

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1304 and 1306

RIN 0970-AB90

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration on Children, Youth and Families is issuing this Notice of Proposed Rulemaking to propose family child care homes as a Head Start program option.

DATES: In order to be considered, comments on this proposed rule must be received on or before October 30, 2000.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration on Children, Youth and Families, 330 C Street, SW., Washington, DC 20447. Beginning 14 days after the close of the comment period, comments will be available for public inspection in room 2221, 330 C Street, SW., Washington, DC 20201, Monday through Friday between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Douglas Klafehn at (202) 205-8572.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

The Head Start program, authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*), is a national program providing comprehensive child development services to eligible low-income children from birth to five years of age and their families, as well as to pregnant women. To help enrolled children achieve their full potential, Early Head Start and Head Start programs provide comprehensive health, nutritional, educational, social and other services. Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs.

The Head Start program also provides parents with training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1998, Early Head Start and Head Start served a total of nearly 823,000 children and their families through a network of over 2,000

grantee and delegate agencies. A total of 16,892,000 children have been served since the Head Start program began in 1965.

While Early Head Start and Head Start are intended to serve primarily children whose families have incomes at or below the poverty line or who receive public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low-income criteria. The Act also requires that a minimum of 10 percent of the enrollment opportunities in each program be made available to children with disabilities. Such children are expected to participate in the full range of Head Start services and activities with their peers who do not have disabilities and to receive necessary special education and related services.

II. Background

Since the program's inception, Head Start grantee and delegate agencies have been required to use data from a community assessment as required by 45 CFR 1305.3, to design programs that support individual family goals. As a result, over the years, Head Start has developed program options, including the provision of comprehensive child development services in centers (the center-based option), in the child's home (the home-based option), or through a combination of center and home-based programming (combination option). With the issuance of this Notice of Proposed Rulemaking the Head Start Bureau is proposing to add family child care as a fourth Head Start program option.

In keeping with the goal of designing programs to meet community and family needs, some Head Start agencies have identified family child care as an approach they would like to be able to offer to families in their community. Many families believe their children will benefit from a home-like setting and Head Start agencies have found that family child care is a suitable arrangement for such families when they are working or are in training, or when they need care for more than one child.

The formal recognition of this setting as an option in Head Start is particularly timely given the changing circumstances in many communities where an increased number of families are moving into employment as the result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193 which created the Temporary Assistance for Needy Families (TANF) program. To support parents as they

pursue training opportunities and seek and maintain employment, Head Start is committed to providing more opportunities for full day services. We are also committed to providing full day services through partnerships with other community agencies. Because family circumstances vary, full day services may include extended hours of care during non-traditional times such as evenings and weekends. The family child care option could be particularly appropriate in these and other situations and provide grantees with more flexibility in designing full day services to meet the needs of individual families. Early Head Start programs, in particular, may choose the home-like setting of family child care with smaller numbers of children for serving infants and toddlers from families that are working or in training as a result of TANF. Family child care can also be a particularly appropriate Head Start option for programs in rural areas where families are widely dispersed, where there is a shortage of facilities, and for children whose needs are better met in small-group settings.

Family child care has long been discussed as a possible option in Head Start. Since 1970, Head Start has served as a catalyst for promoting discussions and collaborations among a variety of organizations and agencies interested in expanding Head Start services to include family child care. With the intent of increasing the availability of family child care services beginning in 1984 and continuing through 1997, a number of Head Start grantees established family child care homes through innovative demonstration grants and program expansions. In keeping with its role as the national laboratory for the field of child development and early education, the Head Start Bureau funded these demonstration projects to provide resources and leadership in the implementation of family child care programs in Head Start settings. This effort helped agencies meet community and family needs, as well as provided opportunities for sharing experiences among the participating agencies and for networking with others with similar interests and experiences.

To help raise the level of quality in the family child care community and to support agencies in delivering Head Start's comprehensive child development services within the family child care setting, the Head Start Bureau has engaged in major initiatives to promote the professional development of family child care staff, including establishing the Child Development Associate (CDA) credential for family

child providers. This nationally awarded credential is recognized in 47 States as meeting staff qualifications for child care licensing. To promote developmentally appropriate programming for infants, toddlers, and preschoolers in family child care settings, Head Start has supported the development of a curriculum/training program, "The Creative Curriculum for Family Child Care." Head Start has also engaged in extensive work with a satellite distance learning network and over 45 community colleges to offer family child care providers courses and other experiences relevant to family child care, leading to the award of the CDA credential. In 1988, Head Start collaborated with the State of Washington and local community colleges to support the Job Training Partnership Act (JTPA) and Welfare Reform by providing education and credentialing opportunities for family child care providers, including Head Start parents.

From 1992 to 1997, the Head Start Bureau conducted an "Evaluation of the Head Start Family Child Care Homes' Demonstration" to determine whether the services provided in family child care settings could meet the Head Start Program Performance Standards and have impacts comparable to those of children and families enrolled in center based programs. Based on the data derived from this study, family child care was found to be a viable setting for providing comprehensive Head Start services at costs comparable to those for full-day center-based services. Although the study focused on programs serving four year old children, the findings show that services delivered in a family child care setting can meet Head Start standards of quality and can produce similar outcomes for children and families.

Based on these experiences and initiatives, the Head Start Bureau identified indicators of quality family child care. These quality indicators include: use of licensed homes; very small groups of children, especially when infants and toddlers are enrolled; qualified family child care providers with suitable training and experience; implementation of a curriculum based on sound child development principles; the integral involvement of parents; and the provision of strong support from the Head Start program to providers, including paid staff to assist the family child care provider as needed and ongoing oversight of the family child care provider by qualified and experienced staff.

Through these demonstration efforts and through recent expansion of Head

Start and Early Head Start enrollment, approximately five percent of programs currently provide family child care to some of their children and families. Approximately 5,000 children are enrolled in these programs. We expect this number to increase as family child care becomes a formal option in Head Start.

In the past few years, the Head Start Bureau has convened several groups of representatives from a cross section of for-profit and non-profit family child care programs, other organizations and agencies, experts, and parents to advise the Bureau regarding various aspects of family child care programming. The family child care issues addressed by these groups included staff-child ratios, staff qualifications, oversight and support for the family child care provider, and utilization of multiple funding sources. Informed by years of experience, and by a wide range of individuals and groups, as well as the findings of the evaluation study, the Head Start Bureau is proposing that family child care become a Head Start program option.

All Early Head Start and Head Start programs must implement the Head Start Program Performance Standards as revised. The revised standards (45 CFR part 1304) were published in the **Federal Register** (61 FR 57186) on November 5, 1996, and were effective January 1, 1998. The standards encompass Early Childhood Development and Health Services which includes child health and developmental services, education and early childhood development, child health and safety, child nutrition, and child mental health; Family and Community Partnerships; and Program Design and Management which includes program governance, management systems and procedures, human resources management, and facilities, materials and equipment. Programs providing Head Start services through the family child care program option would likewise be required to implement the Head Start Program Performance Standards, 45 CFR part 1304. Under 45 CFR part 1304, grantee and delegate agencies also must implement the requirements set forth in 45 CFR parts 1301, (Head Start Grants Administration), 1302 (Policies and Procedures for Selection, Initial Funding, and Refunding of Head Start Grantees, and for Selection of Replacement Grantees), 1303 (Appeal Procedures for Head Start Grantees and Current or Prospective Delegate Agencies), 1305 (Eligibility, Recruitment, Selection, Enrollment and Attendance in Head Start), 1306 (Head

Start Staffing Requirements and Program Options), and 1308 (Head Start Program Performance Standards on Services for Children with Disabilities).

Several program elements are unique to family child care and thus are not addressed specifically in the Head Start Program Performance Standards. These elements include the hours and days of operation; the qualifications of the family child care staff; the approval by the policy council of contracted family child care teachers; group size and composition; indoor and outdoor space; content of pre- and in-service training for family child care teachers; specific health and safety issues related to providing Head Start services in home settings; and certain aspects of management policies and procedures.

Other program elements, such as child development and education, the proportionate representation of parents on policy groups, and the conduct of home visits are addressed in the revised Head Start Program Performance Standards and are made applicable to the Head Start family child care program option. In addition to the Head Start Program Performance Standards and other Head Start regulations, we are proposing that Early Head and Head Start grantee and delegate agencies implementing the family child care services option must ensure that the program requirements in this NPRM are met. Also, Early Head Start programs are required to "provide early, continuous, intensive and comprehensive child development and family supportive services on a year-round basis". This requirement can be found in the **Federal Register** publication of April 17, 1997 (62 FR 18966). Therefore, grantee and delegate agencies providing Early Head Start services through the family child care program option must provide these services year round.

III. Authority for the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is the Head Start Act, section 644(c); 42 U.S.C. 9839(c).

IV. Section by Section Discussion of the NPRM

This NPRM proposes amendments to 45 CFR part 1306 so that Early Head Start and Head Start grantees will have the option of providing family child care services under the Head Start program. This NPRM also proposes amendments to 45 CFR part 1304 to support program requirements which are in keeping with providing a comprehensive child development Head Start program in the center-based,

home-based and combination program options. In addition, this NPRM makes other conforming changes as necessary.

45 CFR Part 1306

Definitions—§ 1306.3

A new paragraph (n) has been added which defines “Family Child Care” as child care and education provided to children in a private home or other family-like setting other than the child’s own home. “Head Start Family Child Care” means Head Start, Early Head Start and child care services provided to a small group of children, in a home or family-like setting, by an individual teacher.

A new paragraph (o) has been added which defines “Family child care program option” to mean Head Start and Early Head Start services provided to children receiving child care primarily in a home or home-like setting other than the child’s own home. Comprehensive child development services are delivered to Head Start and Early Head Start children primarily in the home of a child care teacher or other family-like setting, such as an apartment in a public housing complex which has been set aside for the provision of child care services under the auspices of an Early Head Start or Head Start program.

In new paragraph (p), “Family child care teacher” is defined as the provider of Head Start services in his or her residence or in another family-like setting such as an apartment in a public housing complex, set aside for this purpose. The designation of “teacher” conveys the importance of the qualifications they must have to participate in Head Start. The “Family child care teacher” must meet certain “professional” qualifications such as a degree in early childhood development or a CDA or equivalent. (In non-Head Start settings the family child care teacher is generally referred to as a “provider” or “caregiver.”)

Program Staffing Patterns—§ 1306.20

Section 1306.20(g)

Because the family child care teacher is generally the only adult on the premises, it is imperative that the group size allow, in an emergency, the teacher to evacuate all of the children from the home at the same time. Therefore, we propose a new paragraph (g) which requires that grantee and delegate agencies operating the family child care program option must ensure that, in any family child care home, at any time when Early Head Start or Head Start children are enrolled, there are no more than six children under the age of 6, including those of the family child care

teacher. No more than two of these six children may be under the age of three.

In keeping with the staff-child ratio for center-based Early Head Start, the maximum group size is four children when serving more than 2 infants and toddlers (under the age of three). No more than two of these four children may be under the age of two. This maximum group size of four, includes the family child care teacher’s own children up to the age of six.

MAXIMUM UNDER AGE 6

[Includes teacher’s children]

6 children	4 children
Only 2 can be under age 3.	When more than 2 are under age 3, the maximum is 4 and only 2 of the 4 can be under age 2.

These group sizes may vary depending on the special needs of the children served. Also, that where State/local or tribal requirements are more stringent, the State/local or tribal requirements will control.

Section 1306.20(h)

We propose that grantee and delegate agencies operating the family child care program option ensure that there is oversight and support for family child care teachers at the ratio of one child development specialist to no more than twelve family child care homes.

Part-time child development specialists must be responsible for a proportionate number (*i.e.*, half-time coordinators must be responsible for no more than six family child care homes.) Adjustments to these ratios must be made for programs where distance or other factors would decrease the time available for mentoring and technical assistance. The ratio of one child development specialist to a maximum of 12 family child care teachers, is similar to the staffing pattern in the Head Start home-based program option, where one qualified home visitor works with 10 to 12 families, meeting with each family for one hour and a half each week. We propose this requirement to ensure the provision of quality child development and education services and because family child care teachers generally work alone and are isolated from other child development professionals.

At a minimum, the responsibilities of the child development specialist shall include both announced and unannounced visits to each family child care home, with at least one ninety minute visit per week. These visits are

to enhance, not supplant, the capacity of the family child care teacher to provide positive, developmental experiences for the children.

During these visits, the child development specialist must observe the family child care teacher and the program being provided to the children, conduct health and safety checks of the home, observe and assess the implementation of the curriculum and the child development and education services provided to the children, provide on-site guidance, mentoring, training and technical assistance to the family child care teacher and assist the family child care teacher with the development of collegial or mentoring relationships with other child care professionals. This mentoring is designed to assure that each family child care teacher implements a program which promotes school readiness by supporting age-appropriate experiences.

Section 1306.20(i)

In order that family child care staff and families are fully integrated into the agency’s management and programmatic systems, in a new paragraph (i), grantee and delegate agencies must formally assign family child care program responsibilities to agency staff.

Section 1306.20(j)

To ensure that all program services are available to the children and families enrolled in the family child care program option, including children with disabilities, a new paragraph (j) requires that family child care teachers are regularly supported by other grantee or delegate agency staff with responsibilities related to the provision of comprehensive Head Start service areas, as specified in 45 CFR Parts 1304 and 1308. Comprehensive Head Start services include Early Childhood Development and Health Services (child health and developmental services, education and early childhood development, child health and safety, child nutrition and child mental health); Family and Community Partnerships; and Program Design and Management (program governance, management systems and procedures, human resources management, and facilities, materials and equipment).

Family Child Care Program Option—§ 1306.35

Current section 1306.35 has been redesignated as section 1306.36 and a new section 1306.35 on the family child care program option has been added.

Section 1306.35(a)

Paragraph (a)(1) sets forth requirements related to the minimum hours, days and months of operation for the family child care program option. Paragraph (a)(2)(i) requires that the grantee and delegate agencies have available homes capable of serving children and parents with disabilities affecting mobility. Paragraph (a)(2)(ii) ensures that children with disabilities enrolled in family child care programs are provided a schedule of services which supports their participation in early intervention, special education and related services required by their Individual Education Plan (IEP) and Individual Family Service Plan (IFSP); and are provided with a teacher with appropriate training. Paragraph (a)(3) sets forth the requirement that family child care homes have sufficient usable indoor and outdoor space to enable children to participate in developmentally appropriate activities that foster their development. Paragraph (a)(4) requires that the Policy Council be included in decisions to hire or terminate contracted family child care teachers.

Section 1306.35(b)

Paragraph (b)(1) requires grantees and delegate agencies to ensure the health and safety of enrolled children by developing and implementing a safety plan which addresses various aspects of the family child care homes. Paragraph (b)(2) requires precautions to reduce the risk of injury to children by: Keeping them away from hazardous situations; installing smoke and carbon monoxide detectors in space occupied by children; and removing weapons, alcohol, drugs, and animals from space occupied and accessible to the children.

Section 1306.35(c) and (d)

Paragraph (c) requires grantee and delegate agencies to develop, with the family child care teachers, emergency coverage plans to address health and safety emergencies. Paragraph (d) contains a requirement that the grantee must meet State, Tribal, and local licensing requirements that are applicable. These licensing requirements may be more stringent than Head Start program requirements, in which case the State, Tribal, and local requirements take precedence. Grantee and delegate agencies are required to comply with the more stringent regulations (whether they be Head Start, State, Tribal or local).

Newly Redesignated § 1306.36, Additional Head Start Program Options Variations, and § 1306.37, Compliance Waiver

Current § 1306.35 has been redesignated as section § 1306.36. Current § 1306.36 has been redesignated as section 1306.37. Both of the newly redesignated sections have been revised to add references to the new family child care program option.

45 CFR Part 1304

Human Resources Management—
§ 1304.52

Staff Qualification Requirements—
§ 1304.52(h)

We propose to amend § 1304.52 by redesignating paragraphs (h) through (k) as (i) through (l), and adding a new paragraph (h) that sets forth specific requirements regarding staffing qualifications for the family child care option. The requirements at the new paragraph (h)(1) provide that family child care teachers have previous child care experience and, at a minimum, possess, within one year of becoming a Head Start Family Child Care teacher or within one year of the effective date of this regulation, an Associate or Bachelors degree in child development or early childhood education or a Child Development Associate (CDA) credential as a Family Day Care Provider. Although this requirement may be challenging for some family child care teachers, it parallels the requirement that already exists in the Performance Standards for infant/toddler teachers. Similarly, we expect the same level of success in achieving this requirement for family child care teachers as we have had in credentialing infant/toddler teachers. Although this requirement may be challenging for some family child care teachers, it parallels the requirement that already exists in the Performance Standards for infant/toddler teachers. Similarly, we expect the same level of success in achieving this requirement for family child care teachers as we have had in credentialing infant/toddler teachers. Paragraph (h)(2) provides that family child care teachers have specific knowledge and experience necessary to foster the education and development of very young children and their families.

Paragraph (h)(3) requires that grantees and delegate agencies make alternative arrangements for the care of children when the family child care teacher is unavailable to provide care or the family child care home is unsuitable because of a structural deficiency or other hazard.

Paragraph (h)(4) states that substitute family child care teachers must receive initial and ongoing training and have the knowledge and experience to implement the family child care program.

Paragraph (h)(5) requires that staff providing oversight and support to family child care teachers must be qualified as child development specialists at the time of hire and must have, at a minimum, an Associate degree in child development or early childhood education.

Paragraph (h)(6) specifies the knowledge and experience the child development specialist must have, including the theories and principles of child growth and development, early childhood education (birth to five), and family support. The child development specialist must also have previous child care experience, knowledge and understanding of the CDA standards for family child care providers, and knowledge and understanding of the Head Start Program Performance Standards and other Head Start regulations.

Training—§ 1304.52(l) (currently § 1304.52(k))

Newly redesignated paragraph (l) on training and development in § 1304.52 is proposed to be amended by adding new paragraph (l)(5) that addresses training requirements for those grantees that provide services under the family child care program option. The training for family child care teachers and other staff working in family child care must develop knowledge of infant, toddler, and preschool development; the implementation of the agency's curriculum; safety issues in child care; and childhood health and illnesses. The training includes communicating effectively with infants, toddlers and preschoolers, their parents, and other adults as well as certification in cardiopulmonary resuscitation (CPR). In addition, it also includes information and skill development required for working with children with disabilities; provision of support to families, and the knowledge necessary to identify and report suspected child abuse or neglect information. Training is also provided in methods for maintaining sanitation and hygiene and participation in training provided for the United States Department of Agriculture (USDA) Child and Adult Care Food Program.

V. Impact Analyses

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that

there is consistency with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This NPRM proposes a program option, which will not require grantees to expend a significant amount of funds. Agencies choosing to operate this program option will not incur significant costs exceeding those costs incurred to deliver Head Start services in other program settings, such as in center-based or home-based settings and options.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that the Federal government anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities.

Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. This rule will affect small entities. In keeping with the goal of designing programs to meet community and family needs, Head Start agencies have identified family child care as a preferred option for parents who believe their children will benefit from a home-like setting.

Head Start agencies also have found that family child care is a suitable option for parents who are working or in training, or when families need care for more than one child. While we have no measure at this point to estimate the number of grantees that are small entities which will choose the family child care option, we believe the number which will choose it will not be significant at this time, given the newness of the option and diversity of needs across the country. For this reason, the Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104-13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirements inherent in a proposed or final rule. This NPRM does not contain any information collection or record-keeping requirements.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires that a covered agency prepare a budgetary impact statement before promulgating a 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 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 205 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the proposed rule.

We have determined that this final rule will not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

Congressional Review of Rulemaking

This rule is not a "major" rule as defined in Chapter 8 of 5 U.S.C.

The Family Impact Requirement

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105-277, Div. A, section 101(h)) requires a family impact assessment affecting family well-being.

Family Impact

Many parents, especially those from low-income families, work during non-traditional hours, and their work schedules often change from week to week. The Head Start family child care option will ensure the availability of quality child care during both traditional and non-traditional work hours. Head Start family child care also provides a network that ensures training to increase the competence of the family child care teacher as well as a system of back-up in the event that he or she is unavailable. Allowing parents to place their Early Head Start or Head Start children as well as school-age children in the care of one provider will decrease the number of stops they must make to drop children off prior to going to work. The availability of family child care increases the choices available to

parents by ensuring that their children are well cared for, and ensures that parents are not distracted from their work by worrying about the dependability and quality of care being provided to their children. This will increase family financial stability by enabling parents to secure and keep jobs. Many low-income workers have minimal leave and little flexibility in their work schedules and are unable to take time off to compensate for unreliable care or to make numerous phone calls to ensure the safety and well-being of their children. Head Start ensures a level of quality care for children, as well as back-up systems, thereby promoting family stability.

List of Subjects

45 CFR Part 1304

Dental health, Education of disadvantaged, Grant program—social programs, Health care, Mental health programs, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1306

Education of disadvantaged, Grant program—social programs.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: December 14, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: May 9, 2000.

Donna E. Shalala,

Secretary.

For the reasons set forth in the preamble, we propose to amend 45 CFR parts 1304 and 1306 to read as follows:

PART 1304—PROGRAM PERFORMANCE STANDARDS FOR OPERATION OF HEAD START PROGRAMS BY GRANTEE AND DELEGATE AGENCIES

1. The authority citation for part 1304 continues to read as follows :

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

2. Amend section 1304.52 by redesignating paragraphs (h) through (k) as (i) through (l), adding a new paragraph (h), and adding in the newly redesignated paragraph (l), new paragraph (l)(5) to read as follows:

§ 1304.52 Human resources management.

* * * * *

(h) *Family child care staff.* (1) Family child care teachers must have previous child care experience and, at a minimum, possess either an Associate or Bachelor's degree in child development or early childhood education or a Child Development

Associate (CDA) credential as a Family Day Care Provider. Head Start Family Child Care teachers, as employees of the grantee or delegate agency or as contracted Head Start family child care teachers must meet this requirement within one year of hire or one year of [the effective date of the final rule].

(2) Head Start Family child care teachers must have the knowledge and experience necessary to develop consistent, stable and supportive relationships with very young children and their families, and sufficient knowledge to implement the Head Start Program Performance Standards and other applicable Head Start regulations.

(3) Grantee and delegate agencies operating the family child care program option must ensure alternative arrangements for the care of children enrolled in the Head Start family child care option when the teacher or a family member in the home is ill, or when the teacher is in training or on vacation. Alternative arrangements also must be available when the physical setting is temporarily unsuitable for children, because of interruption of heat or plumbing or other temporary circumstances, such as spraying for pest control or repairs and maintenance that may pose a hazard to children (see § 1304.53(a)(8)).

(4) When grantee and delegate agencies provide substitute or additional staff to assist the family child care teacher, such staff must receive initial and ongoing training and have the knowledge and experience to implement the Head Start family child care program.

(5) At the time of hire, the child development specialists must have, at a minimum an Associate degree in child development or early childhood education.

(6) Child development specialists must have knowledge and experience in areas that include the theories and principles of child growth and development, early childhood education (birth to five), and family support. Child development specialists must have previous child care experience, knowledge and understanding of the Child Development Associate (CDA) Competency Standards for Child Care Providers and knowledge and understanding of the Head Start Program Performance Standards and other Head Start regulations.

* * * * *

(1) * * *

(5) In addition, grantee and delegate agencies operating a family child care program option must provide training for family child care staff which:

(i) Develops knowledge of infant, toddler and preschool age child development;

(ii) Includes ongoing training on the implementation of the agency's curriculum for children from birth to five years (see § 1304.3(a)(5) for the definition of curriculum);

(iii) Includes information and skill development for working with children with disabilities;

(iv) Includes methods in communicating effectively with infants, toddlers and preschoolers, their parents, and other adults;

(v) Develops knowledge of safety issues in child care, childhood health and illnesses, and certification in cardiopulmonary resuscitation (CPR);

(vi) Includes identifying and reporting suspected child abuse or neglect;

(vii) Includes information and methods for maintaining appropriate sanitation and hygiene;

(viii) Incorporates information on the United States Department of Agriculture's (USDA) Child and Adult Care Food Program; and

(ix) Other training necessary to increase the knowledge and skills of the family child care staff, such as the provision of family support.

PART 1306—HEAD START STAFFING REQUIREMENTS AND PROGRAM OPTIONS

3. The authority citation for part 1306 continues to read as follows:

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

4. Amend section 1306.3 by adding new paragraphs (n), (o), and (p) to read as follows:

§ 1306.3 Definitions.

* * * * *

(n) *Family child care* is non-residential care and education provided to children in a private home or other family-like setting, other than the child's own home. Head Start family child care means Head Start, Early Head Start, and child care services provided to a small group of children in a home or family-like setting, by an individual teacher.

(o) *Family child care program option* means Head Start and Early Head Start services provided to children receiving child care primarily in the home of a family child care teacher or other family-like setting, such as an apartment in a public housing complex which has been set aside for the provision of child care services under the auspices of an Early Head Start or Head Start grantee or delegate agency.

(p) *Family child care teacher* means the provider of Early Head Start or Head

Start services in his or her place of residence or in another family-like setting, such as an apartment in a public housing complex, set aside specifically for this purpose.

5. Amend section 1306.20 by adding new paragraphs (g), (h), (i), and (j) to read as follows:

§ 1306.20 Program staffing patterns.

* * * * *

(g) Grantee and delegate agencies operating the family child care program option must ensure that in each family child care home, at any time when Early Head Start or Head Start children are enrolled, the group size limits specified in this paragraph apply. At all times, the family child care teacher's own children under the age of 6 must be included in the group count.

(1) The maximum group size is six children and no more than two of the six children may be under the age of three years.

(2) The maximum group size is four children when more than two children are under the age of three years. In such instances no more than two of these four children may be under the age of two years.

(3) When serving children with special needs who require extra care, group sizes are smaller than the maximum allowed.

(h)(1) Grantee and delegate agencies operating the family child care program option must ensure that there is oversight and program support for family child care teachers by a child development specialist and by other Head Start grantee or delegate agency staff with responsibilities related to the provision of comprehensive Head Start and Early Head Start services. Such oversight and support includes mechanisms for communicating with the family child care teacher at all times that Early Head Start or Head Start children are in his or her care.

(2) A child development specialist working full time must be responsible for no more than twelve family child care homes, with part-time child development specialists responsible for a proportionate number (e.g., half-time child development specialists must be responsible for no more than six family child care homes).

(3) At a minimum, the responsibilities of the child development specialist shall include both announced and unannounced visits to each family child care home, with at least one ninety minute visit per week. These visits are to enhance, not supplant the capacity of the family child care teacher to implement the individualized child development curriculum.

(4) During these visits, the child development specialist must conduct health, nutrition, and safety checks of the home; and must observe and assess curriculum implementation and the child development and education services provided to the children. The specialist shares his or her observations with the family child care teacher, provides on-site guidance, mentoring, training and technical assistance to the teacher, and assists the family child care teacher with the development of collegial or mentoring relationships with other child care professionals. This support helps to assure that each family child care teacher implement a program which promotes school readiness and individually age-appropriate experiences.

(i) Grantee and delegate agencies operating the family child care program option must ensure that program management functions are formally assigned to grantee and delegate agency staff.

(j) In order to assure that all program services are available to the children and families enrolled in the family child care program option, grantee and delegate agencies must ensure that family child care teachers are regularly supported by other Head Start and grantee or delegate agency staff with responsibilities related to the provision of comprehensive Head Start and Early Head Start services, including services for children with disabilities. These comprehensive Head Start services are specified in 45 CFR Part 1304—Program Performance Standards for the Operation of Head Start Programs by Grantee and Delegate Agencies, and 45 CFR Part 1308—Head Start Program Performance Standards on Services for Children with Disabilities.

6. Sections 1306.35 and 1306.36 are redesignated as §§ 1306.36 and 1306.37, respectively, and revised, and a new § 1306.35 is added to read as follows:

§ 1306.35 Family child care program option.

(a) *Grantee and delegate agency implementation.* Grantee and delegate agencies implementing the family child care program option must:

(1) *Hours of operation.* Ensure that each family child care home operates year round five or more days per week for more than six hours per day.

(2) *Serving children with disabilities.*

(i) Ensure the availability of family child care homes capable of serving children and parents with disabilities affecting mobility; and

(ii) Ensure that children with disabilities enrolled in family child care are provided services which support

their participation in the early intervention, special education, and related services required by their IEP or IFSP, and that the child's teacher has appropriate knowledge, training and support.

(3) *Program space—indoor and outdoor.* Ensure that each family child care home has identified sufficient indoor and outdoor space which is usable and available to the children. This space allows children to be supervised and safely participate in developmentally appropriate activities and routines that foster their cognitive, socio-emotional, and physical development, including both gross and fine motor, as defined in 45 CFR 1304.53(a)(1) and (2) and 1304.53(b).

(4) *Policy Council role.* Ensure that the Policy Council is included in decisions to hire or terminate contracted Head Start family child care teachers (see 45 CFR 1304.50(d)(1)(x) and (xi)).

(b) *Facilities.*—(1) *Safety plan.* Grantees and delegate agencies operating the family child care program option must have a plan in place that ensures the health and safety of children and includes, at a minimum, an annual safety inspection of each family child care home as described in 45 CFR 1304.53(a)(10). These inspections must be supplemented by regular observations of the family child care home that are made by the child development specialist. The plan must describe the policies and procedures in place to ensure that identified concerns are addressed in a timely manner.

(2) *Injury prevention.* Grantee and delegate agencies must ensure that:

(i) Children are kept away from potentially hazardous situations such as heat sources in the family child care home. Children are restricted from hot food preparation areas and appliances such as refrigerators, stoves, ovens, microwave ovens, utensils and trash cans at all times. There are no insects, rodents, or other pests that pose a health hazard, and pest control does not take place while children are present;

(ii) Smoke and carbon monoxide detectors are installed in spaces occupied by children;

(iii) Radon detectors are installed in family child care homes where basements are devoted to the program;

(iv) Children are directly supervised at all times;

(v) Enhanced supervision is provided when children are near a body of water, a heat source, and when they are being transported;

(vi) All water hazards, such as pools and standing water, are enclosed with a fence and safeguarded to ensure that they cannot be accessed;

(vii) There are no firearms or other weapons kept in space occupied or accessible to children;

(viii) Alcohol and other drugs are not accessible to children or consumed when children are present; and

(ix) Domestic animals are properly immunized, free of disease, appropriately restrained, and kept from the children.

(c) *Emergency coverage plans.* Grantee and delegate agencies operating the family child care option must have an "Emergency Coverage Plan". This plan is developed by the family child care teacher and the grantee, and describes what is to be done in the event of a health emergency or illness. The family child care teacher must identify a qualified person who would quickly be able to care for the children in the event of an emergency of the teacher or family members.

(d) *Licensing requirements.* Grantees must meet State, Tribal and local licensing requirements for family child care facilities. In cases where licensing requirements are less comprehensive or stringent than the Head Start regulations, grantee and delegate agencies are required to comply with the Head Start regulations. The Tribal, State and local licensing requirements take precedence if they are more stringent than the requirements for the Head Start family child care program option.

§ 1306.36 Additional Head Start program option variations.

In addition to the center-based, home-based, combination program, and family child care program options defined in this part, the Commissioner of the Administration on Children, Youth and Families retains the right to fund alternative program variations to meet the unique needs of communities or to demonstrate or test alternative approaches for providing Head Start services.

§ 1306.37 Compliance waiver.

An exception to one or more of the requirements contained in §§ 1306.32, 1306.33, 1306.34, and 1306.35 will be granted only if the Commissioner of the Administration on Children, Youth and Families determines, on the basis of supporting evidence, that the grantee made a reasonable effort to comply with the requirement, but was unable to do so because of limitations or circumstances of a specific community or communities served by the grantee.

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