

## SECTION .0900 - COMPLIANCE

### 10A NCAC 01A .0901 AGENCY COMPLIANCE

(a) Each grantor Division shall assist each local human service agency in achieving compliance and shall ensure compliance with the rules in this Subchapter or Division rules promulgated to comply with these Rules. A local human service agency shall be deemed to be in compliance until the Division Director determines, after an administrative review, that the local human service agency or one of its contractors is not in compliance.

(b) Each grantor Division shall conduct periodic administrative reviews. These reviews may be conducted as a separate procedure or in conjunction with existing review procedures.

(c) At the conclusion of an administrative review, the principal reviewer shall meet with the chief administrative officer of the local human service agency to discuss the findings. Following this exit conference, the principal reviewer shall prepare a written report and transmit the report to the Division Director. If the findings of the review indicate the local human service agency is in compliance with administrative standards, the Division Director will forward a copy of the administrative review report to the agency director under a transmittal letter indicating the agency's compliance. If the local human service agency is not in compliance, the following steps shall be taken:

- (1) The Division Director shall send a copy of the administrative review report to the local human service agency, to the appropriate local authority and the chairman of the local board of County Commissioners:
  - (A) citing the specific findings of non-compliance and what is required to come into compliance;
  - (B) notifying the agency that it has 60 days from the receipt of the report to come into compliance in these areas or to develop and submit to the Division a corrective plan. The Division is responsible for providing consultation and technical assistance regarding the areas of non-compliance to the local agency upon request; and
  - (C) withholding of all state administrative funds that pertain to that particular item of non-compliance.

Note: The purpose of this provision is to limit the withholding of funds only to the single instance of non-compliance. For example, if a certain personnel position or a particular contract is out-of-compliance, only funds pertaining to that position or contract would be withheld.

- (2) By the end of the 60 day notice period, the local human service agency shall achieve compliance or submit a corrective plan to the division.
- (3) In the event that the local human service agency submits a corrective plan to the Division within the 60 day notice period, the Division Director shall review the corrective plan to ensure that it addresses each specific finding of non-compliance, and that the implementation of the corrective plan can be expected to bring the agency into compliance.
- (4) Within 30 days after receipt of the plan, the Division Director shall either approve the plan as submitted or indicate how the local human service agency can amend the corrective plan in order to obtain approval. After a corrective plan has been approved, the Division Director shall monitor the local human service agency's progress towards compliance during the corrective phase, and inform the local human service agency the appropriate local authority and the local board of county commissioners of its findings in writing. If the findings indicate that the local human service agency is not making sufficient progress towards compliance in accordance with its corrective plan, the Division Director shall so notify the local human service agency, the appropriate local authority, and the local board of county commissioners in writing that it has the additional 60 days from receipt of the notice to achieve compliance.
- (5) In the event that the local human service agency fails to submit a corrective plan within the 60-day notice period, the Division Director shall recommend to the Secretary the withholding of all state administrative funds of which the non-compliance item is a part. If the Secretary concurs with the Division Director's recommendation, the Secretary will notify the local board of county commissioners and the appropriate local authority. The withholding of these funds shall continue until the requirement for a compliance plan is met or the Secretary overturns the Division Director's decision. When such funds are withheld, then the local governing board shall receive copies of any notification mailed to the local authority.

(d) A local human service agency which is not in compliance and from which the administrative funds are being withheld, may appeal to the Secretary within 15 days of the receipt of the proposed action. If such an appeal is requested, the Secretary shall appoint a hearing panel composed of five persons to hear the appeal. Two of these

persons shall be departmental employees who are not part of the division supervising the local human service agency; two of these persons shall be employees of the local human service agency other than the agency that is appealing. The fifth member shall be a member of the commission, board or advisory council that serves the division supervising the local human service agency. The Secretary shall have final decision-making authority except as otherwise provided by law. The hearing procedures set forth in 10A NCAC 01B shall be followed for the appeal:

- (1) If, after review of the evidence, the Secretary finds that the local human service agency is out-of-compliance and that the procedures herein have been followed by the division, the state administrative funds will continue to be withheld until compliance is achieved, as determined by the division director.
- (2) If, after review of the evidence, the Secretary finds that the local human service agency is out-of-compliance, but that the procedures herein have not be followed by the division, a 30-day extension of time may be granted to the agency to come into compliance or submit an acceptable corrective plan to the Division Director in accordance with Paragraphs (c)(3), (c)(4) and (c)(5) of this Rule. State administrative funds will be continued during the 30-day extension period and all withheld funds will be restored.
- (3) If, after review of the evidence, the Secretary finds that the local human service agency is in compliance in the previously identified areas of non-compliance, funding will be continued and all withheld funds will be restored.

(e) These compliance procedures shall take precedence over all other compliance procedures for administrative standards in Title 10A which may be incompatible. However, nothing herein shall be construed to take precedence over any non-conflicting program standards compliance procedures in Title 10A. Furthermore, the Division Directors may enforce additional program standards or withhold, as appropriate, administrative funds other than those covered by this Subchapter but which are covered under provisions of the General Statutes or other provisions of Title 10A of the Administrative Code. The departmental auditing procedures and the audit appeals process, as codified in 10A NCAC 01, shall not be considered a part of this review and compliance process.

(f) Although local human service agencies do not have to comply with G.S. 150B, the Administrative Procedure Act, in the promulgation of rules, local human service agencies must comply with rules promulgated by the department or the appropriate commission which are applicable to them. Any non-compliance with the standards in this Chapter is subject to administrative review and an administrative appeal under G.S. 150B, Article 3.

*History Note: Authority G.S. 143B-139.1;  
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Amended Eff. November 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 23, 2017.*