

## § 1304.32

HHS official, in deciding whether to designate the proposed agency, will analyze the capacity and experience of the agency according to the criteria found in section 641(d) of the Head Start Act and §1304.20.

### § 1304.32 Alternative agency—prohibition.

(a) No agency will be designated as the alternative agency pursuant to this subpart if the agency includes an employee who:

(1) Served on the administrative or program staff of the Indian tribal grantee described under section 646(e)(1)(A) of the Act; and

(2) Was responsible for a deficiency that:

(i) Relates to the performance standards or financial management standards described in section 641A(a)(1) of the Act; and,

(ii) Was the basis for the termination of assistance under section 646(e)(1)(A) of the Act or denial of refunding described in §1304.4.

(b) The responsible HHS official shall determine whether an employee was responsible for a deficiency within the meaning and context of this section.

### Subpart E—Head Start Fellows Program

#### § 1304.40 Purpose.

As provided in section 648A(d) of the Act, the Head Start Fellows Program is designed to enhance the ability of Head Start Fellows to make significant contributions to Head Start and to other child development and family services programs.

#### § 1304.41 Fellows Program.

(a) *Selection.* An applicant must be working on the date of application in a local Head Start program or otherwise working in the field of child development and family services. The qualifications of the applicants for Head Start Fellowship positions will be competitively reviewed.

(b) *Placement.* Head Start Fellows may be placed in the Head Start national and regional offices; local Head Start agencies and programs; institutions of higher education; public or private entities and organizations con-

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cerned with services to children and families; and other appropriate settings.

(c) *Restrictions.* A Head Start Fellow who is not an employee of a local Head Start agency or program may only be placed in the national or regional offices within the Department of Health and Human Services that administer Head Start or local Head Start agencies. Head Start Fellows shall not be placed in any agency whose primary purpose, or one of whose major purposes is to influence federal, state or local legislation.

(d) *Duration.* Head Start Fellowships will be for terms of one year, and may be renewed for a term of one additional year.

(e) *Status.* For the purposes of compensation for injuries under chapter 81 of title 5, United States Code, Head Start Fellows shall be considered to be employees, or otherwise in the service or employment, of the federal government. Head Start Fellows assigned to the national or regional offices within the Department of Health and Human Services shall be considered employees in the Executive Branch of the federal government for the purposes of chapter 11 of title 18, United States Code, and for the purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

## PART 1305—DEFINITIONS

Sec.

1305.1 Purpose.

1305.2 Terms.

AUTHORITY: 42 U.S.C. 9801 *et seq.*

SOURCE: 81 FR 61412, Sept. 6, 2016, unless otherwise noted.

### § 1305.1 Purpose.

The purpose of this part is to define terms for the purposes of this subchapter.

### § 1305.2 Terms.

For the purposes of this subchapter, the following definitions apply:

*ACF* means the Administration for Children and Families in the Department of Health and Human Services.

*Act* means the Head Start Act, Sec. 635 *et seq.*, Public Law 97-35, 95 Stat. 499-511 (codified as amended at 42 U.S.C. Section 9801, *et seq.*).

*Agency* means the body that receives the Head Start grant.

*Aggregate child-level assessment data* means the data collected by an agency on the status and progress of the children it serves that have been combined to provide summary information about groups of children enrolled in specific classes, centers, home-based or other options, groups or settings, or other groups of children such as dual language learners, or to provide summary information by specific domains of development.

*Allowable alternate vehicle* means a vehicle designed for carrying eleven or more people, including the driver, that meets all the Federal Motor Vehicle Safety Standards applicable to school buses, except 49 CFR 571.108 and 571.131.

*Budget period* means the interval of time, into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes.

*Case plan* is defined as presented in 42 U.S.C. 675(1) which, in summary, is a written document that must include a number of specified items including, but is not limited to, a plan for safe and proper care of the child in foster care placement, health records, and a plan for ensuring the educational stability of the child in foster care.

*Child-level assessment data* means the data collected by an agency on an individual child from one or more valid and reliable assessments of a child's status and progress, including but not limited to direct assessment, structured observations, checklists, staff or parent report measures, and portfolio records or work samples.

*Child records* means records that:

- (1) Are directly related to the child;
- (2) Are maintained by the program, or by a party acting for the program; and
- (3) Include information recorded in any way, such as print, electronic, or digital means, including media, video, image, or audio format.

*Child restraint system* means any device designed to restrain, seat, or position children that meets the current requirements of Federal Motor Vehicle

Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213, for children in the weight category established under the regulation, or any device designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213.

*Child with a disability* is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801.

*CLASS: Pre-K* means The Classroom Assessment Scoring System (CLASS). The CLASS is an observational instrument that assesses classroom quality in preschool through third grade classrooms. This tool meets the requirements described in 641(c)(1)(D) and 641A(c)(2)(F) of the Head Start Act (42 U.S.C. 9836(c)(1)(D) and 9836a(c)(2)(F)). The CLASS assesses three domains of classroom experience: Emotional Support, Classroom Organization, and Instructional Support.

(1) Emotional Support measures children's social and emotional functioning in the classroom, and includes four dimensions: Positive Climate, Negative Climate, Teacher Sensitivity and Regard for Student Perspectives. Positive Climate addresses the emotional connection, respect, and enjoyment demonstrated between teachers and children and among children. Negative Climate addresses the level of expressed negativity such as anger, hostility, or aggression exhibited by teachers and/or children in the classroom. Teacher Sensitivity addresses teachers' awareness of and responsiveness to children's academic and emotional concerns. Regard for Student Perspectives addresses the degree to which teachers' interactions with children and classroom activities place an emphasis on children's interests, motivations, and points of view.

(2) Classroom Organization measures a broad array of classroom processes related to the organization and management of children's behavior, time, and attention in the classroom. It includes three dimensions: Behavior Management, Productivity, and Instructional Learning Formats. Behavior Management addresses how effectively teachers monitor, prevent, and

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redirect behavior. Productivity addresses how well the classroom runs with respect to routines and the degree to which teachers organize activities and directions so that maximum time can be spent on learning activities. Instructional Learning Formats addresses how teachers facilitate activities and provide interesting materials so that children are engaged and learning opportunities are maximized.

(3) Instructional Support measures the ways in which teachers implement curriculum to effectively support cognitive and language development. It includes three dimensions: Concept Development, Quality of Feedback, and Language Modeling. Concept Development addresses how teachers use instructional discussions and activities to promote children's higher order thinking skills in contrast to a focus on rote instruction. Quality of Feedback addresses how teachers extend children's learning through their responses to children's ideas, comments, and work. Language Modeling addresses the extent to which teachers facilitate and encourage children's language.

(4) Assessments with the CLASS involve observation-based measurement of each dimension on a seven point scale. A score ranging from 1 (minimally characteristic) to 7 (highly characteristic) is given for each dimension and represents the extent to which that dimension is characteristic of that classroom. Relevant dimension scores are used to calculate each domain score.

*Commercial Driver's License (CDL)* means a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicles.

*Construction* means new buildings, and excludes renovations, alterations, additions, or work of any kind to existing buildings.

*Continuity of care* means Head Start or Early 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,

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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.

*Deficiency* is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801.

*Delegate agency* is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801.

*Denial of Refunding* means the refusal of a funding agency to fund an application for a continuation of a Head Start program for a subsequent program year when the decision is based on a determination that the grantee has improperly conducted its program, or is incapable of doing so properly in the future, or otherwise is in violation of applicable law, regulations, or other policies.

*Development and administrative costs* mean costs incurred in accordance with an approved Head Start budget which do not directly relate to the provision of program component services, including services to children with disabilities, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

*Disclosure* means to permit access to or the release, transfer, or other communication of PII contained in child records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

*Double session variation* means a center-based option that employs a single teacher to work with one group of children in the morning and a different group of children in the afternoon.

*Dual benefit costs* mean costs incurred in accordance with an approved Head Start budget which directly relate to both development and administrative functions and to the program component services, including services to children with disabilities, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

*Dual language learner* means a child who is acquiring two or more languages at the same time, or a child who is learning a second language while continuing to develop their first language. The term “dual language

learner” may encompass or overlap substantially with other terms frequently used, such as bilingual, English language learner (ELL), Limited English Proficient (LEP), English learner, and children who speak a Language Other Than English (LOTE).

*Early Head Start agency* means a public or private non-profit or for-profit entity designated by ACF to operate an Early Head Start program to serve pregnant women and children from birth to age three, pursuant to Section 645A(e) of the Head Start Act.

*Enrolled (or any variation of)* means a child has been accepted and attended at least one class for center-based or family child care option or at least one home visit for the home-based option.

*Enrollment year* means the period of time, not to exceed twelve months, during which a Head Start program provides center or home-based services to a group of children and their families.

*Facility* means a structure, such as a building or modular unit, appropriate for use in carrying out a Head Start program and used primarily to provide Head Start services, including services to children and their families, or for administrative purposes or other activities necessary to carry out a Head Start program.

*Family* means all persons living in the same household who are supported by the child’s parent(s)’ or guardian(s)’ income; and are related to the child’s parent(s) or guardian(s) by blood, marriage, or adoption; or are the child’s authorized caregiver or legally responsible party.

*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 in the event the facility is no longer used for Head Start purposes by the grantee or upon the disposition of the property. When a grantee uses Head Start funds to purchase, construct or renovate a facility, or make mortgage payments, it creates a federal interest. The federal interest includes any portion of the cost of purchase, construction, or renovation contributed by or for the entity, or a related donor orga-

nization, to satisfy a matching requirement.

*Federal Motor Vehicle Safety Standards (FMVSS)* means the National Highway and Traffic Safety Administration’s standards for motor vehicles and motor vehicle equipment (49 CFR part 571) established under section 30111 of Title 49, United States Code.

*Financial viability* means that an organization is able to meet its financial obligations, balance funding and expenses and maintain sufficient funding to achieve organizational goals and objectives.

*Fixed route* means the established routes to be traveled on a regular basis by vehicles that transport children to and from Head Start or Early Head Start program activities, and which include specifically designated stops where children board or exit the vehicle.

*Foster care* means 24-hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child-care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is federal matching of any payments that are made.

*Full-working-day* means not less than 10 hours of Head Start or Early Head Start services per day.

*Funded enrollment* means the number of participants which the Head Start grantee is to serve, as indicated on the grant award.

*Going concern* means an organization that operates *without* the threat of liquidation for the foreseeable future, a period of at least 12 months.

*Grantee* 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 agency* means a local public or private non-profit or for-profit entity designated by ACF to operate a Head Start program to serve children age three to compulsory school age, pursuant to section 641(b) and (d) of the Head Start Act.

*Head Start Early Learning Outcomes Framework: Ages Birth to Five* means the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*, which describes the skills, behaviors, and knowledge that programs must foster in all children. It includes five central domains: Approaches to Learning; Social and Emotional Development; Language and Literacy; Cognition; and Perceptual, Motor, and Physical Development. These central domains are broken into five domains for infants and toddlers and seven domains for preschoolers. Infant and Toddler domains are Approaches to Learning; Social and Emotional Development; Language and Communication; Cognition; and Perceptual, Motor, and Physical Development. Preschool domains are Approaches to Learning; Social and Emotional Development; Language and Communication; Literacy; Mathematics Development; Scientific Reasoning; and Perceptual, Motor, and Physical Development. Domains are divided into sub-domains with goals that describe broad skills, behaviors, and concepts that are important for school success. Developmental progressions describe the skills, behaviors and concepts that children may demonstrate as they progress. As described in the Head Start Act, the Framework is central to program operations that promote high-quality early learning environments (42 U.S.C. 9832(21)(G)(iv)(II)(aa), 42 U.S.C. 9835(o), 42 U.S.C. 9836(d)(2)(C), 42 U.S.C. 9836a(g)(2)(A), 42 U.S.C. 9837(f)(3)(E), 42 U.S.C. 9837a(a)(3), 42 U.S.C. 9837a(a)(14), 42 U.S.C. 9837b(a)(2)(B)(iii), 42 U.S.C. 9837b(a)(4)(A)(i), and 42 U.S.C. 9837b(a)(4)(B)(iii)).

*Homeless children* means the same as *homeless children and youths* in Section 725(2) of the McKinney-Vento Homeless Assistance Act at 42 U.S.C. 11434a(2).

*Home visitor* means the staff member in the home-based program option as-

signed to work with parents to provide comprehensive services to children and their families through home visits and group socialization activities.

*Hours of planned class operations* means hours when children are scheduled to attend. Professional development, training, orientation, teacher planning, data analysis, parent-teacher conferences, home visits, classroom sanitation, and transportation do not count toward the hours of planned class operations.

*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/popscom/p60-185.pdf>).

*Indian Head Start agency* means a program operated by an Indian tribe (as defined by the Act) or designated by an Indian tribe to operate on its behalf.

*Indian tribe* is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801.

*Individualized Education Program* is defined in the same manner as presented in the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*).

*Individualized Family Service Plan* is defined in the same manner as presented in the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*).

*Legal status* means the existence of an applicant or grantee as a public agency or organization under the law of the state in which it is located, or existence as a private nonprofit or for-profit agency or organization as a legal entity recognized under the law of the state in which it is located. Existence as a private non-profit agency or organization may be established under applicable state or federal law.

*Local agency responsible for implementing IDEA* means the early intervention service provider under Part C

of IDEA and the local educational agency under Part B of IDEA.

*Major renovation* means any individual or collection renovation that has a cost equal to or exceeding \$250,000. It excludes minor renovations and repairs except when they are included in a purchase application.

*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 and whose family income comes primarily from this activity.

*Migrant or Seasonal Head Start Program* means:

(1) With respect to services for migrant farm workers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from one geographic location to another in the preceding 2-year period; and,

(2) With respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period.

*Minor renovation* means improvements to facilities, which do not meet the definition of major renovation.

*Modular unit* means a portable prefabricated structure made at another location and moved to a site for use by a Head Start grantee to carry out a Head Start program, regardless of the manner or extent to which the modular unit is attached to underlying real property.

*National Driver Register* means the National Highway Traffic Safety Administration's automated system for assisting state driver license officials in obtaining information regarding the driving records of individuals who have been denied licenses for cause; had their licenses denied for cause, had their licenses canceled, revoked, or suspended for cause, or have been convicted of certain serious driving offenses.

*Parent* means a Head Start child's mother or father, other family member who is a primary caregiver, foster parent or authorized caregiver, guardian or the person with whom the child has been placed for purposes of adoption pending a final adoption decree.

*Participant* means a pregnant woman or child who is enrolled in and receives services from a Head Start, an Early Head Start, a Migrant or Seasonal Head Start, or an American Indian and Alaska Native Head Start program.

*Personally identifiable information (PII)* means any information that could identify a specific individual, including but not limited to a child's name, name of a child's family member, street address of the child, social security number, or other information that is linked or linkable to the child.

*Program* means a Head Start, Early Head Start, migrant, seasonal, or tribal program, funded under the Act and carried out by an agency, or delegate agency, to provide ongoing comprehensive child development services.

*Program costs* mean costs incurred in accordance with an approved Head Start budget which directly relate to the provision of program component services, including services to children with disabilities, as set forth and described in the Head Start Program Performance Standards (45 CFR part 1304).

*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 capital 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.

*Real property* means land, including land improvements, buildings, structures and all appurtenances thereto, excluding movable machinery and equipment.

*Recruitment area* means that geographic locality within which a Head Start program seeks to enroll Head

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Start children and families. The recruitment area can be the same as the service area or it can be a smaller area or areas within the service area.

*Relevant time period* means:

(1) The 12 months preceding the month in which the application is submitted; or

(2) During the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.

*Repair* means maintenance that is necessary to keep a Head Start facility in working condition. Repairs do not add significant value to the property or extend its useful life.

*Responsible HHS official* means the official of the Department of Health and Human Services who has authority to make grants under the Act.

*School readiness goals* mean the expectations of children's status and progress across domains of language and literacy development, cognition and general knowledge, approaches to learning, physical well-being and motor development, and social and emotional development that will improve their readiness for kindergarten.

*School bus* means a motor vehicle designed for carrying 11 or more persons (including the driver) and which complies with the Federal Motor Vehicle Safety Standards applicable to school buses.

*Service area* means the geographic area identified in an approved grant application within which a grantee may provide Head Start services.

*Staff* means paid adults who have responsibilities related to children and their families who are enrolled in programs.

*State* is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801.

*Termination of a grant or delegate agency agreement* means permanent withdrawal of the grantee's or delegate agency's authority to obligate previously awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or delegate agency. Termination does not include:

(1) Withdrawal of funds awarded on the basis of the grantee's or delegate agency's underestimate of the unobligated balance in a prior period;

(2) Refusal by the funding agency to extend a grant or award additional funds (such as refusal to make a competing or noncompeting continuation renewal, extension or supplemental award);

(3) Withdrawal of the unobligated balance as of the expiration of a grant; and

(4) Annulment, *i.e.*, voiding of a grant upon determination that the award was obtained fraudulently or was otherwise illegal or invalid from its inception.

*Total approved costs* mean the sum of all costs of the Head Start program approved for a given budget period by the Administration for Children and Families, as indicated on the Financial Assistance Award. Total approved costs consist of the federal share plus any approved non-federal match, including non-federal match above the statutory minimum.

*Transition period* means the three-year time period after December 9, 2011, on the Designation Renewal System during which ACF will convert all of the current continuous Head Start and Early Head Start grants into five-year grants after reviewing each grantee to determine if it meets any of the conditions under §1304.12 of this chapter that require recompetition or if the grantee will receive its first five-year grant non-competitively.

*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 and Early Head Start grantee 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

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and from necessary services, are not included under the term.

*Verify* or any variance of the word means to check or determine the cor-

rectness or truth by investigation or by reference.

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