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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1301, 1302, 1303, 1304, and 1305

RIN: 0970-AD01

Supporting the Head Start Workforce and Consistent Quality Programming

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to add new requirements to the Head Start Program Performance Standards (HSPPS) to support and stabilize the Head Start workforce, including requirements for wages and benefits, breaks for staff, and enhanced supports for staff health and wellness. We also propose to enhance several existing requirements and add new requirements to promote consistent quality of services across Head Start programs. This includes proposed enhancements to requirements for mental health services to better integrate these services into every aspect of programs as well as elevate the role of mental health consultation to support the well-being of children, families, and staff. Enhancements are also proposed in the areas of family service, worker family assignments, identifying and meeting community needs, ensuring child safety, services for pregnant women and people, and alignment with State early childhood systems. Finally, we propose minor clarifications to existing standards to promote better transparency and clarity of understanding for grant recipients.

DATES: Consideration will be given to comments received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by [docket number and/or RIN number] by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Office of Head Start, Attention: Director of Policy and Planning, 330 C Street SW, 4th Floor, Washington, DC 20201.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to http://www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Lindsey Hutchison, Office of Head Start, Division of Planning, Oversight, and Policy, 202-205-8539, OHS_NPRM@acf.hhs.gov. Telecommunications Relay users may dial 711 first.

SUPPLEMENTARY INFORMATION:

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I. Background

The Federal Head Start program provides early education and other comprehensive services to children birth to age 5 and during pregnancy in center- and home-based settings across the country. Since its inception in 1965, Head Start has been a leader in providing high-quality services that support the development of children from low-income families, helping them enter kindergarten more prepared to succeed in school and in life. Evidence continues to support the positive outcomes for children and families who participate in and graduate from Head Start programs.[1] The most essential component to accomplishing Head Start's mission of

[1] Deming, D. (2009). Early Childhood Intervention and Life-Cycle Skill Development: Evidence from Head Start. American Economic Journal: Applied Economics, 1:3, 111-134.; Lipscomb, S.T., Pratt, M.E., Schmitt, S.A., Pears, K.C., and Kim, H.K. (2013). School readiness is children living in non-parental care: Impacts of Head Start. Journal of Applied Developmental Psychology, 31 (1), 28-37.

providing high-quality early childhood education and comprehensive services is the workforce of approximately 260,000 staff[2] that provide the services to children and families each day.

However, due to a severe nationwide staffing shortage, Head Start grant recipients across the country are struggling to retain and hire qualified staff to fully enroll classrooms. Early educators provide a critical foundation for children to learn and develop[3] and positively impact children's outcomes.[4] Strong, stable relationships between young children and educators are the key to promoting early development. If programs cannot retain high-quality staff, these relationships are disrupted and outcomes for children and families are negatively impacted.[5] Currently, Head Start programs across the nation are experiencing a severe staff shortage with turnover at its highest point in two decades.[6] For Head Start classroom teachers, the rate of turnover has more than doubled over the past decade.[7]

Low wages and poor benefits – despite increased expectations and requirements for staff – are a key driver of rapidly increasing staff turnover among Head Start teachers and staff. Since 2010, the share of Head Start Preschool teachers with a bachelor's degree increased substantially, but inflation-adjusted salaries for these teachers *decreased* by 2 percent.[8] Research indicates that well compensated early childhood teachers and staff have lower turnover rates and provide higher quality services.[9] For decades, the Head Start program has been subsidized by low paid workers committed to the mission; and the absence of clear Federal requirements for staff compensation has allowed this practice to continue. Urgent regulatory action is needed to

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[2] Source: Head Start 2022 Program Information Report (PIR)

[3] Burchinal, M., Zaslow, M., & Tarullo, L. (eds.) (2016). Quality thresholds, features, and dosage in early care and education: Secondary data analyses of child outcomes. *Monographs of the Society for Research in Child Development. 81(2)*.

[4] Choi, Y., Horm, D., Jeon, S. & Ryu, D. (2019). Do Stability of Care and Teacher-Child Interaction Quality Predict Child Outcomes in Early Head Start?, *Early Education and Development, 30*:3, 337-356.

[5] Hamre, B., Hatfield, B., Pianta, R., Jamil, F. (2013). *Evidence for General and Domain-Specific Elements of Teacher-Child Interactions: Associations with Preschool Children's Development.* Child Development, 85:3; Grunewald, R., Nunn, R., Palmer, V. (2022). *Examining teacher turnover in early care and education*. Federal Reserve Bank of Minneapolis.

[6] Source: Head Start 2022 PIR

[7] Ibid

[8] Source: Head Start 2010-2022 PIR

[9] Bassok, D., Doromal, J., Michie, M., & Wong, V. (2021). *The Effects of Financial Incentives on Teacher Turnover in Early Childhood Settings: Experimental Evidence from Virginia.* EdPolicyWorks at the University of Virginia.; Whitebook, M., Howes, C., & Phillips, D. (2014). *Worthy Work, STILL Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*. Center for the Study of Child Care Employment. https://cscce.berkeley.edu/publications/report/worthy-work-still-unlivable-wages/.; Whitebook, M., Sakai, L., Gerber, E., & Howes, C. (2001). *Then & Now: Changes in Child Care Staffing, 1994-2000*. Washington, DC: Center for the Child Care Workforce and Institute of Industrial Relations, University of California, Berkeley. https://cscce.berkeley.edu/publications/report/then-and-now-changes-in-child-care-saffing-1994-2000/

stabilize the workforce and ensure the Head Start program can continue to fulfill its mission to promote strong outcomes for children and families. The background context and need for this regulatory action is expanded on further in the following paragraphs.

Through the *Improving Head Start for School Readiness Act of 2007* (the 2007 Reauthorization), which amended the Head Start Act (the Act), Congress required the Department of Health and Human Services (HHS) to ensure children and families receive the highest quality Head Start services possible. In line with this, Congress mandated HHS to revise the Head Start Program Performance Standards (HSPPS). Through the 2007 Reauthorization, Congress also made a number of changes to increase qualifications and other requirements for staff, particularly education staff. This proposed rule responds to the mandate to revise and improve the HSPPS in the Act and makes additional revisions to the HSPPS that were finalized in 2016.

The HSPPS, first published in the 1970s, are the foundation on which programs design and deliver high-quality, comprehensive services to children and their families. The HSPPS set forth the requirements local grant recipients must meet to support the cognitive, social, emotional, and healthy development of children enrolled in the program. They include requirements to provide education, health, mental health, nutrition, and family and community engagement services, as well as requirements for local program governance and Federal administration of the program. In response to requirements in the 2007 Reauthorization, HHS conducted a major revision of the performance standards, through a final rule published in 2016. In line with statutory requirements, the 2016 overhaul of the performance standards updated and enhanced program requirements to reflect the latest science on child development, while also streamlining requirements where possible, to promote stronger transparency and support programs to deliver more efficient and effective services.

While the 2016 revision to the HSPPS gave careful attention to the type and quality of early education and comprehensive services to be provided to children and their families, as well as requirements for training, professional development, and qualifications for staff, other supports for the Head Start workforce were not included. Indeed, the 2007 Reauthorization and the 2016 revision to the HSPPS resulted in enhanced requirements and responsibilities for program staff, but lacked specific requirements for staff pay, benefits, and other supports for staff wellness necessary to sustain a workforce that could implement those quality provisions. For instance, while qualifications for Head Start preschool teachers have increased dramatically over the past decade (52 percent nationwide had a bachelor's degree in 2010 compared to 71 percent in 2022), inflation-adjusted salary for these teachers *decreased* by 2 percent during this timeframe, from $39,912 in 2010 to $39,096 in 2022.[10] Given the increased expectations and requirements for these staff positions without corresponding increases in wages, it is unsurprising that turnover among classroom teachers as well as other staff positions has increased markedly over the past decade.[11]

For decades, Head Start staff – particularly frontline staff whose daily job responsibilities include working directly with children and families – have received low, stagnant wages, poor benefits, and inadequate supports for health and wellness. Research demonstrates that low wages in the early care and education (ECE) sector are a critical driver of staff turnover.[12] Frontline Head Start staff do important and difficult jobs to promote the development of children participating in Head Start and provide individualized supports to families. A strong relationship between a child and their early educator provides the foundation for all learning and development in ECE settings.[13] Stability and continuity in these relationships are important for

[10] Source: Head Start 2022 PIR
[11] Source: Head Start 2010-2022 PIR
[12] Whitebook, M., Philipps, D., & Howes, C. (2014). Worthy work, still unlivable wages: The early childhood workforce 25 years after the national child care staffing study. *Center for the Study of Child Care Employment.*
[13] Lippard, C. L., La Paro, K. M., Rouse, H. L., Crosby, D. A. (2018). A closer look at teacher-child relationships and classroom emotional context in preschool. *Child Youth Care Forum,* 47, 1-21.; Sabol, T. J. & Pianta, R. C. (2012). Recent Trends in Research on Teacher-Child Relationships. *Attachment and Human Development, 14*(3), 213-231.

high-quality care and for supporting positive developmental outcomes for children.[14] Conversely, a higher rate of turnover among ECE staff is associated with lower quality services and care, as well as poorer developmental outcomes for children.[15] For instance, research has demonstrated that turnover among early childhood educators is linked to worse cognitive and social developmental outcomes in children birth to age 5.[16] Given this, the unprecedented rate of turnover and staff vacancies programs are currently experiencing is concerning and threatens the stability of the national Head Start program and the quality of services it provides, which are a critical resource for hundreds of thousands of families annually.

Head Start and ECE programs nationwide have faced increasing rates of staff turnover, a situation that has been exacerbated drastically by the COVID-19 pandemic. While high staff turnover rates are an issue for the entire ECE sector in the United States, HHS has the authority and opportunity to address the systemic problems driving high turnover in Head Start, and this NPRM proposes policies to address these issues. In 2022, turnover across all staff positions was 19 percent, marking the highest rate of turnover in Head Start in over two decades, and a drastic jump from 13.5 percent in 2019 (prior to the COVID-19 pandemic). While turnover rates were exacerbated by the labor market conditions during the pandemic, the workforce challenges in Head Start remain intractable even after some other industries have regained pre-pandemic employment levels. Because Head Start serves the children and families most in need, it is critical the workforce is well-positioned to be stable as communities recover from the pandemic and during and after future emergencies. Thus, the changes in this proposed regulation are necessary in both the long and short terms. The staffing crisis faced by programs across the nation is an untenable situation for the future of Head Start. This proposed regulation is urgently

[14] Pianta, R. & Stuhlman, M. W. (2019). Teacher-child relationships and children's success in the first years of school. *School Psychology Review, 33*(3), 444-458; Ros Pilarz, A. & Hill, H. D. (2014). Unstable and multiple child care arrangements and young children's behavior. *Early Childhood Research Quarterly,* 29(4), 471-483; Tran, H. & Winsler, A. W. (2011). Teacher and center stability and school readiness among low-income, ethnically diverse children in subsidized, center-based child care. *Children and Youth Services Review, 33*(11), 2241-2252.

[15] Hale-Jinks, C., Knopf, H., & Kemple, K. (2006). Tackling teacher turnover in childcare: Understanding causes and consequences, identifying solutions. *Childhood Education, 82*, 219-226.

[16] Hale-Jinks, Knopf, & Kemple (2006). Tackling teacher turnover in childcare: Understanding causes and consequences, identifying solutions. *Childhood Education, 82*, 219-226.

needed to establish clearer requirements for programs to support and stabilize their workforce, while also serving those children and families most in need of Head Start services. The challenges faced by the workforce – and the need for Federal guardrails in the form of additional regulations – are described in additional detail in the subsequent section, *Workforce Supports: Staff Wages.*

This NPRM will also propose new or enhanced standards to promote more consistent implementation of quality services in other programmatic areas. Enhancements and clarifications to existing standards are proposed in the following areas: family service worker caseloads; procedures for identifying and meeting community needs, including consideration of transportation as a possible barrier to children's attendance; ensuring child safety; services for pregnant women and people; and better aligning with State early childhood systems. We also propose enhancements to requirements for mental health services to integrate mental health more fully into every aspect of program services, as well as elevate the role of mental health consultation to support the well-being of children, families, and staff. Existing requirements in the performance standards in these areas are broad and flexible and have contributed to wide variation in the quality of the implementation of those standards. For instance, some programs have many families (e.g., more than 100[17]) assigned to one family service worker, which reduces the quality of services provided to each family. Many programs have also made decisions to cut transportation services as a primarily budgetary decision, resulting in families in need of services no longer being able to attend the program. Within constrained budgets, programs must make difficult choices about where to invest funds as they strive to provide high-quality Head Start services to as many eligible children as possible. Programs often make decisions aimed at enrolling as many children and families as possible and sometimes accomplish this by cutting back on critical areas of services. The enhancements proposed in this NPRM will promote more

[17] Source: Head Start 2022 PIR

consistent implementation of program services across a variety of areas, ultimately improving outcomes for enrolled children and their families.

Additionally, since the inception of the 2016 revision to the performance standards, the Administration for Children and Families (ACF) received feedback about areas where standards have not been implemented as intended in the field, or areas where standards are not clear. Therefore, this proposed regulation will also enhance and clarify standards across a variety of areas, codify certain essential best practices, and/or streamline processes for programs implementing the standards, with the goal of further improving the quality of services.

Finally, the changes proposed to the HSPPS are necessary to maintain the quality of the Head Start program and respond to the current early childhood landscape which has changed dramatically since the HSPPS were first published in the 1970s and even since the 2016 overhaul of the HSPPS. As discussed elsewhere, Head Start workforce compensation has not kept pace with inflation or with rising wages in other industries. Further, post-pandemic workforce recovery has been slow and mental and behavioral health issues have risen among children and adults. Head Start programs must adapt and evolve to continue leading the sector in quality programing for children and families. These factors together suggest that regulatory action is warranted and necessary. As explained in detail in this section and throughout the NPRM, stronger workforce supports are necessary to meet the purpose of the Act of promoting school readiness for low-income children. *See* 42 USC 9831. The Act authorizes the Secretary to modify the program performance standards as necessary, and while the proposals here retain flexibility and discretion that Head Start programs are accustomed to, it is evident by the lagging compensation and other workforce supports that additional guardrails are necessary to maintain quality. Head Start's standards have historically provided a benchmark for high-quality early childhood programs. This NPRM affirms that higher wages and benefits are a key driver of quality in early childhood.

Establishing the new or enhanced standards described below – particularly for the workforce – will promote higher-quality services for children in Head Start programs across the country and are necessary to ensure there is a stable workforce to maintain consistent operations. There will be a substantial cost associated with enacting the proposed standards at current Head Start funded enrollment levels. However, ACF asserts that the policy proposals in this NPRM are necessary for the Head Start program to continue to operate effectively and meet its mission. ACF understands that as a result of these necessary reforms, one potential impact could be a reduction in Head Start slots in some programs in order to ensure the quality of services delivered. The NPRM proposals contain some ability to mitigate the magnitude of slot loss by providing a longer implementation timeline for the proposed wage requirements (see a further discussion on this in the section on *Workforce Supports: Wage Requirements*). While slot loss is a difficult trade-off, a number of programs are already reducing slots because they are forced to close classrooms due to a severe shortage of qualified staff. The current staffing shortage needs to be addressed quickly, as it is imperative that programs be able to retain qualified staff in order to provide high-quality services to children and prepare them for success in elementary school and beyond.[18] Failure to act would threaten the ability for Head Start to continue to recruit and retain effective staff and thereby deliver high-quality services. This action carefully balances the ability of programs to maintain staffing with the goal to serve as many children as possible, while helping stabilize the Head Start program long-term. Further, the establishment of new or enhanced expectations in program quality through the proposed standards described in this NPRM will provide a better foundation for more consistent implementation of high-quality services and provide an opportunity for future Congressional investments in quality improvement.

[18] Barr, A., & Gibbs, C. R. (2002). Breaking the Cycle? Intergenerational Effects of an Antipoverty Program in Early Childhood. *Journal of Political Economy, 130*.; Bauer, L., & Schanzenbach, D. (2016). *The Long-Term Impact of the Head Start Program*. The Hamilton Project, The Brookings Institution.; Deming, D. (2009). Early Childhood Intervention and Life-Cycle Skill Development: Evidence from Head Start. *American Economic Journal: Applied Economics*, 111-134. Montialoux, C. (2016). *Revisiting the impact of Head Start*. IRLE: Institute for Research on Labor and Employment. University of California: Berkeley; Phillips, D., Gormley, W., & Anderson, S. (2016). The Effects of Tulsa's CAP Head Start Program on Middle-School Academic Outcomes and Progress. *Developmental Psychology 52*(8), 1247-61.

II. Statutory Authority to Issue NPRM

We publish this NPRM under the authority granted to the Secretary of Health and Human Services by sections 640(a)(5)(A)(i) and (B)(viii), 641A, 645, 645A, 648A, and 653 of the Act (42 U.S.C. 9835, 9836a, 9840, 9840a, 9843a, and 9848), as amended by the Improving Head Start for School Readiness Act of 2007 (Public Law 110-134). Under these sections, the Secretary is required to establish performance standards and other regulations for Head Start and Early Head Start programs. Specifically, the Act requires the Secretary to ‘‘. . . modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs . . .’’[19] and explicitly directs the Secretary to prescribe eligibility standards, establish staff qualification goals, and assure the comparability of wages. This rule meets the statutory requirements Congress put forth in its 2007 bipartisan reauthorization of the Head Start and addresses Congress's mandate that called for the Secretary to review and revise the performance standards. As discussed throughout the preamble, the performance standards in this proposed rule build upon field knowledge and experience to codify best practices and ensure Head Start programs deliver high-quality education and comprehensive services to the children and families they serve. The Secretary has determined that the modifications to performance standards contained in this regulation are appropriate and needed to effectuate the goals of the performance standards and the purposes of the Act.

III. Section-by-Section Discussion of Proposed Changes

Definition of Head Start and Related Terms (§1305.2)

Section 1305.2 establishes definitions for key terms used throughout the HSPPS. These include terms to define programs that operate Head Start services, including *Early Head Start Agency*, *Head Start Agency*, and *Program*. We begin by explaining proposed changes to clarify these terms and definitions used to describe Head Start and Early Head Start programs.

[19] See section 641A(a)(1) and (2) of the Act.

Our proposed changes will also promote more consistent use of these terms throughout the HSPPS and in sub-regulatory policy guidance and training and technical assistance (TTA) materials developed by ACF. The proposed revised terms and definitions described in this section are also used throughout the rest of the preamble to describe other proposed changes, where applicable.

First, the term *Head Start*, which is not currently defined in §1305.2, is used inconsistently throughout the current HSPPS, sometimes in reference to a program that serves children ages three to compulsory school age and other times in reference to any type of program authorized under the Act. Consequently, this inconsistency is also present throughout sub-regulatory policy and TTA documents published by ACF. In some cases, a footnote is used to denote that the term *Head Start* refers to programs including Head Start, Early Head Start, and Migrant or Seasonal Head Start (MSHS). In other cases, the phrase "Head Start and Early Head Start" is used to represent all types of programs. This inconsistency may be challenging for those who are new to Head Start and troublesome for the field in the general. ACF recognizes the need for consistent and clear terminology in this area.

Therefore, we propose to use the term *Head Start* as an umbrella term that represents all program types authorized under the Act. We propose to add to §1305.2 a definition for *Head Start* that states that *Head Start* refers to any program authorized under the Head Start Act. Furthermore, we propose to add to §1305.2 a definition for *Head Start Preschool* so that programs that provide services to children from age three to compulsory school age will be referred to as Head Start Preschool (HSP). In order to maintain consistency across definitions of program types, we also propose adding a definition of *Early Head Start* that refers to a program that serves pregnant women and children from birth to age three.

We propose two other definitional changes to align with the revised terms above. First, we propose to revise the current definition of *Program* by striking "a Head Start" and adding "any funded Head Start Preschool;" striking "migrant, seasonal, or" and replacing with

"Migrant or Seasonal Head Start;" and striking the word "program" and adding "or other program authorized" after the comma.

Furthermore, we propose to revise the definition of *Head Start Agency* to add the word "Preschool" after "Head Start" and replace the words after "program" with ", an Early Head Start program, or Migrant or Seasonal Head Start program pursuant to the Head Start Act." We further propose to update the usage of these terms as they are used throughout the HSPPS.

We propose to remove the term Early Head Start Agency. We further propose a nomenclature change of "grantee" to "grant recipient". We do not propose any changes to other relevant terms including *Agency*, *Delegate Agency*, *Indian Head Start Agency*, and *Migrant or Seasonal Head Start Program*.

We believe that these revised definitions will provide more clear and consistent terminology when referring to the various program types authorized by the Act and to the entirety of Head Start. Distinguishing Head Start Preschool from Head Start is intended to improve comprehension for both experienced and novice readers of the HSPPS and will codify the colloquial use of the term Head Start.

Note that ACF will not consider comments regarding changes to the HSPPS that purely reflect the updated usage of these terms, such as those throughout Part 1304 Subpart B-Designation Renewal.

Workforce Supports: Staff Wages (§1302.90)

Section 1302.90 outlines requirements for personnel policies, including the establishment of personnel policies and procedures, background check procedures, standards of conduct, and communication with dual language learners. In this section, we propose the addition of a new paragraph (e) that outlines four areas of proposed requirements for wages for Head Start staff. First, we describe requirements for programs to make progress to pay parity with kindergarten to third grade teachers, for Head Start education staff who work directly with children as part of their daily job responsibilities. Head Start programs will demonstrate progress to parity by

ensuring that Head Start educators are paid at a rate that is at least comparable to preschool teachers in public school settings. Second, we describe requirements to establish or enhance a salary scale, wage ladder, or other pay structure that applies to all staff in the program and incorporates the requirements for pay for education staff. Third, we describe requirements that all staff must receive a salary that is sufficient to cover basic costs of living in their geographic area, including those at the lowest end of the pay structure. Lastly, we describe requirements to affirm and emphasize that the requirements for progress to pay parity should also promote comparability of wages across Head Start Preschool and Early Head Start staff positions. Taken together, implementing this set of standards will stabilize and strengthen Head Start programs across the country by ensuring competitive wages that will promote recruitment and retention of qualified staff and support delivery of high-quality education and comprehensive services for children and families. These proposed standards will also support more equitable, fair wages for a workforce that is largely comprised of women and people of color.

In addition to the authority to modify all program performance standards, the Head Start Act mandates that programs provide compensation that is adequate to attract and retain qualified staff to enhance program quality. *See* 42 USC 9836A(a) and 42 USC 9835(a)(5)(i). Section 653 of the Head Start Act, 42 USC 9848 directs the Secretary to encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience. This section also directs the Secretary to take such actions as are necessary to assure that compensation is not in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of persons providing substantially comparable services as well as *See* 42 USC 9848. Historically, the Office of Head Start has seen very few instances of excessive compensation for staff, especially for education staff, as evidenced in data from the Program Information Report (PIR). Nothing in these proposed regulations is expected to result in the excess compensation described by Congress in this section. In rare cases, there may be some risk that positions of leadership are paid salaries in excess of compensation paid to

similar positions. This risk should be addressed with a program's wage scale. However, this limit is not intended to suppress wages, because, as discussed herein, underpaid staff is a pervasive issue. This section makes it clear that staff salaries should be comparable to compensation in other comparable services, including consideration of salaries paid to elementary school staff. The proposed requirements will help programs design their staff compensation packages and salary scales while still allowing programs some flexibility to determine what works best for their program.

The Need for Wage Requirements

The main goals of Head Start programs are to support the development of children from low-income families and to promote economic self-sufficiency for families through the delivery of high-quality comprehensive services. Head Start's critical mission is carried out every day by the staff working with children and families. Strong, stable relationships between children and their early educators provide the foundation for children to learn and develop.[20] Indeed, research indicates that high-quality interactions between staff and children in ECE settings relate to stronger developmental outcomes for children.[21] Conversely, high turnover among ECE staff is related to lower quality education and care and poorer outcomes for enrolled children.[22] But, as described previously, Head Start programs nationwide are experiencing a severe shortage of staff across a variety of positions, particularly for those that provide direct services to children and families. The staffing crisis is a result of a confluence of factors, including persistently low, stagnant wages, particularly for frontline staff; a lack of comprehensive benefits; and insufficient supports for staff health and wellness, despite increased need for staff to be more qualified, more competent, and bear more complex job responsibilities. Urgent action and change are needed to

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[20] Lippard, C. L., La Paro, K. M., Rouse, H. L., Crosby, D. A. (2018). A closer look at teacher-child relationships and classroom emotional context in preschool. *Child Youth Care Forum,* 47, 1-21.; Sabol, T. J. & Pianta, R. C. (2012). Recent Trends in Research on Teacher-Child Relationships. *Attachment and Human Development, 14*(3), 213-231.

[21] Nguyen, T., Ansari, A., Pianta, R., Whittaker, J. V., Vitiello, V. E., & Ruzek, E. (2020). The classroom relational environment and children's early development in preschool. *Social Development, 00*, 1-21; Pearlman, M., Falenchuk, O., Fletcher, B., McMullen, E., Beyene, J., & Shah, P. (2016). *A Systematic Review and Meta-Analysis of a Measure of Staff/Child Interaction Quality (the Classroom Assessment Scoring System) in Early Childhood Education and Care Settings and Child Outcomes,* PLOS ONE 11 (12).

[22] Bassok, D., Markowitz, A. J., Bellows, L., Sadowski, K. (2021). New Evidence on Teacher Turnover in Early Childhood. *Educational Evaluation and Policy Analysis, 43*(1), 172-180; Phillips, D., Austin, L. J. E., & Whitebook, M. (2016). The Early Care and Education Workforce. *The Future of Children, 26*(2), 139-158.

stabilize the Head Start workforce to ensure the future viability of Head Start programs nationwide.

The qualifications, expectations, and responsibilities of Head Start staff have significantly increased over the past decade, first with the reauthorization of the Head Start Act in 2007 and then with the revisions to the HSPPS finalized in 2016. This increase in expectations and responsibilities is largely a reflection of advancing science in child development, particularly research on birth to 5 as an important period for brain development and as a critical foundation on which all later development builds.[23] Relatedly, our understanding of what an early educator needs to know and do in order to effectively promote child development during this period has also advanced. A notable report from the National Academies for Science, Engineering, and Medicine provided a framework for knowledge and competencies that early educators need, grounded in the latest science on child development.[24] A subsequent report from the National Academies highlighted the importance of a highly qualified ECE workforce that is well compensated with appropriate professional development supports and career opportunities, in order to provide high quality services to children and families.[25]

However, these increased expectations, qualifications, and requirements have not been followed by increases in compensation. As a result, average wages have remained low and stagnant for years, particularly for staff who work directly with children and families as their primary job responsibility. From 2010 to 2022, the share of Head Start Preschool teachers with a bachelor's degree increased from 52 percent to 71 percent, but inflation-adjusted salaries for these teachers *decreased* by 2 percent during this timeframe, with an average teacher salary of just $39,096 in 2022 compared to $39,912 in 2010.[26] By comparison, in 2022, the average

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[23] Institute of Medicine and National Research Council. (2015). *Transforming the Workforce for Children Birth Through Age 8: A Unifying Foundation*. Washington, DC: The National Academies Press.; National Research Council and Institute of Medicine. (2000). *From Neurons to Neighborhoods: The Science of Early Childhood Development.* Committee on Integrating the Science of Early Childhood Development. Jack P. Shonkoff and Deborah A. Phillips, eds. Board on Children, Youth, and Families, Commission on Behavioral and Social Sciences and Education. Washington, DC: National Academies Press.

[24] Institute of Medicine and National Research Council. (2015). *Transforming the Workforce for Children Birth Through Age 8: A Unifying Foundation*. Washington, DC: The National Academies Press

[25] National Academies of Sciences, Engineering, and Medicine. (2018). *Transforming the Financing of Early Care and Education*. Washington, DC: The National Academies Press.

[26] Source: Head Start 2010 - 2022 PIR

salaries for a preschool teacher in a school-based setting and a kindergarten teacher were $53,200 and $65,120, respectively[27]

This is a persistent issue not just for Head Start, but also for the broader early childhood field. ECE as a field is comprised primarily of women – including a large share of women of color – doing work that has been historically uncompensated and led to today's workforce being undervalued and underpaid.[28] Additionally, ACF administrative data indicates that just over 60 percent of Head Start education staff (i.e., teachers, assistant teachers, home visitors, and family child care providers) are people of color.[29] It is critical to maintain and strengthen the incredible diversity of our workforce while we seek to fix the historic problem of a reliance on staff committed to the mission of early care and education that has led to an underpaid workforce today. This is especially important since Head Start programs serve a large share of children of color and there are benefits when program staff reflect the communities they serve.[30]

In addition to low compensation, Head Start staff often report insufficient supports for their health and wellness. Even prior to the pandemic, many Head Start programs reported challenges with increasing rates of staff stress and burnout, which is a common experience throughout ECE programs. See the section in this NPRM on *Workforce Supports: Staff Wellness* for a fuller discussion on the poor physical and mental health experienced by Head Start and other ECE staff, as well as proposed new standards for supports to address these issues.

Taken together, low wages and benefits for demanding work, and high rates of stress and burnout, are causing qualified staff to leave for higher paid positions with better benefits in public schools or to leave the early childhood field entirely (e.g., retail, service, food

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[27] U.S. Bureau of Labor Statistics. Occupational Employment and Wages. May 2022. 25-2012 Kindergarten Teachers, Except Special Education. https://www.bls.gov/oes/current/oes252012.htmhttps://www.bls.gov/oes/current/oes252012.htm.; U.S. Bureau of Labor Statistics. Occupational Employment and Wages. May 2022. 25-2011 Preschool Teachers, Except Special Education. https://www.bls.gov/oes/current/oes252011.htm.

[28] Whitebook, M., Philipps, D., & Howes, C. (2014). *Worthy work, still unlivable wages: The early childhood workforce 25 years after the national child care staffing study*. Center for the Study of Child Care Employment; U.S. Department of Labor (2022). *Bearing the cost: How overrepresentation in undervalued jobs disadvantaged women during the pandemic.* https://www.dol.gov/sites/dolgov/files/WB/media/BearingTheCostReport.pdf

[29] Source: Head Start 2021 PIR

[30] Downer, J. T., Goble, P., Myers, S. S., & Pianta, R. C. (2016). Teacher-child racial/ethnic match within pre-kindergarten classrooms and children's early school adjustment. *Early Childhood Research Quarterly, 37*, 26-38.; Markowitz, A., Bassok, D., & Grissom, J. A. (2020). Teacher-child racial/ethnic match and parental engagement with Head Start. *American Educational Research Journal, 57(5)*, 2132-2174.

industries).[31] The turnover rate for Head Start classroom teachers doubled over the past decade, from 11 percent in 2010 to an alarming 22 percent in 2022.[32] As a point of comparison, in 2019, turnover for preschool teachers in school-based settings was about 7.7 percent.[33] This situation has also been exacerbated by the COVID-19 pandemic, during which staff continued to do their utmost to support children and families despite high uncertainty and widespread closure of many aspects of the economy across the country. Across all Head Start staff positions, between 2019 and 2022 turnover jumped by an unprecedented 41 percent, from 13.5 percent to 19 percent.[34]

Overall, these turnover rates are sobering and have grim implications for the viability of Head Start if they are not addressed. Given these rates of turnover, it is unsurprising that many programs are unable to reach full enrollment and/or are impeded from providing high-quality services to enrolled children and families. Inadequate and unstable staffing prevents programs from opening all classrooms, conducting home visits, providing family services, or providing transportation services. In April 2022, about two-thirds of Head Start programs reported experiencing significant enrollment challenges and half of those programs reported that staffing shortages contributed to those challenges, which resulted in many classroom closures.[35] Furthermore, in a 2022 survey of 900 Head Start programs staff conducted by the National Head Start Association, 85 percent of respondents indicated staff turnover was higher than in a typical program year. Almost all respondents (90 percent) said staff shortages forced their programs to close classrooms either permanently or temporarily. Over half (57 percent) of respondents said compensation is the number one reason staff are leaving Head Start programs.[36]

In a November 2022 survey conducted by ACF on a random sample of Head Start grant recipients, the majority reported experiencing shortages with teaching positions (85 percent), assistant teaching positions (86 percent), bus drivers (70 percent), and home visitor positions (60

[31] National Head Start Association (NHSA). (2023). *An Update on Head Start's Ongoing Workforce Crisis*. Washington, DC: NHSA
[32] Source: Head Start 2022 PIR
[33] Grunewald, R., Nunn, R., Palmer, V. (2022). *Examining teacher turnover in early care and education*. Federal Reserve Bank of Minneapolis.
[34] ibid
[35] Source: Head Start program monthly enrollment data reported internally to OHS. Note that the percent of programs experiencing staffing challenges is likely higher since it was not explicitly requested that programs report this information.
[36] National Head Start Association (NHSA). (2022). *Confronting Head Start's Workforce Crisis*. Washington, DC: NHSA

percent).[37] At least half of those recipients described the staff shortage as very severe for teachers (59 percent), bus drivers (53 percent), and assistant teachers (50 percent).[38] These shortages were forcing the closure of a large portion of classrooms for the majority of respondents, with nearly half reporting difficulty keeping up to a quarter of their classrooms open and another 16 percent reporting difficult keeping up to half of their classrooms open.

This problem is not unique to Head Start, as a recent study in North Carolina found that the most common reason staff leave the early childhood workforce in the State is to make more money.[39] Indeed, a large body of research indicates that low wages in the field of ECE are a strong driver of turnover among staff. And some research indicates that low wages are in fact the strongest determinant of staff turnover, with the lowest paid early educators being twice as likely to leave their jobs compared to the highest paid early educators.[40]

Each staff position in a program is critical to the mission and vision of Head Start, and to the delivery of high-quality services. As summarized previously, strong, stable relationships between young children and their teachers and caregivers provide a critical foundation for children to learn and develop.[41] If programs cannot retain high-quality education staff, these relationships are disrupted and outcomes for children and families are negatively impacted.[42] Research indicates that stable early care and education and strong teacher-child relationships positively influence children's outcomes.[43] In addition, family services staff in Head Start programs play a critical role of engaging and supporting economic stability of families (see the

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[37] Source: OHS administered survey on background checks and the workforce. Percentages exclude positions reported as not applicable.
[38] In the survey, recipients were instructed that "high" or very severe indicates the staffing shortage is a severe problem for that position. For example, there are several staff vacancies and/or relatively high turnover, impacting enrollment to a great extent; there are concerns that these issues cannot be resolved within the next few months.
[39] Child Care Services Association, 2020. childcareservices.org/wp-content/uploads/2020/02/CCSA_2020_TchrTurnover_Brief_Final_Interactive-FINAL.pdf
[40] Caven, M., Khanani, N., Zhang, X., & Parker, C. E. (2021). *Center-and program-level factors associated with turnover in the early childhood education workforce (REL 2021–069)*. U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast & Islands.; Whitebook, M., Howes, C., & Phillips, D. (2014). *Worthy Work, STILL Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*. Center for the Study of Child Care Employment. https://cscce.berkeley.edu/wp-content/uploads/publications/ReportFINAL.pdf
[41] Burchinal, M., Zaslow, M., & Tarullo, L. (eds.) (2016). Quality thresholds, features, and dosage in early care and education: Secondary data analyses of child outcomes. *Monographs of the Society for Research in Child Development. 81(2)*.
[42] Hamre, B., Hatfield, B., Pianta, R., Jamil, F. (2013). *Evidence for General and Domain-Specific Elements of Teacher-Child Interactions: Associations with Preschool Children's Development.* Child Development, 85:3; Grunewald, R., Nunn, R., Palmer, V. (2022). *Examining teacher turnover in early care and education*. Federal Reserve Bank of Minneapolis.
[43] Choi, Y., Horm, D., Jeon, S. & Ryu, D. (2019). Do Stability of Care and Teacher-Child Interaction Quality Predict Child Outcomes in Early Head Start?, Early Education and Development, 30:3, 337-356.

section on *Family Service Worker Family Assignments* for a further discussion on the critical role of these staff). Further, capable, consistent leadership and management staff are necessary to support a high functioning work environment that is positive and welcoming for both direct service staff and children and families. Bus drivers, janitors, and cooks are needed to ensure other important aspects of Head Start services are provided in a high-quality manner, including safe transportation, clean environments, and nutritious meals for children. Without a workforce at all levels that is stable, well-compensated, and supported, Head Start is not able to fully meet its mission of closing the achievement gap and preparing young children from low-income families for entry into kindergarten. Head Start staff work with children that need a range of developmental supports to ensure their success and preparedness for school. In order to break the cycle of poverty for children in Head Start, it is critical that the key change agents in this process (the staff) are compensated appropriately and supported in achieving their mission.

To promote the retention of talented staff at all levels of the program, fill vacancies in a sustainable manner, keep classrooms open, provide the highest quality services, and ultimately promote strong outcomes for enrolled children and their families, staff must receive compensation (wages and benefits) that better reflects their experience and qualification and the value and importance of their critical work, as well as necessary staff wellness supports.[44] Compensation must be competitive with other local employers that draw qualified staff away from Head Start, including local school districts.

There is a clear need for better guardrails in the form of strong Federal requirements in this area. While ACF strongly values local flexibility and has historically allowed for substantial local flexibility in many areas of service delivery, in other areas, the HSPPS are quite prescriptive about what all programs must do. One area in which flexibility is most prominent is in what ACF currently requires for the workforce, including wages, benefits, and other supports

[44] Institute of Medicine (IOM) and National Research Council (NRC). 2015. *Transforming the workforce for children birth through age 8: A unifying foundation*. Washington, DC: The National Academies Press.; Rhodes, H., & Huston, A. (2012). Building the Workforce Our Youngest Children Deserve. Social Policy Report. Volume 26, Number 1. *Society for Research in Child Development*.

for health and wellness. For instance, currently, the HSPPS do not require wage targets or include other compensation requirements for Head Start programs, and national program data show that Head Start grant recipients have historically prioritized serving more children over increasing wages for qualified education staff to be comparable to similar industries that compete for these staff, particularly elementary schools. This is not because programs do not value their staff or want to compensate them fairly.

Without additional appropriations, programs would have to serve fewer children to achieve the necessary cost savings to fund increases in staff compensation. Faced with this difficult decision to either increase staff compensation or serve the same number or more children, Head Start grant recipients have, in general, chosen to serve the same or more children and have chosen to rely on a mission-committed workforce – largely women of color – to bear the cost of this decision. In the fall of 2022, ACF published an information memorandum (IM) encouraging programs to consider restructuring their programs, including reducing the number of children served if needed, in order to permanently increase staff compensation. Since the release of this IM, many programs have responded to this guidance and taken initial steps to improve wages; however, despite this, compensation for Head Start staff still falls far below that in the public education sector. It is clear that regulatory action is needed in order to provide Head Start staff with appropriate compensation and stabilize the program long-term.

The proposed changes to workforce supports will provide clarity to Head Start grant recipients that, in the absence of additional appropriations, slot loss is an acceptable tradeoff in order to improve staff compensation and other supports. Without required compensation targets at the Federal level, severe inequities in the pay of these workers will likely persist. This fact jeopardizes the ability of Head Start programs to provide high-quality services and promote strong outcomes for children and results in classrooms being closed due to staffing shortages.[45]

[45] Source: Head Start program monthly enrollment data reported internally to OHS. Note that the percent of programs experiencing staffing challenges is likely higher since it was not explicitly requested that programs report this information.

In other words, failure to address the current severe inequities in pay would likely also have a negative impact on the number of children served due to ongoing and worsening staffing shortages. The proposed regulations in this area will promote consistent expectations in staff pay and once implemented, will substantially increase the ability of programs to recruit and retain qualified staff.

Even at the expense of serving more children in the absence of additional appropriations, these changes are necessary for Head Start programs to enable the children that are served to reach their full potential and attain school readiness. A stable, well-qualified workforce is fundamental to providing high-quality Head Start services to children and families.

We recognize there will be costs associated with enacting the proposed standards at current Head Start funded enrollment levels, however, we note that the number of children currently served in Head Start is well below the funded enrollment level, primarily due to closed classrooms because programs cannot find qualified staff. While programs may need to reduce their funded slots to better reflect their enrollment levels, we expect that many programs will be able to redirect portions of their budget to wage increases and other requirements. As described in this section, we propose a 7-year ramp-up for the full implementation of the new wage requirements. This will allow ample time for programs to prepare for implementation. Due to the long implementation timeline, reductions in the number of children served would not be realized immediately or soon after the effective date of a final rule and would only occur in future years in the absence of additional funding. We understand funded slot loss is a difficult trade-off to consider, but a number of programs are already requesting and enacting slot reductions due to closed classrooms that are a result of staffing challenges, and programs are often proposing to reinvest these cost savings into better wage and other supports for staff. The current staffing challenges and inequities that Head Start is facing make it imperative to act now to establish these requirements that are critical to set the Head Start program on the pathway to stabilizing their workforce that can allow for continued high quality operations of this program.

The following four sections go into more detail on the proposed standards to establish this pathway which include requirements for: 1) progress to pay parity for Head Start education staff with elementary school education staff (§1302.90(e)(2); 2) pay scale for all staff (§1302.90(e)(1)); 3) minimum pay standard §1302.90(e)(3); and 4) wage comparability across Head Start Preschool and Early Head Start §1302.90(e)(4).

Progress to Pay Parity for Head Start Education Staff with Elementary School Education Staff

We intentionally begin with a discussion of the proposed standards in new paragraph §1302.90(e)(2), *Progress to pay parity for education staff with elementary school staff*, as the rationale for these standards sets the foundation for the rest of the proposed wage standards. This set of proposed standards requires programs to make progress towards achieving pay parity for Head Start education staff with kindergarten through third grade teachers by providing these staff with wages that are at least comparable to those paid to public school preschool teachers. These proposed standards require programs to take into account staff responsibilities, qualifications, and experience when determining these wages. In the context of these standards, Head Start education staff refers to those staff who work directly with children as part of their daily job responsibilities, including lead teachers, assistant teachers, home visitors and family child care providers. There is a body of research evidence to indicate that increasing compensation can help with retention of ECE teachers. Studies of the broader ECE field indicate strategies to improve compensation for ECE professionals can improve employment stability for teachers and reduce turnover (and vice versa, with lower wages linked to higher turnover).[46] For instance, a recent randomized controlled trial study in Virginia found that financial incentives (i.e., bonuses) for early educators of up to $1,500 reduced teacher turnover by 11 percentage

[46] Bassok, D., Doromal, J., Michie, M., & Wong, V. (2021). *The Effects of Financial Incentives on Teacher Turnover in Early Childhood Settings: Experimental Evidence from Virginia.* EdPolicyWorks at the University of Virginia.; Caven, M., Khanani, N., Zhang, X., & Parker, C. E. (2021). *Center-and program-level factors associated with turnover in the early childhood education workforce (REL 2021–069)*. U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast & Islands.

points, with even stronger impacts for educators with the lowest levels of compensation.[47] Other research demonstrates that programs that have better compensated staff also have lower turnover and provide higher quality services to children.[48]

Several states, cities, and localities are implementing targeted efforts to strengthen wages for early educators. For instance, San Francisco is newly investing up to $60 million annually to significantly raise wages for educators in eligible ECE programs in the city. The investment will raise annual salaries by anywhere from $8,000 to $30,000 and by 2025, the city aims to ensure all early educators in eligible programs are earning at least $28 per hour.[49] Further, through the formation of the Early Childhood Educator Equitable Compensation Task Force, the District of Columbia recently developed a pay scale for all early educators in DC that will promote pay parity for early educators with elementary teachers, with gradations within the pay scaled based on job role, credentials, and experience.[50] Additionally, New Mexico created two programs to support the early childhood workforce. In 2021, New Mexico created a $1,500 incentive payment plan in recognition of pandemic recovery efforts.[51] Later, in 2022, New Mexico began a new initiative where child care providers are able to apply for funding to increase their staff wages $3 per hour for all staff, and raise the wage floor to $15 per hour for new teachers and $20 per hour for lead teachers.[52]

There are four provisions to the proposed §1302.90(e)(2). We begin with a proposed standard, §1302.90(e)(2)(i) that requires programs to make progress towards pay parity for Head Start and Early Head Start teachers with kindergarten through 3rd grade teachers by providing

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[47] Bassok et al. (2021).

[48] Whitebook, M., Howes, C., & Phillips, D. (2014). *Worthy Work, STILL Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*. Center for the Study of Child Care Employment. https://cscce.berkeley.edu/wp-content/uploads/publications/ReportFINAL.pdf.; Whitebook, M., Sakai, L., Gerber, E., & Howes, C. (2001). *Then & Now: Changes in Child Care Staffing, 1994-2000*. Washington, DC: Center for the Child Care Workforce and Institute of Industrial Relations, University of California, Berkeley. https://cscce.berkeley.edu/wp-content/uploads/publications/Then-and-Now.pdf

[49] Retrieved from: https://sfdec.org/mayor-breed-announces-landmark-pay-raise-initiative-for-early-educators-in-city-funded-programs/

[50] Early Educator Equitable Compensation Task Force. (March 2022). *Final Report of the Early Educator Equitable Compensation Task Force*. Washington, DC. Retrieved from: https://lims.dccouncil.gov/downloads/LIMS/49122/Introduction/RC24-0154-Introduction.pdf

[51] New Mexico Early Childhood Education and Care Department. (2021). Child Care Workers in New Mexico Eligible for $1,500 Incentive Payments. https://www.nmececd.org/2021/11/01/child-care-workers-in-new-mexico-eligible-for-1500-incentive-payments/

[52] New Mexico Early Childhood Education and Care Department. (2022) Gov. Lujan Grisham announces historic pay increase for early childhood workforce. https://www.nmececd.org/2022/10/11/gov-lujan-grisham-announces-historic-pay-increase-for-early-childhood-workforce/

wages that are at least comparable with preschool teachers in the local public schools. The proposed standard requires a program to make measurable progress towards pay parity for Head Start teachers with kindergarten through third grade teachers. To demonstrate progress to pay parity, by August 1, 2031, a program must ensure each Head Start teacher receives an annual salary that is at least comparable to the annual salary paid to preschool teachers in public school settings in the program's local or neighboring school district, adjusted for responsibilities, qualifications, and experience. A program may provide annual salaries comparable to a neighboring school district if the salaries are higher than a program's local school district. We recognize there are many nuances to this proposed standard, and we further explain our intent in the following paragraphs.

First, the standard states that a program must make measurable progress towards pay parity for Head Start teachers with kindergarten through 3rd grade teachers. Teachers in these elementary grades perform similar duties and have similar responsibilities in supporting young children's learning and development – in other words, they provide similar services – as teachers in Head Start programs. It is widely understood in the fields of child development and education that the 'early childhood' developmental stage encompasses birth through age 8.[53] Indeed, a recent well-regarded report from the Institute of Medicine and National Research Council provides a framework and foundation for supporting the workforce that educates and works with children from birth through age 8.[54] The report emphasizes that this developmental time period should be supported holistically by supporting the diverse workforce that works with this age group across sectors. Typically, children are 8 years old when they enter 3rd grade, which aligns with our reference point in the proposed standard for programs to make progress towards pay parity for Head Start teachers with public school teachers through 3rd grade.

[53] American Academy of Pediatrics. (2023). Early childhood. https://www.aap.org/en/patient-care/early-childhood/; Hyson, M., & Tomlinson, H. B. (2014). The early years matter: Education, care, and the well-being of children, birth to 8. Washington, DC: National Association for the Education of Young Children and Teachers College Press.

[54] Institute of Medicine (IOM) and National Research Council (NRC). 2015. *Transforming the workforce for children birth through age 8: A unifying foundation*. Washington, DC: The National Academies Press.

Despite the similar roles and responsibilities of Head Start teachers and elementary teachers both working with children in early childhood, these educators have stark differences in average pay. For instance, in 2022 average pay was approximately: $39,096 for Head Start Preschool teachers and $32,373 for Early Head Start teachers,[55] as compared to $53,200 for preschool teachers in school-based settings and $65,120 for public school kindergarten teachers.[56]

This represents alarming pay gaps for Head Start Preschool teachers and Early Head Start teachers compared to both kindergarten teachers and school-based preschool teachers. Furthermore, as discussed previously, many Head Start teachers are highly skilled and credentialed; 71 percent of Head Start Preschool teachers and 23 percent of Early Head Start teachers have at least a bachelor's degree. Further, 94 percent of Head Start Preschool teachers and 45 percent of Early Head Start teachers have at least an associate degree.[57] Head Start programs often report that they compete with public schools to retain teachers, particularly those with bachelor's degrees, as they are well qualified to work in elementary school settings. In fact, Head Start programs in multiple school districts across the country have anecdotally reported to ACF that public schools are intentionally recruiting their most qualified Head Start teachers. Therefore, the first part of this standard sets the goal of making progress toward pay parity for Head Start educators with elementary school educators by narrowing the pay gap between these groups. The proposed standard also requires "measurable progress" towards pay parity, which is discussed further below in the context of proposed §1302.90(e)(2)(iv). Finally, this language also aligns with section 653(a) of the Act, which requires that program staff are not paid in excess of the average rate of compensation in the area where the program is carried out to a substantial number of persons providing comparable services.

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[55] Source: Head Start 2022 PIR

[56] U.S. Bureau of Labor Statistics. Occupational Employment and Wages. May 2022. 25-2012 Kindergarten Teachers, Except Special Education. https://www.bls.gov/oes/current/oes252012.htmhttps://www.bls.gov/oes/current/oes252012.htm.; U.S. Bureau of Labor Statistics. Occupational Employment and Wages. May 2022. 25-2011 Preschool Teachers, Except Special Education. https://www.bls.gov/oes/current/oes252011.htm.

[57] Source: Head Start 2022 PIR

Next, assuming publication of a final rule in 2024, this standard provides approximately a 7-year implementation window for programs to meet this requirement by August 2031, aligning with the approximate start of a new program year. We believe this 7-year window is necessary to allow programs sufficient time to thoughtfully plan and prepare for implementation of this standard, without impacting currently enrolled students. We recognize it will require significant effort on the part of programs to establish and revise their pay structures to align with these proposed requirements (and a requirement to establish or update an overall pay structure is discussed further in the next section). The 7-year implementation timeline also creates an opportunity for future potential Congressional investment in Head Start.

However, we recognize that there are a range of possible options regarding the effective dates for the proposed standards to improve staff wages. We request public comment on our proposed effective date for this standard for progress to pay parity for Head Start teachers.

Next, the proposed standard (§1302.90(e)(2)(i)) clarifies that programs must demonstrate they are making progress to pay parity by ensuring that the salary paid to Head Start Preschool and Early Head Start teachers is at least comparable to the salary paid to preschool teachers in public school settings. The goal of this phrasing is to clarify that, in order to demonstrate sufficient progress on pay parity for Head Start teachers with kindergarten through third grade teachers, programs must ensure Head Start teachers receive wages that are, on average, comparable with those paid to preschool teachers in elementary and secondary schools, who are educating young children. This standard serves as a progress marker towards ultimately achieving full pay parity for Head Start teachers with kindergarten through third grade teachers. As noted previously, preschool teachers in school-based settings earn an average annual salary of $53,200,[58] which is $14,000 more than the average salary of $39,096 for Head Start Preschool

[58] U.S. Bureau of Labor Statistics. Occupational Employment and Wages. May 2022. 25-2011 Preschool Teachers, Except Special Education. https://www.bls.gov/oes/current/oes252011.htm.

teachers and nearly $21,000 more than the average salary of $32,373 for Early Head Start teachers.[59]

The target comparison of preschool teachers in public school settings is intended to represent substantial progress towards parity with K-third grade public school elementary teachers. Specifically, we intend the benchmark of preschool teacher annual salaries in public school settings to represent about 90% of the amount of kindergarten teacher annual salaries, for those with comparable qualifications.[60] Achieving wages for Head start teachers that are at least comparable to salaries for preschool teachers in school-based settings will provide a significant boost in wages for this well-qualified but underpaid workforce.

Next, the proposed standard, §1302.90(e)(2)(i), states that wages for Head Start teachers should be comparable to preschool teachers in school-based settings in the program's local school district. However, research indicates that teachers in public schools that serve a high proportion of children living in poverty are paid significantly lower on average compared to teachers in low-poverty schools.[61] To avoid unintentionally suppressing wage growth of Head Start teachers by requiring a comparison to public school teachers in only one school district, who may be underpaid, we include an additional sentence in §1302.90(e)(2)(i) that allows a program to provide annual salaries comparable to a neighboring school district if the salaries are higher than a program's local school district. This sentence intentionally allows a Head Start program the flexibility to consider salaries of preschool teachers in public schools across multiple school districts in their geographic area when determining what benchmark to use for teacher salaries, if those school districts offer higher salaries. We recognize some programs may be located in geographic areas where there is not a sufficient number of preschool teachers in

[59] Source: Head Start 2022 PIR

[60] This analysis uses BLS average annual salaries as wage targets. However, since the BLS national average for kindergarten teacher salaries ($65,120) includes all kindergarten teachers, of which approximately half have a master's degree or higher, adjust this annual salary to reflect the target salary for a teacher with a bachelor's degree ($58,608) guided by salary differences observed in National Center for Education Statistics data (https://nces.ed.gov/surveys/ntps/). The BLS reported annual salary for preschool teacher in school settings ($53,200) is therefore approximately 90% of the annual salary for kindergarten teachers with a bachelor's degree ($58,608).

[61] Garcia, E., & Weiss, E. (2019). *Low relative pay and high incidence of moonlighting play a role in the teacher shortage, particularly in high-poverty schools. The third report in 'The Perfect Storm in the Teacher Labor Market' series.* Washington, DC: Economic Policy Institute.

public schools in their local or neighboring school district to benchmark to, in terms of comparable wages. Below, we discuss proposed §1302.90(e)(2)(iii) that describes what programs should do in these instances, to develop an appropriate wage comparison. We request comment on any barriers that Head Start programs may face in identifying a comparable population of school-based preschool teachers for the purposes of benchmarking wages and whether the options described below for an alternative method to benchmark to preschool wages are sufficient to overcome any potential challenges. We also request comment on whether the benchmark of annual salaries paid to public school preschool teachers is an accurate reflection of approximately 90% of annual salaries paid to kindergarten teachers with comparable qualifications.

Finally, the proposed standard, §1302.90(e)(2)(i), requires a program to consider responsibilities, qualifications, and experience of the teachers when determining salaries. This aligns with recommendations from ECE research experts, which suggest that wages for the ECE workforce should be reflective of job role, experience, and education.[62] This portion of the proposed standard acknowledges that responsibilities and expectations of a job position should be a key factor in determining wages. In general, an individual in a given position with a more advanced degree or credential should be compensated more than an individual in the same position with a lower degree or credential, all other factors being equal. However, degrees or credentials are not the only important factor to consider when determining salaries. Experience is also key, particularly in the field of ECE where many teachers have years of experience, but may have never attained a bachelor's degree, for instance.[63] Further, research indicates that degrees are not the only thing that matters for determining teaching quality in ECE; experience and other supports such as professional development, coaching, and training, are also critically

[62] https://cscce.berkeley.edu/workforce-index-2020/state-policies-to-improve-early-childhood-educator-jobs/early-childhood-educator-workforce-policies/compensation-financial-relief/

[63] Kini, T. & Podolsky, A. (2016). *Does Teaching Experience Increase Teacher Effectiveness? A Review of the Research*. Palo Alto: Learning Policy Institute. Retrieved from: https://learningpolicyinstitute.org/product/does-teaching-experience-increase-teacher-effectiveness-review-research

important for high quality teaching.[64] Therefore, the proposed standard elevates the importance of considering an individual's experience when establishing wages, in addition to qualifications.

We recognize that qualifications and experience intersect in complex ways when determining wages. For instance, we would expect that a teacher with a bachelors who is new to the ECE field would likely earn a higher wage than a teacher with an associate degree who is also new to the field. However, we would expect that a teacher with an associate degree and many years of experience in ECE may likely earn a higher wage than a teacher with a bachelor's degree who is brand new to the field. This is consistent with section 653 of the Act which encourages programs to consider experience when determining salaries. The phrasing of the proposed requirement provides flexibility to programs to determine how they consider responsibilities, qualifications and experience when determining salaries. Our goal here is to provide programs with flexibility to determine wages that make the most sense for their program structure, while also balancing experience and qualifications.

Next, we turn to the second provision of §1302.90(e)(2). Here we propose a new standard in §1302.90(e)(2)(ii) that provides a deadline of August 1, 2031, for programs to make measurable progress towards pay parity for all other education staff who work directly with children as part of their daily job responsibilities. To demonstrate this, a program must provide these staff an annual salary that is at least comparable to salaries for Head Start teachers as described above, but adjusted for role, responsibilities, qualifications, and experience. This proposed standard is intended to apply to education staff other than lead teachers whose primary job is to work in classrooms or homes with children, including assistant teachers, home visitors, and family child care providers. Once implemented, this standard would significantly raise

[64] Kini, T. & Podolsky, A. (2016). *Does Teaching Experience Increase Teacher Effectiveness? A Review of the Research*. Palo Alto: Learning Policy Institute. Retrieved from: https://learningpolicyinstitute.org/product/does-teaching-experience-increase-teacher-effectiveness-review-research; Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., Espinosa, L., Gormley, W.T., Ludwig, J., Magnuson, K., Phillips, D., & Zaslow, M. (October, 2013). *Investing in our future: The evidence base on preschool.* Society for Research in Child Development.

wages for these positions. We request public comment on whether there are other education staff positions besides these who work regularly with children to whom this standard should apply.

To align with the prior standard on progress to pay parity that applies to Head Start teachers, this standard will also go into effect in August of 2031, approximately 7 years after publication of the final rule. We request public comment on our proposed effective date for this standard for progressing towards pay parity for Head Start education staff.

The average salaries for these education staff are far below what they could earn with other employers and do not reflect the qualifications they hold or the important work they do. In 2022, average salaries for these education staff were as follows: $25,570 for assistant teachers; $38,510 for home visitors; and $40,902 for family child care providers.[65] Meanwhile, 52 percent of home visitors have a bachelor's degree,[66] and 88 percent of assistant teachers have at least a Child Development Associate (CDA) or comparable credential.[67] These education staff provide critical services in classroom- and home-based settings in Head Start programs.

Similar to lead teachers, without qualified staff in these positions, the quality and availability of classroom- and home-based services are impacted, which in turn negatively impacts outcomes for children. Home-based services in particular – through home visiting or family child care – are provided to a large share of infants and toddlers in Early Head Start. In addition, assistant teachers play critical roles in Head Start Preschool classrooms to support children's learning and development alongside lead teachers. As previously noted, all classroom staff, regardless of position, build strong relationships with children that are crucial to healthy child development and can be damaging when disrupted. Retaining assistant teachers is as beneficial to the program – and to the children enrolled – as retaining lead teachers. Further, promoting stronger wages for assistant teachers can help support career pathways so that they

[65] Source: Head Start 2022 PIR
[66] Source: Head Start 2019 PIR; this was the last year of PIR that collected data on the number of home visitors with a bachelor's degree
[67] Source: Head Start 2022 PIR

eventually may become lead teachers or take on other positions in programs. Therefore, in the context of these proposed standards, we expect that education staff with less experience or qualifications will still receive significant compensation increases, and that these increases will be reflective of the important jobs they perform.

The phrasing of proposed standard §1302.90(e)(2)(ii) requires that a program provide an annual salary to these other education staff positions that is comparable to salaries described in the prior provision in proposed paragraph (e)(2)(i), but is adjusted for role, responsibilities, qualifications, and experience. As summarized previously, the intention of this phrasing is to acknowledge that education staff in different positions, with different qualifications, and/or with different experience may receive different levels of compensation, relative to lead teachers. However, it is our intention that salaries for these other education positions with varying qualifications and experience are *not* simply compared to and set at the same level as salaries for other potentially lower paid staff in school-based settings, such as teacher aides or paraprofessionals. Rather, salaries for Head Start teachers established under proposed §1302.90(e)(2)(i) should serve as an *anchor* for salaries for other education staff captured by the standard proposed in (e)(2)(ii). This is best described with a few concrete examples.

For instance, a home visitor and a lead teacher could reasonably be considered to hold similar important responsibilities within the context of the Head Start program; both play a primary role in supporting the development of enrolled children. Therefore, if a home visitor holds a bachelor's degree and similar experience as a lead teacher with a bachelor's degree, the program should consider compensating this home visitor at a similar level as a lead teacher. However, if a home visitor holds an associate degree and a few years of experience, the program could reasonably compensate the home visitor at an amount below an experienced teacher with a bachelor's degree, with an expectation of salary growth as the home visitor gains experience. As another example, an assistant teacher and a lead teacher could be reasonably considered to hold different levels of responsibilities within the Head Start classroom. Therefore, a program could

reasonably choose to compensate an assistant teacher with an associate degree below that for a lead teacher with an associate degree.

Taken together, we do expect that wages will vary for education staff across the complex intersections of role, responsibilities, qualifications, and experience. However, it is also our intention that programs ensure wage scales are not drastically different between education staff positions based solely on degrees or credentials held, particularly for positions that have the same or similar responsibilities in the program. Programs must also consider experience when determining pay for education staff.

Next, we propose a new standard §1302.90(e)(2)(iii) that provides an allowance for programs to use an alternative method for determining the comparable preschool salaries in specific circumstances. More specifically, if there is not a sufficient number of comparable public school preschool teachers in the program's local or neighboring school district, this proposed standard allows a program to use an alternative method to implement the requirements in clause (i) and (ii) of §1302.90(e)(2) to determine appropriate comparison salaries. The alternative method must be approved by ACF. This standard acknowledges that some programs are located in areas which do not have, or have a small number of, preschool teachers in school-based settings in local or neighboring school districts. In these cases, we recognize that it may not be possible to obtain a reliable estimate of comparison salaries. Programs are still required to make measurable progress toward pay parity in such circumstances, but this standard allows for an alternative approach to anchor comparison salaries. The proposed standard would require programs to use an alternative method for determining comparison salaries, and this method must be approved by ACF. For instance, this could include using salaries from preschool teachers in school-based settings in a geographically and/or socioeconomically similar area. Or programs may consider increasing salaries to a specified percentage of kindergarten to third grade teacher salaries in the local school district. ACF may provide guidance on pre-approved alternative methods to facilitate implementation of this standard where applicable. We request

comment on what type of guidance or technical assistance Head Start programs need to develop an alternative method in areas without school-based preschool teachers in local school districts.

Finally, as referenced previously, ACF expects that programs will make measurable progress towards pay parity for Head Start education staff with kindergarten to third grade teachers. The fourth and final provision of §1302.90(e)(2) proposes a new standard that requires programs to examine their progress to pay parity by regularly tracking data on how wages paid to their education staff compare to wages paid to preschool through third grade teachers in their local or neighboring school district. The intention of this standard is for programs to regularly track and examine pay gaps between Head Start education staff and teachers in comparable settings. The comparison to preschool teachers serves as a way to track in alignment with the proposed standards on progress to pay parity as described above. Programs should capitalize on existing data sources to implement this requirement to track wage data. Many, if not all, programs have internal data which they can leverage to track wages paid to their education staff. Additionally, to track wages for preschool through third grade teachers in the local or neighboring school district, programs can leverage publicly available information from these settings. Programs may already have methods for obtaining this information as part of their wage comparability surveys, or through existing partnerships with local education agencies and local school-based preschool programs. Regular tracking would ideally occur on an annual basis at minimum so that programs are aware of their progress, or lack thereof, in closing pay gaps and can make necessary adjustments.

Pay Scale for All Staff

Here we discuss the proposed changes to the new §1302.90(e)(1), *Pay scale*. There has been growing interest in the field to implement wage ladders or pay scales that promote more competitive wages for the ECE workforce. As summarized previously, the District of Columbia (D.C.) recently developed a pay scale for all early educators in D.C. that will promote pay parity for early educators with elementary teachers, with gradations within the pay scaled based on job

role, credentials, and experience.[68] Alabama and a handful of other states have pushed forward to require pay parity for staff across all preschool programs in the State with K-3 elementary staff, including the same starting salary and salary schedule.[69] A few cities, such as New York City and San Antonio, have also pushed forward with policies for pay parity for preschool staff with elementary staff.[70] We propose three provisions to §1302.90(e)(1) to describe requirements for pay scales in Head Start programs.

In the first provision, §1302.90(e)(1)(i), we propose a new requirement that, by August 1, 2031, programs must implement a pay scale, salary scale, wage ladder, or other pay structure that applies to all staff in the program. This pay structure must incorporate the requirements in paragraphs (2), (3), and (4) of §1302.90(e) and promote salaries that are comparable to similar services in relevant industries in their geographic area. The pay structure must consider, at a minimum, responsibilities, qualifications, and experience relevant to the position, and schedule or hours worked. The intention of this standard is to ensure a program's pay structure promotes competitive wages for all staff in the program, in addition to education staff. The proposed §1302.90(e)(1)(i) contains many components; we explain each here in further detail.

First, we intentionally structured this standard with the same implementation timeline – August 1, 2031 – as the proposed standards for progress to pay parity for education staff, §1302.90(e)(2), that were described previously. We recognize it is critical for program planning and implementation purposes for these standards to go into effect within the same timeframe. We request public comment on our proposed effective date for this standard.

Next, we specify that a program must develop or update a pay structure for program staff salaries. Since ACF believes the majority of programs already have a pay structure of some kind

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[68] Early Educator Equitable Compensation Task Force. (March 2022). *Final Report of the Early Educator Equitable Compensation Task Force*. Washington, DC. Retrieved from: https://lims.dccouncil.gov/downloads/LIMS/49122/Introduction/RC24-0154-Introduction.pdf

[69] https://cscce.berkeley.edu/workforce-index-2020/state-policies-to-improve-early-childhood-educator-jobs/early-childhood-educator-workforce-policies/compensation-financial-relief/

[70] CityHealth & NIEER (n.d.); McLean, C., Dichter, H., & Whitebook, M. (2017). *Strategies in Pursuit of Pre-K Teacher Compensation Parity: Lessons From Seven States and Cities.* Berkeley, CA: Center for the Study of Child Care Employment, University of California, Berkeley and New Brunswick, NJ: the National Institute for Early Education Research. Retrieved from https://cscce.berkeley.edu/wp-content/uploads/publications/Strategies-in-Pursuit-of-Pre-K.pdf.

in place for employees, such as a pay scale, salary schedule, or wage ladder. In cases where a program does not have a pay structure in place, a program must establish one under this proposed requirement.

For the majority of programs that already have an established pay structure, they must update it to reflect the requirements of the proposed §1302.90(e)(1)(i). Next, we specify that the program's pay structure must incorporate the requirements in newly proposed §1302.90(e)(2), (e)(3), and (e)(4), as well as wages for all other staff in the program. As summarized previously, proposed §1302.90(e)(2) outlines wage requirements for Head Start teachers and other education staff. Newly proposed paragraphs (e)(3) and (e)(4) are discussed in further detail in subsequent sections and encompass requirements for a pay floor and for wage comparability across Head Start Preschool and Early Head Start staff positions.

The proposed §1302.90(e)(1)(i) specifies that the program's pay structure must promote salaries that are comparable to similar services in relevant industries. This phrasing is the main thrust of this proposed requirement. Overall, we intend for this standard to improve wages for a variety of staff positions in the program, in addition to improved wages for education staff specified in §1302.90(e)(2). As discussed previously, education staff are not the only positions for which programs are struggling to recruit and retain staff. Programs report difficulty filling other positions including family services staff, bus drivers, janitors, cooks, mid-level managers, and center directors. While not all these staff necessarily leave Head Start due to low wages, many do. It is critical to retain high-quality staff across these positions in order to maintain a high functioning program.

Therefore, ACF expects programs will thoroughly consider wages of comparable industries to assess whether and how wages for various positions in their program should be improved. For instance, a family services staff member who holds a bachelor's degree in social work or another related field could be considered to provide comparable services to a family

outreach or engagement specialist in a public school setting. If a health services staff member holds a nursing degree, this staff member could be comparable to a nurse with a similar degree providing similar services in other healthcare settings. In addition, as programs consider how to restructure their pay scales to provide significantly higher raises for education staff as described in §1302.90(e)(2), we expect that wages for most other staff positions will need to be lifted as well, to avoid the unintended consequence of wage compression.

Finally, in establishing or updating their pay scale, proposed §1302.90(e)(1)(i) requires that a program consider responsibilities, qualifications, and experience relevant to the position, as well as schedule or hours worked. We believe these factors are important to consider when establishing or updating a pay scale, for the same reasons as described previously for proposed §1302.90(e)(2). Here we specify that the responsibilities, qualifications, and experience considered when establishing wages should be relevant to the position. This specification is meant to clarify that a program does not necessarily have to consider qualifications that are irrelevant to a given position, when determining wages. For instance, if a janitor holds a master's degree and the program determines this position does not require a degree, the program does not have to compensate that individual at a similar rate as other staff members in the program who hold master's degrees that are relevant to their job role and responsibilities.

Next, we turn to the second provision of §1302.90(e)(1). Here we propose a new paragraph §1302.90(e)(1)(ii) that requires, after August 1, 2031, programs to review their pay structure at least once every 5 years to ensure it continues to provide competitive wages for staff reflective of the requirements described previously, without causing undue burden by requiring it more frequently. By requiring this at least once every 5 years, it is our intention that grant recipients can align this review of their pay structure with other planning and strategic activities as part of their 5-year grant cycle, if desired. We request public comment on our proposed effective date for this standard.

In the third and final provision of §1302.90(e)(1), we propose a new paragraph that requires programs to ensure that staff salaries do not exceed the rate payable for level II of the Executive Schedule, which aligns with 42 USC 9848(b)(1). This provision reminds programs of the limitations on excessive compensation for the highest paid positions and ensures that salaries at the highest end of the pay scale are compliant with the limits described in the Act.

Finally, we recognize programs may need training and technical assistance (TTA) support to revise their salary scale or pay structure. Materials are available that describe key components and considerations of a salary scale for ECE staff.[71] Upon publication of a final rule, ACF will also be prepared to offer TTA supports to grant recipients. We invite public comment on what types of TTA supports programs will need to successfully implement the standards described here.

Minimum Pay Requirement

Here we discuss the proposed changes to the new §1302.90(e)(3), *Salary floor*. We propose a new standard in §1302.90(e)(3) that requires programs to establish a salary floor or minimum pay that is sufficient to cover basic costs of living in the geographic area. This standard is intended to ensure that *all* staff in the program earn a wage sufficient to cover their basic living needs. More specifically, the proposed standard requires that, by August 1, 2031, a program must ensure the pay scale established or updated under §1302.90(e)(1)(i) provides all staff with a wage or salary that is generally sufficient to cover basic needs such as food, housing, utilities, medical costs, transportation, and taxes, or would be sufficient if the worker's hourly rate were paid according to a full-time, full-year schedule. It is our intention that this standard targets those staff who currently receive the lowest wages in the program; this requirement will raise the pay for these staff. This could include aides, floaters, office staff, janitors, cooks, bus

[71] See for instance this resource on salary/wage scales for the ECE workforce: https://www.teachecnationalcenter.org/wp-content/uploads/2021/11/CCSA_2021_Salary-Scale-White-Paper-FINAL.pdf

monitors, or other positions. This proposed standard contains multiple components each explained here in further detail.

First, the proposed §1302.90(e)(3) specifies the same implementation timeline of August 1, 2031, as the other proposed wage requirements described in this section. We believe this will make it easier for programs to consider changes in wages holistically across these new requirements and provides programs ample time to plan for implementation. We request public comment on our proposed effective date for this standard.

Next, the proposed standard specifies that the wage or salary structure established or updated under §1302.90(e)(1)(i) must provide all staff with a wage or salary that is generally sufficient to cover basic needs. With this language, we intend for programs to carefully consider costs of living in their local geographic area to cover basic needs, and what an individual should truly be earning to cover all of those costs. The language of the proposed standard further provides examples of basic needs which a full-time staff member's hourly wages or annual salary should be able to cover, no matter the job they work for the program, including food, housing, utilities, medical costs, transportation, and taxes. In most geographic areas of the country, ACF expects that, at a minimum, a sufficient wage under this provision would be equivalent to $15 per hour. We recognize that in some communities or geographic areas, this floor may not be sufficient and may need to be adjusted to reflect higher costs of living. Further, programs would still be required to pay higher salaries when required by other sections of this NPRM.

Finally, the proposed §1302.90(e)(3) specifies that the minimum pay or pay floor would be sufficient if the workers' hourly rate were paid according to a full-time, full-year schedule (or over 2,080 hours per year). This phrasing of the proposed requirement is to recognize that not all staff are full-time employees of the program, and it allows the implementation of this standard for staff employed part time. The proposed standard is intended to convey that programs are *not*

expected to pay wages to a part-time employee that, in total, would cover all costs of living. Rather, this phrasing conveys that the wage paid to a part-time employee would be sufficient to cover the costs of living *if* that employee worked full time for the program. To illustrate, consider an example of a program that has determined $35,000 per year is the appropriate salary floor for their area. It is *not* the expectation that all employees of that program earn at least $35,000 per year, regardless of how many hours they work. Instead, the program should calculate the hourly rate associated with their salary floor, $35,000 in this example, according to a full-time, full year schedule. A standard full-time employee works 2,080 hours per year (i.e., 40 hours per week for 52 weeks per year), which in this example corresponds to a minimum hourly rate of $16.83. As such, in our example, all employees of the program must earn at least $16.83 per hour.

We recognize that programs may need support or guidance to determine what wages are necessary, at the minimum, to cover basic costs of living for staff. Upon publication of a final rule, ACF will provide grant recipients with TTA supports in this area. We also acknowledge that there are several possible ways and existing resources available to calculate and determine what wage is required to cover basic costs of living. We offer a few examples here. It is of note that these are examples only and should not be considered an endorsement by ACF of these specific calculators or tools. First, there are multiple nationally recognized tools or calculators to assist employers in making this kind of determination. One such tool is the Living Wage Calculator developed by experts at the Massachusetts Institute of Technology (MIT).[72] Another is the Self-Sufficiency Standard developed by experts at the Center for Women's Welfare of the University of Washington.[73] These types of publicly available calculators take into account a variety of costs for basic needs and how these costs vary by geographic area, to help determine an appropriate hourly wage sufficient to cover these costs. Some calculators provide estimates

[72] Glasmeier, A. K. Living Wage Calculator. 2020. Massachusetts Institute of Technology. livingwage.mit.edu.
[73] The Center for Women's Welfare. The Self-Sufficiency Standard. University of Washington. https://selfsufficiencystandard.org/.

for different family sizes and structures, but it is not the intent of the proposed standard to require programs to pay a wage sufficient to cover basic needs for staff that is adjusted by family size or family structure.

Alternatively, programs who wish to calculate their own minimum pay estimates could consider looking to other reliable data sources to determine expected costs for different types of expenditures for their geographic area, such as the following publicly available alternatives. Examples of publicly available data include, but are not limited to: Housing costs could be approximated using Fair Market Rent estimates published annually by the U.S. Department for Housing and Urban Development (HUD);[74] Food costs can be estimated using the USDA's food plan national average for adult food consumption;[75] Health care costs can be estimated using estimates from the Bureau of Labor Statistics' (BLS) Consumer Expenditures Survey for average consumer costs for health insurance, medical services, drugs, and medical supplies;[76] Transportation expenses can also be estimated using estimates from BLS Consumer Expenditures Survey for average consumer costs for cars and trucks, gas and oil, other vehicle expenses, and public transportation;[77] Expenses for taxes can be estimated by calculating percentages based on required Federal and State taxes. Finally, a program could consider if they want to incorporate estimates for other important costs such as personal care products, apparel, basic supplies, broadband, and telephone services.

Wage Comparability Across Head Start Preschool and Early Head Start

Finally, now we turn to the last of the proposed changes on wages, new paragraph §1302.90(e)(4), *Wage comparability for all ages served*. Here, we propose a new standard that promotes wage comparability across Head Start Preschool and Early Head Start staff positions by requiring that the pay structure established or updated under §1302.90(e)(1)(i) does not differ

[74] https://www.huduser.gov/portal/datasets/fmr.html#2023
[75] https://www.fns.usda.gov/cnpp/usda-food-plans-cost-food-reports-monthly-reports
[76] https://www.bls.gov/cex/
[77] https://www.bls.gov/cex/

by age of children served for similar program staff positions with similar qualifications and experience. Head Start Preschool and Early Head Start staff perform similar important roles and responsibilities to support the development of enrolled infants, toddlers, and preschoolers. In classroom settings, Early Head Start teachers must have at least a CDA credential or equivalent credential, with training or coursework in infant and toddler development (§1302.91(e)(1)). Head Start Preschool teachers must have at least an associate or bachelor's degree in child development or early childhood education or otherwise meet the requirements of section 648(a)(3)(B) of the Act (§1302.91(e)(2)(ii)). The Act also requires that at least 50 percent of Head Start Preschool teachers nationwide have a bachelor's degree. We would expect that these differences in qualifications would result in different salaries or wages. However, a good share of Early Head Start teachers also hold a bachelors or higher degree (23 percent in 2022). Nonetheless, our administrative data from Head Start programs indicates a stark difference in average salaries between Head Start Preschool and Early Head Start teachers, even among those teachers with similar qualifications.

In 2022, the average Early Head Start teacher with a bachelor's degree earned an annual salary of $37,805, compared to $40,041 for the average Head Start Preschool teacher with a bachelor's degree, a salary gap of just over $2,000 per year.[78] For teachers with advanced degrees, the disparity is even greater; in 2022, these Head Start Preschool teachers earned on average 20 percent more in annual salary ($51,162) compared to Early Head Start teachers ($42,761), a salary gap of over $8,000.[79] This is a substantial gap in average salary between professionals holding the same qualifications and performing similar roles in supporting the learning and development of Head Start children. These disparities are common in the field and lead to increased turnover.[80] Anecdotally, ACF has received reports that programs find it more difficult to hire Early Head Start teachers than Head Start Preschool teachers. The proposed

[78] Source: Head Start 2021 PIR
[79] Ibid.
[80] Ibid.

§1302.90(e)(4) will help close the wage gap between Early Head Start and Head Start Preschool teachers with similar degrees and promote stronger retention of Early Head Start teachers, thereby improving quality of services for enrolled infants and toddlers.

Staff for Whom Wage Standards Apply

Taken together, the new standards for wage requirements proposed in this NPRM include requirements for 1) progress to pay parity for Head Start education staff with kindergarten through third grade elementary teachers by providing wages comparable to preschool teachers in school-based settings, adjusted for responsibilities, qualifications, and experience ; 2) a pay scale that applies to all staff and promotes competitive wages across positions; 3) a minimum pay floor sufficient to cover basic costs of living; and 4) wage comparability across Head Start and Early Head Start positions for staff with similar qualifications and experience. We recognize that it must be clear for programs to which staff these newly proposed standards apply. It is our intention that these newly proposed standards improve wages for staff in the program who are either employees or contractors and who provide regular services for children and families in the program that are integral to program quality or functioning.

First, we propose that these standards apply to staff who are employees of the Head Start program, whose salary is paid at least in part with Head Start funds, and whose regular job responsibilities include activities or services to support enrolled children and families. We invite public comment on this clarification of which staff the wages standards apply to, including any potential unintended consequences.

Next, we summarize our expectations for how the proposed wage standards should apply to contracted staff. Contracted staff typically includes individuals who are not Head Start employees, with whom the program has contracted to provide an ongoing service (e.g., disabilities specialists and mental health professionals, bus drivers, etc.). We recognize that many individuals who provide critical services for Head Start programs do so through contracted

services. We also recognize that for Early Head Start – Child Care Partnership grant recipients, many child care partners are funded through contracts or other mechanisms with the grant recipients. In the context of the new wage standards, we propose that, for contracted staff, language in the contract must provide for wages comparable to what the recipient organization would provide if they were the employer. Further, we propose to require that programs strongly encourage contractors to use the funding to increase salaries for their staff.

We invite public comment on this expectation for how the wage standards apply to contractors or other partnership agreements, including any potential unintended consequences.

Finally, we recognize that these proposed standards will have different ramifications for implementation within certain organizational structures or for certain types of agencies. For example, grant recipients with employee bargaining agreements and those in organizations with existing formal salary structures that extend beyond just Head Start staff, such as in community action agencies, may need to engage representatives of workers if they need to negotiate new collective bargaining agreements that increase wages for Head Start staff (or for specific groups of Head Start staff, such as teachers). We also recognize that many Tribal grant recipients may have pay structures already in place for Tribal employees that include staff beyond Head Start. We encourage all programs, not solely those with collective bargaining agreements, to engage Head Start staff as they work to meet these new proposed standards, both for wages and other proposed changes. ACF intends to provide TTA supports to understand options and strategies for implementing wage increases within the context of varied organizational structures and agency types.

ACF recognizes that the proposed wage requirements are complex, and as discussed previously, may be experienced differently by different communities. We seek public comment on how any of the proposed wage requirements in this section may impact various communities. We specifically request public comment from the special populations served by Head Start,

including American Indian and Alaska Native (AIAN) and MSHS programs and communities. We also specifically request comment from Head Start staff and their representatives, and other early childhood program providers.

Workforce Supports: Staff Benefits (§1302.90)

Section 1302.90 outlines requirements for personnel policies, including the establishment of personnel policies and procedures, background check procedures, standards of conduct, and communication with dual language learners. In alignment with the newly proposed requirements in §1302.90(e) to improve wages for staff, we also propose a new paragraph (f) in this section that outlines requirements for grant recipients to provide benefits to staff. The proposed new standards require grant recipients to provide or facilitate access to health insurance for all staff; paid sick leave, and paid family leave for full-time staff; provide short-term behavioral health services for full-time staff for free or at minimal cost to them; and facilitate access to Public Service Loan Forgiveness (PSLF) and child care subsidies for eligible staff. We are also considering a requirement for recipients to provide retirement benefits to all full-time staff and we specifically request public comment on whether to add such a requirement in a final rule. This request for comment on a possible requirement for retirement benefits is discussed in further detail below. In the context of these proposed requirements, we propose to define "full-time staff" as those working 30 hours per week or more while the program is in session. For programs operating longer than a typical school year (e.g., year-round programs), we propose a requirement that such programs develop a policy for vacation or personal leave. Grant recipients are encouraged to consider and offer other benefits that may support staff recruitment and retention.

First, we propose to add §1302.90(f)(1) as a lead in statement to define full-time staff as it applies to several proposed benefit requirements. Proposed (f)(1) defines full-time staff as those working 30 or more hours per week during the program year. Next, we propose to add (f)(1)(i) which requires a program to provide or facilitate access to high-quality, affordable

health insurance. This proposed standard would require grant recipients to either: 1) provide and contribute to employer-sponsored health insurance coverage, or 2) educate, connect, and facilitate the enrollment of employees in health insurance options in the Healthcare.gov Marketplace (Marketplace), the appropriate State-specific health insurance marketplace, or Medicaid, for full-time staff. Employees are not obligated to accept employer-provided or employer-facilitated health insurance, such as those receiving insurance coverage through a spouse or another manner. Through input from OHS regional office staff and members of the Head Start community, we are aware that, while many Head Start staff are already offered employer-sponsored health coverage, this coverage may still entail considerable out-of-pocket costs for staff. Thus, if grant recipients choose to offer employer-sponsored coverage, we encourage employers to provide an insurance plan that offers coverage similar to that offered by silver, gold, or platinum plans in the Marketplace.[81] Definitions of affordable coverage, minimum value,[82] and minimum essential health benefits[83] are determined by the Affordable Care Act (ACA), and large Head Start grant recipients are already subject to the employer shared responsibility provisions in the ACA.[84] Premium tax credits[85] subsidize the cost of health insurance coverage in the Marketplace and are available to individuals in households with incomes up to 400 percent of the Federal Poverty Guidelines. We anticipate most Head Start staff are currently eligible for these tax credits, and some may be eligible for Medicaid depending on their family size, household income, and the State in which they live. Because premium tax credit amounts vary with household income and household compositional changes, we also anticipate that as the wage requirements proposed in new paragraph (e) of this section

[81] See the healthcare.gov website for a description of Marketplace plans and actuarial value: https://www.healthcare.gov/choose-a-plan/plans-categories/

[82] See the Internal Revenue Service (IRS) website for more information on minimum value and affordability: https://www.irs.gov/affordable-care-act/employers/minimum-value-and-affordability.

[83] See healthcare.gov for a list of essential health benefits: https://www.healthcare.gov/glossary/essential-health-benefits/.

[84] See the IRS website for more information on the employer shared responsibility provisions: https://www.irs.gov/affordable-care-act/employers/employer-shared-responsibility-provisions

[85] See the healthcare.gov website for a description of premium tax credits and eligibility: https://www.healthcare.gov/lower-costs/save-on-monthly-premiums/

are implemented, this would affect premium tax credit amounts or eligibility, as well as Medicaid eligibility, for some staff.

For part-time staff who work fewer than the 30 hour per week as defined above, we propose to require programs to facilitate the enrollment of these staff in health insurance options in the Marketplace or through Medicaid for which they may be eligible. Specifically, we propose to add new paragraph (f)(2) which requires a program to facilitate access to high-quality, affordable health insurance for each part-time staff member. That is, grant recipients would not be required to offer nor precluded from offering employer-sponsored health insurance to part-time staff, but the proposed standard would require, at a minimum, that the grant recipient make part-time staff aware of potential benefits through premium tax credits for which they may be eligible and facilitate their connection to the Marketplace or Medicaid.

Increasing Head Start staff access to and the quality of health insurance benefits is key to attracting and retaining skilled staff and to being competitive with other jobs. In March 2022, 73 percent of the civilian workforce had access to employer-sponsored healthcare benefits (88 percent of full-time workers and 23 percent of part-time workers), with employers paying on average 80 percent of premiums for employee coverage and 67 percent for family coverage.[86] By comparison, in 2019, only 27 percent of ECE workers in center-based settings had private health insurance through their own employer, while nearly all K-12 educators had employer-sponsored coverage.[87] Nearly 16 percent of the ECE workforce lacked health insurance.[88] As previously described, we are also aware that, while many Head Start staff may be offered employer-sponsored health coverage, it may not cover many health expenses, may not cover family members and/or may entail considerable out of pocket costs for staff. In order for Head Start programs to compete with other sectors that could potentially employ staff qualified for

[86] Bureau of Labor Statistics (BLS). (2022). Employee Benefits in the United States, March 2022. https://www.bls.gov/news.release/pdf/ebs2.pdf

[87] Rudich, J., Sugar, S., Chien, N., Peters, C., & Sommers, B. (2021, November). *Assessing uninsured rates in early care and education workers*. Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. https://www.aspe.hhs.gov/sites/default/files/documents/557aff156a2eac8dd50b489172c7eac6/early-educators-uninsured-data-point.pdf?_ga=2.163634812.2117647616.1661871770-774747381.1611252684

[88] Rudich et al. (2021).

Head Start – including public schools – it is critical that Head Start programs offer or connect staff to quality, affordable health insurance.

Based on our analysis of OHS administrative data from grant recipients, we have determined that most recipients employ more than 50 workers and are therefore subject to the ACA's shared responsibility for employers regarding health coverage, and many offer some level of health insurance or other employee benefits.[89] We anticipate some implementation issues for small grant recipients with fewer than 50 employees who do not currently offer or administer employer-sponsored benefits like health insurance. However, the proposed requirements as written allow recipients to facilitate full-time staff members' enrollment in health insurance options in the Marketplace, which helps the logistical difficulties of negotiating employee benefits plans with insurers, though we acknowledge that recipients may require technical assistance to connect with Navigators or other resources. The American Rescue Plan Act of 2021 and the Inflation Reduction Act of 2022[90] increased the subsidies for purchasing private health insurance in the Marketplace available to those meeting income and other requirements, and grant recipients may choose to administer or contribute to employees' flexible spending accounts (FSAs) to defray out-of-pocket health care costs. When employees are covered by a health savings account (HSA)-eligible high-deductible health plan, grant recipients may choose to administer or contribute to employees' HSAs to defray out-of-pocket health care costs.

Next, we propose a new paragraph (f)(1)(ii) which requires that programs offer paid sick leave to full-time staff, based on an accrual system based on hours worked or by offering a number of days updated annually. At a minimum, the accrual must meet the standards set by State or local laws, if applicable. Paid leave due to illness or other reasons is a typical employer-sponsored benefit in the U.S. workforce. We do not propose a specific required number of days

[89] See https://www.federalregister.gov/documents/2014/02/12/2014-03082/shared-responsibility-for-employers-regarding-health-coverage.
[90] See https://www.cms.gov/blog/inflation-reduction-act-tax-credits-improve-coverage-affordability-middle-income-americans#_ftnref6/

per year but seek comments on whether the standard should specify a minimum number of leave days or accrual rate.

Paid sick leave for workers allows for recovery from personal illness or the time to care for ill family members, but employer-provided paid sick leave is not universal and varies with worker wages. In March 2022, 79 percent of civilian workers had access to paid sick leave, 79 percent had paid holidays, and 77 percent had paid vacation leave, but just 40 percent of the lowest 10 percent of earners had access to paid sick leave compared to nearly all (96 percent) of the top 10 percent of earners.[91] Eighty-eight percent of full-time civilian workers had access to paid sick leave compared to just about half (51 percent) of part-time workers.[92] Workers who lack paid sick leave are more likely to go to work while ill and to forgo medical care for themselves and their families,[93] problems exacerbated by the pandemic. Having access to sick leave is particularly important for a workforce that directly cares for, teaches, and interacts with young children in group settings in which the spread of communicable illness is common.[94]

Next, we propose a new paragraph (f)(1)(iii) which requires that programs offer job-protected periods of paid family leave to employees consistent with eligibility for and protections in the Family and Medical Leave Act (FMLA) of 1993 regardless of employer size. Or, if applicable, the proposed standard clarifies that programs should comply with requirements set by State or local laws for paid family leave. Periods of leave that are longer than the few days per year typically offered by paid sick leave may be needed during certain life events, including a serious illness for a staff member or their family members, or the birth of a child. A growing body of research shows that access to paid family leave improves maternal and child health and

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[91] BLS. (2022). Table 6. Selected paid leave benefits: Access, March 2022.

[92] BLS. (2022). Table 6. Selected paid leave benefits: Access, March 2022. https://www.bls.gov/news.release/pdf/ebs2.pdf

[93] Schneider D. Paid sick leave in Washington State: Evidence on employee outcomes, 2016-2018. *Am J Public Health*. 2020;110(4):499-504. doi:10.2105/AJPH.2019.305481; DeRigne LA, Stoddard-Dare P, Quinn L. Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. *Health Aff*. 2016;35(3):520-527. doi:10.1377/hlthaff.2015.0965. Schenider, D., Harknett, K., & Vivas-Portillo, E. Olive Garden's expasion of paid sick leave during COVID-19 reduced the share of employees workign while sick. *Health Aff*. 2021;40(8):1328-1336. https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.02320

[94] Bradley, R. H. (2003). Child care and common communicable illnesses in children aged 37 to 54 months. *Archives of Pediatric and Adolescent Medicine, 157*(2), 196-200. https://pubmed.ncbi.nlm.nih.gov/12580692/

family economic well-being and increases father engagement and preventive care receipt.[95] We intend for this requirement to apply to all programs, even those who are not covered by FMLA due to employer size (e.g., fewer than 50 employees). As such, we expect that the proposed paid family leave policy would apply for full-time employees in all Head Start programs, regardless of the number of employees in the program, who have had at least 12 months of tenure with their employer. The reason for the leave must be a qualifying reason under FMLA, regardless of whether the employer is covered by FMLA.

An estimated 29 percent of Head Start staff work in one of the 11 states and the District of Columbia that have enacted paid family leave laws as of October 2022, though the requirements in these laws vary.[96] In March 2022, more than one-quarter (29%) of primary and secondary, and special education teachers had access to paid family leave benefits through their employers,[97] with others having access to State-sponsored public paid family leave programs.[98] Employer-provided paid family leave benefits are inequitably distributed in the workforce, with 34 percent of civilian workers in management, professional and related occupations having access, compared to 15 percent of those in service occupations.[99]

FMLA entitles eligible workers to periods of unpaid, job-protected leave for up to 12 weeks per 12-month period for the birth, adoption, or foster care placement of a new child within one year of birth, adoption, or placement; to care for a spouse, child, or parent with a serious health condition; a serious health condition that makes the employee unable to perform the essential functions of his or her job; or a qualifying exigency arising out of the fact that the

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[95] Rossin-Slater, M., & Uniat, L. (2019). Paid family leave policies and Population Health. *Health Affairs* Brief. https://www.healthaffairs.org/do/10.1377/hpb20190301.484936/ Waldfogel, J., Doran, E., & Pac, J. (2019*). Paid family and medical leave improves the well-being of children and families*. SRCD Child Evidence Brief. https://www.srcd.org/research/paid-family-and-medical-leave-improves-well-being-children-and-families

[96] See: https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf

[97] BLS. (2022). National Compensation Survey: Employee Benefits in the United States, March 2022. Table 7: Leave benefits by occupational category, Civilian workers, March 2022. https://www.bls.gov/ebs/publications/september-2022-landing-page-employee-benefits-in-the-united-states-march-2022.htm

[98] As of October 2022, paid family leave laws were in place in 11 states and the District of Columbia. See: https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf

[99] BLS. (2022). National Compensation Survey: Employee Benefits in the United States, March 2022. Table 7: Leave benefits by occupational category, Civilian workers, March 2022. https://www.bls.gov/ebs/publications/september-2022-landing-page-employee-benefits-in-the-united-states-march-2022.htm

employee's spouse, son, daughter, or parent is a covered military member on covered active duty. Up to 26 weeks of leave is available for an employee to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin.[100] To be eligible for FMLA, workers must work for a covered employer at a location with 50 or more employees within 75 miles; have worked 1,250 hours or more during the 12 months prior to the start of leave; and have worked for the employer for 12 months or more before the start of leave.[101] However, under this proposed new requirement, all Head Start programs, regardless of employer size, would be required to provide full-time staff that meet the employee eligibility requirements (i.e., have worked 1,250 hours or more during the 12 months prior to the start of leave; and have worked for the employer for 12 months or more before the start of leave) with partial or full wage replacement during qualifying periods of leave. We request comments on whether the reasons for leave or eligibility requirements, such as how long a staff member has been with an employer or employer size, should be modified for this proposed standard, or if aligning with FMLA is the best approach.

Next, for programs whose program year lasts longer than a typical school year, we propose in new paragraph (f)(1)(iv) to require such programs offer full-time staff the accrual of paid vacation or personal leave commensurate with experience or time working at the program. In 2022, 77 percent of civilian workers had paid vacation leave and 48 percent had paid leave designated as personal leave. That year, only 21 percent of primary and secondary teachers had paid vacation leave.[102] But as noted by BLS,[103] the majority of K-12 school districts function on a school year schedule (37-38 weeks per year) with regular breaks, as do many Head Start Preschool programs. However, most Early Head Start programs and some Head Start Preschool programs operate throughout the summer months as well, and these "year-round" program staff

[100] https://www.dol.gov/agencies/whd/fmla
[101] U.S. Department of Labor. FMLA Frequently Asked Questions. https://www.dol.gov/agencies/whd/fmla/faq#3
[102] BLS. (2022). National Compensation Survey: Employee Benefits in the United States, March 2022. Table 7: Leave benefits by occupational category, Civilian workers, March 2022. https://www.bls.gov/ebs/publications/september-2022-landing-page-employee-benefits-in-the-united-states-march-2022.htm
[103] BLS. (2022). Employee Benefits in the United States, March 2022. https://www.bls.gov/news.release/pdf/ebs2.pdf

are not benefitting from a summer break. We believe these staff working on more of a year-round schedule should have the opportunity to accrue paid vacation leave, but we do not propose a specific required number of days per year or accrual rate. We request comment on whether these requirements regarding paid vacation or personal leave are important for attracting and retaining qualified staff. We seek comments on whether the implementation of these requirements would lead to unintended consequences or unpredictable expenses, particularly in the case of paying out upon an employee leaving a program.

Next, we propose to add new paragraph (f)(1)(v) which requires that employers offer access to short-term behavioral health services for full-time staff that entails minimal or no out-of-pocket costs for staff. We propose that these services include access to approximately three to five outpatient visits per year.[104] The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 requires that group health plans and health insurance coverage ensure that financial requirements and treatment limitations on mental health and substance-use disorder services are no more restrictive than the predominant financial requirements and treatment limitations applicable to medical and surgical health services, and that there are no financial requirements and treatment limitations applicable only with respect to mental health and substance use disorder services. Mental health and substance-use disorder services, including treatment such as counseling and psychotherapy, are also one category of the essential health benefits that health insurance issuers offering non-grandfathered[105] group or individual

[104] When offering access to the behavioral health services that would be required under these proposed rules, an employer should be aware that other provisions of law may apply to that arrangement. In general, the provision of medical care, including the provision of behavioral health services, could result in the arrangement being considered a group health plan subject to the relevant provisions of the Employee Retirement Income Security Act (ERISA) that applies to group health plans, unless the arrangement qualifies as an excepted benefit. For an Employee Assistance Program (EAP) to qualify as an excepted benefit, the EAP must meet the requirements of 26 CFR 54.9831-1(c)(3)(vi); 29 CFR 2590.732(c)(3)(vi) and 45 CFR 146.145(b)(3)(vi), including that the program may not provide significant benefits in the nature of medical care and that no employee premiums or contributions or cost-sharing can be required as a condition of participation in the EAP. To the extent the arrangement that provides the behavioral health visits required under these proposed rules does not meet the requirements to qualify as an excepted benefit, the arrangement may be considered a group health plan subject to the requirements of Part 7 of the Employee Retirement Income Security Act (ERISA).

[105] Section 1251 of the Affordable Care Act provides that grandfathered health plans are not subject to certain provisions of the Code, ERISA, and the PHS Act, as added by the Affordable Care Act, for as long as they maintain their status as grandfathered health plans. See 26 CFR 54.9815-1251; 29 CFR 2590.715-1251 and 45 CFR 147.140. For a list of the market reform provisions applicable to grandfathered health plans under title XXVII of the PHS Act that the Affordable Care Act added or amended and that were incorporated into the Code and ERISA, visit https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-andadvisers/grandfathered-health-plans-provisions-summary-chart.pdf.

health insurance coverage (including health insurance coverage offered in the Marketplace) must cover without annual dollar caps.

Even with health insurance, out-of-pocket expenses like high deductibles or copays may serve as barriers for individuals facing mental illness or symptoms for receiving care. In 2010, only 15 percent of private industry workers had a high deductible plan, compared to 45 percent in 2018.[106] In a 2020 nationally representative survey, among those reporting perceived unmet mental health care needs in the prior year, 46 percent reported that they could not afford the cost of treatment, 19 percent reported that their health insurance did not pay enough for mental health services, and 29 percent reported they did not know where to go for services.[107]

Research suggests that Head Start staff face a constellation of stressors, including financial stress and challenging behaviors in the classroom, which are in turn associated with poorer staff physical and psychological well-being, and may benefit from increased access to mental health care services. Head Start teachers experience high rates of health problems and depressive symptoms, with some studies finding that nearly one-third have depressive symptoms.[108] A 2013 study in Pennsylvania found that Head Start teachers showed higher rates of poor or fair health, depressive symptoms, unhealthy days, and having three or more health conditions compared to women with similar backgrounds.[109] The challenges surrounding the COVID-19 pandemic exacerbated stress and health problems among early childhood teachers. A study of ECE professionals conducted in summer 2020 in New York City found that 31 percent reported doctor-diagnosed anxiety and 23 percent reported doctor-diagnosed depressive symptoms.[110] Another study of over 80,000 ECE professionals found that 47.5 percent screened

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[106] BLS. (2023). *High deductible health plans and health savings accounts.* https://www.bls.gov/ebs/factsheets/high-deductible-health-plans-and-health-savings-accounts.htm

[107] Council of Economic Advisors. (2022, May). *Reducing the economic burden of unmet mental health needs.* The White House. https://www.whitehouse.gov/cea/written-materials/2022/05/31/reducing-the-economic-burden-of-unmet-mental-health-needs/

[108] Ibid.

[109] Whitaker, R., Becker, B., Herman, A., & Gooze, R. (2013). The physical and mental health of Head Start staff: The Pennsylvania Head Start staff wellness survey, 2012. *Preventing chronic disease, 10*(1), 1-9.

[110] Kwon, K.-Ah., Ford, T. G., Tsotsoros, J., Randall, K., Malek-Lasater, A., & Kim, S. G. (2021). Challenges in working conditions and well-being of early childhood teachers by teaching modality during the COVID-19 pandemic. *International Journal of Environmental Research and Public Health, 19*, 4919.

positive for depression and 66.5 percent reported moderate to high stress levels, which was a higher prevalence of both depression and stress than among US adults overall in 2020.[111] Further, research on Head Start programs has linked staff job stressors and poor mental health to lower-quality teacher-child interactions and teachers' behavioral management skills.[112] In a sample of Head Start programs, teachers' depressive symptoms were associated with fewer gains in children's math skills across the year.[113]

Access to free or low-cost short term mental health services is key to promoting staff well-being and children's development. Programs may use a variety of strategies to ensure staff facing mental health conditions or symptoms have access to short-term, affordable mental health treatment. Employers may do so through an employer-sponsored group health plan that provides short-term, outpatient behavioral health care at low out-of-pocket costs, or through an Employee Assistance Program (EAP) that qualifies as an excepted benefit and can refer and connect employees to mental health resources and providers. While we propose to require programs to cover approximately three to five outpatient visits, nothing in these rules prohibit a program from providing additional visits.

Next, we propose to add new paragraph (f)(3) which requires programs to connect staff members who are parents with affordable child care resources and information – including connections to child care resource and referral agencies if applicable – and to facilitate the enrollment of staff members who may be eligible in the child care subsidy program. The early childhood workforce, including Head Start staff, are disproportionately women of color,[114] many

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[111] Elharake, J. A., Shafiq, M., Cobanoglu, A., Malik, A. A., Klotz, M., Humphries, J. E., ... & Gilliam, W. S. (2022). Prevalence of Chronic Diseases, Depression, and Stress among US Child Care Professionals during the COVID-19 Pandemic. *medRxiv*, 2022-03.

[112] Li-Grining, C. L., Raver, C. C., Champion, K., Sardin, L., Metzger, M., & Jones, S. M. (2010). Understanding and improving classroom emotional climate and behavior management in the "real world": The role of Head Start teachers' psychosocial stressors. *Early Education and Development*, *21*(1), 65–94.; Roberts, A., LoCasale-Crouch, J., Hamre, B., & DeCoster, J. (2016). Exploring Teachers' Depressive Symptoms, Interaction Quality, and Children's Social-Emotional Development in Head Start. *Early Education and Development*, *27*(5), 642–654.; Whitaker, R. C., Dearth-Wesley, T., & Gooze, R. A. (2015). Workplace stress and the quality of teacher-children relationships in Head Start. *Early Childhood Research Quarterly*, *30*, 57–69.

[113] Jeon, S., Jeon, L., Lang, S. & Newell, K. (2021). Teacher depressive symptoms and child math achievement in Head Start: The roles of family-teacher relationships and approaches to learning. *Child Development,* 92(6), 2478-2495.

[114] Coffey, M. (2022). *Still underpaid and unequal: Early childhood educators face low pay and a worsening wage gap*. Center for American Progress. https://www.americanprogress.org/article/still-underpaid-and-unequal/ ; Mayfield, W., & Cho, I. (2022). *The National Workforce Registry Alliance 2021 Workforce Dataset: Early Childhood and School-age Workforce Trends, with a Focus on Racial/Ethnic Equity*.

of whom rely on child care for their own children. High-quality child care is expensive and difficult to find,[115] particularly for infants and toddlers, but key to both promoting labor force participation and children's development.[116] Child Care Resource and Referral (CCR&R) organizations and other child care consumer education organizations serve as resource hubs to connect families to high-quality, affordable child care through referrals and information on licensing, subsidies, and how to access services for children with disabilities.[117] Head Start programs can ensure that staff members are aware of and connected to local CCR&Rs or other consumer education organizations in their communities. For each staff member who may be eligible for public child care assistance, a program should educate and facilitate application to and enrollment in the child care subsidy program.

Further, we recognize that many Head Start staff members' own children may be eligible for Head Start services. Being able to enroll one's own child in an ECE program where that individual is also employed could be an important benefit to support recruitment and retention of staff. Therefore, we also propose to add a new paragraph (5) to §1302.14(a) *Selection criteria* that clarifies programs can choose to prioritize the enrollment of staff members' children through selection criteria. Section 1302.14(a) includes requirements for establishing selection criteria to weigh the prioritization of selection of participants for the program. The proposed standard in new paragraph (5) clarifies that programs can choose, as part of this process, to prioritize staff members' children. Programs are reminded that in order to be enrolled in a Head Start funded slot, such children would still need to be age eligible and meet an eligibility category described in §1302.12(c) or (d). We also note that as the wage requirements proposed in this NPRM are implemented, this would likely affect eligibility for some staff.

National Workforce Registry Alliance. https://www.registryalliance.org/wp-content/uploads/2022/05/NWRA-2022-ECE-workforce-data-report-final.pdf ; Smith, L., McHenry, K., Morris, & Chong, H. (2021). *Characteristics of the child care workforce*. Bipartisan Policy Center. https://bipartisanpolicy.org/blog/characteristics-of-the-child-care-workforce/

[115] Child Care Aware. (2022). *2021 Child Care Affordability.* https://www.childcareaware.org/catalyzing-growth-using-data-to-change-child-care/#ChildCareAffordability

[116] Chaudry, A., Morrissey, T. W., Weiland, C., & Yoshikawa, Y. (2021). *Cradle to Kindergarten: A New plan to combat inequality*, *2nd Edition*. New York: Russell Sage Foundation.

[117] https://www.childcareaware.org/about/child-care-resource-referral/

Next, we propose a new paragraph (4) in §1302.90(f) that requires programs to facilitate access to Public Service Loan Forgiveness (PSLF), or other applicable student loan debt relief programs, for any Head Start staff who may have student loan debt. This includes timely certification of employment for the staff member. Evidence suggests that student loan debt is higher among the ECE workforce than the overall population. When combined with relatively low wages, this compounds economic hardship. According to a March 2022 survey of approximately 2,500 ECE providers, 19 percent reported they had student debt, compared to 17 percent of the U.S. adult population overall, and 17 percent reported they carried debt for others.[118]

The PSLF Program, administered by the U.S. Department of Education, is intended to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining balance of their Direct loans after they satisfy public service and loan payment requirements. Many Head Start programs share information with staff about the PSLF program as well as other State or local student debt relief opportunities they may be eligible for as a staff recruitment and retention strategy that can reduce financial stress among staff. Individual borrowers who are eligible for PSLF must submit with their PSLF application a certification of qualifying employment which requires a signature from the employer. It is important that Head Start programs offer timely certification of employment to facilitate debt relief for Head Start staff. This proposed standard would require programs to facilitate access to PSLF and other available student debt relief by providing information about debt relief opportunities and offering timely certification of employment.

Next, recognizing that there are other benefits that may enhance programs' ability to compete for skilled staff, we propose to require programs, at least once every 5 years, to assess and determine if their benefits package is adequate for recruiting and retaining full-time staff and

[118] RAPID Survey, Student Debt in the Early Childhood Workforce, May 2022. Retrieved from: https://rapidsurveyproject.com/our-research/student-debt-in-the-early-childhood-workforce.

competitive with benefits offered by local or neighboring school districts. The proposed standard specifies that programs may offer additional benefits to staff, including more enhanced health benefits, retirement savings plans, flexible savings accounts, or life, disability, and long-term care insurance. We propose to encourage programs to offer additional benefits to all staff based on the needs of their workforce. Additional benefits may include but are not limited to retirement, dental or vision benefits; subsidized health insurance for staff members' dependents; tax-exempt health, dependent care, or flexible spending accounts; or other benefits to staff such as life, long-term care, and disability insurance.

Finally, ACF is considering adding retirement savings plans to the list of required benefits to be provided to full-time Head Start staff and specifically seeks public comment on whether to add an additional requirement for recipients to provide retirement savings benefits to full-time staff. Research indicates that the majority of public school teachers are offered some type of retirement or pension plan.[119] And a study of ECE professionals in one State found that 80 percent were worried about their retirement savings.[120] Providing retirement benefits may provide another mechanism for Head Start programs to recruit and retain staff. However, we also recognize that such a requirement could lead to additional slot loss in Head Start absent additional appropriations. We seek public comment on whether retirement savings benefits, ranging from employer assistance in establishing retirement accounts to more comprehensive benefits with employer matching contributions, consistent with what public schools offer, should be required as an effective mechanism for staff recruitment and retention, especially when weighed against potential slot loss. Overall, we believe this set of employer-provided benefits is necessary to attract and retain a skilled, qualified workforce in Head Start programs. In general, as Head Start programs phase in wage increases and benefits, they should hold harmless existing benefits such that employees receive benefits that are at least as generous as their current

[119] BLS. (2022). Employee benefits in the United States. Table 1. Retirement benefits: Access, participation, and take-up rates.
[120] Sakai, L. (2014). "Economic Insecurity and Early Childhood Teaching." In *Worthy Work, Still Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*, edited by Marcy Whitebook, Deborah Phillips, and Carollee Howes, 41–54. Berkeley, CA: Center for the Study of Child Care Employment.

benefits. ACF requests comment about the degree to which grant recipients are currently offering a set of high-quality benefits and the administrative difficulty or expense creating these benefits would entail. We also seek public comment on how any of the proposed benefit requirements in this section may impact various communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Workforce Supports: Staff Wellness (§1302.93)

Section 1302.93 outlines program requirements for promoting staff health and wellness, including that staff: have regular health examinations; do not pose a risk of exposing others in the program to communicable diseases; are provided access to mental health and wellness information, including opportunities to learn about these topics. However, these current standards lack critical requirements to promote staff physical and mental wellness on the job, including regular breaks during the workday and access to appropriate adult-size furniture in classrooms. We believe the proposed requirements described in this section, together with the proposed requirements described in the *Subpart I – Human Resources Management* subsection of the *Mental Health Services* section of this preamble, will provide much needed supports to reduce staff stress and burnout; improve the quality of interactions between teachers and children; and improve staff recruitment and retention. Importantly, improving staff retention will also contribute to a more positive, improved working environment for all staff.

In this section we describe newly proposed requirements for grant recipients to provide a minimal level of regular breaks for staff as well as brief unscheduled 'wellness breaks' for staff who work directly in classrooms with children to support stress management, improve well-being, reduce turnover, and improve staff retention and the quality of services. We also propose a requirement for classroom staff to have access to appropriate adult-sized furniture in classrooms to support ergonomic health. These newly proposed provisions are consistent with

the proposed requirements in new paragraphs (e) and (f) of §1302.90 that support improved staff wages and benefits.

First, we propose to add a new paragraph (c) to §1302.93 which outlines requirements for break times during work shifts. In new paragraph (c)(1)(i) we specify that a program must provide, for each staff member working a shift lasting between four and six hours, a minimum of one 15-minute break per shift. In new paragraph (c)(1)(ii), we specify that a program must provide, for each staff member working a shift lasting six hours or more, a minimum of one 30-minute break per shift. Newly proposed paragraph (c)(2) requires programs to comply with State laws or regulations that are more stringent for staff breaks, if applicable. The required breaks outlined in new paragraph (c)(1) are minimums, and programs may choose to provide staff with longer or more frequent breaks depending on the needs of staff, children, and their programs.

For staff members who regularly work in classrooms with children, the breaks for staff described in (c)(1) will be subject to required staff-child ratios. However, in newly proposed paragraph (c)(3), we specify that during break times for classroom staff, one teaching staff member may be replaced by one staff member who does not meet the teaching qualifications required for the age, as long as this staff member has the necessary training and experience to ensure safety of children and minimal disruption to the quality of services. ACF expects that, for classroom staff, these regular breaks will be scheduled for periods that are least disruptive for classroom instruction or routines, such as during nap times, meals, or outside play periods and will be covered by staff who have completed the appropriate background checks.

In addition, we propose to add new paragraph (c)(4), which requires a program to design and implement a systematic approach to ensure each staff member that works directly with children as part of their regular job responsibilities can have access to brief unscheduled wellness breaks of about 5 minutes as needed while ensuring child safety. ACF expects these unscheduled breaks to be brief, of approximately 5 minutes in length. The safety of children is

of the utmost importance to ACF, and we recognize this is a key priority for programs as well. By designing an intentional, systematic approach for brief 'wellness' breaks, we think programs will be able to better support staff members who feel temporarily overwhelmed or stressed by the challenges of the position in the classroom or otherwise need a very brief break (e.g., to use the restroom or take an emergency phone call). It will allow staff the opportunity to briefly step away from an overwhelming situation, calm down as needed, and think through an appropriate approach to handling the given situation. We believe this can help prevent or reduce child incidents in classrooms. At the same time, careful attention should be given at the program level to allow for these brief wellness breaks while also promoting the safety of children. It is expected that the number of unscheduled breaks could vary daily, and it may be the case that on any given day individuals may not need unscheduled breaks whereas on other days they could need more. We request public comment on the length or ideal frequency of these brief wellness breaks.

We also propose to add a new paragraph (d) to §1302.93 which requires programs to ensure staff have access to adult size furniture in classrooms. This could include, for instance, adult sized chairs or desks depending on what the classroom layout allows. This change was motivated by the data indicating that staff in Head Start programs experience work-related ergonomic pain. For example, a survey of Head Start teachers in Baltimore found that 80 percent reported musculoskeletal pain as a result of their work.[121] In an Oklahoma sample of Head Start teachers, more than seven in ten (73 percent) Head Start staff reported work-related ergonomic pain, including in routine activities like diapering or stooping to pick up children.[122] Additionally, nearly one-third reported neck pain (31 percent), one in four reported shoulder pain (26 percent), and over half reported back pain (56 percent).[123] The proposed requirement for

[121] The Happy Teacher Project. (2020). *Strengthening Health, Wellness, and Psychosocial Environments in Head Start: Technical Report 2020*. Johns Hopkins University and Oklahoma State University

[122] Kwon, K., Ford, T., Randall, K., Castle, S. (2021). *Head Start Teacher Paradox: Working conditions, well-being, and classroom quality*. The Happy Teacher Project: Johns Hopkins University and Oklahoma State University.

[123] Ibid.

adult size furniture will support the physical health of teachers and aligns with ACF's goal of improving and investing in staff health and wellness.

Together, regularly scheduled breaks, brief unscheduled wellness breaks, and access to adult size furniture in classrooms will provide staff with more of the support they need to provide high-quality education and care to enrolled children. There are no Federal and few State or local laws regarding employers' offering of staff breaks. The work of ECE staff, including Head Start teachers, involves actively educating, caring for, and supervising young children, jobs that require the full attention of staff members and can be physically, mentally, and emotionally demanding, particularly if done for long shift periods. Prior research suggests that Head Start teachers have low or inconsistent access to regular or unscheduled breaks at work. For instance, in 2021, the Happy Teacher Project found that 62 percent of Head Start teachers have no designated breaks, compared to 44 percent of the general ECE workforce.[124] In another survey of Head Start teachers in Maryland, 85 percent reported there was no designated break time for staff (other than children's nap time) and 69 percent reported there were no consistent bathroom breaks for staff; 55 percent indicated that more daily breaks would improve overall well-being.[125] In samples of ECE teachers, up to one-third have reported diseases such as urinary tract infections and high blood pressure at higher rates than in populations of similar sociodemographic composition.[126] This research suggests some Head Start staff may work full-day shifts without adequate breaks to eat their own meals, attend to minor personal tasks, or take care of their own mental and physical well-being.

The lack of access to breaks at work may be part of a constellation of workplace stressors faced by Head Start staff, which as described previously, includes financial stress and the significant responsibility entrusted to Head Start staff who are charged with supporting the most

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[124] Kwon, K., Ford, T., Randall, K., Castle, S. (2021). *Head Start Teacher Paradox: Working conditions, well-being, and classroom quality*. The Happy Teacher Project: Johns Hopkins University and Oklahoma State University.

[125] The Happy Teacher Project. (2020). *Strengthening Health, Wellness, and Psychosocial Environments in Head Start: Technical Report 2020*. Johns Hopkins University and Oklahoma State University.

[126] Kwon, K., et al., (2022). Neglected elements of a high-quality early childhood workforce: Whole teacher well-being and working conditions. *Early Childhood Education Journal,* 50, 157-168.

vulnerable children and families who face a myriad of challenges. Work climate and stressors are associated with teacher psychological well-being,[127] and in turn, contribute to staff turnover.[128] In the Baltimore survey, 43 percent of Head Start teachers surveyed reported an intention to leave the job.[129] Additionally, as stated earlier, Head Start staff turnover in 2022 was the highest it has been in two decades. Staff turnover interrupts adult-child relationships and is associated with poorer child outcomes[130] and increases the workloads and schedule changes for the teachers who remain.[131] Among staff who remain in their jobs, work environments and physical and psychological well-being are associated with teachers' relationships with children and children's outcomes.[132] In a study of ECE centers that included Head Start programs, lead and assistant teachers' work stress was associated with children's social and emotional outcomes, including anxiety-withdrawal and social competence.[133]

Research suggests that early childhood teacher well-being was low prior to the COVID-19 pandemic, and that the pandemic exacerbated the workplace, financial, and other stressors among the ECE workforce, contributing to reductions in emotional well-being, physical health, and job commitment in the workforce.[134] Further, research finds evidence of racial differences,

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[127] Jeon, L., & Ardeleau, K. (2020). Work climate in early care and education and teachers' stress: Indirect associations through emotion regulation. *Early Education & Development,* 31(7), 1031-1051; Jeon, L., Buettner, C., & Grant, A. (2018). Early childhood teachers' psychological well-being: Exploring potential predictors of depression, stress, and emotional exhaustion. *Early Education & Development, 29*(1), 53-69.

[128] Grant, A., Jeon, L. & Buettner, C. (2019). Relating early childhood teachers' working conditions and wellbeing in their turnover intentions. *Educational Psychology, 39*(3), 294-312.

[129] The Happy Teacher Project. (2020). *Strengthening Health, Wellness, and Psychosocial Environments in Head Start: Technical Report 2020*. Johns Hopkins University and Oklahoma State University.

[130] Markowitz, A., & Bassok, D. (2018). *Teacher turnover and child development in Head Start*. Paper presented at the Association for Public Policy Analysis and Management Conference. U.S. Department of Health and Human Services & U.S. Department of Education. (2016).

[131] Cassidy, D. J., Lower, J. K., Kintner-Duffy, V. L., Hegde, A. V., & Shim, J. (2011). The day-to-day reality of teacher turnover in preschool classrooms: An analysis of classroom context and teacher, director, and parent perspectives. *Journal of Research in Childhood Education*, *25*(1), 1–23.

[132] Jeon, L., Buettner, C., Grant, A., & Lang, S. (2019). Early childhood teachers' stress and children's social, emotional, and behavioral functioning. *Journal of Applied Developmental Psychology, 61*, 21-32.; Jeon, S., Jeon, L., Lang, S. & Newell, K. (2021). Teacher depressive symptoms and child math achievement in Head Start: The roles of family-teacher relationships and approaches to learning. *Child Development,* 92(6), 2478-2495.; The Happy Teacher Project (2020).; Smith, S., & Lawrence, S. (2019). *Early Care and Education Teacher Well-Being: Associations with Children's Experience, Outcomes, and Workplace Conditions* (Issue March). http://www.nccp.org/publications/pdf/text_1224.pdf

[133] Jeon, L., Buettner, C., Grant, A., & Lang, S. (2019). Early childhood teachers' stress and children's social, emotional, and behavioral functioning. *Journal of Applied Developmental Psychology, 61*, 21-32.

[134] Hanno, E., Gardner, M., Jones, S., & Lesaux, N. (2022). An ecological perspective on early educator well-being at the start of the COVID-19 pandemic. *Early Childhood Research Quarterly*. https://doi.org/10.1016/j.ecresq.2022.02.002; Kwon, K., Ford, T., Tsotsoros, J., Randall, K., Malek-Lasater, A., & Kim, S. (2022). Challenges in working conditions and well-being of early childhood teachers by teaching modality during the COVID-19 pandemic. *International Journal of Environmental Research and Public Health, 19,* 4919.; Markowitz, A., & Bassok, D. (2022). Understanding the well-being of early educators in the wake of the coronavirus pandemic: Lessons from Louisiana. *Early Childhood Research Quarterly*. https://doi.org/10.1016/j.ecresq.2022.05.001; Souto-Manning, M., & Melvin, S. (2022). Early childhood teachers of color in New York City: Heightened stress, lower quality of life, declining health, and compromised sleep amidst COVID-19. *Early Childhood Research Quarterly, 60*, 34-48.

such as higher rates of stress for Black teachers and higher rates of ergonomic pain for Latinx teachers for those teaching in-person when compared to their White counterparts, with implications for equity among a workforce that is disproportionately women of color.[135] The pandemic also exacerbated the challenges in recruiting and retaining ECE staff.

Each standard that ACF proposes in this section is responsive to research, survey data, and Head Start administrative and internal data which collectively demonstrate that more attention must be paid to educator wellness and well-being. Evidence from the field shows that early childhood educators' mental and physical health and well-being are often neglected or overlooked. One survey administered during the COVID-19 pandemic found that teachers ranked "more daily breaks and paid leave" in the top five items needed to support their well-being.[136] Other research prior to the pandemic in a national sample and one in Oklahoma found that teachers rated breaks as fifth and second, respectively, as needs for their workplaces.[137] ACF's proposed requirements in this section are intended to be responsive to these research findings and support Head Start staff well-being by ensuring they have access to regular, scheduled breaks, and to brief unscheduled breaks, which may be useful stress management strategies in infrequent circumstances when a teacher is feeling overwhelmed. Additionally, these proposed standards will strengthen supports for Head Start early educators during the on-going post-pandemic and long-term recovery of the workforce.

We seek public comment on how any of the proposed staff wellness requirements in this section may impact various communities. We specifically request public comment from the

[135] Kwon, K., Ford, T., Tsotsoros, J., Randall, K., Malek-Lasater, A., & Kim, S. (2022). Challenges in working conditions and well-being of early childhood teachers by teaching modality during the COVID-19 pandemic. *International Journal of Environmental Research and Public Health, 19,* 4919.; Souto-Manning, M., & Melvin, S. (2022). Early childhood teachers of color in New York City: Heightened stress, lower quality of life, declining health, and compromised sleep amidst COVID-19. *Early Childhood Research Quarterly, 60*, 34-48.

[136] Kwon, K., Ford, T., Tsotsoros, J., Randall, K., Malek-Lasater, A., & Kim, S. (2022). Challenges in working conditions and well-being of early childhood teachers by teaching modality during the COVID-19 pandemic. *International Journal of Environmental Research and Public Health, 19,* 4919.

[137] Kwon, K., Ford, T., Randall, K., Castle, S. (2021). *Head Start Teacher Paradox: Working conditions, well-being, and classroom quality*. The Happy Teacher Project: Johns Hopkins University and Oklahoma State University.

special populations served by Head Start, including AIAN and MSHS programs and communities.

Workforce Supports: Employee Engagement (§1302.92, §1302.101)

Section 1302.101(a)(2) requires programs to implement a management system that provides regular and ongoing staff supervision to support individual professional development and continuous program quality improvement. Disengaged staff are not as emotionally committed to or proud of their work or organization, are less motivated, and are more eager to leave.[138] Disengagement negatively affects the well-being of staff, the quality of their work, and the attitudes held toward children.[139] Meaningful and effective employee engagement practices that promote clear roles and responsibilities are needed to improve the well-being of the workforce by helping identify and address job-related stress, burnout, and workload issues. These practices also empower the workforce, build respect in the workplace, and improve staff retention and overall job satisfaction. As such, we propose to revise this requirement to discourage staff supervision approaches that are primarily top-down by requiring programs to promote clear and reasonable roles and responsibilities for all staff with meaningful and effective employee engagement practices as part of their systematic approach to staff supervision. The changes proposed in this section are intended to be scaled to the size of the Head Start organization and are not anticipated to incur a large cost.

Specifically, in §1302.101(a)(2) we propose to strike "Provides regular and ongoing supervision to support individual staff professional development and continuous program improvement" and replace it with "Promotes clear and reasonable roles and responsibilities for all staff and provides regular and ongoing staff supervision with meaningful and effective employee engagement practices."

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[138] Gallup, I. State of the global workplace report. Gallup.com. https://www.gallup.com/workplace/349484/state-of-the-global-workplace-2022-report.aspx.

[139] Jennings, P. A., & Greenberg, M. T. (2009). The Prosocial Classroom: Teacher Social and Emotional Competence in Relation to Student and Classroom Outcomes. Review of Educational Research, 79(1), 491–525. https://doi.org/10.3102/0034654308325693

Meaningful and effective employee engagement practices will vary among programs, but examples include discussions of explicit and implicit expectations, recognition for high-quality work, open communication between management and staff, conducting and responding to workplace climate surveys, responding to feedback, working in partnership with staff to identify and ameliorate any barriers to high-quality job performance that may exist including workload issues, formal and informal opportunities for discussions related to job satisfaction and performance, and having employee engagement inform professional development opportunities for staff. In general, these practices should aim to understand the expectations imposed on staff, identify and address barriers staff are experiencing in being able to fulfill their roles and responsibilities (e.g., filling multiple roles, job-related stressors impacting job performance, unclear roles and responsibilities), and recognize high-quality work.

We also propose two revisions to §1302.92(b), which requires programs to implement a systematic approach to staff training and professional development, in order to integrate meaningful and effective employee engagement practices and professional development. First, in §1302.92(b) we propose to add the phrase "and integrated with employee engagement practices in accordance with §1302.101(a)(2)." This revision builds on the proposed revision to §1302.101(a)(2) and is intended to ensure programs implement an approach to staff training and professional development that is designed to be informed by input from staff, identified barriers to job performance, and other employee engagement practices. Training and professional development opportunities are more effective in transferring to practice when staff are opting into the training and receive support from their supervisor in the process.[140]

Second, we propose a change to §1302.92(b)(1). Currently, §1302.92(b)(1) requires that staff receive a minimum of 15 clock hours of professional development per year. For teaching staff, this professional development must meet the requirements described in section 648A(a)(5)

[140] Salamon, J., Blume D., Orosz G., Nagy T. (2021). The interplay between the level of voluntary participation and supervisor support on trainee motivation and transfer. Human Resource Development Quarterly Volume 32, Issue 4, pages 459-481. https://doi.org/10.1002/hrdq.21428

of the Act, which specifies that the professional development must be high-quality, sustained, intensive, and classroom-focused in order to have a lasting positive impact on classroom instruction and teacher performance. The program must also regularly evaluate the professional development for effectiveness. Section 648A(f) of the Act requires programs to create, in consultation with an employee, a professional development plan for all full-time Head Start employees who provide direct services to children and requires that such plans are regularly evaluated for their impact on teacher and staff effectiveness. The agency and staff shall implement the plan to the extent feasible and practicable. Section 648A(f) of the Act has been implemented in practice through technical assistance and monitoring, but it has not been explicitly codified in the HSPPS. We propose to add new language to §1302.92(b)(1) that codifies the requirement in section 648A(f) of the Act for the creation of individual professional development plans. This proposed change is anticipated to be cost neutral and is not a policy change or a new or modified requirement, since programs have always been held to this statutory requirement in practice. Further, programs are currently able to use their professional development and training and technical assistance funds to help staff earn their credentials and degrees.

We believe this proposed change is an important clarification as data from OHS monitoring findings show that programs are being cited for lacking professional development plans for their education staff. Indeed, analysis of internal data from fiscal year 2020-2022 reveals a top cited monitoring finding in OHS oversight reviews of programs was related to lack of appropriate professional development plans for staff.[141] Additionally, as described previously, since the onset of the 2020 COVID-19 pandemic, many Head Start programs have had turnover in leadership and have suffered from on-going staffing shortages and vacancies in staff positions. The proposed addition to §1302.92(b)(1) will remind new program leaders of this important requirement for their program staff to support the professional development of their workforce.

[141] Data from narrative responses from monitoring reviews from fiscal years 2020-2022.

It can also help improve staff retention by leveraging an existing requirement intended to support staff growth and professional development.

Mental Health Services (Subpart D; Subpart H; Subpart I)

Currently, programmatic requirements related to mental health appear in several areas of the standards, including §1302 Subpart A, Subpart D, Subpart H, and Subpart I. In this NPRM, we propose several changes to these sections of the HSPPS to enhance and clarify the importance of mental health services for Head Start children, families, and staff. Mental health and social-emotional well-being during early childhood are foundational for family well-being and children's healthy development and early learning and are associated with positive long-term outcomes.[142]

We know that social-emotional difficulties impact up to 20 percent of children under the age of 5, and that over half of mental health disorders begin before age 14.[143] We also know that children and families experiencing poverty are more likely to encounter stressors linked to mental health challenges as well as experience barriers to accessing mental health services. Research findings specifically indicate that children and families living in high-poverty neighborhoods exhibit worse mental health outcomes compared to individuals living in low-poverty neighborhoods.[144] Therefore, a focus on social determinants of health, or the conditions in which individuals live, work and play, can lead to better mental health outcomes and prevent future mental illness.[145] Head Start programs are well positioned to support children and families experiencing poverty by strengthening the focus on mental health in the settings where

[142] https://www.acf.hhs.gov/ecd/policy-guidance/dear-colleague-social-emotional-development-and-mental-health

[143] National Research Council and Institute of Medicine Committee. Preventing mental, emotional, and behavioral disorders among young people: progress and possibilities. Washington, DC: National Academies Press; 2009.
Brauner, C. B., & Stephens, C. B. (2006). Estimating the prevalence of early childhood serious emotional/behavioral disorders: Challenges and recommendations. Public health reports, 121(3), 303-310.
Leventhal, T., & Brooks-Gunn, J. (2003). Moving to Opportunity: an Experimental Study of Neighborhood Effects on Mental Health. *American Journal of Public Health 93*(9). 1576–1582. doi: 10.2105/ajph.93.9.1576

[145] https://www.nami.org/Blogs/NAMI-Blog/August-2020/Ways-We-Can-Address-the-Social-Determinants-of-Mental-Health

children spend most of their day and where families are provided the services that they need to help their children succeed in school and in life.

In addition to children, the impact of poor adult mental health has also garnered national attention, including the importance of addressing mental health for the ECE workforce.[146] In 2021, 57.8 million adults (22.8 percent) were affected by mental illness and 46.3 million (16.5 percent) of people aged 12 and older had a substance use disorder.[147] We know that mental health of young children is intertwined with the mental health of the adults that care for them. We also know that early childhood experiences, like trusting relationships with caregivers in a stable, nurturing environment, aid in the development of skills that build resilience. Head Start is in a unique position to provide these experiences and extend them to the home environment. Fostering a child's relationship with adults in their life and providing them with the best environment to grow requires an intentional focus on both child and adult well-being. Head Start strives to do both.

Changes to the HSPPS related to mental health are needed to leverage and build on Head Start's capacity to promote wellness and prevent future mental health challenges for Head Start children, families, and staff. The approach taken in this NPRM aligns with efforts across HHS[148] to 1) increase mental health integration, coordination, and consultation in a range of settings outside traditional mental health service spaces; 2) create healthy environments that focus on promotion and prevention efforts across the lifespan; and 3) connect people to the care they need via an approach that engages high-risk populations in integrated mental health care through targeted outreach tailored to their needs.[149]

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[146] Otten, J. J., Bradford, V. A., Stover, B., Hill, H. D., Osborne, C., Getts, K., & Seixas, N. (2019). The culture of health in early care and education: workers' wages, health, and job characteristics. Health affairs, 38(5), 709-720.

[147] Substance Abuse and Mental Health Services Administration. (2022). Key substance use and mental health indicators in the United States: Results from the 2021 National Survey on Drug Use and Health (HHS Publication No. PEP22-07-01-005, NSDUH Series H-57). Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration. https://www.samhsa.gov/data/report/2021-nsduh-annual-national-report

[148] *Working to ensure that all young children and their caregivers have access to high-quality resources that equitably support social-emotional development and mental health.* U.S. Department of Health and Human Services, Administration for Children and Families, Early Childhood Development, 2022.

[149] https://aspe.hhs.gov/sites/default/files/documents/4e2fff45d3f5706d35326b320ed842b3/roadmap-behavioral-health-integration.pdf

The proposed changes described here cut across multiple areas of the standards and serve to strengthen, clarify, and enhance existing Head Start requirements to highlight a comprehensive and integrated approach to elevate mental health across the entire Head Start program. Head Start programs are a conduit to mental health services for those most in need and are settings in which children spend a significant amount of time. With an emphasis on a holistic approach to healthy development, it stands to reason that the HSPPS should reflect the importance of this service in an integrated fashion. The proposed changes clarify what is meant by wellness promotion, affirm that mental health is included in health services provided in Head Start, strengthen language to integrate coordinating support for child and adult mental health, incorporate strengths-based language by reducing the focus on concerns or challenging behaviors related to mental health and adding a focus on supports and development of children, strengthen requirements to prevent and work towards eliminating all suspension and expulsions in Head Start programs, clarify expectations and responsibilities of the mental health consultant by aligning the definition of infant and early childhood mental health consultation with the Substance Abuse and Mental Health Services Administration (SAMHSA) and research in the field, and reduce barriers to obtaining mental health consultation services by clarifying staff qualifications and removing language that consent is needed by a parent as mental health consultants do not provide treatment.[150] Implementation of these changes will involve both updates to existing practice as well as new internal processes for programs. OHS will support programs as they implement these enhanced requirements through the robust Head Start training and technical assistance system.

1302 Subpart A—Eligibility, Recruitment, Selection, Enrollment, and Attendance

Section 1302.17 describes Head Start's policies that severely limit suspension and prohibit expulsion due to a child's behavior. Data with nationally representative samples of

[150]Mental health consultation is a prevention-based approach that teams a mental health professional with early care and education staff and families. This team works on ways to help promote the social and emotional development of the young children in their care.

State-funded prekindergarten programs, including Head Start programs, have found that over 10 percent of preschool teachers expelled at least one preschooler in the previous year, which was three times the rate for K-12 students.[151] Suspension and expulsion practices have long-lasting negative impacts for young children and their families, including on children's later school attendance, academics, and family stress. Additionally, research has well documented that disproportionalities exist in suspending or expelling students who are young boys of color, children with disabilities, and children who are dual language learners.[152] For example, in the 2017-2018 school year there were about 2800 preschool suspensions, and African American boys received 43 percent of suspensions despite making up 18 percent of preschool enrollment.[153]

ACF has a focus on preventing use of suspension and expulsion in programs, and ensuring that any use of these disciplinary practices does not perpetuate disproportionalities across different groups of children, and many of the proposed changes to regulations codify this further. This NPRM retains the prohibition on expulsions and severe limitations on use of suspension, clarifying that suspension is a measure of last resort to allow the program time to put needed supports and accommodations in place. Additionally, several of the mental health related approaches proposed in this NPRM are targeted at building adult capacity to understand and respond to challenging behaviors associated with suspension/expulsion early and effectively, such as requiring staff to be trained to understand behavior and implement positive disciplinary strategies as well as effective implementation of mental health consultation.[154] The proposed changes to the suspension and expulsion section of the standards are intended to further our

[151] Gilliam, W. S. (2005). Prekindergarteners left behind: Expulsion rates in state prekindergarten systems. New York, NY: Foundation for Child Development.

[152] Horowitz, M. (2015). Early Childhood Suspension and Expulsion. Center on Enhancing Early Learning Outcomes (CEELO). Retrieved from: http://ceelo.org/wp-content/uploads/2015/08/ceelo_annotated_bib_expulsion_2015_08_final_web.pdf

[153] U.S Department of Education Office for Civil Rights (2021). An overview of exclusionary discipline practices in public schools for the 2017-18 school year. See https://ocrdata.ed.gov/assets/downloads/crdc-exclusionary-school-discipline.pdf

[154] Perry, D. F., Holland, C., Darling-Kuria, N., & Nadiv, S. (2011). Challenging behavior from child care: The role of mental health consultation (32, pp. 4–11). Zero to Three.

efforts to reduce the use of suspension and expulsion and clarify terminology and expectations related to suspension and expulsion practices.

First, we propose to add broad definitions of suspension and expulsion to §1305.2 to provide clarity on which disciplinary practices are captured under these respective categories. The broader definitions proposed here align with Caring for our Children standards, which are developed in collaboration with experts and widely used in ECE settings, and the Head Start Center for Inclusion.[155] We propose to define expulsion as the permanent removal of a child from the learning setting or a requirement that a child unenroll in a program. We propose to define suspension as the temporary removal of a child from the learning setting including all reductions in the amount of time a child may be in attendance of the regular group setting, either by requiring the child to cease attendance for a particular period of time or reducing the number of days or amount of time that a child may attend. Requiring a child to attend the program away from the other children in the regular group setting is included in this definition. Requiring the parent or the parent's designee to pick up a child for reasons other than illness or injury is also included in this definition.

The goal of suspension should always be for the child to return to the least restrictive and most integrated educational environment safely and expediently. We do not provide guidelines for the specific length of time for suspensions because the appropriate time depends on many factors, such as the immediacy and severity of the safety concern and the complexity and availability of supports needed to facilitate the child's return to full participation. Suspensions should not be used indefinitely or repeatedly, and longer periods of suspension take away opportunities for children to develop the social and emotional skills that improve challenging behaviors in the long-term.[156] Programs should use the temporary suspension period to actively

[155] https://eclkc.ohs.acf.hhs.gov/children-disabilities/article/head-start-center-inclusion

[156] McCabe, L.A & Frede, E.C. (2007). Challenging behaviors and the role of preschool education. New Brunswick, NJ: National Institute for Early Education Research. Available: nieer.org/wp-content/uploads/2016/08/16.pdf

collaborate with families, mental health professionals, the multidisciplinary team responsible for mental health and others to develop a coordinated plan and timeline for supporting the identified child and their family to return to full participation. Programs should also engage with the child and family, mental health professionals, multidisciplinary team responsible for mental health, and other relevant staff, regularly during the temporary suspension period to ensure that the child continues to be supported during this time, such as through home visitation or community services, and to provide regular check-ins on the program's progress in implementing the collaborative plan.

The existing suspension standards in §1302.17(a) already include many of the components of the approach described above. However, we propose to add language to clarify the expectations of the steps that should be taken before a suspension can be determined to be necessary, and that a program needs to thoroughly document plans related to suspension similar to how they document plans related to transferring a child to a setting that can better meet their needs. By documenting suspension practices, we intend to be better positioned to assess how and when disproportionalities in the use of suspensions may be occurring across different groups of children. Specifically, we propose to modify §1302.17(a)(2) to say that a suspension must be used only as a resort where there is a serious safety threat that "has not been" reduced instead of "cannot be" reduced or eliminated to emphasize that the program should take active steps to attempt to reduce or eliminate the concern and demonstrate that these have not worked. Additionally, the current standard notes the provision of "reasonable modifications" which we propose to change to "interventions and supports recommended by the mental health consultant" to again emphasize that prior to a suspension being considered, it is expected that the program engages with the mental health consultant to apply and assess whether supports and interventions, such as use of visual aids or preferred seating, can have an impact. Finally, we add an additional phrase that reflects the intended purpose of a temporary suspension, "and the program needs time to put additional appropriate services in place."

In addition to the mental health consultant, we have added in §1302.17(a)(3) that "the multidisciplinary team responsible for mental health" must also be part of the discussion before a program determines whether a temporary suspension is necessary. This new addition of a multidisciplinary team is discussed further in proposed changes to §1302.45 below.

If a temporary suspension is deemed necessary by the program, we have added proposed language to 1302.17(a)(4) to clarify and strengthen existing standards regarding what a program must do to bring the child back to the program as expediently as possible. Specifically, we propose to add a statement to of §1302.17(a)(4) that states a program must explore all possible steps and document all steps taken to address the behavior(s) and supports needed to facilitate the child's safe reentry and continued participation in the program. In outlining these steps, we propose to strengthen existing language in §1302.17(a)(4)(i) to (iii) to further clarify and enhance the actions a program must take to reengage the child in program services. First, we propose to revise §1302.17(a)(4)(i) by adding "the multidisciplinary team responsible for mental health, and other appropriate staff" to clarify that these are additional groups the program must continue to engage to support the child. Next, we propose to remove current §1302.17(a)(4)(ii), which requires a written plan to document action and supports, as this is now incorporated into new language proposed for §1302.17(a)(4), described previously. Next, we propose to redesignate §1302.17(a)(4)(iii) as §1302.17(a)(4)(ii) and further enhance this requirement by adding language that clarifies that home visits could be one of multiple additional services for the child. The revised §1302.17(a)(4)(ii) reads "Providing additional program supports and services, including home visits." Finally, we propose to redesignate §1302.17(a)(4)(iv) as §1302.17(a)(4)(iii) and enhance this standard with additional language that requires coordination with a child's individual family service plan (IFSP) or individual education plan (IEP), if appropriate. In the rare instance the program is unable to meet the needs of a child while they are in the learning setting, our intent is that these changes will provide sufficient clarity on how to return a child quickly to program services with the correct supports in place.

Furthermore, while Head Start prohibits expulsion, as stated in §1302.17(b), we do know there are instances where there is a more appropriate placement for a child. In those instances, it is imperative that the child is not unenrolled from the Head Start program without having a more appropriate placement to attend that is prepared to provide services immediately. Therefore, we propose to add additional language to the end of §1302.17(b)(3) to clarify that a program must work to directly facilitate the transition of the child to a more appropriate placement "that can immediately enroll and provide services to the child." We also propose to add language to §1302.17(b)(2) and (b)(3) to require that the multidisciplinary team responsible for mental health join in discussions of how to prevent an expulsion from occurring, as well as new language to require engagement of parents in §1302.17(b)(2). Taken together, we believe these changes will ensure that the child is surrounded by the appropriate care team that can make decisions in the best interest of the child. It is particularly important that we incorporate parents early on as we know that high expulsion rates are an indicator that we are not helping parents and caregivers to support the positive social and emotional development that is foundational for positive future outcomes.[157]

ACF seeks public comment on whether the proposed definitions for suspension and expulsion are appropriate, as well as on the process proposed in order to support programs in determining whether a temporary suspension is warranted.

1302 Subpart D – Health Program Services

There are many barriers to mental health care, including stigmatization of mental health and concerns about availability of the behavioral health workforce.[158] By strengthening promotion and prevention efforts throughout the standards, we are seeking to provide a strong social-emotional foundation for children by being more intentional about the integration of mental health supports across all aspects of the Head Start program. We intend to reinforce that

[157] https://www.zerotothree.org/preventing-expulsion-from-preschool-and-child-care/
[158] https://www.gao.gov/assets/gao-23-105250.pdf

mental health is integral to many other aspects of the Head Start system and propose regulatory changes that utilize preventive approaches to mental health in other comprehensive service areas, such as health and family engagement. If programs have conversations about mental health early and often, they can also identify children, families, and staff with specific needs and intervene before more time and resource intensive care becomes necessary.

Subpart D outlines the program requirements to support the provision of high-quality health, oral health, mental health, and nutrition services. We propose to change the name of this section from "Health Program Services" to "Health and Mental Health Program Services" to include mental health more explicitly in the standards, affirm that mental health is a critical component of health, and to facilitate ease of access to standards that closely relate to mental health topics.

§1302.40 Purpose.

This section describes the overarching purpose of health and mental health program services in Head Start. In paragraph (b) we propose to replace "Health Services Advisory Committee" with "Health and Mental Health Services Advisory Committee" to include mental health more explicitly in this requirement. The proposed change will clarify that mental health should be represented in conversations about health needs and services, including in the advisory committee. The proposed change would carry throughout the proposed standards for consistency, including in §1302.42(b)(1)(i), §1302.43(b)(4), and §1302.94(a).

§1302.41 Collaboration and communication with parents.

Section 1302.41 requires Head Start programs to collaborate with parents as partners in the health and well-being of their children and communicate timely with parents about their children's health needs and development concerns.

Throughout §1302.41, we propose to add "mental health" wherever health is mentioned to clarify that mental health is an integral part of health. Incorporating mental health into conversations about a child's development and health normalizes and destigmatizes

talking about mental health. These proposed regulatory changes are intended to increase conversations about mental health strengths and areas of concern early on with parents so that everyone has the information and tools to support the child's mental health across different settings, contributing to reducing barriers to accessing care and increasing the chance that future mental illness will be prevented.

§1302.42 Child health status and care.

Section 1302.42 describes the requirements of programs with respect to a child's health status and care, including the timelines by which programs must ensure a child has an ongoing source of continuous, accessible health care; determine if a child is up to date on a schedule of age-appropriate care; and obtain or perform evidence-based vision and hearing screenings. We propose two changes to this section.

First, we know that many young children with mental health issues do not have them identified by the time they enter elementary school,[159] and are therefore losing a critical opportunity to receive early interventions and supports. The current regulations only specify that programs should ensure that children are up to date with medical, developmental, and oral health care schedules. Regular screening for mental health concerns is also necessary to ensure children and families with needs are identified early so that they can access appropriate interventions. Therefore, in §1302.42 (b)(1)(i), we propose to add "mental health" to align with the purpose and intent of the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit that provides comprehensive and preventive health care services, including mental health, for children who are enrolled in Medicaid.[160]

Second, in §1302.42 (b)(4), we propose to add "relevant developmental or mental health concerns" to clarify that when a program is identifying a child's nutritional health needs, that developmental and mental health concerns should also be considered. This

[159] Glascoe, F. P. (2005). Screening for developmental and behavioral problems. Mental retardation and developmental disabilities research reviews, 11(3), 173-179.
[160] https://www.medicaid.gov/medicaid/benefits/early-and-periodic-screening-diagnostic-and-treatment/index.html

proposed addition is intended to capture best practices in the field, which acknowledge that developmental and mental health factors such as sensory aversions and feeding disorders play a role in nutritional health.[161]

§1302.45 Child mental health and social and emotional well-being.

This section outlines what programs must do to support a culture that promotes children's mental health and outlines the scope of responsibilities of mental health consultants. For reasons stated at the outset of this section, Head Start has the capacity to reach people who are at higher risk for experiencing stressors and barriers to care and provide integrated preventive mental health supports into comprehensive services provided for the child and family. We propose numerous changes to §1302.45 to strengthen, clarify and enhance existing Head Start mental health requirements, including intentionally integrating more staff attuned to the mental health needs of children and families by requiring a multidisciplinary team responsible for mental health within the program. This multidisciplinary team is intended to both destigmatize mental health and increase the capacity and reach of the mental health consultant. Other proposed changes range from important revisions to language to proposed changes to the approach to service delivery. We describe each of these changes in turn.

First, we propose to change the title of this section from "Child mental health and social and emotional well-being" to "Supports for mental health and well-being." Research demonstrates that child well-being is inextricably linked to adult well-being and in order to address child mental health, we need to address the mental health of caregivers as well, including both staff and parents.[162]

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[161] Zero to Three (2016). DC: 0-5: Diagnostic Classification of mental health and developmental disorders of infancy and early childhood. Washington, DC; American Psychiatric Association. Diagnostic and statistical manual of mental disorders (DSM-5) American Psychiatric Pub; 2013

[162] Wolicki SB, Bitsko RH, Cree RA, et al. Associations of mental health among parents and other primary caregivers with child health indicators: Analysis of caregivers, by sex—National Survey of Children's Health, 2016–2018, Adversity and Resilience Science: Journal of Research and Practice. Published online April 19, 2021. Lowry C, Stegeman I, Rauch F, Jani A. Modifying the school determinants of children's health. J R Soc Med. 2022;115(1):16-21. doi:10.1177/01410768211051718. Jeon L, Buettner CK, Grant AA, Lang SN. Early childhood teachers' stress and children's social, emotional, and behavioral functioning. Journal of Applied Developmental Psychology. 2019;61:21–32. doi: 10.1016/j.appdev.2018.02.002

Next, we propose four changes in §1302.45(a). First, in the overarching requirement, we propose to change "Wellness promotion" to "Program-wide wellness supports" to align with the new title of this section and to clarify that programs should provide wellness supports across the program. Second, we propose to remove "children's" in this section to clarify that program-wide wellness supports are intended to promote the wellness of both children and adults. Third, we also propose to add "safety" in the description of a program-wide culture because wellness is dependent on meeting basic needs, including safety, and because it aligns with language in other standards which refer to children's health and safety.[163]

Fourth, to clarify what programs must do to support a program-wide culture that promotes mental health, social and emotional well-being, and overall health and safety, we add new guidance to §1302.45(a) that a program must "have a multidisciplinary team responsible for mental health." In addition to integrating more people into the conversation to address mental health, the multidisciplinary team responsible for mental health is also intended to develop and implement mental health efforts and supports that are not related to consultation, and to facilitate communication across service areas and systems in Head Start. The formation of such a team also aligns with recommendations by infant and early childhood consultation experts to have a group that can provide strategic planning, guidance and coordination related to mental health.[164] By requiring a multidisciplinary team focused on mental health, we also aim for mental health supports and interventions, which have the potential to be more sustainable in programs. Currently, if the program relies on a consultant to provide all mental health related services, issues such as the availability of the mental health workforce and turnover may have a larger impact on the continuation of quality services.

Multidisciplinary means the involvement of two or more separate disciplines or professions that actively work in tandem with parents to provide supports for children and

[163] SAMHSA (2016). Creating a Healthier Life: A Step-by-Step Guide to Wellness. Publication ID: SMA16-4958. Available online at https://store.samhsa.gov/product/Creating-a-Healthier-Life/SMA16-4958

[164] Green, B. & Allen, M.D. (2012). Developing and Implementing a Program wide Vision for Effective Mental Health Consultation. Center for Early Childhood Mental Health Consultation. https://www.iecmhc.org/documents/CECMHC_AdministratorsToolkit.pdf

families.[165] For example, a mental health team may be comprised of a family service worker, teacher, mental health manager, disability service coordinator, and health specialist. This list is not intended to be exhaustive, and the intent is for programs to have flexibility in determining the appropriate composition of the multidisciplinary team. The rationale for this change is that providing program-wide wellness supports cannot rely on one individual such as a mental health consultant, and that many individuals working in Head Start already have expertise that can benefit program-wide wellness support efforts. Based on our experience overseeing the implementation of the Head Start program across the country, recipients that are most effective at supporting mental health create a team comprised of multiple individuals that may work with children, families, or staff in different capacities. We also want to acknowledge that many Head Start programs already have this practice in place in the form of case conferencing, which will facilitate the implementation of this practice as described in the proposed regulation. Furthermore, the establishment of a formal multidisciplinary team focused on mental health will support programs in the implementation of the other enhancements to mental health services described in this proposal.

In addition to the changes to the overarching requirement in paragraph (a), we also propose changes and additions to the provisions for what activities are expected from the program-wide wellness supports, for a total of six provisions. The first provision, new §1302.45(a)(1), describes that the multidisciplinary team responsible for mental health "coordinates supports for adult mental health and well-being including engaging in nurturing and responsive relationships with families, engaging families in home visiting services, and promoting staff health and wellness, as described in §1302.93." We believe this language clarifies how a program most effectively addresses adult mental health.

For the second provision, we propose to redesignate current §1302.45(a)(1) to become §1302.45(a)(2) with the revised language describing that the multidisciplinary team's role is to

[165] For a federally accepted definition of 'multidisciplinary,' see: https://sites.ed.gov/idea/regs/c/a/303.24.

"coordinate" as opposed to "provide supports." We then propose language changes to describe what supports the team is responsible for coordinating, including supports for positive learning environments, supportive teacher practices and strategies to support children's mental health concerns. Specifically, we propose to remove "effective classroom management" since this specific term is less aligned with a strengths-based approach and can contribute to stigma related to a child's behavior. Instead, we keep the broader strengths-based term of positive learning environments, as classroom management is one part of creating a positive learning environment, and the need to monitor and effectively respond to child behavior applies across program options. We also make clear that these positive learning environments are for "all children". Finally, we propose to replace "challenging behaviors" with "behavioral or mental health concerns" to align with mental health language in other sectors that are less stigmatizing and more reflective of the concern programs are addressing within infant and early childhood mental health.

We propose to remove the current §1302.45(a)(3), which states that "a program must obtain parental consent for mental health consultation services at enrollment" as this phrasing implies that mental health consultants provide treatment when, in fact, they provide consultation services, which do not require parental consent because the child is not directly receiving the service. Further, consistent with how programs communicate with parents about health and developmental services, we propose to include mental health services (which can include consultation services) in §1302.41(b)(1).

For the third provision, in new paragraph §1302.45(a)(3), we propose to redesignate language from the current (a)(2) and further revise the language by replacing "schedule of sufficient and consistent frequency" with "no less than once a month" to specify, at a minimum, how often mental health consultation services should be provided in the program in order for partnerships with staff and families to be timely and effective. Experts from SAMHSA's Center of Excellence in Infant and Early Childhood Mental Health Consultation

recommend that mental health consultation services should be provided at least every other week, though considerations such as the size of the program and availability of services in the community can also impact the suggested frequency of consultation.[166] We recognize that a biweekly frequency may not be feasible for all programs at this time, particularly in the context of larger concerns about recruiting and retaining an adequate mental health workforce.[167] Therefore, we propose a minimum monthly frequency for these services, which we believe provides a regular enough schedule of services to allow for opportunities to embed the consultant into the program and therefore provide more effective services. ACF specifically requests comment on this section regarding whether "no less than once a month" as a minimum frequency is appropriate to meet the mental health consultation needs of programs. We also add to new (a)(3) that the multidisciplinary team responsible for mental health "examines the approach to mental health consultation on an annual basis to determine if it meets the needs of the program" in order to provide continuous quality improvement to ensure that the systems set up in the program are meeting the mental health needs of adults and children in the program. Examples of ways programs may want to examine their approach could include determining whether the program size and needs are being met by the frequency of consultation services or whether the program needs to change who is targeted to receive consultation services.

For the fourth provision, we propose an entirely new §1302.45(a)(4) that requires that the multidisciplinary team responsible for mental health "ensures that all children receive adequate screening and appropriate follow up and the parent receives referrals about how to access services for potential social, emotional, behavioral, or other mental health concerns, as described in §1302.33." This language clarifies the responsibility of the program to ensure screenings related to social and emotional milestones that impact mental health are completed

[166] U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start, National Center on Parent, Family, and Community Engagement. (2019). *Infant and Early Childhood Mental Health Consultation: Engaging with Families*.
[167] https://www.gao.gov/assets/gao-23-105250.pdf

or obtained from an appropriate provider. Additionally, the responsibility of the program is to ensure appropriate follow up and referral for necessary supports or services takes place, as warranted, which may be done in coordination with health and other early childhood systems.

For the fifth provision, we propose an entirely new §1302.45(a)(5) where we propose to add that the multidisciplinary team responsible for mental health must facilitate coordination and collaboration between mental health and other relevant program services, including education, disability, family engagement, and health services. We believe this language clarifies and emphasizes that mental health should be considered holistically along with physical health and requires a program-wide approach that includes coordinating across program services.

Finally, the sixth provision in §1302.45(a) is a redesignation of an existing provision. We propose that the current §1302.45(a)(4) be redesignated to new §1302.45(a)(6) to accommodate the changes described in the previous paragraphs.

Next, we propose numerous changes to paragraph (b) of §1302.45 and its provisions. We recognize there is an ongoing need to strengthen and build a more diverse behavioral health workforce. We also recognize that mental health consultants with specific early childhood expertise are particularly challenging for programs to identify and secure. To address this barrier and facilitate the implementation of the proposed enhancements to other mental health policies, the proposed regulation changes in §1302.91(e)(8)(ii), discussed later in this section, specifically allow programs to secure mental health consultation from professionals who are in the process of obtaining licensure and are under the supervision of a licensed mental health professional. We also include proposed language that reflects the existing literature on effective practices in infant and early childhood consultation.

Together, the proposed changes in §1302.45(b) are intended to align the standards with best practices in infant and early childhood mental health consultation.[168] Most notably, the changes are intended to require that programs focus consultation services on promotion and prevention efforts by broadening and building programmatic and adult capacity to support the mental health of the children for whom they care. We also add language in this section that clarifies expectations and responsibilities of the mental health consultant by aligning with the definition of the consultation model that appears in research as well as in other Federal entities such as the Substance Abuse and Mental Health Services Administration. We include general types of consultation services that can be leveraged within programs in the six provisions that follow. However, effective consultation occurs when there is ongoing collaboration between consultant and consultee and consideration of individualized strengths and needs.[169]

In the first provision, §1302.45(b)(1), we add to the existing language to clarify a central type of mental health consultation with the program is focused on promotion and prevention of mental health concerns, in addition to identifying and supporting existing mental health concerns.

For the second provision, §1302.45(b)(2), we propose several changes that clarify that mental health consultants can consult with any staff who work with children and families, which may include teachers, family child care providers, or home visitors, and describe the general goals of this type of consultation. This change aligns with our approach of ensuring that every adult who works with children can benefit from understanding and receiving supports related to mental health. First, we propose to replace "teachers, including family child care providers" with "child and family services staff" to clarify that mental health

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[168] Duran, F. et al. (2009). What Works?: A Study of Effective Early Childhood Mental Health Consultation Programs. Washington, DC: Georgetown University Center for Child and Human Development.; Kaufmann, R. et al. (2012). Creating Practice-Based Principles for Effective Early Childhood Mental Health Consultation Services. Washington, DC: Georgetown University Center for Child and Human Development.

[169] Kaufmann, R., Perry, D., Irvine, M., Duran, F., Hepburn, K., & Bruno, A. (2012. Creating Practice-Based Principles for Effective Early Childhood Mental Health Consultation Services. Center for Child and Human Development, Georgetown University

consultation can occur with any staff member who works with children and families. For example, some programs may determine with their consultant that they would like to increase consultation targeted at engaging home visitors, given that program's specific needs. We also propose to remove the phrase "improve classroom management and supportive teacher practices" to align with the clarification that mental health consultation is not solely focused on specific classroom or teaching practices. Next, we propose to replace "through strategies that include using classroom observations and consultations to address teacher and individual child needs and creating physical and cultural environments" with "implement strategies that build nurturing and responsive relationships and create positive learning environments." We believe this language more clearly aligns with the intended role of a mental health consultant to help child and family staff implement strategies that will build strong relationships and positive learning environments, which should not be limited only to conducting observations. We also note that building positive learning environments may still include activities such as classroom management, supportive teacher practices, and creating positive physical and cultural environments. Our intention is to encourage flexibility and to acknowledge that there are many ways to build relationships and learning environments. Finally, we also propose to replace the phrase "functioning" with "development of all children" to specify that when working with infants and toddlers as well as preschoolers, the focus is on social and emotional development and creating environments and relationships that have the capacity to help young children grow in these foundational skills.

In the third provision, §1302.45(b)(3), we propose to replace "other staff, including home visitors" with "staff who have contact with children" to clarify that the mental health consultants can provide consultation to any staff that have contact with children as needed, including, for example, transportation staff or food services staff. Our rationale for this change is to elevate that any staff who have contact with children play an important role in promoting young children's mental health and wellness. We also propose to remove "to meet children's

mental health and social and emotional needs through strategies that include observation and consultation" as mental health consultation is not a strategy of consultation. Instead, we propose to add the elements outlined in the current §1302.45(b)(4) to §1302.45(b)(3), including the existing phrase "prevalent child mental health concerns; internalizing problems such as appearing withdrawn and externalizing problems such as challenging behaviors", which we propose to further revise. We propose to clarify what is meant by "addressing" prevalent child mental health concerns in the current §1302.45(b)(4) by adding to §1302.45(b)(3) "to understand and appropriately respond to." Finally, we propose to revise and expand what is meant by prevalent child mental health concerns by revising that phrase to "prevalent child mental health concerns, including internalizing problems such as appearing withdrawn, externalizing problems such as behavioral concerns; and how exposure to trauma and substance use can influence risk".

In a new fourth provision, §1302.45(b)(4), we use language from the current §1302.45(b)(5) and propose to replace "parents" with "families" to expand with whom the consultant can provide consultation within a child's family unit. We also propose to add the phrase "or supports" to clarify that mental health consultation is not limited to accessing interventions. Furthermore, we propose to add "including in the event of a natural disaster or crisis" to clarify that mental health consultants are vital in emergency, preparedness, response and recovery.

Finally, the last provisions of 1302.45(b) are intended to highlight two situations in which involving a mental health consultant is crucial. Expulsion and suspension, as reviewed previously, can have long-lasting impacts on stress and mental health of children and families and therefore Head Start has prohibited or severely limited these disciplinary practices. The proposed changes require the program to engage the mental health consultant so that supports and accommodations are in place to ensure children's safe and full participation in the program. Specifically, in the fifth provision, §1302.45(b)(5), we propose to use language

from the current §1302.45(b)(6) and add "the program" to clarify that implementation of policies to limit suspension and prohibit expulsion would occur in consultation with the program.

Similarly, we recognize that child safety incidents can negatively impact the mental health of children and their families, as well as their relationships with the program. Therefore, we propose to add a sixth provision, §1302.45(b)(6), which requires a program to support the well-being of children and families involved in any significant child health, mental health, or safety incident described in §1302.102(d)(1)(ii). As health and safety are a part of well-being, it falls within the role of a mental health consultant to ensure that the program, affected staff, child, and/or family members are connected to appropriate supports if an incident impacting a child's health and safety occurs.

§1302.46 Family support services for health, nutrition, and mental health.

Section 1302.46 requires programs to collaborate with families to promote children's health and well-being and describes what that collaboration must include. We propose several changes to this section. These proposed changes are intended to integrate the preventive approach to mental health into family support services by using more strengths-based language, providing opportunities to engage families in discussions about mental health even when there is not an identified problem, and ensuring the mental health of parents is also a function of family support services. First, in paragraph §1302.46(b)(1)(iii), we propose to replace "substance abuse problems" with "substance use concerns" to use language that is person-centered and destigmatizing. We also propose to remove "perinatal" before "depression" and add "anxiety" to provide a more comprehensive description of what is meant by common parent mental health concerns.

Second, in §1302.46(b)(1)(iv), we propose to remove "identify issues related to child mental health and social and emotional well-being, including observations and any concerns about their child's mental health" and replace it with "information related to their child's

mental health with staff, including." We believe that this language clarifies a strengths-based approach to mental health where parents are not expected to identify issues with child mental health and that the focus of collaboration with parents is to help them respond appropriately to their individual child.

Third, in §1302.46(b)(2), we propose to add "and mental health systems" to clarify that a program must support parents' navigation of mental health systems in addition to the health system. The purpose of this change is to acknowledge that navigation of health and mental health systems may be complex for families served by Head Start. The intent is to clarify our expectation that Head Start programs assist families in navigating these systems, which will ultimately benefit the family beyond their time in Head Start. Finally, we also propose a new §1302.46(b)(2)(iv) that reads "in providing information about how to access evidence-based mental health services for young children and their families, including referrals if appropriate" to clarify what is meant by helping parents navigate the mental health system.

1302 Subpart H – Services to Enrolled Pregnant Women and People

Section 1302.81 describes the prenatal and postpartum information, education, and services programs must provide enrolled pregnant women and people, fathers, and partners or other relevant family members. Perinatal mental health conditions are experienced in up to 20 percent of pregnancies and can have significant impacts on children and families.[170] There is increasing recognition that depression is not the only mental health condition that can be exacerbated by or emerge during the perinatal period, and that mental health concerns can impact family members who are not pregnant.[171] Therefore, we propose changes in §1302.81 that are intended to broaden the scope of awareness of the mental health information and education that may be helpful to provide to expectant families. Additionally, our proposed changes more explicitly recognize ties between social support and mental health and call for

[170] Howard, L. M., & Khalifeh, H. (2020). Perinatal mental health: a review of progress and challenges. *World Psychiatry*, *19*(3), 313-327.
[171] Rao, W. W., Zhu, X. M., Zong, Q. Q., Zhang, Q., Hall, B. J., Ungvari, G. S., & Xiang, Y. T. (2020). Prevalence of prenatal and postpartum depression in fathers: A comprehensive meta-analysis of observational surveys. *Journal of affective disorders*, *263*, 491–499. https://doi.org/10.1016/j.jad.2019.10.030

programs to ensure that social support is part of prenatal and post-natal services for enrolled families.

More specifically, we propose four changes to §1302.81(a) to highlight potential services related to mental health and to promote language that is more inclusive of family members and social supports. First, we propose to remove the word "relevant" that currently precedes "family members." This change is intended to be inclusive of different family compositions, clarify that any family member identified by the enrolled pregnant woman or person may be eligible to receive such information, and make clear that a program does not have to determine whether a family member is relevant. Second, we propose to revise the phrase "benefits of breastfeeding" to "including breastfeeding" and relocate it to earlier in the standard to clarify that this is a component of "the importance of nutrition." The purpose of this change is to clarify that breastfeeding, in addition to other forms of healthy infant feeding, is one aspect of nutrition when programs are providing prenatal and postpartum information. We also propose in §1302.81(a) to move "parental depression" from the list of information, education, and services to a newly created paragraph §1302.81(b) focused on mental health, which is discussed in the following paragraph. We also propose to add "and the benefits of substance use treatment" to the list of topics. Finally, we propose to add "mothers" to the list of family members a program must provide information to, to be inclusive of women who have already given birth.

We further propose to redesignate the current §1302.81(b) to §1302.81(c) and insert a new §1302.81(b). The proposed new §1302.81(b) requires programs to support pregnant women, mothers, fathers, partners, or other family members to access mental health services, including referrals, as appropriate, to address concerns including perinatal depression, anxiety,

grief or loss, birth trauma, and substance use. This language captures common mental health concerns that can arise during the perinatal period.[172]

Finally, in redesignated §1302.81(c), we propose to add "pregnant women's" after "A program must also address" to clarify whose needs are being addressed. We also propose to add "social" before emotional well-being to provide consistency with other language throughout the HSPPS. Finally, we propose to add "partner, or other family member" to clarify that programs must address the potential benefits of building supports and engagement with other family members in addition to fathers.

1302 Subpart I – Human Resources Management

§1302.91 Staff qualification and competency requirements.

Section 1302.91 establishes the staff qualifications and competencies for all staff, consultants, and contractors engaged in the delivery of program services. We propose two changes in §1302.91(e)(8)(ii) that pertain to mental health consultants and align with our goals of reducing barriers to securing consultants while maintaining effective consultation services. First, we propose to remove "certified" and replace it with "under the supervision of a licensed" to align with qualifications of mental health consultation in the field. Second, we propose to remove "if available in the community." We believe that clarifying that mental health consultants can include individuals who are working under the supervision of another licensed individual will open avenues to a larger pool of mental health consultants to choose from and provide opportunities to build the mental health workforce in the ECE field. We also know that in recent years, access to telehealth services has expanded and overall use of telehealth modality for services has become more prevalent.[173] Even if a consultant cannot be

[172] Maternal Mental Health Leadership Alliance. (July 2020). *Maternal Mental Health Overview.* Fact Sheet available on online at: www.mmhla.org/fact-sheets Maternal Mental Health Leadership Alliance. (June 2021). *Dads and Depression.* Fact Sheet available on online at: www.mmhla.org/fact-sheets

[173] Chu, R.C., Peters, C., De Lew, N., and Sommers, B.D. State Medicaid Telehealth Policies Before and During the COVID-19 Public Health Emergency (Issue Brief No. HP-2021-17). Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, July 2021. https://aspe.hhs.gov/reports/state-medicaid-telehealth-policies. Karimi, M., Lee, E.C., Couture, S.J., Gonzales, A.B., Grigorescu, V., Smith, S.R., De Lew, N., and Sommers, B.D. National Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services. (Research Report No. HP-2022-04). Office of the Assistant Secretary for Planning and Evaluation, U. S. Department of Health and Human Services. February 2022.

on site, teleconsultation services can be utilized to work with adults in the program. Finally, striking the "if available" language is intended to emphasize that mental health consultation is vital to providing high quality comprehensive services in Head Start programs.

§1302.93 Staff health and wellness.

As described in the earlier section, *Workforce Supports: Staff Wellness*, §1302.93 outlines requirements of programs in the area of staff health and wellness with §1302.93(b) speaking specifically to mental health and wellness information for staff. We propose to expand on these requirements to align with the goals described in the earlier sections *Workforce Supports: Staff Wellness* and *Workforce Supports: Employee Engagement*. These changes are intended to further amplify the importance of an intentional focus on staff wellness to improve staff well-being, reduce burnout, and improve retention, as well as to promote high-quality services for children and families.

Specifically, we propose to add a new §1302.93(e) that states that a program should cultivate a program-wide culture of wellness that empowers staff as professionals and supports staff to effectively accomplish their job responsibilities in a high-quality manner, in line with the requirement at §1302.101(a)(2). We believe this language clarifies that program-wide wellness supports extend to staff and that these supports include addressing program management such as implementing positive employee engagement practices, opportunities for training and professional development and ongoing supervisory support.[174] Indeed, a recent report from the U.S. Surgeon General highlights the importance of employers focusing intentionally on the mental health and well-being of their employees. The report establishes a framework for workers' mental health with a focus on five essential areas including, creating connection and community in the workplace; protecting workers from physical and mental harm; providing intentional supports for work-life balance including paid leave; providing

[174] https://www.cdc.gov/workplacehealthpromotion/planning/leadership.html; https://aspe.hhs.gov/sites/default/files/private/pdf/76661/rpt_wellness.pdf

opportunities for growth and career advancement; and making employees feel valued in their roles in the workplace.[175]

Taken together, ACF believes the proposed changes discussed in the *Mental Health Services* section will greatly improve services for children, families, and staff. We seek public comment on how any of the proposed mental health requirements in this section may impact various communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Modernizing Head Start's Engagement with Families (§1302.11; §1302.13; §1302.15; §1302.34; §1302.50)

In Head Start's nearly 60-year history, programs have cultivated trust with the public. However, ACF acknowledges there are areas that could benefit from time-saving improvements and much-needed efficiencies. Below, we outline several areas in the HSPPS where we would like to draw specific attention to and elevate the need for programs to dedicate time, attention, and resources to making improvements in the efficiency of delivering services.

Section 1302.11 describes the requirements programs must follow when completing their community needs assessment. ACF believes this is an area where we should require programs to identify the best and most efficient ways of communicating with families who are both currently enrolled and prospective families who might be eligible. Specifically, we propose a new (v) under §1302.11(b)(1) that requires programs to identify communication methods and modalities that best engage with prospective and enrolled families of all abilities. This ensures that programs will use the community needs assessment as a method to determine the optimal communication modalities (be it digital through text messaging software, improved websites, automated phone calls or phone lines that provide program updates, etc.) that families prefer.

[175] U.S. Surgeon General. (2022). The U.S. Surgeon General's Framework for Workplace Mental Health & Well-Being. U.S. Department of Health and Human Services.

Second, §1302.13 outlines the requirements for recruiting children to a Head Start program. We propose to include specific language regarding the usage of modern technologies in the program's recruitment strategies, and we propose to include a specific phrase on reducing family burden during the enrollment process. We envision programs utilizing information they gather from current families to learn about ways they can reduce unnecessary paperwork during the enrollment process. We propose to require that Head Start programs examine their current enrollment processes and determine ways to streamline and improve their strategies. Specifically, we propose to edit §1302.13 to clarify that programs must use modern technologies to encourage and assist families in applying for admission to the program, and to streamline the application and enrollment process, while ensuring families without access to technology have equitable access to the program.

Section 1302.15 contains requirements related to enrolling new families into the Head Start program. We propose the addition of a new paragraph (g) that requires a user-friendly enrollment process. Programs must regularly examine their enrollment processes and implement any identified improvements to streamline the enrollment experience for families. This new provision would require programs to establish new procedures, or update current procedures, that are streamlined and efficient and keep the end-user in mind. This provision would also require programs to regularly update these procedures to keep up with latest innovative practices.

Section 1302.34 describes parent and family engagement in education services. We propose to add a new subparagraph (9) to §1302.34(b) that clarifies that communication methods and modalities used by the program should be the best available for engaging families of all abilities, including currently enrolled families as well as prospective families. These changes would ensure that programs are consulting and engaging with current parents and families to be involved in the methods the program uses to communicate with both prospective families and enrolled families of all abilities. Parents and families may have suggestions for how to improve communication channels, methods or modalities, or for potential innovations. Head Start's

customers are the children and families it serves. Including their voices in the creation of processes and communication streams is imperative to making improvements to efficiencies.

The final section that we propose updates to is §1302.50, Family engagement. We propose to modify the purpose statement in §1302.50(a) by adding a sentence at the end that states, "This includes communicating with families in a format that is most accessible." This section of the HSPPS requires programs to serve both the child and their family in innovative two-generation approaches. Our proposed addition would require programs to also address communication methods and determine the most efficient and accessible format that families prefer and that may be necessary to address the needs of family members who have limited English proficiency or who are individuals with disabilities.

We expect that many Head Start programs are already engaging in several of these strategies to improve their communication methods and reach families using the modalities and methods that are easiest for them, though some programs may need to make bigger changes to meet this proposed standard. However, overall, we anticipate minimal costs associated with this new requirement. Importantly, ACF would like to ensure that all programs are implementing these strategies equitably and universally. ACF recognizes that what works for one community may not work for another, so programs are tasked with the challenge of meeting the unique needs of the communities they serve. ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities. Additionally, ACF requests comments on what new and innovative approaches or methodologies programs might use to fulfill this requirement, as well as potential costs associated with new approaches.

Community Assessment (§1302.11)

Section 1302.11(b) requires Head Start programs to conduct a community assessment to design a program that meets community needs and builds on strengths and resources. The current requirement describes a broad and comprehensive assessment of community needs, strengths, and resources and specifies the minimum data Head Start programs must use in this process. The community assessment must be done at least once during a 5-year grant period with an annual update of significant changes.

We recognize that many Head Start programs utilize the community assessment to inform the design of the program to a great extent. However, Head Start programs and others from the field have raised concerns with the requirements as currently written. First, the standards do not clearly articulate the purpose of the community assessment or the purpose and scope of the annual update. The requirement lists the data a program must collect and analyze without identifying the overarching goals of the endeavor. Second, there is concern that in some cases, programs approach the community assessment as an unnecessarily detailed community assessment with overly complex analytical methodologies. Third, some community members express concern about the cost of the requirement. These concerns are related; the cost can be particularly great, for example, if a program deploys time-consuming surveys using complex analytical techniques. Additionally, some programs use program funds to hire demographers and analysts to conduct community assessments, which is not a concern in itself. However, the costs of this work could balloon if the scope of project is too exhaustive and complex and does not efficiently leverage existing available data. These concerns combined can cause costly barriers to some programs being able to use their community assessment data effectively to guide programmatic decisions as intended. Changes are proposed to this section to promote clarity on the intent of the community assessment, align with best practices, incorporate feedback from programs, and increase the effectiveness in how the community assessment is used to inform key aspects of program design and approach.

In this section, we propose new language to be specific on the intended outcomes of the community assessment and requiring programs to be strategic in what data is collected and how it will be used to achieve those intended outcomes. This better reflects best practices to collect meaningful data and use it with purpose. We also propose new language to ensure programs assess readily available data on their community that provides usable information on the community for the grant recipient to design a program that meets the needs in the community. Altogether, these revisions direct programs to more effectively focus resources allocated to their community assessment on areas that matter most for program design, enrolling and serving the most in need in the community, what services are provided, and how or by whom families are served including which community strengths and resources are leveraged in service delivery.

Specifically, we propose to split current §1302.11(b)(1) into two paragraphs in order to expand on the purpose of the community assessment before detailing the data that programs are required to collect and utilize. Section 1302.11(b)(1) has been revised to articulate the goals of the community assessment and is designed to clarify the purpose and intended outcomes of the community assessment. We propose to add a new (i) to (iv) which describe in more detail the objectives of community assessment which include: identifying who programs will serve and their associated risk factors; how they will serve them in a manner that reflects their needs and diversity, while promoting equity, inclusion, and accessibility in service delivery; informing eligibility, recruitment, selection, enrollment and attendance (ERSEA) processes to prioritize the enrollment of those most in need of services; and identify strengths and resources in the community a program can leverage in service delivery.

We propose to revise paragraph (b)(2) so that it contains mostly existing standards redesignated from current paragraph (b)(1) and continues to focus on what data a program is required to collect, but with a few revisions. We propose to revise (b)(2)(i) to be the stem of the requirement to collect relevant data on eligible children and expectant mothers. Additionally, we revise this clause to no longer specifically require counts of eligible children and expectant

mothers including counts by their geographic location, race, ethnicity, and languages spoken for enumerated items that follow. This has been moved to a new item as described in the following paragraph. Upon moving it, it has been broadened in the stem to "relevant demographic and other data about" eligible children and expectant mothers. This change allows programs to make strategic decisions on what relevant demographic and other data to collect on eligible populations to meet the intended outcomes of their community assessment. Also, it challenges programs to consider what demographic and relevant data to collect beyond counts of eligible populations by geographic location, race, ethnicity, and languages spoken.

We propose to add "Children living in poverty" as the first enumerated item to follow the revised clause in paragraph (b)(2) to promote clarity. Programs were already required to include data on children living in poverty in their community assessments since these children are considered "eligible infants, toddlers, and preschool age children," but adding it to the list makes this more explicit. We propose to redesignate A, B and C from previous paragraph (b)(1) to follow the newly added item (A) in paragraph (b)(2). A new (E) is added to revised paragraph (b)(2) which includes the language from the current introductory clause in (b)(1)(i) which reads "Geographic location, race, ethnicity and languages they speak." This specific language is pulled out to become (b)(2)(i)(E) to continue to highlight the importance of understanding these elements related to the diversity of populations most in need of services, which in turn can help promote equity, inclusion, and accessibility in service delivery as noted in the proposed new (b)(1)(ii).

We do not propose any changes to the rest of the required list of factors programs must consider in redesignated §1302.11(b)(2)(ii) – (vi). The only revisions to the list are the addition of the phrases "such as transportation needs" in §1302.11(b)(ii) as an economic factor impacting well-being and "especially transportation resources" in §1302.11(b)(2)(v) to require programs to consider what resources are available in the community to address the needs of eligible children and families. The rationale for proposing to include transportation explicitly in the requirements

for relevant data in the community assessment is because transportation remains a significant barrier for many of the hardest to serve families and impedes Head Start's mission. Access or lack of access to transportation plays a role in determining which families enroll in and attend Head Start programs. ACF wants to ensure transportation needs and resources are part of the data that informs a program's design and service delivery. A more extensive discussion of transportation is included in the *Transportation and Other Barriers to Enrollment and Attendance* section of this preamble.

We propose to add a new paragraph (b)(3), which requires programs to have a strategic approach to determine what data to collect prior to conducting the community assessment and how to use the data acquired after conducting the community assessment in order to achieve the intended outcomes outlined in the newly proposed (b)(1). This proposed requirement helps address the concern that some programs use overly exhaustive approaches or using unnecessarily complex analytical techniques to assess their communities. This requirement intends to align with best practices and promote overall effectiveness of the community assessment to drive programmatic decision making.

We also propose adding a new paragraph (b)(4) to require programs to identify certain data that would be unreasonably burdensome and costly to collect and consider using publicly or locally available data as a proxy instead. This proposed requirement addresses the cost and complexity some programs report in accessing certain data. For example, a program may determine it is unreasonable to collect data on the exact counts of children under the age of 6 experiencing homelessness due to the general difficulties and costliness in collecting accurate counts of populations experiencing homelessness.[176] Although these counts may be helpful, the proposed requirement encourages this program to consider other available data that can be used as a proxy to meet the intended outcomes of the community assessment including how to

[176] https://www.ncbi.nlm.nih.gov/books/NBK218229/#:~:text=Counting%20the%20homeless%20population%20is,of%20homelessness%20for%20many%20individuals.

prioritize the enrollment of populations experiencing homelessness in their community, in what areas of their community are they located, and what community strengths and resources can be leveraged to promote the delivery of program services to these populations. It is feasible to meet these intended outcomes without exact counts of children under the age of 6 experiencing homelessness using other available data such as location of homeless shelters, enrollment rates of children experiencing homelessness in schools, and through discussions with local community-based organizations that provide services to populations experiencing homelessness. Furthermore, programs may be able to leverage existing data collected in community health assessments conducted by local health departments[177] and non-profit hospitals[178] to support their own community assessments.

We propose to redesignate paragraph (b)(2) to become (b)(5) and revise it to describe the purpose and goals of the annual review and update of the community assessment. There is a concern that the current annual update standard effectively requires a comprehensive update each year of the community assessment. The proposed requirement in redesignated and revised (b)(5) allows the program to determine where updates are needed based on areas where significant shifts in their community may have occurred that may impact their program design and service delivery, while also establishing that the annual update must consider how it can inform and support other relevant management and program improvement efforts as required in §1302 Subpart J. These revisions to the annual update are intended to ensure programs are strategic in their approach to the annual update, which in turn can promote the effectiveness and usefulness of the update. Finally, we propose to redesignate paragraph (b)(3) to become (b)(6) without revisions to the regulatory text.

Conducting the community assessment is a complex process and we want to understand whether these proposed revisions to §1302.11(b) will help address underlying challenges with

[177] https://www.naccho.org/programs/public-health-infrastructure/performance-improvement/community-health-assessment ; https://phaboard.org/accreditation-recognition/reaccreditation/

[178] https://www.irs.gov/charities-non-profits/community-health-needs-assessment-for-charitable-hospital-organizations-section-501r3

the community assessment and whether they may cause any unintended consequences. Therefore, we are seeking public comment on the current development, utilization, and challenges of the community assessment as well as perceived impact of the changes proposed in this NPRM. ACF also seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities. We appreciate input that is specific and actionable. We also request public comment on whether any of the proposed revisions to the community assessment described in this NPRM will reduce program operational costs related to the community assessment.

Adjustment for Excessive Housing Costs for Eligibility Determination (§1302.12)

Head Start is intended to promote the school readiness of children living in low-income households.[179] However, many programs have expressed concern that Head Start eligibility criteria does not account for high cost of living in some areas across the country. Many families earn just above poverty wages, but more than 30 percent of their income goes to housing costs. In 2015, the Congressional Budget Office estimated that about 14 million households are eligible for housing assistance since they paid more than 30 percent of their income on housing, with some households paying more than 50 percent of their income on rent.[180] Children whose families earn near-poverty level wages and who live in areas with a high-cost of living have fewer family resources remaining after paying for shelter costs, compared to families in lower-cost of living areas.

High housing cost burdens have increased for low- and moderate-income renting households since the 1960s.[181] Affordable housing costs have long been defined as costs that total 30 percent or less of a family's total gross income. The 30 percent threshold is an income

[179] See the Head Start Act: https://eclkc.ohs.acf.hhs.gov/sites/default/files/pdf/HS_Act_2007.pdf
[180] Congressional Budget Office. (2015, September). *Federal Housing Assistance for Low-income Households.* https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/50782-lowincomehousing-onecolumn.pdf
[181] https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-081417.html

standard that has been incorporated into laws for Federal housing assistance programs since the early 1980s. It has been a norm for defining housing affordability and is used by the U.S. Department of Housing and Urban Development (HUD) as a rent limit in the HOME Investment Partnerships Program for low-income rental units.[182]

Other means-tested programs that aim to serve those experiencing poverty, like SNAP, use an income adjustment to account for excessive housing costs.[183] Adjusting income for housing expenses is an effective way to provide additional flexibility for families who are making above or near poverty wages, but face high housing costs, and would be eligible for Head Start if those disproportionally high housing costs were taken into account when determining eligibility.

Therefore, we propose to revise §1302.12(i)(1) by adding a new (i) and (ii) to allow a program to adjust a family's income to account for excessive housing costs, when determining eligibility. We propose to redesignate current §1302.12(i)(1)(i) as clause (iii) and subsequent clauses are renumbered accordingly. Additionally, we propose to add a definition of "housing expenses" to §1305.2.

Specifically, §1302.12(i)(1)(i) is a new stem to introduce the calculation of income and it states, "The program must calculate total gross income using applicable sources of income." In a subsequent section of this NPRM, we described proposed clarifications to the definition of "income" in §1305.2. Proposed new clause, §1302.12(i)(1)(ii) introduces the adjustment for housing expenses and states that a program may make an adjustment to a family's gross income calculation for the purposes of determining eligibility in order to account for excessive housing expenses. A program must use available bills, bank statements, and other relevant documentation provided by the family to calculate total annual housing expenses with appropriate multipliers. There are two additional subclauses (A) and (B) that describe how programs should adjust

[182]Measuring Housing Affordability: Assessing the 30 Percent of Income Standard. https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_Herbert_Hermann_McCue_measuring_housing_affordability.pdf

[183] Center on Budget and Policy Priorities. (2023, January). *A Quick Guide to SNAP Eligibility and Benefits.* https://www.cbpp.org/sites/default/files/11-18-08fa.pdf

income to account for housing expenses. Specifically, (A) states that programs should determine if a family spends more than 30 percent of their total gross income on housing expenses, and (B) states that, if applicable, programs may reduce the total gross income by the amount spent in housing expenses above the 30 percent threshold to calculate the adjusted gross income for determining income eligibility.

In addition, a new term for *housing expenses* in §1305.2 is proposed which means the total annual applicable expenses spent by the family on rent or mortgage payments, homeowner's or renter's insurance, utilities, interest, and taxes on the home. Utilities includes electricity, gas, water, sewer, and trash.

To illustrate how income deductions would be calculated under these new proposed regulations, we describe the following example. If a family's annual gross income is $10,000 and they spend $5,000 on housing, their housing cost is 50 percent of their total gross income. Therefore, the percent of the family's income spent on housing is 20 percent higher than the 30 percent threshold, and the family's total gross income can be adjusted down by an amount equal to 20 percent of annual gross income. This results in a $2,000 reduction. Therefore, instead of a total gross income of $10,000 that the program must consider for eligibility purposes, this family's total gross income would be $8,000 after application of proposed §1302.12(i)(1)(ii). ACF recognizes that programs do not need to calculate housing expenses for all families since many will still qualify for Head Start services based on income alone, or due to some other qualifying factor, including participation in SNAP or TANF. Therefore, the proposed regulatory language in (i)(1)(ii) indicates that a program "may" use available documents to calculate housing expenses.

We propose to add the definition of "housing expenses" to provide clarity about what can be considered in the calculation of total housing costs including what utility costs can be taken into account. In considering what utilities to include in the definition, ACF used HUD

regulatory guidance for utility allowances as a resource.[184] The HUD definition of utility allowances includes electricity, natural gas, propane, fuel oil, wood or coal, and water and sewage service, as well as garbage collection. Programs can use bills and expenses from one month to calculate the average expenses that a family has throughout the year. Further, programs should only be using bills for which families have paid for out of pocket. For example, housing vouchers, rental assistance, support from the Low Income Energy Assistance Program (LIHEAP), or other types of financial assistance should not be included in calculations of housing expenses.

Programs should continue using their current methods of verifying eligibility based on tax forms, pay stubs, or other proof of income. These proposed regulatory changes would allow programs to also use bills, lease agreements, mortgage statements, and other documentation that shows housing and utility expenses.

By including this income deduction calculation in eligibility determination for Head Start, ACF expects many programs to utilize this deduction calculation for families seeking eligibility. However, programs must adhere to their recruitment and selection criteria to ensure they prioritize enrollment for those who may benefit most from Head Start services. Specifically, all Head Start programs must continue to use their selection criteria to prioritize the enrollment of the families most in need of services as required in 45 CFR 1302.13. The sole purpose of this proposed rule is to allow programs to consider income deductions for the purposes of determining Head Start eligibility.

ACF would like to invite comment on including a limit to the total amount in housing costs that can be deducted from a family's income. ACF is not concerned with high income families being enrolled in Head Start since families still must be income-eligible after accounting for high housing costs, and programs should continue prioritizing highest need families based on

[184] Utility Allowances. U.S. Department of Housing and Urban Development. https://www.hud.gov/program_offices/public_indian_housing/programs/ph/phecc/allowances#:~:text=The%20utilities%20for%20which%20allowances,as%20well%20as%20garbage%20collection.

their selection criteria. However, we invite comments on whether there should be a dollar limit or percentage limit to how much is allowed to be deducted from income to account for housing costs. ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Migrant and Seasonal Head Start Eligibility (§1302.12)

Section 1302.12(f) describes the eligibility requirements for enrollment in MSHS programs. Currently, to be eligible for MSHS, a family must demonstrate that their income comes primarily from agricultural labor which has been interpreted and implemented to mean a family's income must be more than 50 percent from agricultural work. This presents an additional challenge to MSHS programs in finding eligible families. It has become increasingly less common for agricultural work to be the primary source of an entire family's income as agricultural work has become less available or stable due to unpredicted weather events and due to higher pay in other industries. These changes impacting the agriculture industry have resulted in barriers to enrolling farmworker families in need of program services.

To address this barrier, we propose to add language to §1302.12(f) to add the policy that "one family member is primarily engaged in agricultural employment" rather than "family's income comes primarily from agricultural work." A family must still meet an eligibility criterion for Head Start services under 45 CFR 1302.12(c) (i.e., living at or below the 100 percent poverty guideline, experiencing homelessness, receiving public assistance, or in foster care). However, due to challenges migrant families face in relocating often to seek agricultural work, MSHS programs must prioritize migrant families for selection as required in §1302.14(a)(2).

Additionally, §1302.12(j) outlines the requirements related to the period of time a child remains eligible for Head Start and when program staff must verify the family's eligibility again before continuing services. In paragraph (2), specifically, the HSPPS notes that children who are

enrolled in a program receiving funds under the authority of section 645A of the Act, which refers to the Early Head Start program, remain eligible while they participate in the program.

The current standards do not specify eligibility duration related to the unique programs operated by MSHS. Current practice is that MSHS programs verify eligibility every two years. However, MSHS programs serve children from birth to school age and nearly half of MSHS enrollment consists of children under the age of three. Furthermore, many MSHS programs also receive Early Head Start funding.

The existing requirement creates an inequity because infants and toddlers served in Early Head Start programs can receive services for the duration of the program, meaning until they turn three and age out of the program, whereas the MSHS family is no longer considered eligible for the program after two years. Therefore, the young children of agricultural workers are not provided the same potential duration of services as infants and toddlers served by Early Head Start.

To address this inequity and extend the same opportunity to MSHS infants and toddlers that is available to infants and toddlers served through an Early Head Start grant, we propose to add a paragraph to address eligibility duration for infants and toddlers participating in MSHS programs. Specifically, we propose to add a new paragraph (5) to existing §1302.12(j). The new language clarifies that MSHS programs can serve infants and toddlers for 3 years, consistent with the requirement in §1302.12(j)(2) that children participating in Early Head Start are eligible for the duration of the program. We believe this new language will correct this inequity and promote continuity for families served by MSHS and reduce paperwork for families and programs.

Transportation & Other Barriers to Enrollment and Attendance (§1302.14; §1302.16)

Sections 1302.14 and 1302.16 address the requirements for the selection process and attendance, two key components of ERSEA. Section 1302.14 outlines the current requirements

for programs' selection of eligible children. It currently specifies that programs must annually develop selection criteria, based on community needs identified in the community needs assessment, for how they will prioritize the selection of eligible children. It also requires that a program ensure at least 10 percent of its total funded enrollment is filled by children eligible for services under IDEA unless a wavier is granted throughout the program year once the assessments are completed. Finally, it requires that programs maintain a waitlist. Section 1302.16 outlines the requirements of programs in the area of attendance. It articulates what programs must do to support regular attendance, to manage systematic program attendance issues, and to support attendance for children who are homeless.

Through the course of implementing these provisions and discussions with constituents, ACF believes strongly that these requirements do not adequately reflect the importance of acknowledging barriers to enrollment and attendance, which is a critical part of selecting children for participation and ensuring they can attend regularly. There are many barriers that may impede enrollment or attendance in Head Start programs even after a child is selected. These barriers include, but are not limited to, transportation access, affordability and reliability challenges, particularly for individuals with disabilities; demands of family life (e.g., balancing work and school schedules, housing instability, caring for sick or disabled relatives); or hours and schedules that are not flexible enough to meet a family's needs (e.g., additional child care needed to enable attendance at programs that do not operate for a full work day).

We expand here on the example of transportation because of concerns that transportation to local programs remains a significant barrier for many of the hardest to serve families and impedes Head Start's mission. The decision to cut or reduce transportation services is often part of a difficult budget decision-making process to free up funds for other rising program costs. For instance, in an analysis of Head Start Preschool and Early Head Start grants across the county, the average cost of a bus is about $90,000, or roughly $2,500 per seat. This cost excludes the cost of bus drivers and ongoing bus maintenance. As a result, Head Start programs nationally

provide transportation to only 20 percent of enrolled children, more than 100,000 fewer children as compared to a decade ago.[185]

According to the Bureau of Transportation Statistics, about 70 percent of low-income families with children ages 5 to 14 take a school bus to school.[186] The Consumer Expenditure Survey (CE), administered by the Bureau of Labor Statistics (BLS), found that households spent an average of $9,826 on transportation in 2020—the second largest household expenditure category after housing. And low-income households spend a much higher proportion of their income on transportation expenses than non-low-income households. In 2021, the average household with an income equal to or below $24,127 spent nearly a third of their income, 26.9 percent, on transportation. To compare, households with an income equal to or above $129,534 spent an average of 10.4 percent on transportation.[187] Having better clarity on this particular barrier and providing more targeted transportation assistance, if possible, allows these households to use their limited funds for other essential expenses.

Research has shown that transportation is linked to economic mobility and documented links between poor public transit access and higher rates of unemployment.[188] Additionally, accessing public transportation can be challenging and less reliable for low-income communities, the same communities in which many eligible families are located and are most in need of reliable public transportation.[189] We propose new language in §1302.14 and §1302.16 to require programs to consider barriers to enrollment and attendance. In §1302.14 *Selection*, we propose to add a new paragraph (d) to require programs to use data from the selection process to understand why children selected for the program do not enroll or attend. We specifically name transportation in the proposed language as one such barrier. We propose to amend paragraph

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[185] Source: Head Start 2010-2020 PIR.

[186] Ibid. Note: Uniform data on the population of children under five taking a bus or other ECE transportation services is not collected by the Bureau of Transportation Statistics.

[187] U.S. Department of Transportation, Bureau of Transportation Statistics, *Transportation Economic Trends*, available at www.bts.gov/product/transportation-economic-trends.

[188] Chetty, R., Hendren, N., Kline, P., & Saez, E. (2014). Where is the land of opportunity? The geography of intergenerational mobility in the United States. *The Quarterly Journal of Economics*, *129*(4), 1553-1623.; Kaufman, S., Moss, M. L., Tyndall, J., & Hernandez, J. (2014). Mobility, economic opportunity and New York City neighborhoods. *NYU Wagner Research Paper*, (2598566).

[189] Stern, A., Stacy, C., Blagg, K., Su, Y., Noble, E., Rainer, M., & Ezike, R. (2020). Access to Opportunity through Equitable Transportation. Available at: https://www.urban.org/research/publication/access-opportunity-through-equitable-transportation.

§1302.16 *Attendance* by adding §1302.16(a)(2)(v) to require programs to examine barriers to regular attendance. Given the centrality of transportation as a barrier to reaching children and families, we again name access to transportation in the proposed language, and require programs to, if possible, provide or facilitate transportation if needed. Note that we also explicitly include transportation in §1302.11 on the community assessment to ensure that transportation needs and resources are part of the community wide strategic planning and needs assessment.

The objective of the proposed changes to these requirements is to ensure programs are using their data to understand the factors that impede Head Start enrollment and participation in their service area, and ultimately, equip programs with more data to inform continuous improvement of service delivery as described in §1302.102(c). We propose to specifically require programs to consider transportation as a barrier to enrollment and attendance because of its significance in determining which children can enroll and participate in Head Start. In tandem with proposed revisions in §1302.11(b) and §1302.16(a)(2), strengthening our HSPPS to increase transportation services to more children will help to provide more educational opportunity while also addressing these inequities. We believe these proposed changes will promote the thoughtful use of the community assessment, selection process, and attendance process to inform responsive program design, and ultimately, ensure children who would benefit most from Head Start services are identified, enrolled, and supported in attendance. With the additional data required in these sections, Head Start programs can better meet their current families' needs and help to make services more accessible to future families. ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Serving Children with Disabilities (§1302.14)

Section 1302.14 outlines the requirements for selecting eligible children for participation in the Head Start program. Paragraph (b) of this section requires a program to ensure at least 10 percent of its total funded enrollment is filled by children eligible for services under the Individuals with Disabilities Education Act (IDEA) unless the responsible HHS official grants a waiver.

Though §1302.14(b) reads "funded enrollment," section 640(d)(1) in the Act states the percentage of children with disabilities (eligible under IDEA) is based on "the number of children actually enrolled," rather than the funded enrollment. ACF has received feedback from various interested groups that this error has caused confusion among programs because the Act and the HSPPS state different requirements.

To address this inconsistency, we propose to change "funded" to "actual" in 1304(b)(1) so the HSPPS are consistent with the Act. This change will clarify the requirement and address the confusion caused by the discrepancy.

We encourage all Head Start programs to recruit and enroll as many children who are eligible for IDEA services as possible. The 10 percent requirement is meant to be a floor rather than a ceiling for serving children who would benefit from the program. ACF strongly encourages Head Start programs to maximize services to children with disabilities who will benefit from the program's strong focus on inclusive early childhood settings. Early intervention and access to available services through Head Start provides children with disabilities with supports that can positively impact their education and well-being over the long term. Through partnerships with State and local education agencies, Head Start plays an important role in identifying children with disabilities or developmental delays and referring families to services and follow-up care.

Head Start programs are required to design and implement a coordinated approach that ensures the full and effective participation of all children with disabilities and their families (45

CFR 1302.101(b)(3)). The long-standing collaboration between ACF and the U.S. Department of Education Office of Special Education Programs (OSEP) seeks to ensure young children with disabilities are served in high-quality early childhood programs, including Head Start programs. This requires ongoing partnerships between the Individuals with Disabilities Education Act (IDEA) Part C early intervention and Part B, section 619 preschool special education programs and Head Start programs.

During the return to in-person services in 2022, OHS and OSEP issued a joint letter[190] to reiterate important policies and practices related to providing services to young children with disabilities. The joint letter 1) reminds programs of requirements under Part B of the IDEA to provide special education and related services to eligible preschool-aged children with disabilities, 2) promotes collaboration at the State and local program level to meet requirements, and 3) provides resources to assist Head Start and other providers in creating effective memoranda of understanding for coordinating the implementation of high-quality programs for all children.

Ratios in Center-Based Early Head Start Programs (§1302.21)

This section establishes requirements for staff-child ratios and group sizes for center-based Head Start Preschool, Early Head Start, and Migrant or Seasonal Head Start classes. The current standards at §1302.21(b)(1) require staff-child ratios and group size maximums to be determined by the age of the majority of children in a class. The age of majority of the children is generally determined at the start of the year but may be adjusted during the program year if needed. Where State or local licensing requirements are more stringent, then staff-child ratios and group size specifications must meet the stricter requirements.

[190] Letter can be found at this link: https://eclkc.ohs.acf.hhs.gov/local-early-childhood-partnerships/press-release/encouraging-idea-collaboration-between-state-agencies-local-agencies-head-start-programs

Further, §1302.21(b)(2) requires that classrooms that serve children under 36 months old must have two teachers with no more than eight children, or three teachers with no more than nine children. The current standards in paragraph (b)(2) also emphasize that each teacher serving children under 36 months must be assigned consistent, primary responsibility for no more than four children to promote continuity of care for individual children. A program must also minimize teacher changes throughout a child's enrollment and consider mixed age group classes to support continuity of care.

However, we propose to add a new standard that encourages programs to use a lower teacher-child ratio of no more than three children to every teacher for classrooms where the majority of children are infants under 12 months. Specifically, we propose to add the following new sentence after the second sentence in §1302.21(b)(2), that states that programs are encouraged to establish a lower teacher to child ratio for the youngest children they serve, provided that it does not jeopardize continuity of care for children. As the premier ECE provider in the United States, Head Start sets an example for early childhood programs nationwide. Head Start programs are known for providing high-quality early childhood services. Furthermore, a warm, responsive relationship between an infant and caregiver is a crucial foundation for infants to learn and develop. A lower teacher-child ratio can support the establishment of this strong, secure relationship and allow for more individualized attention between the infant and teacher. A lower ratio of one teacher to three infants also aligns with the National Resource Center for Health and Safety in Child Care and Early Education recommendations for center-based programs with classrooms where the majority of children are under 12 months old.[191] Further, research indicates that, generally, lower teacher-child ratios in ECE classrooms relate to higher classroom quality and stronger child outcomes.[192] This proposed revision takes into

[191] American Academy of Pediatrics, American Public Health Association, & National Resource Center for Health and Safety in Child Care and Early Education. (2020). Caring for Our Children (CFOC) online standards database. National Resource Center for Health and Safety in Child Care and Early Education. https://nrckids.org/CFOC.

[192] Bowne, J. B., Magnuson, K. A., Schindler, H. S., Duncan, G. J., & Yoshikawa, H. (2017). A Meta-Analysis of Class Sizes and Ratios in Early Childhood Education Programs: Are Thresholds of Quality Associated With Greater Impacts on Cognitive, Achievement, and Socioemotional

consideration research findings and recommendations and encourages programs to consider reducing teacher-child ratios for their youngest classrooms, to provide the highest quality care and learning opportunities for infants enrolled in Head Start.

We further clarify that this proposed change is an encouragement for programs and should not be interpreted as a new ratio requirement for classrooms very young children. We recognize that a lower teacher-child ratio will likely be challenging for some programs to implement during the current staffing shortage. We further emphasize that the requirements in §1302.21(b)(2) on promoting continuity of care by minimizing teacher changes throughout a child's enrollment in Head Start, and doing so through mixed age classrooms, is still of top priority. ACF understands that implementing different ratio requirements for different age groups in Early Head Start can be challenging and antithetical to continuity of care (e.g., if children need to switch classrooms after their first birthday). This can be challenging when programs are also trying to ensure that teacher-child relationships are stable across a child's early years in a program. ACF intentionally prioritizes continuity of care especially for younger children and programs should continue to create policies that support strong teacher-child relationships. ACF invites public comment on possible costs associated with lowering ratios for the youngest children served, for programs that may choose to do so.

We would also like to understand the potential implications of lowering ratio requirements for the youngest classrooms, particularly for children 12 months old or younger. According to 2020 State licensing standards, there are three states that have a ratio of one teacher to three children for infants 12 months old or younger.[193] ACF is interested in applying this reduced teacher-child ratio requirement for classrooms where the majority of children are 12

Outcomes? *Educational Evaluation and Policy Analysis*, *39*(3), 407–428. https://doi.org/10.3102/0162373716689489; Xue, Y., Atkins-Burnett, S., Vogel, C., and Cannon, J. (2022). *Teacher–Child Relationship Quality and Beyond: Unpacking Quality in Early Head Start Classrooms in 2018*. OPRE Report 2022-122. Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

[193] https://childcareta.acf.hhs.gov/sites/default/files/public/center_licensing_trends_brief_2020_final.pdf

months old or younger. We invite public comment on such a possible change, as well as possible costs associated with such a change.

Center-Based Service Duration for Early Head Start (§1302.21)

Section 1302.21(c)(1)(i) requires Early Head Start center-based programs to provide 1,380 annual hours of planned class operations for all enrolled children. It has been a long-standing expectation of ACF that EHS programs provide continuous services, which we have interpreted as full-day, full-year services. Therefore, while not explicitly stated, the intent of the Early Head Start 1,380 hours requirement for center-based service duration is for programs to provide full-day, full-year services. Research on full-day and full-year programs suggests children in poverty benefit from longer exposure to high-quality early learning programs than what is provided by part-day and/or part-year programs.[194]

However, the standard does not explicitly require a minimum number of weeks per year over which the 1,380 hours should be provided. Therefore, we propose to add a phrase to §1302.21(c)(1)(i) to clarify that the 1,380 hours of planned class operations for children in EHS should occur across a minimum of 46 weeks per year. Based on our experiences implementing the current requirement, we believe most programs are already operating year-round; however, a small number of programs may be operating less than a full year and we would like to promote full-year services for infants and toddlers in EHS. However, we are also aware that specifying the requirement as at least 46 weeks per year may have unintended consequences, such as programs moving to part-day services or reducing their weeks per year to 46 to align with a new requirement. Therefore, we request comment on these possible unintended consequences as well as on other ways we can ensure EHS services are full-day and full-year as intended, while still providing flexibility to programs in developing their program schedules. ACF also seeks public

[194] Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M.R., Espinosa, L.M., Gormley, W.T., Ludwig, J., Magnuson, K.A., Phillips, D., & Zaslow, M.J. (2013). *Investing in Our Future: The Evidence Base on Preschool Education.* Policy Brief. Foundation for Child Development.; Wasik, B. A., & Snell, E. K. (2019). Synthesis of preschool dosage: How quantity, quality, and content impact child outcomes. In A. J. Reynolds & J. A. Temple (Eds.), *Sustaining early childhood learning gains: Program, school, and family influences* (pp. 31–51). Cambridge University Press.

comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities. Finally, we also invite comment on how such a change would impact service delivery and any challenges that may be associated with meeting a revised standard, including the implementation timeframe.

Center-Based Service Duration for Head Start Preschool (§1302.21; §1302.24)

Section 1302.21 establishes the program structure standards that are required to operate Head Start Preschool, Early Head Start, American Indian and Alaska Native, and Migrant or Seasonal Head Start center-based program options. This includes standards for ratios and group size, service duration, and licensing and square footage. In this section, we propose seven technical corrections to existing provisions in §1302.21(c)(1) through (6) to remove outdated text and improve readability of these standards. We do not propose any change in policy to these existing standards.

First, in §1302.21, we propose to revise paragraph (c)(1)(i) by removing the phrase "By August 1, 2018." That date has already passed and does not add any substance to that paragraph.

Second, we propose to revise paragraph (c)(2)(i) by adding the phrase "Service Duration for at Least 45 Percent" as a subheading. We remove the phrase "Until a program is operating all of its Head Start center-based funded enrollment at the standard described in paragraph (c)(2)(iv) or (c)(2)(v)" and replace it with "A program must provide 1,020 annual hours of planned class operation over the course of at least eight months per year for at least 45 percent of its Head Start Preschool center-based funded enrollment," which reflects the current requirement. We also propose to amend paragraph (c)(2)(i) by removing the language that details the minimum number of hours per day and days per year a program must operate for any child ("a program must provide, at a minimum, at least 160 days per year of planned class operations if it operates for five days per week, or at least 128 days per year if it operates four

days per week. Classes must operate for a minimum of 3.5 hours per day") and moving that language into a new paragraph (ii). We also propose to add the phrase "Service Duration for Remaining Slots" as a subheading to the new paragraph (ii).

Third, we propose to redesignate existing paragraph (c)(2)(ii) as paragraph (c)(2)(iii) and revise the redesignated paragraph (c)(2)(iii) by adding the phrase "Double session" as a subheading. In redesignated paragraph (c)(2)(iii) we also propose to remove the language "Until a program is operating all of its Head Start center-based funded enrollment at the standard described in paragraph (c)(2)(iv) or (c)(2)(v) of this section, if a program operates" and instead begin that paragraph with "Double session variation must," to improve readability. In addition, we propose to remove the term "aides" from the third sentence of redesignated paragraph (c)(2)(iii) and replace that term with "assistants." We propose the term "assistant" as this term more accurately reflects this staff role in Head Start Preschool classrooms and aligns with other requirements for preschool classrooms to have at least a teacher and teacher assistant in each classroom.

Fourth, we propose to remove existing paragraphs (c)(2)(iii) and (iv), which describe the two-part phase in for the outdated 100-percent service duration requirement. The 100-percent service duration requirement[195] was effectively eliminated when the Secretary lowered the Head Start center-based service duration requirement from 100 percent to 45 percent in a Federal Register notice, 85 FR 5332.

Fifth, we propose to redesignate existing paragraph (c)(2)(v) as new paragraph (iv). We propose to revise the redesignated paragraph (iv) by adding "Special Provision for Alignment with Local Education Agency" as a subheading to make this section easier for the public to read. We also propose to update cross-references to existing paragraphs by replacing the phrase

[195] This requirement would have required all Head Start programs to provide at least 1,020 annual hours of service for all (100 percent) of their center-based preschool slots.

"paragraphs (c)(2)(iii) and (iv)" with "paragraph (c)(2)(i)" to align with the proposed revisions described previously.

Sixth, we propose to eliminate paragraph (c)(3) since the provisions in this paragraph are outdated; the Secretary already exercised authority to lower the Head Start center-based service duration requirements and the dates have passed.[196]

Lastly, we propose to remove paragraph (c)(4) because the November 7, 2016, date mentioned in that standard has passed and the standard is no longer applicable. We propose to redesignate existing paragraph (c)(5) "Exemption for Migrant or Seasonal Head Start programs" as the new paragraph (3) and redesignate existing paragraph (6) "Calendar planning" as the new paragraph (4).

Section 1302.24 describes locally designed program option variations, including waiver requirements. We propose to make updates in this section to align with the proposed updates for center-based service duration in §1302.21. Specifically, in paragraph (c)(1) we propose to remove the reference to "(c)(2)(iii) and (iv)" and replace it with "(c)(2)(i)." In paragraph (c)(3) we propose to remove the reference to "(c)(2)(iii) or (iv)" and update it with "(c)(2)(i)." In paragraph (c)(3) we also propose to remove the reference to "(c)(2)(i)" and update it with "(c)(2)(ii)." Finally, at the end of the sentence in paragraph (c)(3), we propose to remove the reference to "(c)(2)(ii)" and update it with "(c)(2)(iii)." In paragraph (c)(5) we propose to remove the reference to "(c)(2)(iii) and (iv)" and replace it with "(c)(2)(i)." Finally, we propose to remove paragraph (d) "Transition from previously approved program options" because the November 7, 2016, date mentioned in that standard has passed and the standard is no longer applicable.

[196] https://www.federalregister.gov/documents/2020/01/30/2020-00635/secretarial-determination-to-lower-head-start-center-based-service-duration-requirements; https://www.federalregister.gov/documents/2018/01/19/2018-00897/secretarial-determination-to-lower-head-start-center-based-service-duration-requirement

Ratios in Family Child Care Settings (§1302.23)

Family child care is an important component of a robust state mixed delivery early care and education system that supports flexibility and choice for parents. Families may prefer a home-based option for various reasons, including meeting their cultural or scheduling needs, offering a smaller family like setting, or enabling younger and older siblings to be served in the same location. For families who opt for a home-based program for their children, Head Start services provided within a family child care option can help to ensure services are high-quality and include supports such as professional development and technical assistance to home-based providers. Section 1302.23(b) lays out the provider to child ratio and group size requirements for programs that operate a family child care option with enrolled Head Start children. Paragraph (b) requires a grant recipient that operates this option to maintain a group size of no more than six children in mixed age groupings with no more than two of those children under age 24 months with one family child care provider. And a provider may have no more than four children in a grouping of children under age 36 months with no more than two of those children under age 18 months.

We believe that these standards for the family child care option demonstrate a commitment to quality; however, we recognize that the wording of the existing standards has led to confusion among grant recipients, particularly in understanding the difference between the standards for groupings that include older children and those that serve only infants and toddlers. It was our intent during the initial drafting of the standards that an acceptable grouping of infants and toddlers should be smaller than a mixed age grouping of children that includes preschool or older children. However, we received feedback from the field that the current standards are unclear.

Based on this input, we propose to make clarifying revisions to the current standard. Specifically, §1302.23(b)(2) as written establishes the maximum group size of six children with no more than two children under the age of 24 months of age with one provider but does not

reference the age makeup allowances for the rest of the group. The language at §1302.23(b)(3) references an acceptable ratio and group size of one provider with up to four children younger than age 36 months with no more than two of the four children under 18 months of age. Taken together the two standards §1302.23(b)(2) and (3) are not sufficiently distinct. Therefore, we propose to amend §1302.23(b)(2) to clarify that the maximum group size with one provider and six children, with no more than two under 24 months of age, refers to a mixed age grouping that includes preschool children (e.g., children over the age of 36 months). Specifically, we propose to add the header "Mixed Age with Preschoolers" to paragraph §1302.23(b)(2) and add the following language to the first sentence after the phrase "family child care provider": "with a mixed-age group of children that includes children over 36 months of age." Similarly, we propose to clarify §1302.23(b)(3) by adding the header "Infants and Toddlers Only", and deleting "One family child care provider may care for up to four children younger than 36 months of age with a maximum group size of four children" and replacing it with "When there is one family child care provider with a group of children that are all under 36 months of age, the maximum group size is four children."

ACF believes these fixes will not alter the substance of the regulation but will provide much needed clarity to Head Start programs with a family child care option while acknowledging the importance of maintaining ratios and group sizes that facilitate high-quality interactions and support children's safety and development.

In making these clarifying revisions, we noted that the standards in §1302.23(b)(2) allow for an increased group size when both a family child care provider and an assistant provider are present. However, the role of "family child care assistant provider" is not defined and is not addressed in the staff qualifications and competency requirements outlined in §1302.91(e)(5) for child and family services staff.

We believe that all adults who provide direct services to children regardless of setting should have appropriate, training, knowledge, and experience that will enable them to support

children's development through effective teaching practices and nurturing adult-child interactions. As a model for high quality early childhood supports and services, Head Start programs must ensure that providers have the necessary skills to ensure quality programming that will lead to positive outcomes for children and families. Therefore, we propose to amend the second sentence of §1302.23(b)(2) by removing the phrase "When there is a provider and an assistant provider" and replacing it with the phrase "When there are two providers." We believe this change will help ensure that large mixed-age groups (of up to twelve children) in family child care settings are supported by qualified family child care providers. In addition, for consistency and clarity, we propose to strike the phrase "and assistant providers" from the final sentence of §1302.23(b)(4) to emphasize that programs must ensure any staff who may have primary responsibility for children have the necessary training and experience to ensure quality services are not interrupted.

We invite comment on the potential impact of removing these two references to "assistant provider" in the family child care option and the requirement that all family child care providers meet the qualification requirements. We seek comment specifically from family child care programs that currently employ assistant providers. ACF also seeks public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Safety Practices (§1302.47)

Section 1302.47 establishes expectations for Head Start programs to ensure basic health and safety measures are taken for the protection of all children. Here, we propose changes to §1302.47(b), which requires programs to implement a system of management, training, and oversight to ensure safe practices in a list of areas in order to ensure child safety. In the years of implementing these requirements since the 2016 revision of the HSPPS, grant recipients and other interested parties have raised questions about these requirements and to whom they apply.

Given how critical child safety is in Head Start programs, it is imperative that we are as clear as possible and that our requirements reflect current best practices and terminology. In this section, we propose to clarify expected safety practices related to child health, mental health, and safety incidents. More specifically, the proposed requirements specify that any adult working in Head Start is responsible for safety practices and more precisely define safety practices by including the existing minimum Federal standard for abuse and neglect, clarifying that children should be supervised at all times, and drawing attention to the relevant paragraphs of the Standards of Conduct.

We propose to remove from §1302.47(b)(5) the phrase "staff and consultants" and replace it with "staff, consultants, contractors, and volunteers." This revision is intended to clarify that Head Start contractors and volunteers, in addition to staff and consultants, should be aware of and are expected to follow safety practices. The proposed change will clarify that all individuals working in Head Start must be aware of and responsible for child safety practices.

Section 1302.47(b)(5)(i) describes the safety practice of reporting suspected or known child abuse and neglect. We propose to add the phrase "as defined by the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 note)." The proposed change will clarify the definition of child abuse and neglect that is aligned with existing Federal statute, CAPTA, which states that "the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation (including sexual abuse as determined under section 111), or an act or failure to act which presents an imminent risk of serious harm." The Federal definition is a minimum standard and programs must also comply with State, local, and Tribal laws, which may have additional stipulations related to defining child abuse and neglect and other requirements for mandated reporting. If there are discrepancies between Federal and State, local, and Tribal laws, programs should comply with the more stringent regulation.

In §1302.47(b)(5)(iii), appropriate supervision of children is described as a safety practice. We propose to remove the phrase "indoor and outdoor." This proposed change clarifies that appropriate supervision of children is expected at all times and aligns with Caring for Our Children guidelines.[197]

Next, in §1302.47(b)(5)(v), the standards of conduct in §1302.90(c) are referenced as a safety practice. We propose to add the designation "(ii)" to the citation to clarify that §1302.47(b)(5)(v) references the specific standards of conduct that are related to staff behavior that could be reasonably suspected to negatively impact children, which are described in §1302.90(c)(ii). This addition would also reduce redundancies since supervision and reporting of suspected or known child abuse and neglect are listed as stand-alone safety practices as well as embedded in subparagraphs of the broader standards of conduct. Further discussion of child safety, which is of the utmost importance to Head Start programs, can be found in the sections of this preamble titled *Standards of Conduct* and *Staff Training to Support Child Safety*.

Lastly, we propose to add a clause to the end of §1302.47(b)(1)(ii), "including lead consistent with §1302.48", to align with the changes discussed in the following section of this preamble.

ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Preventing and Addressing Lead Exposure (§1302.48)

In this section, we propose new requirements on preventing and addressing lead exposure through water and lead-based paint in Head Start facilities. Protecting children from exposure to

[197] Caring for our Children. (2022). *Chapter 2.2 Supervision and Discipline.* National Resource Center for Health and Safety in Child Care and Early Education, Department of Health and Human Services. Available online at https://nrckids.org/cfoc/database/2.2.0.1

lead is important to promote lifelong good health, as there is no safe level of lead, especially for the ages of children Head Start serves. Even low levels of lead in blood have been shown to affect learning, ability to pay attention, and academic achievement.[198] These requirements together will help prevent and address lead exposure for children in settings used to provide Head Start program services by ensuring programs test for and remediate lead hazards on a regular basis. Specifically, we propose to add a new section §1302.48 to Subpart D Health and Mental Health Program Services that includes four paragraphs: paragraph (a) contains proposed requirements to prevent and address lead exposure through water, paragraph (b) contains proposed requirements to prevent and address lead exposure through paint, paragraph (c) contains proposed requirements to ensure public notification of test results and remediation actions as an outcome of paragraphs (a) and (b), and paragraph (d) contains a requirement that, should applicable State or local laws or regulations have more stringent requirements for lead testing or remediation, programs should comply with the more stringent requirements.

Lead in Water

Paragraph (a) of §1302.48 introduces new proposed requirements to address lead in water from water fixtures used for human consumption (see proposed definition for *water fixtures used for human consumption* in §1305.2). These include requirements on sampling and testing for lead in water from such fixtures, the frequency of testing, detectable lead level that requires remediation action, and requirements on point-of-use (POU) devices for reducing lead levels. This regulation is supportive of ongoing efforts across the Federal Government that is addressing lead in water in early care and education settings.[199]

As specified in paragraph (a), these requirements only apply to Head Start facilities constructed before 2014 and where lead service lines, plumbing, or fixtures may still exist. The year 2014 is selected as it aligns with the effective date of the Reduction of Lead in Drinking

[198] See https://www.cdc.gov/nceh/lead/prevention/health-effects.htm#:~:text=Lead%20exposure%20occurs%20when%20a,Slowed%20growth%20and%20development.
[199] Dear Colleague Letter on Funding to Test for and Address Lead in Water in Early Care and Education Settings. (2023). https://www.acf.hhs.gov/ecd/policy-guidance/dear-colleague-letter-funding-test-and-address-lead-water-early-care-and

Water Act which established that any pipe, pipe fitting, plumbing fitting, and fixture installed, manufactured, or imported for new construction is lead-free at a weighted lead content average of less than or equal to 0.25 percent[200] We also recognize some older facilities have all lead service lines, plumbing, and fixtures removed and replaced, and we do not intend to impose unnecessary burden on testing for lead in water for programs operating in such facilities. If a program operates in a facility constructed prior to 2014 and can demonstrate that all of these lead-based facility features no longer exist, then requirements in paragraph (a) do not apply.

We propose in paragraph (a)(1) that programs sample and test water for lead from such fixtures on an annual basis. This requirement is to ensure programs test for lead in water to catch and address lead contamination on a regular schedule. A sample test is a snapshot of the lead level taken at the time it was collected. Lead levels at a fixture or within a building have been shown to vary over time. Factors that contribute to this variability include water chemistry, hydraulics, lead plumbing sources, and water consumption patterns.[201] Regularly scheduled testing and routine maintenance are essential to reducing lead in drinking water.

Annual monitoring of lead levels in water can provide information to the program on potential changes in the lead levels, the ongoing effectiveness of remediation or treatment efforts, and detection of lead levels that need to be addressed. We recognize that how frequently programs should test is dependent on a variety of factors including the age of the facility and plumbing, characteristics of plumbing infrastructure, water quality, prior lead testing and results, and remediation efforts implemented.[202] To provide flexibility to test less frequently when reasonable, we propose that a program may choose to only test water from a proportion of fixtures each year with governing body approval. If a program decides to use this flexibility, they must still ensure that all water fixtures used for human consumption are tested at least once every 5 years. For example, a program will meet this requirement if they decide to test one-fifth

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[200] See https://www.epa.gov/sdwa/use-lead-free-pipes-fittings-fixtures-solder-and-flux-drinking-water.
[201] Triantafyllidou S, Burkhardt J, Tully J, et al. Variability and sampling of lead (Pb) in drinking water: Assessing potential human exposure depends on the sampling protocol. Environ Int. 2021;146:106259. https://doi.org/10.1016/j.envint.2020.106259.
[202] See https://www.cdc.gov/nceh/lead/prevention/sources/water.htm.

and a different set of their water fixtures each year since this would result in all water fixtures being tested within a 5-year timeframe. This flexibility is proposed to allow programs to weigh the variety of factors discussed earlier when determining the frequency of testing, while still ensuring all water fixtures are tested within at least a 5-year window.

We propose in paragraph (a)(2) that programs sample and test water fixtures used for human consumption following remediation actions to address detectable lead or following a change to the water profile (see proposed definition for *change in water profile* in §1305.2). This proposed requirement adds an additional layer of protection to the requirements in the prior clause on frequency of testing to ensure testing occurs on water fixtures following an event that has a high likelihood of impacting the lead level in water used for human consumption. Additionally, testing following remediation actions to address detectable lead supports programs in meeting the other proposed requirements in paragraphs (a)(5) through (7).

We propose in paragraph (a)(3) that all samples must be collected by an individual who is adequately trained to collect samples for lead testing. We recognize that most programs will need to train an individual to collect samples. Programs should leverage available trainings and technical assistance, including resources developed by the EPA 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities—A Training, Testing and Taking Action Approach (3Ts) program, to ensure the individual is adequately trained to collect samples. A trained individual should understand how to conduct a 2-step sampling procedure (i.e., a first draw sample and flush sample), ensure water remained stationary in the plumbing system of the facility for at least 8 but no more than 18 hours[203] prior to collecting the sample when appropriate, ensure samples are collected at correct volumes, and how to have the sample delivered to a laboratory.

[203] U.S. EPA 3Ts Program – Lead Sample Collection field Guide for Schools and Child Care Facilities; EPA 816-F-22-009, July 2022 at https://www.epa.gov/system/files/documents/2022-07/US%20EPA%203Ts%20Lead%20Sample%20Collection%20Field%20Guide%20For%20Schools%20and%20Child%20Care%20Facilities_508.pdf.

We propose in paragraph (a)(4) that all samples are analyzed for lead by a laboratory that is certified by EPA or the State, territory, or Tribe for testing lead in drinking water. The resource, "Contact Information for Certification Programs and Certified Laboratories for Drinking Water" is readily available for programs to find EPA certified laboratories by State: https://www.epa.gov/dwlabcert/contact-information-certification-programs-and-certified-laboratories-drinking-water. This requirement ensures the entity conducting the lead level test is following EPA Federal standards on testing to promote consistent and high-quality results.

We propose in clause paragraphs (a)(5) and (6) that, together, programs are required to restrict access to water fixtures used for human consumption within 24 hours of determining the water has a lead sample result at or above 5 parts per billion, provide notice in a timely manner to parents of children who may have consumed the water, and access to these water fixtures is not allowed for human consumption until lead sample results indicate the water fixture is below 5 parts per billion following remediation actions. Ways to restrict access can include closing the water supply valve to the fixture or placing a sign that the water cannot be consumed. The 24-hour timeframe for restricting access was selected to provide a reasonable timeframe for the program to take action to restrict access and prevent any exposure to the identified source of lead. The 5 parts per billion level requiring remediation action was selected for several reasons, including that it aligns with the Food and Drug Administration (FDA) lead level limit[204] in bottled water and the NSF/ANSI 53 certification for POU devices.[205] While not explicitly stated in the regulatory text, OHS encourages programs to notify parents of children who may have consumed water within 24 hours if feasible, and not later than 10 business days.

We understand that there is no safe lead level for children and therefore we propose in paragraph (a)(7) a requirement that programs still consider taking remediation actions to address water fixtures used for human consumption with detectable lead below 5 parts per billion with

[204] See https://www.fda.gov/consumers/consumer-updates/bottled-water-everywhere-keeping-it-safe.
[205] See https://www.nsf.org/news/drinking-water-treatment-units-stricter-requirements-lead-reduction-cert.

the goal to lower the lead level as low as practicable. This proposed requirement promotes a shared health goal of no detectable lead in water, while recognizing that there may be challenges achieving such a goal.

As part of these proposed requirements, programs have the flexibility in determining which remediation steps to take when addressing elevated lead levels in water, including the use of POU[206] devices on water fixtures, replacement of plumbing materials including pipes and fixtures, or a combination of these and other approaches. Programs can determine which remediation actions[207] to take based on various factors including the options and resources available to them.

We propose in paragraph (a)(8) that when programs decide to use POU devices to address lead in water, that programs must appropriately use and maintain POU devices that reduce lead levels as tested and certified by a third party according to NSF/ANSI Standards for lead reduction. Programs should follow manufacturer instructions to appropriately maintain POU devices, which would include replacing filters in a timely manner and ensuring replacement filters also comply with NSF/ANSI standards. Currently, NSF/ANSI Standard 53 for Drinking Water Treatment Units is the nationally recognized standard for evaluating and certifying POU devices for the reduction of lead in drinking water.[208]

EPA implements safe drinking water in partnership with states, Tribes, and water system operators. EPA regulates public water systems (PWSs) in accordance with the Safe Drinking Water Act. EPA's Lead and Copper Rule establishes requirements for PWSs to address lead in drinking water. Most Head Start facilities are served by PWSs. Even when water entering a facility meets all Federal and State public health standards for lead, internal building plumbing and fixtures may contribute to sources of lead in drinking water, particularly those installed prior

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[206] U.S. EPA Consumer Tool for Identifying POU Drinking Water Filters Certified to Reduce Lead at https://www.epa.gov/water-research/consumer-tool-identifying-pou-drinking-water-filters-certified-reduce-lead.

[207] For details specific to remediation, go to EPA 3Ts guidance at https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water#mod6.

[208] See https://www.nsf.org/consumer-resources/articles/standards-water-treatment-systems.

to the EPA 1986 Lead Ban.[209] Another significant source of lead localized to the Head Start building can occur through the main service line if it is a lead service line. This is why it is important that programs test for and remediate detectable lead in water within Head Start facilities. We recognize that a few programs may be using privately owned water systems. If this privately owned water system has at least 15 service connections or serves at least 25 people per day for 60 days of the year, it is considered a public water system and would be regulated by EPA.[210] If the facility does not meet this definition, then the system is not regulated by EPA. The owners of these systems are responsible for the safety of their water, and it is important Head Start programs in these rare circumstances take steps to understand the overall quality of their water and to also remediate exceedances of the 5 parts per billion lead level.

In implementing these requirements, ACF encourages programs to refer to the EPA voluntary program: 3Ts available at https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water. The purpose of this program is to assist states, schools, and child care facilities with implementing their own testing and remediation programs, developing a plan, conducting outreach, and taking action to address elevated levels of lead. Further, programs may be able to utilize funding available from the Bipartisan Infrastructure Act to cover some of the costs associated with lead testing and remediation.

Lead in Paint

Paragraph (b) introduces new requirements on preventing and addressing lead exposure in paint, with its associated exposures from lead in dust and lead in soil, in facilities constructed before 1978 and in facilities where lead-based paint may exist, including appropriate abatement actions, and the frequency of re-assessing lead-based paint hazards following abatement.

We propose to limit requirements associated with paragraph (b) to programs operating in facilities constructed prior to 1978 and where lead-based paint may still exist. The year 1978 is

[209] Use of Lead Free Pipes, Fittings, Fixtures, Solder, and Flux for Drinking Water – Final "Lead Free" Rule at https://www.epa.gov/sdwa/use-lead-free-pipes-fittings-fixtures-solder-and-flux-drinking-water.
[210] See https://www.epa.gov/dwreginfo/information-about-public-water-systems.

when the Federal Government banned the consumer use of lead-based paint, and this requirement targets the risk associated with facilities constructed prior to this date.[211] However, we recognize that there are facilities constructed prior to 1978 where lead paint has been completely removed (e.g., through major renovation or studs-out remodel), or that were constructed without lead paint. If a program operates in a facility constructed prior to 1978 and is able to demonstrate that lead-based paint no longer exists, then requirements in paragraph (b) do not apply. We propose in paragraph (b)(1) that programs work with a risk assessor who is certified by either the EPA or by a State, territory, or Tribe with an EPA-authorized lead-based paint certification program to inspect for lead-based paint and assess for lead-based paint hazards. Of rooms in Head Start facilities undergoing an evaluation, we assume approximately 43.8% would be identified as potentially having a lead-based paint hazard requiring abatement.[212] We understand this value may be an overestimate since it is based on a study covering pre-1978 child care centers, and we request public comment on whether there is a better assumption that can be applied regarding the percent of rooms in Head Start facilities that may require abatement.

We propose in paragraphs (b)(2) and (3) that programs immediately restrict access to identified lead hazards until abatement actions are completed by a lead abatement contractor certified by the EPA or State, territory, or Tribal agency (see proposed definition for *abatement* in section 1305.2). These provisions aim to minimize risk of lead exposure for children, while maintaining flexibility for programs to determine appropriate lead abatement strategies that best meet local program needs and available resources, in consultation with certified lead abatement experts and contractors.

Lead is naturally present in soil, but we recognize that deposits from leaded gasoline, exterior lead-based paint, and industrial sources may contribute to concerning levels of lead in

[211] See https://www.cdc.gov/nceh/lead/prevention/sources/paint.htm.
[212] https://www.hud.gov/sites/dfiles/HH/documents/AHHS_II_Lead_Findings_Report_Final_29oct21.pdf

the soil surrounding a program, especially in urban areas with historic use of leaded paint or leaded gasoline, and in rural areas where there was heavy pesticide use for agriculture.[213] Lead does not biodegrade over time and remains in soil for a long time.[214] Although there are no proposed requirements to explicitly address lead in soil, the requirements in this paragraph may result in hazardous levels of lead in soil to be identified and addressed through inspections of lead-paint hazards and associated abatement efforts. Additionally, we encourage programs to consider the risk of lead in their soil, and take any steps needed to ensure any bare soil where children play is non-toxic.

We propose in paragraph (b)(4) that following the conclusion of any abatement actions, those facilities that have lead-based paint or lead-based paint hazards as determined by the initial inspection and risk assessment, would have a certified risk assessor reassess for lead-based paint hazards at least once every 2 years unless two reassessments conducted two years apart identify no lead-based paint hazards, indicating the quality of the ongoing lead-based paint maintenance of the facility. Two years is selected as it aligns with the Lead Safe Housing Rule recommendation for reevaluation of HUD-assisted properties (24 CFR 35.1355(b)(4)). Further, allowing a program to no longer reassess every 2 years when two reassessments conducted 2 years apart identify no lead-based paint hazards is intended to remove unnecessary burden of reassessments when the risk of lead-based paint hazards to re-emerge is low. However, programs are encouraged to visually monitor for potential deterioration of lead abatement measures on an ongoing basis, including looking for any peeling or chipping paint. We request comment on whether we should require regular visual inspections.

We request comment on whether the dust-lead hazards should be specified or referenced to EPA established clearance levels and whether the reassessment process proposed following abatements of lead-based paint hazards should be modified such that a reassessment is required if

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[213] See https://www.epa.gov/sites/default/files/2020-10/documents/lead-in-soil-aug2020.pdf.
[214] Urban-Soil Pedogenesis Drives Contrasting Legacies of Lead from Paint and Gasoline in City Soil," Anna M. Wade, Daniel D. Richter, Christopher B. Craft, Nancy Y. Bao, Paul R. Heine, Mary C. Osteen and Kevin G. Tan; May 21, 2021, Environmental Science & Technology. DOI: https://doi.org/10.1021/acs.est.1c00546.

the EPA promulgates more stringent abatement requirements that take effect following the two reassessments envisioned by this proposal's regulatory text.

Notification

In paragraph (c), we propose requirements that programs provide notification of lead testing results and remediation actions to parents, caregivers, and staff to promote transparency and raise awareness. Additionally, notification of results and actions to parents, caregivers, and program staff can help build community trust and engagement and demonstrate a commitment to children's health and safety. While the proposed provision does not provide a specific timeframe for notification, EPA's 3T's program encourages beginning communication[215] before testing begins and ongoing throughout the testing process. We encourage programs to consider leveraging existing methods of communication already established throughout the program year. For example, if there is suspicion that a child may have been exposed to lead, programs should encourage parents to talk to their child's healthcare provider about completing the appropriate blood lead tests. We also encourage programs to consider a notification schedule and approach that is appropriate for their community. Notifications must be translated and interpreted for families with limited English proficiency, in alignment with §1302.90(d)(1) and consistent with Title VI of the Civil Rights Act of 1964. Programs also must provide effective communication to individuals with disabilities about lead testing results and remediation actions, consistent with the Rehabilitation Act of 1973.

Conflicting Requirements

As with many areas of the HSPPS, there may be situations in which the HSPPS differ somewhat from State or local laws or regulations. In those cases, it is standard practice that programs adhere to the more stringent requirement. In paragraph (d) we propose a requirement that specifically states that programs should comply with the more stringent requirement, should

[215] US EPA 3Ts communication templates can be found at https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water#mod1.

State or local laws or regulations differ from the requirements described in paragraphs (a) through (c). We note that we interpret this standard to apply to each specific aspect of these requirements. For example, if a State requires licensed programs to have a more stringent action level when lead is identified in water but a less stringent standard for testing frequency, a program should use the more stringent action level required by the State and the more stringent testing frequency required by the proposed standard in HSPPS.

We welcome all public comments on the proposed requirements to prevent and address lead exposure through water and paint (including associated dust and soil exposures). We are specifically interested in public comment on the issues programs have experienced with previously addressing harmful lead exposure in water or paint, whether the proposed flexibilities are helpful or if additional flexibility is needed, and the action level requiring remediation for lead in water, as well as any areas that are particularly unclear.

We did not propose any requirements to specifically target lead in soil, since we believe this will be captured through proposed requirements on lead-paint inspections and through programs determining when it is necessary to test lead in their soil (e.g., programs testing bare soil accessible for children to play in since they are in an urban area near older buildings that currently or previously contained lead paint). We were concerned that lead in soil testing and remediation requirements would cause too much undue burden and by not including them, we aim to ensure programs have flexibility in their approaches to determining and addressing lead in soil hazards.

Finally, ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Family Service Worker Family Assignments (§1302.52)

Since its inception in 1965, Head Start has been a leader in anti-poverty, two generation early childhood programming focused on school readiness, family well-being, and family and community engagement. Section 1302.52 outlines the requirements for family partnership services, the foundational and central process by which staff engage with each family of enrolled children. This section describes the required components of the family partnership process: the intake and family assessment procedures to identify family strengths and needs related to family engagement outcomes; what must occur as part of individualizing family partnership services; and the need to consider existing plans and community resources to support families in order to ensure that families can take full advantage of services for which they are eligible and promote coordination across service providers. This section also describes what is needed to individualize family partnership services and how staff must collaborate with families to identify needs, interests, and individualized family goals. Head Start staff who partner with families play a critical role in helping families achieve their goals and aspirations for themselves and for their children.

Family well-being is one of the greatest predictors of school readiness.[216] Many families of all backgrounds in the U.S. face various challenges, such as unemployment, poverty, high housing costs, food insecurity, community violence, limited education, and poor health. Each of these alone can cause family stress and negatively impact family well-being. When combined, these negative effects on family well-being and child outcomes can be even greater.[217] The Head Start workforce that supports families provides many of the comprehensive services that reflect

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[216] Chazan-Cohen, R., Raikes, H., Brooks-Gunn, J., Ayoub, C., Pan, B. A., Kisker, E. E., …Fuligni, A. S. (2009). Low-income children's school readiness: Parent contributions over the first five years. Early Education & Development, 20(6), 958–977. Duncan G. J. & Magnuson, K. A., (2005). Can family socioeconomic resources account for racial and ethnic test score gaps? The Future of Children, 15(1). Retrieved from http://www.jstor.org/stable/1602661 Fantuzzo, J., Leboeuf, W., Brumley, B., & Perlman, S. (2013). A population-based inquiry of homeless episode characteristics and early educational well-being. Children and Youth Services Review, 35(6), 966–972. Mistry, R. S., Benner, A. D., Biesanz, J. C., Clark, S. L., & Howes, C. (2010). Family and social risk, and parental investments during the early childhood years as predictors of low-income children's school readiness outcomes. Early Childhood Research Quarterly, 25(4), 432–449. Ryu, J. H., & Bartfeld, J. S. (2012). Household food insecurity during childhood and subsequent health status: The Early Childhood Longitudinal Study—Kindergarten Cohort. American Journal of Public Health, 102(11), e50–e55

[217] Brooks-Gunn, J., Duncan, G. J., & Maritato, N. (1999). Poor families, poor outcomes: The well-being of children and youth. In G. J. Duncan & J. BrooksGunn (Eds.), Consequences of growing up poor (pp. 1–17). New York: Russell Sage Foundation; Vernon-Feagans, L., & Cox, M. (2012). I. Poverty, rurality, parenting, and risk: An introduction. Monographs of the Society for Research in Child Development, 78(5), 1–23.

Head Start's focus not only on the health and development of young children, but the well-being and leadership of their families.

When Head Start staff that provide family services have high family assignments, which are sometimes referred to as caseloads, they may feel overwhelmed and experience burnout, which in turn negatively impacts the quality of family services. Data from Head Start's technical assistance trainings shows that high family assignments and being asked to take on additional responsibilities beyond the job description are often accompanied by expressions of job frustration and dissatisfaction among staff who work directly with families. Further, OHS regional offices have reported that when cost savings are needed, programs will first look to personnel budgets by decreasing family service positions. This can lead to larger family assignments for remaining staff and less stability in staffing for family support services in Head Start, which may decrease the quality of services. Many family services staff with higher family assignments share with OHS that they have too many family assignments to meaningfully and consistently address supports for family wellbeing, parenting, and family engagement around children's early learning and education. Though there is not much literature on the family engagement specialist caseload experience, research on home visiting demonstrates that stressors in caseload management relate to diminished engagement with participants that could negatively impact the participant experience.[218]

Research from related fields shows that high family assignments compromise workers' ability to provide effective services to families. High family assignments also exacerbate already high levels of staff burnout and turnover.[219] Further, program leaders describe family

[218] Alitz, P., Geary, S., Birriel, P., Sayi, T., Ramakrishnan, R., Balogun, O., . . . Marshall, J. (2018). Work-Related Stressors Among Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Home Visitors: A Qualitative Study. *Maternal and Child Health Journal*, *22*, 62-69.

[219] Boston Children's Hospital. (2012). Family connections. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start. Retrieved from https://eclkc.ohs.acf.hhs.gov/sites/default/files/pdf/introduction-to-family-connections.pdf; Child Welfare Information Gateway. (2016, July). Caseload and workload management. Retrieved from https://www.childwelfare.gov/pubPDFs/case_work_management.pdf; Howes, C., Phillips, D.A., & Whitebook, M. (1992). Thresholds of Quality: Implications for the Social Development of Children in Center-Based Child Care. Child Development, 63(2), 449-460.; Social Work Policy Institute. (2010, January). High caseloads: How do they impact delivery of health and human services? Retrieved from http://www.socialworkpolicy.org/wp-content/uploads/2010/02/ r2p-cw-caseload-swpi-1-10.pdf

assignments as a major challenge. In a 2019 National TTA study of Head Start programs, Family and Community Services Managers, who oversee family services staff, cited their top two program challenges as 1) workload/family assignments being too large for staff and 2) families faced so many challenges that staff were not able to support families as well as they would like.[220]

ACF has sought various ways to support the family services workforce. For example, ACF established the National Center on Parent, Family and Community Engagement (NC PFCE) in 2010. The NC PFCE developed research-based resources, including a set of family services competencies which articulate best practices in family assignment limits. NC PFCE also conducted hundreds of trainings to assist Head Start programs with implementing these best practices. Additionally, to improve workloads for staff working directly with families, in the 2016 revisions to the HSPPS, ACF added §1302.52(c)(4) "Assign staff and resources based on the urgency and intensity of identified family needs and goals." Despite these efforts, we have seen little change to family assignment ratios across time, as evidenced by our own Head Start Program Information Report (PIR) data.

According to the PIR for program year 2021, 50 percent of programs had one staff partnering with 40 or more families. Of those programs, 21 percent had family assignments of one staff to 40-50 families; 16 percent had family assignments of one staff to 50-60 families; seven percent had family assignments of one staff to 60-75 families; and six percent of programs had family assignments of one staff to 75-200+ families. Based on these data, there is a wide range of family assignments across our programs, therefore we feel it is necessary to establish a standardized family assignment requirement.

Section 648A(c)(2) of the Act provides ACF with the authority to review and if necessary, revise, requirements related to family assignments, as suggested by best practice, to

[220] Administration for Children and Families, U.S. Department of Health and Human Services. (2022). *Survey of Head Start Grantees on Training and Technical Assistance*. [Unpublished data analyses]

improve the quality and effectiveness of staff providing services to families. We believe the research in this field coupled with our own PIR data and feedback we received from programs indicates a strong need for clearer standards for management of family assignments. We propose an additional provision in §1302.52 Family Partnership Services, (d) *Approaches to Family Services.*

We propose to add this section to address the long-standing problem of overly high family assignments for many family services staff. We recommend this change to promote consistent, reasonable family assignments for staff who work directly with families in the family partnership process. We believe this change will improve the quality of support that family support services provide and improve their own well-being as well.

For these reasons, we propose to insert a new section (d) *Approaches to family services* to 1302.52 Family Partnerships. In (d)(1), we propose minor edits for alignment with the new section and to emphasize the family-centered nature of the process by including language that specifies both family interests and family needs. Next, we propose a new (d)(2) that requires programs to ensure the planned number of families assigned to work with individual family services staff is no greater than 40, unless a program can demonstrate higher family assignments provide high quality family and community engagement services and maintain reasonable staff workload as described in (d)(3).

There are no research-based assignment ratios to adopt from other fields that are aligned enough in job description with this unique early childhood workforce. Therefore, we propose a maximum of 40 families per family services staff member, considering the large variation in families' interests, needs, goals and the variation of families' engagement with their programs.

We include an implementation date of two years from an estimated date of a final rule because we recognize the degree of change required by programs will vary depending on programs' current family assignment systems and procedures. This proposal could mean

substantial change for some programs and little to no change for others. In fact, 2021 PIR data reveals that approximately 50 percent of programs have staff family assignments that are 40 families or less. It should be noted that the proposed maximum is intended for programs with higher than 40 assignments per staff to lower their family assignment ratios. The proposed maximum is not meant to bring programs with lower assignment numbers up to 40. Programs who have already established best practices at lower staff: family ratios are encouraged to continue these responsive family services.

In addition to the proposed family assignment maximum, we propose to include language in a new (d)(3) to allow for program designs that best meet the needs of the program and community, based on community and family assessment data. We include this language recognizing that programs may need the flexibility to design family and community engagement services in ways that are preventative and responsive to emerging family and community needs.

Finally, we also propose a requirement for effective and meaningful employee engagement practices that include opportunities for staff to discuss and address workload-related issues. We propose this language to promote such practices to address the negative impact of family services workload factors, such as the stress of unofficial job duties and lack of clear job expectations can have on staff wellness, job satisfaction, and providing high-quality services.

ACF seeks input from the public on the benefits and challenges of implementing a family assignment cap of 40 families per family service worker, using a phased in approach over a period of 3 years from the publication date of a final rule. To better understand programs' specific experiences, ACF is also seeking programs' feedback on the benefits and challenges of implementing family assignments between 30 and 40 per individual staff and the same for implementing family assignments between 40 and 50 per individual staff. Finally, ACF also seeks public comment on how the proposed requirements in this section may differentially

impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Participation in Quality Rating and Improvement Systems (§1302.53)

Section 1302.53 establishes the requirements for Head Start programs to participate in State quality rating and improvement systems (QRIS). With the exception of American Indian and Alaska Native programs, each Head Start program must currently participate in its State QRIS if three conditions are met – its State or local QRIS accepts Head Start monitoring data to document quality indicators included in the State's tiered system; participation would not impact a program's ability to comply with the HSPPS; and the program has not provided ACF with a compelling reason not to comply with this requirement.

A QRIS is a systemic approach to assess, improve, and communicate the level of quality in early and school-age care and education programs within a State or locality. These accountability systems unify standards, evaluate and report quality to the public, and provide supports and incentives for improvement.[221] These systems award quality ratings to programs that meet a set of criteria as defined by the QRIS. Criteria Head Start programs must meet to enter the QRIS and maintain participation vary greatly by State.

QRIS can be an important mechanism for coordinating and aligning various programs into a broader statewide system of early care and education. Participation by Head Start and other programs into a QRIS can provide continuity, alignment of standards and a common means by which families can understand and make decisions among which program options are best for their family. As states continue to move in the direction of more streamlined, coordinated early care and education systems that are easier for families to navigate, Head

[221] Bipartisan Policy Center. (2018). *Creating an integrated efficient early care and education system to support children and families: A state-by-state analysis*. https://bipartisanpolicy.org/report/ece-administration-state-by-state/; Warner-Richter M. (2016, February 9). *Promoting quality improvement in early care and education*. Child Trends. https://www.childtrends.org/promoting-quality-improvement-in-early-care-and-education; Tout, K., Friese, S., Starr, R. & Hirilall, A. (2018). Understanding and Measuring Program Engagement in Quality Rating and Improvement Systems. OPRE Research Brief #2018-84. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

Start participation in QRIS can serve to ensure that Head Start programs are part of these statewide coordination efforts and that eligible families consider Head Start alongside other options in the QRIS.

Currently, 41 states have statewide QRIS (Florida has three local QRIS). Of these 41 states with statewide QRIS, 27 states require at least some types of programs (generally licensed programs and programs receiving child care subsidy funds) to participate in the system. In 15 States, Head Start programs are required by the State to participate in the QRIS, either as a function of licensing or receiving subsidy funds, or through reciprocity agreements or alternate pathways that bring Head Start programs into the system automatically.[222] Fourteen states have fully voluntary systems in which programs are not required to participate regardless of licensure status or receipt of child care subsidies.

State QRIS are structured very differently across states, and participation may be required for all types or some types of programs or may be voluntary for all programs. In states with voluntary QRIS, participation rates average 40 percent for licensed center-based programs. While at least some Head Start programs participate in QRIS even within voluntary systems, states may require a broad range of documentation for entry into the QRIS, as well as additional assessments, monitoring visits, or reviews. These requirements, along with periodic revisions to aspects of a State's QRIS[223] may impact a Head Start program's ability to participate in the system.

We recognize the importance of quality improvements and encourage Head Start programs to continue their participation in these important quality improvement efforts. Many Head Start grant recipients receive funds from Head Start as well as other early childhood funding streams. Participating in QRIS and other State and local quality initiatives can help drive quality across a program. At the same time, ACF wants to ensure that QRIS

[222] Build Initiative & Child Trends. (2021). A Catalog and Comparison of Quality Improvement Systems [Data System]. Retrieved from https://qualitycompendium.org/ on September 29, 2022.
[223] ibid

requirements are not duplicative of Head Start requirements, thus requiring a program to undergo the same process multiple times. Nor does ACF want Head Start programs to draw resources away from other early childhood programs that do not have access to resources provided through ACF and are in greater need of support from State and local resources that support quality. Based on findings from an analysis of current State QRIS systems and their evolutions, and input from ACF regional staff and Head Start Collaboration Offices who support coordination among Head Start programs and State systems, we propose to revise the language at §1302.53(b)(2) to clarify that Head Start programs should participate in QRIS to the extent practicable if the State system has strategies in place to support their participation. These proposed changes recognize that QRIS systems differ significantly across states and continue to evolve rapidly. Substantive changes to QRIS may require additional burden on programs in the form of revised processes and potentially additional or different documentation, as well as possible duplication of monitoring and assessment processes. These proposed changes are intended to allow Head Start programs to focus their resources on activities that are most likely to support quality services for children and families. For programs in states where the QRIS does not have strategies in place to support Head Start participation, does not accept existing documentation for participation, or that would in any way impact a program's ability to comply with the HSPPS, staff effort and program resources may be better directed at other activities. However, ACF notes that Head Start programs currently participating in their State QRIS are encouraged to continue to do so.

We propose further to eliminate the three conditions for participation in the State QRIS as written in the current standards at §1302.53(b)(2)(i) – (iii), as we believe these conditions unnecessarily require the Head Start grant recipient to document individual circumstances that support or impede participation in the system. By eliminating these specific conditions and substituting language that emphasizes the State strategies for Head Start participation in general, we believe Head Start grant recipients, along with Head Start Collaboration Offices

and OHS regional staff, can collectively encourage the evolution of State systems like QRIS to better receive Head Start programs.

In paragraph (b)(2), we propose to replace "must" with "should" in the overarching requirement. We propose to add "to the extent practicable, if a State or local QRIS has a strategy to support Head Start participation without requiring programs to duplicate existing documentation from Office of Head Start oversight." We believe this change will clarify for programs that there is an expectation from ACF that they participate in the QRIS if the system has a strategy that will support Head Start participation. Strategies may include reciprocal agreements or alternate pathways, as well as mandatory requirements for Head Start programs to participate. Some Head Start programs may be required to participate if they receive other funds or are licensed as a child care program. The change further emphasizes that ACF does not expect programs to duplicate documentation efforts that are required for Head Start oversight purposes in order to participate in the QRIS. We also propose to delete paragraphs (b)(2)(i) through (iii) in this section in their entirety which delineate the current conditions for QRIS participation.

The current standards include the State's acceptance of Head Start monitoring data, which continues to be a barrier to participation in some states. We believe that eliminating these criteria will lessen the documentation required on individual circumstances for participating or not participating in a QRIS, but rather would help programs examine their State's QRIS as a State system and better understand Head Start's overall role in that broader system. ACF still strongly supports the central requirement that programs should participate in a QRIS to the extent practicable as this standard provides programs with an important lever for participating in a State's high-quality mixed delivery ECE system and in accessing State quality improvement efforts where participation pathways and strategies exist. Participation in the QRIS also serves as an important mechanism in some states to assist families in recognizing quality program options that can include Head Start programs. Head Start

programs must maintain a high level of quality, and it is important that parents understand the services offered in Head Start.

Services to Enrolled Pregnant Women and People (§1302.80; §1302.82)

Section 1302.80 describes the services programs must provide to enrolled pregnant women and people. It requires programs to: assess whether enrolled pregnant women and people have access to an ongoing source of health care and health insurance, and if not, to facilitate their access to such care and insurance; facilitate access to comprehensive services; and schedule a visit with each newborn and their mother or birthing parent within two weeks after the newborn's birth, to identify family needs and offer support (referred to as the "newborn visit").

Women and people receiving Head Start services face social determinants of health that may impact their prenatal and postpartum outcomes. Early postpartum intervention is key to preventing and addressing maternal health-related challenges.[224] Postpartum support and intervention can identify and address issues such as postpartum depression, intimate partner violence, and physical health issues that occur during pregnancy. The period after childbirth is critical to assess the child care, health, and mental health needs of mothers and families. In fact, over half of maternal deaths occur between 1 week and 1 year after birth, most of which are preventable.[225] Early Head Start programs are critical in addressing the maternal mortality crisis and other maternal-health related challenges as they are positioned to provide postpartum support by ensuring the required newborn visit provides intentional opportunities for collaboration, intervention, and support.

[224] Firoz, T., McCaw-Binns, A., Filippi, V., Magee, L.A., Costa, M.L., Cecatti, J.G., Barreix, M., Adanu, R., Chou, D., & Say, L. (2018), A framework for healthcare interventions to address maternal morbidity. Int J Gynecol Obstet, 141: 61-68. https://doi.org/10.1002/ijgo.12469.

[225] Trost SL, Beauregard J, Njie F, et al. Pregnancy-Related Deaths: Data from Maternal Mortality Review Committees in 36 US States, 2017-2019. Atlanta, GA: Centers for Disease Control and Prevention, US Department of Health and Human Services; 2022.; Petersen EE, Davis NL, Goodman D, et al. Vital Signs: Pregnancy-Related Deaths, United States, 2011–2015, and Strategies for Prevention, 13 States, 2013–2017. MMWR Morb Mortal Wkly Rep 2019;68:423–429. DOI: http://dx.doi.org/10.15585/mmwr.mm6818e1.

Paragraph (d) in this section focuses on the required newborn visit. We propose to revise paragraph (d) by adding a new sentence to the end of the paragraph that requires the newborn visit to include a discussion of postpartum mental and physical health, infant health, and support for basic needs. We believe this language will clarify for programs what areas – at a minimum – should be included as part of the newborn visit. This requirement is intended to reflect the minimum requirements for the newborn visit. Programs may choose to include other areas of assessment or support based on the needs of both parent and newborn. The proposed requirement is intended to clarify requirements and provide consistency in topics covered during the newborn visit.

Section 645A(a) of the Act authorizes funding for Early Head Start programs to provide services that encompass the full range of the family's needs, from pregnancy through a child's third birthday, to promote the child's development and move the parents toward self-sufficiency. Early Head Start programs are not required to enroll expectant families, but many choose to do so. If an Early Head Start program chooses to enroll pregnant women and people, they must identify the total number of pregnant women and people they anticipate serving each program year in the grant application, provide high-quality prenatal and postnatal education, and help them access comprehensive prenatal services.

However, currently, Early Head Start programs are not explicitly required in regulation to track and record interactions with pregnant women and people. Moreover, programs are not currently required to detail and record the services they provide enrolled pregnant women and people as well as the services received from community partners or providers. Although programs are not required to do so, generally, programs do track and record this information. However, there is significant variation in format and level of detail across programs, which often makes it difficult to verify actual enrollment numbers and challenging for OHS to understand the services provided to pregnant women and people.

Early Head Start programs with identified slots to serve pregnant women and people are responsible for creating a system of care that supports the well-being of mothers, parents, and newborns. This includes tracking and documenting services a pregnant woman or person receives, including those received via referrals to community partners, to the extent practical, in order to identify how to best be responsive to the needs of the enrolled pregnant woman and people. Information captured about individual services provided to pregnant women and people is essential because it can be used to validate the use of Federal funds to serve pregnant women and people and to inform ongoing conversations program staff have with a pregnant woman or person about their needs before and after the baby is born.[226]

As such, we also propose to amend §1302.80 by adding a new paragraph (e). The goal of new paragraph (e) is to enhance program accountability by requiring programs to track and record information on service delivery for enrolled pregnant women and people. We believe this proposed standard will enhance program accountability by requiring programs to verify the number of pregnant women and people they serve along with details on the services received.

Head Start PIR data from FY 2022[227] reveals that most pregnant parents that enroll in Early Head Start services do so during their second and third trimesters. Early prenatal care is key for optimal outcomes for pregnant women and newborns.[228] We believe all Head Start programs are in unique positions to support pregnant women and people, including staff working in programs, by identifying, understanding, and addressing barriers to healthy pregnancies. This begins by understanding the impact systemic racism has on the maternal health outcomes of women of color,[229] – particularly African American or Black and AIAN women – as many women of color and their children are served in Head Start programs.

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[226] See ACF-IM-HS-22-02, Documenting Services to Enrolled Pregnant Women, https://eclkc.ohs.acf.hhs.gov/policy/im/acf-im-hs-22-02
[227] Source: Head Start 2022 PIR.
[228] Novoa, C. (2020). Ensuring Healthy Births Through Prenatal Support Innovations From Three Models. https://www.americanprogress.org/article/ensuring-healthy-births-prenatal-support/
[229] Bornstein, E., Eliner, Y., Chervenak, F. A., & Grünebaum, A. (2020). Racial Disparity in Pregnancy Risks and Complications in the US: Temporal Changes during 2007-2018. *Journal of clinical medicine*, 9(5), 1414.

According to the Office of Minority Health and Health Equity, pregnancy-related death impacts Black women at higher rates than White women.[230] Data from 2021 shows that the maternal mortality rate for non-Hispanic Black women was over twice the rate for non-Hispanic White women.[231] There are also disparities in maternal mortality for Native Hawaiian or Other Pacific Islander (NHOPI) and AIAN populations.[232] Inadequate access to quality health care, systemic racism, and disparities in social determinants of health may contribute to disparities in healthy pregnancy and birth outcomes for many pregnant women and people from racial and ethnic minority groups.[233]

Newborn babies are also impacted by systemic racism. Infant mortality data show that African American or Black, NHOPI, and AIAN babies are dying at higher rates in the U.S. than other racial or ethnic groups.[234] Head Start programs are positioned to address racial gaps in maternal mortality, morbidity, and infant deaths by customizing services for the pregnant women and people they serve based on the needs of their community.

To help programs better understand and address barriers a pregnant woman or person may have to a healthy pregnancy and childbirth, we further propose to amend §1302.80 by adding a new paragraph (f). The new paragraph requires programs to identify and reduce barriers to healthy pregnancy outcomes for enrolled pregnant women and people based on the information and data collected on this population. The goal is also to help reduce racial inequities in maternal and infant morbidity[235] and mortality. This proposed paragraph states, "The program must provide services that help reduce barriers to healthy maternal and birthing outcomes for each family, including services that address disparities across racial and ethnic groups, and use data on enrolled pregnant women to inform program services." We believe this

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[230] Office of Minority Health & Health Equity (OMHHE). April 2022. https://www.cdc.gov/healthequity/features/maternal-mortality/index.html.
[231] Hoyert DL. Maternal mortality rates in the United States, 2021. NCHS Health E-Stats. 2023. DOI: https://dx.doi.org/10.15620/cdc:1246
[232] U.S. Department of Health and Human Services, Centers of Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Reproductive Health. Pregnancy Mortality Surveillance System: Trends in pregnancy-related mortality ratio by race/ethnicity: 2017-2019. https://www.cdc.gov/reproductivehealth/maternal-mortality/pregnancy-mortality-surveillance-system.htm
[233] ibid
[234] Ely DM, Driscoll AK. Infant mortality in the United States, 2019: Data from the period linked birth/infant death file. National Vital Statistics Reports; vol 70 no 14. Hyattsville, MD: National Center for Health Statistics. 2021. DOI: https://dx.doi.org/10.15620/cdc:111053.
[235] Maternal morbidity describes any short- or long-term health problems that result from being pregnant and giving birth. National Institute of Child Health and Human Development. (June 2021). https://www.nichd.nih.gov/health/topics/maternal-morbidity-mortality.

new paragraph will ensure programs customize prenatal and postnatal services to help improve outcomes and contribute to the reduction of racial inequities in maternal and infant morbidity and mortality. Programs should use data and information collected from referrals and general case management to inform and individualize services. Documentation of services should include a summary of interactions with the pregnant woman or person through case notes, strengths and needs assessment, referrals and the results of the referrals to community partners, and information from the family partnership agreement and any relevant community partnership agreements. The program should examine this information and data for any barriers that prevent pregnant women and people from having healthy pregnancies and birth outcomes. Plans may include approaches developed with the Health Services Advisory Committee and community partners to help address or reduce identified barriers.

Next, we discuss proposed revisions to §1302.82. In general, this section highlights that, as with all other families, enrolled pregnant women and people should receive the family partnership services described in §1302.52 Family partnership services. However, §1302.82 clarifies that these services should be explicitly directed toward their prenatal and postpartum care needs. This section also describes requirements to support the enrollment of the newborn into a program as appropriate.

Programs are not currently required to use a curriculum in the provision of services to pregnant women and people, nor are there any requirements for the type of curriculum if one is used. However, if a curriculum is used, it should be responsive to the needs of the population served. As such, programs opting to use a maternal health curriculum should consider the needs of the pregnant women and people in their program. If used, the curriculum should provide information that increases the knowledge of pregnant women or people and their support system. Those who attend maternal health courses with their partners are more likely to attend

postpartum visits and had higher positive maternal health behaviors.[236] It is imperative that any selected curriculum be responsive to the cultures and context of the communities served.

Therefore, we propose to revise paragraph (a) in §1302.82 by adding language to clarify that if a program chooses to use a curriculum with pregnant women and people, they should select a curriculum that focuses on maternal and child health. We believe this will improve maternal and child outcomes by helping to reduce prematurity and low birth weight, as well as support increased initiation and continuation of breastfeeding and other healthy infant feeding.

ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Standards of Conduct (§1302.90)

Section 1302.90(c) establishes the standards of conduct for all staff, consultants, contractors, and volunteers, which are part of a program's personnel policies. Given how critical child safety is in Head Start programs, we propose revisions to these requirements to ensure we are as clear as possible and that our requirements reflect current best practices and more precise terminology.

The proposed revisions to this section would align definitions related to child maltreatment with other Federal resources. We propose this alignment to facilitate understanding of staff responsibilities related to child health, mental health, and safety incidents. Additionally, the proposed revisions would underscore typical responsibilities of mandated reporters[237] of child abuse and neglect, which applies to all Head Start staff. These

[236] Britta C. Mullany, S Becker, MJ Hindin, The impact of including husbands in antenatal health education services on maternal health practices in urban Nepal: results from a randomized controlled trial, *Health Education Research*, 22(2), April 2007, Pages 166–176.

[237] "Mandated" reporter or reporting refers to statutory requirements related to mandatory reporting of suspected instances of child abuse and neglect by individuals as applicable under State law and in accordance with the Federal Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. 5106a(b)(2)(B)(i).

responsibilities include reporting when an individual "suspects or has reason to believe that a child has been abused or neglected," or when a reporter has knowledge of or observes "conditions that would reasonably result in harm to the child."[238] The proposed changes further clarify that reports must include suspected or known incidents perpetrated by Head Start staff before they have been verified.

First, we propose to redefine and reorganize provisions related to the prohibition of child maltreatment or endangerment in §1302.90(c)(1)(ii). First, in §1302.90(c)(1)(ii) we propose to remove the phrase "do not maltreat or endanger the health or safety of children, including at a minimum, that staff must not" and replace it with "do not engage in behaviors that would be reasonably suspected to negatively impact the health, mental health, or safety of children, including at a minimum." We believe the proposed revisions set a higher yet reasonable standard for staff conduct to include prohibition of behaviors that have the potential to negatively impact children. We believe removing the word "maltreat" from this paragraph and instead providing clearer definitions and examples of maltreatment in the subsection that follows will provide greater clarification about expectations. The inclusion of children's mental health as a potential area of impact is proposed to underscore that a behavior does not have to cause physical harm to a child to be of notable concern for a child's well-being. This understanding is consistent with research and guidance in the field of child maltreatment.[239]

More specifically, under §1302.90(c)(1)(ii), we propose to remove paragraphs (A) through (I) in their entirety and to replace these with paragraphs (A) through (D), each of which specifies a category of potential child abuse or neglect including a definition and specific examples. First in new paragraph (A) we define corporal punishment or physically abusive behavior as the intentional use of physical force that results in, or has the potential to result in,

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[238] Child Welfare Information Gateway. (2019). *Mandatory reporters of child abuse and neglect.* Washington, D.C.: U.S. Department of Health and Human Services, Children's Bureau.

[239] Leeb R.T., Paulozzi L., Melanson C., Simon T., Arias I. (2008). Child *Maltreatment Surveillance: Uniform Definitions for Public Health and Recommended Data Elements, Version 1.0.* Atlanta (GA): Centers for Disease Control and Prevention, National Center for Injury Prevention and Control.

physical injury. Examples in the definition include, but are not limited to, hitting, kicking, shaking, biting, forcibly moving, restraining, force feeding, or dragging a child. Next in new paragraph (B) we define sexually abusive behavior as any completed or attempted sexual act, sexual contact, or exploitation. Examples in the definition include, but are not limited to, behaviors such as inappropriate touching, inappropriate filming, or exposing a child to other sexual activities. Next in new paragraph (C) we define emotionally harmful or abusive behavior as behaviors that harm a child's self-worth or emotional well-being or behaviors that are insensitive to the child's developmental needs. Examples in the definition include, but are not limited to, using isolation as discipline, exposing a child to public or private humiliation, or name calling, shaming, intimidating, or threatening a child. Finally, in new paragraph (D) we define neglectful behavior as the failure to meet a child's basic physical and emotional needs including access to food, education, medical care, appropriate supervision by an adequate caregiver, and safe physical and emotional environments. Examples in the definition include, but are not limited to, withholding food as punishment or refusing to change soiled diapers as punishment. These proposed categories, definitions, and examples of potential child maltreatment are adapted from the CDC resources, *Child Maltreatment Surveillance: Uniform Definitions for Public Health and Recommended Data Elements*[240] and an online *Fast Facts* review of child abuse and neglect prevention.[241] The CDC resources were established through extensive consultation with experts to recommend consistent terminology related to potential child maltreatment. By providing definitions, we intend to clarify that adults in Head Start programs may not engage in any behavior that may have potential to negatively impact children. The examples are intended to provide more concrete information for clarification but are not an exhaustive list. The proposed paragraphs (A) through (D) retain some examples from the current standards that have been of

[240] Leeb RT, Paulozzi L, Melanson C, Simon T, Arias I. Child Maltreatment Surveillance: Uniform Definitions for Public Health and Recommended Data Elements, Version 1.0. Atlanta (GA): Centers for Disease Control and Prevention, National Center for Injury Prevention and Control; 2008.

[241] Fortson B, Klevens J, Merrick M, Gilbert L, Alexander S. (2016). Preventing Child Abuse and Neglect: A Technical Package for Policy, Norm, and Programmatic Activities. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Available online at https://www.cdc.gov/violenceprevention/childabuseandneglect/fastfact.html

particular concern to early child care settings according to internal data. Namely, we retained behaviors related to corporal punishment, public or private humiliation, and feeding and toileting practices as punishment in the examples. Forcibly moving and restraining are included as examples because they are also harmful to children's well-being.

Furthermore, under §1302.90(c)(1), we propose to add a new paragraph (c)(1)(iii) that clarifies the requirement to ensure staff, consultants, contractors, and volunteers report reasonably suspected or known incidents of child abuse and neglect, as defined by the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 note) [242] and in compliance with Federal, State, local, and Tribal laws. We believe that including this provision in the standards of conduct will bring attention to existing requirements that all staff are mandated reporters of suspected incidents of child abuse and neglect, even in the absence of definitive proof and even in instances in which the reporting staff member did not directly engage in or witness the alleged behavior. The Federal definition in CAPTA provides a minimum standard that "the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation (including sexual abuse as determined under section 111), or an act or failure to act which presents an imminent risk of serious harm." Programs must also comply with State, local, and Tribal laws, which may have additional stipulations related to defining child abuse and neglect and other requirements for mandated reporting. If there are differences between Federal and State, local, and Tribal laws, programs should comply with the more stringent regulation. As a result of this proposed new paragraph (iii), we propose to redesignate in §1302.90(c)(1) current paragraphs in (iii), (iv), and (v) as paragraphs (iv), (v), and (vi), respectively.

[242] 42 U.S.C. 5106g. Available online at https://www.govinfo.gov/content/pkg/USCODE-2017-title42/html/USCODE-2017-title42-chap67.htm

In redesignated §1302.90(c)(1)(iv), formerly §1302.90(c)(1)(iii), we propose to remove the phrase "child and family" and replace it with "each individual." This proposed change to ensure staff are included is aligned with efforts to promote well-being and safety across Head Start and increase the supportive and responsive relationships among staff.

Finally, the requirement in Standards of Conduct for staff at redesignated paragraph §1302.90(c)(1)(vi), formerly §1302.90(c)(1)(v), underscores that children cannot be left alone or unsupervised by staff, consultants, contractors, or volunteers under their care. However, as it is currently written, the language can be erroneously interpreted to mean that a child may be left solely under the supervision of volunteers. ACF has been clear that this is not allowed, and §1302.94(b) states that "a program must ensure children are never left alone with volunteers." For this reason, we propose to update the provision at §1302.90(c)(1)(vi).

Specifically, we propose to remove the phrase "by staff, consultants, contractors, or volunteers while under their care" in paragraph (v). The stem of §1302.90 (c)(1) reads "a program must ensure all staff, consultants, contractors, and volunteers abide by the program's standards of conduct that:" and effectively captures the applicable subjects of the requirement without allowing for alternative inaccurate interpretations of the requirement. This update to the language is not a policy change but rather clarifies the long-standing requirement to prevent any misinterpretation and to bring it into full alignment with requirement §1302.94(b).

ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Staff Training to Support Child Safety (§1302.92; §1302.101)

As described in the earlier section on *Workforce Supports: Employee Engagement*, §1302.92 establishes requirements for staff training and professional development. Specifically, §1302.92(b) requires programs to establish and implement systematic approaches to training and professional development in key areas. We know Head Start programs are experiencing a workforce shortage and the continued effects of the pandemic, both of which place significant stress on staff.[243] We also know that higher caregiver stress and lower quality caregiver-child relationships can be risk factors for child abuse and neglect, and that prevention of child abuse and neglect often relies on strategies to reduce caregiver stress, increase caregiver supports, and foster higher quality caregiver-child relationships.[244] Ongoing training to build and apply staff knowledge of child development and positive guidance or other developmentally appropriate behavior strategies are critical components of reducing caregiver stress and associated risks in ECE settings.[245] Given the potential harm that any single incident may pose to children, families, and staff, we believe that providing ample opportunities to learn and practice safety skills is essential to preventing incidents. This emphasis is of utmost importance to the Head Start population since younger children are more likely to be victims of child abuse and neglect.[246] In this section, we propose revisions and an addition to emphasize training and professional development related to child safety.

In §1302.92(b)(2), we propose to add a requirement that mandated reporter training is conducted on an annual basis. We believe that more frequent training will support staff in recognizing potential child abuse and neglect and understanding their legal responsibility as a

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[243] Elharake JA, Shafiq M, Cobanoglu A, Malik AA, Klotz M, Humphries JE, et al. Prevalence of Chronic Diseases, Depression, and Stress Among US Childcare Professionals During the COVID-19 Pandemic. Prev Chronic Dis 2022;19:220132. DOI: http://dx.doi.org/10.5888/pcd19.220132. NAEYC, "NAEYC Pandemic Surveys," February 2022. https://www.naeyc.org/pandemic-surveys

[244] Fortson, B. L., Klevens, J., Merrick, M. T., Gilbert, L. K., & Alexander, S. P. (2016). Preventing child abuse and neglect: A technical package for policy, norm, and programmatic activities. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Daly & Dowd (1992), Characteristics of effective, harm free environments for children in out of home care, *Child Welfare*, 71(6):487-96.

[245] Koralek, D. (1992). Caregivers of young children: Preventing and responding to child maltreatment. U.S. National Center on Child Abuse and Neglect, Department of Health and Human Services. Available online at https://www.ojp.gov/pdffiles1/Digitization/142411NCJRS.pdf

[246] U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2022). Child Maltreatment 2020. Available from https://www.acf.hhs.gov/cb/data-research/child-maltreatment.

mandated reporter. Many states do not require mandated reporter trainings[247] but all Head Start staff are mandated reporters regardless of whether they work directly with children and, as previously noted, young children are a particularly vulnerable population. We believe this proposed policy change will create more equitable opportunities for staff to understand and discuss their ethical and legal responsibilities. The greater frequency of training would also allow programs to offer staff advanced training opportunities on areas of local importance or greater complexity, such as culturally responsive practices in reporting, issues related to disproportionate reporting, and information about at-risk populations, as well as emphasize the importance of child safety in Head Start. We also add language to clarify expectations with more precise language in this section.

Currently, training and professional development related to using positive strategies to support children is only required for education staff, per §1302.92(b)(5). Yet, all staff are required to use positive strategies to support children according to existing standards of conduct, per §1302.90(c)(1)(i), and ongoing training and professional development is an effective strategy for preventing child maltreatment.[248] As such, under this section, we propose to add a new paragraph as §1302.92(b)(3) which will require annual training on positive strategies to understand and support children's social and emotional development, including the implementation of tools for preventing and managing challenging behavior. We also believe enhancing use of positive strategies among all staff will have the added benefit of increasing opportunities for peer support as appropriate. We are prescribing general areas of focus but allowing for programs to select approaches so that programs may fulfill this requirement in ways that are responsive to their community needs and cultural practices. As a result of this proposed

[247] Lee, J. & Weigensberg, E. (2022). "How Do Laws and Policies for Reporting Child Abuse and Neglect Vary Across States?" OPRE Report #2022-165. Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

[248] National Center for Community-Based Child Abuse Prevention (CBCAP)

addition, we further propose to redesignate current paragraphs (3), (4), and (5) of §1302.92(b) to (4), (5), and (6), respectively.

We also propose a revision to §1302.101 which establishes management responsibilities governed by a system that enables the delivery of the high-quality services. ACF is aware that there has been inconsistent implementation of required reporting procedures.[249] In order to promote consistent implementation of paragraph (a)(5), we propose to add a new clause to §1302.101(a)(5) to require a system that ensures that all staff are trained to implement reporting procedures in §1302.102 (d)(1)(ii). By requiring that programs provide training on reporting procedures, we anticipate that staff will have greater familiarity with and understanding of institutional reporting procedures. Additionally, with an implementation system in place, ACF may more easily provide guidance on what steps should be taken to ensure that staff report incidents appropriately.

Incident Reporting (§1302.102)

Section 1302.102 outlines the requirements that programs establish program goals and a process for monitoring program performance, including how programs use data and report out to the governing body and policy council. Paragraph (d) of §1302.102 establishes required reports that programs must submit for monitoring and oversight purposes, and §1302.102(d)(1)(ii) specifically addresses required incident reports.

In the years of implementing these provisions since the 2016 revision of the HSPPS, it is evident that child incidents are not always reported to the OHS Regional Office or are not reported in a timely manner. The importance of reporting child incidents to OHS cannot be overstated. We propose several changes to §1302.102(d)(1)(ii) to make clear and strengthen the reporting requirements associated with child health and safety incidents.

[249] OIG Final Report: *ACF Should Improve Oversight of Head Start To Better Protect Children's Safety*, OEI-BL-19-00560.

Section 1302.102(d)(1)(ii) introduces general requirements related to when and to whom incident reports should be submitted and specifies types of situations that require incident reports. We make two changes to §1302.102(d)(1)(ii). First, we propose to remove the phrase "as soon as practicable" and replace it with "no later than 3 business days following the incident" to clarify the timeline by which programs are expected to make reports. The timeline of three business days more closely aligns our institutional reporting practices with child welfare reporting practices, which often require reports to be filed within 48 hours of learning of a suspected incident. Shortening the timeline will allow for earlier processing and monitoring of reports, and for more expedient access to technical assistance or other supports for programs when needed.

Our second proposed change is to add two new paragraphs to §1302.102(d)(1)(ii) to clarify reportable incidents. First, the new §1302.102(d)(1)(ii)(A) describes one type of reportable incident as any significant incident that affects the health, mental health, or safety of a child that occurs in a setting where Head Start services are provided and that involve either a Head Start adult or Head Start child, as further defined below. This change clarifies that mental health incidents are included in significant incidents and that only those incidents that occur in settings where Head Start services are provided, such as a Head Start program, playground, or transportation utilized by a Head Start program, are reportable to OHS. This definition is intentionally broad and intended to capture any setting for which Head Start funding is used. The following two new sub-paragraphs clarify who must be involved in the incident in order for it to be reportable to OHS. Reportable incidents include those that involve either (I) a staff member, contractor, volunteer, or other adult that participates in either a Head Start program or a classroom at least partially funded by Head Start, regardless of whether the child receives Head Start services; or (II) a child that receives services fully or partially funded by Head Start or a child that participates in a classroom at least partially funded by Head Start.

The proposed change is intended to expand incidents that are reportable to Head Start to include more individuals than the current standard. However, incidents that do not meet both of these conditions: (1) a child incident that occurs in a setting where Head Start services are provided and (2) that involves a person described by either §1302.102(d)(1)(ii)(A)(I) or §1302.102(d)(1)(ii)(A)(II), would be beyond the scope of what is reportable to OHS. We note that these incidents may still be reportable to other agencies, such as child care licensing agencies.

We retain the language in the current standard describing another type of reportable incident in the new §1302.102(d)(1)(ii)(B), which pertains to circumstances affecting the financial viability of the program; breaches of personally identifiable information, or program involvement in legal proceedings; or any matter for which notification or a report to State, Tribal, or local authorities is required by applicable law.

Additional proposed language also requires programs to report other health, mental health, or safety incidents of concern to Head Start that are not explicitly named in the sections that follow. The following subsections of redesignated §1302.102(d)(1)(iii) describe minimum expectations for situations that require an incident report to be submitted. We propose several changes to further clarify and strengthen incident reporting requirements. We note that some of the changes describe situations that are currently expected to require incident reports. However, our goal in including them explicitly in the list of minimally reportable incidents is to make this expectation clear and facilitate navigation and understanding of the OHS reporting requirements.

First, we propose to add "mandated" to §1302.102(d)(1)(iii)(A) to provide clarification that any incidents involving mandated reporter responsibilities should be reported to Head Start as well as the appropriate State, local, or Tribal authority, independent of the status of investigation or outcome of such reports.

Second, in §1302.102(d)(1)(iii)(B) we propose to remove "for any reason" and replace it with "except for circumstances such as natural disasters that interfere with program operations."

This revision is intended to account for circumstances where it may be unsafe or unreasonable to expect a program to report center closings within the proposed revised timeline in §1302.102(d)(1)(ii) especially if communication channels are not operable.

Next, we propose to add three new paragraphs (E), (F), and (G) to §1302.102(d)(1)(iii) to better describe the types of incidents that should be reported to OHS. First, we propose a requirement that programs report any suspected or known violations of Standards of Conduct under §1302.90(c)(ii). The standards of conduct, described in the earlier section, *Standards of Conduct*, outline behaviors that staff must not engage in that would be reasonably suspected to negatively impact the health, mental health, and safety of children. Therefore, the addition of §1302.102(d)(1)(iii)(E) is intended to clarify that programs must submit incident reports for any violations of Head Start standards of conduct in §1302.90(c)(ii), even if those violations do not require a mandated report under State, Tribal, or local law.

The second addition to incidents that should be reported to OHS is significant health or safety incidents related to suspected or known lack of supervision or lack of preventative maintenance in §1302.102(d)(1)(iii)(F). This addition is intended to clarify that programs must submit reports for significant incidents that may be associated with reasonably suspected or known lack of appropriate supervision or failure to carry out reasonably expected maintenance, such as maintenance of playground equipment. We acknowledge that some incidents involving injuries to children may be unintentional and unavoidable. Therefore, we wish to provide clarity about which health and safety incidents should be reported to OHS. We consider *significant* incidents in these cases to be those that result in serious injury or harm to a child, specifically incidents that require hospitalization or emergency room care, such as a broken bone; severe sprain; chipped or cracked teeth; head trauma; deep cuts; contusions or lacerations; or animal bites. In addition, we would like to clarify that lack of supervision while in the care of program staff includes leaving a child unsupervised anywhere on the grounds of a Head Start facility, such as in a classroom, bathroom, or on a playground, as well as outside the facility, such as in a

parking lot, on a nearby street, on a bus, or during another program-approved transportation or excursion. Including these types of incidents in what is reportable to Head Start allows us to expedite access to technical assistance or other supports, as needed, to address systemic issues that impact children's health and safety.

The third addition of §1302.102(d)(1)(iii)(G) describes any unauthorized release of a child as a reportable incident and is intended to ensure that programs submit reports for incidents involving the unauthorized release of children. Unauthorized release occurs when a child is released from a Head Start facility, bus, or other approved program transportation to a person without the permission or authorization of a parent or legal guardian and whose identity had not been verified by photo identification. This addition codifies expectations outlined in ACF-IM-HS-22-07 and aligns with Caring for Our Children standards.[250]

Finally, we propose to revise the title for §1302.102 "Achieving Program Goals" to read "Program Goals, Continuous Improvement, and Reporting," to clarify the contents of this section and further improve ease of navigation.

ACF seeks public comment on how the proposed requirements in this section may differentially impact different communities. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Facilities Valuation (§1303.44)

Section 1303.44(a)(7) establishes that if a grant recipient is preliminarily eligible under §1303.42 to apply for funds to purchase, construct, or renovate a facility, the recipient must submit to the responsible HHS official, among other requirements, an estimate by a licensed independent certified appraiser of the facility's fair market value.

[250] Caring for our Children. (2022). *Chapter 9.2: Policies.* National Resource Center for Health and Safety in Child Care and Early Education, Department of Health and Human Services. Available online at https://nrckids.org/CFOC/Database/9.2.4.8

Fair market value can take many forms; this depends on the purpose or intended use of the valuation. Appraisers generally rely on three methods of establishing real estate value, which complies with the Uniform Standards of Professional Appraisal Practice (USPAP) and local guidelines: sales approach, cost approach, and income approach. Sales approach compares the sales price of comparable facilities, and it accounts for the price at sale of the facility. Cost approach evaluates the cost to reproduce or replace an equivalent facility, and it accounts for the acquisition cost of the land, construction expense, and depreciation of the property. Income approach estimates the value based on income potential of an equivalent facility.

Applications under this section include applications for constructions, purchase, and significant renovation to facilities. Based on a review of applications to purchase, construct, or renovate facilities, the cost approach to valuation is most relevant.

The sales approach can be problematic since many facility projects show large discrepancies in sales valuation and total project cost, particularly as real property sales prices depend heavily on the locality of the property. Sales valuation does not account for the large cost needed to ready the property for its intended use.

Sales approach can be relevant for certain proposed facility projects, but when relevant, it is already covered by other required activities under §1303. Specifically, recipients are required to compare the cost associated with the proposed action to other available alternatives in the service area, pursuant to §1303.45. Requirements under §1303.45 discover the actual purchase cost of comparable alternate facilities in the service area and therefore the sales approach valuation remains less relevant to require in paragraph (7) of §1303.44(a).

Head Start facilities are woven into the fabric of communities they serve as highly valued, safe spaces for children and families. This is especially important as Head Start programs are often located in low-income communities and geographic areas with a high

concentration of poverty. Programs are often also located in communities with more people of color as people of color are more likely than their white counterparts to live in low-income neighborhoods. For instance, in 2020, about 14 percent of people of color lived in high-poverty neighborhoods, compared to about 4 percent of White people.[251] Head Start programs are known to invigorate their communities including the development of strong partnerships with many local community-based organizations.[252] As such, it is essential that Head Start programs receive accurate valuation of facility project costs to ensure responsible acquisition of facilities continues in communities in need.

For these reasons, we propose to eliminate from §1303.44(a)(7) the term "fair market" and replace it with the term "cost" because the cost valuation is most relevant in determining fair cost of a facility acquisition action under this section. This will assist the awarding agency in making determinations on proposed project costs and fair market costs.

We welcome any additional public comments on the 45 CFR 1303 process and associated requirements. We specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Definition of Income (§1305.2)

The current HSPPS definition lists several types of income sources that could be included in the calculation of gross income and references additional sources that can be found in a lengthy document from the Census Bureau. The current definition has caused confusion regarding what should be included in income calculations. We propose to revise the definition of income to make it up to date, clear, and less burdensome to implement. The proposed language provides a clear and finite list of what is considered income. It also provides clarification on what is not considered income as it relates to military income and refundable tax credits and public assistance. These changes are to ensure programs can more easily identify an applicants'

[251] National Equity Analysis. (2020). *Neighborhood poverty: All neighborhoods should be communities of opportunity*. Retrieved from: https://nationalequityatlas.org/indicators/Neighborhood_poverty.
[252] Phillips, D. A. & Cabrera, N. J. (eds.) (1996). *Beyond the Blueprint: Direction for Research on Head Start's Families*. Washington, DC: National Academies Press.

income. This will also promote consistent interpretation on what to include in calculating income across programs.

Specifically, we proposed to strike the current definition: "*Income* means gross cash income and includes earned income, military income (including pay and allowances, except those described in section 645(a)(3)(B) of the Act), veteran's benefits, Social Security benefits, unemployment compensation, and public assistance benefits. Additional examples of gross cash income are listed in the definition of "income," which appears in U.S. Bureau of the Census, Current Population Reports, Series P-60-185 (available at https://www2.census.gov/prod2/popscan/p60-185.pdf).

We propose to replace the definition and define income as gross income that only includes wages, business income, veteran's benefits, Social Security benefits, unemployment compensation, alimony, pension or annuity payments, gifts that exceed the threshold for taxable income, and military income (excluding special pay for a member subject to hostile fire or imminent danger under 37 U.S.C. 310 or any basic allowance for housing under 37 U.S.C. 403 including housing acquired under the alternative authority under 10 U.S.C. 169 or any related provision of law). The revised definition is clear that gross income only includes sources of income provided in the definition; it does not include refundable tax credits nor any forms of public assistance.

As mentioned previously, the current HSPPS definition includes a link to a 250+ page Census Bureau document from 1992. We believe the definition and reference to the document are outdated and complicated for programs to utilize. We propose to remove the current reference to this dated Census report and replace the definition with a finite number of income sources and remove the reference to the Census Bureau report. The proposed revision includes many sources of income from the definition in the Census Bureau document currently cited.

The proposed language removes the term "cash" from "gross cash income" in recognition that most income is not provided in the form of cash. The word "only" is proposed before

"includes" to clearly define a finite list of sources considered income for Head Start purposes. Further the proposal replaces the term "earned income" with more specific terms "wages," and "business income." Business income includes income obtained from rental properties, as defined by the Internal Revenue Service.[253] We also do not propose to include "dividends" or "capital gains" to avoid unnecessary burden in requesting this information from families since we believe it unlikely Head Start applicants would have such sources of income that would make them ineligible for Head Start, and these terms may be difficult to understand and cause confusion to families during the eligibility determination process.

We remove "public assistance" from the definition because if a family is receiving SNAP, TANF, or SSI, then they are already eligible for Head Start. Removing this source of income reduces the administrative burden of calculating income from such sources. The current referenced Census Bureau document includes "regular contributions from others not living in the household," which we do not include in the proposal. We interpret this to mean money received periodically to assist the family in meeting basic needs. We do not believe one-time or periodic gifts should be counted as income for Head Start eligibility purposes, especially since it may not be relied upon as a regular source of income. We have determined that these payments should be considered gifts and therefore not taxable until they reach the IRS threshold for gifts which is $17,000 for 2023 and updated on an annual basis. Therefore, we propose to include "gifts that exceed the threshold for taxable income" as a source of income.

To facilitate the implementation of the exclusions from military pay specified by the Head Start Act, we detail the exclusions from military pay as designated in the statute rather than referencing it. We propose this to allow programs and families to determine what counts as income through the definition in the regulations.

We clarify that gross income only includes sources of income provided in the definition, and does not include refundable tax credits nor any forms of public assistance, to be explicit that

[253] See: https://www.irs.gov/taxtopics/tc407

this is a finite list of sources of income and call out two common other sources of income that might be inadvertently considered to be added. Although the finite list does not include refundable tax credits, we are concerned that programs may include it as part of the "wages" category. We believe this makes it clear that the tax credits commonly received by Head Start applicants such as the Earned Income Tax Credit and the Child Tax Credit are not included as part of calculated income. Furthermore, the finite list of sources of income intentionally precludes any other emergency or temporary forms of income or assistance from being included in calculations of income for eligibility purposes, such as the enhanced unemployment insurance that was available during the COVID-19 pandemic.

All the revisions proposed together simplify the definition of income and clarify how it will be implemented consistently across programs when determining income eligibility for Head Start. We seek public comment on this definition so that we ensure this is the most accurate and streamlined definition. We also specifically request public comment from the special populations served by Head Start, including AIAN and MSHS programs and communities.

Definition of Federal Interest and Major Renovations (§1305.2)

ACF has received questions that suggest our definitions of *Major Renovation* and *Federal Interest* are too imprecise and consequently lead to Head Start grant recipients misinterpreting and inconsistently applying the definitions when filing an official Notice of Federal Interest (NOFI). In this section, we propose technical fixes and additional clarifying language to address common questions. The proposed changes do not substantively change the meaning of the definitions, but rather clarify issues that have arisen since the implementation of the 2016 revisions to the HSPPS. ACF believes these minor revisions encourage recipients to maintain safe and updated facilities.

First, we propose changes to the definition of *Major Renovation*. We propose to address a typo in the definition – the term, "collection renovation" – and in amending this minor error,

we offer some additional text to improve understanding. Furthermore, we add additional text to clarify that separate renovation activities only equate to a major renovation if 1) they have a cost equal to or exceeding $250,000, 2) the renovation activities are intended to occur concurrently or consecutively, or altogether address a specific part or feature of a facility, and 3) per §1303.44, certification from a licensed, independent architect or engineer indicates that the repair(s) adds significant value to the real property to be repaired or extends its useful life. If these three conditions are met, the group of renovations should be understood as a *Major Renovation*.

We understand that grant recipients have been misinterpreting the definition of *Major Renovation* to include multiple renovation activities on the same facility that have a cost equal to or exceeding $250,000. To help clarify, ACF is providing the following common examples:

- A recipient completes a minor renovation to install a new roof at $150,000. The next year, the recipient replaced all the windows at a cost of $50,000. The year after that, the recipient re-surfaced the parking lot for $75,000. While this was always the case, under this clarified definition, it is clearer that the unrelated renovation project activities in this example do *not* equate to a *Major Renovation*.
- A recipient replaces the roof of one of their facilities for $200,000. Two years later, the recipient replaces the same facility's HVAC units for additional $200,000. These renovation activities are not considered a collective group of facility renovation activities because the project activities are not intended to occur concurrently or consecutively, or altogether address a specific part or feature of a facility, and thus, they are *not* considered a *Major Renovation*.
- In 1 year, a recipient repairs the roofs of two different centers totaling $300,000, each for $150,000. Since these are separate centers, they are not related to the same facility and therefore, the collective renovation activities are *not* considered a *Major Renovation*.
- A recipient replaces part of their roof at one of their facilities for $200,000. Two years later, the recipient replaces another part of the same roof for $200,000. In this instance,

whether the roof repairs are considered a *Major Renovation depends*. While these collective renovation activities address a specific part or feature of a facility, and are greater than the $250,000 threshold, the expenditure may not add significant value to the real property. In advance of commencing the proposed roof repairs, the recipient must submit a certification from a licensed, independent architect or engineer indicating whether the expenditure identified as repairs adds significant value to the real property to be repaired or extends its useful life. If the required certification is not provided, the activity will be classified as a *Major Renovation* and compliance with part 1303, subpart E of the HSPPS is required.

- In 1 year, a recipient repairs the roof, replaces the HVAC system, repaints walls, and renovates a bathroom, totaling $350,000. These collective renovation activities are greater than the $250,000 threshold and are occurring concurrently or consecutively to address a specific part or feature of a facility, so they are likely related. However, the expenditure may or may not add significant value to the real property so whether the repairs are considered a *Major Renovation depends*. In advance of commencing the renovations, the recipient must submit a certification from a licensed, independent architect or engineer indicating whether the expenditure adds significant value to the real property to be repaired or extends its useful life. If the required certification is not provided, the activity will be classified as a *Major Renovation* and compliance with part 1303, subpart E is required.

We propose technical fixes to the definition of *Federal Interest* to address confusion with respect to the type of facility activities that result in Federal interest and what satisfies the non-Federal matching requirement. Specifically, the proposed additional language, in tandem with the proposed definition for *Major Renovation*, clarifies the distinction between repairs and minor renovations versus purchase, construction and major renovations under §1303, the latter of which

do result in a Federal interest. This proposed definition also clarifies that the non-Federal match, which is separate from the base grant non-Federal match, is only intended to include the non-Federal match associated with the facility activity funded under subpart E. In sum, these changes are not substantive changes to the definition itself but rather provide clarification on how Federal interest works.

Together, these proposed specified conditions to the definition of *Major Renovation*, and clarification proposed to the definition of *Federal Interest*, ultimately seek to ensure recipients understand when a group of renovations would require filing of a NOFI.

Definition of the Poverty Line (§1305.2)

In this section, we propose to add to §1305.2 a definition for the term *Poverty line* that is currently used in §1302.12 paragraph (c) and (d) on income eligibility to clarify and codify existing practice. This is only intended to codify the working definition for poverty line, including the existing practice that the HHS poverty guidelines set for the contiguous-states-and-D.C. also apply to Puerto Rico and U.S. Territories. The HHS poverty guidelines are used to determine income eligibility in Head Start and align with requirements in the Head Start Act set by Congress. The requirements in the Head Start Act are set by statute and cannot be changed through regulation. Therefore, we cannot consider public comments regarding changes to the poverty line.

Effective Dates

The current Head Start Program Performance Standards remain in effect until this NPRM becomes final. We propose for all changes in this NPRM to become effective 60 days after it is published as a final rule in the *Federal Register*, unless otherwise noted in this section. For section 1302.48(a), (b), and (c), while the effective date is upon publication of final rule,

programs will not be monitored on the new regulatory requirements until 1 year after publication of the final rule to give programs additional time to adjust to the new regulatory requirements.

Programs may require more time to implement several proposed sections in this NPRM. Therefore, we propose a 1-year delay in implementation deadline for the proposed revisions to the following sections: §1302.11(b); 1302.14(d); 1302.16(a)(2)(v); the changes made to remove "assistant provider" in 1302.23(b); 1302.45(a); 1302.82(a); and 1302.93(d).

The following sections also have longer implementation timelines, outlined below:

- §1302.52(d)(2): 3 years after publication of final rule;
- §1302.80(e) Enrolled pregnant women: 120 days after publication of final rule;
- §1302.80(f) Enrolled pregnant women: 180 days after publication of final rule;
- §1302.90(e)(1), (e)(2)(i) and (ii), (e)(3) and (e)(4): Staff wages: Effective August 1, 2031;
- §1302.90(f) Staff benefits: 2 years after publication of final rule
- §1302.93(c) Staff Health and Wellness: 3 years after publication of final rule.

We request public comment on all of these proposed effective dates, including whether this is sufficient time for programs to implement the proposed changes and any possible unintended consequences.

Removal of Outdated Sections

The current HSPPS contain regulatory language associated with the last overhaul of the standards, published through a final rule in 2016. We propose to remove two sections of the standards that refer to the implementation timeline of those changes, which has since passed and therefore these sections are no longer relevant. The first section to be removed is §1302.103 *Implementation of program performance standards*. The second is the term *Transition Period*, which is defined under §1305.2. These changes do not represent substantive policy changes.

Compliance with Sec 641A(a)(2) of the Act

We sought extensive input to develop this NPRM. We collaborated and consulted with many policy and programmatic expert staff in OHS, ACF's Office of Child Care, and ACF's Office of Early Childhood Development. Several staff, particularly in OHS, are former Head Start program directors, family service workers, teachers, home visitors, etc. and have extensive on the ground knowledge of Head Start program operations. We also consulted extensively with OHS regional staff who directly oversee and support Head Start grants and program operations as their primary job responsibility. We held multiple listening and input sessions with these regional office staff to identify the most challenging aspects of Head Start policy and programmatic requirements for grant recipients. We also sought their feedback on proposed policies we were considering for the NPRM. We intentionally consulted with OHS staff that oversee Migrant and Seasonal Head Start and Tribal Head Start programs, to learn about specific challenges and considerations for these programs. Similarly, we met with members of the OHS Diversity, Equity, Inclusion, and Accessibility Commission to discuss possible equity implications of the proposed changes. We consulted with experts in early childhood development including staff in ACF's Office of Planning, Research and Evaluation. These staff hold research expertise in a wide range of early childhood issues relevant to Head Start. Additionally, we reviewed many research reports on a variety of topics, including NAS reports on the workforce. Taken together, our consultation with all of these groups and sources allowed provided us with relevant data points and advice on how to promote quality across all Head Start settings.

Furthermore, over the past several years since the last revision of the HSPPS (finalized in 2016), OHS has held many webinars for grant recipients on a variety of policy and programmatic topics, including the workforce, eligibility, mental health, child health and safety, and more. OHS has also given multiple presentations on key policy and program issues at Head Start relevant conferences, including those organized by the National Head Start Association. During

these webinars and conference presentations, grant recipient participants often ask questions and provide input regarding challenges with implementing various aspects of program requirements, including for different types of child and family populations and in different types of geographic settings. This allows OHS the opportunity to gain critical on-the-ground understanding of areas where the standards are confusing and could be made clearer, particularly since the 2016 revisions. We also regularly hear from Tribal leaders at OHS's annual Tribal consultations. In addition, in consultation with our OHS training and technical assistance experts, we considered the types of technical assistance requested by and provided to Head Start agencies and programs. We also reviewed findings from monitoring reports to glean more insights into where grant recipients struggle the most with implementing requirements. We also recently fielded a survey of grant recipients (November 2022) which provided real time information on workforce challenges programs are experiencing. Lastly, ACF asserts that the revisions to the HSPPS proposed in this NPRM will not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services required to be provided under the standards that were in effect when the Head Start Act was last reauthorized in 2007.

Severability

To the extent that any portion of the requirements arising from the rule once it becomes final is declared invalid by a court, HHS intends for all other parts of the final rule that are capable of operating in the absence of the specific portion that has been invalidated to remain in effect.

IV. Regulatory Process Matters

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 13132, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). Executive Orders 12866

and 13563 direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).

Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $200 million or more , or adversely affecting in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities; (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in Executive Order 12866, as specifically authorized in a timely manner by the Administrator of OIRA in each case. This proposed rule is a significant rule and the Regulatory Impact Analysis for this proposed rule identifies economic impacts that exceed the threshold for significance under Section 3(f)(1) of Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule, if finalized, would result in increased expenditures by Head Start programs that exceed HHS's default threshold, we have initially determined that the proposed rule will have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 ((Pub. L. 104-4, section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before proposing

"any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $177 million, using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would likely result in expenditures that meet or exceed this amount.

Federalism Assessment Executive Order 13132

Executive Order 13132 requires Federal agencies to consult with State and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This proposed rule will not have substantial direct impact on the states, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. ACF believes it is not necessary to prepare a family policymaking assessment, see Public Law 105-277, because the action it takes in this proposed rule will not have any impact on the autonomy or integrity of the family as an institution.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.,* minimizes government-imposed burden on the public. In keeping with the notion that government information is a valuable asset, it also is intended to improve the practical utility, quality, and clarity of information collected, maintained, and disclosed.

The PRA requires that agencies obtain OMB approval, which includes issuing an OMB number and expiration date, before requesting most types of information from the public. Regulations at 5 CFR part 1320 implemented the provisions of the PRA and § 1320.3 of this part defines a "collection of information," "information," and "burden." PRA defines "information" as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic, or other media (5 CFR 1320.3(h)). This includes requests for information to be sent to the government, such as forms, written reports and surveys, recordkeeping requirements, and third-party or public disclosures (5 CFR 1320.3(c)). "Burden" means the total time, effort, or financial resources expended by persons to collect, maintain, or disclose information.

This NPRM establishes new recordkeeping requirements under the PRA. Under this NPRM, Head Start grant recipients will be required to keep and maintain records related to salary wage scales and staff benefits, improvements to community assessment, documentation related to lead exposure, among several other requirements. In addition, changes to policies proposed in the NPRM may result in changes to existing information collections approved under the PRA, including the information collection for the existing program performance standards, the Program Information Report (PIR), applicable collections in the Head Start Enterprise Systems (HSES), and other information collections. ACF invites public comments concerning changes to existing or new information collections that may be necessary as a result of this NPRM, including on practical utility and burden.

The HSPPS are covered already by an existing OMB control number 0970-0148. This OMB control number already covers burden associated with updating personnel policies and documenting eligibility. The below table outlines the burden of complying with the proposed standards in this NPRM. These estimated burden hours represent the additional burden to be added to this existing information collection. We estimate the burden at the appropriate level depending on the given information collection, specified in the table below (program, family, or enrollee level). In 2022, there were 3,000 Head Start programs across the country.

Information Collection	**Number of respondents**	**Average burden hours per response**	**Annual burden hours**
Updating written personnel policies and procedures to reflect staff wage scales and benefits and approach to staff breaks (program level)	3,000	1	3,000
Documenting eligibility with application of revised income definition (family level)	340,000	.167	56,780
Reporting child incidents within 3 business days (enrollee level)	131	.083	11
Maintenance of lead testing results and notification to families of such results (program level)	3,000	1	3,000
Documenting services to enrolled pregnant women (enrollee level)	13,000	.5	6,500
Tracking wages for Head Start staff and staff in local school districts	3,000	5	15,000
TOTAL BURDEN HOURS			84,291

V. Regulatory Impact Analysis

Introduction and Summary

A. Introduction

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 14094, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). Executive Orders 12866

and 13563 direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). This analysis identifies economic impacts that exceed the threshold for significance under Section 3(f)(1) of Executive Order 12866, as amended by Executive Order 14094.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule, if finalized, would result in increased expenditures by Head Start programs that exceed HHS's default threshold, we have initially determined that the proposed rule will have a significant economic impact on a substantial number of small entities.

No unfunded mandates would be imposed by this proposed rule. The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $177 million, using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not likely result in unfunded expenditures that meet or exceed this amount.

B. Summary of Benefits, Costs, and Transfers

The most likely impacts of the proposed provisions depend, in large part, on funds available to Head Start programs; for example, the proposals to increase remuneration per teacher would have bigger aggregate effects to the extent that Head Start entities employ more teachers. Historically, Congress has funded Head Start at levels that exceed inflation. During the ten-year period between 2010 and 2020, Head Start appropriations grew by 25 percent, after

accounting for inflation.[254] Some of the past increase in appropriations was in response to new initiatives in Head Start, such as the creation of Early Head Start-Child Care Partnerships and other quality initiatives. It is possible that this trend continues and Head Start appropriations will increase in response to the quality improvements under the proposed rule. In such a case, the regulation's effects manifest themselves as expenditures by taxpayers.[255] By contrast, if a comparison of the hypothetical futures with and without the rule is not characterized by a difference in Head Start appropriations or by such a difference that is *not* prompted by this proposal, then rule-induced spending would instead be shifted within Head Start.

One form that such shifting could take relates to enrollment, so it is important to distinguish between the various benchmarks for enrollment that were used for this analysis. Head Start programs receive funding for a specific number of slots (funded enrollment). Historically there has been little difference between funded enrollment and actual enrollment,[256] which represents the number of children who are actually enrolled in the Head Start programs. However, in recent years, Head Start programs have experienced significant and persistent under-enrollment where the number of children actually served is far less than the number of funded slots, due in large part to widespread staffing shortages. As Head Start programs work to improve their actual enrollment levels, many are also requesting reductions in their funded enrollment. Head Start programs are trying to right-size their funded enrollment to match their community needs, staffing realities, and fiscal constraints. It is difficult, if not impossible, to predict the net impacts of these ongoing efforts in years to come.

As such, assessing whether the rule's effects would manifest themselves as enrollment reductions is especially challenging. In theory Head Start programs could attempt to stretch their existing budgets to provide the same number of funded enrollment slots while also complying

[254] If future Head Start appropriations designated for expansion grow at similar rates —for reasons that are independent of this proposal—then estimates reflecting growth at or below the rate of inflation (such as what appears in this regulatory impact analysis) would have a tendency toward understating effects.
[255] Some of the expenditures would, from a society-wide perspective, be categorized as costs and others would be transfers to Head Start entities and participants.
[256] Here we use the term actual enrollment to represent the average number of children enrolled in Head Start programs while programs were in session throughout the year.

with the new requirements by choosing to not spend funding on optional activities. However, OHS believes that programs have long stretched their funding as far as is possible and are unlikely to have many optional activities available to drop.[257] Moreover, the difference between funded and actual enrollment also generates uncertainty regarding the magnitude of regulatory effects; for example, if Head Start entities use excess funding for teacher bonuses, the estimates, below, of rule-induced effects on teacher remuneration would have some tendency toward overstatement (even as the *form* of the remuneration is changing from bonuses to salaries, fringe benefits or changes in working conditions).

OHS has taken the approach of estimating all effects based on the projected FY2023 funded enrollment of 755,074, which is the highest enrollment level, funded or actual, possible absent additional appropriations specifically designated for expansion.

Using the current funded enrollment as a starting point, this analysis shows that the costs associated with the NPRM, when fully phased in after 7 years as currently proposed, can be mostly paid for by reducing enrollment levels to the FY2023 actual enrollment, leading to a funded enrollment level decline from 755,074 to 644,374.

As compared to the current enrollment level of about 650,000, this represents about a 1 percent reduction from the current number of children served. In other words, implementation of these proposed regulatory changes would be a de minimis impact on actual enrollment. With additional appropriations—in excess of cost of living adjustments to keep pace with inflation—Head Start could avoid reducing funded enrollment below current actual enrollment. This analysis includes estimates of the necessary appropriations needed under the proposed policy to serve 650,000 children, which reflects the estimated FY2023 actual enrollment. Sometimes the narrative description of this (same) analysis will be framed as estimating the increases in

[257] Even if this were the case, OHS asserts that this is unlikely to meaningfully impact the quality of services provided to children, as the necessary components of high-quality services are required under the Head Start Program Performance Standards, and could not be dropped from program offerings.

expenditures that would enable full implementation of this proposed rule without reducing funded enrollment below projected FY2023 funded enrollment levels.

The largest elements of the proposed rule relate to staff wages and benefits for the Head Start workforce. To fully implement the staff wage provisions, including the wage-parity targets, minimum pay requirement, and impacts associated with wage compression, expenditures on wages[258] would need to increase by about $1.0 billion (reported in nominal dollars) in 2030 and then maintained annually through a cost-of-living adjustment. In that same year, the expenditures on staff benefits, which include the policy to increase fringe benefits, would require about an additional $932 million, with further increases in line with wage growth. Also, in 2030, we identify the annual expenditures to fully implement the following provisions: staff breaks about $118 million; family service worker family assignments, $210 million; and mental health supports, $152 million. We also quantify expenditures associated with preventing and addressing lead exposure and expenditures associated with program administration.

In total, we estimate that full implementation would require an increase in expenditures of about $2.4 billion in 2030 assuming no reductions in the current funded enrollment level of 755,074, with further increases that are consistent with impacts tied to wage growth. Over a 10-year time horizon, which covers for the timeline that the proposed policies would take effect, we estimate annualized expenditures of $1.6 billion under a 3% discount rate or $1.5 billion under a 7% discount rate. In addition to calculating the expenditures necessary to fully implement the proposed rule, this analysis also considers a scenario of no additional funding above baseline funding levels (i.e., funding increasing over time, to account for inflation but not in response to this regulatory proposal). Under this scenario, we estimate that Head Start programs would need to reduce the total number of funded slots available by about 15% compared to projected FY2023 funded enrollment, or 1% from estimated FY2023 actual enrollment in 2030, to fully

[258] The additional benefits expenditures associated with increased wages under the wage policy at the baseline fringe rate of 24% are included in the estimated benefits expenditures.

implement the proposed rule. Table 1 reports the summary of expenditures of the proposed rule, reported in constant 2023 dollars and nominal dollars.

Table 1. Summary of Expenditures of the Proposed Rule, Millions of Dollars

Category		Primary Estimate	Low Estimate	High Estimate	Units		
					Year Dollars	Discount Rate	Period Covered
Expenditures	Federal Annualized Monetized ($m/year)	$1,314			2023	7%	2024-2033
		$1,385			2023	3%	2024-2033
Expenditures	Federal Annualized Monetized ($m/year)	$1,521			Nominal	7%	2024-2033
		$1,611			Nominal	3%	2024-2033

We request comment on our estimates of benefits, costs, and transfers of this proposed rule. OHS specifically requests comment on how spending patterns when under enrolled may be different if funded enrollment were reduced and the possible impact on programs if spending were redirected towards the policies in this proposed rule.

Preliminary Economic Analysis of Impacts

A. Analytic Approach

In conducting this analysis, we began by identifying the most consequential impacts that would likely occur under the proposed rule, if finalized. We identify expenditures associated with increases in staff wages and staff benefits for the Head Start workforce as the largest potential impact and devote significant attention to those effects. We also identify and monetize

expenditures associated with staff breaks, expenditures associated with hiring additional family service workers, expenditures associated with the increased workload required to provide mental health supports, expenditures associated with preventing and addressing lead exposure, and expenditures associated with administrative implementation costs. We qualitatively discuss other impacts of the proposed rule.

For the purposes of this analysis, we assume that the proposed rule, if it is finalized, will be published and begin to take effect before the 2024-2025 program year. To simplify the narrative, we describe effects occurring in that program year as occurring in '2024.' We adopt a time horizon of analysis of ten years, covering the period 2024 through 2033.

This analysis adopts a baseline forecast that assumes Federal appropriations grow at a constant rate of inflation in fiscal years 2026 through 2033, with slower growth during fiscal years 2024 and 2025.

All analyses provided here were completed using national level estimations. In our main analysis, we estimate the increases in Federal appropriations needed to fulfill the goals of the proposed rule while also maintaining the size of the Head Start workforce consistent with the projected FY2023 funded enrollment level of 755,074 slots. We also present a sensitivity analysis that explores how the rule's effects would manifest themselves if there are no increases in Federal appropriations above baseline (or such increases occur but not in response to this regulatory proposal and/or the increased appropriations could not be used to support the policies in the proposed rule). For this scenario, we report the likely reductions in funded enrollment, and associated reductions in the size of the Head Start workforce, under the proposed rule. We also report the likely reductions in funded enrollment compared to the estimated FY2023 actual enrollment under the proposed rule.

In general, we have rounded total cost estimates but have not rounded itemized cost estimates for transparency and reproducibility of the estimation process. These unrounded itemized cost estimates should not be interpreted as representing a particular degree of precision.

B. Baseline: Budget, Staffing, and Slots

Baseline Budget Scenario

We measure the impacts of the rule against a common budget baseline forecast that assumes Federal appropriations grow at a constant rate of inflation in fiscal years 2026 through 2033, with slower growth during fiscal years 2024 and 2025. We adopt 2.3% for the rate of inflation for each year in the time horizon, matching an economic assumption in the President's Budget for Fiscal Year 2024.[259] Across all years, we assume that the cost-of-living adjustment (COLA) for Head Start staff- the portion of Head Start that goes towards operations awards, will match the 2.3% rate of inflation.

In FY2023, Head Start appropriations totaled $11,996,820,000.[260] About 97% of these appropriations, $11.6 billion, will go towards operations awards; and from these operations awards, about 75%[261] will go towards personnel costs, or about $8.7 billion. Compared to FY2023, we assume that FY2024 appropriations will increase to account for inflation for operations awards, but will not increase for other spending categories. Compared to FY2024, we assume that FY2025 appropriations will again increase to account for inflation for operations awards, with a 1% increase for other spending categories. Thus, we anticipate that total appropriations will increase by 2.22% in FY2024, 2.26% in FY2025, and 2.3% in all future years. Table B1 reports the appropriations and funding breakdowns in nominal dollars over the time horizon of our analysis.

Table B1. Baseline Head Start Budget Scenario. Nominal Dollars (in thousands)

Year	Total Funding	Total Operations Awards	Operations Awards: Personnel Costs	Operations Awards: Other Costs	Other Head Start Costs
2022	$11,036,820	$10,647,160	$7,878,898	$2,768,262	$389,660

[259] Office of Management and Budget. "Analytical Perspectives, Budget of the U.S. Government, Fiscal Year 2024." Table 2-1 Economic Assumptions. https://www.whitehouse.gov/wp-content/uploads/2023/03/spec_fy2024.pdf.
[260] H.R.2617 - Consolidated Appropriations Act, 2023. https://www.acf.hhs.gov/sites/default/files/documents/olab/fy-2024-congressional-justification.pdf.
[261] Budget data submitted to the Office of Head Start for FY2022, which is the most recent data available at the time this analysis was prepared, showed that about 74% of operations awards were allocated to personnel costs. In this analysis, we assume a majority share of the savings from the projected reduction in funded enrollment from FY2022 to FY2023 will go towards personnel costs, and will therefore increase the overall share of operations awards allocated to personnel costs to about 75%.

2023	$11,996,820	$11,599,855	$8,699,892	$2,899,964	$396,965
2024	$12,263,617	$11,866,652	$8,899,989	$2,966,663	$396,965
2025	$12,540,519	$12,139,585	$9,104,689	$3,034,896	$400,934
2026	$12,828,951	$12,418,796	$9,314,097	$3,104,699	$410,156
2027	$13,124,017	$12,704,428	$9,528,321	$3,176,107	$419,589
2028	$13,425,870	$12,996,630	$9,747,472	$3,249,157	$429,240
2029	$13,734,665	$13,295,552	$9,971,664	$3,323,888	$439,112
2030	$14,050,562	$13,601,350	$10,201,012	$3,400,337	$449,212
2031	$14,373,725	$13,914,181	$10,435,636	$3,478,545	$459,544
2032	$14,704,320	$14,234,207	$10,675,655	$3,558,552	$470,113
2033	$15,042,520	$14,561,594	$10,921,195	$3,640,398	$480,926

Baseline Scenario for Staffing, Wages, and Enrollment

This analysis adopts one scenario covering projections of staffing, wages, and enrollment at Head Start programs. This baseline scenario assumes long-run staffing, wages, and enrollment that are consistent with those projected for FY 2023, based on patterns observed in FY2022. This analysis assumes that all programs are fully enrolled, and that actual enrollment is consistent with funded enrollment. Therefore, the analysis does not distinguish between funded slots that are actually filled with enrolled families and funded slots that are vacant. These assumptions introduce uncertainty into the analysis, creating some tendency toward overestimation of effects (a tendency that would partially be mitigated by a number of decisions, for example if Head Start entities use excess funds, in the baseline, for teacher bonuses).[262]

We again note that this estimation does not account for the under-enrollment that Head Start programs are currently facing. In 2023, Head Start programs are projected to be funded to serve 755,074 children; however, OHS estimates only about 650,000 children and families are actually being served. Many Head Start programs are requesting reductions to their funded enrollment, even while they continue to work to improve their enrollment. As this situation is unprecedented, it is nearly impossible to predict both funded and actual enrollment levels in future years.

[262] For completeness, we also note that Head Start funding increases at greater than the rate of inflation (for reasons independent of this regulation being proposed) would lead to effects being underestimated in this analysis, if that funding is designated for expansion. For exploration not of overall magnitude of effects but instead related to the form they take, please see the sensitivity analysis below.

As such, OHS first estimates costs by using the FY2023 funded enrollment of 755,074 which represents the funding needed to implement the proposed rule and maintain current funded enrollment, or the maximum appropriations needed to fully implement the proposed rule. Using the cost per slot determined by this estimate, we also describe the necessary appropriations needed to maintain funded slots to serve 650,000 children, which reflects the FY2023 actual enrollment. Relatedly, we also provide estimates of the reduction in the total number of funded slots in a scenario where no additional funding is provided (or funding increases occur but not in response to this proposal), compared to both projected FY2023 funded enrollment and to estimated FY2023 actual enrollment.

Our baseline scenario is informed by staffing levels, credentials, wage rates, and enrollment figures from Program Information Report (PIR) data covering 2022,[263] with a few adjustments. The PIR contains program-level counts of teachers, assistant teachers, home visitors, and family child care providers, each disaggregated by type of credential. For teachers and assistant teachers, we observe the following credential categories: advanced degree, baccalaureate degree (BA), associate degree (AA), Child Development Associate (CDA) credential, and no credential. For home visitors and family child care providers, we observe whether staff holds a credential, but not the type of credential. We make the following adjustments to the raw 2022 PIR data:

1) We adjust the counts of each role-credential combination to account for a small share of staff without any credential information, which is less than 0.3% of total staff. For simplicity, we assume that the credentials of staff without this information are distributed in proportion with the observed credentials of other staff in the same role.
2) We augment the 2022 PIR data with 2019 PIR data, which contained information on the specific credential type for home visitors and family child care providers. We assume that, conditional on reporting any credential in 2022, the credentials of staff

[263] https://eclkc.ohs.acf.hhs.gov/data-ongoing-monitoring/article/program-information-report-pir

with each credential type are distributed in proportion with observed credentials of other credentialed staff in the same role in 2019.

With these adjustments, we report 36,517 Head Start teachers, 32,286 Early Head Start teachers, 38,316 Head Start assistant teachers, 6,676 home visitors, and 2,046 family child care providers. Table B2 reports these counts by credential type.

Table B2. Head Start Staff Counts by Role and Credential, 2022

Degree	HS Teacher	EHS Teacher	Asst. Teacher	Home Visitor	Family Child Care Provider
Advanced	4,528	754	371	429	38
BA	21,080	6,405	3,712	2,964	217
AA	8,774	7,271	8,178	1,444	241
CDA	1,181	12,791	15,416	1,128	1,238
No Credential	954	5,065	10,639	711	312
Total	36,517	32,286	38,316	6,676	2,046

In 2022, Head Start programs were funded to serve 833,075 slots and reported 115,841 education staff. At the time this analysis was prepared, ACF did not have comparable information from the PIR for 2023, which is ongoing; however, we anticipate significant changes to staffing levels, wage rates, and slots compared to those observed in 2022 for reasons described above. We anticipate enrollment reductions, including through requests from programs proposing to reduce their funded enrollment to maintain quality of program services.[264] We currently project 755,074 funded slots, or a 9% reduction in funded enrollment in 2023 compared to 2022, and adopt a corresponding reduction in education staff by the same percentage. Compared to a scenario of no reduction in slots or education staff, we anticipate that this will lead to increases in total compensation for education staff. Again, this does not reflect the difference between funded enrollment and actual enrollment of families in the program. OHS anticipates that funded enrollment will continue to decline; however, for the reasons described above, we model projections based on funded enrollment in 2023 at 755,074 for the purposes of this analysis.

[264] https://eclkc.ohs.acf.hhs.gov/policy/im/acf-im-hs-22-09

Table B3. 2023 Enrollment Scenarios

Year	2022	2023
Scenario	**N/A**	**Baseline**
Operations Award Amounts	$10,647,159,826	$11,599,855,394
Personnel Costs, Share	74%	75%
Personnel Staff Costs, $	$7,878,898,271	$8,699,891,546
Other Costs, Share	26%	25%
Other Costs	$2,768,261,555	$2,899,963,849
Education Staff	115,841	104,995
Education Staff Costs	$4,994,940,873	$5,515,421,367
Wage Compensation	$3,796,155,063	$4,191,720,239
Non-Wage Compensation	$1,198,785,809	$1,323,701,128
Cost per Education Staff	$43,119	$52,530
Total Slots	833,075	755,074
Cost per Slot	$12,781	$15,363

Connecting Baseline Uncertainty with Differing Estimates of Regulatory Effects

Head Start programs must be in a position to serve their full funded enrollment at all times, regardless of their actual enrollment levels. When programs are under-enrolled, they must continue their operations in a way that is sufficient to serve their funded enrollment. As Head Start funds are allocated to a variety of fixed cost categories (like facilities, personnel, supplies, and transportation), only some of these costs are saved when a funded slot is empty. If a slot is empty, a program must still pay for a facility with classrooms, along with utilities and maintenance. Programs must also attempt to hire (or, spend the associated funds recruiting) staff, and have transportation that can accommodate the slot. Where there is a difference between actual and funded enrollment, the majority of the difference in allocated funding is used in this manner, thus doing little to improve the Head Start experience for remaining students.

Therefore, to the extent that under-enrolled Head Start programs will, over the analytic time horizon of this regulatory impact assessment, be approved to reduce their funded enrollment *without* those slots being shifted to other Head Start entities, the estimates that use actual enrollment as a key input or comparison—for example, the rightmost columns of Tables J1 and K5—are informative and meaningful. By contrast, if reductions of funded enrollment at entities

that are under-enrolled in the baseline were accompanied (also in the baseline) by shifting of those slots to other Head Start entities, the estimates that use *funded* enrollment as a key comparison are more informative. Similarly, if under-enrollment were to ease in the future (perhaps to due further stabilization in the labor market as the biggest disruptions of the COVID-19 pandemic recede into the past), the latter set of estimates should receive the analytic focus.

C. Workforce Supports: Staff Wages and Staff Benefits

The proposed rule outlines four areas of proposed requirements for wages for Head Start staff: (1) that education staff working directly with children as part of their daily job responsibilities must receive a salary comparable to preschool teachers in public school settings in the program's local school district, adjusted for qualifications, experience, and job responsibilities; (2) to establish or enhance a salary scale, wage ladder, or other pay structure that applies to all staff in the program and takes into account job responsibilities, hours worked, and qualifications and experience relevant to the position; (3) that all staff must receive a salary that is sufficient to cover basic costs of living in their geographic area, including those at the lowest end of the pay structure; and (4) to affirm and emphasize that the requirements for pay parity should also promote comparability of wages across Head Start Preschool and Early Head Start staff positions.

The proposed rule also outlines requirements for grant recipients to provide benefits to staff, discussing health insurance, paid sick leave, paid vacation or personal leave, paid family leave, access to short-term free or low-cost mental health services, and other considerations. We also describe an alternative policy scenario in which retirement benefits are also included in the proposed benefit requirements, see Section K below.

In this section, we describe baseline wages for Head Start education staff and their corresponding wage-parity targets. We also describe baseline staff benefits and the enhanced-benefit policy.

Wage-Parity Targets

The proposed rule would result in Head Start staff receiving an annual salary commensurate with preschool teachers in local public school settings, adjusted for qualifications, experience, and job responsibilities. The target comparison of preschool teachers in public school settings is intended to represent substantial progress towards parity with public school elementary teachers. Specifically, we intend the benchmark of preschool teacher annual salaries in public school settings to represent about 90% of kindergarten teacher annual salaries, for those with comparable qualifications.[265] While wage rates would be determined locally, we present estimates of the likely impact measured at the national level.

For the purposes of this analysis, we adopt an estimate of the target salary in 2022 of $53,200, which corresponds to the mean annual wage for preschool teachers in elementary and school-based settings as reported by the Bureau of Labor Statistics for occupation code 25-2011, Preschool Teachers, Except Special Education for 2022.[266] This estimate is intended to be consistent with the requirement that annual salaries be "comparable to preschool teachers in public school settings." We assume that a typical Preschool teacher works 1,680 hours per year, so this annual salary corresponded to a $31.67 hourly wage in 2022, or a $32.95 hourly wage in 2023 under an assumption that Preschool teacher salaries will grow approximately in relation to inflation.[267]

We adopt this estimate as the hourly wage target for teachers, home visitors, and family child care providers with a BA, which serves as the base wage rate for other credentials. For staff in these roles with an advanced degree (i.e., master's degree or higher), we adopt an hourly wage

[265] This analysis uses BLS average annual salaries as wage targets. However, since the BLS national average for kindergarten teacher salaries ($65,120) includes all kindergarten teachers, of which approximately half have a master's degree or higher, adjust this annual salary to reflect the target salary for a teacher with a bachelor's degree ($58,608) guided by salary differences observed in National Center for Education Statistics data (https://nces.ed.gov/surveys/ntps/). The BLS reported annual salary for preschool teacher in school settings ($53,200) is therefore approximately 90% of the annual salary for kindergarten teachers with a bachelor's degree ($58,608).
[266] U.S. Bureau of Labor Statistics. Occupational Employment and Wages. May 2022. 25-2011 Preschool Teachers, Except Special Education. https://www.bls.gov/oes/current/oes252011.htm.
[267] Multiplied by a ratio of May 2023 (304.127) to May 2022 (292.296) CPI. U.S. Bureau of Labor Statistics. CPI for all Urban Consumers (CPI-U), Not Seasonally Adjusted, https://data.bls.gov/timeseries/CUUR0000SA0. Accessed June 19, 2023.

target 10% above the base wage rate; for AA degrees, 20% below the base wage rate; for CDA, 30% below the base wage rate; and for no credential, 40% below the base wage rate. For assistant teachers, who often have fewer responsibilities than lead teachers, we adopt hourly wage targets that are about 17% less than other roles. For example, the wage rate target for assistant teachers with a BA is $27.35 per hour. Table C1 reports the hourly wage targets for each staff role by credential under the proposed rule and the baseline scenario.

We note that the assumption that a typical Preschool teacher works 1,680 hours per year differs with the source of the annual wage data comparison. U.S. Bureau of Labor Statistics (BLS) assumes a "year-round, full-time hours figure of 2,080 hours" which is consistent with a 40-hour work week for all 52 weeks of the year. The proposed policy requires comparable *annual* salaries, however hourly estimates are provided and used here for the purposes of calculating the estimated impacts of the proposed policies. We have therefore chosen to calculate the hourly target wage using 1,680 hours, which is our estimate of the number of paid hours worked by preschool education staff. We request comment on the best approach to handle the discrepancy in assumptions about the number of hours worked. In particular, we request comment on the best estimate for the annual hours worked by Head Start education staff, as well as by preschool teachers in public school settings. We further request comment on the degree to which paid hours worked aligns with actual hours worked, as education staff in both Head Start and preschools in public school settings may perform additional work tasks outside official work hours.

Table C1. Hourly Wage Targets by Credential Under Wage-Parity Targets (Constant 2023 dollars)

Degree	HS Teacher	EHS Teacher	Asst. Teacher	Home Visitor	Family Child Care Provider
Advanced	$36.24	$36.24	$30.08	$36.24	$36.24
BA	$32.95	$32.95	$27.35	$32.95	$32.95
AA	$26.36	$26.36	$21.88	$26.36	$26.36

CDA	$23.06	$23.06	$19.14	$23.06	$23.06
No Credential	$19.77	$19.77	$16.41	$19.77	$19.77
Weighted Average	$31.11	$25.56	$19.87	$28.66	$24.24

To estimate the likely impact of the wage-parity policy on expenditures, we calculate the expenditures under the baseline scenario, then calculate the expenditures needed to fund the wage increases. Table C2 reports these impacts under the baseline scenario. Note that these are reported in constant 2023 dollars.

Table C2. Expenditure on Wages to Fund Wage Parity, Constant 2023 Dollars

	HS Teacher	**EHS Teacher**	**Asst. Teacher**	**Home Visitor**	**Family Child Care Provider**
Baseline Wage ($)	$28.35	$19.02	$18.53	$22.56	$23.96
Hours Per Staff	1,680	2,080	1,680	2,080	2,080
Staff Count	33,098	29,263	34,728	6,051	1,854
Baseline Expenditure ($M)	$1,576	$1,158	$1,081	$284	$92
Parity Wage Target	$31.11	$25.56	$19.87	$28.66	$24.24
Parity Expenditure	$1,730	$1,556	$1,159	$361	$94
Expenditure Increase	$153	$398	$78	$77	$1

Disaggregation of Wage-Parity Policy Implementation Costs

While estimates in this analysis are performed at the national level, the cost of implementing the wage policies will likely not be borne equally by each program. Programmatic data suggests Head Start programs vary in their current compensation practices and therefore will likely have varying costs associated with implementing the wage parity policy. Head Start data shows that wages and enrollment are not distributed evenly across various program types. Furthermore, some programs across the country are experiencing a workforce shortage and are in varying stages of implementing changes to address issues related to lack of qualified and available staff to fill classrooms and associated under-enrollment.

Data from 2019 PIR shows that programs located in school systems pay classroom teachers at the highest rate, on average. Grant recipients in school districts also have more programs that are fully enrolled compared to other agencies. Meanwhile, grant recipients that are

Community Action Agencies are, on average, the lowest paying agency type and pay more than $10,000 less annually to classroom teachers, on average, compared to school systems. Finally, ACF published sub-regulatory guidance to encourage Head Start programs to increase staff and teacher wages. Some Head Start programs have responded to this guidance by requesting to reduce their funded enrollment in order to increase staff wages, but those programs are in varying stages of implementing these changes.

Given this information, we expect that the cost of implementing these proposed policies will vary depending on a variety of factors, such as agency type. For instance, programs in school systems that already compensate at a higher level, will likely incur lower costs when implementing the wage policies in this proposal compared to programs in Community Action Agencies that, on average, tend to provide lower compensation. The costs of implementing these proposed policies will likely further vary based on the local wage targets used for each program, the distribution of qualifications for existing staff, and the degree to which each program has already made efforts to improve compensation.

The national estimates provided in this analysis cannot necessarily be applied at the individual program level. For instance, the hourly wage targets described in the previous section (Table C2) represent national averages and targets for individual programs will vary based on salaries for preschool teachers in their community. Program-level wage targets will vary based on factors such as local compensation rates and cost of living. Depending on the existing compensation structure in each program, some programs will have to increase their hourly wages substantially, and others may only need to make small increases. Program-level costs for implementing this policy are expected to be impacted by a variety of factors such as local pay compensation rates, education/credential levels of program staff, and the degree to which programs have already attempted to increase wages.

HHS acknowledges that a limitation of using national level estimates is that these program-level nuances are not specifically illustrated in the analysis. However, using national

averages to estimate costs at the national level accounts, in some ways but not others, for program-level variation.

Impact of the Minimum Pay Requirement

The proposed rule would require that all staff receive, at minimum, a salary that is sufficient to cover basic costs of living in their geographic area, including those at the lowest end of the pay structure. We anticipate that Head Start programs in low-income areas would spend additional resources to fulfill the basic cost-of-living requirement. We assume that the incremental impact of this provision is approximately $116 million per year, which accounts for $88 million through hourly wage increases, and $28 million in corresponding increases in non-wage benefits. This estimate is consistent with about 15% of all Head Start staff, about 35,000 staff members in the baseline, each working an average of 30 hours per week for 42 weeks, receiving an additional $2.00[268] per hour in wages to meet the goal of establishing a minimum hourly wage of $15.00, or a total average increase in hourly compensation of $2.63.

Impact on Expenditures Through Wage Compression

In addition to the direct impacts on teachers, assistant teachers, home visitors, and family child care providers, we anticipate that the proposed rule would result in increased compensation for family service workers as well as other non-education staff positions to address wage compression and wage equity issues that would arise. For example, proposed wage increases to lead teachers may far exceed what a similarly credentialed family service worker makes in a program and those programs would need to plan for compensation increases for such staff to

[268] In the absence of data from Head Start programs that reports the wages paid to the lowest paid staff, this estimate assumes that all of the 35,000 staff earned minimum wage in their State in 2022, which is consistent with an average hourly wage of $10.68. The estimate of average minimum wage was calculated using the minimum wage for each State (https://www.dol.gov/agencies/whd/mw-consolidated) and the number of Head Start staff in each State according to administrative data from the Office of Head Start in 2022. For those staff where minimum wage data were not available due to lack of data for the U.S. Territory or data entry error, the Federal minimum wage of $7.25 was used. In the baseline analysis, we assume that all staff receive a pay increase, to $13.00 per hour, due to the projected reductions in funded enrollment from FY2022 to FY2023, and the associated reduction in staff and increased share of personnel funds. These staff would therefore need an additional $2.00 per hour to meet the $15 per hour minimum pay policy goal.

avoid a significant wage gap between those positions. As another example, with rising wages for education staff, other staff in supervisory or mid-management roles would likely receive wage increases as well (e.g., coaches, education managers, etc.). To account for this impact, we assume that the total impacts on expenditures associated with wages would be 10% higher than the sum of the impacts associated with wage targets and the minimum pay requirement. We seek comment on whether 10% is an appropriate adjustment to estimate expenses that programs will incur to avoid wage compression.

Overall Impacts of Wage Parity on Expenditures, Holding Benefits Constant

Next, we report the total expenditures, including the impacts of the wage targets, minimum pay requirement, and impacts associated with wage compression. Table C3 reports the net impacts on expenditures, holding benefits constant. The "wage targets" row is equal to the totals of the "expenditure increase" rows contained in Tables C1 and C2. When pay parity is fully implemented, the wages policies would result in about $875 million in additional annual expenditures on wages.[269] Note that these estimates are reported in constant 2023 dollars.

Table C3. Total Expenditures on Wages to Fund Wage Policies (Millions of Constant 2023 Dollars)

Scenario	Baseline
Wage Targets	$707
Minimum Pay	$88
Subtotal	$795
Wage Compression	$80
Total	$875

The estimates in Table C3 reflect the expenditures needed to fully implement pay parity, which would occur in 2030 under the NPRM, if finalized. Table C4 reports the expenditures by year under the implementation schedule, reported in constant 2023 dollars and also nominal dollars.

[269] The additional annual expenditures on fringe associated with the wage policies (i.e., the fringe associated with the increased wages in the wage policies at the baseline fringe rate of 24%), are included in the estimates reported in Table C6 in the benefits section.

Table C4. Total Additional Expenditures on Wages by Year to Fund Wage Policies, Millions of Dollars

Year	Policy Phase-In	Constant 2023 Dollars	Nominal Dollars
2023	0%	$0	$0
2024	5%	$44	$45
2025	10%	$87	$92
2026	25%	$219	$234
2027	40%	$350	$383
2028	60%	$525	$588
2029	80%	$700	$802
2030	100%	$875	$1,026
2031	100%	$875	$1,049
2032	100%	$875	$1,073
2033	100%	$875	$1,098

Expenditures Associated with Fringe Benefits

As discussed above, based on an analysis of current Head Start programs, about 24% of total personnel costs go towards fringe benefits, rather than wage compensation. Table B1 reports personnel costs of about $8.7 billion in 2023. Of this figure, 76% goes to wage compensation, or about $6.6 billion, and 24% goes to fringe benefits, or about $2.1 billion. We assume that this ratio will remain constant over time, absent the staff benefits provisions of the proposed rule.

The proposed rule outlines requirements for grant recipients to provide benefits to staff, discussing health insurance, paid sick leave, vacation or personal leave, paid family leave, short term mental health services, and other considerations. In our alternative policy scenario, discussed further in Section K, grant recipients would also be required to provide retirement benefits to staff. For the purposes of this analysis, we assume that these enhancements would

increase the share of total personnel costs that go towards fringe benefits from 24% to 27.8%, or to 32.5% in the alternative policy scenario, holding wages compensation constant. Absent all other provisions in the NPRM, adopting the benefits policy at baseline wages would increase fringe benefits in constant 2023 dollars from $2.1 billion to about $2.5 billion, and total compensation from about $8.7 billion to $9.2 billion, for an increase of about $458 million.[270] In nominal dollars, these impacts would increase with the Head Start COLA, or 2.3% per year.

Table C5 reports the impacts of the benefit policy over time, accounting for the yearly impact of the wage policies reported in Table C4, reported in constant and nominal dollars. These tables report the changes to benefits, some of which are driven by wage increases of the wage policies.

Table C5. Total Additional Expenditures by Year on Benefits, Millions of Dollars

Year	Policy Phase-In	Constant 2023 Dollars	Nominal Dollars
2023	24.0%	$0	$0
2024	24.0%	$14	$14
2025	24.0%	$28	$29
2026	27.8%	$542	$580
2027	27.8%	$593	$649
2028	27.8%	$660	$739
2029	27.8%	$727	$834
2030	27.8%	$795	$932
2031	27.8%	$795	$953
2032	27.8%	$795	$975
2033	27.8%	$795	$998

Disaggregation of Fringe Benefit Estimates

To estimate the cost associated with each category of benefits in the proposed rule, we refer to the distribution of benefits provided to teachers,[271] who have an overall fringe rate of 32.5% according to data on employer costs for employee compensation released by BLS in December 2022.[272] There are more categories of benefits provided to teachers described by the

[270] Under the Required Retirement Scenario and absent all other provisions in the NPRM, adopting the benefits policy at baseline wages would increase fringe benefits in constant 2023 dollars from $2.1 billion to about $3.2 billion, and total compensation from about $8.7 billion to $9.8 billion, for an increase of about $1.1 billion.

[271] This occupational group was chosen because the total fringe rate aligns with internal estimates of the total fringe rate that would be associated with the proposed benefit policies. The occupational group includes postsecondary teachers; primary, secondary, and special education teachers; and other teachers and instructors.

[272] https://www.bls.gov/news.release/archives/ecec_03172023.pdf

BLS than will be required under the proposed rule, specifically retirement benefits are provided to teachers in the BLS data. In order to estimate the expenditures on the major benefits categories that will be required under the proposed rule, we first estimate the cost of Head Start teachers receiving the same fringe rate and major benefits categories (32.5%: health insurance, retirement, and paid leave). We then calculate the associated reduction in fringe associated with removing the retirement benefit in order to estimate the cost of the benefits policy under the proposed rule.

We tentatively apply the same distribution of fringe associated with each fringe category to the estimated expenditure on benefits for Head Start using the same overall fringe rate of 32.5%, which represents an increase of 8.5% from the current fringe rate. We then calculate the increased expenditure needed for each of the major benefits categories: health insurance, retirement, and paid leave, compared to existing expenditures in each category for Head Start programs.[273] This approach estimates that of the total projected cost associated with increasing the fringe rate from 24.0% to 32.5%, 16.6% will be accounted for by increased spending on health insurance. Increased spending on retirement will account for 54.7% of the total projected cost, and increased spending on paid leave will account for 28.7% of the total projected cost. Thus, of the total increase of 8.5% in fringe, we anticipate about 1.4% of this increase will go towards health insurance, 4.7% of this increase will go towards retirement benefits, and 2.4% will go towards paid leave.

As retirement benefits are only proposed to be required under the alternative policy scenario, we reduce the estimated increase on fringe by the increase associated with retirement benefits, 4.7%, for a target fringe rate of 27.8% under the benefits policy in the proposed rule. Under the proposed rule, increased spending on health insurance will account for 37% of the total cost of the benefits policy, and increased spending on paid leave will account for the remaining 63% of the total cost of the benefits policy.

[273] Estimates based on average fringe for each category of benefits calculated from a sample of Head Start program budgets.

Table C6 reports an expenditure breakdown for each major category of benefits that would be impacted by the proposed rule.

Table C6. Additional Expenditure Breakdown by Benefit Policy, Millions of Nominal Dollars

Year	Total Benefits Expenditures[1, 2]	Benefits Policy Total	Benefits Policy: Paid Leave	Benefits Policy: Health Insurance	Fringe Associated with Wage Policy[3]
2024	$14	$0	$0	$0	$14
2025	$29	$0	$0	$0	$29
2026	$580	$506	$319	$187	$74
2027	$649	$528	$333	$195	$121
2028	$739	$554	$349	$205	$186
2029	$834	$580	$366	$215	$253
2030	$932	$608	$383	$225	$324
2031	$953	$622	$392	$230	$331
2032	$975	$636	$401	$235	$339
2033	$998	$651	$410	$241	$347

[1] Only benefits expenditures associated with baseline staff are shown here. Benefits expenditures associated with hiring additional staff under other policies in the proposed rule (e.g., additional Family Service Workers hired under the Family Service Worker Family Assignments policy) are included in the estimates for each specific policy.
[2] These estimates are calculated using the wages estimated under the proposed wage policy.
[3] This cost represents the additional benefits expenditures associated with increased wages under the wage policy at the baseline fringe rate of 24%.

We identify several significant caveats to this analysis. First, because many existing Head Start grant recipients provide health insurance, the growth in costs for expanded health insurance may be smaller than projected. We do expect that there will be improvements in the quality of health plans and what employees are covered, and increases in the provision of life and disability insurance, which may increase overall insurance costs for some grant recipients, but it is likely not to increase linearly with wage increases. Further, some grant recipients may choose to encourage staff to enroll in plans available in the Marketplace because the quality and expenses of health insurance in the Marketplace may be better than what they can obtain as an employer, and therefore the proportion of fringe spent on insurance for those grant recipients would decrease. Second, legally required fringe components such as Social Security taxes and retirement and savings fringe are not necessarily comparable between the reference group of teachers included in the BLS data and Head Start staff. Many elementary teachers are State employees and not all State employees are covered by Social Security because they are covered

by State pension plans; as a result, legally required fringe may be lower and retirement fringe higher for teachers relative to a comparable benefits package for Head Start staff.

Discussion of Uncertainty

We have attempted to provide our best estimates of the potential effects of the staff wages and staff benefit provisions. We acknowledge several significant and unresolved sources of uncertainty. First, we note that these estimates use a single baseline, which is a limitation of this analysis. We have provided estimates using a single baseline that assumes a stable funded enrollment level consistent with projected FY2023 funded enrollment of 755,074. If funded enrollment were to increase, which would require Congressional investment designated for expansion (and such increase occurs for reasons separate from this regulatory proposal), the impacts of this proposed rule would be underestimated. If funded enrollment were to decrease, particularly if it were to decrease below the level of our current actual enrollment of 650,000, then the impacts of this proposed rule would be overestimated. Furthermore, if other baseline assumptions were to vary, such as the child-to-staff ratio or the share of appropriations allocated to personnel costs, that would also impact the estimated effects. However, absent guiding data for the timing and magnitude of these possible variations, OHS presents estimates using the single, data-informed baseline.

Second, we followed a partial equilibrium modeling approach, focusing the primary scope of our analysis on the impacts to Head Start. General equilibrium modeling could potentially explore the impacts of the proposed rule on wages beyond Head Start staff. These effects could be informative for the estimates on expenditures, since wage increases experienced by Head Start staff could result in wage increases to other occupations that draw from a similar supply of workers, such as Kindergarten teachers. It is possible to anticipate a gradual feedback effect between Head Start staff and occupations that provide reference wages under the wage-

parity policy. If this is the case, this would tend to indicate that our expenditure estimates are underestimated.

Third, the analysis assumes that average compensation for Head Start staff (in the baseline scenario) and preschool teachers in public school settings (in the baseline scenario and under the NPRM) increases with inflation, or equivalently, that their average compensation remains constant in real terms, over the time horizon of this analysis. If compensation for preschool teachers in public school settings grows more slowly over time than compensation for Head Start staff, this would tend to indicate that our expenditure estimates are overestimated. Alternatively, if compensation for preschool teachers in public school settings grows faster than compensation for Head Start staff, this would tend to indicate that our expenditure estimates are underestimated.

In regard to the inherent uncertainty over the availability of funding to fully implement this proposed rule, if finalized, Section J presents a sensitivity analysis on that significant source of uncertainty.

D. Workforce Supports: Staff Wellness- Staff Breaks

The proposed rule outlines requirements for programs to provide break times during work shifts. Specifically, for each staff member working a shift lasting between four and six hours, programs would be required to provide a minimum of one 15-minute break per shift; and for each staff member working a shift lasting six hours or more, programs would be required to provide a minimum of one 30-minute break per shift.

The scope of this element of the proposed rule covers approximately 104,995 education staff, the estimate of education staff that is proportionally decreased to reflect the reduced enrollment in 2023 compared to 2022. We assume that 13% of education staff typically work shifts lasting between four and six hours, and that 87% of education staff typically work shifts lasting 6 hours or more. Thus, across all staff, the proposed rule would require an average break

time of about 28 minutes per shift.[274] We assume 180 average shifts per year for each education staff, for a total of 5,049 minutes of break time per year per staff.[275] For 104,995 total education staff, the proposed rule would require a minimum of about 8.8 million hours of break time per year.[276] We do not have detailed information from Head Start programs on their current policies for staff breaks. For the purposes of this analysis, we adopt the following assumptions:

1) Under the baseline scenario of no regulatory action, 20% of Head Start programs offer break time for education staff.

2) Under the proposed rule, 50% of Head Start programs would shift the workloads of existing Head Start staff to provide coverage during the additional breaks.

3) Under the proposed rule, Head Start programs who do not already provide breaks and cannot shift workloads of existing staff would provide coverage during the additional breaks by hiring 'floaters.'

4) On average, Head Start programs would pay the 'floaters' hourly wages in line with assistant teachers with no credential.

In line with assumptions 1 and 2, we adjust the 8.8 million hours estimate downwards by 70% and estimate that the proposed rule would result in about 2.7 million hours of additional breaks for educational staff. Using the wage target for assistant teachers of $16.41 per hour under the wage-parity target, this policy would result in additional expenditures of about $57 million per year, or $60 million when also accounting for the benefits policy.[277] This policy would take effect in 2027, and the total expenditures would increase in line with the wages under the wage-parity policy. Table D1 reports the expenditures needed to fund this policy, in constant and nominal dollars. Table D2 reports the additional value-of-time costs by year for those programs

[274] 13% * 15 + 87% * 30 = 28.05.
[275] 2,805 * 180 = 5,049.
[276] 5,049 * 104,995 / 60 = 8,835,310
[277] Under the Required Retirement Scenario, the Breaks policy would cost $64 million in Constant 2023 dollars.

who provide breaks by shifting existing workloads, in constant and nominal dollars. Both Table D1 and Table D2 reflect the policy cost using the benefits fringe rate in the proposed benefits policy.

Table D1. Expenditures by Year to Fund Staff Breaks Policy, Millions of Dollars

Year	Constant 2023 Dollars	Nominal Dollars
2023	$0	$0
2024	$0	$0
2025	$0	$0
2026	$0	$0
2027	$60	$66
2028	$60	$67
2029	$60	$69
2030	$60	$71
2031	$60	$72
2032	$60	$74
2033	$60	$76

Table D2. Additional Value-of-Time Costs by Year for Staff Breaks Policy, Millions of Dollars

Year	Constant 2023 Dollars	Nominal Dollars
2023	$0	$0
2024	$0	$0
2025	$0	$0
2026	$0	$0
2027	$100	$110
2028	$100	$112
2029	$100	$115
2030	$100	$118
2031	$100	$120
2032	$100	$123
2033	$100	$126

E. Family Service Worker Family Assignments

The proposed rule would ensure the planned number of families assigned to work with individual family services staff is no greater than 40, unless a program can demonstrate higher family assignments provide high quality family and community engagement services and maintain reasonable staff workload. 2019 PIR data reveals that approximately 50 percent of

programs have staff family assignments that are 40 families or less. Across all programs with ratios of families per family services staff that exceed 40, we estimate that Head Start programs would need to hire an additional 3,231 family service workers to meet this requirement at the funded enrollment level projected for FY2023, compared to the baseline scenario. This estimate includes an assumption that 10% of programs will exceed a caseload of 40,[278] as is allowable under the proposed policy.

We adopt an estimate of $40,000 in wage compensation per year per family service worker, which results in a $52,631 total compensation in the baseline scenario or $55,401 total compensation under the benefit policy.[279] For 3,231 workers, this would result in additional expenditures across Head Start programs of $179,002,770. This policy would begin to take effect in 2027. Table E1 reports the expenditures needed to fund this policy, in constant and nominal dollars.

Table E1. Expenditures by Year to Fund Family Service Worker Policy, Millions of Dollars

Year	Constant 2023 Dollars	Nominal Dollars
2023	$0	$0
2024	$0	$0
2025	$0	$0
2026	$0	$0
2027	$179	$196
2028	$179	$201
2029	$179	$205
2030	$179	$210
2031	$179	$215
2032	$179	$220
2033	$179	$225

F. Mental Health Services

The proposed rule would enhance requirements for mental health supports to integrate mental health more fully into every aspect of program services as well as elevate the role of mental health consultation to support the wellbeing of children, families, and staff. We anticipate

[278] For the purposes of this estimation we assume that all of the programs that exceed the threshold have an average caseload of 60.
[279] Under the Required Retirement Scenario total compensation for each additional family service worker would be $59,259 in constant 2023 dollars.

that this element of the proposed rule would result in additional work for a variety of program staff, which we estimate will add up to together to be roughly equivalent to one full-time employee (FTE) per Head Start agency. We estimate 1,564 agencies needing the additional FTE to comply with the proposed policy.

We adopt an estimate of $60,000 in wage compensation per year per FTE which represents an average of the various salaries of the staff members who we assume will complete the additional work. In addition to wage compensation, we assume that fringe benefits will be associated with the additional FTE, or about $18,947 under the baseline assumptions for benefits, or $23,102 under the benefit policy. In total, under the proposed rule, we estimate that each additional FTE would require $78,947 in total compensation in years prior to the effective date of the benefits policy, and $83,102 in total compensation in all future years. For 1,564 FTEs, this would result in additional expenditures across Head Start programs of $129,972,299.[280] We assume that these impacts would begin immediately. Table F1 reports the expenditures needed to fund this policy, in constant and nominal dollars.

Table F1. Expenditures by Year to Fund Mental Health Services Policy, Millions of Dollars

Year	Constant 2023 Dollars	Nominal Dollars
2023	$0	$0
2024	$123	$126
2025	$123	$129
2026	$130	$139
2027	$130	$142
2028	$130	$146
2029	$130	$149
2030	$130	$152
2031	$130	$156
2032	$130	$159
2033	$130	$163

[280] Under the Required Retirement Scenario, the fringe associated with each additional FTE is estimated to be $28,889 for a total compensation of $88,889. The total policy cost for the mental health policy under the Robust Benefit Scenario is $139 million.

G. Preventing and Addressing Lead Exposure

The proposed rule includes new requirements on preventing and addressing lead exposure through water and lead-based paint in Head Start facilities. This analysis presents estimates of the costs associated with testing and remediating water fixtures, and costs associated with evaluating and reducing the hazards from lead paint in classrooms and common areas at Head Start facilities.

Lead in Water

To assess the likely magnitude of the costs associated with the lead in water requirement, we first adopt estimates of 19,400 service locations, with an average of 7.5 water fixtures per service location, for 145,500 total fixtures. We assume that half of these fixtures would be tested annually, and half of these fixtures would be tested once every 5 years. Thus, in a given year, about 60% of the total fixtures, or 87,300 fixtures, would be tested per year. We adopt an estimate of $100 per fixture tested, for an annual cost associated with testing of $8,730,000. In addition to these testing costs, we assume that 25% of fixtures, or 35,375 fixtures, will require ongoing remediation using point-of-use devices. We identify filter replacements as largest cost associated with remediation, and adopt an estimate of $30 per filter, with filters replaced quarterly, or a cost per fixture of $120 per year. Across 35,375 fixtures requiring ongoing remediation, we calculate an annual cost of $4,365,000 for remediation. In total, we estimate $13,095,000 per year in annual costs associated with testing and remediating water fixtures. Some of this cost can be covered by Federal funding under the Bipartisan Infrastructure Law (as enacted by the Infrastructure Investment and Jobs Act); many states are already using this funding.

Lead-Based Paint

To assess the likely magnitude of the costs associated with the lead-based paint requirement, we first adopt estimates of 25,409 total rooms across Head Start facilities, consisting of 19,500 classrooms and 5,909 common areas. We assume that about 46% Head Start

facilities were constructed prior to 1978 and would require a lead-hazard evaluation under the proposed rule. Thus, about 11,688 rooms would require evaluation. We adopt an estimate of $700 per room for the evaluations, which would consist of a lead-based paint inspection and risk assessment. Across all rooms requiring evaluation, we estimate an initial total cost associated with evaluations of about $8.2 million.

Of rooms undergoing an evaluation, we assume that 43.8% of rooms would be identified as potentially having a lead-based paint hazard requiring abatement.[281,282] Thus, after the first round of assessments covering 11,688 rooms, we estimate that 5,125 rooms would require abatement. We assume that half of the rooms requiring abatement would require interior paint repair, with a per-room cost of $710; that half of the rooms would require friction/impact work, with a per-room cost of $280; and assume that that all rooms undergoing abatement would incur costs associated with unit cleanup of $430 per room and costs associated with clearance of $170 per room. In total, we estimate an average cost of abatement of $1,095 per room. Across all 5,125 rooms requiring abatement following the first round of assessments, this would be about $5.6 million.

The proposed rule outlines a process for subsequent assessments for rooms requiring abatement. These reassessments occur at least once every 2 years unless two reassessments conducted two years apart identify no lead-based paint hazards. To model assessments in future years, we assume that 21.9% of all rooms that are reassessed will require abatement, which is half the rate of abatement compared to initial assessments. Thus, for the 5,125 rooms that required abatement, we estimate that 1,124 would require additional abatement. The other 4,001 rooms would still require a second reassessment. Table G1 reports the number of assessments

[281] https://www.hud.gov/sites/dfiles/HH/documents/AHHS_II_Lead_Findings_Report_Final_29oct21.pdf
[282] We note that the First National Environmental Health Survey of Child Care Centers published by HUD in 2003, found that child care centers were significantly less likely to have lead-based hazards than residences. As such, cost of the proposed rule may be overestimated.

and abatements by year, the costs of those assessments and abatements, and the yearly costs of the lead-based paint policy.

Table G1. Cost of Lead-Based Paint Policy

Year	Reassessments	Final Assessments	Abatements	Cost of Evaluations	Cost of Abatements	Cost of Lead-Based Paint Policy
2024	0	11,688	5,125	$8,181,727	$5,611,883	$13,793,611
2025	0	0	0	$0	$0	$0
2026	5,125	0	1,124	$3,587,505	$1,230,343	$4,817,848
2027	0	0	0	$0	$0	$0
2028	1,124	4,001	1,124	$3,587,505	$1,230,343	$4,817,848
2029	0	0	0	$0	$0	$0
2030	1,124	877	439	$1,400,605	$480,341	$1,880,946
2031	0	0	0	$0	$0	$0
2032	439	877	289	$921,152	$315,911	$1,237,063
2033	0	0	0	$0	$0	$0

Table G2 reports the yearly costs associated with the lead in water policy, the lead-based paint policy, and the total cost associated with the two lead policies in constant and nominal dollars.

Table G2. Total Cost of Lead Policies (in Millions)

Year	Cost of Lead in Water Policy	Cost of Lead-Based Paint Policy	Total Cost, Constant $	Total Cost, Nominal $
2024	$13.1	$13.8	$26.9	$27.5
2025	$13.1	$0.0	$13.1	$13.7
2026	$13.1	$4.8	$17.9	$19.2
2027	$13.1	$0.0	$13.1	$14.3
2028	$13.1	$4.8	$17.9	$20.1
2029	$13.1	$0.0	$13.1	$15.0
2030	$13.1	$1.9	$15.0	$17.6
2031	$13.1	$0.0	$13.1	$15.7
2032	$13.1	$1.2	$14.3	$17.6
2033	$13.1	$0.0	$13.1	$16.4

H. Administrative Costs

Several of the provisions of the NPRM would likely entail additional administrative costs beyond those that we have otherwise quantified in this analysis. For example, we anticipate that programs would expend resources to develop program-specific policies while preparing to implement the workforce wage and benefits provisions. To account for these impacts, we adopt an assumption that each Head Start program would spend a total of 600 hours per program, spread across directors, education managers, disability managers, health managers, and other management staff to develop program-specific policies. To value the time spent on these activities, we adopt a fully loaded hourly wage of $60 per hour, reflecting a mix of wages across several roles. We assume that this impact would primarily occur in the first year of the time horizon of our analysis, before most of the impacts associated with wage and benefits policies take effect, and thus we do not adjust these upwards to account for other provisions of the proposed rule. For each program, we value this impact at $36,000.[283] Across 3,000 programs, we estimate the total impact as $108 million, all occurring in 2024.[284] We request comment on whether 600 hours is a reasonable assumption for each program to review, understand, and plan for implementation for these proposed changes to the standards.

I. Timing of Impacts

The proposed rule includes an implementation timeline for several of the provisions, described above. Table I1 summarizes the impacts on expenditures assuming a funded enrollment level consistent with the projected FY2023 funded enrollment, consistent with this implementation timeline, reporting yearly estimates, and present value and annualized values

[283] $36,000 = 600 hours * $60 / hour.
[284] $108,000,000 = $36,000 / program * 3,000 programs. Head Start funding is only used for a portion of the salaries of these management positions.

corresponding to 3% and 7% discount rates, with all monetary estimates reported in millions of constant 2023 dollars. Tables I2 reports the same impacts except in nominal dollars.

Table I1. Expenditures of the Proposed Rule, Baseline Scenario (Millions of Constant 2023 Dollars)

Year	Wage	Benefit	Breaks	Family Service Workers	Mental Health	Lead	Other	Total
2024	$44	$14	$0	$0	$123	$27	$108	$316
2025	$87	$28	$0	$0	$123	$13	$0	$252
2026	$219	$542	$0	$0	$130	$18	$0	$909
2027	$350	$593	$60	$179	$130	$13	$0	$1,325
2028	$525	$660	$60	$179	$130	$18	$0	$1,572
2029	$700	$727	$60	$179	$130	$13	$0	$1,809
2030	$875	$795	$60	$179	$130	$15	$0	$2,054
2031	$875	$795	$60	$179	$130	$13	$0	$2,052
2032	$875	$795	$60	$179	$130	$14	$0	$2,053
2033	$875	$795	$60	$179	$130	$13	$0	$2,052
PV, 3%	$4,398	$4,714	$343	$1,021	$1,096	$136	$105	$11,813
PV, 7%	$3,377	$3,680	$265	$787	$901	$114	$101	$9,226
Annualized, 3%	$516	$553	$40	$120	$129	$16	$12	$1,385
Annualized, 7%	$481	$524	$38	$112	$128	$16	$14	$1,314

Table I2. Expenditures of the Proposed Rule, Baseline Scenario (Millions of Nominal Dollars)

Year	Wage	Benefit	Breaks	Family Service Workers	Mental Health	Lead	Other	Total
2024	$45	$14	$0	$0	$126	$28	$110	$323
2025	$92	$29	$0	$0	$129	$14	$0	$263
2026	$234	$580	$0	$0	$139	$19	$0	$973
2027	$383	$649	$66	$196	$142	$14	$0	$1,451
2028	$588	$739	$67	$201	$146	$20	$0	$1,761
2029	$802	$834	$69	$205	$149	$15	$0	$2,074
2030	$1,026	$932	$71	$210	$152	$18	$0	$2,408
2031	$1,049	$953	$72	$215	$156	$16	$0	$2,461
2032	$1,073	$975	$74	$220	$159	$18	$0	$2,519
2033	$1,098	$998	$76	$225	$163	$16	$0	$2,576
PV, 3%	$5,165	$5,485	$402	$1,195	$1,239	$152	$107	$13,745
PV, 7%	$3,950	$4,263	$309	$919	$1,012	$127	$103	$10,682
Annualized, 3%	$606	$643	$47	$140	$145	$18	$13	$1,611
Annualized, 7%	$562	$607	$44	$131	$144	$18	$15	$1,521

All estimates reported above are impacts compared to our baseline budget scenario described reported in Table B1. Further, we calculate the cost per child, in 2030, when the rule is fully implemented, using 2023 funded enrollment levels to be $21,797 (nominal dollars). As

discussed previously, we recognize that projected FY2023 funded enrollment greatly exceeds estimated FY2023 actual enrollment. If programs were to fully implement the proposed policies and maintain funded enrollment at least consistent with FY2023 actual enrollment (i.e., 650,000), they would not need additional appropriations beyond the baseline budget scenario until 2030, when they would need an additional $118 million. In 2031, programs would again need an additional $118 million, $122 million in 2032, and additional $124 million in 2033 above the baseline budget scenario funding levels to fully implement the proposed policies and maintain a funded enrollment level consistent with estimated FY2023 actual enrollment.

J. Sensitivity Analysis- Potential Enrollment Reductions

In the previous analysis, we framed results as the Federal appropriations increase needed to fully fund these requirements and maintain current funded enrollment of 755,074.

However, in the interest of transparency, we perform a sensitivity analysis to evaluate the impacts of the proposed rule under a scenario of no additional funding above the baseline budget scenario in Table B1 (or increased appropriations that cannot be used to support this regulatory proposal and/or are not increased in response to it). Under this scenario, Head Start programs would likely comply with the proposed rule by reducing the size of their funded enrollment, which would also result in a reduced workforce at Head Start programs.

To calculate the number of slots at Head Start programs under this last scenario, we multiply the total number of slots under the full-funding scenario by the share of funding available compared to full funding. For example, we estimate that $15.2 billion would be necessary to fully implement the proposed rule in 2033 and maintain funded enrollment consistent with the estimated FY2023 actual enrollment of 650,000. Under our baseline budget scenario, $15.0 billion would be available, which is about 99% of the funding needed. Thus, we

estimate 644,374 slots would be available, which is 99% of enrollment at the estimated FY2023 actual enrollment level, or a % change in slots of -1%.

Table J1 reports the change in total slots[285] over time that would be necessary to implement the proposed rule compared to both projected FY2023 funded enrollment and estimated FY2023 actual enrollment, absent an increase in Federal appropriations. We estimate that programs can approach full implementation of the policies in the proposed rule without additional appropriations by aligning their funded enrollment levels with their actual enrollment. Only a small reduction in slots from estimated FY2023 actual enrollment, 1%, would be needed to reach full implementation of the policies in the proposed rule. Specifically, programs would need to reduce funded enrollment from the projected FY2023 funded enrollment of 755,074 by 15%, to a funded enrollment of 644,605 in 2030, which reflects a 1% reduction from estimated FY2023 actual enrollment of 650,000.[286] All monetary estimates are reported in nominal dollars.

Table J1. Slot Loss under Baseline Head Start Budget Scenario (Millions of Nominal Dollars)

Year	Funding under Baseline Budget Scenario	Slots Funded by Baseline Budget under Proposed Rule	% Change in Slots from 2023 Funded Enrollment	% Decline in Slots from 2023 Actual Enrollment*
2024	$12,264	735,687	-3%	--
2025	$12,541	739,542	-2%	--
2026	$12,829	701,854	-7%	--
2027	$13,124	679,906	-10%	--
2028	$13,426	667,511	-12%	--
2029	$13,735	656,017	-13%	--
2030	$14,051	644,605	-15%	-1%
2031	$14,374	644,692	-15%	-1%
2032	$14,704	644,635	-15%	-1%
2033	$15,043	644,692	-15%	-1%

* We note that reductions in funded enrollment in response to the proposed rule will require some degree of shifting of funds from existing expenditures, such as those to support funded slots that are currently empty or spending to recruit and train staff in a high turnover environment. Please see our request for comment on this point in Section B and the discussion under the heading "Connecting Baseline Uncertainty with Differing Estimates of Regulatory Effects."

[285] For this analysis, we assume that staffing reductions occur at the same rate as slot reductions.

[286] We note that reductions in funded enrollment in response to the proposed rule will require some shifting of transfer of funds from existing expenditures, such as those to support funded slots that are currently empty or spending to recruit and train staff in a high turnover environment. Please see our request for comment on this point in Section B and the discussion under the heading "Connecting Baseline Uncertainty with Differing Estimates of Regulatory Effects."

K. Alternative Policy Scenario: Required Retirement

The proposed rule outlines requirements for grant recipients to provide benefits to staff, discussing health insurance, paid leave, access to short-term free or low-cost mental health services, and other considerations. The proposed rule requests comment on whether grant recipients should also be required to provide retirement savings plans as part of their benefits.

In this section, we describe the alternative policy scenario, the *Required Retirement Scenario*, in which the proposed benefits policy includes a requirement that grant recipients also provide retirement benefits to staff. We analyze this scenario to identify the most consequential impacts that would likely occur under the Required Retirement Scenario, should it be included in a finalized rule.

We base this analysis on the same methodology described in Section C: Disaggregation of Fringe Benefit Estimates. Based on the data on employer costs for employee compensation released by the U.S. Bureau of Labor Statistics in December 2022, teachers have an overall fringe rate of 32.5%, which is inclusive of health insurance, paid leave, retirement, and other benefits. As such, we assume an overall fringe rate of 32.5% under the Required Retirement Scenario, which is inclusive of fringe associated with all three major benefits policies included in the policy: health insurance, paid leave, and retirement. The disaggregation of these costs is described in Section C: Disaggregation of Fringe Benefit Estimates.

Table K1 reports the impacts of the robust benefit policy over time, accounting for the yearly impact of the wage policies reported in Table C5, reported in constant and nominal dollars. These tables report the changes to benefits, some of which are driven by wage increases of the wage policies. Table K2 reports a breakdown of increased expenditure for each major category of benefits that would be impacted by the proposed rule under the Required Retirement Scenario.

Table K1. Total Additional Expenditures on Benefits by Year, Millions of Constant and Nominal Dollars

Year	Policy Phase-In	Constant 2023 Dollars	Nominal Dollars
2023	24.0%	$0	$0
2024	24.0%	$14	$14
2025	24.0%	$28	$29
2026	32.5%	$1,201	$1,286
2027	32.5%	$1,264	$1,384
2028	32.5%	$1,348	$1,511
2029	32.5%	$1,432	$1,642
2030	32.5%	$1,517	$1,778
2031	32.5%	$1,517	$1,819
2032	32.5%	$1,517	$1,861
2033	32.5%	$1,517	$1,904

Table K2. Additional Expenditure Breakdown by Benefit Policy, Millions of Nominal Dollars

Year	Total Benefits Expenditures[1,2]	Benefits Policy Total	Benefits Policy: Paid Leave	Benefits Policy: Health Insurance	Benefits Policy: Retirement	Fringe Associated with Wage Policy[3]
2024	$14	$0	$0	$0	$0	$14
2025	$29	$0	$0	$0	$0	$29
2026	$1,286	$1,212	$348	$201	$663	$74
2027	$1,384	$1,263	$363	$210	$692	$121
2028	$1,511	$1,325	$380	$220	$725	$186
2029	$1,642	$1,389	$399	$231	$760	$253
2030	$1,778	$1,455	$417	$241	$796	$324
2031	$1,819	$1,488	$427	$247	$815	$331
2032	$1,861	$1,522	$437	$253	$833	$339
2033	$1,904	$1,557	$447	$258	$853	$347

Note that the estimates for paid leave and health insurance shown here differ slightly from those in Table C7 due to the influence of rounding during the estimation process.

[1] Only benefits expenditures associated with baseline staff are shown here. Benefits expenditures associated with hiring additional staff under other policies in the proposed rule (e.g., additional Family Service Workers hired under the Family Service Worker Family Assignments policy) are included in the estimates for each specific policy.

[2] These estimates are calculated using the wages estimated under the proposed wage policy.

[3] This cost represents the additional benefits expenditures associated with increased wages under the wage policy at the baseline fringe rate of 24%.

The inclusion of retirement benefits under the Required Retirement Scenario impacts the cost estimates for other policies that required increased expenditures on compensation, such as the family service worker and mental health policies. Table K3 summarizes the impacts on expenditures for the Required Retirement Scenario, consistent with the implementation timelines described in the proposed rule, reporting yearly estimates and present value and annualized values corresponding to 3% and 7% discount rates, all with monetary estimates reported in

millions of constant 2023 dollars. Table K4 reports the same impacts for the Required Retirement Scenario in nominal dollars.

Table K3. Expenditures of the Proposed Rule, Required Retirement Scenario (Millions of Constant 2023 Dollars)

Year	Wage	Benefit	Breaks	Family Service Workers	Mental Health	Lead	Other	Total
2024	$44	$14	$0	$0	$123	$27	$108	$316
2025	$87	$28	$0	$0	$123	$13	$0	$252
2026	$219	$1,201	$0	$0	$139	$18	$0	$1,576
2027	$350	$1,264	$64	$191	$139	$13	$0	$2,022
2028	$525	$1,348	$64	$191	$139	$18	$0	$2,286
2029	$700	$1,432	$64	$191	$139	$13	$0	$2,540
2030	$875	$1,517	$64	$191	$139	$15	$0	$2,801
2031	$875	$1,517	$64	$191	$139	$13	$0	$2,799
2032	$875	$1,517	$64	$191	$139	$14	$0	$2,801
2033	$875	$1,517	$64	$191	$139	$13	$0	$2,799
PV, 3%	$4,398	$9,346	$367	$1,092	$1,156	$136	$105	$16,599
PV, 7%	$3,377	$7,321	$283	$842	$948	$114	$101	$12,987
Annualized, 3%	$516	$1,096	$43	$128	$136	$16	$12	$1,946
Annualized, 7%	$481	$1,042	$40	$120	$135	$16	$14	$1,849

Table K4. Expenditures of the Proposed Rule, Required Retirement Scenario (Millions of Nominal Dollars)

Year	Wage	Benefit	Breaks	Family Service Workers	Mental Health	Lead	Other	Total
2024	$45	$14	$0	$0	$126	$28	$110	$323
2025	$92	$29	$0	$0	$129	$14	$0	$263
2026	$234	$1,286	$0	$0	$149	$19	$0	$1,688
2027	$383	$1,384	$71	$210	$152	$14	$0	$2,214
2028	$588	$1,511	$72	$215	$156	$20	$0	$2,561
2029	$802	$1,642	$74	$219	$159	$15	$0	$2,912

2030	$1,026	$1,778	$76	$225	$163	$18	$0	$3,285
2031	$1,049	$1,819	$77	$230	$167	$16	$0	$3,358
2032	$1,073	$1,861	$79	$235	$171	$18	$0	$3,437
2033	$1,098	$1,904	$81	$240	$175	$16	$0	$3,514
PV, 3%	$5,165	$10,851	$430	$1,278	$1,309	$152	$107	$19,292
PV, 7%	$3,950	$8,462	$331	$983	$1,066	$127	$103	$15,021
Annualized, 3%	$606	$1,272	$50	$150	$153	$18	$13	$2,262
Annualized, 7%	$562	$1,205	$47	$140	$152	$18	$15	$2,139

All estimates reported above are impacts compared to our baseline budget scenario reported in Table B1. Further, we calculate the cost per child, in 2030, when the rule is fully implemented, using 2023 funded enrollment levels to be $22,958 (nominal dollars). As discussed previously we recognize that projected FY2023 funded enrollment greatly exceeds estimated FY2023 actual enrollment. If programs were to fully implement the proposed policies and maintain funded enrollment at least consistent with FY2023 actual enrollment (i.e., 650,000), they would not need additional appropriations beyond the baseline budget scenario until 2027, when they would need an additional $80 million. In future years (all in nominal dollars), programs would need $336 million in 2028, $595 million in 2029, $872 million in 2030, $890 million in 2031, $912 million in 2032, and $932 million in 2033 above the baseline budget funding scenario to implement the proposed policies and maintain a funded enrollment level consistent with estimated FY2023 actual enrollment.

We also replicate the sensitivity analysis described in Section J. In this analysis, we assume an alternative funding scenario in which no additional funding above the baseline budget scenario in Table B1 is available to enact the proposed rule under the Required Retirement Scenario (or increases in appropriations over time that cannot be used to support the proposed rule, if finalized, and/or are not increased in response to it). In this scenario, Head Start programs would likely comply with the proposed rule by reducing the size of their funded enrollment, which would also result in a reduced workforce at Head Start programs. We apply the same methodology used in Section J to this analysis. Table K5 reports the change in total

slots that would be necessary to implement the proposed rule under the Required Retirement Scenario, absent a responsive increase in Federal appropriations.

Table K5. Slot Loss under Baseline Head Start Budget and Required Retirement Scenarios (Millions of Nominal Dollars)

Year	Funding under Baseline Budget Scenario	Slots Funded by Baseline Budget under Required Retirement Scenario	% Change in Slots from 2023 Funded Enrollment	% Difference in Slots from 2023 Actual Enrollment*
2024	$12,264	735,687	-3%	13%
2025	$12,541	739,542	-2%	14%
2026	$12,829	667,288	-12%	3%
2027	$13,124	646,063	-14%	-1%
2028	$13,426	634,110	-16%	-2%
2029	$13,735	623,005	-17%	-4%
2030	$14,051	612,004	-19%	-6%
2031	$14,374	612,082	-19%	-6%
2032	$14,704	612,031	-19%	-6%
2033	$15,043	612,082	-19%	-6%

* We note that reductions in funded enrollment in response to the proposed rule will require some degree of shifting of funds from existing expenditures, such as those to support funded slots that are currently empty or spending to recruit and train staff in a high turnover environment. Please see our request for comment on this point in Section B and the discussion under the heading "Connecting Baseline Uncertainty with Differing Estimates of Regulatory Effects."

L. Non-Quantified Impacts of Certain Elements of the Proposed Rule

In addition to the effects that are quantified elsewhere in this analysis, we have identified a select number of provisions that would have impacts that are not quantified or monetized.

Estimated Impact of Relevant Provisions on Slot Loss

Sections C through G of this RIA monetize the provisions of this proposed rule that we anticipate would have the largest potential impact. Some of the provisions described in this section may also result in costs that have not been monetized. As quantified above, one potential impact of enacting the proposed standards at current funding levels is a reduction in Head Start slots in some programs. A reduction in Head Start slots would reduce access to high-quality early childhood education for some children ages birth to 5 from low-income families. However, this impact is difficult to qualify because a substantial number of current Head Start slots remain

unfilled currently, due to staffing shortage and other constraining factors. A loss of funded slots that are unfilled would not impact children who are currently enrolled.

The children who would be impacted by this loss of access would not receive high-quality services from Head Start and would not experience the positive outcomes for children and families who participate in the Head Start program. Some children who lose access to Head Start may receive early childhood education through State or local preschool programs, which are offered in many areas of the country. Another potential impact is that some children who would otherwise have been served by Head Start may receive early care and education in programs or settings that lack the quality to adequately support their learning and development, though we note that, as described in the NPRM preamble, absent the quality improvements under the proposed rule, Head Start quality is likely to deteriorate over time. Loss of access to Head Start may also reduce opportunity for parents and caregivers to participate in the workforce.

Expected Impact of Preventing and Addressing Lead Exposure (§1302.48)

This NPRM has new requirements for programs to test the lead levels in their facilities and if applicable, remediate exposure risks. Below we summarize findings from a few select research studies. Decades of research have shown that high lead levels are harmful for children's development.[287] Research also shows, however, that lead remediation has long-term benefits to children's health and economic benefits to society as they mature into adolescence and beyond. For instance, a 2002 CDC study found that reduced lead exposure in the United States since 1976 has resulted in a $110 billion to $319 billion economic benefit due to higher IQs and worker productivity.[288] Research has also found that the lead and copper rule investment from the EPA has led to an estimated benefit ratio of 35:1 meaning that that for every $1 invested, the economic return would be about $35.[289] Furthermore, a research study that conducted a cost-

[287] Finkelstein, Y., Markowitz, M. E., & Rosen, J. F. (1998). Low-level lead-induced neurotoxicity in children: an update on central nervous system effects. *Brain research reviews,* 27, 168-176.
[288] Grosse, S. D., Matte, T. D., Schwartz, J., & Jackson, R. J. (2002). Economic gains resulting from the reduction in children's exposure to lead in the United States. Environmental health perspectives, 110(6), 563–569. https://doi.org/10.1289/ehp.02110563.
[289] Levin, R., & Schwartz, J. (2023). A better cost:benefit analysis yields better and fairer results: EPA's lead and copper rule revision. *Environmental Research,* 229, 115738. https://doi.org/10.1016/j.envres.2023.115738

benefit analysis on every dollar invested in lead paint control has been estimated to be a $17 to $221 return.[290] This research suggests there may be a societal benefit that lead remediation regulations can make. While we cannot estimate the quantitative cost savings that this provision will have, we note that testing on its own does not make anyone healthier; the cause-and-effect chain between testing and health outcomes includes activities that have costs. We welcome public comment on these costs and on this analysis more generally, including interpretation of and extrapolation from the studies referenced above.

Additional Impact of Workforce Supports: Staff Wages and Benefits (§1302.90)

In addition to the effects (costs) quantified in this RIA, these provisions may also result in potential cost savings to governments at various jurisdictional levels (which are mostly transfers, when categorized from a society-wide perspective) due to benefit reductions for ECE workers. Specifically, an increase in wages and benefits for ECE workers may result in a reduction in the number of households receiving a range of safety net benefits, including LIHEAP, housing assistance, Medicaid/CHIP, SNAP, SSI, TANF, and WIC. Additionally, increases in staff wages will likely have an outsized impact on improving educational quality of Head Start programming. When teachers are fairly compensated their stress likely decreases, and dedication and commitment to their work likely improves. This will improve the quality of services delivered in programs. While descriptive and non-causal, research illustrates that low wages are a primary driver of high turnover in early childhood educator positions.[291] Research has also demonstrated that improved wages are correlated with higher quality programs.[292] These research findings are not causal, and, to the best of our knowledge, no cost-benefit analysis has

[290] Gould, E. (2009). Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control. *Environmental Health Perspectives,* 117(7). https://doi.org/10.1289/ehp.0800408.
[291] Caven, M., Khanani, N., Zhang, X., & Parker, C. E. (2021). *Center-and program-level factors associated with turnover in the early childhood education workforce (REL 2021–069)*. U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast & Islands.; Whitebook, M., Howes, C., & Phillips, D. (2014). *Worthy Work, STILL Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*. Center for the Study of Child Care Employment. https://cscce.berkeley.edu/wp-content/uploads/publications/ReportFINAL.pdf
[292] Isaccs, J., Adelstein, S., Kuehn, D. (2018). Early Childhood Educator Compensation in the Washington Region. Urban Institute. https://www.urban.org/sites/default/files/publication/97676/early_childhood_educator_compensation_final_2.pdf

been conducted related to the impact of increased wages in the early childhood sector. Therefore, our conclusions here are tentative.

By improving wages, teachers may choose to stay in the profession longer and may spend more time building the skills necessary to support high-quality early childhood programming and high-quality teacher-child interactions. Furthermore, improvements in staff retention overall due to improved wages and benefits likely promotes more stable staffing across the program and provides continuity of services for enrolled children and may also reduce stress and workload for other staff in the program due to fewer staff vacancies.

It is also likely that there will be potential cost savings from the effects of this proposed rule mitigating the high expenses associated with high turnover. When Head Start programs experience staffing shortages, they will often ask existing staff to work additional hours to compensate for the lack of adequate coverage. In some cases, substitute or temporary staff will be hired and sometimes this comes at an increased cost. Presumably, after the implementation of this proposed policy, these excess costs (experienced as remunerations increases for the aggregate collection of Head Start teachers) will be reduced because the workforce will be more stable and programs will experience improved retention.

Estimated Impact of Mental Health Services (§1302 Subpart D; Subpart H; Subpart I)

In addition to the effects (costs) quantified in Section E of this RIA, there are numerous additional benefits to enhancing provisions related to mental health supports. Advancing science in child development demonstrates that birth to age five is an important period for brain development and is a critical foundation on which all later development builds. Mental health and social-emotional well-being during this period are foundational for family well-being, children's healthy development, and early learning and are associated with positive long-term outcomes. Early childhood experiences, like trusting relationships with caregivers in a stable, nurturing environment, aid in the development of skills that build resilience. The enhancements

to the requirements for mental health supports would promote higher-quality services for children in Head Start programs across the country and would support child, family, and staff well-being.

Specifically, enhancements to §1302 Subpart D enhances health program services to explicitly include mental health. These regulatory changes also reflect a preventative approach to mental health across comprehensive service areas, such as health and family engagement. The addition of mental health screening would support programs in having conversations about mental health early and often. Screening would facilitate the identification of children, families, and staff with specific needs and allow for intervention before more time and resource intensive care becomes necessary. Mental health screening may result in nominal costs to programs that elect to purchase specific screening tools. §1302.45(a) also adds a requirement that a program have a multidisciplinary team responsible for mental health. We believe this team would be comprised of existing staff positions so would have an associated opportunity cost not reflected in budgets.

Estimated Impact of Modernizing Engagement with Families (§1302.11; §1302.13; §1302.15; §1302.34; §1302.50)

These provisions enhance existing requirements that programs must follow when completing their community needs assessments. Programs would be required to identify communication methods to best engage with prospective and enrolled families, and to use modern technologies to streamline information gathering and improve communications. There is significant benefit to families in giving them a voice in the way that programs choose to communicate. Using communication modalities and methods that are easiest to families would enhance engagement with Head Start and increase program accessibility. Programs would also be required to implement improvements to streamline the enrollment experience for families. There may be nominal costs for programs to make these determinations and implement new technologies. Streamlining the enrollment experience for families would create more user-

friendly and efficient processes, reduce burden and build trust with families, and support Head Start in more equitably and effectively delivering services.

Estimated Impact of Community Assessments (§1302.11)

The changes to these provisions address concerns that Head Start programs and others in the field have raised about the burdens of the community needs assessment. These provisions would promote clarity on the intent of the community assessment, align with best practices, and increase the effectiveness in how the community assessment is used to inform key aspects of program design and approach. Requiring a strategic approach to determine what data to collect prior to conducting the community needs assessment and how to use the needs assessment to achieve intended outcomes would promote overall effectiveness of the community assessment to drive programmatic decision making. They may also facilitate reductions in cost of time-consuming or complex assessment and analytical techniques and reduce barriers to programs being able to use their community assessment data to effectively guide programmatic decisions. Programs would also be allowed to use publicly or local available data as a proxy, which would reduce duplication of efforts and further lessen burden, and may facilitate coordination with other community programs.

Other new requirements related to the collection of specific elements in the community needs assessment, such as geographic location, race, ethnicity, and languages, would facilitate Head Start's ability to understand the diversity of populations most in need of services, which in turn would help promote equity, inclusion, and accessibility in service delivery. Factors related to transportation needs and resources in communities reflects that transportation remains a significant barrier for many of the hardest to serve families and impedes Head Start's mission. Ensuring transportation needs and resources are part of the data that informs a program's design and service delivery would enable Head Start to more effectively meet the needs of families and improve access to Head Start services.

Estimated Impact of Adjustment for Excessive Shelter Costs for Eligibility Determination (§1302.12)

This provision would allow a program to adjust a family's income to account for excessive shelter costs. This provision reflects a transfer of benefits from one potentially eligible family to another, however consistent with Section 1302.14 and 1302.13 in the HSPPS which is unchanged in this current proposal, programs will continue to establish selection criteria that prioritizes selection of participants based on need. There may be nominal implementation costs as Head Start programs implement these new income calculations. Children whose families have few resources because they earn near-poverty level wages and live in areas with a high-cost of living would newly be eligible for Head Start. This would enable Head Start to continue to prioritize the enrollment of families most in need of services. This provision also increases alignment with other means-tested Federal programs (e.g., SNAP, see relevant section in Preamble for details) that use an income adjustment to account for excessive shelter costs.

Estimated Impact of Migrant and Seasonal Head Start Eligibility (§1302.12)

The modifications to eligibility requirements in this provision would benefit MSHS programs and families by reducing barriers to enrolling farmworker families in need of program services. The provisions related to eligibility duration would address an existing inequity between infants and toddlers served in Early Head Start programs and those served in MSHS programs. The existing requirement creates an inequity because infants and toddlers served in Early Head Start programs can receive services for the duration of the program, meaning until they turn three and age out of the program, whereas the MSHS family is no longer considered eligible for the program after two years. Therefore, the young children of agricultural workers are not provided the same potential duration of services as infants and toddlers served by Early Head Start. This change would also promote continuity for families served by MSHS and reduce paperwork for families and programs.

Estimated Impact of Serving Children with Disabilities (§1302.14)

These provisions clarify language to address an inconsistency between the HSPPS and the Act. This provision reflects a transfer of benefits from one potentially eligible family to another. A non-quantifiable benefit of this provision would be addressing confusion caused by the discrepancy. Further clarification that the requirement to fill ten percent of slots with children with disabilities under IDEA is a floor and not a ceiling would support Head Start in maximizing services to children with disabilities who would benefit from the program's strong focus on inclusive early childhood settings.

Expected Benefits of Ratios in Center-Based Early Head Start Programs (§1302.21)

This provision encourages programs to consider reducing teacher-child ratios for their youngest classrooms, to provide the highest quality care and learning opportunities for infants enrolled in Head Start. This provision has numerous non-quantifiable benefits for children and families served by Head Start. A warm, responsive relationship between an infant and caregiver is a crucial foundation for infants to learn and develop. A lower teacher-child ratio would support the establishment of this strong, secure relationship and allow for more individualized attention between the infant and teacher. A lower ratio of one teacher to three infants also aligns with the National Resource Center for Health and Safety in Child Care and Early Education recommendations for center-based programs with classrooms where the majority of children are under 12 months old. Further, research indicates that, generally, lower teacher-child ratios in ECE classrooms relate to higher classroom quality and stronger child outcomes. As the premier ECE provider in the United States, Head Start sets an example for early childhood programs nationwide, and this provision would further support high-quality early childhood services across the country.

Expected Benefits of Center-Based Service Duration for Early Head Start (§1302.21)

This provision clarifies that the 1,380 hours of planned class operations for children in EHS should occur across a minimum of 46 weeks per year. We believe most programs are

already operating year-round; however, a small number of programs may be operating less than a full year and we would like to promote full-year services for infants and toddlers in EHS. These programs may incur costs associated with transitioning to full-year services. However, there are substantial non-quantifiable benefits to young children's development. Research on full-day and full-year programs suggests children in poverty benefit from longer exposure to high-quality early learning programs than what is provided by part-day and/or part-year programs.

Expected Benefits of Family Service Worker Family Assignments (§1302.52)

This provision seeks to ensure that an individual family services staff is assigned to work with no greater than 40 families. Based on internal data, 42 percent of programs have caseloads that exceed 40 families. We estimate that a total of 3,231 new family services staff would need to be hired to meet this new requirement at a total cost of $170,052,632. There are numerous non-quantifiable benefits to lower family services staff caseloads. This provision would address staff well-being, reduce burnout, and lower expressions of job frustration and dissatisfaction. For staff well-being, large caseloads are associated with staff burnout and turnover, feeling overwhelmed, and expression of job frustration and dissatisfaction. This provision would improve the quality of family services and improve staff well-being and reflects best practice in the field.

Expected Benefits of Participation in Quality Rating and Improvement Systems (§1302.53)

This provision encourages Head Start programs to participate in State QRIS to the extent practicable if the State system has strategies in place to support their participation. We assume that programs newly participating in QRIS would incur additional costs and burden from substantive changes in the form of revised processes and potentially additional or different documentation, as well as possible duplication of monitoring and assessment processes. Non-quantifiable benefits of participation in QRIS include continued quality improvement efforts, providing a common metric through which families can understand and make decisions about program options, and aligning standards across a statewide early care and education system.

Expected Benefits of Services to Enrolled Pregnant People (§1302.80; §1302.82)

This provision enhances services to enrolled pregnant people by requiring the newborn visit to include a discussion of maternal mental and physical health, infant health, and support for basic needs; and requiring programs to track and record information on service delivery for enrolled pregnant women. We assume programs may incur nominal costs associated with enhancements to record-keeping. Non-quantifiable benefits of these provisions would be assessing the child care, health, and mental health needs of mothers in the critical period after child birth, which would enable Head Start to provide support to mothers and identify opportunities for collaboration and intervention. Improved tracking and recording of services to enrolled pregnant women would also support OHS in understanding the services provided and identifying how to best be responsive to the needs of enrolled pregnant people. These records would also be used to validate the use of Federal funds to serve pregnant people and to inform ongoing conversations program staff have with the pregnant people about her needs before and after the baby is born.

Expected Benefits of Standards of Conduct (§1302.90)

These provisions revise current requirements to ensure we are as clear as possible and that our requirements reflect current best practices and more precise terminology around standards of conduct. These changes would result in aligned definitions with other Federal resources and clarifications to existing requirements. Non-quantifiable benefits of these enhancements include critical supports to child safety by supporting staff in recognizing potential child abuse and neglect and understanding their legal responsibility as a mandated reporter, which would improve child safety and program response to violations of standards of conduct.

Expected Benefits of Staff Training to Support Child Safety (§1302.92; §1302.101)

These provisions enhance requirements and frequency of staff training and professional development. We assume there would be nominal costs associated with more frequent training. Non-quantifiable benefits of an increased frequency of training would be to allow programs to

offer staff advanced training opportunities on areas of local importance or greater complexity, such as culturally responsive practices in reporting, issues related to disproportionate reporting, and information about at-risk populations, as well as emphasize the importance of child safety in Head Start. This proposed policy change would also create more equitable opportunities for staff to understand and discuss their ethical and legal responsibilities. Annual training on positive strategies to understand and support children's social and emotional development would also enhance the use of positive strategies and have the added benefit of increasing opportunities for peer support as appropriate.

Expected Benefits of Definition of Income (§1305.2)

This provision would revise the definition of income by providing a clear and finite list of what is considered income and what is not considered income. Non-quantifiable benefits of this provision include making the policy less burdensome and complicated for programs to implement, ensuring programs can more easily identify an applicants' income, and promote consistent interpretation on what to include in calculating income across programs.

Initial Small Entity Analysis

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This analysis, as well as other sections in this document and the Preamble of the proposed rule, serves as the Initial Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

A. Description and Number of Affected Small Entities

The SBA maintains a Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS).[293] We replicate the SBA's description of this table:

[293] U.S. Small Business Administration (2023). "Table of Size Standards." March 17, 2023 https://www.sba.gov/document/support--table-size-standards.

This table lists small business size standards matched to industries described in the North American Industry Classification System (NAICS), as modified by the Office of Management and Budget, effective January 1, 2022.

The size standards are for the most part expressed in either millions of dollars (those preceded by "$") or number of employees (those without the "$"). A size standard is the largest that a concern can be and still qualify as a small business for Federal Government programs. For the most part, size standards are the average annual receipts or the average employment of a firm. How to calculate average annual receipts and average employment of a firm can be found in 13 CFR § 121.104 and 13 CFR § 121.106, respectively.

This proposed rule will impact small entities in NAICS category 624410, Child Care Services, which has a size standard of $9.5 million dollars. We assume that most Head Start programs, if not all, are below this threshold and are considered small entities.

B. Description of the Potential Impacts of the Rule on Small Entities

In the main analysis, we estimate that about $2.576 billion in additional funding would be necessary to fully implement the proposed rule in 2033, which is about a 17% increase above baseline funding levels. Most of the funding needed is proportional to the size of the Head Start program or agency, so we do not separately assess the potential impacts of the rule on small entities of different sizes. The Department considers a rule to have a significant impact on a substantial number of small entities if it has at least a 3% impact on revenue on at least 5% of small entities. Since the proposed rule would likely result in increased expenditures of about 17%, we find that the proposed rule would likely have a significant impact on a substantial number of small entities.

C. Alternatives to Minimize the Burden on Small Entities

ACF considered many policy alternatives to the proposed rule, some of which are quantified in this analysis. Tables I1 through I4 summarize the impacts on expenditures under

the wage-parity policy, reporting yearly estimates, and present value and annualized values corresponding to 3% and 7% discount rates. This table presents separate analyses of the following policies: staff wages, staff benefits, staff breaks, family service worker family assignments, mental health supports, and preventing and addressing lead exposure. This document also considers the impacts of expenditures associated with the minimum pay requirement, and itemized impacts of the lead in water and lead-based paint policies. These tables and additional analyses in the narrative of this document enabled ACF to appropriately consider a range of feasible policy alternatives. This analysis also considers excluding the following elements of the proposed rule: provisions related to benefits, provisions related to staff breaks, provisions related to family service workers, provisions related to mental health support, and provisions related to lead hazards.

List of Subjects

45 CFR Part 1301

Early education, Grant programs, Head Start, Program governance, Social programs

45 CFR Part 1302

Compensation, Early education, Grant programs, Head Start, Mental health, Quality improvement, Social programs, Workforce

45 CFR Part 1303

Early education, Financial management, Grant programs, Head Start, Social programs

45 CFR Part 1304

Accountability, Early education, Grant programs, Head Start, Monitoring, Social programs

45 CFR Part 1305

Definitions, Early education, Grant programs, Head Start, Social programs

Dated: November 8, 2023.

Xavier Becerra,

Secretary,

Department of Health and Human Services.

For reasons stated in the preamble, we propose to amend 45 CFR parts 1301, 1302, 1303, 1304, and 1305 as follows.

PART 1301 – PROGRAM GOVERNANCE

1. The authority citation for part 1301 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

2. Revise §1301.1 to read as follows:

§ 1301.1 Purpose

An agency, as defined in part 1305 of this chapter, must establish and maintain a formal structure for program governance that includes a governing body, a policy council at the agency level and policy committee at the delegate level, and a parent committee. Governing bodies have a legal and fiscal responsibility to administer and oversee the agency's Head Start programs. Policy councils are responsible for the direction of the agency's Head Start programs.

3. Amend §1301.3 by revising paragraph (a) and removing the word "grantee" and adding in its place the words "grant recipient" in paragraph (b)(2).

The revision reads as follows:

§ 1301.3 Policy council and policy committee.

(a) *Establishing policy councils and policy committees*. Each agency must establish and maintain a policy council responsible for the direction of the Head Start program at the agency level, and a policy committee at the delegate level. If an agency delegates operational responsibility for the entire Head Start program to one delegate agency, the policy council and policy committee may be the same body.

* * * * *

4. Amend §1301.4 by revising paragraph (b)(3) to read as follows:

§ 1301.4 Parent committees.

* * * * *

(b) * * *

(3) Within the guidelines established by the governing body, policy council or policy committee, participate in the recruitment and screening of Head Start employees.

PART 1302 – PROGRAM OPERATIONS

5. The authority for part 1302 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

6. Revise §1302.1 to read as follows:

§ 1302.1 Overview

This part implements these statutory requirements in sections 641A, 645, 645A, and 648A of the Act by describing all of the program performance standards that are required to operate Head Start Preschool, Early Head Start, American Indian and Alaska Native and Migrant or Seasonal Head Start programs. The part covers the full range of operations from enrolling eligible children and providing program services to those children and their families, to managing programs to ensure staff are qualified and supported to effectively provide services. This part also focuses on using data through ongoing program improvement to ensure high-

quality service. As required in the Act, these provisions do not narrow the scope or quality of services covered in previous regulations. Instead, these regulations raise the quality standard to reflect science and best practices, and streamline and simplify requirements so programs can better understand what is required for quality services.

Subpart A – Eligibility, Recruitment, Selection, Enrollment, and Attendance

§ 1302.10 [Amended]

7. Amend § 1302.10 in the first sentence by removing the word "grantee" and adding in its place the words "grant recipient".

8. Amend §1302.11 by revising paragraph (b) to read as follows:

§ 1302.11 Determining community strengths, needs, and resources.

* * * * *

(b) *Community wide strategic planning and needs assessment (community assessment)*. (1) A program must conduct a community assessment at least once over the five-year grant period to:

(i) Identify populations most in need of services including relevant family or child risk factors;

(ii) Inform the program's design and service delivery to reflect needs and diversity of the community, and to promote equity, inclusion, and accessibility;

(iii) Inform the enrollment, recruitment, and selection process to prioritize the enrollment of those populations with relevant risk factors identified under paragraph (b)(1)(i) of this section;

(iv) Identify strengths and resources in the community that can be leveraged for service delivery, coordination, and partnership efforts including in the delivery of education, health, nutrition, and referrals to social services to eligible children and families;

(v) Identify the communication methods and modalities available to the program that best engage with prospective and enrolled families of all abilities.

(2) In conducting the community assessment, a program must collect and utilize data that describes community strengths, needs, and resources and include, at a minimum:

(i) Relevant demographic and other data about eligible children and expectant mothers, including:

(A) Children living in poverty;

(B) Children experiencing homelessness in collaboration with, to the extent possible, McKinney-Vento Local Education Agency Liaisons (42 U.S.C. 11432 (6)(A));

(C) Children in foster care;

(D) Children with disabilities, including types of disabilities and relevant services and resources provided to these children by community agencies; and

(E) Geographic location, race, ethnicity, and languages they speak.

(ii) The education, health, nutrition and social service needs of eligible children and their families, including prevalent social or economic factors, such as transportation needs, that impact their well-being;

(iii) Typical work, school, and training schedules of parents with eligible children;

(iv) Other child development, child care centers, and family child care programs that serve eligible children, including home visiting, publicly funded State and local preschools, and the approximate number of eligible children served;

(v) Resources that are available in the community to address the needs of eligible children and their families, especially transportation resources; and,

(vi) Strengths of the community.

(3) Programs should have a strategic approach:

(i) To determine what data to acquire to reach goals in paragraph (b)(1) of this section prior to conducting the community assessment and

(ii) For how to use the data acquired to reach goals in paragraph (b)(1) of this section after conducting the community assessment

(4) When determining what data to acquire under paragraph (b)(2) of this section, if the burden or cost to acquire certain data is unreasonable, programs should identify other publicly or locally available data that could be used as a proxy.

(5) A program must annually review and, where needed as determined by the program, update the community assessment to identify any significant shifts in community demographics, needs, and resources that may impact program design and service delivery. Programs must consider how the annual update can inform and support management approaches for continuous quality improvement, program goals, ongoing oversight, and results from their self-assessment as required in subpart J of this part (§§ 1302.101 through 1302.103).

(6) A program must consider whether the characteristics of the community allow it to include children from diverse economic backgrounds that would be supported by other funding sources, including private pay, in addition to the program's eligible funded enrollment. A program must not enroll children from diverse economic backgrounds if it would result in a program serving less than its eligible funded enrollment.

9. Amend §1302.12 by revising paragraphs (b)(1), (b)(2) introductory text, (b)(2)(i), (e)(1)(ii), (e)(4), (f), (i)(1), and (j)(3) and (4), adding paragraph (j)(5), and revising paragraph (l) to read as follows:

§ 1302.12 Determining, verifying, and documenting eligibility.

* * * * *

(b) * * *

(1) For Early Head Start, except when the child is transitioning to Head Start Preschool, a child must be an infant or a toddler younger than three years old.

(2) For Head Start Preschool, a child must:

(i) Be at least three years old or, turn three years old by the date used to determine eligibility for public school in the community in which the Head Start Preschool program is located; and,

* * * * *

(e) * * *

(1) * * *

(ii) The Tribe has resources within its grant, without using additional funds from HHS intended to expand Head Start services, to enroll pregnant women or children whose family incomes exceed low-income guidelines or who are not otherwise eligible; and,

* * * * *

(4) An Indian Tribe or Tribes that operates both an Early Head Start program and a Head Start Preschool program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start Preschool program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian Tribe or Tribes during a year may not serve as a basis for any reduction of the base grant for either program in succeeding years.

(f) *Migrant or Seasonal eligibility requirements*. A child is eligible for Migrant or Seasonal Head Start, if the family meets an eligibility criterion in paragraphs (c) and (d) of

this section; and one family member is primarily engaged in agricultural employment.

* * * * *

(i) * * *

(1) To verify eligibility based on income, program staff must use tax forms, pay stubs, or other proof of income to determine the family income for the relevant time period.

(i) The program must calculate total gross income using applicable sources of income.

(ii) A program may make an adjustment to a family's gross income calculation for the purposes of determining eligibility in order to account for excessive housing expenses. A program must use available bills, bank statements, and other relevant documentation provided by the family to calculate total annual housing expenses with appropriate multipliers to:

(A) Determine if a family spends more than 30 percent of their total gross income on housing expenses, as defined in part 1305 of this subchapter, and

(B) If applicable, reduce the total gross income by the amount spent in housing expenses above the 30 percent threshold to calculate the adjusted gross income for determining income eligibility.

(iii) If the family cannot provide tax forms, pay stubs, or other proof of income for the relevant time period, program staff may accept written statements from employers, including individuals who are self-employed, for the relevant time period and use information provided to calculate total annual income with appropriate multipliers.

(iv) If the family reports no income for the relevant time period, a program may accept the family's signed declaration to that effect, if program staff describes efforts made to verify the family's income, and explains how the family's total income was calculated or seeks information from third parties about the family's eligibility if the family gives written consent.

If a family gives consent to contact third parties, program staff must adhere to program safety and privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2) of this section.

(v) If the family can demonstrate a significant change in income for the relevant time period, program staff may consider current income circumstances.

* * * * *

(j) * * *

(3) If a child moves from an Early Head Start program to a Head Start Preschool program, program staff must verify the family's eligibility again.

(4) If a program operates both an Early Head Start and a Head Start Preschool program, and the parents wish to enroll their child who has been enrolled in the program's Early Head Start, the program must ensure, whenever possible, the child receives Head Start Preschool services until enrolled in school, provided the child is eligible.

(5) If a program operates a Migrant and Seasonal Head Start program, children younger than age three participating in the program remain eligible until they turn three years old consistent with paragraph (j)(2) of this section.

* * * * *

(l) Program policies and procedures on violating eligibility determination regulations. A program must establish written policies and procedures that describe all actions taken against staff who intentionally violate Federal and program eligibility determination regulations and who enroll pregnant women and children that are not eligible to receive Head Start services.

* * * * *

10. Revise §1302.13 to read as follows:

§ 1302.13 Recruitment of children.

In order to reach those most in need of services, a program must develop and implement a recruitment process designed to actively inform all families with eligible children within the recruitment area of the availability of program services. A program must use modern technologies to encourage and assist families in applying for admission to the program, and to reduce the family's administrative and paperwork burden in the application and enrollment process. A program must include specific efforts to actively locate and recruit children with disabilities and other vulnerable children, including homeless children and children in foster care.

11. Amend §1302.14 by revising paragraph (a)(3), adding paragraph (a)(5), revising paragraph (b)(1), and adding paragraph (d) to read as follows:

§ 1302.14 Selection process.

(a) * * *

(3) If a program operates in a service area where Head Start Preschool eligible children can enroll in high-quality publicly funded pre-kindergarten for a full school day, the program must prioritize younger children as part of the selection criteria in paragraph (a)(1) of this section. If this priority would disrupt partnerships with local education agencies, then it is not required. An American Indian and Alaska Native or Migrant or Seasonal Head Start program must consider whether such prioritization is appropriate in their community.

* * * * *

(5) A program may consider the enrollment of children of staff members as part of the selection criteria in paragraph (a)(1) of this section.

(b) * * *

(1) A program must ensure at least 10 percent of its total actual enrollment is filled by children eligible for services under IDEA, unless the responsible HHS official grants a waiver.

* * * * *

(d) *Understanding barriers to enrollment*. A program is required to use data from the selection process to understand why children selected for the program do not enroll or attend, such as a lack of transportation being a barrier to enrolling once they are selected. A program must use this data to inform ongoing program improvement efforts as described in § 1302.102(c) to promote enrolling the children most in need of program services.

12. Amend §1302.15 by revising paragraph (b)(2) and adding paragraph (g) to read as follows:

§ 1302.15 Enrollment.

* * * * *

(b) * * *

(2) Under exceptional circumstances, a program may maintain a child's enrollment in Head Start Preschool for a third year, provided that family income is verified again. A program may maintain a child's enrollment in Early Head Start as described in § 1302.12(j)(2).

* * * * *

(g) *User-friendly enrollment process.* A program must regularly examine their enrollment processes and implement any identified improvements to streamline the enrollment experience for families.

13. Amend §1302.16 by adding paragraph (a)(2)(v) to read as follows:

§ 1302.16 Attendance.

(a) * * *

(2) * * *

(v) Examine barriers to regular attendance, such as access to safe and reliable transportation, and where possible, provide or facilitate transportation for the child if needed;

* * * * *

14. Amend § 1302.17 by revising paragraphs (a)(2) through (4), (b)(2) introductory text, and (b)(3) to read as follows:

§ 1302.17 Suspension and expulsion.

(a) * * *

(2) A temporary suspension must be used only as a last resort in extraordinary circumstances where there is a serious safety threat that has not been reduced or eliminated by the provision of interventions and supports recommended by the mental health consultant and the program needs time to put additional appropriate services in place.

(3) Before a program determines whether a temporary suspension is necessary, a program must engage with a mental health consultant, the multidisciplinary team responsible for mental health, collaborate with the parents, and utilize appropriate community resources – such as behavior coaches, psychologists, other appropriate specialists, or other resources – as needed, to determine no other reasonable option is appropriate.

(4) If a temporary suspension is deemed necessary, a program must help the child return to full participation in all program activities as quickly as possible while ensuring child safety. A program must explore all possible steps and document all steps taken to address the behavior(s) and supports needed to facilitate the child's safe reentry and continued participation in the program. Such steps must include, at a minimum:

(i) Continuing to engage with the parents, mental health consultant, the multidisciplinary team responsible for mental health, and other appropriate staff, and continuing to utilize appropriate community resources;

(ii) Providing additional program supports and services, including home visits; and,

(iii) Determining whether a referral to a local agency responsible for implementing IDEA is appropriate, or if the child has an individualized family service plan (IFSP) or individualized education program (IEP), consulting with the responsible agency to ensure the child receives the needed support services.

(b) * * *

(2) When a child exhibits persistent and serious challenging behaviors, a program must explore all possible steps and document all steps taken to address such problems, and facilitate the child's safe participation in the program. Such steps must include, at a minimum, engaging the parents, mental health consultant, and the multidisciplinary team responsible for mental health; considering the appropriateness of providing appropriate services and supports under section 504 of the Rehabilitation Act of 1973 to ensure that the child who satisfies the definition of disability in 29 U.S.C. 705(9)(b) of the Rehabilitation Act is not excluded from the program on the basis of disability, and consulting with the parents and the child's teacher, and:

* * * * *

(3) If, after a program has explored all possible steps and documented all steps taken as described in paragraph (b)(2) of this section, a program, in consultation with the parents, the child's teacher, the agency responsible for implementing IDEA (if applicable), the mental health consultant, and the multidisciplinary team responsible for mental health determines that the child's continued enrollment presents a continued serious safety threat to the child or other enrolled children and determines the program is not the most appropriate placement for the child,

the program must work with such entities to directly facilitate the transition of the child to a more appropriate placement that can immediately enroll and provide services to the child.

Subpart B – Program Structure

15. Amend § 1302.20 by:

a. Revising paragraphs (a)(1) and (2) and (c)(1) and (2);

b. Removing the word “grantees” and adding in its place words “grant recipients” in paragraph (c)(3) introductory text;

c. Revising paragraphs (c)(3)(i) and (iii);

d. Removing the word “grantees” and adding in its place words “grant recipients” in paragraph (c)(3)(vi); and

e. Revising paragraphs (c)(4) and (d).

The revisions read as follows:

§ 1302.20 Determining program structure.

(a) * * *

(1) A program must choose to operate one or more of the following program options: center- based, home-based, family child care, or an approved locally designed variation as described in § 1302.24. The program option(s) chosen must meet the needs of children and families based on the community assessment described in §1302.11(b). A Head Start Preschool program may not provide only the option described in §1302.22(a) and (c)(2).

(2) To choose a program option and develop a program calendar, a program must consider in conjunction with the annual review of the community assessment described in §1302.11(b)(2), whether it would better meet child and family needs through conversion of existing slots to full school day or full working day slots, extending the program year, conversion

of existing Head Start Preschool slots to Early Head Start slots as described in paragraph (c) of this section, and ways to promote continuity of care and services. A program must work to identify alternate sources to support full working day services. If no additional funding is available, program resources may be used.

* * * * *

(c) * * *

(1) Consistent with section 645(a)(5)15 of the Head Start Act, grant recipients may request to convert Head Start Preschool slots to Early Head Start slots through the refunding application process or as a separate grant amendment.

(2) Any grant recipient proposing a conversion of Head Start Preschool services to Early Head Start services must obtain policy council and governing body approval and submit the request to their regional office.

(3) * * *

(i) A grant application budget and a budget narrative that clearly identifies the funding amount for the Head Start Preschool and Early Head Start programs before and after the proposed conversion;

* * * * *

(iii) A revised program schedule that describes the program option(s) and the number of funded enrollment slots for Head Start Preschool and Early Head Start programs before and after the proposed conversion;

* * * * *

(4) Consistent with section 645(d)(3)16 of the Act, any American Indian and Alaska Native grant recipient that operates both an Early Head Start program and a Head Start Preschool

program may reallocate funds between the programs at its discretion and at any time during the grant period involved, in order to address fluctuations in client populations. An American Indian and Alaska Native program that exercises this discretion must notify the regional office.

(d) *Source of funding*. A program may consider hours of service that meet the Head Start Program Performance Standards, regardless of the source of funding, as hours of planned class operations for the purposes of meeting the Head Start Preschool and Early Head Start service duration requirements in this subpart.

16. Amend § 1302.21 by revising paragraphs (b)(2), (c)(1)(i), (c)(2) and (3), and (c)(4) introductory text to read as follows:

§ 1302.21 Center-based option.

* * * * *

(b) * * *

(2) A class that serves children under 36 months old must have two teachers with no more than eight children, or three teachers with no more than nine children. Each teacher must be assigned consistent, primary responsibility for no more than four children to promote continuity of care for individual children. A program is encouraged to establish a lower teacher to child ratio for the youngest children they serve, provided that it does not jeopardize continuity of care for children. A program must minimize teacher changes throughout a child's enrollment, whenever possible, and consider mixed age group classes to support continuity of care.

* * * * *

(c) * * *

(1) * * *

(i) A program must provide 1,380 annual hours of planned class operations over the course of at least forty-six weeks per year for all enrolled children.

* * * * *

(2) *Head Start Preschool*—(i) *Service duration for at least 45 percent*. A program must provide 1,020 annual hours of planned class operation over the course of at least eight months per year for at least 45 percent of its Head Start Preschool center-based funded enrollment.

(ii) *Service duration for remaining slots.* A program must provide, at a minimum, at least 160 days per year of planned class operations if it operates for five days per week, or at least 128 days per year if it operates four days per week. Classes must operate for a minimum of 3.5 hours per day.

(iii) *Double session.* Double session variation must provide classes for four days per week for a minimum of 128 days per year and 3.5 hours per day. Each double session class staff member must be provided adequate break time during the course of the day. In addition, teachers, assistants, and volunteers must have appropriate time to prepare for each session together, to set up the classroom environment, and to give individual attention to children entering and leaving the center.

(iv) *Special provision for alignment with local education agency.* A Head Start Preschool program providing fewer than 1,020 annual hours of planned class operations or fewer than eight months of service is considered to meet the requirements described in paragraph (c)(2)(i) of this section if its program schedule aligns with the annual hours required by its local education agency for grade one and such alignment is necessary to support partnerships for service delivery.

(3) *Exemption for Migrant or Seasonal Head Start programs*. A Migrant or Seasonal program is not subject to the requirements described in paragraph (c)(1) or (2) of this section, but must make every effort to provide as many days and hours of service as possible to each child and family.

(4) *Calendar planning*. A program must:

* * * * *

17. Amend § 1302.22 by revising paragraphs (a) and (c)(2) introductory text to read as follows:

§ 1302.22 Home-based option.

(a) *Setting*. The home-based option delivers the full range of services, consistent with § 1302.20(b), through visits with the child's parents, primarily in the child's home and through group socialization opportunities in a Head Start classroom, community facility, home, or on field trips. For Early Head Start programs, the home-based option may be used to deliver services to some or all of a program's enrolled children. For Head Start Preschool programs, the home-based option may only be used to deliver services to a portion of a program's enrolled children.

* * * * *

(c) * * *

(2) *Head Start Preschool*. A Head Start Preschool home-based program must:

* * * * *

18. Amend § 1302.23 by revising paragraphs (b)(2) through (4) to read as follows:

§ 1302.23 Family child care option.

* * * * *

(b) * * *

(2) *Mixed age with preschoolers*. When there is one family child care provider, with a mixed-age group of children that includes children over 36 months of age, the maximum group size is six children and no more than two of the six may be under 24 months of age. When there

are two providers, the maximum group size is twelve children with no more than four of the twelve children under 24 months of age.

(3) *Infants and toddlers only*. When there is one family child care provider with a group of children that are all under 36 months of age, the maximum group size is four children, and no more than two of the four children may be under 18 months of age.

(4) *Maintaining ratios*. A program must maintain appropriate ratios during all hours of program operation. A program must ensure providers have systems to ensure the safety of any child not within view for any period. A program must make substitute staff available with the necessary training and experience to ensure quality services to children are not interrupted.

* * * * *

19. Amend § 1302.24 by revising paragraphs (c)(1), (3), and (5) and removing paragraph (d).

The revisions read as follows:

§ 1302.24 Locally-designed program option variations.

* * * * *

(c) * * *

(1) The responsible HHS official may waive one or more of the requirements contained in §§ 1302.21(b), (c)(1)(i), and (c)(2)(i); 1302.22(a) through (c); and 1302.23(b) and (c), but may not waive ratios or group size for children under 24 months. Center-based locally designed options must meet the minimums described in section 640(k)(1) of the Act for center-based programs.

* * * * *

(3) If the responsible HHS official approves a waiver to allow a program to operate below the minimums described in § 1302.21(c)(2)(i), a program must meet the requirements described in § 1302.21(c)(2)(ii), or in the case of a double session variation, a program must meet the requirements described in § 1302.21(c)(2)(iii).

* * * * *

(5) In order to receive a waiver of service duration, a program must meet the requirement in paragraph (c)(4) of this section, provide supporting evidence that it better meets the needs of parents than the applicable service duration minimums described in §1302.21(c)(1) and (c)(2)(i), §1302.22(c), or §1302.23(c), and assess the effectiveness of the variation in supporting appropriate development and progress in children's early learning outcomes.

20. Amend § 1302.34 by adding paragraph (b)(9) to read as follows:

§ 1302.34 Parent and family engagement in education and child development services.

* * * * *

(b) * * *

(9) The communication methods and modalities utilized by the program are the best available to engage with prospective and enrolled families of all abilities.

Subpart D – Health and Mental Health Program Services

21. Revise the heading for subpart D to read as set forth above.

22. Amend § 1302.40 by revising paragraph (b) to read as follows:

§ 1302.40 Purpose.

* * * * *

(b) A program must establish and maintain a Health and Mental Health Services Advisory Committee that includes Head Start parents, professionals, and other volunteers from the community.

23. Revise § 1302.41 to read as follows:

§1302.41 Collaboration and communication with parents.

(a) For all activities described in this part, programs must collaborate with parents as partners in the health, mental health, and well-being of their children in a linguistically and culturally appropriate manner and communicate with parents about their child's health and mental health needs and development concerns in a timely and effective manner.

(b) At a minimum, a program must:

(1) Obtain advance authorization from the parent or other person with legal authority for all health, mental health, and developmental procedures administered through the program or by contract or agreement, and, maintain written documentation if they refuse to give authorization for health and mental health services; and,

(2) Share with parents the policies for health or mental health emergencies that require rapid response on the part of staff or immediate medical attention.

24. Amend § 1302.42 by:

a. Revising paragraph (b)(1)(i) and (b)(4); and

b. Removing the word "grantee" and adding in its place the words "grant recipient" in paragraph (e)(2).

The revisions read as follows:

§ 1302.42 Child health status and care.

* * * * *

(b) * * *

(1) * * *

(i) Obtain determinations from health care and oral health care professionals as to whether or not the child is up-to-date on a schedule of age appropriate preventive and primary medical, mental health, and oral health care, based on: the well-child visits and dental periodicity schedules as prescribed by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the State in which they operate, immunization recommendations issued by the Centers for Disease Control and Prevention, and any additional recommendations from the local Health and Mental Health Services Advisory Committee that are based on prevalent community health problems;

* * * * *

(4) A program must identify each child's nutritional health needs, taking into account available health information, including the child's health records, relevant developmental or mental health concerns, and family and staff concerns, including special dietary requirements, food allergies, and community nutrition issues as identified through the community assessment or by the Health and Mental Health Services Advisory Committee.

* * * * *

25. Amend § 1302.44 by revising paragraph (b) to read as follows:

§1302.44 Child nutrition.

* * * * *

(b) *Payment sources*. A program must use funds from USDA Food, Nutrition, and Consumer Services child nutrition programs as the primary source of payment for meal services. Head Start funds may be used to cover those allowable costs not covered by the USDA.

26. Revise §1302.45 to read as follows:

§ 1302.45 Supports for mental health and well-being.

(a) *Program-wide wellness supports*. To support a program-wide culture that promotes mental health, social and emotional well-being, and overall health and safety, a program must have a multidisciplinary team responsible for mental health that:

(1) Coordinates supports for adult mental health and well-being including engaging in nurturing and responsive relationships with families, engaging families in home visiting services, and promoting staff health and wellness, as described in § 1302.93;

(2) Coordinates supports for positive learning environments for all children; supportive teacher practices; and strategies for supporting children with social, emotional, behavioral or mental health concerns;

(3) Secures mental health consultation services no less than once a month to ensure a mental health consultant is available to partner with staff and families in a timely and effective manner and examines the approach to mental health consultation on an annual basis to determine if it meets the needs of the program;

(4) Ensures that all children receive adequate screening and appropriate follow up and the parent receives referrals about how to access services for potential social, emotional, behavioral, or other mental health concerns, as described in §1302.33;

(5) Facilitates coordination and collaboration between mental health and other relevant program services, including education, disability, family engagement, and health services; and

(6) Builds community partnerships to facilitate access to additional mental health resources and services, as needed.

(b) *Mental health consultants*. A program must ensure that mental health consultants provide consultation services that build the capacity of adults in an infant or young child's life to

strengthen and support the mental health and social and emotional development of children, including consultation with:

(1) The program to implement strategies that promote a program-wide culture of mental health, prevent mental health challenges from developing, and identify and support children with mental health and social and emotional concerns;

(2) Child and family services staff to implement strategies that build nurturing and responsive relationships and create positive learning environments that promote the mental health and social and emotional development of all children;

(3) Staff who have contact with children to understand and appropriately respond to prevalent child mental health concerns, including internalizing problems such as appearing withdrawn; externalizing problems such as behavioral concerns; and how exposure to trauma and substance use can influence risk;

(4) Families and staff to understand mental health and access mental health interventions or supports, if needed, including in the event of a natural disaster or crisis;

(5) The program to implement policies to limit suspension and prohibit expulsion as described in §1302.17; and

(6) The program to support the well-being of children and families involved in any significant child health, mental health, or safety incident described in § 1302.102(d)(1)(ii).

27. Amend § 1302.46 by revising paragraphs (b)(1)(iii) and (iv), (b)(2) introductory text, and (b)(2)(ii) and (iii), and adding paragraph (b)(2)(iv) to read as follows:

§ 1302.46 Family support services for health, nutrition, and mental health.

* * * * *

(b)* * *

(1) * * *

(iii) Learn about healthy pregnancy and postpartum care, as appropriate, including breastfeeding support and treatment options for parental mental health, including depression, anxiety, and substance use concerns;

(iv) Discuss information related to their child's mental health with staff, including typical and atypical behavior and development, and how to appropriately respond to their child and promote their child's social and emotional development; and,

* * * * *

(2) A program must provide ongoing support to assist parents' navigation through health and mental health systems to meet the general health and specifically identified needs of their children and must assist parents:

* * * * *

(ii) In understanding the results of diagnostic and treatment procedures as well as plans for ongoing care;

(iii) In familiarizing their children with services they will receive while enrolled in the program and to enroll and participate in a system of ongoing family health care; and

(iv) In providing information about how to access evidence-based mental health services for young children and their families, including referrals if appropriate.

28. Amend § 1302.47 by revising paragraphs (b)(1)(iii), (b)(5) introductory text, and (b)(5)(i), (iii), and (v) to read as follows:

§ 1302.47 Safety practices.

* * * * *

(b) * * *

(1) * * *

(iii) Free from pollutants, hazards and toxins that are accessible to children and could endanger children's safety including lead consistent with § 1302.48;

* * * * *

(5) *Safety practices*. All staff, consultants, contractors, and volunteers follow appropriate practices to keep children safe during all activities, including, at a minimum:

(i) Reporting of suspected or known child abuse and neglect, as defined by the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 note), including that staff comply with applicable Federal, State, local, and Tribal laws;

* * * * *

(iii) Appropriate supervision of children at all times;

* * * * *

(v) All standards of conduct described in §1302.90(c)(ii); and,

* * * * *

29. Add § 1302.48 to subpart D to read as follows:

§ 1302.48 Preventing and Addressing Lead Exposure

(a) *Preventing and addressing lead exposure through water*. A program must address lead in water from water fixtures used for human consumption in Head Start facilities constructed before 2014 and where lead service lines, plumbing, or fixtures may still exist, including, at a minimum:

(1) Sample and test water in such fixtures for lead on an annual basis, or, if approved by the governing body, a proportion of water in such fixtures each year to ensure they are tested at least once every five years;

(2) Sample and test water in such fixtures following remediation actions to address detectable lead or following a change to the water profile;

(3) All samples must be collected by an individual adequately trained to collect samples for lead testing;

(4) All samples must be analyzed by a laboratory that is certified by Environmental Protection Agency (EPA) or the State, territory, or Tribe for testing lead in drinking water;

(5) Restrict access to such fixtures within 24 hours of determining the water has a lead sample result at or above 5 parts per billion and provide notice in a timely manner to parents of children who may have consumed the water;

(6) Take remediation actions and restrict access until follow-up lead sample results indicate the water lead level is below 5 parts per billion;

(7) For lead sample results with detectable lead below 5 parts per billion, consider taking remediation actions to lower the lead level as low as practicable; and

(8) If point-of-use devices are used to address lead in water, appropriately use and maintain point-of-use devices that reduce lead levels as tested and certified by a third party according to National Sanitation Foundation/American National Standards Institute (NSF/ANSI) Standards for lead reduction.

(b) *Preventing and addressing lead exposure through paint*. A program must address lead-based paint hazards in paint, dust, and soil in Head Start facilities constructed before 1978 and where lead-based paint may still exist, including, at a minimum:

(1) Inspect for lead-based paint and assess for lead-based paint hazards (that, in the case of dust-lead hazards, are at or above the clearance levels) by a lead risk assessor certified by the EPA or an EPA-authorized State, territory, or Tribe;

(2) Immediately restrict access to any identified lead-based paint hazards (that, in the case of dust-lead hazards, are at or above the clearance levels) until abatement is completed;

(3) Abate any identified lead-based paint hazards (that, in the case of dust-lead hazards, are at or above the clearance levels) by a lead abatement contractor certified by the EPA or EPA-authorized State, territory, or Tribe; and

(4) Following conclusion of abatement, reassess for lead-based paint hazards by a certified risk assessor at least once every 2 years unless two reassessments conducted 2 years apart identify no lead-based paint hazards (that, in the case of dust-lead hazards, are at or above the clearance levels) in areas accessible to children.

(c) *Notification of lead testing and remediation*. A program must provide notification of results of any lead testing and any planned or completed remediation actions to parents and staff.

(d) *Conflicting requirements*. If applicable State or local laws or regulations have more stringent requirements for lead testing or remediation, a program should comply with the more stringent requirements.

Subpart E – Family and Community Engagement Program Services

30. Amend § 1302.50 by revising paragraph (a) to read as follows:

§ 1302.50 Family engagement.

(a) *Purpose*. A program must integrate parent and family engagement strategies into all systems and program services to support family well-being and promote children's learning and development. Programs are encouraged to develop innovative two-generation approaches that address prevalent needs of families across their program that may leverage community partnerships or other funding sources. This includes communicating with families in a format that is most accessible.

* * * * *

31. Amend § 1302.52 by revising paragraphs (c)(2) and (3) and (d) and adding paragraph (e) to read as follows:

§ 1302.52 Family partnership services.

* * * * *

(c) * * *

(2) Help families achieve identified individualized family engagement outcomes; and

(3) Establish and implement a family partnership agreement process that is jointly developed and shared with parents in which staff and families to review individual progress, revise goals, evaluate and track whether identified needs and goals are met, and adjust strategies on an ongoing basis, as necessary.

(d) *Approaches to family services*. A program must:

(1) Ensure the family services assignment process takes into account the varied interests, urgency, and intensity of identified family needs and goals.

(2) Ensure the planned number of families assigned to work with individual family services staff is no greater than 40, unless a program can demonstrate higher family assignments provide high quality family and community engagement services and maintain reasonable staff workload as described in paragraph (d)(3) of this section.

(3) Ensure meaningful employee engagement practices address family services workload experiences, in accordance with § 1302.101(a)(2).

(e) *Existing plans and community resources*. In implementing this section, a program must take into consideration any existing plans for the family made with other community agencies and availability of other community resources to address family needs, strengths, and goals, in order to avoid duplication of effort.

32. Amend § 1302.53 by revising paragraphs (b)(1) and (2) to read as follows:

§ 1302.53 Community partnerships and coordination with other early childhood and education programs.

* * * * *

(b) * * *

(1) *Memorandum of understanding*. To support coordination between Head Start Preschool and publicly funded preschool programs, a program must enter into a memorandum of understanding with the appropriate local entity responsible for managing publicly funded preschool programs in the service area of the program, as described in section 642(e)(5)22 of the Act.

(2) *Quality Rating and Improvement Systems*. A program, with the exception of American Indian and Alaska Native programs, should participate in its State or local Quality Rating and Improvement System (QRIS), to the extent practicable, if a State or local QRIS has a strategy to support Head Start participation without requiring programs to duplicate existing documentation from Office of Head Start oversight.

* * * * *

Subpart F – Additional Services for Children with Disabilities

33. Amend § 1302.61 by revising paragraphs (c)(1)(v) and (c)(2)(ii) to read as follows:

§1302.61 Additional services for children.

* * * * *

(c) * * *

(1) * * *

(v) Services are provided in a child's regular Head Start classroom or family child care home to the greatest extent possible.

(2) * * *

(ii) For children with an IEP who are transitioning out of Head Start Preschool to kindergarten, collaborate with the parents, and the local agency responsible for implementing IDEA, to ensure steps are undertaken in a timely and appropriate manner to support the child and family as they transition to a new setting.

Subpart G – Transition Services

34. Amend § 1302.70 by revising paragraphs (b)(1) and (2) and (d) to read as follows:

§ 1302.70 Transitions from Early Head Start.

* * * * *

(b) * * *

(1) Takes into account the child's developmental level and health and disability status, progress made by the child and family while in Early Head Start, current and changing family circumstances and, the availability of Head Start Preschool, other public pre-kindergarten, and other early education and child development services in the community that will meet the needs of the child and family; and

(2) Transitions the child into Head Start Preschool or another program as soon as possible after the child's third birthday but permits the child to remain in Early Head Start for a limited number of additional months following the child's third birthday if necessary for an appropriate transition.

* * * * *

_____(d) *Early Head Start and Head Start Preschool collaboration*. Early Head Start and Head Start Preschool programs must work together to maximize enrollment transitions from

Early Head Start to Head Start Preschool, consistent with the eligibility provisions in subpart A of this part, and promote successful transitions through collaboration and communication.

* * * * *

35. Amend § 1302.71 by revising the section heading to read as follows:

§ 1302.71 Transitions from Head Start Preschool to kindergarten.

* * * * *

36. Amend §1302.72 by revising paragraphs (a) and (c) to read as follows:

§1302.72 Transitions between programs

(a) For families and children who move out of the community in which they are currently served, including homeless families and foster children, a program must undertake efforts to support effective transitions to other Head Start programs. If Head Start is not available, the program should assist the family to identify another early childhood program that meets their needs.

* * * * *

(c) A migrant or seasonal Head Start program must undertake efforts to support effective transitions to other migrant or seasonal Head Start or, if appropriate, Early Head Start or Head Start Preschool programs for families and children moving out of the community in which they are currently served.

Subpart H – Services to Enrolled Pregnant Women

37. Amend § 1302.80 by revising paragraph (d) and adding paragraphs (e) and (f) to read as follows:

§ 1302.80 Enrolled pregnant women.

* * * *

(d) A program must provide a newborn visit with each mother and baby to offer support and identify family needs. A program must schedule the newborn visit within two weeks after the infant's birth. At a minimum, the visit must include a discussion of the following: maternal mental and physical health, infant health, and support for basic needs.

(e) A program must track and record services an enrolled pregnant woman receives both from the program and through referrals, to help identify specific prenatal care services and resources the enrolled pregnant woman needs to support a healthy pregnancy.

(f) The program must provide services that help reduce barriers to healthy maternal and birthing outcomes for each family, including services that address disparities across racial and ethnic groups, and use data on enrolled pregnant women to inform program services.

38. Revise § 1302.81 to read as follows:

§ 1302.81 Prenatal and postpartum information, education, and services.

(a) A program must provide enrolled pregnant women, mothers, fathers, and partners or other family members the prenatal and postpartum information, education and services that address, as appropriate, fetal development, the importance of nutrition including breastfeeding, the risks of alcohol, drugs, and smoking and the benefits of substance use treatment, labor and delivery, postpartum recovery, and infant care and safe sleep practices.

(b) A program must support pregnant women, mothers, fathers, partners, or other family members to access mental health services, including referrals, as appropriate, to address concerns including perinatal depression, anxiety, grief or loss, birth trauma, and substance use.

(c) A program must also address pregnant women’s needs for appropriate supports for social and emotional well-being, nurturing and responsive caregiving, and father, partner, or other family member engagement during pregnancy and early childhood.

39. Amend § 1302.82 by revising paragraph (a) to read as follows:

§ 1302.82 Family partnership services for enrolled pregnant women.

(a) A program must engage enrolled pregnant women and other relevant family members, such as fathers, in the family partnership services as described in § 1302.52 and include a specific focus on factors that influence prenatal and postpartum maternal and infant health. If a program uses a curriculum in the provision of services to pregnant women, this should be a maternal health curriculum, to support prenatal and postpartum education needs.

* * * * *

Subpart I – Human Resources Management

40. Amend §1302.90 by revising paragraphs (c)(1)(ii) through (iv) and adding paragraphs (c)(1)(vi), (e), and (f) to read as follows:

§ 1302.90 Personnel Policies.

* * * * *

(c) * * *

(1) * * *

(ii) Ensure staff, consultants, contractors, and volunteers do not engage in behaviors that would be reasonably suspected to negatively impact the health, mental health, or safety of children, including at a minimum:

(A) Corporal punishment or physically abusive behavior, defined as intentional use of physical force that results in, or has the potential to result in, physical injury. Examples include, but are not limited to, hitting, kicking, shaking, biting, forcibly moving, restraining, force feeding, or dragging.

(B) Sexually abusive behavior, defined as any completed or attempted sexual act, sexual contact, or exploitation. Examples include, but are not limited to, behaviors such as inappropriate touching, inappropriate filming, or exposing a child to other sexual activities.

(C) Emotionally harmful or abusive behavior, defined as behaviors that harm a child's self worth or emotional well-being or behaviors that are insensitive to a child's developmental needs. Examples include, but are not limited to, using isolation as discipline, using or exposing a child to public or private humiliation, or name calling, shaming, intimidating, or threatening a child.

(D) Neglectful behavior, defined as the failure to meet a child's basic physical and emotional needs including access to food, education, medical care, appropriate supervision by an adequate caregiver, and safe physical and emotional environments. Examples include, but are not limited to, withholding food as punishment or refusing to change soiled diapers as punishment.

(iii) Ensure staff, consultants, contractors, and volunteers report reasonably suspected or known incidents of child abuse and neglect, as defined by the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 note) and in compliance with Federal, State, local, and Tribal laws.

(iv) Ensure staff, consultants, contractors, and volunteers respect and promote the unique identity of each individual and do not stereotype on any basis, including gender, race, ethnicity, culture, religion, disability, sexual orientation, or family composition;

* * * * *

(vi) Ensure no child is left alone or unsupervised.

* * * * *

(e) *Wages*—(1) *Pay scale.* (i) By August 1, 2031, a program must implement a salary scale, salary schedule, wage ladder, or other similar pay structure for program staff salaries that incorporates the requirements in paragraphs (e)(2), (3), and (4) of this section, reflects salaries or wages for all other staff in the program, promotes salaries that are comparable to similar services

in relevant industries in their geographic area, and considers, at a minimum, responsibilities, qualifications, and experience relevant to the position, and schedule or hours worked.

(ii) After August 1, 2031, a program must review its pay structure at least once every 5 years to assess whether it continues to meet the expectations described in paragraph (e)(1)(i) of this section.

(iii) A program must ensure that staff salaries are not in excess of level II of the Executive Schedule, as required in 42 USC 9848(b)(1).

(2) *Progress to pay parity for education staff with elementary school staff*. (i) A program must make measurable progress towards pay parity for Head Start teachers with kindergarten through third grade teachers. By August 1, 2031, a program must demonstrate it has made progress to parity by ensuring that each Head Start teacher receives an annual salary that is at least comparable to the annual salary paid to preschool teachers in public school settings in the program's local school district, adjusted for responsibilities, qualifications, and experience. A program may provide annual salaries comparable to a neighboring school district if the salaries are higher than a program's local school district.

(ii) A program must make measurable progress towards pay parity for all other Head Start education staff who work directly with children as part of their daily job responsibilities. By August 1, 2031, a program must demonstrate it has made progress to parity by ensuring that each staff member described in this provision receives an annual salary that is at least comparable to the salaries described in paragraph (e)(2)(i) of this section, adjusted for role, responsibilities, qualifications, and experience.

(iii) If there is not a sufficient number of comparable preschool teachers in school-based settings in the program's local or neighboring school district, a program may use an alternative method to implement the requirements in paragraphs (e)(2)(i) and (ii) of this section to determine appropriate comparison salaries. The alternative method must be approved by ACF.

(iv) To demonstrate measurable progress towards pay parity as described in paragraph (e)(2)(i) of this section, a program must regularly track data on how wages paid to their education staff compare to wages paid to preschool through third grade teachers in their local or neighboring school district.

(3) *Salary floor*. By August 1, 2031, a program must ensure, at a minimum, the wage or salary structure established or updated under paragraph (e)(1)(i) of this section provides all staff with a wage or salary that is generally sufficient to cover basic needs such as food, housing, utilities, medical costs, transportation, and taxes, or would be sufficient if the worker's hourly rate were paid according to a full-time, full-year schedule (or over 2,080 hours per year).

(4) *Wage comparability for all ages served*. A program must ensure the wage or salary structure established or updated under paragraph (e)(1)(i) of this section does not differ by age of children served for similar program staff positions with similar qualifications and experience.

(f) *Staff benefits.* (1) For each full-time staff member, defined as those working 30 or more hours per week during the program year, a program must:

(i) Provide or facilitate access to high-quality affordable health insurance;

(ii) Offer the accrual of paid sick leave based on hours worked or days of sick leave updated annually and the accrual at a minimum must meet the standards set by State or local laws, if applicable;

(iii) Offer job-protected periods of paid family leave consistent with eligibility for and protections in the Family and Medical Leave Act (FMLA) or, if applicable, the standards set by State or local laws;

(iv) Offer the accrual of paid vacation or personal time commensurate with experience or tenure, if the program operates longer than a typical school year; and

(v) Offer access to short-term, free or minimal cost behavioral health services of approximately three to five outpatient visits per year;

(2) For each part-time staff member, a program must facilitate access to high-quality, affordable health insurance.

(3) For each staff member, a program must facilitate access to affordable child care, including connections to child care resource and referral agencies or other childcare consumer education organizations and, for staff who meet eligibility guidelines, facilitate enrollment in the child care subsidy program.

(4) For each staff member, a program must facilitate access to the Public Service Loan Forgiveness (PSLF) program, or other applicable student loan debt relief programs, including timely certification of employment.

(5) At least once every 5 years, a program must assess and determine if their benefits package for full-time staff is at least comparable to those provided to elementary school staff in the program's local or neighboring school district. Programs may offer additional benefits to staff, including more enhanced health benefits, retirement savings plans, flexible savings accounts, or life, disability, and long-term care insurance.

41. Amend §1302.91 by revising paragraphs (b), (e)(2) and (3), and (e)(8)(ii) to read as follows:

§ 1302.91 Staff qualification and competency requirements

* * * * *

(b) *Head Start director*. A program must ensure a Head Start director hired after November 7, 2016, has, at a minimum, a baccalaureate degree and experience in supervision of staff, fiscal management, and administration.

* * * * *

(e) * * *

(2) *Head Start Preschool center-based teacher qualification requirements*. (i) The Secretary must ensure no less than fifty percent of all Head Start Preschool teachers, nation- wide, have a baccalaureate degree in child development, early childhood education, or equivalent coursework.

(ii) As prescribed in section 648A(a)(3)(B)[27] of the Act, a program must ensure all center-based teachers have at least an associate's or bachelor's degree in child development or early childhood education, equivalent coursework, or otherwise meet the requirements of section 648A(a)(3)(B) of the Act.

(3) *Head Start Preschool assistant teacher qualification requirements*. As prescribed in section 648A(a)(2)(B)(ii) of the Act, a program must ensure Head Start Preschool assistant teachers, at a minimum, have a CDA credential or a State-awarded certificate that meets or exceeds the requirements for a CDA credential, are enrolled in a program that will lead to an associate or baccalaureate degree or, are enrolled in a CDA credential program to be completed within two years of the time of hire.

* * * * *

(8) * * *

(ii) A program must ensure all mental health consultants are licensed or under the supervision of a licensed mental health professional. A program must use mental health consultants with knowledge of and experience in serving young children and their families.

* * * * *

42. Amend §1302.92 by revising paragraph (b) to read as follows:

§ 1302.92 Training and professional development.

* * * * *

(b) A program must establish and implement a systematic approach to staff training and professional development designed to assist staff in acquiring or increasing the knowledge and skills needed to provide high-quality, comprehensive services within the scope of their job responsibilities, and attached to academic credit as appropriate, and integrated with employee engagement practices in accordance with § 1302.101(a)(2). At a minimum, the system must include:

(1) Staff completing a minimum of 15 clock hours of professional development per year. For teaching staff, such professional development must meet the requirements described in section 648A(a)(5) of the Act, and includes creating individual professional development plans as described in section 648A(f) of the Act.

(2) Annual training on mandatory reporting of suspected or known child abuse and neglect, that complies with applicable Federal, State, local, and Tribal laws;

(3) Annual training on positive strategies to understand and support children's social and emotional development, including the implementation of tools for preventing and managing challenging behavior;

(4) Training for child and family services staff on best practices for implementing family engagement strategies in a systemic way, as described throughout this part;

(5) Training for child and family services staff, including staff that work on family services, health, and disabilities, that builds their knowledge, experience, and competencies to improve child and family outcomes; and,

(6) Research-based approaches to professional development for education staff, that are focused on effective curricula implementation, knowledge of the content in Head Start Early Learning Outcomes Framework: Ages Birth to Five, partnering with families, supporting children with disabilities and their families, providing effective and nurturing adult-child

interactions, supporting dual language learners as appropriate, addressing challenging behaviors, preparing children and families for transitions (as described in subpart G of this part), and use of data to individualize learning experiences to improve outcomes for all children.

* * * * *

43. Amend § 1302.93 by adding paragraphs (c) through (e) to read as follows:

§ 1302.93 Staff Health and Wellness.

* * * * *

(c)(1) A program must provide:

(i) For each staff member working a shift lasting between four and six hours, a minimum of one 15-minute break per shift; and

(ii) For each staff member working a shift lasting six hours or more, a minimum of one 30-minute break per shift.

(2) If applicable State laws or regulations have more stringent requirements for breaks, a program should comply with the more stringent requirements.

(3) During break times for classroom staff described in paragraph (c)(1) of this section, one teaching staff member may be replaced by one staff member who does not meet the teaching qualifications required for the age, provided that this staff member has the necessary training and experience to ensure safety of children and minimal disruption to the quality of services.

(4) A program must design and implement a systematic approach to ensure each staff member that works directly with children as part of their regular job responsibilities can have access to brief unscheduled wellness breaks of about 5 minutes as needed while ensuring child safety.

(d) A program must ensure staff have access to adult size furniture in classrooms.

(e) A program should cultivate a program-wide culture of wellness that empowers staff as professionals and supports staff to effectively accomplish their job responsibilities in a high-quality manner, in line with the requirement at § 1302.101(a)(2).

44. Amend § 1302.94 by revising paragraph (a) to read as follows:

§ 1302.94 Volunteers

(a) A program must ensure volunteers have been screened for appropriate communicable diseases in accordance with State, Tribal or local laws. In the absence of State, Tribal, or local law, the Health and Mental Health Services Advisory Committee must be consulted regarding the need for such screenings.

* * * * *

Subpart J – Program Management and Quality Improvement

45. Amend § 1302.101 by revising paragraph (a)(2) and adding paragraph (a)(5) to read as follows:

§ 1302.101 Management System.

(a) * * *

(2) Promotes clear and reasonable roles and responsibilities for all staff and provides regular and ongoing staff supervision with meaningful and effective employee engagement practices.

* * * * *

(5) Ensures that all staff are trained to implement reporting procedures in § 1302.102(d)(1)(ii).

* * * * *

46. Amend § 1302.102 by revising the section heading and paragraph (d)(1)(ii) and adding paragraph (d)(1)(iii) to read as follows:

§ 1302.102 Program Goals, Continuous Improvement, and Reporting.

* * * * *

(d) * * *

(1) * * *

(ii) Reports, as appropriate, to the responsible HHS official immediately or no later than 3 business days following the incident, related to:

(A) Any significant incident that affects the health, mental health, or safety of a child that occurs in a setting where Head Start services are provided and that involves:

(*1*) A staff member, contractor, volunteer, or other adult that participates in either a Head Start program or a classroom at least partially funded by Head Start, regardless of whether the child receives Head Start services; or

(*2*) A child that receives services fully or partially funded by Head Start or a child that participates in a classroom at least partially funded by Head Start; or

(B) Circumstances affecting the financial viability of the program; breaches of personally identifiable information, or program involvement in legal proceedings; any matter for which notification or a report to State, Tribal, or local authorities is required by applicable law.

(iii) Reportable incidents under paragraph (d)(1)(ii) of this section include at a minimum:

(A) Any mandated reports regarding agency staff or volunteer compliance with Federal, State, Tribal, or local laws addressing child abuse and neglect or laws governing sex offenders;

(B) Incidents that require classrooms or centers to be closed, except for circumstances such as natural disasters that interfere with program operations;

(C) Legal proceedings by any party that are directly related to program operations; and,

(D) All conditions required to be reported under § 1304.12 of this chapter, including disqualification from the Child and Adult Care Food Program (CACFP) and license revocation.

(E) Any suspected or known violations of Standards of Conduct under § 1302.90(c)(1)(ii);

(F) Significant health or safety incidents related to suspected or known lack of supervision or lack of preventative maintenance; and,

(G) Any unauthorized release of a child.

* * * * *

§ 1302.103 [Removed]

47. Remove § 1302.103.

PART 1303 - FINANCIAL AND ADMINISTRATIVE REQUIREMENTS

48. The authority for part 1303 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq*.

Subpart D – Delegation of Program Operations

49. Revise § 1303.30 to read as follows:

§ 1303.30 Grant recipient responsibility and accountability

A grant recipient is accountable for the services its delegate agencies provide. The grant recipient supports, oversees and ensures delegate agencies provide high-quality services to children and families and meet all applicable Head Start requirements. The grant recipient can only terminate a delegate agency if the grant recipient shows cause why termination is necessary and provides a process for delegate agencies to appeal termination decisions. The grant recipient

retains legal responsibility and authority and bears financial accountability for the program when services are provided by delegate agencies.

Subpart E - Facilities

50. Amend § 1303.44 by revising paragraph (a)(7) to read as follows:

§1303.44 Applications to purchase, construct, and renovate facilities.

(a) * * *

(7) An estimate by a licensed independent certified appraiser of the facility's cost value after proposed purchase and associated repairs and renovations, construction, or major renovation is completed is required for all facilities activities except for major renovations to leased property;

* * * * *

51. Amend § 1303.48 by revising the section heading to read as follows:

§ 1303 Grant recipient limitations on Federal interest.

* * * * *

Subpart F – Transportation

52. Amend § 1303.70 by revising paragraph (c)(1) introductory text to read as follows:

§ 1303.70 Purpose.

* * * * *

(c) * * *

(1) A program that provides transportation services must comply with all provisions in this subpart. A Head Start Preschool program may request to waive a specific requirement in this part, in writing, to the responsible HHS official, as part of an agency's annual application for financial assistance or amendment and must submit any required documentation the responsible HHS official deems necessary to support the waiver. The responsible HHS official is not authorized to waive any requirements with regard to children enrolled in an Early Head

Start program. A program may request a waiver when:

* * * * *

53. Amend § 1303.75 by revising paragraph (a) to read as follows:

§ 1303.75 Children with disabilities.

(a) A program must ensure there are school buses or allowable alternate vehicles adapted or designed for transportation of children with disabilities available as necessary to transport such children enrolled in the program. This requirement does not apply to the transportation of children receiving home-based services unless school buses or allowable alternate vehicles are used to transport the other children served under the home-based option by the grant recipient. Whenever possible, children with disabilities must be transported in the same vehicles used to transport other children enrolled in the Head Start program.

* * * * *

PART 1303—[AMENDED]

54. Further amend part 1303 by:

a. Removing the word “grantee” and adding the words “grant recipient” in its place wherever it appears;

b. Removing the word “grantees” and adding the words “grant recipients” in its place wherever it appears; and

c. Removing the word “grantee's” and adding the words “grant recipient’s” in its place wherever it appears.

PART 1304 – FEDERAL ADMINISTRATIVE PROCEDURES

55. The authority for part 1304 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq*.

Subpart A—Monitoring, Suspension, Termination, Denial of Refunding, Reduction in Funding, and Their Appeals

§ 1304.5 [Amended]

56. Amend § 1304.5 by removing the word "Grantee's" and adding in its place the words "Grant recipient's" in the paragraph (c) heading and removing the word "grantees" and adding in its place the words "grant recipients" paragraph (c)(1) and the paragraph (e) heading.

§ 1304.6 [Amended]

57. Amend § 1304.6 by removing the word "grantees" and adding in its place the words "grant recipients" in the paragraph (c) heading.

Subpart B – Designation Renewal

58. Revise §1304.10 to read as follows:

§ 1304.10 Purpose and scope.

The purpose of this subpart is to set forth policies and procedures for the designation renewal of Head Start programs. It is intended that these programs be administered effectively and responsibly; that applicants to administer programs receive fair and equitable consideration; and that the legal rights of current Head Start grant recipients be fully protected. The Designation Renewal System is established in this part to determine whether Head Start agencies deliver high-quality services to meet the educational, health, nutritional, and social needs of the children and families they serve; meet the program and financial requirements and standards described in section 641A(a)(1) of the Head Start Act; and qualify to be designated for funding for five years without competing for such funding as required under section 641(c) or 645A(b)(12) and (d) of the Head Start Act. A competition to select a new Head Start agency to replace a Head Start agency that has been terminated voluntarily or involuntarily is not part of the Designation Renewal System established in this part, and is subject instead to the requirements of § 1304.20.

59. Amend § 1304.11 by revising the introductory text and paragraphs (d) and (e) to read as follows:

§ 1304.11 Basis for determining whether a Head Start agency will be subject to an open competition.

A Head Start agency will be required to compete for its next five years of funding whenever the responsible HHS official determines that one or more of the following seven conditions existed during the relevant time period under §1304.15:

* * * * *

(d) An agency has had a revocation of its license to operate a Head Start center or program by a State or local licensing agency during the relevant time period under §1304.15, and the revocation has not been overturned or withdrawn before a competition for funding for the next five-year period is announced. A pending challenge to the license revocation or restoration of the license after correction of the violation will not affect application of this requirement after the competition for funding for the next five-year period has been announced.

(e) An agency has been suspended from the Head Start program by ACF during the relevant time period covered by the responsible HHS official's review under §1304.15 and the suspension has not been overturned or withdrawn. If the agency did not have an opportunity to show cause as to why the suspension should not have been imposed or why the suspension should have been lifted if it had already been imposed under this part, the agency will not be required to compete based on this condition. If an agency has received an opportunity to show cause and the suspension remains in place, the condition will be implemented.

* * * * *

60. Amend § 1304.12 by revising the section heading to read as follows:

§ 1304.12 Grant recipient reporting requirements concerning certain conditions.

* * * * *

61. Revise § 1304.13 to read as follows:

§ 1304.13 Requirements to be considered for designation for a five-year period when the existing grant recipient in a community is not determined to be delivering a high-quality and comprehensive Head Start program and is not automatically renewed.

In order to compete for the opportunity to be awarded a five-year grant, an agency must submit an application to the responsible HHS official that demonstrates that it is the most qualified entity to deliver a high-quality and comprehensive Head Start program. The application must address the criteria for selection listed at section 641(d)(2)58 of the Act for Head Start. Any agency that has had its Head Start grant terminated for cause in the preceding five years is excluded from competing in such competition for the next five years. A Head Start agency that has had a denial of refunding, as defined in 45 CFR part 1305, in the preceding five years is also excluded from competing.

62. Amend § 1304.14 by revising paragraphs (a) introductory text, (a)(2) and (3), (b), and (c) to read as follows:

§ 1304.14 Tribal government consultation under the Designation Renewal System for when an Indian Head Start grant is being considered for competition.

(a) In the case of an Indian Head Start agency determined not to be delivering a high-quality and comprehensive Head Start program, the responsible HHS official will engage in government-to-government consultation with the appropriate Tribal government or governments for the purpose of establishing a plan to improve the quality of the Head Start program operated by the Indian Head Start agency.

* * * * *

(2) Not more than six months after the implementation of that plan, the responsible HHS official will reevaluate the performance of the Indian Head Start agency.

(3) If the Indian Head Start agency is still not delivering a high-quality and comprehensive Head Start program, the responsible HHS official will conduct an open

competition to select a grant recipient to provide services for the community currently being served by the Indian Head Start agency.

(b) A non-Indian Head Start agency will not be eligible to receive a grant to carry out an Indian Head Start program, unless there is no Indian Head Start agency available for designation to carry out an Indian Head Start program.

(c) A non-Indian Head Start agency may receive a grant to carry out an Indian Head Start program only until such time as an Indian Head Start agency in such community becomes available and is designated pursuant to this part.

63. Amend § 1304.15 by revising paragraphs (a), (b), (c) introductory text, and (c)(1) to read as follows:

§ 1304.15 Designation request, review and notification process.

(a) A grant recipient must apply to be considered for Designation Renewal. A Head Start agency wishing to be considered to have its designation as a Head Start agency renewed for another five-year period without competition must request that status from ACF at least 12 months before the end of their five-year grant period or by such time as required by the Secretary.

(b) ACF will review the relevant data to determine if one or more of the conditions under § 1304.11 were met by the Head Start agency during the current project period.

(c) ACF will give notice to grant recipients on Designation Renewal System status, except as provided in § 1304.14, at least 12 months before the expiration date of a Head Start agency's current grant, stating:

(1) The Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under § 1304.11 were met by the agency’s program during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or

* * * * *

Subpart C – Selection of Grant Recipients through Competition

64. Revise the heading for subpart C to read as set forth above.

65. Amend § 1304.20 by revising paragraph (a) to read as follows:

§ 1304.20 Selection among applicants.

(a) In selecting an agency to be designated to provide Head Start Preschool, Early Head Start, Migrant or Seasonal Head Start or Tribal Head Start Preschool or Early Head Start services, the responsible HHS official will consider the applicable criteria at section 641(d) of the Head Start Act and any other criteria outlined in the funding opportunity announcement.

* * * * *

Subpart D—Replacement of American Indian and Alaska Native Grant Recipients

66. Revise the heading for subpart D to read as set forth above.

PART 1304—[AMENDED]

67**.** Further amend part 1304 by:

a. Removing the word "grantee" and adding the words "grant recipient" in its place wherever it appears; and

b. Removing the word "grantees" and adding the words "grant recipients" in its place wherever it appears; and

PART 1305 – DEFINITIONS

68. The authority for part 1305 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq*.

69. Amend § 1305.2 by:

a. Adding in alphabetical order definitions for "Abatement" and "Change to the water profile";

b. Revising the definition of “Continuity of care”;

c. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Denial of Refunding”;

d. Adding in alphabetical order a definition for “Early Head Start”;

e. Removing the definition of “Early Head Start agency”;

f. Adding in alphabetical order a definition for “Expulsion”;

g. Revising the definitions of “Federal interest”, “Fixed route”, and “Full-working-day”;

h. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Funded enrollment”;

i. Removing the definition of “Grantee”;

j. Adding in alphabetical order definitions for “Grant recipient” and “Head Start”;

k. Revising the definition of “Head Start agency”;

l. Adding in alphabetical order definitions for “Head Start Preschool” and “Housing expenses”;

m. Revising the definitions of “Income”,

n. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Legal status”;

o. Revising the definitions of “Major renovation” and “Migrant family”;

p. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Modular unit”;

q. Revising the definition of “Participant”;

r. Adding in alphabetical order a definition for “Poverty line”;

s. Revising the definitions of “Program” and “Purchase”;

t. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Service area”;

u. Adding in alphabetical order a definition for “Suspension”;

v. Removing the word “grantee’s” and adding in its place the words “grant recipient’s” in the introductory text and paragraph (1) of the definition of “Termination of a grant or delegate agency agreement” and removing the word “grantee” and adding in its place the words “grant recipient” in introductory text of the definition of “Termination of a great or delegate agency agreement”;

w. Removing the definition of “Transition period”;

x. Revising the definition of “Transportation services”; and

y. Adding in alphabetical order a definition for “Water fixtures used for human consumption”.

The additions and revisions read as follows:

§ 1305.2 Terms.

Abatement means actions designed to eliminate lead-based paint or lead-based paint hazards. Abatement can include the:

(1) Removal of lead-based paint and dust-lead hazards, the enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and

(2) Preparation, cleanup, disposal, and post-abatement testing to determine the effectiveness of such measures.

* * * * *

Change to the water profile means change in source of water, water plumbing, or water fixture.

* * * * *

Continuity of care means Head Start services provided to children in a manner that promotes primary caregiving and minimizes the number of transitions in teachers and teacher assistants that children experience over the course of the day, week, program year, and to the extent possible, during the course of their participation from birth to age three in Early Head Start and in Head Start Preschool.

* * * * *

Early Head Start means a program that serves pregnant women and children from birth to age three, pursuant to section 645A(e) of the Head Start Act. This includes Tribal and migrant or seasonal programs.

Expulsion is the permanent removal of a child from the learning setting or a requirement that a child unenroll in a program.

* * * * *

Federal interest is a property right which secures the right of the Federal awarding agency to recover the current fair market value of its percentage of participation in the cost of the facility subject to part 1303, subpart E of this chapter funding in the event the facility is no longer used for Head Start purposes by the grant recipient or upon the disposition of the property. When a grant recipient uses Head Start funds to purchase, construct or make major renovations to a facility, or make mortgage payments, it creates a Federal interest. The Federal interest includes any portion of the cost of purchase, construction, or major renovation

contributed by or for the entity, or a related donor organization, to satisfy a matching requirement.

* * * * *

Fixed route means the established routes to be traveled on a regular basis by vehicles that transport children to and from Head Start program activities, and which include specifically designated stops where children board or exit the vehicle.

* * * * *

Full-working-day means not less than 10 hours of Head Start services per day.

* * * * *

Grant recipient means the local public or private non-profit agency or for-profit agency which has been designated as a Head Start agency under 42 U.S.C. 9836 and which has been granted financial assistance by the responsible HHS official to operate a Head Start program.

Head Start means any program authorized under the Head Start Act.

Head Start agency means a local public or private non-profit or for-profit entity designated by ACF to operate a Head Start Preschool program, an Early Head Start program, or Migrant or Seasonal Head Start program pursuant to the Head Start Act.

* * * * *

Head Start Preschool means a program that serves children aged three to compulsory school age, pursuant to section 641(b) and (d) of the Head Start Act. This includes Tribal and migrant or seasonal programs.

* * * * *

Housing expenses means the total annual expenses spent by the family on rent or mortgage payments, homeowner's or renter's insurance, utilities, interest, and taxes on the home. Utilities include electricity, gas, water, sewer, and trash.

Income means gross income and only includes wages, business income, veteran's benefits, Social Security benefits, unemployment compensation, alimony, pension or annuity payments, gifts that exceed the threshold for taxable income, and military income (excluding special pay for a member subject to hostile fire or imminent danger under 37 U.S.C. 310 or any basic allowance for housing under 37 U.S.C. 403 including housing acquired under the alternative authority under 10 U.S.C. 169 or any related provision of law). Gross income only includes sources of income provided in this definition; it does not include refundable tax credits nor any forms of public assistance.

* * * * *

Major renovation means any individual or collective group of renovation activities related to the same facility that has a cost equal to or exceeding $250,000 in Head Start funds. Renovation activities that are intended to occur concurrently or consecutively, or altogether address a specific part or feature of a facility, are considered a collective group of renovation activities.-Unless included in a purchase application, minor renovations and repairs are excluded from major renovations.

Migrant family means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who changed their residence by moving from one geographic location to another, either intrastate or interstate, within the preceding two years for the purpose of engaging in agricultural work.

* * * * *

Participant means a pregnant woman or child who is enrolled in and receives services from a Head Start Preschool, an Early Head Start, a Migrant or Seasonal Head Start, or an American Indian and Alaska Native Head Start program.

* * * * *

Poverty line is set by the poverty guidelines updated periodically in the *Federal Register* by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2). Poverty guidelines for the contiguous-states-and-D.C. apply to Puerto Rico and U.S. Territories.

Program means any funded Head Start Preschool, Early Head Start, Migrant or Seasonal Head Start, Tribal, or other program authorized under the Act and carried out by an agency, or delegate agency, to provide ongoing comprehensive child development services.

* * * * *

Purchase means to buy an existing facility, including outright purchase, down payment or through payments made in satisfaction of a mortgage or other loan agreement, whether principal, interest or an allocated portion principal and/or interest. The use of grant funds to make a payment under a finance lease agreement, as defined in the cost principles, is a purchase subject to these provisions. Purchase also refers to an approved use of Head Start funds to continue paying the cost of purchasing facilities or refinance an existing loan or mortgage beginning in 1987.

* * * * *

Suspension is the temporary removal of a child from the learning setting including all reductions in the amount of time a child may be in attendance of the regular group setting, either by requiring the child to cease attendance for a particular period of time or reducing the number of days or amount of time that a child may attend. Requiring a child to attend the program away from the other children in the regular group setting is included in this definition. Requiring the

parent or the parent’s designee to pick up a child for reasons other than illness or injury is also included in this definition.

* * * * *

Transportation services means the planned transporting of children to and from sites where an agency provides services funded under the Head Start Act. Transportation services can involve the pick-up and discharge of children at regularly scheduled times and pre-arranged sites, including trips between children's homes and program settings. The term includes services provided directly by the Head Start grant recipient or delegate agency and services which such agencies arrange to be provided by another organization or an individual. Incidental trips, such as transporting a sick child home before the end of the day, or such as might be required to transport small groups of children to and from necessary services, are not included under the term.

* * * * *

Water fixtures used for human consumption means fixtures used for drinking, cooking, hand washing, teeth brushing, food preparation, dishwashing, and maintaining oral hygiene.

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