

plan for the infant's transition to program enrollment, and support the family during the transition process, where appropriate.

[81 FR 61412, Sept. 6, 2016, as amended at 89 FR 67813, Aug. 21, 2024]

Subpart I—Human Resources Management

§ 1302.90 Personnel policies.

(a) *Establishing personnel policies and procedures.* A program must establish written personnel policies and procedures that are approved by the governing body and policy council or policy committee and that are available to all staff.

(b) *Background checks and selection procedures.* (1) Before a person is hired, directly or through contract, including transportation staff and contractors, a program must conduct an interview, verify references, conduct a sex offender registry check and obtain one of the following:

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

(ii) Federal Bureau of Investigation criminal history records, including fingerprint checks.

(2) A program has 90 days after an employee is hired to complete the background check process by obtaining:

(i) Whichever check listed in paragraph (b)(1) of this section was not obtained prior to the date of hire; and,

(ii) Child abuse and neglect state registry check, if available.

(3) A program must review the information found in each employment application and complete background check to assess the relevancy of any issue uncovered by the complete background check including any arrest, pending criminal charge, or conviction and must use Child Care and Development Fund (CCDF) disqualification factors described in 42 U.S.C. 9858f(c)(1)(D) and 42 U.S.C. 9858f(h)(1) or tribal disqualifications factors to determine whether the prospective employee can be hired or the current employee must be terminated.

(4) A program must ensure a newly hired employee, consultant, or con-

tractor does not have unsupervised access to children until the complete background check process described in paragraphs (b)(1) through (3) of this section is complete.

(5) A program must conduct the complete background check for each employee, consultant, or contractor at least once every five years which must include each of the four checks listed in paragraphs (b)(1) and (2) of this section, and review and make employment decisions based on the information as described in paragraph (b)(3) of this section, unless the program can demonstrate to the responsible HHS official that it has a more stringent system in place that will ensure child safety.

(6) A program must consider current and former program parents for employment vacancies for which such parents apply and are qualified.

(c) *Standards of conduct.* (1) A program must ensure all staff, consultants, contractors, and volunteers abide by the program's standards of conduct that:

(i) Ensure staff, consultants, contractors, and volunteers implement positive strategies to support children's well-being and prevent and address challenging behavior;

(ii) Ensure staff, consultants, contractors, and volunteers do not engage in behaviors that maltreat or endanger the 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, pushing, 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. Examples include, but are not limited to, using seclusion, using

or exposing a child to public or private humiliation, or name calling, shaming, intimidating, or threatening a child; and

(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, leaving a child unattended on a bus, 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; and

(v) Require staff, consultants, contractors, and volunteers to comply with program confidentiality policies concerning personally identifiable information about children, families, and other staff members in accordance with subpart C of part 1303 of this chapter and applicable Federal, State, local, and Tribal laws; and,

(vi) Ensure no child is left alone or unsupervised.

(2) Personnel policies and procedures must include appropriate penalties for staff, consultants, and volunteers who violate the standards of conduct.

(d) *Communication with dual language learners and their families.* (1) A program must ensure staff and program consultants or contractors are familiar with the ethnic backgrounds and heritages of families in the program and are able to serve and effectively communicate, either directly or through interpretation and translation, with children who are dual language learners and to the extent feasible, with families with limited English proficiency.

(2) If a majority of children in a class or home-based program speak the same

language, at least one class staff member or home visitor must speak such language.

(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) through (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, 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 U.S.C. 9848(b)(1).

(2) *Progress to pay parity for education staff with elementary school staff.* (i) By August 1, 2031, a program must demonstrate it has made progress to parity with kindergarten through third grade teachers 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, experience, and schedule or hours worked. 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,

experience, and schedule or hours worked.

(iii) For Head Start teachers and education staff described in paragraphs (e)(2)(i) and (ii) of this section, progress to parity must be demonstrated for those staff who are employees as well as those whose salary is funded by Head Start through a contract.

(iv) A program may use an alternative method to determine appropriate comparison salaries in order to implement the requirements in paragraphs (e)(2)(i) and (ii) of this section. The alternative method must use a comparison salary that is equivalent to at least 90 percent of the annual salary paid to kindergarten teachers in public school settings in the program's local school district, adjusted for role, responsibilities, qualifications, experience, and schedule or hours worked.

(v) 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.

(5) *Small agency exemption.* An agency with 200 or fewer funded slots is exempt from the requirements described in this paragraph (e), except that such an agency must still establish or update a pay scale or structure that promotes competitive wages for all staff. The

agency must also make measurable improvements in wages for Head Start staff over time and demonstrate progress towards meeting the requirements of paragraphs (e)(2) through (4) of this section.

(6) *Interim service providers.* The exemption described in paragraph (e)(5) of this section also applies to an interim service provider that is temporarily providing Head Start services in place of a Head Start agency that would otherwise qualify for the small agency exemption.

(7) *Secretarial determination of waiver authority.* Between January 1, 2028, and December 31, 2028, the Secretary may establish a waiver process for the requirements described in paragraphs (e)(2) through (4) of this section for eligible Head Start programs, if over the preceding four fiscal years, the average annual increase in Federal appropriations for the Head Start program was less than 1.3 percent.

(8) *Waiver conditions.* If the Secretary establishes the waiver process described in paragraph (e)(7) of this section, the responsible HHS official designated by the Secretary may grant a waiver if the program requests a waiver and meets the following conditions:

(i) The program can demonstrate that it would need to reduce enrolled Head Start slots in order to implement the requirements described in paragraphs (e)(2) through (4) of this section;

(ii) The program is meeting quality benchmarks including:

(A) Demonstrated improvements in staff wages during the preceding four years, to the greatest extent practicable;

(B) Has not been designated to compete under the Designation Renewal System after August 21, 2024; and

(C) The responsible HHS official determines the program does not have significant child health, safety, or quality concerns;

(iii) The program held the Head Start grant for the service area prior to August 21, 2024; and

(iv) The program continues to make improvements in wages for Head Start staff over time, to the greatest extent practicable.

(9) *Reassessing waiver eligibility.* For any program granted a waiver under

the process established in paragraph (e)(7) of this section, the responsible HHS official will reassess waiver eligibility for each successive grant period, in line with the process established and criteria described in paragraph (e)(8) of this section.

(10) *Ongoing waiver authority.* Waivers granted under the process established in paragraph (e)(7) of this section may only be granted if over the preceding four fiscal years, the average annual increase in Federal appropriations for the Head Start program was less than 1.3 percent.

(f) *Staff benefits.* (1) For each full-time staff member, defined as those working 30 or more hours per week with the Head Start program during the program year, a program must:

(i) Provide or facilitate access to high-quality affordable health care coverage;

(ii) Offer paid leave; and,

(iii) Offer access to short-term, free or minimal cost behavioral health services.

(2) For each part-time staff member, a program must facilitate access to high-quality, affordable health care coverage.

(3) For each staff member, a program must facilitate access to available resources and information on child care, including connections to child care resource and referral agencies or other child care consumer education organizations and, for staff who meet eligibility guidelines, facilitate access to the child care subsidy program.

(4) For each staff member who may be eligible, 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) To the extent practicable, 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 at least once every 5 years. Programs may offer additional benefits to staff, including more enhanced health benefits, retirement benefits, flexible savings accounts, or life,

disability, and long-term care insurance.

(6) An agency with 200 or fewer funded slots is exempt from the requirements described in this paragraph (f). Such an agency must make measurable improvements in benefits for Head Start staff over time and demonstrate progress towards meeting the requirements of paragraphs (f)(1) through (5) of this section.

(7) The exemption described in paragraph (f)(6) of this section also applies to an interim service provider that is temporarily providing Head Start services in place of a Head Start agency that would otherwise qualify for the small agency exemption.

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§ 1302.91 Staff qualifications and competency requirements.

(a) *Purpose.* A program must ensure all staff, consultants, and contractors engaged in the delivery of program services have sufficient knowledge, training and experience, and competencies to fulfill the roles and responsibilities of their positions and to ensure high-quality service delivery in accordance with the program performance standards. A program must provide ongoing training and professional development to support staff in fulfilling their roles and responsibilities.

(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.

(c) *Fiscal officer.* A program must assess staffing needs in consideration of the fiscal complexity of the organization and applicable financial management requirements and secure the regularly scheduled or ongoing services of a fiscal officer with sufficient education and experience to meet their needs. A program must ensure a fiscal officer hired after November 7, 2016, is a certified public accountant or has, at a minimum, a baccalaureate degree in accounting, business, fiscal management, or a related field.

(d) *Child and family services management staff qualification requirements—(1)*