

with the Lead Agency, to comply substantially with any provision or requirement set forth in the Plan approved under § 98.16; or

(2) If in the operation of any program for which funding is provided under the CCDF, there is a failure by the Lead Agency, or by an entity providing services under contract or agreement with the Lead Agency, to comply substantially with any provision of the Act or this part, the Secretary will provide to the Lead Agency a written notice of a finding of non-compliance. This notice will be issued within 60 days of the preliminary notification in § 98.90(b), or within 60 days of the receipt of additional comments from the Lead Agency, whichever is later, and will provide the opportunity for a hearing, pursuant to part 99.

(b) The notice in paragraph (a) of this section will include all relevant findings, as well as any penalties or sanctions to be applied, pursuant to § 98.92.

(c) Issues subject to review at the hearing include the finding of non-compliance, as well as any penalties or sanctions to be imposed pursuant to § 98.92.

**§ 98.92 Penalties and sanctions.**

(a) Upon a final determination that the Lead Agency has failed to substantially comply with the Act, the implementing regulations, or the Plan, one of the following penalties will be applied:

(1) The Secretary will disallow the improperly expended funds;

(2) An amount equal to or less than the improperly expended funds will be deducted from the administrative portion of the State allotment for the following fiscal year; or

(3) A combination of the above options will be applied.

(b) In addition to imposing the penalties described in paragraph (a) of this section, the Secretary may impose other appropriate sanctions, including:

(1) Disqualification of the Lead Agency from the receipt of further funding under the CCDF; or

(2)(i) A penalty of not more than four percent of the funds allotted under § 98.61 (i.e., the Discretionary Funds) for a Fiscal Year shall be withheld if the Secretary determines that the

Lead Agency has failed to implement a provision of the Act, these regulations, or the Plan required under § 98.16;

(ii) This penalty will be withheld no earlier than the second full quarter following the quarter in which the Lead Agency was notified of the proposed penalty;

(iii) This penalty will not be applied if the Lead Agency corrects the failure or violation before the penalty is to be applied or if it submits a plan for corrective action that is acceptable to the Secretary; or

(iv) The Lead Agency may show cause to the Secretary why the amount of the penalty, if applied, should be reduced.

(c) If a Lead Agency is subject to additional sanctions as provided under paragraph (b) of this section, specific identification of any additional sanctions being imposed will be provided in the notice provided pursuant to § 98.91.

(d) Nothing in this section, or in § 98.90 or § 98.91, will preclude the Lead Agency and the Department from informally resolving a possible compliance issue without following all of the steps described in §§ 98.90, 98.91 and 98.92. Penalties and/or sanctions, as described in paragraphs (a) and (b) of this section, may nevertheless be applied, even though the issue is resolved informally.

(e) It is at the Secretary's sole discretion to choose the penalty to be imposed under paragraphs (a) and (b) of this section.

**§ 98.93 Complaints.**

(a) This section applies to any complaint (other than a complaint alleging violation of the nondiscrimination provisions) that a Lead Agency has failed to use its allotment in accordance with the terms of the Act, the implementing regulations, or the Plan. The Secretary is not required to consider a complaint unless it is submitted as required by this section. Complaints with respect to discrimination should be referred to the Office of Civil Rights of the Department.

(b) Complaints with respect to the CCDF shall be submitted in writing to the Assistant Secretary for Children and Families, 370 L'Enfant Promenade,