we agree it would be wholly inappropriate for this to take place and are amending this final rule to explicitly exclude, by definition, conversion therapy from allowable counseling services and health care services. Additionally, we have revised the final rule by adding a new § 1351.16(b) that states, “A Runaway and Homeless Youth Program grant does not cover any treatment or referral to treatment that aims to change someone’s sexual orientation, gender identity, or gender expression.”

Additionally, we have revised “counseling services” and “health care services” in § 1351.1 to specifically exclude conversion therapy by adding language at the end of the definition that says “[a]ny treatment or referral to treatment that aims to change someone’s sexual orientation, gender identity or gender expression is prohibited.”

Conversion therapy is a controversial practice and a number of states, including Oregon, California, New Jersey and Washington, D.C., have passed laws in recent years banning it. In 2001, U.S. Surgeon General issued a report stating that “there is no valid scientific evidence that sexual orientation can be changed.”<sup>7</sup> Over recent years, the Pan American Health Organization, American Psychological Association

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<sup>7</sup> <sup>b</sup> *The Surgeon General's call to Action to Promote Sexual Health and Responsible Sexual Behavior*, A Letter from the Surgeon General U.S. Department of Health and Human Services, U. S. Department of Health and Human Services

and other organizations have concluded that the practice is unethical and should be banned.<sup>8,9,10,11</sup>

Comment: Another commenter argued that we should point out the recent issuances of the Department of Education (ED) stating that the protections of title IX of the Education Act extend to gender identity and expression.

Response: We agree that title IX of the Education Amendments of 1972 is an important statute. While the recent guidelines from ED are a new interpretation under the statute, title IX applies only to education programs. Services provided under Runaway and Homeless Youth grants in the three main service programs are not considered education programs, and therefore, title IX will rarely, if ever, apply to Runaway and Homeless Youth Programs. Title IX applies to the education programs (typically public or private schools, colleges, and universities receiving federal grants from the Department of Education) to which runaway or homeless youth are sometimes referred. Therefore, we did not make changes in response to this comment.

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<sup>8</sup> Jason Cianciotto and Sean Cahill (2006). Youth in the crosshairs: the third wave of ex-gay activism. New York: National Gay and Lesbian Task Force Policy Institute.

<sup>9</sup> "Statement of the American Psychological Association (PDF).<http://web.archive.org/web/20110806095055/http://www.apa.org/pi/lgbt/resources/policy/ex-gay.pdf> APA.org. American Psychological Association. 10 August 2006. Archived

<sup>10</sup> "Therapies to change sexual orientation lack medical justification and threaten health". Pan American Health Organization (PAHO). Retrieved 26 May 2012. Archived

<sup>11</sup> Pan American Health Organization, Regional Office of the World Health Organization; Press release May 17, 2012 "*Therapies to change sexual orientation lack medical justification and threaten health*" <http://www.webcitation.org/67xKQyixE>

Comment: Six commenters addressed the confidentiality and information disclosure requirements proposed in § 1351.19(b)(1). We had proposed this language unchanged from the present rule. Most of these commenters addressed potential disclosure to state law enforcement authorities or pursuant to court order, and argued that this would reduce the protection afforded to youth. Most commenters argued for eliminating or reducing the scope of our proposed language, which created an exception for cases in which release is “compelled by a court or statutory mandate.” These commenters seemed to assume that this would place youth in danger, and asserted that youth would be dissuaded from seeking help by what they perceived as weakened privacy protections. One of these commenters asked whether a subpoena would apply. Yet another commenter suggested that we create a different standard for youth served in the Basic Center and Transitional Living Programs, because the statutory text differs as to parental consent and whether consent must be informed.

Response: We very much appreciate these thoughtful responses, which we have used to make important changes to the proposed language. Based on the comments received, we have modified the regulatory text to reflect the different statutory standards for youth served in the Basic Center and Transitional Living Programs, and to interpret confidentiality requirements more narrowly.

With respect to the Basic Center Program, section 312(b)(7) of the Act is clear that grantees “shall keep adequate statistical records profiling the youth and

family members whom it serves (including youth who are not referred to out-of-home shelter services), except that records maintained on individual runaway and homeless youth shall not be disclosed without the consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual youth. Reports or other documents based on such statistical records shall not disclose the identity of individual runaway and homeless youth.”

For youth in Transitional Living Programs, section 322(a)(13) of the Act requires grantees “not to disclose records maintained on individual homeless youth *without the informed consent of the individual youth* to anyone other than an agency compiling statistical records.” Specific to Transitional Living Programs, the Act only requires consent from the youth to release records, which is different from the Basic Center Programs which require informed consent from the individual youth and their legal guardian.

Section 384 of the Act reads: “Records containing the identity of individual youth pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency.” It is important to note that there are exceptions to this provision. For example, as noted previously, records may be released after proper consent of youth or parent/guardian. Further, de-identified information can be released for research purposes. De-identified is a

technical term that applies to methods commonly used in sensitive research to prevent identification of individuals from a dataset. For example, names might be replaced by numbers (often much more complex steps need to be taken as well). This is further explained in the response to the comment below. We have changed the regulatory text to reflect these statutory requirements.

Comment: Another commenter asked whether de-identified information could be released for purposes of program evaluation or academic research, pointing out that research using such information is essential to improving the quality of services over time.

Response: The Act allows and requires research on service effectiveness (section 343), which normally cannot be measured without records on individual outcomes, but specifically prohibits disclosure or release of “records containing the identity of individual youth” to “any individual or any public or private agency” (section 384). In other places, the Act requires shelter grantees to “keep adequate statistical records” and allows their use in reports “based on such statistical records” (section 312(b)(7) for Basic Center grants; similar language applies to other services). In the light of these provisions, we interpret the statute to state that research, evaluation, and statistical reports funded by grants provided under section 343 of the Act are allowed to be based on individual data but only if such data are de-identified in ways that preclude disclosing identifiable information on individuals. We have added language in § 1351.21(a)(3) to codify this interpretation.

Comment: Several other unique comments pointed out that requiring consent of both the youth and the family will not always be appropriate or consistent with state law, or consistent with the emancipated status of many youth served. One commenter pointed out that the statutory requirements for consent to release of information differ for Basic Center and Transitional Living Programs.

Response: We appreciate commenters bringing these issues to our attention. We agree that for the Transitional Living Program, only the individual youth's informed consent is required under section 322(a)(13) of the Act. In addition, the Basic Center grant has different disclosure criteria under section 312(b)(7) of the Act. For Basic Center Programs, youth and parents must provide consent. We have revised the regulatory text in § 1351.21(a)(1) to reflect the statute accordingly.

We did not receive any comments on paragraphs (a)(2) through (a)(4) and therefore did not make any changes to the proposed text in this final rule.

Section 1351.19(b)(5) proposed requirements that grantees serve, in a non-discriminatory fashion, individual needs of youth without regard to language, gender, or LGBTQ status, and to be "culturally sensitive and respectful of the complex social identities of youth," including "religion/spirituality, gender identity/expression, sexual orientation, socioeconomic status, disability, language, beliefs, values, behavior

patterns, or customs” as well as race and physical abilities. The inclusion of the term “behavior patterns” in this section will of course not prevent grantees from determining ineligible for services youth with a history or criminal record that poses a potential safety risk to other youth in the grantee’s care.

Comment: We received six comments regarding proposed § 1351.19(a)(5), now § 1351.22(a), concerning “non-discriminatory services and training” and “culturally sensitive” services. The comments principally requested that the rule establish a new legal right of individuals for protection against discrimination aimed at them personally, or including such terms as “cultural and linguistically appropriate” throughout the rule.

Response: In response, § 1351.22 has been added, addressing discrimination in RHY grantee programs and facilities. We are changing the title of subsection (a) to clarify that this section does require that runaway and homeless youth services and training must be both “non-discriminatory and culturally and linguistically sensitive.” We believe it is important that all grantees and other stakeholders understand that our practice and intent is to hold grantees to practices that meet individual needs, regardless of racial, sexual orientation, cultural, or other diverse backgrounds.

We specifically do not intend this change to reference the CLAS voluntary guideline standards of the U.S. Public Health Service, which as previously explained are inappropriate for a number of reasons (e.g., intended only for health care programs

and conflicting in some respects with the requirements of the Act and best practices for runaway and homeless youth). We will continue to provide appropriate guidance to grantees on our approach through training and technical assistance. For example, there are differences among Native American tribes and some immigrant groups as to whether the locus of family authority is patrilineal or matrilineal. This should influence the practices that grantees use to approach and counsel certain families and youth they serve. We believe that our grantees generally understand these nuances quite well, since they have significant experience working with these populations.

We emphasize that the language of this final rule is in no way intended to create new individual rights. Civil rights for individuals served by HHS programs are enforced through the Office for Civil Rights under its regulations and guidance and in compliance with federal civil rights law. Grantees who are unfamiliar with these laws and regulations should review our list of civil rights and other regulations that apply to HHS grantees but that are administered by other agencies.

Comment: One commenter pointed out that often the provision of gender appropriate services is a matter of allowing a youth to participate in programming that is appropriate for their gender identity, or with the gendered group where they feel most safe and supported. The commenter also highlighted that the provision of gender appropriate services requires sensitivity to the diverse experiences of youth, and the process of determining what services are appropriate for a transgender

youth may require individualized consultation with the youth, rather than a blanket determination of what services are necessary or appropriate based on their gender identity, sex assigned at birth, gender expression, or the status of their identity documents.

Response: We agree. Section 1351.22(a) of this final regulation includes a provision to require that service delivery and staff training comprehensively address the individual strengths and needs of youth, including the youth's gender and gender identity. We note that best practices in this area include asking transgender, questioning and intersex clients to identify their gender and to assign them housing based on their gender self-identification. Technical assistance to grantees will be provided on this issue.

Comment: One commenter mentioned a recent HUD rule adding a new non-discrimination right for LGBTQ adults participating in subsidized housing programs and recommended including an explicit nondiscrimination provision into these rules to harmonize the requirements applicable to the many grantees receiving funding from both HUD and HHS.

Response: The HUD rule mentioned is grounded in the applicable housing statutes. Therefore, we did not add these specific provisions to the rule. However, § 1351.22 of the final rule was added to address discrimination in RHY grantee programs and

facilities. This section includes strong non-discrimination standards for LGBTQ individuals.

Comment: Two commenters argued that our use of the term “gender specific” might be misinterpreted as requiring segregation, such as segregation of transgender youth from their male or female peers, or separate programming on the basis of gender.

Response: The full phrasing in the proposed rule stated that gender specific meant “interventions that are sensitive to the diverse experiences of male, female, and transgender youth” and “respectful of the complex social identities of youth” including “gender identity/expression” and “sexual orientation.” However, to ensure that our language is not misunderstood we have changed the term “gender specific” to “gender appropriate” in the final rule, as suggested.

Comment: One commenter recommended that education, age, cognitive ability, and physical ability be added to the list of “complex social identities of youth in § 1351.19 (b)(5)” of the proposed rule.

Response: We have reviewed these suggestions. We do not believe that “education” is needed on a list of “complex social identities of youth,” as education is not part of a youth’s social identity and is instead something that a youth achieves.

However, we do agree that “age” and “cognitive” ability, as well as “physical ability,” should be included in paragraph (a). We have made these changes in the final rule.

### **Subpart C. Additional requirements**

As discussed in the previous section of this preamble, the final rule expands on § 1351.19 of the proposed rule and provisions of this section have been reorganized in §§ 1351.20 through 1351.22 to address, “What Government-wide and HHS-wide regulations apply to these programs?,” “What confidentiality requirements apply to these programs?,” and “What additional requirements apply to these programs?,” respectively, and these sections are now included in subpart C of the final rule. Additional changes to subpart C of the proposed rule are discussed below.

We requested comments on whether there is substantial evidence that these or any other requirements not proposed here would improve program outcomes, either overall or for each type of grant, at reasonable effort and cost. We also requested comment on whether placing either the proposed standards or additional standards in funding opportunity announcements rather than in regulations would allow sufficient flexibility to grantees or would hinder our ability to use targeted initiatives to improve program practices.

Under § 1351.20(a), we proposed revising the language requiring grantees to participate in technical assistance and training in order to allow flexibility in which

techniques will be used, and proposed clarifying that grantees must also accept monitoring. This list of technical assistance and training options reflected primarily the evolution and expansion over the years of the training and technical assistance program, and the items listed are all conducted currently under the program.

Requirements we proposed to add are core competencies for youth workers, core support services, cultural and linguistic diversity, background checks, ethics, and staff safety. In particular, we proposed positive youth development as a priority area for training or technical assistance. Under our proposal, grantees would participate in technical assistance or short-term training as a condition of funding, as determined necessary by HHS, in areas such as, but not limited to:

- Aftercare services or counseling;
- Background checks;
- Core competencies of youth workers;
- Core support services;
- Crisis intervention techniques;
- Cultural and linguistic diversity;
- Development of coordinated networks of private nonprofit agencies and/or public agencies to provide services;
- Ethics and staff safety;
- Fiscal management;
- Low cost community alternatives for runaway or otherwise homeless youth;
- Positive youth development;
- Program management;

- Risk and Protective Factors related to youth homelessness;
- Screening and assessment practices;
- Shelter facility staff development;
- Special populations (tribal youth; LGBTQ; intersex youth; youth with disabilities; youth victims of trafficking, sexual exploitation or sexual abuse),
- Trauma and the effects of trauma on youth;
- Use of evidence-based and evidence-informed interventions;
- Youth and family counseling; and
- Confidentiality policies and protocols.

This is a substantial addition but one that we believe is useful to reflect the current set of policy and program priorities as set forth in the Act and in the program solicitations and management improvements that have been made in the overall program in recent years. Virtually all of these proposed provisions were derived from specific statutory mandates and are already part of standard operating procedures. Many participants in our consultative process also suggested most of these items, reflecting the general consensus as to their importance in operating effective services. We received six comments on this subsection.

Comment: Several comments were supportive and raised no questions. Several comments posed questions about the training requirements. Four commenters asked whether all individuals on grantee staff would have to receive training or technical assistance, or if this requirement could be applied to certain grantee staff

but not all, particularly when staff members are not regularly in contact with youth. One commenter asked whether all individuals would have to receive all types of training, or whether training could be tailored to each individual's role in providing services. Several commenters asked that only individuals in contact with youth more than 10 hours a week be required to participate in training. Another commenter asked who would decide what technical assistance is needed and who will provide it. One commenter asked whether new hires would have to be trained before employment begins. Yet another commenter asked several questions about whether grantees could provide their own training or whether the federal government would provide the curriculum.

Response: First, the new language would not require every single individual to participate in every kind of training.

To clarify this provision further, we have added a sentence at the end of paragraph (a) that highlights that this it is not a requirement that every staff person receive training in every subject but all youth-serving workers on staff should receive training sufficient to meet the stated core competencies of youth workers. This training is offered by ACF.

ACF will provide the development of the curriculum for all training and technical assistance as well as provide access to courses and materials. The vast majority of

these trainings will be available on the internet. We hope that this will provide the greatest flexibility for our grantees.

If for any reason, a staff member is not able to participate in the training from the federal government, the grantee can provide its own training based on the ACF materials.

Additionally, grantees are expected to provide in-house training to new hires on some of the most critical responsibilities, without waiting for the next available Runaway and Homeless Youth Training and Technical Assistance Center (RHYTTAC) course. Some kinds of training or technical assistance, beyond core competencies, may be mandated for all grantees in funding opportunity announcements, in other cases only for those identified as needing help.

In still other cases, grantees will request help in particular areas. ACF offers different formats and levels of training within a variety of subjects, allowing quick training for many and in-depth training for few. More information about these resources is available at our online Runaway and Homeless Youth Training and Technical Assistance Center (see: <http://www.rhyttac.net/about/what-rhyttac>).

Comment: One commenter asked us to add “secondary trauma and self-care” to our list of required subjects in § 1351.20(a) of the proposed rule.

Response: We agree that trauma is an extremely important issue and think that proposed list of training and technical assistance sufficiently addresses trauma and the effects of trauma on youth. We encourage grantees to include secondary trauma in their training when discussing the effects of trauma on youth. Grantees are welcome and encouraged to train staff beyond requirements listed in this regulation. In addition, there are multiple ways to propose changes as identified on the RHYTTAC web site, including contacting RHYTTAC leadership, membership on or contact with the National Advisory Board, using the RHYTTAC Community of Practice, participating in workshops, or contacting subject matter experts.

Comment: One commenter asked us to change “cultural and linguistic diversity” in paragraph (a) to “culturally and linguistically appropriate.” This commenter also asked that we clarify that crisis intervention techniques be interpreted to include knowledge and learning for suicide prevention and crisis intervention.

Response: We agree and have made the change to “culturally and linguistically sensitive services” in the final rule. We agree that crisis intervention techniques include suicide prevention. No change is needed in the wording of the final rule, however, on this latter point.

Under § 1351.20(b), we proposed minor technical revisions to update the existing provision requiring coordination with the National Runaway Safeline. Under our proposal, grantees shall coordinate their activities with the 24-hour national toll-free

communication system, which links Runaway and Homeless Youth projects and other service providers with runaway or otherwise homeless youth, as appropriate to the specific activities provided by the grantee. At present, this system is called the National Runaway Safeline, its web site is [www.1800runaway.org](http://www.1800runaway.org), and the toll-free number is 1-800-RUNAWAY. We received no comments on this provision and the language is unchanged in the final rule.

Under §1351.20(c), we proposed a technical revision to the reporting provision to require grantees to submit statistical reports that profile the clients served and that provide management and performance information in accordance with guidance provided by HHS. Such data submission was handled through the Runaway and Homeless Youth Management Information System (RHYMIS) and is now being handled through an integrated RHYMIS/HUD Management Information System (HMIS). While these information systems are a major innovation and improvement tool in program data collection, updating the regulatory reference is a minor change from a regulatory perspective. The existing rule quotes specific statutory language in place when the rule was written. The Act now contains additional requirements (see in particular sections 312(b)(7) and (8), and section 322(a)(9)). For example, it explicitly states that Runaway and Homeless Youth projects “shall keep adequate statistical records profiling the youth and family members whom it serves,” that grantees “shall submit annual reports to the Secretary detailing how the center has been able to meet the goals of its plans,” and that grantees shall submit “statistical summaries describing ... the number and characteristics of the runaway and

homeless youth...who participate...and the services provided to such youth.” We proposed to revise this section to require appropriate reporting and to delete specific quotations from the Act.

Comment: We received two comments directly on § 1351.20(c). One commenter argued for acceptance of data from a system called Child and Adolescent Needs and Strengths (CANS) in RHYMIS. One commenter quoted several research studies in arguing that the RHYMIS data significantly understate the number of LBGT youth who are homeless and recommended improving grantee recording of such information through technical assistance and training.

Response: We are continually working to improve our data collection system. We will continue to work to improve data reporting and will consider these comments under the integrated HMIS system, which has now incorporated RHYMIS. The Office of Management and Budget (OMB) Control Number for RHYMIS is 0970-0123, which has a current expiration date of February 28, 2018. We are looking to revise data standards to reduce the burden associated with filling out the data for the RHY program by the Spring of 2017, with the effective date of October 1, 2017.

Comment: Six comments on either the preamble or this provision recommended that RHYMIS be coordinated or combined with the HMIS system used in HUD’s homeless programs. Several of these commenters also mentioned the Point In Time (PIT) counts used by HUD to estimate the number of homeless. One

commenter pointed out that it is essentially forced to use three database systems: its own internal system, RHYMIS, and HMIS.

Response: We agree and as noted, ACF and HUD are coordinating the integration of the RHYMIS with HMIS systems. Specific information about the integration process and the data standards grantees are required to comply with has been and will continue to be provided to grantees in separate guidance from FYSB.

Comment: One unique comment recommended that client confidentiality be protected under the merged system.

Response: We agree and the confidentiality standards set forth in the Act will apply to access to information in the integrated system.

We proposed adding a new regulatory requirement for outreach for the three major grant programs. Outreach is a key statutory requirement of these programs. We proposed in § 1351.20(d) that grantees perform outreach to locate runaway and homeless youth, and to coordinate activities with other organizations serving the same or similar clients.

Comment: We received several comments on these provisions. One commenter was strongly supportive and raised no issues. One commenter asked what expectation we had for Basic Center grantees. One commenter pointed out that

outreach efforts are needed to ensure that vulnerable youth, including LGBTQ youth, are made aware of available services, and that training related to special populations such as these that is culturally and linguistically appropriate is important. Another commenter suggested coordinated outreach and services with Continuums of Care, child welfare, and law enforcement.

Response: While the roles and level of effort of each type of grantee will differ, the Basic Center, Transitional Living and Street Outreach Program grantees are all expected to perform at least some outreach services. We point out that local coordination is also part of this requirement, and that for this as well there will be differences among types of grantees as to how that is performed and the appropriate level of effort. With regards to the question of what expectations for outreach will be for Basic Center grantees, under section 312(c) and (e) of the Act, Basic Center grantees must outreach to youth if the grantees are providing street-based or drug abuse services. Beyond these statutory requirements, outreach by Basic Centers grantees is appropriate in other circumstances as well. Therefore, we maintained this requirement for Basic Center Programs. Additionally, in the final rule, based on comments related to coordination of activities and services, we specified that coordination should occur with organizations, such as child welfare agencies, juvenile justice systems, schools, and Continuums of Care, as defined by HUD.

We requested comments on the following two proposed requirements. First, under paragraph (e), we proposed that grantees shall develop and implement a plan for

addressing youth who have run away from foster care placement or correctional institutions and for returning those youth appropriately to the responsible organizations, in accordance with federal, state, or local laws or regulations that apply to these situations.

Second, under § 1351.20(f) of the proposed rule, we proposed that grantees take steps to ensure that youth who are under the legal jurisdiction of the juvenile justice or child welfare systems receive services from those systems until such time as they are released from the jurisdiction of those systems. The purpose of these provisions is to provide a clear demarcation between services that are the legal and financial responsibility of other programs, and services that are the responsibility of the Runaway and Homeless Youth Program.

Comment: We received six comments on § 1351.20 (e) and (f). One commenter asked what federal, state, and local laws we were referencing. One commenter questioned whether returning a child to foster care or the criminal justice system would always be in the best interest of the child. The commenter proposed language that essentially said the return need not be immediate, but that grantees had to act in accordance with applicable laws. Another commenter asked about the case where a youth might be eligible for child welfare services but was not currently enrolled.

Response: Regarding applicable laws, the federal law likely to apply in such cases is title IV-B and IV-E of the Social Security Act, implemented through regulations at 45 CFR parts 1355 through 1357. The programs authorized by these statutes are operated through the states and tribes. There are various state and local juvenile justice and foster care laws in all states and some older youth may also be subject to laws that apply to adults. In addition to federal law, grantees are expected to know the applicable laws and systems in their own jurisdictions and to coordinate with the responsible agencies. One specific example of a possible problem given by the commenter was of a child fleeing from an abusive foster home. In such cases, the foster care agency would be legally responsible for finding an alternative, safe foster home placement. As to the criminal justice system, grantees that failed to act in accordance with state law (e.g., regarding escapees from correctional institutions) could find themselves in violation of criminal statutes. We have not changed our proposed language to address these suggestions in the final rule because, as a practical matter, RHY grantees have little or no discretion in such situations. However, in paragraph (e) we have incorporated the statutory requirement in section 312(b)(4) of the Act which requires Basic Center grantees to develop a plan that ensures the return of youth who have run away from correctional institutions to those institutions. In all cases, grantees are responsible for seeking outcomes that are in the best interest of the child and are expected to do so within the legal and regulatory frameworks in which they operate. This includes, for example, seeking to place youth into child welfare systems if reuniting the family is not reasonably possible. All of these steps are relevant to the aftercare requirement that follows.

We proposed to codify three provisions focused on the need to serve youth outside the program, which have previously been included in RHY funding opportunity announcements. Under proposed § 1351.20(g), which in the final rule is § 1351.26(a), grantees shall develop and implement an aftercare plan, covering at least six months, to stay in contact with youth who leave the program in order to ensure their ongoing safety. A youth's individual aftercare plan shall outline what services were provided, including appropriate referrals for needed health care services, the youth's housing status, and the rate of participation and completion of the services in the plan at three months and at six months after exiting the program. In § 1351.20(h), which in the final rule is § 1351.26(b), we proposed that grantees shall develop and implement a plan for health care service referrals for youth during the service and aftercare periods. Under proposed § 1351.20(i), which in the final rule is § 1351.26(c), we proposed that grantees shall assist youth to stay connected with their schools or to obtain appropriate educational services. This includes coordination with McKinney-Vento school district liaisons, designated under the McKinney-Vento Homeless Assistance Act, to assure that runaway and homeless youth are provided information about the services available under that Act. Under that law, which is the primary piece of federal legislation dealing with the education of homeless children in U.S. public schools, school districts are required to provide equal access to the same free, appropriate public education provided to other children and youth and to undertake additional steps as needed for such access. For example, school districts must identify potential barriers to the education of

homeless youth, and homeless youth may not be segregated from other students.

We received almost 24 unique comments on these proposed requirements, some of which represented individuals, while others represented several hundred individuals and/or organizations.

Comment: More than six unique comments raised an issue as to whether it is appropriate under § 1351.20(g) of the proposed rule to require Street Outreach Program grantees to provide aftercare plans. Several commenters noted that the Act does not include such a requirement for these grantees. Commenters argued that these grantees rarely had more than brief contact with youth, and were expected to refer them to other service providers (including Basic Center and Transitional Housing grantees) who would be both qualified and responsible for developing such plans.

Response: We agree that this requirement should not apply to the Street Outreach Program and have revised the final rule to exclude those grantees from its coverage.

Comment: Another six unique commenters, some of which represent numerous individuals and organizations, on § 1351.20(g) of the proposed rule, which in the final rule is § 1351.26(a), stated that six months was far too long to continue a youth's aftercare plan and to stay in contact with youth who leave the program. Commenters expressed concern that youth would no longer be participating in the program and it would be difficult or impossible to contact them six months after

exiting the programs. One commenter suggested limiting the aftercare requirement to two months.

Response: In response to comments raising concerns as to whether most youth can be contacted in six months, we have modified the final rule to provide for such contacts and documentation of service completion at three months after exiting the BCP and TLP programs. Three months will provide youth the time they need to transition out of the RHY program and adjust to their new housing arrangement while avoiding the challenges associated with the longer six month timeframe. While a two month after care plan was also proposed by one commenter, we did not feel this was enough time to allow youth to fully adjust after their participation in an RHY program.

Comment: More than six unique commenters, all from service providers or organizations representing service providers, on § 1351.20(g) of the proposed rule, which in the final rule is § 1351.26(a), stated that the overall requirement of providing aftercare services for six months after a child's exit from the program was unduly burdensome and cost prohibitive to meet. Several of these pointed out that such follow-up would be impossible in several common situations that affect many of those served. For example: youth cannot be located after leaving program; youth can be located but refuse to stay in contact; foster care agencies taking over service planning and refusing to share information or allow contact; or parental refusal to allow further contact. Several suggested that the requirement be limited to those

clients who were in contact with the program for some minimum length of stay, such as two weeks for the Basic Center Program and three months for the Transitional Living Program. These same commenters suggested that the requirement be limited to those clients who requested and consented to follow-up. One commenter endorsed the requirements of the proposed rule and argued it should be even stronger, by incentivizing programs to build strong relationships with other service providers in the community and leverage those to better client outcomes. One commenter said this was an important area for improvement, but that “we struggle with keeping track of youth after they leave our program,” a problem cited in a number of comments. One commenter suggested that the requirement be changed to offering youth aftercare services and documenting those actually provided, with ratings only on participation rates. Another commenter said that the grantee calls all youth and their guardians at four to six weeks post-exit, but is able to locate only about 25 percent due to “ever changing residences and cell phone numbers.” Yet another comment in the same vein said that its success rate in contacting youth was only about 5 percent at six months, and that those who actually needed assistance generally contacted the center themselves. Finally, one commenter questioned whether grantees had the resources to follow the youth into such systems or upon release from such systems.

Response: We are persuaded by these comments that the requirement as proposed was unrealistically burdensome. The revisions to exclude the Street Outreach Program and to require contact only after three months will reduce the burden

substantially. We have revised the final rule to require that such plans be developed for all BCP and TLP youth, and included in exit counseling, covering at least three months after the youth leaves the program. Grantees should follow up with youth during and at the end of the three month timeframe. We understand that it may be difficult to contact 100 percent of youth, but grantees should attempt to contact all youth within this period.

In addition, we have added the requirement in section 312(b)(5) of the Act that, as possible, Basic Center program grantees should provide counseling and aftercare services to youth who are returned beyond the state in which a runaway and homeless youth services is located, as possible.

Comment: Three commenters suggested that the requirement in § 1351.20(h) of the proposed rule regarding access to health care services also include connecting youth with organizations that assist in enrolling in public or private health insurance. One commenter asked how health care would be paid for and objected to the expense of a new health care service plan. One commenter said that the text of this provision should not include aftercare, since that was covered under the previous provision, arguing that this was duplicative, confusing, and potentially very costly if it were read to require a detailed referral plan for each client's specific services. Another commenter said that the aftercare requirement should include not only health care services, but also health insurance.

Response: We think the idea of including referrals for health insurance advice (where appropriate) in the health services plan is a useful addition to the planning requirement. Many sources of information which can assist in providing insurance information are available to youth. Key among these resources are the state Medicaid agency and local Navigators and Application Assisters established under the Affordable Care Act (ACA). Some youth will be insured under an existing parental plan funded through employer insurance (such plans cover some families). In all states, youth are eligible for Medicaid if they are in a household with income below 133 percent of the federal poverty level (FPL) and meet other non-financial eligibility requirements, such as citizenship or eligible immigration status and state residence. It is also important to note that most states cover children under 19 at higher income levels. Youth over 19 may be eligible for Medicaid coverage in a variety of eligibility categories; their eligibility for Medicaid may also depend on whether they live in a state that has chosen to expand Medicaid for adults age 19 to 65. In addition, some youth may have sufficient income (above 100% of the FPL) to receive financial assistance to purchase coverage through the Health Insurance Marketplace. We are not asking grantees to plan specific services for each youth, but to plan for and, as appropriate, provide referrals to health care providers, such as health centers and other service providers for low-income and vulnerable patients, with or without insurance. Grantees should also consider additional referrals as appropriate. We are also not asking grantees to manage or finance the provision of health care. Accordingly, we have revised the final rule text to include health insurance referrals in the health services plan. In most cases, this would be

handled through family counseling and reunification services since the great majority of parents have family insurance. In this regard, we note that the great majority of family health insurance policies now cover children up to age 26. Also, youth under 26 who age-out of Foster Care and are enrolled in Medicaid at the time that they age out are eligible for Medicaid from their state, with no income eligibility requirements. We did not eliminate the reference to aftercare in the rule, as we consider it critical that referrals to health services should extend into the aftercare period. We have also revised the text to exempt Street Outreach Program grantees from this requirement, per the discussion above.

Comment: We received several comments on § 1351.20(i) of the proposed rule regarding schooling and education. One commenter asked that we add a mandated service linkage to employment and training programs, since these provide a path towards economic self-sufficiency. Two commenters asked that we add college as an option and specifically referenced grantees making youth aware of the Free Application for Federal Student Aid (FAFSA) service. The commenter noted that FAFSA does not necessarily require parental tax information precisely because it recognizes that there are situations where that is not feasible.

Response: These are valid suggestions. While returning to school will be the typical pathway for runaway and homeless youth, some of them (particularly older youth) will prefer job training or employment and some will have already graduated from high school. Many federally-funded and state and local job placement and training

programs are aimed at school dropouts or recent graduates. College is an obvious option for many youth. For many, employment and education can often be managed together, to the benefit of youth with little or no other source of income. We have modified the text of the final rule to cover these options. We have also changed the text to exempt Street Outreach Program grantees from this requirement, and to make the language parallel with the language on health care services.

The Act, at sections 312(b)(13) and 322(a)(16), specifically requires grantees to develop emergency plans. We proposed to adopt this requirement under § 1351.20(j) of the proposed rule by requiring that grantees develop and document plans that address steps to be taken in case of a local or national situation that poses risk to the health and safety of staff and youth. Emergency preparedness plans should, at a minimum, include routine preventative maintenance of facilities (e.g., fire extinguishers and alarms checked, furnace serviced) as well as preparedness, response, and recovery efforts. The plan should contain strategies for addressing evacuation, security, food, medical supplies, and notification of youths' families, as appropriate. In the event of an evacuation due to specific facility issues, such as a fire, loss of utilities, or mandatory evacuation by the local authorities, an alternative location needs to be designated and included in the plan. Grantees must immediately provide notification to their project officer and grants officer when evacuation plans are executed. ACF has an Office of Human Services Emergency Preparedness and Response that can provide technical assistance, in

collaboration with FYSB/ACYF and the ACF Regions, to support grantee development of emergency preparedness plans.

Comment: One commenter asked that we include suicide prevention and post-intervention plans in the requirement for emergency planning under § 1351.20(j) of the proposed rule.

Response: We did not make this change because this provision is intended to cover emergencies that affect entire facilities or all or most clients, not individual health crises. We already require that individual client treatment plans cover both physical and mental health, which is inclusive of suicide prevention.

In § 1351.20(k), which is numbered § 1351.23(h) in this final rule, we clarify that shelters operated by grantees must meet any applicable state or local licensure requirements, and that grantees determine that any shelters to which they regularly refer clients also meet such requirements. We did not propose to establish as a federal requirement that grantees meet any other state or local laws.

Comment: One comment stated that ACF should develop guidance for cases where such licensure requirements conflicted with nondiscrimination or other standards established by these rules or other HHS requirements.

Response: In the event there appears to be a conflict between federal law or regulations and state or local licensing standards, we will handle these on a case-by-case basis through monitoring and regular contact with grantees, since licensing laws differ in every state and jurisdiction. Based on this case-by-case approach, we did not amend the final rule to respond to this comment.

Comment: One commenter asked how we proposed to monitor the requirement of § 1351.20(k) that shelters operated by grantees meet any applicable state or local licensure requirements, and that grantees determine that any shelters to which they regularly refer clients also meet such requirements, . The commenter also asked how the federal government would know whether a state requirement existed or had been met.

Response: Our regional staff will review licensure issues as part of their compliance reviews and monitoring visits. FOAs may include requiring an agency to provide documentation of a valid license, as well as coordination with the state or local agency when licensing is in question. In addition, if a facility is found by a state or local agency to fail licensure requirements, the state or local agency will presumably act to impose proper sanctions. Likewise, grantees themselves have huge incentives to meet state licensure requirements not only to remain open, but also because that is a condition of grant award and there are sanctions that can be levied for non-compliance, including loss of funding and debarment from future awards

(see non-procurement debarment, which is second on our list of applicable federal regulations).

We have revised the regulatory language to require grantees to report to HHS instances when they fail to meet licensing requirements or lose their license. The rule now states, “grantees shall promptly report to HHS instances in which shelters are cited for failure to meet licensure or related requirements, or lose licensure. For grantee-operated facilities, failure to meet any applicable state or local legal requirements as a condition of operation may be grounds for grant termination”.

Under § 1351.20(l), which is numbered § 1351.23(j) in this final rule, we initially proposed to require that all employees and volunteers be subject to a broad range of background checks for criminality and suitability (see the definition of background check). We also proposed to require that all adult host homes occupants be subjected to criminal and child abuse checks.

Comment: One commenter suggested adding consultants as individuals who should be subject to background checks. Several commenters objected to subjecting volunteers to the same check as employees (e.g., why employment records or driving records for volunteers?) or argued that the proposed definition was ambiguous as to what was required for volunteers. In particular, several commenters pointed out that many volunteers may be one-time attendees at particular events that some staff and volunteers may not work directly with youth,

that some volunteers may not have unsupervised contact with youth, and recommended exemptions in cases such as these. As examples, volunteers might be used to cook hot meals on holidays, might be guest speakers, or might visit as members of a community group.

Response: We agree with these points. We have modified the text of the final rule, as described below, to clarify that for volunteers, employees, consultants, and contractors, who have regular unsupervised contact with individual youth, and all adults who reside in or operate host homes, a background check includes an examination of criminal records, sex offender registries, a request for child abuse and neglect history, and any other checks required under state or tribal law.

Comment: Several commenters asked whether the driving record check would apply only to those who transport youth. One commenter pointed out that some kinds of criminal backgrounds do not pose serious risks of harm to the grantee or clients, and asked for clarification that employment of such persons (who might have committed minor crimes as youth) not be prohibited. Several commenters noted that there was ambiguity as to what kind of national check might be required and several pointed out that at least one state performed an out-of-state check only for states in which the person has recently lived.

Response: We agree that most of these comments raise valid points and have made several changes in the final rule. First, we have revised the text at § 1351.22(j) in

this final rule to read that grantees shall have a plan, procedures, and standards for ensuring background checks on all employees, contractors, volunteers and consultants who have regular and unsupervised private contact with youth served by the grantee, and on all adults who reside in or operate host homes. The plans, procedures and standards must identify background check findings that would disqualify an applicant from consideration for employment to provide services for which assistance is made available in accordance with this part. This provides grantees' discretion for the kinds of volunteer help that the commenters identified, and discretion to reduce the scope of the background check for those volunteers who do not work directly with youth. It also gives flexibility to grantees to avoid the time and trouble of background checks for job applicants who will not be offered employment for other reasons. We agree with the commenter who pointed out that consultants may take on duties similar to employees, perhaps involving unsupervised contact with youth, and should therefore be subject to background checks. We also added new provisions to § 1351.23(j) to clarify that programs are required to obtain state or tribal criminal history records with fingerprint checks, federal criminal history records with fingerprints (to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award), a sex offender registries check, and a child abuse and neglect registry check (to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award).

We point out that the rule also requires training in a number of subjects, including the administration and use of background checks that will cover cases such as these. Also, while we note that the requirement in the rule does not propose a specific standard or criterion for “passing” a background check, grantees should have a set of “passing” criteria in place. In this regard, we note there are issues of fiduciary stewardship such as potential embezzlement, not just crimes such as rape or assault that may be identified by background checks.

In the final rule, we did not limit background checks to the state of the grantee, as suggested by several commenters. Instead we are requiring state or tribal criminal history records including fingerprint checks as well as Federal Bureau of Investigation criminal history records including fingerprint checks, to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee’s award. The federal background check will provide RHY providers with critical information about both in-state and out-of-state histories of prospective employees and volunteers. Criminal activity may not be limited to one state, and not all states share information through reciprocal agreements. As such, limiting a background check to only a single state could miss important criminal history. We also are aware that there may be complications or challenges with securing federal background checks. The background check requirements also include a child abuse and neglect state registry check (to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a

grantee's award), sex offender registries checks, and other checks required by state or local law. The essence of the final requirement is that grantees are responsible for developing plans and procedures that reasonably protect youth while minimizing unnecessary costs and burden while allowing for effective services.

Under proposed § 1351.20(m), which is numbered § 1351.23(a) in this final rule, positive youth development (PYD), which has been a central framework of the program for years, would be required. PYD emphasizes:

- Healthy messages to adolescents about their bodies, behaviors, interpersonal relationships, and interactions;
- Safe and structured places for teens to study, recreate, and socialize;
- Strong relationships with adult role models;
- Skill development in literacy competence, work readiness, and social skills;
- and
- Opportunities for youth to serve others and build self-esteem.

Runaway and Homeless Youth projects that adopt these principles provide the youth they serve with opportunities for positive use of time, for positive self-expression and self-development, and for constructive civic and social engagement. Accordingly, we proposed under this section to require PYD on a program-wide basis. Under this paragraph, grantees must utilize and integrate into the operation of their projects the principles of positive youth development, including healthy messages, safe and

structured places, adult role models, skill development, and opportunities to serve others.

Comment: We received one comment on this section. That commenter praised this provision but pointed out that LGBTQ youth were at greater risk than heterosexual peers for a variety of physical and mental problems, and could therefore benefit disproportionately from skills and messages associated with positive youth development services. This comment asked that ACF provide additional non-regulatory guidance on messaging to assist such youth in developing identity formation and acceptance.

Response: Our Runaway and Homeless Youth Training and Technical Assistance Center provides extensive tools and technical assistance, including those aimed at LGBTQ youth (see, for example, our recent “Research Review of Evidence-Based Practices for RHY in the Domain of LGBTQ” at <http://www.rhyttac.net/sites/default/files/resources/EBP%20Literature%20Review%20for%20LGBTQ%20Services.pdf> ). We will continue to work with stakeholders and researchers to develop information and guidance to improve services to these youth. We have made no changes to this provision.

We preface § 1351.23(a) of this final rule with the statement that there are numerous other possible requirements related to positive youth development that could have been included in this section of the final rule. We did not propose such additional

requirements for three reasons. First, it is difficult to craft requirements that do not unduly constrain grantee flexibility by imposing a “one size fits all” approach that does not in fact reasonably apply to particular grantees, particular situations, or particular staff. Second, such requirements almost by necessity create burdens, e.g. for recordkeeping or reporting to demonstrate that grantees meet the requirement. Third, we use funding opportunity announcements to further clarify requirements and guidance for particular grant recipients. These announcements provide the flexibility to add particular requirements (including temporary priorities) without going through a rulemaking process and, more importantly, allow far more flexibility to adapt as needed over time. For instance, the 2014 funding opportunity announcement for the Basic Center Program (<http://www.acf.hhs.gov/grants/open/foa/view/HHS-2014-ACF-ACYF-CY-0792>) gives examples of practices to follow or services that agencies can provide. This language allows grantees the option to provide most but not all of these services. This would allow, for example, for the situation in which another agency provides a key service and the grantee can use referral arrangements. Particularly in a program dealing with such complex problems, and given the extreme variation in service availability from other providers in particular localities, we believe that funding opportunity announcements are often a preferable vehicle for encouraging certain practices and partnerships.

To this end, we have included language in § 1351.22 (l) in this final rule, stating that grantees must provide such other services and meet such additional requirements as HHS determines are necessary to carry out the purposes of the statute, as

appropriate to the services and activities for which they are funded. These services and requirements will be articulated in the funding opportunity announcements and other guidance issued by FYSB. This includes operational instructions and standards of execution determined by the Secretary or Secretarial designees to be necessary to properly perform or document meeting the requirements applicable to particular programs or projects. We received no comments on this provision, and it is retained unchanged in the final rule.

Language has been moved from § 1351.22(b) to § 1351.23(m) as it applies to all programs, stating that nothing in this rule gives the federal government control over staffing and personnel decisions. This will be interpreted to mean that FYSB will not make direct hiring decisions. At the same time, rules regarding nondiscrimination and background checks, and other requirements still apply.

In addition to the requirements that all RHY grantees must meet, there are additional requirements specific to each of the three core RHY programs which stem from the Act and the unique purposes of each program.

We proposed to create a new § 1351.21 “What are the additional requirements that the Basic Center Program grantees must meet?” This section addresses the additional program specific requirements that are central to the purposes of the Basic Center Program. First, we proposed under paragraph (a) that all Basic Center grantees shall have an intake procedure that is available 24 hours a day and 7 days

a week to all youth seeking services and temporary shelter. The intake process must, at all hours, enable staff to address and respond to young people's immediate needs for crisis counseling, food, clothing, shelter, and health care services. The second proposed requirement under paragraph (b) describes the primary function described under the Act for Basic Center grantees, requiring that grantees shall provide, either directly or through arrangements, access to temporary shelter 24 hours a day and 7 days a week. Any grantee that did not provide temporary living services to eligible youth would not be meeting an essential function of the program (section 311(a)(2) of the Act). Note that this requirement allows for a combination of facilities that are directly operated by the grantee, operated by others, or accessible through referral. Third, under paragraph (c), we proposed to require that Basic Center grantees provide case management, counseling and referral services that meet client needs and that encourage, when in the best interests of youth particularly with regard to safety, the involvement of parents or legal guardians. Under paragraph (d), we proposed to require that grantees provide additional core support services to clients both residentially and non-residentially, as appropriate. The core services must include case planning, skill building, recreation and leisure activities, and aftercare. Again, this is an essential function of the program established by the Act and codification in this final rules does not require changes in program operations. Under paragraph (e), we proposed to require that grantees make contact with the parent(s), legal guardian or other relatives of each client within 72 hours of entering the program with a "best interest of the youth" exception allowed for disclosure of the location if additional information is needed to ensure the

safety of the youth. The "best interest of the youth" would be defined by the state child welfare legal requirements with respect to child protective services and law enforcement mandated reporting. Finally, under paragraph (f), we proposed that grantees be subject to any additional requirements that are included in the FOA. We received several comments on these proposals and made revisions as appropriate.

Comment: We received two comments on the proposed requirement in § 1351.21(a) and (b) of the proposed rule for 24/7 assistance to youth seeking shelter, crisis counseling, shelter, health care, and other services. One commenter strongly endorsed the proposal. One commenter on crisis counseling asked for clarification to indicate that this should be interpreted broadly to include immediate needs for suicide prevention counseling and treatment as well as other immediate mental health crises.

Response: "Health care services" as proposed covers both physical and mental health needs and services, whether related to suicide prevention or to other physical or mental problems. The final rule text is unchanged from the proposal.

Comment: We received two comments on the proposed requirement in § 1351.21(c) of the proposed rule for referral services that meet client needs and that encourage the involvement of parents or legal guardians when in the best interests of the child, particularly taking into account safety. One commenter endorsed the proposal and pointed out that a youth may change his mind on parental contact, recommended

use of best practices, and suggested that child welfare be contacted before parents to be sure no safety or other issues existed. The other commenter also endorsed the proposal and requested clarification that safety address not only physical but also mental health, arguing that parental involvement may create a hostile environment detrimental to LGBTQ youth.

Response: This requirement deals with both physical and mental safety, for both LGBTQ clients and all other clients where safety threats may exist. As to contacting child welfare before the parents, that will sometimes be appropriate but will depend on the judgment of the staff according to individual cases (indeed, in some cases law enforcement systems will need to be contacted first). Normally, parental involvement will be first. We agree that the situation can be fluid and that the views of the youth can change. Again, staff will have to make case-by-case judgments over time. The final rule text is unchanged.

Comment: We received one comment on § 1351.21(c) of the proposed rule asking that the term “trauma-informed” be added as a specific reference to counseling under the Basic Center grantee requirements. This same comment was made on the corresponding provisions for Street Outreach, Transitional Living, and Maternity Group Homes (MGH) Program grantees.

Response: Counseling is understood to deal with any serious issues facing each youth, including trauma, among others, and we agree with the comment that

programs should use a trauma informed and evidenced-based approach when such evidence is reliably available. Additionally, we require training and technical assistance materials be very clear on this point and that they provide guidance on trauma issues. We also note that our definition of screening and assessment refers specifically to trauma and the potential need for in-depth diagnostic assessments and services. We have revised paragraph (c) to include an emphasis on trauma-informed care and evidenced-based approaches that must be part of the core services provided. In addition to this requirement, we added a corresponding performance standard designed to measure each grantee's ability to ensure that youth receive counseling services that are trauma informed and match their individual needs.

We received no comments on § 1351.21(d) of the proposed rule and have left it unchanged in this final rule.

Comment: We received two comments on § 1351.21(e) of the proposed rule. One commenter argued against creating the 72-hour standard and recommended that we defer to state law in deciding whether or when to contact parents. This commenter also argued that missing children's databases, including the National Center for Missing and Exploited Children, should be checked within 72 hours of the youth entering the program. This commenter pointed out that fear of contact with child welfare, law enforcement, or parents is a major barrier to youth seeking services, and that one research study found it to be the most important barrier. The other

commenter raised three concerns. First, the proposed language does not deal with cases where the parent cannot be located or will not respond. Second, the comment argues, we should defer to state law both as to timing of parental notification and also as to the “best interest” decision. Third, the commenter disagreed with preamble language stating, “best interest of the youth would be defined by the state child welfare legal requirements with respect to child protective services and law enforcement mandated reporting.” This commenter gave examples where “best interest” cases might arise even when mandatory reporting to state agencies is not required, such as threats of harm to the youth.

Response: As these comments demonstrate, this issue area is complex as well as important. Section 312(b)(3) of the Act says that Basic Center grantees “shall develop adequate plans for contacting the parents or other relatives of the youth and ensuring the safe return of the youth according to the best interests of the youth.” To align better with the statute and to address the comments raised in the proposed rule, we are amending the proposed rule language to say that grantees “shall, as soon as feasible and no later than 72 hours of the youth entering the program, contact the parents, legal guardians or other relatives of each youth according to the best interests of the youth. If a grantee determines that it is not in the best interest of the client to contact the parents, legal guardian or other relatives of the client, they must (i) inform another adult identified by the child, (ii) document why it is not in the client’s best interest to contact the parent, legal guardian or other relative and (iii) send a copy of the documentation to the regional program specialist for review.”

Additionally, if the grantee is unable to locate, or the youth refuses to disclose the contact information of, the parent(s), legal guardian or other relative of the client within 72 hours of entering the program the grantee will follow the protocols set forth in paragraph (e).

Examples of when it would not be in the best interest of the child to contact the parents include instances of severe physical or emotional abuse, or fear of harm to the child.

Regarding the 72-hour timeframe, based on the past practice of our grantees, it has been determined that making a notification within 72 hours allows grantees time to assess whether contacting parents will be in the best interest of a child. However, we encourage grantees to contact parents or guardians sooner if appropriate and possible.

Comment: We received one comment on § 1351.21(f) regarding our intention to use FOAs to impose any additional requirements. The commenter expressed concern over possible misinterpretations of intent by grant application reviewers.

Response: The proposed rule language is retained in the final rule without changes because FOAs are routinely updated and grant application reviewers are fully trained on new provisions in a systematic way. Additionally, contact information for RHY program staff is provided on each FOA and grantees are always encouraged to

ask questions about the announcement. While ACF/FYSB may not necessarily provide individual responses to every inquiry, responses, when provided, will be posted and made available to all applicants. Responses may be given if information is included in the FOA. However, if questions do not pertain to information found in the FOA, ACF has a policy of not providing direct guidance or instruction in the development and writing of an application.

We also proposed a new § 1351.22 “What are the additional requirements that the Transitional Living Program and Maternity Group Home grantees must meet?” to include specific requirements for core services to be provided by the programs. Under paragraph (a), we proposed requiring that grantees provide transitional living arrangements and additional core services including case planning/management, counseling, skill building, consumer education, referral to needed social and health care services, and education, recreation and leisure activities, aftercare, and, as appropriate to grantees providing maternity-related services, parenting skills, child care, and child nutrition. Additionally, under paragraph (b), we proposed requiring that Transitional Living Program and Maternity Group Home grantees be subject to any additional requirements included in the FOA. We received no comments on this section and make no changes in the final rule.

We proposed to create a new § 1351.23 “What are the additional requirements that the Street Outreach Program grantees must meet?” The proposed requirements were specific to the purposes of the Street Outreach Program. We proposed under

paragraph (a) to require that SOP grantees provide services designed to assist clients in leaving the streets, in making healthy choices, and in building trusting relationships in areas where targeted youth congregate. Under paragraph (b), we proposed to require SOP grantees provide directly or by referral other core services to their clients. Finally, under paragraph (c), we proposed to require that SOP grantees be subject to any additional requirements included in the FOA. We received no comments on this section other than those previously addressed, and make no changes in the final rule.

#### **Subpart D. What are the Runaway and Homeless Youth Program-Specific Standards?**

Section 386A of the Act requires performance standards be established for Basic Center, Transitional Living and Street Outreach Programs. In addition to requirements that apply to all Runaway and Homeless Youth Programs, we proposed to establish a new Subpart that creates specific standards for each major type of local services grant, with a focus on performance-based standards. Performance standards focus directly on program outcomes. More specifically, we explained that performance standards are focused on four core outcomes: (1) social and emotional well-being; (2) permanent connections; (3) education or employment; and (4) stable housing. Research indicates that improvements on risk and protective factors can serve as pathways to get to better outcomes in

these four core areas.<sup>12, 13, 14</sup> These four core outcomes are expected to lead to healthy and productive transitions to adulthood for homeless youth. In the proposed rule, some of the performance standards included specific quantifiable metrics.

Comment: We received several comments regarding difficulties with requiring grantees to contact the parent(s), legal guardian, or other relatives of clients within 72 hours of entering the program to inform them that the youth is safe, with a determination to be made on a case-by-case basis of whether it is in the best interests of the youth to notify the parent(s), legal guardian or other relatives of the location of the youth until further information has been gathered to assure safety.

Response: After reviewing these comments and the entire final rule, we decided to remove the 72-hour requirement from the performance standards since it is already included in § 1351.24(e). It was clear that this was duplicative and unnecessary since the same language was already included in the Basic Center Program requirements.

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<sup>12</sup> Kidd, S., & Shahar, G. (2008). Resilience in homeless youth: The key role of self-esteem. *American Journal of Orthopsychiatry*, 78 (2), 163.

<sup>13</sup> Milburn, N. G., Jane Rotheram-Borus, M., Batterham, P., Brumback, B., Rosenthal, D., & Mallett, S. (2005). Predictors of close family relationships over one year among homeless young people. *Journal of Adolescence*, 28(2), 263-275.

<sup>14</sup> Milburn, N., Liang, L., Lee, S., Roteram-Borus, M., Rosenthal, D., Mallett, S., et al. (2009). Who is doing well? A typology of newly homeless adolescents. *Journal of Community Psychology*, 37 (2), 135-147.

Comment: We received two comments related to health care services. One commenter asked that we add health insurance to this section. The other commenter asked that we revise the proposed language to clarify that the referral plan is for the program as a whole, not for each individual client.

Response: We have revised the language to make clear that a referral plan shall, as appropriate, cover referral for insurance services as well as for health care services. Individualized plans are required. We have, however, modified the language to make clear that the grantee responsibility is to make referrals, not to arrange or monitor the actual provision of specific medical care services, insurance, or insurance coverage. Those functions are the responsibility of the health care providers themselves, and the youth who are their patients, not of our grantees.

The regulatory provisions concerning pre-natal care, well-baby exams, and immunizations for Maternity Group Home grantees are fully adopted without changes in this final rule.

Comment: Almost all commenters addressing performance standards for the Basic Center Program welcomed the idea of performance standards but criticized the proposed 90 percent standard in § 1351.30(b) for youth transitioning to safe and appropriate settings when exiting Basic Center Program settings. Many

commenters said that 90 percent was an unrealistically high goal, and proposed lower standards, such as 75 percent. One commenter mentioned the option of a corrective action plan at the lower percent level. Another suggested imposing the standard only for youth who stay enrolled for more than seven days. Another pointed out that some youth would leave as soon as they are informed of mandatory reporting to state agencies. One commenter said it was not within the grantee's control if youth simply run from the center to an unknown destination. One commenter questioned whether the preamble was accurately describing past achievement rates near 90 percent. Several commenters were concerned that the proposed standard would reduce the willingness of grantees to enroll the hardest to serve clients, and suggested adjusting performance measures based on participant characteristics to create incentives to target services to the most vulnerable youth. Several commenters said that without more flexible standards for safe exits, the proposed standard would be impossible to achieve. Several commenters said that without better exit criteria the performance standard should be lowered to 60 percent. Several commenters pointed out that for very small centers the 90 percent standard could be missed by a change of just one or two youth making a different decision.

We received almost twenty unique comments on the proposed performance standards for the Transitional Living Program. Essentially the same group of commenters as commented on the quantitative performance criteria for the Basic Center Program commented on these criteria for the Transitional Living Program.

These commenters made similar or identical arguments, especially against the 90 percent standard for exit to safe and appropriate settings. Some also addressed the 45 percent standard for community service, and one of these criticized that standard as somewhat inconsistent with the program's goals of securing education, employment, and safe housing. This comment suggested conceptually different measures, such as providing youth the opportunity to perform community service once a month.

Several comments to the proposed performance criteria for the Street Outreach Program criticized our proposal to count total contacts as ambiguous. For example, would contacting the same youth multiple times count the same as contacting multiple youth once each? One comment suggested that it might be possible to develop a good performance measure from the percentage of youth contacted that accepted shelter, case management, or other services. Another comment asked about the dividing line between a youth who was a contact and a youth who was a client. Another comment suggested that any such measure would be skewed downward in cases where the same youth was contacted multiple times but only accepted housing after the final encounter. Several comments criticized the total contacts measure as meaningless given the different sizes of Street Outreach Program service areas and the different sizes of individual programs. Two of these comments recommended that we adjust the measure by the population of the service area or by population density; the latter reflecting the presumably greater difficulty of reaching youth in rural areas.

A third said the total contacts measure should be used as a reporting requirement, but dropped as a performance measure. One commenter praised the proposed numeric standard in § 1351.32 and suggested no specific change. One commenter proposed broader measures such as comparing the number contacted to the estimated universe of runaway and homeless youth in the service area. One commenter suggested comparing the number contacted to the total population in the service area. This commenter also recommended that HHS convene SOP grantees to collaboratively determine what standards should be used. One commenter suggested collecting data on the immediate outcomes of outreach contacts, but not setting specific performance standards. One commenter mentioned the option of comparing the total number of youth contacted to the number accepting services and criticized it because contacting a single youth many times, such as 20 times, followed by that youth finally accepting shelter, would lead to a misleading 5 percent effectiveness figure.

Response: Based on the feedback received, we have revised the performance standards for the Basic Center, the Transitional Living, and Street Outreach Programs. For the Basic Center and Transitional Living Programs, the performance standards are focused on outcomes: (1) Social and Emotional Well-being; (2) Permanent Connections; (3) Education or Employment; and (4) Stable Housing. We also included definitions of these terms in Subpart A of this rule. These definitions were derived directly from the U.S. Interagency Council on Homelessness (USICH) Federal Framework to End Youth Homelessness. The

Street Outreach Program performance standards maintain a focus on the number of youth contacts completed.

We have decided to remove the numerical metrics from the regulatory language for Basic Center, Transitional Living, and Street Outreach Programs. Specific numeric metrics based on the performance standards will be outlined in future Funding Opportunity Announcements. These numeric metrics will be developed using RHYMIS and HMIS data collected under existing data collection systems such as RHYMIS and HMIS (OMB Control Number 0970-0123) and its successors, as well as performance progress reports (OMB control number 0970-0406) and its successors. This will give FYSB flexibility to analyze data reported by grantees and set realistic benchmarks over time through existing data collection and grant reporting methods.

For the Street Outreach Program performance standards, we interpret the standard as allowing each contact with the same youth on later occasions to count as a new contact, but see no need to amend the language. Youth receiving services should be counted as clients rather than contacts. We will make these points clear in training and technical assistance materials and in the HMIS system's reporting directions. Finally, we appreciate the conceptual improvement of a percentage measure related to acceptance of services, but think that it would be very difficult to measure accurately in practice. We will

explore that idea further in consultations with grantees and stakeholders, as a possible future improvement.

After careful consideration of the various criticisms of and suggestions for improving the performance standard, we have added language to the end of this Street Outreach Program performance standards section that will determine appropriate proportions of contacts based on grantee staff size through existing data collection and grant reports. Specific numeric metrics will be outlined in future Funding Opportunity Announcements. FYSB will provide more specific guidance and training and technical assistance to grantees on collection and reporting data.

In the final rule, we also added language that reinforces that grantees need to report data about each of the performance standards. This language was inconsistently incorporated into the proposed rule. To ensure clarity, the final rule explicitly includes language related to reporting within each performance standard subparagraph.

We did not propose performance standards for technical assistance and other grants that do not provide direct services. We do not believe that support grants such as these lend themselves to across-the-board, outcome-oriented performance standards such as those proposed here.

## **Revising Performance Standards**

We proposed to create a new § 1351.33 “How and when will performance standards for the Runaway and Homeless Youth Program be revised?” We stated that for those performance standards for which benchmarks would not be set in the codified rule, benchmarks might be set in the coming years as data are collected.

Additionally, we said that as grantees improve performance, it might be necessary to adjust the benchmark on a given performance standard in the coming years.

Furthermore, we stated that as more is learned about how to improve outcomes, performance standards themselves might need to be modified or added. The rulemaking process is not conducive to making quick or on-going adjustments.

We did not receive comments on this section but have determined since publishing the proposed rule that this section is not needed because it does not directly relate to the responsibilities of the grantees. Therefore, we have deleted this section in the final rule text.

## **Effective Dates**

We proposed to create a new § 1351.34 “When Are Program-Specific Requirements Effective?” We proposed that grantees shall meet program specific requirements, as applicable, upon the effective date of this final rule, or starting at the beginning of the next budget period for the grant, whichever comes later. Since most budget periods begin on October 1 of each year, this means that grantees would have

however many days there are between the issuance of final regulations and that date, but never less than 30 days.

While we received no comments on this newly created section, we acknowledge the effective date is included as part of the regulations publication in the federal register, so there is no reason to add a specific section for this purpose. The section has been deleted from the final rule.

## **VII. Impact Analysis**

### **Paperwork Reduction Act**

This final rule contains no new information collection requirements because all information required in the performance standards has been collected by RHYMIS. The OMB Control Number for RHYMIS is 0970-0123, which has a current expiration date of February 28, 2018. We are looking to revise data standards to reduce the burden associated with filling out the data for the RHY program by the Spring of 2017, with the effective date of October 1, 2017.

### **Regulatory Flexibility Act**

The Secretary certifies that this final rule will not result in a significant economic impact on a substantial number of small entities. We have not imposed any new requirements that will have such an effect. This final rule conforms to the

existing statutory requirements and existing practices in the program. In particular, we have imposed only a few new processes, procedural, or documentation requirements that are not encompassed within the existing rule, existing FOAs, or existing information collection requirements. None of these will impose a consequential burden on grantees. Accordingly, a Regulatory Flexibility Analysis is not required.

### **Regulatory Impact Analysis**

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. HHS has determined that this final rule is consistent with these priorities and principles. The Executive Order requires a Regulatory Impact Analysis for proposed or final rules with an annual economic impact of \$100 million or more. Nothing in this final rule approaches effects of this magnitude. This rule has been reviewed by the Office of Management and Budget.

## **Congressional Review**

This rule is not a major rule (economic effects of \$100 million or more) as defined in the Congressional Review Act.

## **Federalism Review**

Executive Order 13132, Federalism, requires that federal agencies consult with state and local government officials in the development of regulatory policies with federalism implications. This rule will not have substantial direct impact on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with the Executive Order we have determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### **Family Impact Review**

Section 654 of the Treasury and General Government Appropriations Act of 1999 (P.L. 105-277) requires federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any new or adverse impact on the autonomy or integrity of the family as an institution. Like the existing rule and existing program practices, it directly supports family well-being, for example supporting reunification and ongoing family counseling to prevent homelessness wherever safe and feasible. Since we made no changes that would affect this policy priority, we have concluded that it is not necessary to prepare a Family Policymaking Assessment.

### **List of Subjects in 45 CFR Part 1351**

Administrative practice and procedure, Grant programs—social programs, Homeless, Reporting and recordkeeping requirements, Technical assistance, Youth.

(Catalog of Federal Domestic Assistance Program Numbers 93.550, Transitional Living for Homeless Youth; 93.557, Education and Prevention Grants to Reduce Sexual Abuse of Runaway, Homeless and Street Youth; and 93.623, Basic Center Grants for Runaway Youth)

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Mark H. Greenberg,  
Acting Assistant Secretary  
for Children and Families.

Approved: March 16, 2016.

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Sylvia M. Burwell,  
Secretary.

Editorial note: This document was received at the Office of the Federal Register on December 12, 2016.

For the reasons set out in the preamble, title 45 CFR part 1351 is revised as follows:

**PART 1351—RUNAWAY AND HOMELESS YOUTH PROGRAM**

1. The authority citation for part 1351 continues to read as follows:

**Authority:** 42 U.S.C. 5701.

**Subpart A—Definition of Terms**

2. Revise § 1351.1 to read as follows:

**§ 1351.1 Significant Terms.**

For the purposes of this part:

*Act* means the Runaway and Homeless Youth Act as amended, 42 U.S.C. 5701 *et seq.*

*Aftercare* means additional services provided beyond the period of residential stay that offer continuity and supportive follow-up to youth served by the program.

*Background check* means the review of an individual employee's or employment applicant's personal information, which shall include State or Tribal criminal history records (including fingerprint checks); Federal Bureau of Investigation

criminal history records, including fingerprint checks, to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award; a child abuse and neglect registry check, to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award; and a sex offender registry check for all employees, consultants, contractors, and volunteers who have regular, unsupervised contact with individual youth, and for all adult occupants of host homes. As appropriate to job functions, it shall also include verification of educational credentials and employment experience, and an examination of the individual's driving records (for those who will transport youth), and professional licensing records.

*Case management* means identifying and assessing the needs of the client, including consulting with the client, and, as appropriate, arranging, coordinating, monitoring, evaluating, and advocating for a package of services to meet the specific needs of the client.

*Client* means a runaway, homeless, or street youth, or a youth at risk of running away or becoming homeless, who is served by a program grantee.

*Congregate care* means a shelter type that combines living quarters and restroom facilities with centralized dining services, shared living spaces, and access to social and recreational activities, and which is not a family home.

*Contact* means the engagement between Street Outreach Program staff and youth who are at risk of homelessness or runaway status or homeless youth in need of services that could reasonably lead to shelter or significant harm reduction. Contact may occur on the streets, at a drop-in center, or at other locations known to be frequented by homeless, runaway, or street youth.

*Core competencies of youth worker* means the ability to demonstrate skills in six domain areas:

- (1) Professionalism (including, but not limited to, consistent and reliable job performance, awareness and use of professional ethics to guide practice);
- (2) Applied positive youth development approach (including, but not limited to, skills to develop a positive youth development plan and identifying the client's strengths in order to best apply a positive youth development framework);
- (3) Cultural and human diversity (including, but not limited to, gaining knowledge and skills to meet the needs of clients of a different race, ethnicity, nationality, religion/spirituality, gender identity/expression, sexual orientation);
- (4) Applied human development (including, but not limited to, understanding the developmental needs of those at risk and with special needs);

(5) Relationship and communication (including, but not limited to, working with clients in a collaborative manner); and

(6) Developmental practice methods (including, but not limited to, utilizing methods focused on genuine relationships, health and safety, intervention planning).

*Counseling services* means the provision of guidance, support, referrals for services including, but not limited to, health services, and advice to runaway or otherwise homeless youth and their families, as well as to youth and families when a young person is at risk of running away, as appropriate. These services are provided in consultation with clients and are designed to alleviate the problems that have put the youth at risk of running away or contributed to his or her running away or being homeless. Any treatment or referral to treatment that aims to change someone's sexual orientation, gender identity or gender expression is prohibited.

*Drop-in center* means a place operated and staffed for runaway or homeless youth that clients can visit without an appointment to get advice or information, to receive services or service referrals, or to meet other runaway or homeless youth.

*Drug abuse education and prevention services* means services to prevent or reduce drug and/or alcohol abuse by runaway and homeless youth, and may

include: (1) individual, family, group, and peer counseling; (2) drop-in services; (3) assistance to runaway and homeless youth in rural areas (including the development of community support groups); (4) information and training relating to drug and/or alcohol abuse by runaway and homeless youth for individuals involved in providing services to such youth; and (5) activities to improve the availability of local drug and/or alcohol abuse prevention services to runaway and homeless youth.

*Education or employment* means performance in and completion of educational and training activities, especially for younger youth, and starting and maintaining adequate and stable employment, particularly for older youth.

*Health care services* means physical, mental, behavioral, and dental health services. It includes services provided to runaway and homeless youth and in the case of Maternity Group Homes also includes services provided to a pregnant youth and the child(ren) of the youth. Where applicable and allowable within a program, it includes information on appropriate health related services provided to family or household members of the youth. Any treatment or referral to treatment that aims to change someone's sexual orientation, gender identity or gender expression is prohibited.

*Home-based services* means services provided to youth and their families for the purpose of preventing such youth from running away or otherwise becoming

separated from their families and assisting runaway youth to return to their families. It includes services that are provided in the residences of families (to the extent practicable), including intensive individual and family counseling and training relating to life skills and parenting.

*Homeless youth* means an individual who cannot live safely with a parent, legal guardian, or relative, and who has no other safe alternative living arrangement. For purposes of Basic Center Program eligibility, a homeless youth must be less than 18 years of age (or higher if allowed by a state or local law or regulation that applies to licensure requirements for child- or youth-serving facilities). For purposes of Transitional Living Program eligibility, a homeless youth cannot be less than 16 years of age and must be less than 22 years of age (unless the individual commenced his or her stay before age 22, and the maximum service period has not ended).

*Host family home* means a family or single adult home or domicile, other than that of a parent or permanent legal guardian, that provides shelter to homeless youth.

*Intake* means a process for gathering information to assess eligibility and the services required to meet the immediate needs of the client. The intake process may be operated independently but grantees should, at minimum, ensure they

are working with their local Continuum of Care Program to ensure that referrals are coordinated and youth have access to all of the community's resources.

*Juvenile justice system* means agencies that include, but are not limited to, juvenile courts, correctional institutions, detention facilities, law enforcement, training schools, or agencies that use probation, parole, and/or court ordered confinement.

*Maternity group home* means a community-based, adult-supervised transitional living arrangement where client oversight is provided on site or on-call 24 hours a day and that provides pregnant or parenting youth and their children with a supportive environment in which to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and ensure the well-being of their children.

*Outreach* means finding runaway, homeless, and street youth, or youth at risk of becoming runaway or homeless, who might not use services due to lack of awareness or active avoidance, providing information to them about services and benefits, and encouraging the use of appropriate services.

*Permanent connections* means ongoing attachments to families or adult role models, communities, schools, and other positive social networks which support

young people's ability to access new ideas and opportunities that support thriving, and they provide a social safety net when young people are at-risk of re-entering homelessness

*Risk and protective factors* mean those factors that are measurable characteristics of a youth that can occur at multiple levels, including biological, psychological, family, community, and cultural levels, that precede and are associated with an outcome. Risk factors are associated with higher likelihood of problematic outcomes, and protective factors are associated with higher likelihood of positive outcomes.

*Runaway youth* means an individual under 18 years of age who absents himself or herself from home or place of legal residence without the permission of a parent or legal guardian.

*Runaway and Homeless Youth project* means a community-based program outside the juvenile justice or child welfare systems that provides runaway prevention, outreach, shelter, or transition services to runaway, homeless, or street youth or youth at risk of running away or becoming homeless.

*Safe and appropriate exits* means settings that reflect achievement of the intended purposes of the Basic Center and Transitional Living Programs as

outlined in section 382(a) of the Act. Examples of Safe and Appropriate Exits are exits:

- (1) To the private residence of a parent, guardian, another adult relative, or another adult that has the youth's best interest in mind and can provide a stable arrangement;
- (2) To another residential program if the youth's transition to the other residential program is consistent with the youth's needs; or
- (3) To independent living if consistent with the youth's needs and abilities.

*Safe and appropriate exits* are not exits:

- (1) To the street;
- (2) To a locked correctional institute or detention center if the youth became involved in activities that lead to this exit after entering the program;
- (3) To another residential program if the youth's transition to the other residential program is inconsistent with the youth's needs; or
- (4) To an unknown or unspecified other living situation.

*Screening and assessment* means valid and reliable standardized instruments and practices used to identify each youth's individual strengths and needs across multiple aspects of health, wellbeing and behavior in order to inform appropriate service decisions and provide a baseline for monitoring outcomes over time.

Screening involves abbreviated instruments, for example with trauma and health problems, which can indicate certain youth for more thorough diagnostic

assessments and service needs. Assessment, which is used here to mean assessment more broadly than for the purposes of diagnosis, involves evaluating multiple aspects of social, emotional, and behavioral competencies and functioning in order to inform service decisions and monitor outcomes.

*Service plan or treatment plan* means a written plan of action based on the assessment of client needs and strengths and engaging in joint problem solving with the client that identifies problems, sets goals, and describes a strategy for achieving those goals. To the extent possible, the plan should incorporate the use of trauma informed, evidence-based, or evidence-informed interventions. As appropriate, the service and treatment plans should address both physical and mental safety issues.

*Short-term training* means the provision of local, state, or regionally-based instruction to runaway or otherwise homeless youth service providers in skill areas that will directly strengthen service delivery.

*Social and emotional well-being* means the development of key competencies, attitudes, and behaviors that equip a young person experiencing homelessness to avoid unhealthy risks and to succeed across multiple domains of daily life, including school, work, relationships, and community.

*Stable housing* means a safe and reliable place to call home. Stable housing fulfills a critical and basic need for homeless youth. It is essential to enabling enable functioning across a range of life activities.

*State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

*Street youth* means an individual who is a runaway youth or an indefinitely or intermittently homeless youth who spends a significant amount of time on the street or in other areas that increase the risk to such youth for sexual abuse, sexual exploitation, prostitution, or drug and/or alcohol abuse. For purposes of this definition, youth means an individual who is age 21 or less.

*Supervised apartments* mean a type of shelter setting using building(s) with separate residential units where client supervision is provided on site or on call 24 hours a day.

*Technical assistance* means the provision of expertise or support for the purpose of strengthening the capabilities of grantee organizations to deliver services.

*Temporary shelter* means all Basic Center Program shelter settings in which runaway and homeless youth are provided room and board, crisis intervention,

and other services on a 24-hour basis for up to 21 days. The 21 day restriction is on the use of RHY funds through the Basic Center Program, not a restriction on the length of stay permitted by the facility.

3. Revise the Subpart B heading to read as follows:

**Subpart B—Runaway and Homeless Youth Program Grants**

4. Revise § 1351.10 to read as follows:

**§ 1351.10 What is the purpose of Runaway and Homeless Youth Program grants?**

(a) The purpose of Runaway and Homeless Youth Program grants is to establish or strengthen community-based projects to provide runaway prevention, outreach, shelter, and transition services to runaway, homeless, or street youth or youth at risk of running away or becoming homeless.

(b) Youth who have become homeless or who leave and remain away from home without parental permission are disproportionately subject to serious health, behavioral, and emotional problems. They lack sufficient resources to obtain care and may live on the street for extended periods, unable to achieve stable, safe living arrangements that at times put them in danger. Many are urgently in need of shelter, which, depending on the type of Runaway and Homeless Youth project, can include host family homes, drop-in centers, congregate care, or supervised apartments, and services, including services that are linguistically appropriate,

responsive to their complex social identities (i.e., race, ethnicity, nationality, religion/spirituality, gender identity/expression, sexual orientation, socioeconomic status, physical ability, language, beliefs, values, behavior patterns, or customs), and acknowledge the environment they come from. Runaway and Homeless Youth grant services should have a positive youth development approach that ensures a young person has a sense of safety and structure; belonging and membership; self-worth and social contribution; independence and control over one's life; skills to develop plans for the future and set goals; and closeness in interpersonal relationships. To make a successful transition to adulthood, runaway youth, homeless youth, and street youth also need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment. HHS operates three programs to carry out these purposes through direct local services: the Basic Center Program; the Transitional Living Program (including Maternity Group Homes); and the Street Outreach Program. HHS operates three additional activities to support achievement of these purposes: research, evaluation, and service projects; a national communications system to assist runaway and homeless youth in communicating with service providers; and technical assistance and training.

5. Revise §1351.11 to read as follows:

**§ 1351.11 Who is eligible to apply for a Runaway and Homeless Youth Program grant?**

Public (state and local) and private non-profit entities, and coordinated networks of such entities, are eligible to apply for a Runaway and Homeless Youth Program grant unless they are part of the juvenile justice system.

6. Revise § 1351.12 to read as follows:

**§ 1351.12 Who gets priority for the award of a Runaway and Homeless Youth Program grant?**

(a) In selecting applications for grants under the Basic Center Program the Secretary shall give priority to—

- (1) Eligible applicants who have demonstrated experience in providing services to runaway and homeless youth; and
- (2) Eligible applicants that request grants of less than \$200,000 or such figure as Congress may specify.

(b) In selecting applications for grants under the Transitional Living Program, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter (such as group homes, including maternity group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills which shall include money management, budgeting, consumer education, and use of credit, parenting skills (as appropriate),

interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth.

- (c) In selecting applicants to receive grants under the Street Outreach Program, the Secretary shall give priority to public and nonprofit private agencies that have experience in providing services to runaway and homeless, and street youth.
- (d) In selecting grants for the national communication system to assist runaway and homeless youth in communicating with their families and with service providers, the Secretary shall give priority to grant applicants that have experience in providing electronic communications services to runaway and homeless youth, including telephone, Internet, mobile applications, and other technology-driven services.
- (e) In selecting grants for research, evaluation, demonstration and service projects, the Secretary shall give priority to proposed projects outlined in section 343(b) and (c) of the Act.
- (f) The Secretary shall integrate the performance standards outlined in §§ 1351.30, 1351.31, or 1351.32 into the grantmaking, monitoring, and evaluation processes of the Basic Center Program, Transitional Living Program, and Street Outreach Program. Specific details about how performance standards will be considered,

along with examples of performance documentation, will be provided in the annual funding opportunity announcements.

7. Revise §1351.13 to read as follows:

**§ 1351.13 What are the Federal and non-Federal match requirements under a Runaway and Homeless Youth Program grant?**

The federal share of the project represents 90 percent of the total project cost supported by the federal government. The remaining 10 percent represents the required project match cost by the grantee. This may be a cash or in-kind contribution.

8. Revise § 1351.15 to read as follows:

**§ 1351.15 What costs are supportable under a Runaway and Homeless Youth Program grant?**

- (a) For all grant programs, costs that can be supported include, but are not limited to, staff training and core services such as outreach, intake, case management, data collection, temporary shelter, transitional living arrangements, referral services, counseling services, and aftercare services. Costs for acquisition and renovation of existing structures may not normally exceed 15 percent of the grant award. HHS may waive this limitation upon written request under special circumstances based on demonstrated need.
- (b) For grants that support research, evaluation, and service projects; a national communications system to assist runaway and homeless youth in

communicating with service providers; and for technical assistance and training grants; costs that can be supported include those enumerated above as well as services such as data collection and analysis, telecommunications services, and preparation and publication of materials in support of the purposes of such grants.

9. Revise § 1351.16 to read as follows:

**§ 1351.16 What costs are not allowable under a Runaway and Homeless Youth Program grant?**

(a) A Runaway and Homeless Youth Program grant does not cover the capital costs of constructing new facilities, or operating costs of existing community centers or other facilities that are used partially or incidentally for services to runaway or homeless youth clients, except to the extent justified by application of cost allocation methods accepted by HHS as reasonable and appropriate.

(b) A Runaway and Homeless Youth Program grant does not cover any treatment or referral to treatment that aims to change someone's sexual orientation, gender identity or gender expression.

10. Revise § 1351.17 to read as follows:

**§ 1351.17 How is application made for a Runaway and Homeless Youth Program grant?**

An applicant should follow instructions included in funding opportunity announcements, which describe procedures for receipt and review of applications.

11. Revise § 1351.18 to read as follows:

**§ 1351.18 What criteria has HHS established for deciding which Runaway and Homeless Youth Program grant applications to fund?**

In reviewing applications for a Runaway and Homeless Youth Program grant, HHS takes into consideration a number of factors, including, but not limited to:

(a) Whether the grant application meets the particular priorities, requirements, standards, or evaluation criteria established in funding opportunity announcements;

(b) A need for Federal support based on the likely number of estimated runaway or otherwise homeless youth in the area in which the Runaway and Homeless Youth project is or will be located exceeding the availability of existing services for such youth in that area;

(c) For runaway and homeless youth centers, whether there is a minimum residential capacity of four (4) and a maximum residential capacity of twenty (20) youth in a single structure (except where the applicant assures that the state where the center or locally controlled facility is located has a state or local law or regulation that requires a higher maximum to comply with licensure requirements for child and youth serving facilities), or within a single floor of a structure in the case of apartment buildings, with a number of staff sufficient to assure adequate supervision and treatment for the number of clients to be served and the guidelines followed for determining the appropriate staff ratio;

- (d) Plans for meeting the best interests of the youth involving, when reasonably possible, both the youth and the family. For Basic Center grantee applicants, the grantee shall develop adequate plans for contacting the parents or other relatives of the youth and ensuring the safe return of the youth according to the best interests of the youth, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway and homeless youth center, and for providing for other appropriate alternative living arrangements;
- (e) Plans for the delivery of aftercare or counseling services to runaway or otherwise homeless youth and their families;
- (f) Whether the estimated cost to HHS for the Runaway and Homeless Youth project is reasonable considering the anticipated results;
- (g) Whether the proposed personnel are well qualified and the applicant agency has adequate facilities and resources;
- (h) Past performance on a RHY grant, including but not limited to program performance standards;
- (i) Whether the proposed project design, if well executed, is capable of attaining program objectives;
- (j) The consistency of the grant application with the provisions of the Act and these regulations; and
- (k) Other factors as outlined in funding opportunity announcements.

**§ 1351.19 [Removed]**

12. Remove § 1351.19.

13. Revise Subpart C to read as follows:

**Subpart C—Additional Requirements**

Sec.

1351.20 What Government-wide and HHS-wide regulations apply to these programs?

1351.21 What confidentiality requirements apply to these programs?

1351.22 What additional requirements apply to these programs?

1351.23 What are the additional requirements that apply to the Basic Center, Transitional Living and Street Outreach Program grants?

1351.24 What are the additional requirements that the Basic Center Program grantees must meet?

1351.25 What are the additional requirements that the Transitional Living Program and Maternity Group Home grantees must meet?

1351.26 What are the additional requirements that both the Basic Center and Transitional Living Program grantees must meet?

1351.27 What are the additional requirements that the Street Outreach Program grantees must meet?

**Subpart C—Additional Requirements**

**§ 1351.20 What Government-wide and HHS-wide regulations apply to these programs?**

A number of other rules and regulations apply or potentially apply to applicants and grantees. These include:

- (a) 2 CFR part 182 – Government-wide Requirements for Drug Free Workplace;
- (b) 2 CFR part 376 – Nonprocurement Debarment and Suspension
- (c) 45 CFR part 16 – Procedures of the Departmental Grant Appeals Board;
- (d) 45 CFR part 30 – Claims Collection;
- (e) 45 CFR part 46 – Protection of Human Subjects;
- (f) 45 CFR part 75 – Uniform Administrative Requirements, Cost principles, and Audit Requirements for HHS Awards, including nondiscrimination requirements.
- (g) 45 CFR part 80 – Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964;
- (h) 45 CFR part 81 – Practice and Procedure for Hearings Under part 80;
- (i) 45 CFR part 84 – Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance;
- (j) 45 CFR part 86 – Nondiscrimination on the Basis of Sex in Education Programs or Activities receiving Federal Financial Assistance;
- (k) 45 CFR part 87 – Equal Treatment for Faith Based Organizations;
- (l) 45 CFR part 91 – Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance;
- (m) 45 CFR part 92 – Nondiscrimination in Health Programs and Activities; and
- (n) 45 CFR part 93 – New Restrictions on Lobbying.

## **§ 1351.21 What confidentiality requirements apply to these programs?**

Several program policies regarding confidentiality of information, treatment, conflict of interest and state protection apply to recipients of Runaway and Homeless Youth Program grants. These include:

- (a) Confidential information. Pursuant to the Act, no records containing the identity of individual youth, including but not limited to lists of names, addresses, photographs, or records of evaluation of individuals served by a Runaway and Homeless Youth project, may be disclosed or transferred to any individual or to any public or private agency except:
  - (1) For Basic Center Program grants, records maintained on individual runaway and homeless youth shall not be disclosed without the informed consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway and homeless youth;
  - (2) For Transitional Living Programs, records maintained on individual homeless youth shall not be disclosed without the informed consent of the individual youth to anyone other than an agency compiling statistical records;
  - (3) Research, evaluation, and statistical reports funded by grants provided under section 343 of the Act are allowed to be based on individual data, but only if such data are de-identified in ways that preclude disclosing information on identifiable individuals; and

- (4) Youth served by a Runaway and Homeless Youth project shall have the right to review their records; to correct a record or file a statement of disagreement; and to be apprised of the individuals who have reviewed their records.
- (b) State law protection. HHS policies regarding confidential information and experimentation and treatment shall not apply if HHS finds that state law is more protective of the rights of runaway or otherwise homeless youth.
- (c) Procedures shall be established for the training of project staff in the protection of these rights and for the secure storage of records.

**§ 1351.22 What additional requirements apply to these programs?**

- (a) Non-discriminatory and culturally and linguistically sensitive services and training. Service delivery and staff training must comprehensively address the individual strengths and needs of youth as well as be language appropriate, gender appropriate (interventions that are sensitive to the diverse experiences of male, female, and transgender youth and consistent with the gender identity of participating youth), and culturally sensitive and respectful of the complex social identities of youth (i.e., race, ethnicity, nationality, age, religion/spirituality, gender identity/expression, sexual orientation, socioeconomic status, physical or cognitive ability, language, beliefs, values, behavior patterns, or customs). No runaway youth or homeless youth shall, on any of the foregoing bases, be excluded from participation in, be denied

- the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part under the Runaway and Homeless Youth Act.
- (1) The criteria that grantees adopt to determine eligibility for the program, or any activity or service, may include an assessment of the needs of each applicant, and the health and safety of other beneficiaries, among other factors.
  - (2) [Reserved]
  - (b) Medical, psychiatric or psychological treatment. No youth shall be subject to medical, psychiatric, or psychological treatment without the consent of the youth and, for youth under the age of emancipation in their state of residence, consent of a parent or guardian, if required by state law.
  - (c) Conflict of interest. Employees or individuals participating in a program or project under the Act shall not use their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

**§ 1351.23 What are the additional requirements that apply to the Basic Center, Transitional Living and Street Outreach Program grants?**

To improve the administration of these Runaway and Homeless Youth Programs by increasing the capacity of Runaway and Homeless Youth projects to deliver services, by improving their performance in delivering services, and by providing for the evaluation of performance:

- (a) Grantees shall participate in technical assistance, monitoring, and short-term training as a condition of funding, as determined necessary by HHS, in such areas as: aftercare services and counseling; background checks; core competencies of youth workers; core support services; crisis intervention techniques; culturally and linguistically sensitive services; participation in or development of coordinated networks of private nonprofit agencies and/or public agencies to provide services; ethics and staff safety; fiscal management; low cost community alternatives for runaway or otherwise homeless youth; positive youth development; program management; risk and protective factors related to youth homelessness; screening and assessment practices; shelter facility staff development; special populations (tribal youth; lesbian, gay, bisexual, transgender, questioning (LGBTQ), and intersex youth; youth with disabilities; youth victims of trafficking, sexual exploitation or sexual abuse); trauma and the effects of trauma on youth; use of evidence-based and evidence-informed interventions; and youth and family counseling. It is not a requirement that every staff person receives training in every subject but all staff members who work directly with youth should receive training sufficient to meet the stated core-competencies of youth workers.
- (b) Grantees shall coordinate their activities with the 24-hour National toll-free and Internet communication system, which links Runaway and Homeless Youth projects and other service providers with runaway or otherwise homeless youth, as appropriate to the specific activities provided by the grantee.

- (c) Grantees shall submit statistical reports profiling the clients served and providing management and performance information in accordance with guidance provided by HHS.
- (d) Grantees shall perform outreach to locate runaway and homeless youth and to coordinate activities with other organizations serving the same or similar client populations, such as child welfare agencies, juvenile justice systems, schools, and Continuums of Care, as defined by HUD.
- (e) Grantees shall develop and implement a plan for addressing youth who have run away from foster care placement or correctional institutions, in accordance with federal, state, or local laws or regulations that apply to these situations. In accordance with section 312(b)(4) of the Act, Basic Center grantees must also develop a plan that ensures the return of runaway and homeless youth who have run away from the correctional institution back to the correctional institution.
- (f) Grantees shall take steps to ensure that youth who are or should be under the legal jurisdiction of the juvenile justice or child welfare systems obtain and receive services from those systems until such time as they are released from the jurisdiction of those systems.
- (g) Grantees shall develop and document plans that address steps to be taken in case of a local or national situation that poses risk to the health and safety of staff and youth. Emergency preparedness plans should, at a minimum, include routine preventative maintenance of facilities as well as preparedness, response, and recovery efforts. The plan should contain strategies for

addressing evacuation, security, food, medical supplies, and notification of youths' families, as appropriate. In the event of an evacuation due to specific facility issues, such as a fire, loss of utilities, or mandatory evacuation by the local authorities, an alternative location needs to be designated and included in the plan. Grantees must immediately provide notification to their project officer and grants officer when evacuation plans are executed.

- (h) Grantees shall ensure that all shelters that they operate are licensed and determine that any shelters to which they regularly refer clients have evidence of current licensure, in states or localities with licensure requirements. Grantees shall promptly report to HHS instances in which shelters are cited for failure to meet licensure or related requirements, or lose licensure. For grantee-operated facilities, failure to meet any applicable state or local legal requirements as a condition of operation may be grounds for grant termination.
- (i) Grantees shall utilize and integrate into the operation of their projects the principles of positive youth development, including healthy messages, safe and structured places, adult role models, skill development, and opportunities to serve others.
- (j) No later than October 1, 2017, grantees shall have a plan, procedures, and standards for ensuring background checks on all employees, contractors, volunteers, and consultants who have regular and unsupervised private contact with youth served by the grantee, and on all adults who reside in or operate host homes. The plans, procedures, and standards must identify the background check findings that would disqualify an applicant from consideration

for employment to provide services for which assistance is made available in accordance with this part.

(1) Required background checks include:

(i) State or tribal criminal history records, including fingerprint checks;

(ii) Federal Bureau of Investigation criminal history records, including fingerprint checks, to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award;

(iii) Child abuse and neglect state registry check, to the extent FSYB determines this to be practicable and specifies the requirement in a Funding Opportunity Announcement that is applicable to a grantee's award;

(iv) Sex offender registry check; and,

(v) Any other checks required under state or tribal law.

(2) Programs must document the justification for any hire where an arrest, pending criminal charge or conviction, is present.

(k) Grantees shall provide such other services and meet such additional requirements as HHS determines are necessary to carry out the purposes of the statute, as appropriate to the services and activities for which they are funded. These services and requirements are articulated in the funding opportunity announcements and other instructions issued by the Secretary or secretarial designees. This includes operational instructions and standards of execution determined by the Secretary or secretarial designees to be necessary

to properly perform or document meeting the requirements applicable to particular programs or projects.

**§ 1351.24 What are the additional requirements that the Basic Center Program grantees must meet?**

- (a) Grantees shall have an intake procedure that is available 24 hours a day and 7 days a week to all youth seeking services and temporary shelter that addresses and responds to immediate needs for crisis counseling, food, clothing, shelter, and health care services.
- (b) Grantees shall provide, either directly or through arrangements, access to temporary shelter 24 hours a day and 7 days a week.
- (c) Grantees shall provide trauma-informed case management, counseling and referral services that meet client needs and that encourage, when in the best interests of the youth particularly with regard to safety, the involvement of parents or legal guardians.
- (d) Grantees shall provide additional core support services to clients both residentially and non-residentially as appropriate. The core services must include case planning, skill building, recreation and leisure activities.
- (e) Grantees shall, as soon as feasible and no later than 72 hours of the youth entering the program, contact the parents, legal guardians or other relatives of each youth according to the best interests of the youth. If a grantee determines that it is not in the best interest of the client to contact the parents, legal guardian or other relatives of the client, or if the grantee is unable to locate, or

the youth refuses to disclose the contact information of, the parent, legal guardian or other relative of the client, they must:

- (1) Inform another adult identified by the child;
  - (2) Document why it is not in the client's best interest to contact the parent, legal guardian or other relative, or why they are not able to contact the parent, legal guardian or other relative; and
  - (3) Send a copy of the documentation to the regional program specialist for review.
- (f) Additional requirements included in the funding opportunity announcement.

**§ 1351.25 What are the additional requirements that the Transitional Living Program and Maternity Group Home grantees must meet?**

- (a) Grantees shall provide transitional living arrangements and additional core services including case planning/management, counseling, skill building, consumer education, referral to needed social and health care services, and education, recreation and leisure activities, aftercare and, as appropriate to grantees providing maternity-related services, parenting skills, child care, and child nutrition.
- (b) Additional requirements included in the funding opportunity announcement.

**§ 1351.26 What are the additional requirements that both the Basic Center and Transitional Living Program grantees must meet?**

- (a) Basic Center and Transitional Living grantees shall develop and implement an aftercare plan, covering at least 3 months, to stay in contact with youth

who leave the program in order to ensure their ongoing safety and access to services. A youth's individual aftercare plan shall outline what services were and will be provided as well as the youth's housing status during and after the program. The plan shall be provided to the youth in exit counseling or before. Follow-up efforts shall be made for all youth. For those contacted after 3 months, the plan shall be updated to record the rate of participation and completion of the services in the plan at 3 months after exiting the program. In accordance with section 312(b)(5) of the Act, as possible, Basic Center grantees shall also provide a plan for providing counseling and aftercare services to youth who are returned beyond the state in which the runaway and homeless youth service is located.

- (b) Basic Center and Transitional Living grantees shall develop and implement a plan for health care services referrals for youth during the service and aftercare periods. Such referral plans shall include health care services and referrals and counseling on insurance coverage through family health insurance plans, or to agencies that assist in enrolling persons in Medicaid or in insurance plans offered under Affordable Care Act exchanges.
- (c) Basic Center and Transitional Living grantees shall develop and implement a plan to assist youth to stay connected with their schools or to obtain appropriate educational services, training, or employment services. This includes coordination with McKinney-Vento school district liaisons, designated under the McKinney-Vento Homeless Assistance Act, to assure that runaway and homeless youth are provided information about the

services available under that Act. This also includes coordination with local employment and employment training coordinating agencies or programs, coordination with local college placement services, and providing access to the Free Application for Federal Student Aid (FAFSA) application.

**§ 1351.27 What are the additional requirements that the Street Outreach Program grantees must meet?**

- (a) Grantees shall provide services that are designed to assist clients in leaving the streets, making healthy choices, and building trusting relationships in areas where targeted youth congregate.
- (b) Grantees shall directly or by referral provide treatment, counseling, prevention, and education services to clients as well as referral for emergency shelter.
- (c) Additional requirements included in the funding opportunity announcement.

14. Add Subpart D to read as follows:

**Subpart D—What are the Runaway and Homeless Youth Program-Specific Performance Standards?**

Sec.

1351.30 What performance standards must Basic Center Program grantees meet?

1351.31 What performance standards must Transitional Living Program grantees, including Maternity Group Homes (MGH), meet?

1351.32 What performance standards must Street Outreach Program grantees meet?

**Subpart D—What are the Runaway and Homeless Youth Program-Specific Performance Standards?**

**§ 1351.30 What performance standards must Basic Center Program grantees meet?**

(a)(1) Grantees shall consistently enhance outcomes for youth in the following four core areas:

- (i) Social and Emotional Well-being;
- (ii) Permanent Connections;
- (iii) Education or Employment; and
- (iv) Stable Housing.

(2) Each grantee shall report data related to these outcomes, using existing data collection processes found under PRA OMB Control Numbers 0970-0406 and 0970-0123, and their successors.

(b) Grantees shall ensure that youth receive counseling services that are trauma informed and match the individual needs of each client. Data shall be reported by each grantee on the type of counseling each youth received (individual, family and/or group counseling), the participation rate based on a youth's service plan or treatment plan, and the completion rate based on a youth's service plan or treatment plan, where applicable.

- (c) Grantees that choose to provide street-based services, home-based services, drug and/or alcohol abuse education and prevention services, and/or testing for sexually transmitted diseases (at the request of the youth) shall ensure youth receive the appropriate services. Data shall be reported on the completion rate for each service provided based on the youth's service or treatment plan.
- (d) Grantees shall ensure that youth have safe and appropriate exits when leaving the program. Each grantee shall report data on the type of exit experienced by each young person departing a Basic Center Program.

**§ 1351.31 What performance standards must Transitional Living Program grantees, including Maternity Group Homes, meet?**

- (a)(1) Grantees shall consistently enhance outcomes for youth in the following four core areas:
  - (i) Social and Emotional Well-being;
  - (ii) Permanent Connections;
  - (iii) Education or Employment; and
  - (iv) Stable Housing.
- (2) Each grantee shall report data related to these outcomes, using existing data collection and reporting processes, in accordance with the Paperwork Reduction Act and the Office of Management and Budget Control Numbers 0970-0406 and 0970-0123, and their successors.

- (b) Grantees shall ensure youth are engaged in educational advancement, job attainment skills or work activities while in the program. Each grantee shall report data on the type of education or job-related activities that each youth is engaged in.
- (c) Grantees shall ensure and report that youth receive health care referrals, including both services and insurance, as determined within their health care referral plan.
- (d) Maternity Group Home Grantees shall ensure and report that youth receive consistent pre-natal care, well-baby exams, and immunizations for the infant while in the program.
- (e) Grantees shall ensure that youth have safe and appropriate exits when leaving the program. Each grantee shall report data on the type of exit experienced by each young person departing a Transitional Living Program.

**§ 1351.32 What performance standards must Street Outreach Program grantees meet?**

Grantees shall contact youth who are or who are at risk of homeless or runaway status on the streets in numbers that are reasonably attainable for the staff size of the project. Grantees with larger staff will be expected to contact larger numbers of youth in approximate proportion, as determined by HHS, to the larger number of staff available to provide this service. Each grantee shall report data related to this outcome, using existing data collection and reporting processes, in accordance with

the Paperwork Reduction Act and the Office of Management and Budget Control  
Numbers 0970-0406 and 0970-0123, and their successors.

[FR Doc. 2016-30241 Filed: 12/19/2016 8:45 am; Publication Date: 12/20/2016]