

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### 45 CFR Chapter XIII, Subchapter B

RIN 0970–AC63

#### Head Start Performance Standards

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This NPRM proposes to update Head Start program performance standards, last revised in 1998, to meet Congress's requirements and improve the quality of Head Start. In the Improving Head Start for School Readiness Act of 2007, Congress instructed the Office of Head Start to update its performance standards by regulation and "ensure that any such revisions in the standards [do] not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services." The proposed performance standards incorporate extensive consultation with experts and findings from scientific research, reflect best practices, lessons from program input and innovation, integrate recommendations from the Secretary's Advisory Committee Final Report on Head Start Research and Evaluation, and reflect this Administration's deep commitment to improving the school readiness of young children. The proposed program performance standards will improve the quality of services, reduce bureaucratic burden on programs, and improve regulatory clarity and transparency. They provide a clear road map for current and prospective grantees to provide high quality Head Start services and to strengthen the outcomes of the children and families they serve.

**DATES:** Please submit comments on this NPRM by August 18, 2015.

**ADDRESSES:** Follow online instructions at [www.regulations.gov](http://www.regulations.gov) to submit comments. This approach is our preferred method for receiving comments. Additionally, you may send comments via the United States Postal Service to: Office of Head Start, Attention: Director of Policy and Planning, 1250 Maryland Avenue SW., Washington, DC 20024.

To ensure we can effectively respond to your comment(s), clearly identify the issue(s) on which you are commenting.

Provide the page number, identify the column, and cite the paragraph from the **Federal Register** document, (i.e., On page 10999, second column, § 1305.6(a)(1)(i) . . .). All comments received are a part of the public record and will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov), without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information, or otherwise sensitive or protected information. We accept anonymous comments. If you wish to remain anonymous, enter "N/A" in the required fields.

**FOR FURTHER INFORMATION CONTACT:** Colleen Rathgeb, Office of Head Start Policy and Planning Division Director, (202) 358–3263, [OHS\\_NPRM@acf.hhs.gov](mailto:OHS_NPRM@acf.hhs.gov).

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#### I. Executive Summary

Head Start currently provides comprehensive early learning services to nearly 1 million children from birth to age five each year through nearly 50,000 classrooms, home-based programs, and family child care partners nationwide. Since its inception in 1965, Head Start has been a leader in helping children from low-income families reach kindergarten more prepared to succeed in school and in life. Head Start is a central part of this Administration's effort to ensure all children have access to high quality early learning opportunities and to eliminate the education achievement gap. This proposed regulation is needed to improve the quality of Head Start services so that programs have a stronger impact on children's learning and development. It also is necessary to streamline and reorganize the regulatory structure to improve regulatory clarity and transparency so that existing grantees can more easily run a high quality Head Start program and so that Head Start will be more approachable to prospective grantees. In addition, this regulation is necessary to reduce the bureaucratic burden on local programs that can interfere with high quality service delivery. Once realized, we believe these regulatory changes will help ensure every child and family in Head Start is receiving high quality services that will lead to greater success in school and in life.

In 2007, Congress mandated Head Start revise the program performance standards and update and raise the education standards.<sup>1</sup> Congress also

<sup>1</sup> See <http://beta.congress.gov/crec/2007/11/14/CREC-2007-11-14-pt1-PgS14375-2.pdf>

prohibited elimination of, or any reduction in, the quality, scope, or types of services in the revisions. Thus, these proposed regulatory revisions are additionally intended to meet the statutory requirements Congress put forth in the bipartisan reauthorization of Head Start in 2007.

Head Start program performance standards are the foundation on which programs design and deliver comprehensive, high quality individualized services to support the school readiness of children from low-income families. The first set of Head Start program performance standards were published in the 1970s. Since then, they have been revised following subsequent Congressional reauthorizations and were last revised in 1998. The program performance standards set forth the requirements local grantees must meet to support the cognitive, social, emotional, and healthy development of children from birth to age five. They encompass requirements to provide education, health, mental health, nutrition, and family and community engagement services, as well as rules for local program governance and aspects of federal administration of the program.

This NPRM builds upon extensive consultation with researchers, practitioners, recommendations from the Secretary's Advisory Committee Final Report on Head Start Research and Evaluation<sup>2</sup> and other experts, as well as internal analysis of program data and years of program input on the regulations. In addition, program monitoring has also provided invaluable experience regarding the strengths and weaknesses of the current regulations. Moreover, research and practice in the field of early childhood education has expanded exponentially in the 15 years since the regulations governing service delivery were last revised, providing a multitude of new insights on how to support improved child outcomes.

The Secretary's Advisory Committee, which consisted of expert researchers and practitioners chartered to "provide recommendations for improving Head Start program effectiveness" concluded early education programs, including Head Start, are capable of closing the achievement gap by 20–50%, but that Head Start is not reaching its potential. As part of their work, the Committee provided recommendations for interpreting the results of both the Head Start Impact Study (HSIS),<sup>3</sup> a

randomized control trial study of children in Head Start in 2002–2003 through third grade, and the Early Head Start Research and Evaluation Project (EHSREP),<sup>4</sup> which was initiated in 1996 and followed children who were eligible to participate in Early Head Start. The Committee concluded that these findings should be interpreted in the context of the larger body of research that demonstrates that Head Start and Early Head Start "are improving family well-being and improving school readiness of children at or below the poverty line in the U.S. today." The Committee agreed that the initial impact that both Head Start and Early Head Start have demonstrated "are in line with the magnitude of findings from other scaled-up programs for infants and toddlers . . .<sup>5</sup> and center-based programs for preschoolers . . ."<sup>6</sup> but also acknowledged that "larger impacts may be possible, e.g., by increasing dosage in EHS and Head Start or improving instructional factors in Head Start." The Committee also addressed the finding that these impacts do not seem to persist into elementary school, stating that the larger body of research on Head Start's impacts provides "evidence of long-term positive outcomes for those who participated in Head Start in terms of high school completion, avoidance of problem behaviors, avoidance of entry into the criminal justice system, too-early family formation, avoidance of special education, and workforce attachment." Overall, the report determined that a key factor for Head Start to realize its potential is "making quality and other improvements and optimizing dosage within Head Start [and Early Head Start]." The proposed rule aims to capitalize on the advancements in research, available data, program input,

follow-up to the Head Start impact study final report. U.S. Department of Health and Human Services Office of Planning, Research and Evaluation.

<sup>4</sup> Cohen, R. C., Vogel, C. A., Xue, Y., Moiduddin, E. M., Carlson, B. L., Twin Peaks Partners, L. L. C., & Kisker, E. E. (2010). Early Head Start Children in Grade 5: Long-Term Follow-Up of the Early Head Start Research and Evaluation Project Study Sample. Washington, DC: US Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, (6933).

<sup>5</sup> U.S. Department of Health and Human Services, Administration for Children and Families. (2010). Office of Head Start Program Information Report, 2009–2010. Washington, DC.

<sup>6</sup> Vogel, C. A., Boller, K. A., Xue, Y., Blair, R., Aikens, N., Burwick, A., . . . Stein, J. (2011). Learning as we go: A first snapshot of Early Head Start programs, staff, families and children. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

and these recommendations in order to accomplish the critical goal of helping Head Start reach its full potential so that more children reach kindergarten ready to succeed.

This NPRM proposes numerous changes to strengthen program standards so that all children and families receive high quality services that will have a stronger impact on child development and outcomes and family well-being. We propose to significantly update and restructure the education and child development requirements to more effectively promote high quality teaching practices and stronger curriculum implementation to better support focus on the skill development and growth needed for success in kindergarten and beyond. As recommended by the Advisory Committee and mandated by statute, we propose to integrate the Head Start Child Outcomes Framework with instructional practices, curriculum, assessment, and research-based professional development. The Secretary's Advisory Committee and a growing body of research find that curriculum enhancements or curricula intensely focused on key areas of skill development have a greater impact on child outcomes. We neither propose nor prohibit specific curricula, but we do propose to enhance curricula standards as recommended by the Secretary's Advisory Committee and a growing body of research, and as required by the 2007 Head Start Act.

In addition, we propose to increase the positive impact of Head Start by increasing minimum hours and days of operation for most programs, which is aligned with recommendations from the Secretary's Advisory Committee. Our proposal is consistent with the higher dosage levels in many State pre-kindergarten programs that have shown strong effects, and it is supported by a strong body of research that demonstrates adequate exposure to learning opportunities is important for children at-risk for academic difficulties to make necessary gains. Research on the amount of time and type of activities needed to support effective teaching and curriculum practices for children who are behind also demonstrate the inadequacy of a half-day program. Children in Head Start programs operating under the current minimum requirements receive less than half the early learning services that many children receive in State pre-kindergarten and would receive at our new proposed minimums. Coupled with the proposed increases to education standards, we believe increasing the dosage minimums is essential to Head

<sup>2</sup> Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

<sup>3</sup> Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade

Start's effort to prepare children to succeed in school and beyond. This proposal is also consistent with the President's FY2016 Budget, which requests funding to ensure that children in Head Start are served in full-day, full-year programs without compromising access to the program.

We propose additional important changes to other areas of service delivery. We propose requirements to update the prioritization criteria for selection and recruitment, improve attendance, prohibit expulsion for challenging behaviors, and ensure critical supports for children and families experiencing homelessness and children in foster care. We propose to update services to children with disabilities and their families to ensure they receive the individualized services they need within inclusive settings to be successful. In addition, we retain family and community engagement as the foundations they have always been in Head Start, but propose to improve family services by integrating research-based practices, placing a stronger focus on services to improve parenting skills that support child learning, and providing greater local flexibility to help meet family needs. Moreover, we propose to require programs to collect, aggregate, and analyze data to achieve program performance goals and consistently work to improve quality, a key recommendation offered by the Secretary's Advisory Committee. Finally, we propose to address both Head Start and Early Head Start simultaneously throughout this NPRM, which represents a significant change from and improvement over the existing rule. The current rule addresses Early Head Start in a more piecemeal fashion, often making interpretation of the regulations unnecessarily complex.

This NPRM additionally proposes to entirely reorganize the body of existing regulations in order to improve clarity and transparency to make it easier for programs to implement and for the public to understand the broad range of program services in Head Start. The current program performance standards have over 1400 provisions organized in 11 different sections that have been amended in a partial or topical fashion over the past 40 years. This has resulted in a somewhat opaque set of requirements that can be unnecessarily challenging to interpret and that overburdens current grantees with process-laden rules. We propose four distinct sections: (1) *Program Governance*, which outlines the requirements imposed by the Act on Governing Bodies and Policy Councils to ensure well-governed Head Start

programs; (2) *Program Operations*, which outlines all of the operational requirements for serving children and families, from the universe of eligible children and the services they must be provided in education, health, and family and community engagement, to the way programs must use data to improve the services they provide; and (3) *Financial and Administrative Requirements*, which lay out the federal requirements that Head Start programs must adhere to because of overarching federal requirements or specific provisions imposed in the Head Start Act; and (4) *Federal Administrative Procedures*, which govern the procedures the responsible HHS official takes when determining the results of competition for all grantees, determining any actions against a grantee, and determining whether a grantee needs to compete for renewed funding and other procedures required for transparency in the Act. Though some current grantees might find the changes to regulatory numbers and placement initially confusing, we believe this reorganization will greatly enhance the understanding and implementation of Head Start rules both for current and prospective grantees.

Within this large reorganization we also propose to reorganize specific sections and streamline provisions to make Head Start requirements easier to understand for all interested parties—grantees, potential grantees, other early education programs, and members of the general public. Subparts and their sections were reorganized to eliminate redundancy, and related requirements were grouped together instead of interspersed as they are in the existing rule. Additionally, we propose to systematically address the fact that many of our most critical provisions are buried in subparts of the existing regulation in a way that makes them difficult to find and interpret, and that does not reflect their centrality to the provision of high quality services. For example, the reorganization proposes to create new sections or subparts to highlight and expand, where necessary, upon these incredibly important requirements. These include the proposed subparts on education services, transition services, and services for enrolled pregnant women.

In addition, we propose revisions throughout the NPRM to streamline requirements and minimize administrative burden on local programs. In total, we significantly reduce the number of requirements without compromising quality. We propose to move away from requiring written plans and prescribing how

specific requirements should be achieved in order to give greater flexibility to programs in determining the best way to achieve their goals, without reducing expectations. For example, we strengthen health and safety standards but eliminate unnecessarily prescriptive regulations that were burdensome. We anticipate these proposed changes will help move Head Start away from a compliance-oriented culture to an outcomes-focused one. Furthermore, we believe this will support better collaboration with other programs and funding streams. We recognize that grantees deliver services through a variety of modalities including child care and state pre-kindergarten programs that require the blending of funding streams and compliance with a host of regulations. Additionally, we propose to remove several overly prescriptive requirements related to policy groups, governing bodies, appeals, and audits.

We also propose to include several provisions to support additional local flexibility to meet local community needs and to promote innovation and research. We propose to give Head Start programs additional flexibility in the structural requirements of program models, such as class size and service duration if they can demonstrate a locally-designed model is better for the children they serve. Further, in order to support continued research and innovation into effective curriculum and professional development models, we propose to permit local variations, giving flexibility from some of these requirements if the Head Start program works with research experts and evaluates the effectiveness of their model. We also propose to support local innovation by proposing that local programs can apply for a waiver for individual eligibility verification. This can allow better coordination with local early education programs without reducing quality standards. Collectively, these proposed changes will allow for the development of innovative program models, alleviate paperwork burdens, and support mixed income settings.

We believe the benefits of these proposed changes will be significant for the children and families Head Start serves. Strengthening Head Start standards will improve child outcomes and promote greater success in school as well as produce higher returns on taxpayer investment. Reorganizing, streamlining, and reducing the regulations will make Head Start more approachable for potential grantees and less burdensome for existing grantees. These changes are central to the Administration's belief that every child

deserves an opportunity to succeed and that all children should graduate from high school college- and career-ready.

## II. Tables

In this NPRM, we propose to rearrange and renumber Head Start program performance standards under

subchapter B at 45 CFR Chapter XIII. We believe our efforts will provide current and prospective grantees an organized road map on how to provide high quality Head Start services.

We include redesignation and distribution tables to help the public readily locate current sections and

provisions we propose to rearrange and renumber. Table A, the redesignation table, lists the current section and identifies the section we propose will replace it. Table B, the distribution table, lists current provisions and shows whether we removed, revised, or redesignated them.

TABLE A—REDESIGNATION TABLE

Current section	Proposed section
1301.1 .....	1303.2
1301.20 .....	1305
1301.10 .....	1303.3
1301.11 .....	1303.12
1301.20 .....	1303.4
1301.21 .....	1303.4
1301.30 .....	1303.10
1301.31 .....	1302.90, 1302.102
1301.32 .....	1303.5
1301.33 .....	1303.31
1301.34 .....	1304.5, 1304.7
1302.1 .....	1304.1
1302.2 .....	1305
1302.5 .....	1304.2, 1304.3, 1304.4
1302.10 .....	1304.20
1302.11 .....	1304.20
1302.30 .....	1304.30
1302.31 .....	1304.31
1302.32 .....	1304.32
1303.1 .....	1304.1, 1303.30
1303.2 .....	1305
1303.10 .....	1304.1
1303.11 .....	1304.2
1303.12 .....	1304.3
1303.14 .....	1304.4
1303.21 .....	1304.7
1303.22 .....	1304.7
1304.1 .....	1302.1
1304.3 .....	1305
1304.20 .....	1302.42, 1302.33, 1302.41, 1302.61, 1302.46, 1302.63
1304.21 .....	1302.30, 1302.31, 1302, 1302.35, 1302.60, 1302.90, 1302.34, 1302.33, 1302.46, 1302.21
1304.22 .....	1302.47, 1302.92, 1302.15, 1302.90, 1302.41, 1302.42, 1302.46
1304.23 .....	1302.42, 1302.44, 1302.31, 1302.44, 1302.90, 1302.31, 1302.46
1304.24 .....	1302.46, 1302.45
1304.40 .....	1302.50, 1302.52, 1302.80, 1302.18, 1302.34, 1302.51, 1302.30, 1302.18, 1302.81, 1302.46, 1302.52, 1302.70, 1302.71, 1302.72, 1302.22, 1302.82
1304.41 .....	1302.53, 1302.63, 1302.70, 1302.71
1304.50 .....	1301.1, 1301.4, 1302.102, 1301.3, 1301.5
1304.51 .....	1302.101, 1302.90, 1303.23, 1302.102, 1301.3, 1303.32
1304.52 .....	1302.101, 1302.91, 1302.90, 1302.91, 1302.21, 1303.3, 1302.93, 1302.94, 1302.92, 1301.2
1304.53 .....	1302.31, 1302.21, 1302.47, 1302.22, 1302.23
1304.60 .....	1302.102, 1304.2
1305.1 .....	1302.10
1305.2 .....	1305
1305.3 .....	1302.11, 1302.102, 1302.20
1305.4 .....	1302.12
1305.5 .....	1302.13, 1302.14,
1305.6 .....	1302.14
1305.7 .....	1302.12, 1302.15, 1302.70
1305.8 .....	1302.16
1305.9 .....	1302.18
1305.10 .....	1304.4
1306.3 .....	1305
1306.20 .....	1302.101, 1302.21, 1302.90, 1302.23, 1302.20
1306.21 .....	1302.91
1306.23 .....	1302.92
1306.30 .....	1302.20, 1302.21, 1302.22, 1302.23
1306.31 .....	1302.20
1306.32 .....	1302.21, 1302.24, 1302.17, 1302.102, 1302.34, 1302.18
1306.33 .....	1302.22, 1302.101, 1302.91, 1302.35, 1302.44, 1302.23, 1302.31, 1301.4, 1302.47, 1302.45, 1302.24
1307.1 .....	1304.10
1307.2 .....	13051305

TABLE A—REDESIGNATION TABLE—Continued

Current section	Proposed section
1307.3 .....	1304.11
1307.4 .....	1304.12
1307.5 .....	1304.13
1307.6 .....	1304.14
1307.7 .....	1304.15
1307.8 .....	1304.16
1308.1 .....	1302.60
1308.3 .....	1305
1308.4 .....	1302.101, 1302.61, 1302.63, 1303.75
1308.5 .....	1302.12, 1302.13
1308.6 .....	1302.33, 1302.42, 1302.34, 1302.33
1308.18 .....	1302.47
1308.21 .....	1302.61, 1302.62, 1302.34
1309.1 .....	1303.40
1309.2 .....	1303.41
1309.3 .....	1305
1309.4 .....	1303.42, 1303.44, 1303.45, 1303.48, 1303.50
1309.21 .....	1305, 1303.51, 1303.48, 1303.50, 1303.46, 1303.47, 1303.48, 1303.55, 1303.3
1309.22 .....	1303.49, 1303.51
1309.31 .....	1303.44, 1303.47
1309.33 .....	1303.56
1309.40 .....	1303.53
1309.41 .....	1303.54
1309.43 .....	1303.43
1309.52 .....	1303.55
1309.53 .....	1303.56
1310.2 .....	1303.70
1310.3 .....	1305
1310.10 .....	1303.70, 1303.71, 1303.72
1310.14 .....	1303.71
1310.15 .....	1303.72
1310.16 .....	1303.72
1310.17 .....	1303.72
1310.20 .....	1303.73
1310.21 .....	1303.74
1310.22 .....	1303.75
1310.23 .....	1303.70

TABLE B DISTRIBUTION TABLE

Current section	Title	Proposed section	
1301.			
1301.1 .....	Purpose and scope .....	1303.2 .....	Redesignated.
1301.2 .....	Definitions .....	1305.	
1301.10(a) .....	General .....	1303.3.	
1301.10(b)(1) .....	.....	.....	Removed.
1301.10(b)(2) .....	.....	.....	Removed.
1301.11(a) .....	Insurance and bonding .....	1303.12.	
1301.11(b) .....	.....	1303.12.	
1301.12(a) .....	Annual Audit of Head Start programs .....	.....	Removed.
1301.12(a)(1) .....	.....	.....	Removed.
1301.12(a)(2) .....	.....	.....	Removed.
1301.12(a)(3) .....	.....	.....	Removed.
1301.12(b) .....	.....	.....	Removed.
1301.12(c) .....	.....	.....	Removed.
1301.13(a) .....	Accounting system certification .....	.....	Removed.
1301.13(b) .....	.....	.....	Removed.
1301.20(a) .....	Matching requirements .....	1303.4.	
1301.20(a)(1) .....	.....	.....	Removed.
1301.20(a)(2) .....	.....	.....	Removed.
1301.20(a)(3) .....	.....	.....	Removed.
1301.20(b) .....	.....	.....	Removed.
1301.20(c) .....	.....	.....	Removed.
1301.21 .....	Criteria for increase in Federal financial assistance.	1303.4.	
1301.21(a) .....	.....	.....	Removed.
1301.21(b) .....	.....	.....	Removed.
1301.30 .....	General requirements .....	1303.10.	
1301.31(a) .....	Personnel policies .....	1302.90(a).	
1301.31(a)(1) .....	.....	.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1301.31(a)(2) .....	.....	.....	Removed.
1301.31(a)(3) .....	.....	.....	Removed.
1301.31(a)(4) .....	.....	.....	Removed.
1301.31(a)(5) .....	.....	.....	Removed.
1301.31(a)(6) .....	.....	.....	Removed.
1301.31(a)(7) .....	.....	.....	Removed.
1301.31(b)(1)(i) .....	.....	1302.90(b)(1).	
1301.31(b)(1)(ii) .....	.....	1302.90(b)(1).	
1301.31(b)(1)(iii) .....	.....	1302.90(b)(1)(i)–(iv).	
1301.31(b)(2) .....	.....	.....	Removed.
1301.31(b)(2)(i) .....	.....	.....	Removed.
1301.31(b)(2)(ii) .....	.....	.....	Removed.
1301.31(b)(2)(iii) .....	.....	.....	Removed.
1301.31(b)(3) .....	.....	1302.90(b)(2).	
1301.31(c) .....	.....	.....	Removed.
1301.31(c)(1) .....	.....	.....	Removed.
1301.31(c)(2) .....	.....	.....	Removed.
1301.31(c)(3) .....	.....	.....	Removed.
1301.31(c)(4) .....	.....	.....	Removed.
1301.31(d) .....	.....	.....	Removed.
1301.31(e) .....	.....	1302.102(d)(2)(ii) .....	
		1302.102(d)(2)(iii)(A)–(B).	
1301.32(a)(1) .....	Limitations on costs of development and administration of a Head Start program.	1303.5(a)(1).	
1301.32(a)(2) .....	.....	1303.5(a)(1).	
1301.32(b)(1) .....	.....	1305.	
1301.32(b)(2) .....	.....	1305.	
1301.32(b)(3) .....	.....	1305.	
1301.32(b)(4) .....	.....	1305.	
1301.32(b)(5) .....	.....	1305.	
1301.32(c)(1) .....	.....	1305.	
1301.32(c)(2) .....	.....	1305.	
1301.32(c)(3) .....	.....	1305.	
1301.32(c)(4) .....	.....	1305.	
1301.32(d)(1) .....	.....	1305.	
1301.32(d)(2) .....	.....	1305.	
1301.32(d)(3) .....	.....	1305.	
1301.32(e)(1) .....	.....	1303.5(a)(2)(i).	
1301.32(e)(2) .....	.....	.....	Removed.
1301.32(f)(1) .....	.....	1303.5(a)(2)(iv).	
1301.32(f)(2) .....	.....	1303.5(a)(2)(iv).	
1301.32(f)(3) .....	.....	1303.5(a)(2)(iii).	
1301.32(g)(1) .....	.....	1303.5(b)(1).	
1301.32(g)(1)(i) .....	.....	1303.5(b)(1).	
1301.32(g)(1)(ii) .....	.....	1303.5(b)(1).	
1301.32(g)(2) .....	.....	1303.5(b)(2).	
1301.32(g)(3) .....	.....	1303.5(b)(2).	
1301.32(g)(4) .....	.....	.....	Removed.
1301.32(g)(5) .....	.....	.....	Removed.
1301.33 .....	Delegation of program operations .....	1303.31(b).	
1301.34 .....	Grantee appeals .....	1304.5 .....	
		1304.7.	
1302 .....	Selection, Initial Funding and Refunding of HS Grantees and Selection of Replacement Grantees.		
1302.1 .....	Purpose and Scope .....	1304.1.	
1302.2 .....	Definitions .....	1305.	
1302.3 .....	Consultation with public officials and consumers.	.....	Removed.
1302.4 .....	Transfer of unexpended balances .....	.....	Removed.
1302.5(a) .....	Notice for show cause and hearing .....	1304.2 .....	
		1304.3.	
1302.5(b) .....	.....	1304.4.	
1302.10(a) .....	Selection among applicants .....	.....	Removed.
1302.10(b) .....	.....	1304.20(a).	
1302.10(b)(1) .....	.....	.....	Removed.
1302.10(b)(2) .....	.....	.....	Removed.
1302.10(b)(3) .....	.....	.....	Removed.
1302.10(b)(4) .....	.....	.....	Removed.
1302.10(b)(5) .....	.....	.....	Removed.
1302.11(a) .....	Selection among applicants to replace grantee.	1304.20(b).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1302.11(b) .....	.....	1304.20(b).	
1302.11(c) .....	.....	1304.20(b).	
1302.20(a) .....	Grantee to show both legal status and financial viability.	.....	Removed.
1302.20(b) .....	.....	.....	Removed.
1302.20(c) .....	.....	.....	Removed.
1302.21(a) .....	Grantee shows legal status but not financial viability.	.....	Removed.
1302.21(a)(1) .....	.....	.....	Removed.
1302.21(a)(2) .....	.....	.....	Removed.
1302.21(b) .....	.....	.....	Removed.
1302.21(c) .....	.....	.....	Removed.
1302.22 .....	Suspension or termination of grantee which shows financial viability but not legal status.	.....	Removed.
1302.23 .....	Suspension or termination of grantee which shows legal status but not financial viability.	.....	
1302.23(a) .....	.....	.....	Removed.
1302.24 .....	Denial of refunding of grantee.	.....	
1302.24(a) .....	.....	.....	Removed.
1302.24(b) .....	.....	.....	Removed.
1302.24(c) .....	.....	.....	Removed.
1302.24(d) .....	.....	.....	Removed.
1302.25(a) .....	Control of funds of grantee scheduled for change.	.....	Removed.
1302.25(b) .....	.....	.....	Removed.
1302.25(c) .....	.....	.....	Removed.
1302.30(a) .....	Procedure for identification of alternative agency.	1304.30(a).	
1302.30(1) .....	.....	1304.30(a)(1).	
1302.30(2) .....	.....	1304.30(a)(2).	
1302.30(b)(1) .....	.....	1304.30(b)(1).	
1302.30(2) .....	.....	1304.30(b)(2).	
1302.30(3) .....	.....	1304.30(b)(3).	
1302.30(4) .....	.....	1304.30(b)(4).	
1302.30(c) .....	.....	1304.30(c).	
1302.30(d) .....	.....	1304.30(d).	
1302.31 .....	Requirements of alternative agency .....	1304.31.	
1302.32(a) .....	Alternative agency—prohibition .....	1304.32(a).	
1302.32(1) .....	.....	1304.32(a)(1).	
1302.32(2) .....	.....	1304.32(a)(2).	
1302.32(i) .....	.....	1304.32(a)(2)(i).	
1302.32(ii) .....	.....	1304.32(a)(2)(ii).	
1302.32(b) .....	.....	1304.32(b).	
1303 .....	Selection, initial funding and refunding of HS grantees and selection of replacement grantees.		
Subpart A .....	General.		
1303.1 .....	Purpose and application .....	1303.30 .....	
1303.2 .....	Definitions .....	1304.1.	
1303.3(a) .....	Right to attorney, attorney fees, and travel costs.	1305.	
1303.3(a)(1) .....	.....	.....	Removed.
1303.3(a)(2) .....	.....	.....	Removed.
1303.3(b) .....	.....	.....	Removed.
1303.3(c) .....	.....	.....	Removed.
1303.4 .....	Remedies .....	.....	Removed.
1303.5 .....	Service of process. ....	.....	Removed.
1303.6 .....	Successor agencies and officials .....	.....	Removed.
1303.7(a) .....	Effect of failure to file or serve documents in a timely manner.	.....	Removed.
1303.7(b) .....	.....	.....	Removed.
1303.7(c) .....	.....	.....	Removed.
1303.7(d) .....	.....	.....	Removed.
1303.8(a) .....	Waiver of requirements. ....	.....	Removed.
1303.8(b) .....	.....	.....	Removed.
1303.8(c)(1) .....	.....	.....	Removed.
1303.8(c)(2) .....	.....	.....	Removed.
1303.8(c)(3) .....	.....	.....	Removed.
1303.8(c)(4) .....	.....	.....	Removed.
1303.8(d) .....	.....	.....	Removed.
1303.8(e) .....	.....	.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1303.8(f) .....	.....	.....	Removed.
1303.8(g) .....	.....	.....	Removed.
1303.10(a) .....	Purpose .....	1304.1.	
1303.10(b) .....	.....	1304.1.	
1303.11(a) .....	Suspension on notice and opportunity to show cause.	1304.2(a).	
1303.11(b) .....	.....	1304.2(b).	
1303.11(b)(1) .....	.....	1304.2(b)(1)(i).	
1303.11(b)(2) .....	.....	1304.2(b)(1)(ii).	
1303.11(b)(3) .....	.....	1304.2(b)(1)(iii).	
1303.11(b)(4) .....	.....	1304.2(b)(1)(iii).	
1303.11(b)(5) .....	.....	1304.2(b)(1)(iv).	
1303.11(b)(6) .....	.....	1304.2(b)(1)(v).	
1303.11(c) .....	.....	1304.2(c).	
1303.11(d) .....	.....	1304.2(d).	
1303.11(e) .....	.....	1304.2(b)(3).	
1303.11(f) .....	.....	1304.2(b)(4).	
1303.11(g) .....	.....	1304.2(e)(1).	
1303.11(h) .....	.....	1304.2(b)(2).	
1303.11(i) .....	.....	1304.2(f).	
1303.11(j) .....	.....	1304.2(e)(4).	
1303.11(k) .....	.....	1304.2(g).	
1303.12(a) .....	Summary suspension and opportunity to show cause.	1304.3(a).	
1303.12(a)(1) .....	.....	1304.3(a).	
1303.12(a)(2) .....	.....	1304.3(a).	
1303.12(a)(3) .....	.....	1304.3(a).	
1303.12(b) .....	.....	1304.3(b).	
1303.12(c) .....	.....	1304.3(b)(1).	
1303.12(c)(1) .....	.....	1304.3(b)(1)(i).	
1303.12(c)(2) .....	.....	1304.3(b)(1)(i).	
1303.12(c)(3) .....	.....	1304.3(b)(1)(ii).	
1303.12(c)(4) .....	.....	1304.3(b)(1)(iii).	
1303.12(c)(5) .....	.....	1304.3(b)(1)(iv).	
1303.12(d) .....	.....	1304.3(c).	
1303.12(e) .....	.....	1304.3(b)(3–4).	
1303.12(f) .....	.....	1304.3(d)(3).	
1303.12(f)(1) .....	.....	1304.3(d)(3).	
1303.12(f)(2) .....	.....	1304.3(d)(3).	
1303.12(f)(3) .....	.....	1304.3(d)(3).	
1303.12(f)(4) .....	.....	1304.3(d)(3).	
1303.12(g) .....	.....	.....	Removed.
1303.12(h)(1) .....	.....	.....	Removed.
1303.12(h)(2) .....	.....	.....	Removed.
1303.12(h)(3) .....	.....	.....	Removed.
1303.12(i) .....	.....	1304.3(d)(1).	
1303.12(j) .....	.....	1304.3(d)(1–2).	
1303.12(k) .....	.....	1304.3(e).	
1303.12(l) .....	.....	1304.3(d)(4).	
1303.12(m) .....	.....	1304.3(e).	
1303.12(n) .....	.....	1304.3(f).	
1303.13(a) .....	Appeal by a grantee of a suspension con- tinuing for more than 30 days.	.....	Removed.
1303.13(b) .....	.....	.....	Removed.
1303.13(c)(1) .....	.....	.....	Removed.
1303.13(c)(2) .....	.....	.....	Removed.
1303.13(c)(3) .....	.....	.....	Removed.
1303.13(d) .....	.....	.....	Removed.
1303.13(e) .....	.....	.....	Removed.
1303.13(f) .....	.....	.....	Removed.
1303.13(g) .....	.....	.....	Removed.
1303.13(h) .....	.....	.....	Removed.
1303.13(i) .....	.....	.....	Removed.
1303.14(a) .....	Appeal by a grantee from a termination of fi- nancial assistance.	1304.4(a)(1).	
1303.14(b) .....	.....	1304.4(a)(2).	
1303.14(b)(1) .....	.....	1304.4(a)(2)(i).	
1303.14(b)(2) .....	.....	1304.4(a)(2)(ii).	
1303.14(b)(3) .....	.....	1304.4(a)(2)(iii).	
1303.14(b)(4) .....	.....	1304.4(a)(2)(iv).	
1303.14(b)(5) .....	.....	1304.4(a)(2)(v).	
1303.14(b)(6) .....	.....	1304.4(a)(2)(vii).	



TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1303.14(b)(7) .....	.....	1304.4(a)(2)(viii).	
1303.14(b)(8) .....	.....	1304.4(a)(2)(ix).	
1303.14(b)(9) .....	.....	1304.4(a)(2)(x).	
1303.14(c) .....	.....	1304.4(b)(1).	
1303.14(c)(1) .....	.....	1304.4(b)(1)(i–iii).	
1303.14(c)(2) .....	.....	1304.4(b)(1)(iv).	
1303.14(c)(3) .....	.....	1304.4(b)(1)(v).	
1303.14(c)(4) .....	.....	1304.4(b)(1)(vi).	
1303.14(c)(5) .....	.....	1304.4(b)(1)(vii).	
1303.14(c)(6) .....	.....	1304.4(b)(1)(vii).	
1303.14(d)(1) .....	.....	.....	Removed.
1303.14(d)(2) .....	.....	.....	Removed.
1303.14(d)(3) .....	.....	.....	Removed.
1303.14(d)(4) .....	.....	.....	Removed.
1303.14(d)(5) .....	.....	.....	Removed.
1303.14(d)(6) .....	.....	.....	Removed.
1303.14(d)(7) .....	.....	.....	Removed.
1303.14(d)(8) .....	.....	1304.4(c)(1).	
1303.14(e)(1) .....	.....	.....	Removed.
1303.14(e)(2) .....	.....	.....	Removed.
1303.14(e)(3) .....	.....	.....	Removed.
1303.14(f)(1) .....	.....	1304.4(c)(2).	
1303.14(f)(2) .....	.....	1304.4(e).	
1303.14(f)(3) .....	.....	1304.4(f)(1).	
1303.14(f)(4) .....	.....	1304.4(f)(2).	
1303.14(g) .....	.....	1304.4(g)(1–2).	
1303.14(h) .....	.....	1304.4(g)(3).	
1303.14(i) .....	.....	1304.4(h).	
1303.14(j) .....	.....	1304.4(g)(4–5).	
1303.14(k) .....	.....	1304.4(g)(6).	
1303.15(a) .....	Appeal by a grantee from a denial of refunding.	1304.4(a)(1).	
1303.15(b) .....	.....	1304.4(b)(2).	
1303.15(b)(1) .....	.....	1304.4(b)(1)(iv).	
1303.15(b)(2) .....	.....	1304.4(b)(1)(iv).	
1303.15(c) .....	.....	1304.4(a)(2).	
1303.15(d) .....	.....	1304.4(b)(1).	
1303.15(d)(1) .....	.....	1304.4(b)(1)(i–iii).	
1303.15(d)(2) .....	.....	1304.4(b)(1)(vi).	
1303.15(d)(3) .....	.....	1304.4(g)(3).	
1303.15(d)(4) .....	.....	.....	Removed.
1303.15(e) .....	.....	1304.4(b)(1)(v).	
1303.15(f) .....	.....	1304.4(g)(3).	
1303.15(g) .....	.....	1304.4(g)(4).	
1303.15(h)(1) .....	.....	.....	Removed.
1303.15(h)(2) .....	.....	.....	Removed.
1303.15(h)(3) .....	.....	.....	Removed.
1303.16(a) .....	Conduct of hearing .....	.....	Removed.
1303.16(b) .....	.....	.....	Removed.
1303.16(c) .....	.....	.....	Removed.
1303.16(d) .....	.....	.....	Removed.
1303.16(e) .....	.....	.....	Removed.
1303.16(f) .....	.....	.....	Removed.
1303.16(g) .....	.....	.....	Removed.
1303.16(h) .....	.....	.....	Removed.
1303.17(a) .....	Time for hearing and decision .....	.....	Removed.
1303.17(b) .....	.....	.....	Removed.
1303.17(c)(1) .....	.....	.....	Removed.
1303.17(c)(2) .....	.....	.....	Removed.
1303.17(c)(3) .....	.....	.....	Removed.
1303.20(a) .....	Appeals to grantees by current or prospective delegate agencies of rejection of an application, failure to act on an application or termination of a grant or contract.	.....	Removed.
1303.20(b) .....	.....	.....	Removed.
1303.20(c) .....	.....	.....	Removed.
1303.20(d) .....	.....	.....	Removed.
1303.20(e)(1) .....	.....	.....	Removed.
1303.20(e)(2) .....	.....	.....	Removed.
1303.20(e)(3) .....	.....	.....	Removed.
1303.20(f) .....	.....	.....	Removed.
1303.20(g) .....	.....	.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1303.21(a) .....	Procedures for appeal by current or prospective delegate agencies to the responsible HHS official from denials by grantees of an application or failure to act on an application.	1304.7(a)—first half 1304.7(b)—second half.	
1303.21(b)(1) .....	.....	.....	Removed.
1303.21(b)(2) .....	.....	.....	Removed.
1303.21(b)(3) .....	.....	.....	Removed.
1303.21(b)(4) .....	.....	.....	Removed.
1303.21(b)(5) .....	.....	.....	Removed.
1303.21(b)(6) .....	.....	.....	Removed.
1303.21(b)(7) .....	.....	.....	Removed.
1303.21(c) .....	.....	.....	Removed.
1303.21(d) .....	.....	1304.7(c).	
1303.21(e)(1) .....	.....	.....	Removed.
1303.21(e)(2) .....	.....	.....	Removed.
1303.21(f) .....	.....	1304.7(c).	
1303.21(g) .....	.....	.....	Removed.
1303.21(h) .....	.....	.....	Removed.
1303.21(i)(1) .....	.....	.....	Removed.
1303.21(i)(2) .....	.....	.....	Removed.
1303.21(i)(3) .....	.....	.....	Removed.
1303.21(i)(4) .....	.....	.....	Removed.
1303.22(a) .....	Decision on appeal in favor of grantee .....	.....	Removed.
1303.22(b) .....	.....	1304.7(d)(1).	
1303.22(c) .....	.....	.....	Removed.
1303.22(d) .....	.....	.....	Removed.
1303.23(a) .....	Decision on appeal in favor of the current or prospective delegate agency.	.....	Removed.
1303.23(b) .....	.....	.....	Removed.
1303.23(c) .....	.....	.....	Removed.
1303.23(c)(1) .....	.....	.....	Removed.
1303.23(c)(2) .....	.....	.....	Removed.
1303.23(d) .....	.....	.....	Removed.
1303.23(e) .....	.....	.....	Removed.
1303.24 .....	OMB control number .....	.....	Removed.
1304 .....	Program performance standards for operation.	.....	
1304.1 .....	Purpose and scope .....	1302.1 .....	Revised.
1304.2 .....	Effective date .....	.....	Removed.
1304.3 .....	Definitions .....	1305.	
1304.20(a)(1)(i) .....	Child health and developmental services .....	1302.42(a) .....	Revised.
1304.20(a)(1)(ii) .....	.....	1302.17.	
1304.20(a)(1)(ii)(A) .....	.....	1302.42(b)(1)(i).	
1304.20(a)(1)(ii)(B) .....	.....	1302.42(b)(1)(ii).	
1304.20(a)(1)(ii)(C) .....	.....	1302.42(c)(1).	
1304.20(a)(1)(iii) .....	.....	1302.42(d)(1)(ii).	
1304.20(a)(1)(iv) .....	.....	1302.42(d)(1)(i).	
1304.20(a)(2) .....	.....	1302.42(d)(1).	
1304.20(b)(1) .....	.....	1302.42(b)(3).	
.....	.....	1302.33(a)(1).	
.....	.....	1302.33(c)(1)(iii).	
.....	.....	1302.41(a).	
.....	.....	1302.42(b)(2).	
1304.20(b)(2) .....	.....	1302.33(a)(2).	
1304.20(b)(3) .....	.....	1302.33(a)(1).	
1304.20(c)(1) .....	.....	1302.41(a).	
1304.20(c)(2) .....	.....	1302.42(d)(2).	
1304.20(c)(3)(i) .....	.....	1302.42(c)(3).	
1304.20(c)(3)(ii) .....	.....	1302.42(c)(3).	
1304.20(c)(4) .....	.....	1302.61(b)(2).	
1304.20(c)(5) .....	.....	1302.42(e).	
1304.20(d) .....	.....	1302.33(b).	
.....	.....	1302.42(c)(2).	
.....	.....	1302.42(d)(1)(ii).	
1304.20(e)(1) .....	.....	1302.41(a).	
1304.20(e)(2) .....	.....	1302.34(b)(5)	
.....	.....	1302.46(b)(1)(iv)	
.....	.....	1302.46(b)(2)(i).	
1304.20(e)(3) .....	.....	1302.46(b)(2)(ii).	
1304.20(e)(4) .....	.....	1302.41(a).	
.....	.....	1302.46(b)(2)(iii).	
1304.20(e)(5) .....	.....	1302.41(b).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.20(f)(1) .....	.....	1302.33(b).	
1304.20(f)(2)(i) .....	.....	1302.61(b)(2)(ii).	
1304.20(f)(2)(ii) .....	.....	1302.63(a)–(c).	
.....	.....	1302.62(a)(3).	
1304.20(f)(2)(iii) .....	.....	1302.61(b)(3)(i).	
1304.20(f)(2)(iv) .....	.....	1302.63(c).	
1304.21(a)(1)(i) .....	Education and early childhood development ..	1302.30.	
.....	.....	1302.31(b)(1)(i).	
.....	.....	1302.35(a).	
1304.21(a)(1)(ii) .....	.....	1302.30.	
.....	.....	1302.60.	
1304.21(a)(1)(iii) .....	.....	1302.90(c)(1)(ii).	
1304.21(a)(1)(iv) .....	.....	1302.31(c).	
1304.21(a)(1)(v) .....	.....	.....	Removed.
1304.21(a)(2)(i) .....	.....	1302.34(b)(3).	
1304.21(a)(2)(ii) .....	.....	1302.33(b)(2).	
1304.21(a)(2)(iii) .....	.....	1302.34(b)(2).	
.....	.....	1302.34(b)(6).	
1304.21(a)(3) .....	.....	Integrated throughout Subpart C.	
1304.21(a)(3)(i) .....	.....	.....	Removed.
1304.21(a)(3)(i)(A) .....	.....	.....	Removed.
1304.21(a)(3)(i)(B) .....	.....	.....	Removed.
1304.21(a)(3)(i)(C) .....	.....	.....	Removed.
1304.21(a)(3)(i)(D) .....	.....	.....	Removed.
1304.21(a)(3)(i)(E) .....	.....	1302.30.	
.....	.....	1302.35(d).	
1304.21(a)(3)(ii) .....	.....	1302.90(c)(1)(ii).	
1304.21(a)(4) .....	.....	1302.31(e)(3).	
1304.21(a)(4)(i) .....	.....	Integrated throughout Subpart C.	
1304.21(a)(4)(ii) .....	.....	1302.31(c).	
.....	.....	1302.31(b)(1)(iv).	
1304.21(a)(4)(iii) .....	.....	1302.35(a).	
.....	.....	1302.31(b)(1)(ii).	
1304.21(a)(4)(iv) .....	.....	1302.35(e)(3).	
.....	.....	1302.31(b)(1)(i).	
.....	.....	1302.31(b)(1)(iv).	
1304.21(a)(5) .....	.....	1302.31(d).	
1304.21(a)(5)(i) .....	.....	Integrated throughout Subpart C.	
1304.21(a)(5)(ii) .....	.....	1302.31(c)–(d).	
1304.21(a)(5)(iii) .....	.....	1302.31(c)–(d).	
.....	.....	1302.30.	
1304.21(a)(6) .....	.....	1302.60.	
.....	.....	1302.35(a).	
1304.21(b)(1)(i) .....	.....	1302.46(b)(1)(i).	
.....	.....	1302.21(b)(2).	
1304.21(b)(1)(ii) .....	.....	1302.31(b)(1)(ii).	
1304.21(b)(1)(iii) .....	.....	1302.90(d)(1).	
1304.21(b)(2) .....	.....	1302.31(b)(1)(ii).	
1304.21(b)(2)(i) .....	.....	1302.31(c).	
1304.21(b)(2)(ii) .....	.....	Integrated throughout Subpart C.	
1304.21(b)(3) .....	.....	.....	Removed.
1304.21(b)(3)(i) .....	.....	1302.31(b)(1)(ii)..	
1304.21(b)(3)(ii) .....	.....	Integrated throughout Subpart C.	
1304.21(c)(1) .....	.....	.....	Removed.
1304.21(c)(1)(i) .....	.....	.....	Removed.
1304.21(c)(1)(ii) .....	.....	1302.32.	
.....	.....	1302.32(a)(1)(ii).	
1304.21(c)(1)(iii) .....	.....	1302.31(b)(1)(ii).	
1304.21(c)(1)(iv) .....	.....	1302.32(a)(1)(ii)–(iii).	
1304.21(c)(1)(v) .....	.....	.....	Removed.
1304.21(c)(1)(vi) .....	.....	.....	Removed.
1304.21(c)(1)(vii) .....	.....	.....	Removed.
1304.21(c)(2) .....	.....	1302.31(c)(1).	
1304.22(a) .....	Child health and safety .....	1302.33(b).	
1304.22(a)(1) .....	.....	1302.47(b)(7).	
1304.22(a)(2) .....	.....	.....	Removed.
1304.22(a)(3) .....	.....	.....	Removed.
1304.22(a)(4) .....	.....	.....	Removed.
1304.22(a)(5) .....	.....	1302.92(b)(1).	
1304.22(b)(1) .....	.....	1302.47(b)(8)(iii).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.22(b)(2) .....	.....	1302.14(b)(2).	
1304.22(b)(3) .....	.....	1302.17(b).	
1304.22(c) .....	.....	Second sentence .....	First sentence re-
1304.22(c)(1) .....	.....	1302.90(c)(1)(iii) .....	moved.
1304.22(c)(2) .....	.....	1302.47(b)(4)(iii).	
1304.22(c)(3) .....	.....	1302.47(b)(8)(iv).	
1304.22(c)(4) .....	.....	.....	Removed.
1304.22(c)(5) .....	.....	.....	Removed.
1304.22(c)(6) .....	.....	1302.41(a).	
1304.22(d)(1) .....	.....	1302.42(d)(2).	
1304.22(d)(2) .....	.....	1302.47(b)(4)(iii).	
1304.22(e)(1) .....	.....	1302.47(b)(4)–(5).	
1304.22(e)(1)(i) .....	.....	1302.46(a).	
1304.22(e)(1)(ii) .....	.....	1302.47(b)(7).	
1304.22(e)(1)(iii) .....	.....	1302.47(b)(7)(i).	
1304.22(e)(1)(iv) .....	.....	1302.47(b)(7)(ii).	
1304.22(e)(2) .....	.....	1302.47(b)(7)(iii).	
1304.22(e)(2)(i) .....	.....	.....	Removed.
1304.22(e)(2)(ii) .....	.....	.....	Removed.
1304.22(e)(2)(iii) .....	.....	.....	Removed.
1304.22(e)(3) .....	.....	.....	Removed.
1304.22(e)(4) .....	.....	1302.47(b)(7)(iii).	
1304.22(e)(5) .....	.....	1302.47(b)(7)(i).	
1304.22(e)(6) .....	.....	.....	Removed.
1304.22(e)(7) .....	.....	1302.47(b)(4)(i) .....	Removed.
1304.22(f)(1) .....	.....	1302.47(b)(1)(iv)(A).	
1304.22(f)(2) .....	.....	.....	Removed.
1304.23(a)(1) .....	Child nutrition .....	1302.42(b)(4).	
1304.23(a)(2) .....	.....	1302.42(b)(4).	
1304.23(a)(3) .....	.....	1302.44(a)(1).	
1304.23(a)(4) .....	.....	1302.44(a)(2)(iv).	
1304.23(b)(1) .....	.....	1302.42(b)(4).	
1304.23(b)(1)(i) .....	.....	1302.44(a)(1).	
1304.23(b)(1)(ii) .....	.....	1302.44(b).	
1304.23(b)(1)(iii) .....	.....	1302.44(a)(2)(ii).	
1304.23(b)(1)(iv) .....	.....	1302.44(a)(2)(vi).	
1304.23(b)(1)(v) .....	.....	1302.44(a)(2)(iv).	
1304.23(b)(1)(vi) .....	.....	1302.44(a)(2)(iii).	
1304.23(b)(1)(vii) .....	.....	1302.44(a)(2)(iii).	
1304.23(b)(2) .....	.....	First sentence removed.	
1304.23(b)(3) .....	.....	1302.44(a)(2)(iv).	
1304.23(b)(4) .....	.....	1302.44(a)(2)(vii).	
1304.23(c) .....	.....	1302.43.	Removed.
1304.23(c)(1) .....	.....	.....	
1304.23(c)(2) .....	.....	1302.31(e)(2).	
1304.23(c)(3) .....	.....	.....	Removed.
1304.23(c)(4) .....	.....	1302.31(e)(2).	
1304.23(c)(5) .....	.....	1302.90(c)(1)(i)(D).	
1304.23(c)(6) .....	.....	1302.31(e)(2).	
1304.23(c)(7) .....	.....	1302.31(e)(2).	
1304.23(d) .....	.....	1302.31(e)(2).	
1304.23(e)(1) .....	.....	1302.44(a)(2)(v).	
1304.23(e)(2) .....	.....	1302.44(a)(1).	
1304.24 .....	Child mental health .....	.....	Removed.
1304.24(a)(1) .....	.....	1302.46(b)(1)(ii).	
1304.24(a)(1)(i) .....	.....	.....	Removed.
1304.24(a)(1)(ii) .....	.....	1302.44(a)(2)(viii).	
1304.24(a)(1)(iii) .....	.....	.....	
1304.24(a)(1)(iv) .....	.....	1302.41(a).	
1304.24(a)(1)(v) .....	.....	1302.46(b)(1)(iv).	
1304.24(a)(1)(vi) .....	.....	1302.46(b)(1)(iv).	
1304.24(a)(2) .....	.....	1302.46(b)(1)(iv).	
1304.24(a)(3)(i) .....	.....	1302.45(a)(1).	
1304.24(a)(3)(ii) .....	.....	1302.46(b)(2)(i).	
1304.24(a)(3)(iii) .....	.....	.....	Removed.
1304.24(a)(3)(iv) .....	.....	1302.45(b).	
1304.24(a)(3)(v) .....	.....	1302.45(a)(1).	
1304.24(a)(3)(vi) .....	.....	1302.45(b)(1).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.24(a)(3)(ii) .....	.....	1302.45(a)(1)–(2).	
1304.24(a)(3)(iii) .....	.....	1302.45(b)(2).	
1304.24(a)(3)(iv) .....	.....	1302.45(a)(3).	
1304.40(a)(1) .....	Family partnerships .....	1302.50(b)(2).	
.....	.....	1302.52(a)–(b).	
1304.40(a)(2) .....	.....	1302.52(c).	
1304.40(a)(3) .....	.....	1302.52(d).	
1304.40(a)(4) .....	.....	1302.50(a).	
1304.40(a)(5) .....	.....	1302.50(b)(2).	
1304.40(b)(1) .....	.....	1302.52(c).	
1304.40(b)(1)(i) .....	.....	.....	Removed.
1304.40(b)(1)(ii) .....	.....	.....	Removed.
1304.40(b)(1)(iii) .....	.....	.....	Removed.
1304.40(b)(2) .....	.....	1302.52(c)(3).	
1304.40(c)(1) .....	.....	1302.80(c).	
1304.40(c)(1)(i) .....	.....	1302.80(c).	
1304.40(c)(1)(ii) .....	.....	1302.80(c).	
1304.40(c)(1)(iii) .....	.....	1302.80(c).	
1304.40(c)(2) .....	.....	1302.81(a).	
1304.40(c)(3) .....	.....	1302.44(a)(2)(viii).	
.....	.....	1302.81(a).	
1304.40(d)(1) .....	.....	1302.50 .....	Removed last sentence.
1304.40(d)(2) .....	.....	1302.17(c).	
.....	.....	1302.34(a).	
1304.40(d)(3) .....	.....	1302.34(b)(1).	
1304.40(e)(1) .....	.....	1302.34(b)(4).	
1304.40(e)(2) .....	.....	.....	Removed.
1304.40(e)(3) .....	.....	.....	Removed.
.....	.....	1302.30.	
1304.40(e)(4) .....	.....	1302.51.	
1304.40(e)(4)(i) .....	.....	.....	Removed.
1304.40(e)(4)(ii) .....	.....	.....	Removed.
1304.40(e)(5) .....	.....	1302.34(b)(2).	
1304.40(f)(1) .....	.....	1302.46(a).	
1304.40(f)(2)(i) .....	.....	1302.46(b)(2)(iii).	
1304.40(f)(2)(ii) .....	.....	1302.41(a).	
1304.40(f)(2)(iii) .....	.....	1302.46(b)(1)(i).	
.....	.....	1302.46(b)(2).	
1304.40(f)(3)(i) .....	.....	1302.46(b)(1)(ii).	
1304.40(f)(3)(ii) .....	.....	1302.46(b)(1)(ii).	
1304.40(f)(4) .....	.....	1302.46(b)(1)(iv).	
1304.40(f)(4)(i) .....	.....	.....	Removed.
1304.40(f)(4)(ii) .....	.....	.....	Removed.
1304.40(f)(4)(iii) .....	.....	.....	Removed.
1304.40(g)(1)(i) .....	.....	.....	Removed.
1304.40(g)(1)(ii) .....	.....	1302.52(c).	
1304.40(g)(2) .....	.....	.....	Removed.
1304.40(h)(1) .....	.....	1302.70(b).	
.....	.....	1302.71(b)(1).	
1304.40(h)(2) .....	.....	1302.71(b)(2)(i) 1302.71(c).	
1304.40(h)(3) .....	.....	1302.71(c) 1302.72(b)(1).	
1304.40(h)(3)(i) .....	.....	1302.72(b)(2)(iii).	
1304.40(h)(3)(ii) .....	.....	1302.72(b)(2)(iv).	
1304.40(h)(4) .....	.....	.....	Removed.
1304.40(i)(1) .....	.....	1302.17(c) .....	Second sentence removed.
1304.40(i)(2) .....	.....	1302.34(b)(6) .....	Second sentence removed.
.....	.....	.....	Removed.
1304.40(i)(3) .....	.....	1302.34(b)(6).	
1304.40(i)(4) .....	.....	1302.22(a).	
.....	.....	1302.22(c)(1).	
1304.40(i)(5) .....	.....	1302.82(b).	
1304.40(i)(6) .....	.....	1302.53(a) .....	Second sentence removed.
1304.41(a)(1) .....	Community partnerships .....	.....	
1304.41(a)(2) .....	.....	1302.53(b)(1).	
1304.41(a)(2)(i) .....	.....	1302.53(b)(2)(i).	
1304.41(a)(2)(ii) .....	.....	1302.53(b)(2)(i).	
1304.41(a)(2)(iii) .....	.....	1302.53(b)(2)(i).	
1304.41(a)(2)(iv) .....	.....	1302.53(b)(2)(ii).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.41(a)(2)(v) .....	.....	1302.53(b)(2)(iii).	
1304.41(a)(2)(vi) .....	.....	1302.53(b)(2)(iii).	
1304.41(a)(2)(vii) .....	.....	1302.53(b)(2)(iv).	
1304.41(a)(2)(viii) .....	.....	1302.53(b)(2)(ii).	
1304.41(a)(2)(ix) .....	.....	1302.53(b)(2)(viii).	
1304.41(a)(3) .....	.....	.....	Removed.
1304.41(a)(4) .....	.....	1302.63(b).	
1304.41(b) .....	.....	1302.53(c) .....	Removed second sentence.
1304.41(c)(1) .....	.....	1302.70(a).	
1304.41(c)(1)(i) .....	.....	1302.71(a).	
1304.41(c)(1)(ii) .....	.....	1302.70(d)(2)(i) 1302.71(c)(2)(i).	
1304.41(c)(1)(iii) .....	.....	1302.71(c)(2)(ii) 1302.70(d)(2)(ii).	
1304.41(c)(1)(iv) .....	.....	1302.71(b)(2)(iv).	
1304.41(c)(2) .....	.....	1302.71(c)(2)(iii).	
1304.41(c)(3) .....	.....	1302.70(b).	
1304.50(a)(1) .....	Program Design and Management .....	.....	Removed.
1304.50(a)(1)(i) .....	.....	1301.1.	
1304.50(a)(1)(ii) .....	.....	1301.4(a).	
1304.50(a)(1)(iii) .....	.....	1301.4(a).	
1304.50(a)(2) .....	.....	.....	Removed.
1304.50(a)(3) .....	.....	.....	Removed.
1304.50(a)(4) .....	.....	1301.4(b)—First sentence	
1304.50(a)(5) .....	.....	1301.4(d)(4)—Second sentence.	
1304.50(b)(1) .....	.....	1301.4(a).	
1304.50(b)(2) .....	.....	.....	Removed.
1304.50(b)(3) .....	.....	.....	Removed.
1304.50(b)(4) .....	.....	1301.4(b).	
1304.50(b)(5) .....	.....	1301.4(b).	
1304.50(b)(6) .....	.....	1301.4(d)(2).	
1304.50(b)(7) .....	.....	1301.4(d)(3).	
1304.50(c) .....	.....	.....	Removed.
1304.50(d)(1) .....	.....	1301.4(b).	
1304.50(d)(1)(i) .....	.....	1301.4(c).	
1304.50(d)(1)(ii) .....	.....	1301.4(c).	
1304.50(d)(1)(iii) .....	.....	1301.4(c).	
1304.50(d)(1)(iv) .....	.....	.....	Removed.
1304.50(d)(1)(v) .....	.....	1301.1.	
1304.50(d)(1)(vi) .....	.....	1301.1.	
1304.50(d)(1)(vii) .....	.....	1302.102(a).	
1304.50(d)(1)(viii) .....	.....	1301.4(c).	
1304.50(d)(1)(ix) .....	.....	.....	Removed.
1304.50(d)(1)(x) .....	.....	1301.4(c).	
1304.50(d)(1)(xi) .....	.....	.....	Removed.
1304.50(d)(2)(i) .....	.....	.....	Removed.
1304.50(d)(2)(ii) .....	.....	.....	Removed.
1304.50(d)(2)(iii) .....	.....	.....	Removed.
1304.50(d)(2)(iv) .....	.....	.....	Removed.
1304.50(d)(2)(v) .....	.....	.....	Removed.
1304.50(e) .....	.....	.....	Removed.
1304.50(e)(1) .....	.....	.....	Removed.
1304.50(e)(2) .....	.....	.....	Removed.
1304.50(e)(3) .....	.....	.....	Removed.
1304.50(f) .....	.....	1301.4(e).	
1304.50(g)(1) .....	.....	.....	Removed.
1304.50(g)(2) .....	.....	1301.3(b)(1).	
1304.50(h) .....	.....	1301.5(a).	
Appendix A .....	.....	.....	Removed.
1304.51(a)(1) .....	Management systems and procedures .....	1302.100.	
1304.51(a)(1)(i) .....	.....	1302.102(a)(3).	
1304.51(a)(1)(ii) .....	.....	1302.102(a).	
1304.51(a)(1)(iii) .....	.....	1302.102(c)(iii).	
1304.51(a)(2) .....	.....	.....	Removed.
1304.51(b) .....	.....	.....	Removed.
1304.51(c)(1) .....	.....	.....	Removed.
1304.51(c)(2) .....	.....	1302.50(b)(2).	
1304.51(d)(1) .....	.....	1302.50(b)(2).	
		.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.51(d)(2) .....	.....	1301.3(b)(2).	
1304.51(d)(3) .....	.....	1301.3(b)(2).	
1304.51(d)(4) .....	.....	1301.3(b)(2).	
1304.51(e) .....	.....	.....	Removed.
1304.51(f) .....	.....	.....	Removed.
1304.51(g) .....	.....	1302.90(c)(1)(iii).	
		1302.101(a).	
		1303.23.	
1304.51(h)(1) .....	.....	1302.102(d)(1)(i).	
		1301.3(b)(2).	
1304.51(h)(2) .....	.....	1302.102(d)(1)(iii).	
1304.51(i)(1) .....	.....	1302.102(b)(2)(i).	
1304.51(i)(2) .....	.....	1302.102(b)(1).	
1304.51(i)(3) .....	.....	1303.32(b).	
1304.52(a)(1) .....	Human resources management .....	1302.101(a)(2).	
1304.52(a)(2) .....	.....	1302.101(a)(1).	
1304.52(a)(2)(i) .....	.....	.....	Removed.
1304.52(a)(2)(ii) .....	.....	.....	Removed.
1304.52(a)(2)(iii) .....	.....	.....	Removed.
1304.52(b)(1) .....	.....	1302.91(a).	
1304.52(b)(2) .....	.....	.....	Removed.
1304.52(b)(3) .....	.....	1302.90(b)(5).	
1304.52(b)(4) .....	.....	1302.90(d)(1).	
1304.52(c) .....	.....	1302.91(i).	
1304.52(d) .....	.....	1302.91(a).	
		1302.101(a)(2).	
1304.52(d)(1) .....	.....	1302.91(c)–(e).	
1304.52(d)(2) .....	.....	1302.91(a).	
1304.52(d)(3) .....	.....	1302.91(h)(1).	
1304.52(d)(4) .....	.....	1302.91(h)(2).	
1304.52(d)(5) .....	.....	1302.91(a).	
1304.52(d)(6) .....	.....	.....	Removed.
1304.52(d)(7) .....	.....	1302.91(a).	
1304.52(d)(8) .....	.....	1302.91(h)(3).	
1304.52(e) .....	.....	1302.91(f).	
1304.52(f) .....	.....	1302.91(b).	
		1302.92(b).	
1304.52(g)(1) .....	.....	.....	Removed.
1304.52(g)(2) .....	.....	1302.90(d)(2).	
1304.52(g)(3) .....	.....	.....	Removed.
1304.52(g)(4) .....	.....	1302.21(b)(1)–(3).	
1304.52(g)(5) .....	.....	1302.90(c)(4)(i).	
1304.52(h)(1) .....	.....	1302.91(g)(1).	
1304.52(h)(2) .....	.....	.....	Removed.
1304.52(h)(3) .....	.....	.....	Removed.
1304.52(h)(4) .....	.....	1302.91(g)(2).	
1304.52(h)(5) .....	.....	1302.91(g)(3).	
1304.52(h)(6) .....	.....	.....	Removed.
1304.52(i)(1) .....	.....	1302.90(c)(1).	
1304.52(i)(1)(i) .....	.....	1302.90(c)(1)(ii).	
1304.52(i)(1)(ii) .....	.....	1302.90(c)(1)(iii).	
1304.52(i)(1)(iii) .....	.....	1302.90(c)(1)(iv).	
1304.52(i)(1)(iv) .....	.....	1302.90(c)(1)(i)(A).	
		1302.90(c)(1)(i)(C)–(I).	
1304.52(i)(2) .....	.....	1303.3.	
1304.52(i)(3) .....	.....	1302.90(c)(2).	
1304.52(j) .....	.....	.....	Removed.
1304.52(k)(1) .....	.....	1302.93(a).	
1304.52(k)(2) .....	.....	1302.94(a).	
1304.52(k)(3) .....	.....	1302.93(b).	
1304.52(l)(1) .....	.....	1302.92(a).	
1304.52(l)(2) .....	.....	1302.92(b).	
1304.52(l)(3) .....	.....	1302.92(b)(3).	
1304.52(l)(3)(i) .....	.....	1302.92(b)(1).	
1304.52(l)(3)(ii) .....	.....	1302.92(b)(3).	
1304.52(l)(4) .....	.....	1301.2.	
1304.52(l)(5)(i) .....	.....	.....	Removed.
1304.52(l)(5)(ii) .....	.....	.....	Removed.
1304.52(l)(5)(iii) .....	.....	.....	Removed.
1304.52(l)(5)(iv) .....	.....	.....	Removed.
1304.52(l)(5)(v) .....	.....	.....	Removed.
1304.52(l)(5)(vi) .....	.....	.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1304.52(l)(5)(vii) .....	.....	.....	Removed.
1304.52(l)(5)(viii) .....	.....	.....	Removed.
1304.53(a)(1) .....	Facilities, materials, and equipment .....	.....	Removed.
1304.53(a)(2) .....	.....	.....	Removed.
1304.53(a)(3) .....	.....	1302.31(d).	.....
1304.53(a)(4) .....	.....	.....	Removed.
1304.53(a)(5) .....	.....	1302.21(d)(2).	.....
1304.53(a)(6) .....	.....	1302.21(d)(1).	.....
.....	.....	1302.22(d).	.....
.....	.....	1302.23(d).	.....
1304.53(a)(7) .....	.....	1302.47(b)(1).	.....
1304.53(a)(8) .....	.....	1302.47(b)(1)(ii).	.....
1304.53(a)(9) .....	.....	1302.47(b)(4)(ii).	.....
.....	.....	1302.47(b)(5).	.....
1304.53(a)(10) .....	.....	1302.102(b)(1).	.....
1304.53(a)(10)(i) .....	.....	1302.47(b)(2).	.....
1304.53(a)(10)(ii) .....	.....	1302.47(b)(2).	.....
1304.53(a)(10)(iii) .....	.....	1302.47(b)(1)(iii).	.....
1304.53(a)(10)(iv) .....	.....	1302.47(b)(1)(iv).	.....
1304.53(a)(10)(v) .....	.....	1302.47(b)(1)(v)(B).	.....
1304.53(a)(10)(vi) .....	.....	1302.47(b)(1)(v)(B).	.....
1304.53(a)(10)(vii) .....	.....	.....	Removed.
1304.53(a)(10)(viii) .....	.....	.....	Removed.
1304.53(a)(10)(ix) .....	.....	1302.47(b)(1)(iii).	.....
1304.53(a)(10)(x) .....	.....	.....	Removed.
1304.53(a)(10)(xi) .....	.....	.....	Removed.
1304.53(a)(10)(xii) .....	.....	.....	Removed.
1304.53(a)(10)(xiii) .....	.....	.....	Removed.
1304.53(a)(10)(xiv) .....	.....	.....	Removed.
1304.53(a)(10)(xv) .....	.....	.....	Removed.
1304.53(a)(10)(xvi) .....	.....	.....	Removed.
1304.53(a)(10)(xvii) .....	.....	1302.47(b)(2).	.....
1304.53(b)(1) .....	.....	1302.31(d).	.....
1304.53(b)(1)(i) .....	.....	1302.31(d).	.....
1304.53(b)(1)(ii) .....	.....	1302.47(b)(2).	.....
1304.53(b)(1)(iii) .....	.....	1302.31(d).	.....
1304.53(b)(1)(iv) .....	.....	.....	Removed.
1304.53(b)(1)(v) .....	.....	.....	Removed.
1304.53(b)(1)(vi) .....	.....	1302.47(b)(2).	.....
1304.53(b)(1)(vii) .....	.....	.....	Removed.
1304.53(b)(2) .....	.....	1302.47(b)(1)–(2).	.....
1304.53(b)(3) .....	.....	1302.47(b)(1)–(2).	.....
.....	.....	1302.47(b)(4).	.....
1304.60(a) .....	Deficiencies and quality improvement plans ..	.....	Removed.
1304.60(b) .....	.....	1304.2(b).	.....
1304.60(c) .....	.....	1302.102(d)(3).	.....
.....	.....	1304.2(c)(1).	.....
1304.60(d) .....	.....	.....	Removed.
1304.60(e) .....	.....	.....	Removed.
1304.60(f) .....	.....	1304.2(c)(2).	.....
1304.61(a) .....	Noncompliance .....	1304.2(a).	.....
1304.61(b) .....	.....	1304.2(b).	.....
1305 .....	Eligibility, recruitment, selection, eligibility and attendance.	.....	.....
1305.1 .....	Purpose and scope .....	1302.10.	.....
1305.2 .....	Definitions .....	1305.	.....
1305.3(a) .....	Determining community strengths and needs	1302.11(a)(1).	.....
1305.3(b) .....	.....	1302.11(a)(2).	.....
1305.3(c) .....	.....	1302.11(b)(1).	.....
1305.3(c)(1) .....	.....	1302.11(b)(1)(i).	.....
1305.3(c)(2) .....	.....	1302.11(b)(1)(iv).	.....
1305.3(c)(3) .....	.....	1302.11(b)(1)(vi).	.....
1305.3(c)(4) .....	.....	.....	Removed.
1305.3(c)(5) .....	.....	1302.11(b)(1)(vii).	.....
1305.3(c)(6) .....	.....	1302.11(b)(1)(viii).	.....
1305.3(d)(1) .....	.....	1302.102(a)(3).	.....
1305.3(d)(2) .....	.....	1302.20(a)(1).	.....
1305.3(d)(3) .....	.....	.....	Removed.
1305.3(d)(4) .....	.....	.....	Removed.
1305.3(d)(5) .....	.....	.....	Removed.
1305.3(d)(6) .....	.....	.....	Removed.
1305.3(e) .....	.....	1302.11(b)(2).	.....



TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1305.3(f) .....	.....	.....	Removed.
1305.3(g)(1) .....	.....	.....	Removed.
1305.3(g)(2)(i) .....	.....	.....	Removed.
1305.3(g)(2)(ii) .....	.....	.....	Removed.
1305.4 .....	Age of children and family income eligibility ..	1302.12 .....	Redesignated.—Pending OMB approval of final eligibility rule.
1305.4(a)(1)(i) .....	.....	1302.12(a)(1)(i).	
1305.4(a)(1)(ii) .....	.....	1302.12(a)(1)(ii).	
1305.4(a)(1)(iii) .....	.....	1302.12(a)(1)(iii).	
1305.4(a)(2) .....	.....	1302.12(a)(2).	
1305.4(b)(1) .....	.....	1302.12(b)(1).	
1305.4(b)(2)(i) .....	.....	1302.12(b)(2)(i).	
1305.4(b)(2)(ii) .....	.....	1302.12(b)(2)(i).	
1305.4(b)(2)(iii) .....	.....	1302.12(b)(2)(ii).	
1305.4(b)(3) .....	.....	1302.12(b)(3).	
1305.4(c)(1)(i) .....	.....	1302.12(c)(1)(i).	
1305.4(c)(1)(ii) .....	.....	1302.12(c)(1)(ii).	
1305.4(c)(2) .....	.....	1302.12(c)(2).	
1305.4(d)(1) .....	.....	1302.12(d)(1).	
1305.4(d)(1)(i) .....	.....	1302.12(d)(1)(i).	
1305.4(d)(1)(ii) .....	.....	1302.12(d)(1)(ii).	
1305.4(d)(2) .....	.....	1302.12(d)(2).	
1305.4(d)(2)(i) .....	.....	1302.12(d)(2)(i).	
1305.4(d)(2)(ii) .....	.....	1302.12(d)(2)(ii).	
1305.4(d)(2)(iii) .....	.....	1302.12(d)(2)(iii).	
1305.4(d)(2)(iv) .....	.....	1302.12(d)(2)(iv).	
1305.4(d)(2)(v) .....	.....	1302.12(d)(2)(v).	
1305.4(d)(2)(vi) .....	.....	1302.12(d)(2)(vi).	
1305.4(d)(2)(vii) .....	.....	1302.12(d)(2)(vii).	
1305.4(e)(1)(i) .....	.....	1302.12(e)(1)(i).	
1305.4(e)(1)(ii) .....	.....	1302.12(e)(1)(ii).	
1305.4(e)(1)(iii) .....	.....	1302.12(e)(1)(iii).	
1305.4(e)(1)(iv) .....	.....	1302.12(e)(1)(iv).	
1305.4(e)(2) .....	.....	1302.12(e)(2).	
1305.4(e)(3) .....	.....	1302.12(e)(3).	
1305.4(f)(1)(i) .....	.....	1302.12(c)(1)(iii).	
1305.4(f)(1)(ii) .....	.....	1302.12(c)(1)(iv).	
1305.4(f)(2) .....	.....	1302.16(c)(1).	
1305.4(g)(1) .....	.....	1302.12(f).	
1305.4(g)(2) .....	.....	1302.12(f).	
1305.4(g)(3) .....	.....	1302.12(f).	
1305.4(h) .....	.....	1302.12(h).	
1305.4(i)(1)(i) .....	.....	1302.12(i)(1).	
1305.4(i)(1)(ii) .....	.....	1302.12(i)(1).	
1305.4(i)(1)(iii) .....	.....	1302.12(i)(1).	
1305.4(i)(2) .....	.....	1302.12(i)(2).	
1305.4(i)(3)(i)(A) .....	.....	1302.12(i)(3)(i).	
1305.4(i)(3)(i)(B) .....	.....	1302.12(i)(3)(i).	
1305.4(i)(3)(ii) .....	.....	1302.12(i)(3)(ii).	
1305.4(i)(4) .....	.....	1302.12(j)(3).	
1305.4(i)(5) .....	.....	1302.12(i)(4).	
1305.4(j)(1)(i) .....	.....	1302.12(i)(5)(i).	
1305.4(j)(1)(ii) .....	.....	1302.12(i)(5)(ii).	
1305.4(j)(1)(iii) .....	.....	1302.12(j)(5)(iii).	
1305.4(j)(2)(i) .....	.....	1302.12(i)(6).	
1305.4(j)(2)(ii) .....	.....	1302.12(i)(6).	
1305.4(j)(3)(i) .....	.....	1302.12(i)(7)(i).	
1305.4(j)(3)(ii) .....	.....	1302.12(i)(7)(ii).	
1305.4(j)(4) .....	.....	1302.12(i)(8).	
1305.4(k)(1) .....	.....	1302.12(j)(1).	
1305.4(k)(2) .....	.....	1302.12(j)(4).	
1305.4(l)(1) .....	.....	1302.12(k)(1).	
1305.4(l)(2)(i) .....	.....	1302.12(k)(2)(i).	
1305.4(l)(2)(ii)(A) .....	.....	1302.12(k)(2)(ii)(A).	
1305.4(l)(2)(ii)(B) .....	.....	1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(ii)(C)(1) .....	.....	1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(ii)(C)(2) .....	.....	1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(ii)(C)(3) .....	.....	1302.12(k)(2)(ii)(B).	
1305.4(l)(2)(iii)(A) .....	.....	1302.12(k)(2)(iii)(A).	
1305.4(l)(2)(iii)(B) .....	.....	1302.12(k)(2)(iii)(B).	
1305.4(l)(2)(iii)(C) .....	.....	1302.12(k)(2)(iii)(C).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1305.4(l)(2)(iii)(D) .....	.....	1302.12(k)(2)(iii)(C).	
1305.4(l)(2)(iii)(E) .....	.....	1302.12(k)(2)(iii)(D).	
1305.4(l)(2)(iii)(F) .....	.....	1302.12(k)(2)(iii)(E).	
1305.4(l)(3)(i) .....	.....	1302.12(k)(3).	
1305.4(l)(3)(ii) .....	.....	1302.12(k)(3).	
1305.4(l)(3)(iii) .....	.....	1302.12(k)(3).	
1305.4(m) .....	.....	1302.12(l).	
1305.4(n)(1) .....	.....	1302.12(m)(1).	
1305.4(n)(1)(i) .....	.....	1302.12(m)(1)(i).	
1305.4(n)(1)(ii) .....	.....	1302.12(m)(1)(ii).	
1305.4(n)(1)(iii) .....	.....	1302.12(m)(1)(iii).	
1305.4(n)(2) .....	.....	1302.12(m)(2).	
1305.4(n)(3) .....	.....	1302.12(m)(3).	
1305.4(n)(4) .....	.....	1302.12(m)(4).	
1305.5(a) .....	Recruitment of children .....	1302.13(a) first sentence .....	Second sentence re- moved.
1305.5(b) .....	.....	1302.13(b)(1–2).	
1305.5(c) .....	.....	1302.13(b)(1).	
1305.6(a) .....	Selection process .....	1302.14(a)(1).	
1305.6(b) .....	.....	1302.14(a)(1)(i)(iv)& 1302.14(a)(2).	
1305.6(c) .....	.....	1302.14(b)(1).	
1305.6(d) .....	.....	1302.14(c).	
1305.7(a) .....	Enrollment and reenrollment .....	1302.12.	
1305.7(b) .....	.....	1302.15(b).	
1305.7(c) .....	.....	1302.15(a) 1st sentence amended and combined with second sen- tence. Third sentence is removed.	
1305.8(a) .....	Attendance .....	1302.12(j)(2).	
1305.8(b) .....	.....	1302.70(d)(1)—last sentence.	
1305.8(c) .....	.....	1302.16(b).	
1305.9 .....	Policy on fees .....	1302.16(a)(2).	
1305.10 .....	Compliance .....	1302.16(a)(3).	
1306 .....	Program staffing.	1302.18.	
1306.1 .....	Purpose and scope .....	Second sentence removed.	
1306.2 .....	Effective dates .....	1304.4(a)(2)(iv).	
1306.2(a) .....	.....	.....	Removed.
1306.2(b) .....	.....	.....	Removed.
1306.3 .....	Definitions .....	.....	Removed.
1306.20(a) .....	Program staffing patterns .....	1305.	Removed.
1306.20(b) .....	.....	1302.101(a)(2).	
1306.20(c) .....	.....	1302.21(b) .....	Last sentence re- moved.
1306.20(d) .....	.....	.....	Removed.
1306.20(e) .....	.....	.....	Removed.
1306.20(f) .....	.....	1302.90(d)(1).	
1306.20(g) .....	.....	1302.23(b)(1).	
1306.20(g)(1) .....	.....	1302.23(b)(2).	
1306.20(g)(2) .....	.....	1302.23(b)(3).	
1306.20(g)(3) .....	.....	.....	Removed.
1306.20(h)(1) .....	.....	1302.23(e).	
1306.20(h)(2) .....	.....	1302.23(e).	
1306.20(h)(3) .....	.....	1302.23(e)(2)–(4).	
1306.20(i) .....	.....	1302.20(b).	
1306.21 .....	Staff qualification .....	1302.91(c)–(e).	
1306.22(a) .....	Volunteers .....	.....	Removed.
1306.22(b) .....	.....	.....	Removed.
1306.23(a) .....	Training .....	1302.92.	
1306.23(b) .....	.....	1302.92(a).	
1306.30(a) .....	Provision of comprehensive child develop- ment services.	1302.20(b).	
1306.30(b) .....	.....	.....	Removed.
1306.30(c) .....	.....	1302.21(d)(1).	
1306.30(d) .....	.....	1302.22(d).	
1306.31(a) .....	Choosing a Head Start program option .....	1302.23(d).	Removed.
1306.31(b) .....	.....	1302.20(a)(1).	
1306.31(c) .....	.....	1302.20(a)(1).	
1306.32(a)(1) .....	Center-based program option .....	.....	Removed.
		1302.21(b).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1306.32(a)(2) .....	.....	1302.21(b)(1).	
1306.32(a)(3) .....	.....	1302.21(b)(5).	
1306.32(a)(4) .....	.....	1302.24(c)(2)(ii).	
1306.32(a)(5) .....	.....	1302.21(b)(4).	
1306.32(a)(6) .....	.....	1302.24(c)(2)(i).	
1306.32(a)(7) .....	.....	.....	Removed.
1306.32(a)(8) .....	.....	.....	Removed.
1306.32(a)(9) .....	.....	.....	Removed.
1306.32(a)(10) .....	.....	1302.21(b)(1) .....	Second sentence re- moved.
1306.32(a)(11) .....	.....	.....	Removed.
1306.32(a)(12) .....	.....	1302.21(b).	
1306.32(b)(1) .....	.....	.....	Removed.
1306.32(b)(2) .....	.....	1302.21(c)(2).	
1306.32(b)(3) .....	.....	1302.21(c)(1).	
.....	.....	1302.21(c)(1)(ii).	
1306.32(b)(4) .....	.....	1302.21(c)(1)(i) .....	Last sentence re- moved.
1306.32(b)(5) .....	.....	1302.16(a)(2) .....	First sentence re- moved.
1306.32(b)(6) .....	.....	1302.21(c)(2).	
1306.32(b)(7) .....	.....	1302.101(a)(3) .....	Last sentence re- moved.
1306.32(b)(8) .....	.....	1302.17(c).	
.....	.....	1302.34(b)(6).	
1306.32(b)(9) .....	.....	1302.34(b)(2).	
.....	.....	1302.34(b)(7).	
1306.32(c)(1) .....	.....	.....	Removed.
1306.32(c)(2) .....	.....	.....	Removed.
1306.32(c)(3) .....	.....	.....	Removed.
1306.32(d)(1) .....	.....	.....	Removed.
1306.32(d)(2) .....	.....	.....	Removed.
1306.32(d)(3) .....	.....	.....	Removed.
1306.32(e) .....	.....	.....	Removed.
1306.33(a)(1) .....	Home based program option .....	1302.22(c)(1).	
.....	.....	1302.24(c)(3)(i).	
1306.33(a)(2) .....	.....	1302.22(c)(2).	
.....	.....	1302.24(c)(3)(ii).	
1306.33(a)(3) .....	.....	1302.22(c)(3)–(4).	
1306.33(a)(4) .....	.....	1302.101(a)(3).	
1306.33(a)(5) .....	.....	1302.22(b).	
1306.33(b) .....	.....	1302.35(b)(1).	
.....	.....	1302.35(b)(3).	
.....	.....	1302.91(f).	
1306.33(b)(1) .....	.....	1302.35(a).	
1306.33(b)(2) .....	.....	.....	Removed.
1306.33(c) .....	.....	1302.35(e)(1).	
1306.33(c)(1) .....	.....	1302.35(e)(2)(i).	Last sentence re- moved.
.....	.....	1302.35(e)(1) .....	Removed.
1306.33(c)(2) .....	.....	.....	
1306.33(c)(3) .....	.....	1302.44(a)(2)(vii).	
1306.34(a)(1) .....	Combination program option .....	.....	Removed.
1306.34(a)(2) .....	.....	.....	Removed.
1306.34(a)(3) .....	.....	.....	Removed.
1306.34(a)(4) .....	.....	.....	Removed.
1306.34(b)(1) .....	.....	.....	Removed.
1306.34(b)(2) .....	.....	.....	Removed.
1306.34(b)(3) .....	.....	.....	Removed.
1306.34(c)(1) .....	.....	.....	Removed.
1306.34(c)(2) .....	.....	.....	Removed.
1306.35(a)(1) .....	Family child care program option .....	1302.23(a)(1).	
.....	.....	1302.23(c).	
1306.35(a)(2)(i) .....	.....	1302.23(a)(2).	
1306.35(a)(2)(ii) .....	.....	1302.23(a)(1).	
1306.35(a)(3) .....	.....	1302.23(a).	
.....	.....	1302.31(d).	
1306.35(a)(4) .....	.....	1301.4(c)(1).	
1306.35(b)(1) .....	.....	1302.47(a) .....	Second sentence re- moved.
1306.35(b)(2)(i) .....	.....	1302.47(b)(1)(i)–(iii).	
1306.35(b)(2)(ii) .....	.....	1302.47(b)(1)(v)(B).	
1306.35(b)(2)(iii) .....	.....	.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1306.35(b)(2)(iv) .....	.....	1302.47(4)(ii) 1302.47(b)(5).	Removed.
1306.35(b)(2)(v) .....	.....	1302.47(b)(1) 1302.47(b)(5).	
1306.35(b)(2)(vi) .....	.....	.....	
1306.35(b)(2)(vii) .....	.....	1302.47(b)(1).	
1306.35(b)(2)(viii) .....	.....	1302.47(b)(4) 1302.47(b)(5).	
1306.35(b)(2)(ix) .....	.....	1302.47(b)(1).	
1306.35(c) .....	.....	1302.47(b)(7).	
1306.35(d) .....	.....	1302.23(d).	
1306.36 .....	Additional Head Start program option variations.	1302.24(a).	
1306.37 .....	Compliance waiver .....	1302.24(c).	
1307 .....	Policies and procedures for designation renewal of Head Start and Early Head Start grantees.	No changes made—only redesignated—will not consider comments.	
1307.1 .....	Purpose and scope. ....	1304.10 .....	Redesignated.
1307.2 .....	Definitions .....	1305 .....	Redesignated.
1307.3 .....	Basis for determining whether a Head Start agency will be subject to an open competition.	1304.11 .....	Redesignated.
1307.3(a) .....	.....	1304.11(a) .....	Redesignated.
1307.3(b) .....	.....	1304.11(b) .....	Redesignated.
1307.3(b)(1) .....	.....	1304.11(b)(1) .....	Redesignated.
1307.3(b)(1)(i) .....	.....	1304.11(b)(1)(i) .....	Redesignated.
1307.3(b)(1)(ii) .....	.....	1304.11(b)(1)(ii) .....	Redesignated.
1307.3(b)(1)(iii) .....	.....	1304.11(b)(1)(iii) .....	Redesignated.
1307.3(b)(2) .....	.....	1304.11(b)(2) .....	Redesignated.
1307.3(b)(2)(i) .....	.....	1304.11(b)(2)(i) .....	Redesignated.
1307.3(b)(2)(ii) .....	.....	1304.11(b)(2)(ii) .....	Redesignated.
1307.3(c) .....	.....	1304.11(c) .....	Redesignated.
1307.3(c)(1) .....	.....	1304.11(c)(1) .....	Redesignated.
1307.3(c)(1)(i) .....	.....	1304.11(c)(1)(i) .....	Redesignated.
1307.3(c)(1)(ii) .....	.....	1304.11(c)(1)(ii) .....	Redesignated.
1307.3(c)(1)(iii) .....	.....	1304.11(c)(1)(iii) .....	Redesignated.
1307.3(c)(2) .....	.....	1304.11(c)(2) .....	Redesignated.
1307.3(d) .....	.....	1304.11(d) .....	Redesignated.
1307.3(e) .....	.....	1304.11(e) .....	Redesignated.
1307.3(f) .....	.....	1304.11(f) .....	Redesignated.
1307.3(g) .....	.....	1304.11(g) .....	Redesignated.
1307.4(a) .....	Grantee reporting requirements concerning certain conditions.	1304.12(a) .....	Redesignated.
1307.4(b) .....	.....	1304.12(b) .....	Redesignated.
1307.4(b)(1) .....	.....	1304.12(b)(1) .....	Redesignated.
1307.4(b)(2) .....	.....	1304.12(b)(2) .....	Redesignated.
1307.4(b)(3) .....	.....	1304.12(b)(3) .....	Redesignated.
1307.4(b)(4) .....	.....	1304.12(b)(4) .....	Redesignated.
1307.5 .....	Requirements to be considered for designation for a five-year period when the existing grantee in a community is not determined to be delivering a high quality and comprehensive Head Start program and is not automatically renewed.	1304.13 .....	Redesignated.
1307.60(a) .....	Tribal government consultation under the Designation Renewal System for when an Indian Head Start grant is being considered for competition.	1304.14(a) .....	Redesignated.
1307.60(a)(1) .....	.....	1304.14(a)(1) .....	Redesignated.
1307.60(a)(2) .....	.....	1304.14(a)(2) .....	Redesignated.
1307.60(a)(3) .....	.....	1304.14(a)(3) .....	Redesignated.
1307.60(b) .....	.....	1304.1514(b) .....	Redesignated.
1307.60(c) .....	.....	1304.14(c) .....	Redesignated.
1307.70(a) .....	Designation request, review and notification process.	1304.15(a) .....	Redesignated.
1307.70(a)(1) .....	.....	1304.15(a)(1) .....	Redesignated.
1307.70(a)(2) .....	.....	1304.15(a)(2) .....	Redesignated.
1307.70(b) .....	.....	1304.15(b) .....	Redesignated.
1307.70(b)(1) .....	.....	1304.15(b)(1) .....	Redesignated.
1307.70(b)(2) .....	.....	1304.15(b)(2) .....	Redesignated.
1307.70(b)(3) .....	.....	1304.15(b)(3) .....	Redesignated.
1307.70(c) .....	.....	1304.15(c) .....	Redesignated.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1307.70(c)(1) .....	.....	1304.15(c)(1) .....	Redesignated.
1307.70(c)(2) .....	.....	1304.15(c)(2) .....	Redesignated.
1307.70(c)(2)(i) .....	.....	1304.15(c)(2)(i) .....	Redesignated.
1307.70(c)(2)(i) .....	.....	1304.15(c)(2)(i) .....	Redesignated.
1307.70(c)(3) .....	.....	.....	Redesignated.
1307.70(c)(3)(i) .....	.....	.....	Redesignated.
1307.70(c)(3)(ii) .....	.....	.....	Redesignated.
1307.80 .....	Use of CLASS: Pre-K Instrument in the Designation Renewal System.	.....	Redesignated.
1308 .....	Service for children with disabilities .....	.....	
1308.1 .....	Purpose .....	1302.60.	
1308.2 .....	Scope .....	.....	Removed.
1308.3 .....	Definitions .....	1305.	
1308.4(a) .....	Disabilities service plan .....	1302.101(b)(3).	
1308.4(a)(1) .....	.....	.....	Removed.
1308.4(a)(2) .....	.....	.....	Removed.
1308.4(b) .....	.....	1302.101(b)(3).	
1308.4(c) .....	.....	1302.60.	
1308.4(d) .....	.....	.....	Removed.
1308.4(e) .....	.....	.....	Removed.
1308.4(f)(1) .....	.....	1302.63(a).	
1308.4(f)(2) .....	.....	1302.63(a).	
1308.4(f)(3) .....	.....	.....	Removed.
1308.4(f)(4) .....	.....	.....	Removed.
1308.4(g) .....	.....	1302.61(b)(3).	
1308.4(h) .....	.....	.....	Removed.
1308.4(h)(1) .....	.....	.....	Removed.
1308.4(h)(2) .....	.....	.....	Removed.
1308.4(h)(3) .....	.....	.....	Removed.
1308.4(h)(4) .....	.....	.....	Removed.
1308.4(h)(5) .....	.....	.....	Removed.
1308.4(h)(6) .....	.....	1303.75.	
1308.4(h)(7) .....	.....	.....	Removed.
1308.4(i) .....	.....	.....	Removed.
1308.4(j)(1) .....	.....	.....	Removed.
1308.4(j)(2) .....	.....	.....	Removed.
1308.4(j)(3) .....	.....	.....	Removed.
1308.4(j)(4) .....	.....	.....	Removed.
1308.4(j)(5) .....	.....	.....	Removed.
1308.4(j)(5)(i) .....	.....	.....	Removed.
1308.4(j)(5)(ii) .....	.....	.....	Removed.
1308.4(j)(5)(iii) .....	.....	.....	Removed.
1308.4(k) .....	.....	.....	Removed.
1308.4(l) .....	.....	1302.63(b).	
1308.4(l)(1) .....	.....	.....	Removed.
1308.4(l)(2) .....	.....	.....	Removed.
1308.4(l)(3) .....	.....	1302.63(b).	
1308.4(l)(4) .....	.....	1302.63(b).	
1308.4(l)(5) .....	.....	.....	Removed.
1308.4(l)(6) .....	.....	.....	Removed.
1308.4(l)(7) .....	.....	.....	Removed.
1308.4(m) .....	.....	.....	Removed.
1308.4(n) .....	.....	.....	Removed.
1308.4(o) .....	.....	.....	Removed.
1308.4(o)(1) .....	.....	.....	Removed.
1308.4(o)(2) .....	.....	.....	Removed.
1308.4(o)(3) .....	.....	.....	Removed.
1308.4(o)(4) .....	.....	.....	Removed.
1308.4(o)(5) .....	.....	.....	Removed.
1308.4(o)(6) .....	.....	.....	Removed.
1308.4(o)(7) .....	.....	.....	Removed.
1308.4(o)(7)(i) .....	.....	.....	Removed.
1308.4(o)(7)(ii) .....	.....	.....	Removed.
1308.4(o)(7)(iii) .....	.....	.....	Removed.
1308.5(a) .....	Recruitment and enrollment of children with disabilities.	1302.12(b)(3).	
1308.5(b) .....	.....	.....	Removed.
1308.5(c)(1) .....	.....	1302.13(b)(2).	
1308.5(c)(2) .....	.....	1302.13(b)(2).	
1308.5(c)(3) .....	.....	1302.13(b)(2).	
1308.5(c)(4) .....	.....	1302.13(b)(2).	
1308.5(d)(1) .....	.....	.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1308.5(d)(2) .....	.....	.....	Removed.
1308.5(d)(3) .....	.....	.....	Removed.
1308.5(d)(4) .....	.....	.....	Removed.
1308.5(d)(5) .....	.....	.....	Removed.
1308.5(e) .....	.....	1302.13(a)(1)(v).	
1308.5(e)(1) .....	.....	.....	Removed.
1308.5(e)(2) .....	.....	.....	Removed.
1308.5(e)(3) .....	.....	.....	Removed.
1308.5(f) .....	.....	.....	Removed.
1308.6(a) .....	Assessment of children .....	.....	Removed.
1308.6(a)(1) .....	.....	1302.33(a).	
1308.6(a)(2) .....	.....	1302.33(b).	
1308.6(a)(3) .....	.....	.....	Removed.
1308.6(b)(1) .....	.....	1302.33(a)	
.....	.....	1302.42(b)(2).	
1308.6(b)(2) .....	.....	.....	Removed.
1308.6(b)(3) .....	.....	.....	Removed.
1308.6(c) .....	.....	1302.34(b)(5).	
1308.6(d) .....	.....	.....	Removed.
1308.6(e) .....	.....	1302.33(a)(2).	
1308.6(e)(1) .....	.....	1302.33(a)(2).	
1308.6(e)(2) .....	.....	.....	Removed.
1308.6(e)(2)(i) .....	.....	.....	Removed.
1308.6(e)(2)(ii) .....	.....	.....	Removed.
1308.6(e)(2)(iii) .....	.....	.....	Removed.
1308.6(e)(2)(iv) .....	.....	.....	Removed.
1308.6(e)(2)(v) .....	.....	.....	Removed.
1308.6(e)(2)(vi) .....	.....	.....	Removed.
1308.6(e)(2)(vii) .....	.....	.....	Removed.
1308.6(e)(2)(viii) .....	.....	.....	Removed.
1308.6(e)(3) .....	.....	.....	Removed.
1306.6(e)(4) .....	.....	.....	Removed.
1306.6(e)(5) .....	.....	.....	Removed.
1308.7(a) .....	Eligibility criteria: Health impairment .....	.....	Removed.
1308.7(b) .....	.....	.....	Removed.
1308.7(c) .....	.....	.....	Removed.
1308.7(d) .....	.....	.....	Removed.
1308.7(d)(1) .....	.....	.....	Removed.
1308.7(d)(2) .....	.....	.....	Removed.
1308.7(d)(2)(i) .....	.....	.....	Removed.
1308.7(d)(2)(ii) .....	.....	.....	Removed.
1308.7(d)(2)(iii) .....	.....	.....	Removed.
1308.7(d)(2)(iv) .....	.....	.....	Removed.
1308.7(d)(2)(v) .....	.....	.....	Removed.
1308.7(d)(3) .....	.....	.....	Removed.
1308.7(d)(4) .....	.....	.....	Removed.
1308.8(a) .....	Eligibility criteria: Emotional/behavioral disorders. ....	.....	Removed.
1308.8(a)(1) .....	.....	.....	Removed.
1308.8(a)(2) .....	.....	.....	Removed.
1308.8(a)(3) .....	.....	.....	Removed.
1308.8(a)(4) .....	.....	.....	Removed.
1308.8(b) .....	.....	.....	Removed.
1308.8(c) .....	.....	.....	Removed.
1308.9(a) .....	Eligibility criteria: Speech or language impairments. ....	.....	Removed.
1308.9(b) .....	.....	.....	Removed.
1308.9(c) .....	.....	.....	Removed.
1308.9(d) .....	.....	.....	Removed.
1308.9(e) .....	.....	.....	Removed.
1308.9(e)(1) .....	.....	.....	Removed.
1308.9(e)(2) .....	.....	.....	Removed.
1308.9(e)(3) .....	.....	.....	Removed.
1308.10(a) .....	Eligibility criteria: Mental retardation .....	.....	Removed.
1308.10(b) .....	.....	.....	Removed.
1308.10(c) .....	.....	.....	Removed.
1308.11 .....	Eligibility criteria: Hearing impairment including deafness. ....	.....	Removed.
1308.11(a) .....	.....	.....	Removed.
1308.11(b) .....	.....	.....	Removed.
1308.11(c) .....	.....	.....	Removed.
1308.12(a) .....	Eligibility criteria: Orthopedic impairment .....	.....	Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1308.12(b) .....			Removed.
1308.13(a) .....	Eligibility criteria: Visual impairment including blindness.		Removed.
1308.13(a)(1) .....			Removed.
1308.13(a)(2) .....			Removed.
1303.13(b) .....			Removed.
1308.14(a) .....	Eligibility criteria: Learning disabilities		Removed.
1308.14(b) .....			Removed.
1308.14(b)(1) .....			Removed.
1308.14(b)(2) .....			Removed.
1308.14(b)(3) .....			Removed.
1308.14(c) .....			Removed.
1308.15 .....	Eligibility criteria: Autism		Removed.
1308.16 .....	Eligibility criteria: Traumatic brain injury		Removed.
1308.17(a) .....	Eligibility criteria: Other impairments		Removed.
1308.17(a)(1) .....			Removed.
1308.17(a)(2) .....			Removed.
1308.17(a)(3) .....			Removed.
1308.17(b) .....			Removed.
1308.17(c) .....			Removed.
1308.17(d) .....			Removed.
1308.17(e) .....			Removed.
1308.18(a) .....	Disabilities/health services coordination		Removed.
1308.18(b) .....			Removed.
1308.18(c) .....			Removed.
1308.18(d)(1) .....		1302.47(b)(7)(v).	
1308.18(d)(2) .....			Removed.
1308.18(d)(3) .....			Removed.
1308.18(d)(4) .....			Removed.
1308.19(a) .....	Developing individualized education programs(IEPs).		Removed.
1308.19(b) .....			Removed.
1308.19(c) .....			Removed.
1308.19(d) .....			Removed.
1308.19(e) .....			Removed.
1308.19(e)(1) .....			Removed.
1308.19(e)(2) .....			Removed.
1308.19(e)(3) .....			Removed.
1308.19(e)(4) .....			Removed.
1308.19(e)(5) .....			Removed.
1308.19(e)(6) .....			Removed.
1308.19(e)(7) .....			Removed.
1308.19(e)(8) .....			Removed.
1308.19(f) .....			Removed.
1308.19(f)(1) .....			Removed.
1308.19(f)(2) .....			Removed.
1308.19(f)(3) .....			Removed.
1308.19(f)(4) .....			Removed.
1308.19(g) .....			Removed.
1308.19(h) .....			Removed.
1308.19(i) .....			Removed.
1308.19(j) .....			Removed.
1308.19(j)(1) .....			Removed.
1308.19(j)(2) .....			Removed.
1308.19(j)(3) .....			Removed.
1308.19(j)(4) .....			Removed.
1308.19(k) .....			Removed.
1308.20(a) .....	Nutrition services		Removed.
1308.20(b) .....			Removed.
1308.20(c) .....			Removed.
1308.20(d) .....			Removed.
1308.21(a)(1) .....	Parent participation and transition of children into Head Start and from Head Start to public school.	1302.61(b)(3).	
1308.21(a)(2) .....		1302.62(a)(1).	
1308.21(a)(3) .....		1302.34(b)(4).	
1308.21(a)(4) .....			Removed.
1308.21(a)(5) .....			Removed.
1308.21(a)(6) .....		1302.62(a)(2).	
1308.21(a)(7) .....		1302.62(b).	
1308.21(a)(8) .....			Removed.
1308.21(a)(9) .....			Removed.

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1308.21(a)(10) .....	.....	1302.62(a).	Removed.
1308.21(b) .....	.....	1302.62(b)(3).	
1308.21(c) .....	.....	.....	
1309 .....	Head Start facilities purchase, major renovation and construction.	.....	
1309.1 .....	.....	1303.40.	Removed.
1309.2 .....	Approval of the use of Head Start funds to continue purchase of facilities.	1303.41.	
1309.3 .....	Definitions .....	1305.	
1309.4 .....	Eligibility—Construction.	.....	
1309.4(a) .....	.....	1303.42(a)(1).	
1309.4(b) .....	.....	1303.42(a)(3)	
.....	.....	1303.42(b).	
1309.5 .....	Eligibility—Major renovations.	.....	
1309.5(a) .....	.....	1303.42(a)(1).	
1309.5(b) .....	.....	1303.42(a)(3)	
.....	.....	1303.42(b).	
1309.10 .....	Applications for the purchase, construction and major renovation of facilities.	1303.44(a).	Removed.
1309.10(a) .....	.....	1303.44(a)(1)	
.....	.....	1303.44(a)(2).	
1309.10(b) .....	.....	1303.44(a)(3)	
.....	.....	1303.44(a)(5)	
.....	.....	1303.45(a)(1).	
1309.10(c) .....	.....	1303.44(a)(8).	
1309.10(d) .....	.....	1303.44(a)(3)	
.....	.....	1303.45(c).	
1309.10(e) .....	.....	1303.44(a)(4).	
1309.10(f) .....	.....	1303.42(b).	Removed.
1309.10(g) .....	.....	1303.44(a)(11).	
1309.10(h) .....	.....	1303.44(a)(9).	
1309.10(i) .....	.....	1303.44(a)(4).	
1309.10(j) .....	.....	.....	
1309.10(k) .....	.....	1303.44(a)(6).	
1309.10(l) .....	.....	1303.44(b)	
.....	.....	1303.48(b)	
.....	.....	1303.50(a).	
1309.10(m) .....	.....	1303.44(a)(12).	
1309.10(n) .....	.....	.....	Removed.
1309.10(o) .....	.....	1303.44(a)(9).	
1309.10(p) .....	.....	1303.44(a)(10).	
1309.10(q) .....	.....	1303.44(a)(13).	
1309.11(a) .....	Cost comparison for purchase, construction and major renovation of facilities.	1303.45(a)(1).	Removed.
1309.11(b) .....	.....	1303.45(a)(2)(i).	
1309.11(c)(1) .....	.....	1303.45(a)(1).	
1309.11(c)(2) .....	.....	.....	
1309.11(c)(3) .....	.....	1303.45(a)(1).	
1309.11(d)(1) .....	.....	1303.45(a)(2)(i).	
1309.11(d)(2) .....	.....	1303.45(a)(2)(i).	
1309.11(e) .....	.....	1303.45(a)(2)(ii).	
1309.11(f) .....	.....	1303.45(c).	
1309.20 .....	Title .....	.....	
1309.21 .....	Recording of federal interest and other protection of federal interest	.....	Removed.
1309.21(a) .....	.....	1305 First Sentence	
.....	.....	1303.51 Second Sentence.	
1309.21(b) .....	.....	1303.48(a).	
1309.21(c) .....	.....	1303.48(b).	
1309.21(d)(1) .....	.....	1303.50.	
1309.21(d)(2) .....	.....	1303.46(b)(1) First sentence	
.....	.....	1303.47(b)(1) Second sentence	
.....	.....	1303.47(b)(1)(vi) Third sentence	
.....	.....	Fourth sentence removed	
.....	.....	1303.47(b)(2) Last sentence.	
1309.21(d)(3) .....	.....	.....	Removed.
1309.21(d)(3)(i) .....	.....	1303.47(b)(1)(i)—(iii).	
1309.21(d)(3)(ii) .....	.....	1303.47(b)(1)(v).	
1309.21(d)(3)(iii) .....	.....	1303.47(b)(1)(v).	
1309.21(d)(3)(iv) .....	.....	1303.48(a).	
1309.21(d)(3)(v) .....	.....	.....	
1309.21(d)(3)(vi) .....	.....	1303.47(a)(9).	



TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1309.21(d)(4) .....	.....	1303.47(b)(1).	
1309.21(d)(4)(i) .....	.....	1303.47(b)(1)(i)(ii).	
1309.21(d)(4)(ii) .....	.....	1303.47(b)(1)(v).	
1309.21(d)(4)(iii) .....	.....	1303.47(b)(1)(v).	
1309.21(e) .....	.....	1303.55(a): 1303.3.	
1309.21(f)(1) .....	.....	1303.51.	
1309.21(f)(1)(i) .....	.....	.....	Removed.
1309.21(f)(1)(ii) .....	.....	.....	Removed.
1309.21(f)(1)(iii) .....	.....	.....	Removed.
1309.21(f)(2) .....	.....	1303.47.	
1309.21(f)(2)(i) .....	.....	.....	Removed.
1309.21(f)(2)(ii) .....	.....	.....	Removed.
1309.21(f)(2)(iii) .....	.....	.....	Removed.
1309.21(f)(2)(iv) .....	.....	.....	Removed.
1309.21(f)(3) .....	.....	.....	Removed.
1309.22(a) .....	Rights and responsibilities in the event of grantee's default on mortgage, or withdrawal or termination.	1303.49(a)(1),(3),(6), & (7) .....	Removed last two sentences.
1309.22(b) .....	.....	1303.49(b).	
1309.22(c) .....	.....	1303.49(a)(5); 1303.51.	
1309.23(a) .....	Insurance, bonding and maintenance .....	1303.52(a).	
1309.23(a)(1) .....	.....	1303.52(a) & 1303.52(b)(1).	
1309.23(a)(2) .....	.....	1303.52(b)(1) & (2).	
1309.23(b) .....	.....	1303.52(b)(3).	
1309.23(c) .....	.....	1303.52(c).	
1309.30(a) .....	General .....	.....	Removed.
1309.30(b) .....	.....	.....	Removed.
1309.31(a) .....	Site description .....	1303.44(b)(2).	
1309.31(b) .....	.....	1303.47(c).	
1309.31(c) .....	.....	1303.47(c)(7).	
1309.32(a) .....	Statement of procurement procedure for modular units.	.....	Removed.
1309.32(b) .....	.....	.....	Removed.
1309.33 .....	Inspection .....	1303.56.	
1309.34 .....	Costs of installation of modular unit .....	.....	Removed.
1309.40 .....	Copies of documents .....	1303.53.	
1309.41 .....	Record retention .....	1303.54.	
1309.42 .....	Audit of mortgage .....	.....	Removed.
1309.43 .....	Use of grant funds to pay fees .....	1303.43.	
1309.44(a) .....	Independent analysis .....	.....	Removed.
1309.44(b) .....	.....	.....	Removed.
1309.44(c) .....	.....	.....	Removed.
1309.51(a) .....	Submission of drawings and specifications ....	.....	Removed.
1309.51(b) .....	.....	.....	Removed.
1309.52(a) .....	Procurement procedures .....	1303.55(a).	
1309.52(b) .....	.....	1303.55(b).	
1309.52(c) .....	.....	1303.55(c).	
1309.52(d) .....	.....	1303.55(d).	
1309.53(a) .....	Inspection of work .....	1303.56.	
1309.53(b) .....	.....	1303.56.	
1309.54 .....	Davis-Bacon Act .....	1303.11.	
1310 .....	Head Start transportation.	.....	
1310.1 .....	Purpose .....	.....	Removed.
1310.2(a) .....	Applicability. ....	1303.70(a).	
1310.2(b)(1) .....	.....	.....	Removed.
1310.2(b)(2) .....	.....	.....	Removed.
1310.2(c) .....	.....	1303.70(c)(1) and (c)(2).	
1310.3 .....	Definitions .....	1305.	
1310.10 .....	General .....	.....	
1310.10(a) .....	.....	1303.70(b)(1).	
1310.10(b) .....	.....	1303.70(b)(1).	
1310.10(c) .....	.....	1303.70(a).	
1310.10(d)(1) .....	.....	1303.71(b).	
1310.10(d)(2) .....	.....	1303.71(b).	
1310.10(d)(3) .....	.....	1303.71(b).	
1310.10(d)(4) .....	.....	1303.71(b).	
1310.10(e) .....	.....	1303.71(c).	
1310.10(f) .....	.....	1303.70(b)(3).	
1310.10(g) .....	.....	1303.72(a)(3).	
1310.11(a) .....	Child restraint systems .....	1303.71(d).	
1310.11(b) .....	.....	.....	Removed.
1310.12(a) .....	Required use of school buses or allowable alternate vehicles.	1303.71(a).	

TABLE B DISTRIBUTION TABLE—Continued

Current section	Title	Proposed section	
1310.12(b) .....	.....	1303.71(a).	
1310.12(b)(1) .....	.....	1303.71(a).	
1310.12(b)(2) .....	.....	1303.71(a).	
1310.12(c) .....	.....	1303.71(a).	
1310.13 .....	Maintenance of vehicles .....	1303.71(e)(1).	
1310.13(a) .....	.....	1303.71(e)(2)(i).	
1310.13(b) .....	.....	1303.71(e)(2)(ii).	
1310.13(c) .....	.....	1303.71(e)(2)(iii).	
1310.14 .....	Inspection of new vehicles at the time of delivery.	1303.71(f).	
1310.15(a) .....	Operation of vehicles .....	1303.72(a)(1).	
1310.15(b) .....	.....	1303.72(a)(2).	
1310.15(c) .....	.....	1303.72(b)(4).	
1310.15(d) .....	.....	.....	Removed.
1310.16(a)(1) .....	Driver qualifications .....	1303.72(b)(1).	
1310.16(b) .....	.....	1303.72(c).	
1310.16(b)(1) .....	.....	1303.72(c)(1).	
1310.16(b)(2) .....	.....	1303.72(c)(2) and 1303.72(c)(3).	
1310.16(b)(3) .....	.....	1303.72(c)(4).	
1310.16(c) .....	.....	1303.72(c).	
1310.17(a) .....	Driver and bus monitor training .....	third sentence is 1303.72(d)(1) .....	First two sentences removed
1310.17(b)(1) .....	.....	1303.72(d)(2)(i).	
1310.17(b)(2) .....	.....	1303.72(d)(2)(i).	
1310.17(b)(3) .....	.....	1303.72(d)(2)(i).	
1310.17(b)(4) .....	.....	1303.72(d)(2)(i).	
1310.17(b)(5) .....	.....	1303.72(d)(2)(i).	
1310.17(b)(6) .....	.....	1303.72(d)(2)(i).	
1310.17(b)(7) .....	.....	1303.72(d)(2)(i).	
1310.17(c) .....	.....	1303.72(d)(2)(ii).	
1310.17(d) .....	.....	.....	Removed.
1310.17(e) .....	.....	.....	Removed.
1310.17(f)(1) .....	.....	1303.72(d)(3).	
1310.17(f)(2) .....	.....	1303.72(e).	
1310.20(a) .....	Trip routing .....	1303.73(a).	
1310.20(b)(1) .....	.....	1303.73(b)(1).	
1310.20(b)(2) .....	.....	1303.73(b)(2).	
1310.20(b)(3) .....	.....	1303.73(b)(3).	
1310.20(b)(4) .....	.....	1303.73(b)(4).	
1310.20(b)(5) .....	.....	1303.73(b)(5).	
1310.20(b)(6) .....	.....	1303.73(b)(6).	
1310.20(b)(7) .....	.....	1303.73(b)(7).	
1310.21(a) .....	Safety education .....	1302.46(b)(1)(v) .....	First sentence redesignated and revised. Remaining removed.
1310.21(b)(1) .....	.....	1303.74(b).	
1310.21(b)(2) .....	.....	1303.74(b).	
1310.21(b)(3) .....	.....	1303.74(b).	
1310.21(b)(4) .....	.....	1303.74(b).	
1310.21(b)(5) .....	.....	1303.74(b).	
1310.21(c)(1) .....	.....	.....	Removed.
1310.21(c)(2) .....	.....	.....	Removed.
1310.21(d) .....	.....	1303.74(d).	
1310.21(e) .....	.....	.....	Removed.
1310.22 .....	Children with disabilities .....	.....	
1310.22(a) .....	.....	1303.75(a).	
1310.22(b) .....	.....	.....	Removed.
1310.22(c) .....	.....	1303.75(b).	
1310.22(c)(1) .....	.....	1303.75(b).	
1310.22(c)(2) .....	.....	1303.75(b).	
1310.22(c)(3) .....	.....	1303.75(b).	
1310.22(c)(4) .....	.....	1303.75(b).	
1310.22(c)(5) .....	.....	1303.75(b).	
1310.23(a) .....	Coordinated transportation .....	1303.70(b)(2).	
1310.23(b)(1) .....	.....	.....	Removed.
1310.23(b)(2) .....	.....	.....	Removed.
1310.23(b)(3) .....	.....	.....	Removed.
1311 .....	Head Start Fellows Program .....	1304.41.	

### III. Background

Initiated in 1965, as part of President Lyndon Johnson's "War on Poverty," Head Start was created out of concern for the well-being of children in low-income families based on evidence that they were less likely to succeed in school than their more advantaged peers. As its name implies, the Head Start program was developed to enhance the experiences of children in low-income families prior to school entry, with the goal of alleviating the negative effects of growing up in poverty. At its inception, Head Start was the only large-scale child development program in the United States. It was visionary then, and in many ways continues to lead the early education community. For example, Head Start has been and continues to be a leader in its focus on family engagement and comprehensive services, on children with disabilities, and on children from diverse cultural and linguistic backgrounds; in its commitments to accountability for program quality; in its investments in the professional development of the early childhood education workforce that led to the development of the Child Development Associate (CDA) credential; and in its commitment to and investment in research and evaluation to strengthen quality, improve child outcomes, and reduce the achievement gap.

When Project Head Start was first started in the summer of 1965, over 560,000 children and families across the United States were served in an 8-week program. As the program grew, it expanded opportunities for children to receive high quality services in a number of ways. Over time, Head Start grew to serving both 3- and 4-year-old children and was expanded to reach children in migrant and seasonal farm worker families, as well as American Indian and Alaska Native children. In 1972, the Economic Opportunity Act was amended to expand Head Start program opportunities for children with disabilities for the first time and ensured that 10 percent of the enrollment opportunities for children served nationally were reserved for children who had disabilities. In 1995, Head Start expanded to include pregnant women and children from birth to 3 years of age, through the Early Head Start program, a visionary approach which led the field toward a new emphasis on intervention in children's earliest years. At the same time as it was expanding to reach more families, the Head Start program was also building an infrastructure to support quality, an effort for which

there was little precedent. The first major revisions to the Head Start program performance standards to further support high quality services were issued in 1996, and in 1998, the Head Start Reauthorization Act included a mandate to expand full-day, full-year services. The 2007 Head Start reauthorization placed an even greater emphasis on embedding research-based practices in Head Start and placing a stronger focus on the educational outcomes of Head Start children.

Head Start now serves more than one million children and their families each year. The combination of Head Start's size and scope, the experience and input gained, and the major developments in early childhood research suggest that the time is right to capitalize on this knowledge and experience by overhauling the regulations that form the backbone of the comprehensive, high quality services Head Start programs strive to deliver. This NPRM builds upon that knowledge and experience to codify best practices and ensure Head Start's place as a leader in the field of early childhood. Through this NPRM, we intend to carry Head Start forward into the 21st century to ensure all Head Start children receive sufficient exposure to high quality services that will promote school success and reinvigorate the promise of Head Start envisioned in 1965 as a means to help end the effects of poverty child by child, community by community.

#### *Statutory Authority and Requirements*

This NPRM is published under the authority granted to the Secretary of the Department of Health and Human Services under sections 641A, 644, 645, 645A, and 646 of the Head Start Act (Act) (42 U.S.C. 9801, 9836a, 9839(c), 9840, 9840a, and 9841), as amended by the Improving Head Start for School Readiness Act of 2007. In these sections, the Secretary is required to establish performance standards for Head Start and Early Head Start programs, as well as federal administrative procedures. Specifically, the Act requires the Secretary to ". . . modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs . . ." <sup>7</sup> and explicitly directs a number of modifications, including "scientifically based and developmentally appropriate education performance standards related to school readiness that are based on the Head Start Child Outcomes Framework" and to "consult with experts in the fields of child

development, early childhood education, child health care, family services . . . , administration, and financial management, and with persons with experience in the operation of Head Start programs." Not only did the Act mandate such significant revisions, there was also bipartisan and bicameral agreement in Congress that its central purpose was to update and raise the education standards and practices in Head Start programs.<sup>8</sup> As such, the revisions proposed in this NPRM substantially expand upon and improve the standards related to the education of children in Head Start programs. Additionally, in order to meet requirements mandated by the Act, incorporate findings from scientific research, reflect best practices from years of program input, and integrate recommendations from the Secretary's Advisory Committee Final Report on Head Start Research and Evaluation,<sup>9</sup> this NPRM proposes to reorganize and substantially amend the existing regulation.

#### *Expert and Stakeholder Consultation*

We sought extensive input to develop this NPRM. Beginning in 2008 and continuing through 2014, we convened consultations, listening sessions, and focus groups that involved child development experts, subject matter experts, early childhood education program administrators, representatives from Indian tribes, Head Start staff, parents, and other constituent groups. We heard from tribal leaders in our annual tribal consultations. We consulted with national organizations and agencies with particular expertise and longstanding interests in early childhood education. In addition, we analyzed the types of technical assistance requested by and provided to Head Start agencies and programs. We reviewed findings from monitoring reports and gathered information from programs and families about the circumstances of those populations served by Head Start programs. We considered advances in research-based practices with respect to early childhood education and development, and the projected needs of expanding Head Start services. We also drew upon the expertise of federal agencies and staff responsible for related programs in order to obtain advice on how to promote quality across all Head Start settings and program options. We reviewed the study on developmental

<sup>8</sup> See <http://beta.congress.gov/crec/2007/11/14/CREC-2007-11-14-pt1-PgS14375-2.pdf>

<sup>9</sup> Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

<sup>7</sup> See section 641A(a)(1) of the Act.

outcomes and assessments for young children by the National Academy of Sciences. We also reviewed the standards and performance criteria established by state Quality Rating and Improvement Systems, national organizations, and policy experts in early childhood development, health, safety, maternal health, and related fields.

From this multi-year consultation process, we collected many ideas about how best to revise the program performance standards. Those ideas that were regularly raised are included in this NPRM. They include:

- The organization of the standards should reflect the key elements of program operations.
- The standards should emphasize what high quality looks like in Head Start programs.
- The standards should clarify how data should be used for planning, individualizing, referral, follow-up, and service provision.
- The standards should enhance collaborative partnerships, while maintaining core Head Start principles.
- The standards should describe how they apply across age groups.
- The standards should reflect the importance of supporting children's home language development in order to support English language acquisition and overall child progress.
- The standards should reflect the centrality of parents and families in children's healthy development.
- The standards should be flexible so that Head Start programs can be more responsive to local settings, circumstances, and needs.
- The standards should be inclusive of Indian tribes, migrant and seasonal, and homeless populations as well as children with disabilities.
- The governance standards should be flexible where possible and responsive to difference among types of Head Start agencies, *i.e.*, multi-purpose, governmental, etc.
- The standards should reduce unnecessary administrative burden to free up time and resources for service delivery and quality improvement.

#### *Overview of Major Proposed Revisions to Head Start Performance Standards*

The changes proposed in this NPRM will strengthen Head Start quality, improve child and family outcomes, prepare children to succeed in school and in life, and create a system of accountability that ensures continuous improvement. Some proposals are necessary revisions of existing standards that now conflict with the 2007 Act. Other standards we propose implement

new requirements that reflect current research and program experience.

The major changes in the NPRM focus on three over-arching goals. First, the NPRM proposes to raise standards for service delivery to improve program quality and ensure Head Start achieves stronger outcomes for children and families. We propose revisions to reflect research-based practices for teaching practices, curriculum, assessment, health, mental health, professional development, and parent engagement services. We also propose to increase the minimum amount of dosage to better support effective classroom practices, be more aligned with the dosage of effective early education programs, better support working families, and achieve stronger child outcomes.

We also propose a significant reorganization of program performance standards to improve their clarity, transparency, and ease of implementation. Forty years of partial or topical, regulatory changes created an organizational structure that made it difficult to understand the requirements of Head Start. Some key requirements were not adequately addressed in regulations and needed updating and restructuring. Current regulations are also unnecessarily long, a consequence of Head Start's long history and too much focus on micromanagement. We propose to significantly reduce the total number of regulations without reducing program quality. We believe these structural changes, updates, and reductions will make it easier for programs to understand and implement high quality services and more inviting for prospective grantees to apply for funding. We are requesting comment on whether there are additional specific requirements that should be eliminated because they are overly burdensome and interfere with good practice.

Finally, we propose to revise and reduce regulations that place bureaucratic burden on programs that interfere with program quality. For example, we reduce or eliminate requirements focused on written plans and instead emphasize programs implementing systems of continuous improvement to ensure local programs set goals, collect data, and use their data to improve their performance. We also shift the nature of hygiene and safety requirements to focus more squarely on keeping children safe so that programs attend to this important outcome instead of micromanaged prescriptions.

In sum, we propose to completely reorganize the regulatory structure to be more logical and easier to understand and implement; reduce bureaucratic burden on local programs by

streamlining, simplifying, and reducing the total number of regulations; strengthen standards for program services to reflect research and best practice and improve quality; and, completely overhaul and update the education standards to improve classroom practices and child outcomes. Together, these proposed revisions will support an increase in intensity, focus, and effort on high quality service delivery. This NPRM represents our effort to provide a clear roadmap for current and prospective grantees to provide high quality Head Start services, regardless of setting. This NPRM will allow Head Start programs will improve the quality of Head Start services and bolster their impact on the children and families we serve.

#### **IV. Discussion of Proposed Rule**

The Administrative Procedures Act (APA) governs how federal agencies may propose regulations. Section 553(b)(3) of the APA allows a federal agency to organize an NPRM either by the terms or substance of the proposed rule or by a description of subjects and issues involved.

We choose to organize this NPRM by a description of subjects and issues involved. The primary reason being that we propose to delete subparts 1301 through 1311 in the current regulation and either completely rewrite or restructure them under subchapter B at 45 CFR Chapter XIII. The order we propose here removes parts 1306 through 1311 in the current regulation and redesignates parts 1301 through 1305. We include redesignation and distribution tables to help the public readily locate current sections and provisions we propose to revise, redesignate, or remove and renumber.

#### **Program Governance; Part 1301 (Currently §§ 1304.50 and 1304.52)**

This section describes program governance requirements for Head Start agencies. Program governance in Head Start refers to the formal structure in place "for the oversight of quality services for Head Start children and families and for making decisions related to program design and implementation" as outlined in section 642(c) of the Act. This structure must be comprised of a governing body and a policy council. The governing body is the entity legally and fiscally responsible for the program. The policy council is responsible for the direction of the program and must be made up primarily of parents of currently enrolled children. Parent involvement in program governance reflects the fundamental belief, present since the

inception of Project Head Start in 1965, that parents must be involved in decision-making about the nature and operation of the program for Head Start to be successful in bringing about substantial change.<sup>10</sup>

Section 642(c) of the Act specifies the requirements for program governance, and this section was extensively amended by the Improving Head Start for School Readiness Act of 2007. It emphasizes the critical role both the governing body and the policy council, or policy committee at the delegate level, have in oversight, design and implementation of Head Start and Early Head Start programs. We propose to revise current program governance requirements to conform to the amendments in the Act. To align with the Act, we focus on training, the governing body, policy groups, and impasse procedures. Below we describe these areas according to the structure we propose for part 1301.

#### *Section 1301.1 In General*

This section reiterates the requirement in section 642(c) of the Act that an “agency [must] establish and maintain a formal structure for program governance, for the oversight of quality services for Head Start children and families and for making decisions related to program design and implementation.” This structure includes a governing body, a policy council, and, for a delegate agency, a policy committee. It emphasizes that the governing body has legal and fiscal responsibility to administer and oversee the program, which is consistent with § 1304.50(a)(5) in the current regulation, and the policy council is responsible for the direction of the program including program design and operations and long- and short-term planning goals and objectives.

#### *Section 1301.2 Training*

Section 642(d)(3) of the Act requires governing body and policy council members to have appropriate training and technical assistance to ensure they understand the information they received and can oversee and participate in the agency’s programs effectively. This requirement is very similar to and consistent with § 1304.52(l)(4) in the current regulation, which requires agencies to provide training or orientation to governing body, policy council, and policy committee members to enable them to carry out their program governance responsibilities effectively. To

consolidate all requirements related to governance into one section, we propose to move the current requirement to § 1301.2. We also propose to add advisory committee members to the list and require orientation to include training on the program performance standards since familiarity with these regulations is critical to fulfilling governance responsibilities.

#### *Section 1301.3 Governing Body*

The Act affirms the current requirement at § 1304.50(a)(5) that the governing body has legal and fiscal responsibility to administer and oversee the program but provides significantly more detail on the composition and responsibilities of the governing body than the current regulation addresses. To conform to the Act, the first two paragraphs of this section refer grantees to the composition requirements at section 642(c)(1)(B) of the Act (including the exceptions to such composition requirements at section 642(c)(1)(B)(v) for governing bodies, such as tribal governing bodies, whose members oversee a public entity and are selected to their positions with the public entity by public election or political appointment) and the responsibilities outlined in section 642(c)(1)(E) of the Act. In addition to the responsibilities noted in the Act, we propose to require that governing body members use ongoing monitoring results, school readiness goals, as well as the information specified in section 642(d)(2) of the Act, to conduct their responsibilities.

The third and final paragraphs of proposed § 1301.3 pertain to advisory committees, which act as sub-boards. Section 642(c)(1)(E)(iv)(XI) of the Act permits a governing body, at its own discretion, to establish advisory committees to oversee key responsibilities related to program governance. In response to questions and requests for clarification from the field, we elaborate on what must be included in written procedures should a governing body invoke its authority to establish an advisory committee. We propose the written procedures the governing body establishes include, for example, the advisory committee’s duties, actions, and obligations, and the membership of advisory committees. These written procedures are required to specify how and with what frequency the advisory committee must keep the governing body apprised of decisions it makes related to program governance.

Current § 1304.50 has three provisions that relate to the governing body: §§ 1304.50(a)(5), 1304.50(g)(1) and 1304.50(g)(2). To conform to the Act,

our proposed rule retains the part of § 1304.50 that establishes the governing body as legally and fiscally responsible for administering and overseeing the program, but removes language stating that the governing body, the policy council, or policy committee cannot have identical memberships and functions. This language is no longer needed since the Act has specific requirements for the composition and functions of the governing body and policy council. The second provision related to the governing body is § 1304.50(g)(1) of the current regulation, which requires agencies to have written policies that define the roles and responsibilities of the governing body and that inform them of the management procedures and functions necessary to implement a high quality program. We propose to remove this language because the Act outlines the responsibilities of the governing body. It would be inconsistent with the Act for individual grantees and delegate agencies to define the roles and responsibilities of the governing body.

The third provision, at § 1304.50(g)(2), relates to establishing internal controls and safeguarding federal funds, and these responsibilities are subsumed in the overarching requirements of the governing body found in section 642(c)(1)(E) of the Act.

#### *Section 1301.4 Policy Councils and Policy Committees*

In this section, we retain a number of current requirements and propose other requirements to conform to the Act. In paragraph (a), we retain the current requirement for agencies to establish and maintain a policy council at the agency level and a policy committee at the delegate level, consistent with section 642(c)(2) and (3) of the Act. We also propose to retain the following current requirements: parents of children currently enrolled in all program options must be proportionately represented on policy groups; delegates must establish a policy committee; and the policy council and policy committee can be the same entity when the agency delegates operational responsibility for the entire program to one delegate.

However, we no longer require agencies to have parent committees as required in current § 1304.5(a)(1)(iii) and (a)(2). Thus far, we have required agencies to establish parent committees at the program option level with the purpose of providing a formal venue for meaningful parent engagement and for input in decisions affecting the program. The broader goal of active and meaningful parent engagement in

<sup>10</sup> See *Federal Register*, 40 FR 27562, June 30, 1975.

program operations is critical and remains our expectation throughout this NPRM, but we are no longer prescribing parent committees, specifically, as a means to achieve that goal. We do not think there is strong rationale for a federal requirement prescribing how active and meaningful engagement occurs and that every program option must achieve that involvement through a formal structure like parent committees. Additionally, we propose to remove this requirement because the parent committee structure may not work in all models, such as the Early Head Start-Child Care Partnerships, when there may be a few Early Head Start slots in a particular setting. Additionally, there would still be representation of parents on policy councils. Therefore the current requirements at § 1304.50(a)(1)(iii), as well as other provisions related to parent committees at § 1304.50(d)(2)(i) through (iii) and § 1304.50(e)(1) through (3), are not included in this NPRM. This proposed change does not preclude grantees from establishing or maintaining parent committees, however it is no longer a requirement. This in no way diminishes the role for parents given the extensive requirements proposed in part 1302, subpart E *Family & Community Partnership Program Services* and the fact that section 642(c)(2)(D) of the Act is clear that policy councils are responsible for activities that support parents' involvement in program operations, including policies to ensure the Head Start agency is responsive to community and parent needs.

In paragraph (b), we refer grantees to the composition requirements at section 642(c)(2)(B) of the Act. We propose to remove current § 1304.50(b)(6), which excludes staff from serving on policy councils or policy committees, with some exceptions, because it is superseded by the Act.

In place of the current list of policy council or policy committee responsibilities at § 1304.50(d), we propose in paragraph (c) to refer grantees to the responsibilities outlined in section 642(c)(2)(D) and section 642(c)(3) of the Act. To conform to the Act, we are not requiring policy councils to take responsibility for everything listed in § 1304.50(d). We are removing those responsibilities that are not in the Act, including for example the requirement at § 1304.50(d)(1)(ii) for policy groups to establish procedures to implement shared decision-making and the requirement at § 1304.50(d)(1)(vi) that the policy council take responsibility for its composition and the procedures for choosing members.

Also, for the purpose of conforming to the Act, we add responsibilities for the policy council, or policy committee, such as budget planning and developing bylaws, that are not currently required in § 1304.50(d). In addition to the responsibilities noted in the Act, our proposed rule requires policy councils or policy committees to use ongoing monitoring results, school readiness goals, and information specified in section 642(d)(2) to conduct their responsibilities.

Paragraph (d) pertains to the term of the policy groups. It retains existing requirements in current § 1304.50(b)(4) and (5), and § 1304.50(a)(3) that members serve for one year and must be reelected and that policy groups cannot dissolve until a successor council is seated. The one change we propose is to allow discretion to establish in their bylaws that members may serve a maximum of five one-year terms, up from the current maximum of three one-year terms.

Paragraph (e) of our proposed § 1301.4 retains the existing requirement in § 1304.50(f) related to reimbursement of policy group members for reasonable expenses incurred.

#### *Section 1301.5 Impasse Procedures*

This section begins with the current requirement at § 1304.50(h) for an agency's governing body and policy council to work together to establish written procedures to resolve internal disputes that include impasse procedures. In response to the requirement at section 642(d)(1) of the Act, we build on the current requirement at § 1304.50(h) and specify what must be included in the impasse procedures. We propose to require programs to establish and follow impasse procedures that (1) demonstrate the governing body considers recommendations from the policy council; (2) require the governing body to inform the policy council in writing why it does not accept a recommendation, (3) describe a process and timeline to resolve issues and reach decisions that are not arbitrary, capricious, or illegal; and (4) require the governing body to notify the policy council in writing of its decision. This final step is consistent with the role of the governing body as legally and fiscally responsible for the program.

We believe our efforts to align program governance requirements with the Act will eliminate confusion that results from contradictions between the Act and current regulation, provide clarification on our expectations for advisory committees, and retain the fundamental goals of accountable and

high quality oversight and meaningful parental engagement in program operations.

#### **Program Operations; Part 1302**

This part, Program Operations, outlines all of the operational requirements for serving children and families in Early Head Start and Head Start. This includes eligibility, selection, and enrollment requirements. It also includes the comprehensive services requirements, including education, health, nutrition, mental health, and family and community engagement services, as well as additional services to children with disabilities, transition services, and services to enrolled pregnant women. Finally, it includes requirements for human resources and program management. This reflects a reorganized structure that places all program operations into one part so that programs may easily find and understand the services they must deliver. We believe this more logical organization will greatly improve clarity and transparency and will support more effective implementation of high quality comprehensive services.

#### **Eligibility, Recruitment, Selection, Enrollment and Attendance; Subpart A (Currently Parts 1304, 1305, and 1306)**

We do not propose to substantially change this subpart from current regulation. Although we propose to redesignate it into part 1302 as part of a full restructuring of the existing rule in this NPRM, many provisions of the regulation proposed in this subpart are no different from the current rule. Overall, we propose to simplify, restructure, and clarify the language in this subpart so that it is easier for grantees to understand their obligations. We also propose revisions, and in some cases we propose to add new provisions, in order to comply with the 2007 amendments to section 645 of the Act.

The revisions we propose to this subpart reflect requirements in the Act related to utilizing the community assessment to identify the children who are most in need of services and appropriately prioritizing special populations such as children experiencing homelessness, children in foster care, and children with disabilities. In addition, the proposed revisions to this subpart highlight the importance of regular attendance and continuity of enrollment for all children served in Head Start.

Further, the Act requires us to promulgate regulations to remove barriers to serve homeless children. As a result, in this section, we propose to

add several provisions that will increase opportunities for children experiencing homelessness to participate in Head Start. In addition we propose new provisions to clarify requirements for programs to continue to serve children who have persistent behavioral issues. We also propose revisions throughout this subpart to better support the ability of programs to serve children from diverse economic backgrounds, given research that suggests children's early learning is positively influenced by interactions with diverse peers.<sup>11 12</sup> We also require programs to prioritize serving younger children in communities where there is publicly funded high quality pre-kindergarten for four year olds. Consistent with other subparts in this NPRM, we propose to redesignate definitions related to this subpart to part 1305.

#### Section 1302.10 In General

In this section, we propose to provide a general overview of the content in this subpart.

#### Section 1302.11 Determining Community Strengths and Needs

In this section, we propose to simplify and clarify the process for determining community strengths and needs. We also propose to revise and redesignate language in existing rule § 1305.3 to clarify expectations for grantees and prospective grantees. For example, the proposed reorganization of this section is broken into two parts. Section 1302.11(a) describes how prospective grantees must define *service area*, which is the first logical step for prospective grantees. The current requirement at § 1305.3(b) that the service area must be approved is retained while removing the requirement that the services area does not overlap with other grantees in order to give flexibility to local programs. The next provisions under § 1302.11(b) require grantees to assess the service area to determine the needs of the community. In order to be consistent with the 5-year grant period required by the Act, we propose to extend the current requirement for grantees to conduct community assessments from every three years to every five years. In paragraph, (b)(2) we further require that program review and update the assessment annually to reflect any significant changes including increased

availability of publicly-funded full-day pre-kindergarten, rates of family and child homelessness, and significant shifts in community demographics. This proposal will relieve undue burden on programs and increase efficiency of program operations and administration. Programs are still required to review their community assessment annually and update the assessment as changes occur in the community. We propose to retain this annual evaluation to ensure that programs continue to meet the needs of their community if anything changes.

We also propose to add several elements to the community assessment that grantees are currently required to perform to ensure that grantees collect all relevant information needed to design their program and services to best meet community needs. These new elements include the number of children experiencing homelessness and the number of children in foster care to enable grantees to prioritize the most at-risk children in their communities. We believe this reflects a stronger emphasis on serving these vulnerable populations in the Act. In addition, we propose to expand information collected as part of the community assessment about the availability of early childhood programs in the community, so grantees are aware of other options available to eligible children. This data collection will also help programs understand trends in early childhood programming in their communities, including the increasing availability of state and other publicly funded preschool programs<sup>13</sup> and recent fluctuations in such funding<sup>14</sup> so that programs are better able to target their Head Start and Early Head Start services appropriately. In addition, we propose to require programs to determine whether the characteristics of their communities would allow them to operate classrooms that include children from diverse economic backgrounds. Research suggests children's early learning is positively influenced by interactions with economically diverse peers.<sup>15 16</sup>

Moreover, in this section and in § 1302.12, we propose language to

clarify that we do not limit tribal Head Start programs to reservation areas.

Finally, we propose to remove the current requirements in § 1305.3(d) that prescribe particular processes for which programs must use the community needs assessment and replace them with a general requirement that programs use the assessment to design a program that meets community needs.

#### Section 1302.12 Determining, Verifying, and Documenting Eligibility

We propose to redesignate this section from § 1305.4 in the current regulation to § 1302.12 in this NPRM. Using the newly finalized § 1305.4 as a base, we propose to reorganize provisions to better mirror the style of this NPRM. As part of this reorganization we have made small changes to reduce confusion in the field resulting from the newly finalized provisions in 1305.4. Specifically, we propose to remove the separate paragraph (f) that describes categorical eligibility and incorporate this language into paragraph (c) so that all eligibility requirements are described under a single paragraph. We also propose to require verification of public assistance eligibility be based on documentation from a state or local public assistance office. This change is made in response to questions and confusion following the final rule on eligibility.

Additionally, for clarity and to better reflect best practices in the field, we propose to add a few provisions. Specifically, in paragraph (a), we propose a new provision that allows programs to use an alternate effective method to determine eligibility. In paragraph (e), we propose to include existing statutory authority for tribal programs that operate Head Start and Early Head Start to reallocate funds between the two programs. We also propose to include existing statutory authority under a new paragraph (g) that allows programs in communities with 1,000 or fewer individuals to establish their own eligibility criteria as long as they satisfy the criteria outlined in section 645(a)(2) of the Act.

We further propose to streamline provisions regarding multi-year eligibility and requirements to re-verify between Early Head Start and Head Start and for the unusual circumstance of a third year in Head Start to remove redundancy. We have also clarified that Early Head Start age eligibility ends at three unless the requirements at § 1302.70(b)(2) of the proposed rule apply.

Finally, we propose to remove "pregnant women" from age eligibility requirements and the separate definition

<sup>11</sup> Mashburn, A. J., Justice, L. M., Downer, J. T., & Pianta, R. C. (2009). Peer effects on children's language achievement during pre-kindergarten. *Child Development, 80*(3), 686–702.

<sup>12</sup> Henry, G. T., & Rickman, D. K. (2007). Do peers influence children's skill development in preschool? *Economics of Education Review, 26*(1), 100–112.

<sup>13</sup> Barnett, W.S., Carolan, M.E., Squires, J.H., Clarke Brown, K. (2013). *The state of preschool 2013: State preschool yearbook*. New Brunswick, NJ: National Institute for Early Education Research.

<sup>14</sup> *Ibid.*

<sup>15</sup> Mashburn, A. J., Justice, L. M., Downer, J. T., & Pianta, R. C. (2009). Peer effects on children's language achievement during pre-kindergarten. *Child Development, 80*(3), 686–702.

<sup>16</sup> Henry, G. T., & Rickman, D. K. (2007). Do peers influence children's skill development in preschool? *Economics of Education Review, 26*(1), 100–112.

of family as it relates to “pregnant women”, as both of these provisions have caused unnecessary confusion and the eligibility rule did not change the requirements.

While the changes in this section do not reflect substantive changes from the final rule published in February of 2015, we explicitly solicit comment on any provisions within this section that have resulted in unnecessary complications in the eligibility process.

#### *Section 1302.13 Recruitment of Children*

We propose to restructure current provisions and to streamline language for clarity while maintaining requirements in the existing rule. In this proposed section, the goal of the recruitment process is to reach all of those in need of services by actively informing families with eligible children of the availability of program services and encouraging them to apply for admission to the program. If necessary, a program must assist the family in completing the application. We also include a provision in this section, redesignated from § 1308.5(a), that programs must make an effort to actively recruit children with disabilities.

#### *Section 1302.14 Selection Process*

We propose to restructure this section so that programs understand that they must develop a selection process by which they use specific criteria to weigh selection of participants who have been deemed eligible. Paragraph (a)(1) of this proposed section lists the criteria by which a program must prioritize selection of participants. The revisions we propose simplify this information by enumerating criteria in a list format, explicitly link these criteria to a program’s annual update of their community needs assessment, and add children experiencing homelessness and children in foster care to the priority list. We also propose to require programs to prioritize younger children in their selection process if publicly funded high quality pre-kindergarten spaces are available for four year olds for a full school day in the Head Start program’s service area.

We also propose to include provisions, which conform to the requirement in section 640(d) of the Act, that at least 10 percent of a program’s total enrollment are children eligible for services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*), unless the responsible HHS official grants a waiver. The existing rule at § 1305.6(c) requires that 10 percent of enrollment

opportunities consist of children with disabilities, and the revision conforms to changes in the Act. This requirement must, by definition, inform each grantee’s selection process. In paragraph (c), we include existing provisions that delineate the requirements for developing and maintaining a waiting list of eligible participants.

#### *Section 1302.15 Enrollment*

We propose to redesignate provisions currently enumerated in § 1305.7 of the existing rule to this section and revise its title to remove the term re-enrollment, which is a concept we no longer use in this NPRM. The redesignated and revised provisions we propose to include in this section clarify program requirements with regard to maintaining its funded enrollment and ensuring continuity of enrollment, to the extent possible. Specifically, we propose to continue to require programs apply the eligibility of children enrolling in Early Head Start to the duration of participation in Early Head Start, with renewed income verification when the children transition to Head Start. These provisions are consistent with proposed § 1302.12, in which we maintain the provision from § 1305.7(c) that children in Head Start are automatically eligible for a second year. Further, in § 1302.15(c) we propose to clarify and simplify the provision in § 1305.7(a) of the existing rule, which allows for a third year of Head Start eligibility under exceptional circumstances as long as programs verify family income between the second and third year.

In order to support enrollment of homeless children, we add a provision that programs may reserve slots for children experiencing homelessness. Since homeless children do not have a stable residence, they may move and enter a program after the beginning of the program year. This is an important provision for removing barriers to serving homeless children as required in section 640(m) of the Act. Given the large waiting lists maintained by programs and to ensure that a large number of slots are not vacant, no more than three percent of a programs funded enrollment may be reserved for this purpose. If a reserved slot is not filled within 30 days it becomes a vacant slot and must be filled within 30 days. We also propose to include children in foster care in this provision, given their family instability and the importance of early intervention, like that provided by Head Start, on their school readiness

and long-term outcomes.<sup>17</sup> Finally, we propose to add a provision in § 1302.15(d) to allow programs to enroll children who are funded through non-Head Start sources including private pay. Research shows children’s early learning is positively influenced by interactions with economically diverse peers.<sup>18 19</sup> Finally, in paragraph (e) we propose to add a provision to clarify current policy which requires programs to follow their state immunization enrollment and attendance requirements. This proposed provision is not a new requirement, rather it clarifies that programs are already subject to such state requirements.

#### *Section 1302.16 Attendance*

We propose to promote regular attendance since research demonstrates that consistent attendance is predictive of school success. While more research has been conducted on K–12 school attendance, studies indicate that regular preschool attendance is also essential for success in preschool and beyond. For example, one study conducted in the Chicago Public Schools shows that preschool attendance is important for several reasons: (1) It sets up patterns for long-term school attendance; (2) children who regularly attend preschool perform better on kindergarten entry assessments tests; and (3) regular attendance enhances social-emotional development.<sup>20</sup> Another study in Tulsa found that preschoolers who attended regularly showed more growth in literacy skills than their peers who were frequently absent.<sup>21</sup> In Baltimore, researchers found that 25 percent of children who were chronically absent in pre-kindergarten and kindergarten were retained in later grades, compared to nine percent of their peers who regularly attended in these early years.<sup>22</sup>

<sup>17</sup> Rankin, V. E., & Gonsoulin, S. (2014). *Early learning is essential: Addressing the needs of young children potentially at risk for system involvement*. Washington, DC: National Evaluation and Technical Assistance Center for Children and Youth Who Are Neglected, Delinquent, or At Risk (NDTAC).

<sup>18</sup> Mashburn, A. J., Justice, L. M., Downer, J. T., & Pianta, R. C. (2009). Peer effects on children’s language achievement during pre-kindergarten. *Child Development*, 80(3), 686–702.

<sup>19</sup> Henry, G. T., & Rickman, D. K. (2007). Do peers influence children’s skill development in preschool? *Economics of Education Review*, 26(1), 100–112.

<sup>20</sup> Ehrlich, S. B., Gwynne, J. A., Pareja, A. S., & Allensworth, E. M. (2013). *Preschool Attendance in Chicago Public Schools. Research Summary*. University of Chicago Consortium on Chicago School Research.

<sup>21</sup> Community Action Project Tulsa County. (2012). *Attendance Works Peer Learning Network Webinar*.

<sup>22</sup> Connolly, F., & Olson, L. S. (2012). *Early Elementary Performance and Attendance in*



Consistent with the research mentioned above, the central addition to this section is the requirement that attendance be tracked for each child. We also propose to require programs take actions including attempting to conduct additional home visits and provision of support services, as necessary, to increase child attendance when children have four or more consecutive unexcused absences or are frequently absent. We would like to invite public comment specifically on this proposed change and whether experts and practitioners would recommend setting a different threshold than four days. To ensure that a child is safe when they do not come to school, we propose a new requirement that programs contact a parent if the child has not come to school and the parent has not called within one hour of program start time. Automated systems, such as those used in public school systems to call and/or text parents of absent children would be considered appropriate contact. In this section, we also strengthen the current standards related to systemic attendance issues indicated by an average monthly attendance falling below 85 percent by requiring programs to analyze the causes of absenteeism and use this data to inform their efforts related to ongoing oversight and correction, as well as continuous program improvement. We also propose a new provision and redesignate a provision to clearly delineate requirements to support the attendance of homeless children. Specifically, we redesignate § 1305.4(f)(2) of the final eligibility rule to § 1302.16(c)(1) as this requirement logically fits under supporting attendance for homeless children rather than categorical eligibility. We also add a provision to encourage programs to work with community partners and families of children experiencing homelessness to meet their needs, including through the provision of transportation services. However, such transportation services are not explicitly required.

### Section 1302.17 Suspension and Expulsion

In this section, we propose limitations on the use of suspension and propose to prohibit programs from expelling children because of a child's behavior. Recent data indicate that expulsions and suspensions occur at high rates in preschool settings.<sup>23 24 25</sup> This is

particularly troubling given that research suggests that school expulsion and suspension practices are associated with negative educational and life outcomes.<sup>26 27</sup> Head Start has a long-standing and continuing practice of preventing the expulsion or suspension of children, and facilitating transitions to more appropriate placements in circumstances where the child exhibits serious behavioral issues. Several of the standards in the existing regulation support this. However we want to ensure through explicit requirements that all programs are aware of these limitations and prohibitions and consistently implement them using best practice.

In paragraph (a), we propose to clearly state that programs must either prohibit or severely limit the use of suspension and include requirements for programs to engage a mental health consultant, collaborate with parents, and utilize appropriate community resources should a temporary suspension be deemed necessary because a child's behavior represents a serious safety threat for themselves or other children. The determination of safety threats should be based only on actual risks and objective evidence, and not on stereotypes or generalizations.

In paragraph (b)(1) we explicitly prohibit unenrollment or expulsion based on a child's behavior to clarify that unenrolling a child because of their behavior is prohibited even if a program might not think it qualifies as expulsion. In paragraph (b)(2), we also specifically propose a new requirement that programs must take exhaustive steps to ensure that a child who exhibits persistent and serious challenging behaviors can participate safely in the program. Though we do not have evidence of significant expulsion issues in Head Start, we believe this sets forth an important policy for best practice and is added to address increasing numbers of children being expelled from child care and preschool settings due to challenging behaviors. One study

systems. New York, NY: Foundation for Child Development.

<sup>24</sup> Gilliam, W.S., & Shahrar, G. (2006). Preschool and child care expulsion and suspension: Rates and predictors in one state. *Infants and Young Children*, 19, 228–245.

<sup>25</sup> Lamont, J. H., Devore, C. D., Allison, M., Ancona, R., Barnett, S. E., Gunther, R., & Young, T. (2013). Out-of-school suspension and expulsion. *Pediatrics*, 131(3), e1000–e1007.

<sup>26</sup> Petras, H., Masyn, K. E., Buckley, J. A., Ialongo, N. S., & Kellam, S. (2011). Who is most at risk for school removal? A multilevel discrete-time survival analysis of individual- and context-level influences. *Journal of Educational Psychology*, 103, 223.

<sup>27</sup> American Psychological Association, Zero Tolerance Task Force Report (2008). An evidentiary review and recommendations.

of randomly sampled preschool teachers in Massachusetts indicated that the preschool expulsion rate was more than 34 times the K–12 expulsion rate in the state and more than 13 times the national K–12 expulsion rate.<sup>28</sup> Data also indicate that specific groups of children are being disproportionately expelled and suspended from their early learning settings; a trend that has remained virtually unchanged over the past decade.<sup>29</sup> Recent data out of the Department of Education indicate that African-American boys make up 18% of preschool enrollment, but 48% of preschoolers suspended more than once.<sup>30</sup> Other research indicates that while Hispanic and African-American boys combined represent 46% of all boys in preschool, these children represent 66% preschool boys suspended. Analyses of boys, compared to girls, indicate that they make up 79% of preschoolers suspended once, and 82% of preschoolers suspended multiple times.<sup>31</sup>

This section sets out procedures that a program must follow to address persistent behavior problems. Research has indicated that mental health consultation can reduce the risk of expulsion for children exhibiting challenging behaviors.<sup>32</sup> The process for addressing such behaviors must be guided by the program's mental health consultant and include consultation with parents and the child's physician at a minimum. The agency responsible for IDEA must be involved if a child has an Individualized Education Program (IEP) or Individual Family Service Plan (IFSP) and must be involved to determine the child's need for services if they do not have an IEP or IFSP. If it is determined that a child's continued participation in Head Start poses a continued serious safety threat to themselves or other children, the program must work with the family and other individuals described above to assist the family in finding an

<sup>28</sup> Gilliam, W. S., & Shahrar, G. (2006). Preschool and Child Care Expulsion and Suspension: Rates and Predictors in One State. *Infants and Young Children*, 19(3), 228–245.

<sup>29</sup> Gilliam, W. S. (2005). Prekindergarteners left behind: Expulsion rates in state prekindergarten systems. New York, NY: Foundation for Child Development.

<sup>30</sup> U.S. Department of Education Office for Civil Rights (2014). Data Snapshot: Early Childhood Education.

<sup>31</sup> Raffaele Mendez, L. (2003). Predictors of suspension and negative school outcomes: A longitudinal investigation. *New Directions for Youth Development*, 99, 17–33.

<sup>32</sup> Perry, D. F., Dunne, M. C., McFadden, L., & Campbell, D. (2008). Reducing the risk for preschool expulsion: Mental health consultation for young children with challenging behaviors. *Journal of Child and Family Studies*, 17(1), 44–54.

Baltimore City Schools' Pre-Kindergarten and Kindergarten. *Baltimore Education Research Consortium*.

<sup>23</sup> Gilliam, W. S. (2005). Prekindergarteners left behind: Expulsion rates in state prekindergarten

appropriate placement and directly transition the child to that placement.

We also redesignate several provisions that appear throughout the existing rule. For instance, in proposed § 1302.17(c), we streamline the requirement that children cannot be excluded from participation because their parent(s) do not participate in parent activities, including parental consent for data sharing, and spells out that participation is voluntary. These requirements in (c) are redesignated from §§ 1304.40(d)(2), 1304.40(i)(1) and 1306.32(b)(8).

#### *Section 1302.18 Fees*

We propose to redesignate this section from §§ 1305.9 and 1306.32 and revise for purposes of clarification. We maintain the overarching policy that programs are prohibited from charging parents of eligible children a fee for their child's participation in a Head Start program. In other words, parents of children who are part of the Head Start program's funded enrollment must not, under any circumstances, be charged a fee for their child to participate in the Head Start funded day.

We propose in paragraph (b) to offer clarification on two allowable fees. First, we allow programs to accept a fee, including co-payments required by an alternate funding source such as the Child Care and Development Block Grant, from eligible families when programs extend services outside of program hours. For example, if a program is funded to serve children for eight hours a day but opts to extend the program day to ten hours, the program can charge a fee from all enrolled children for those additional two hours that are not supported with Head Start funds.

Second, we clarify that programs can charge a fee or a co-payment from families who are not part of the Head Start funded enrollment if they are serving children from diverse economic backgrounds or using multiple funding sources, including private pay. We encourage programs to be innovative in leveraging multiple funding sources in order to serve more children and serve children from diverse economic backgrounds because we believe it will better serve the community and improve impacts on child outcomes.

#### **Program Structure; Subpart B (Currently §§ 1306.20, 1306.30, 1306.37, and 1304.52)**

All Head Start and Early Head Start programs are given the option to deliver comprehensive services through different program models that are meant to meet the needs of the children,

families, and the community these programs serve. In this subpart, we propose to revise and redesignate most of the current provisions from "Head Start Program Options" in current §§ 1306.30 through 1306.37, and we consolidate, revise, and redesignate program options and structural requirements for Early Head Start and family child care into this subpart that are in current § 1306.20(g) and (h) and § 1304.52 (g)(4). We propose to revise the different types of program models Head Start and Early Head Start grantees may operate, and propose the basic structural requirements, such as minimum hours of operation and teacher-child ratios, that programs must meet for each of these program models.

In this section, we propose three standard program options: center-based, family child care, and home-based, and a locally-designed variation of those options. We also propose the setting, ratio, class size, service duration, and hour per day requirements for these program options. We propose to remove combination options and double session options as standard options as well as home-based options for preschoolers. But, we propose to allow programs to apply for a locally-designed variation if it best meets the learning needs of the children and the needs of the community.

Furthermore, we propose to consolidate licensing and square footage requirements for center-based, family child care, and home visit group socializations into this subpart. We also make it clear that all programs must meet state, local, or tribal licensing requirements. Our structural reorganization and streamlined language of the program options and structural requirements will make the requirements simpler to read, understand, and implement. This improved clarity and transparency will reduce unnecessary burden and confusion for programs.

In addition to the proposed organizational changes described above, we propose several important policy changes to increase program quality. For example, we propose to increase the minimum hours and days of program operation, consistent with the President's FY2016 Budget, recommendations from the Head Start Advisory Committee, and research on high-quality early learning programs. As discussed at length below, a significant body of research suggests this is a necessary change to foster better child outcomes in Head Start. We also propose increasing accountability for locally-designed program models to better ensure they meet the educational

needs of the children they serve. We believe our proposed revisions to structural characteristics will help improve program impact on children's education and development.

Furthermore, for purposes of clarity and improved ease of implementation, we propose to include only structural requirements for each of the program model options in this subpart. Therefore, we propose to revise and redesignate many of the requirements in the current "Program Options" sections that are not structural characteristics of program options to more appropriate sections within this NPRM. For example, we revise and redesignate § 1306.32(b)(7) in the existing rule, which addresses requirements about staff management, to the proposed part 1302 subpart J—Program Management. We also revise and redesignate part of § 1306.32(b)(8) in the existing rule, which prohibits programs from expelling children for lack of parent participation in home visits, to part 1302 subpart A, which includes the requirements about eligibility, enrollment, and attendance. To improve clarity and reduce redundancy, we also propose to remove § 1306.30(d), which requires programs to "identify, secure and use community resources in the provision of services . . . prior to using Head Start funds for these services." We believe this provision is unnecessary because throughout our proposed NPRM, we are clear that Head Start should leverage community resources and specify when Head Start funds may be used as payer of last resort. Our proposal to remove this provision should not be interpreted to mean that Head Start should be paying for services for which other community program resources are available.

In addition, we propose to remove provisions that allow combination programs (§ 1306.34), double session variations (§ 1306.32(c)), and home-based (§ 1306.33) for Head Start age children as standard program options. We propose revisions to make these variations available to grantees only under certain conditions through the locally-designed program variation option in § 1302.24. The full day variation at § 1306.32(d) is assumed in the center-based option. We believe this will better ensure children in all programs receive sufficient exposure to high quality education services. We also believe these revisions will ensure that programs better meet the needs of families and the communities they serve, while still ensuring local flexibility in the structure of program design.

### Section 1302.20 In General

In this section, we revise and redesignate parts of § 1306.31 in the existing rule to propose the following program model options: Center-based, family child care, home-based (for Early Head Start Programs), or a locally-designed variation of these options. In addition, to ensure programs continue to meet the needs of the children and families in their community, we propose to require programs to regularly reconsider the appropriateness of their program model and structure choices and specifically assess whether it would be appropriate to extend services or convert slots to serve younger children. We propose to remove the current overly prescriptive process at § 1306.31(c), which describes how a program must consider placement. We propose to require programs to consider ways to operate for a full calendar year.

In § 1302.20(b), we propose to revise for improved clarity but retain the requirement that all program options deliver the full range of comprehensive services as required in § 1306.30(a) and § 1306.20(i) in the existing rule. These services include the requirements proposed in subparts C through G of part 1302 (services for education and child development, health program services, family and community partnership program services, additional services for children with disabilities, and transition services). As in the existing rule, this requirement may not be waived for any program and remains central to Head Start's mission.

In § 1302.20(c), we specify the process and requirements for converting Head Start slots to Early Head Start slots. Under Sections 640(f)(2)(B) and 645(a)(5), Head Start grantees may request conversion of funded enrollment slots and a reallocation of funds from Head Start to Early Head Start. In this section, we propose to codify existing program guidance on conversion, including the process grantees must follow to convert Head Start slots to Early Head Start slots, whether through the traditional re-funding application or a separate grant amendment, and what information the conversion request must include. In addition, consistent with Section 645(d)(3) of the Act, we propose special provisions for American Indian and Alaska Native grantees that wish to convert slots.

We are seeking public comment on whether the conversion procedures included in this NPRM provide sufficient clarity to programs on how to accomplish conversions from Head Start slots to Early Head Start slots. We

specifically seek comment on whether existing programs would benefit from additional clarity on Federal requirements or processes to which the Department and programs must adhere in order to convert slots to serve younger children in the course of their five-year grant, during grant renewal, or during re-competition.

### Section 1302.21 Center-Based Option

In this section, we propose revisions to § 1306.32, including removal of current §§ 1306.32(a)(7) through (9) and § 1304.52(g)(4) in the existing rule and redesignate and revise all structural requirements for programs that operate a center-based option, including setting, teacher-child ratios, class size, service duration, licensing, and square footage. We propose to strengthen several structural requirements to improve program quality and child outcomes.

Specifically, in paragraph (b)(2), we propose children in infant and toddler classrooms be assigned a consistent, primary teacher to promote continuity of care. Research suggests continuity of care, in which infants and toddlers have a single primary teacher for an extended period of time, helps support healthy attachments and more supportive relationships, which better facilitate growth across different areas of child development.<sup>33 34 35 36 37</sup> We believe this provision better meets the needs and development of infants and toddlers. Mixed age group classrooms, which can be structured to better support continuity of care for individual children and stronger bonds with primary caregivers, are encouraged.

To improve child outcomes, we propose to increase the minimum service duration for preschoolers in § 1302.20(c) (as is discussed below, programs can apply for modifications to these requirements through a local program option). First, in paragraph (c)(1) we propose to increase the

number of required service days per year for preschoolers from 128 to 180 days. In paragraph (c)(3) we propose to increase the minimum required hours per day from 3.5 to 6 hours. Together, these two proposals will afford a preschool aged child a minimum of 1,080 hours of education per year. Children in a program operating under the current minimums receive 448 hours of Head Start over the course of a calendar year, which is less than half of early learning services that many children receive in state pre-kindergarten and will receive at our proposed minimums. Most programs are operating below these new minimums so our proposal will significantly increase Head Start children's exposure to early learning experiences, which is consistent with the Secretary's Advisory Committee recommendation that Head Start "optimize dosage."

Though research on dosage does not identify a specific effective dosage level for early education, there is strong and mounting evidence that current minimums are too low to produce strong child outcomes. A recent analysis of the ECLS-K data finds that the highest risk kids are almost a full year behind the lowest risk children at kindergarten entry and "to catch up, high-risk children would need to make almost twice as much progress during kindergarten as low-risk children."<sup>38</sup> We do not believe our current operating minimums allow sufficient time for the growth and development in school readiness skills for Head Start children. We would like to invite comment specifically on whether six hours is the most appropriate new minimum.

Research on extended day with young children, full day kindergarten, and effective teaching and curricula practices all strongly point to the inadequacy of a 3.5 hour day in Head Start. For example, a randomized control study in which one group attended pre-kindergarten for 8 hours per day for 45 weeks and another group attended 2.5 to 3 hours per day for 41 weeks found that by the spring of kindergarten, the children who had attended full-day pre-kindergarten had improved almost twice as much on vocabulary and math skills compared to the children who attended half day.<sup>39</sup> Research with toddlers and preschool age children also finds that greater exposure to rich vocabulary enrichment

<sup>33</sup> Copple, C., & Bredekamp, S. (2009). *Developmentally appropriate practice in early childhood programs: Serving children from birth through age 8* (3rd ed.). Washington, DC: National Association for the Education of Young Children.

<sup>34</sup> Honig, A. (2002). *Secure relationships: Nurturing infant/toddler attachment in early care settings*. Washington, DC: National Association for the Education of Young Children.

<sup>35</sup> Post, J., Hohmann, M., & Epstein, A. (2011). *Tender care and early learning: Supporting infants and toddlers in child care settings* (2nd ed.). Ypsilanti, MI: HighScope Press.

<sup>36</sup> Riley, D., San Juan, R.R., Klinkner, J., & Ramminger, A. (2008). *Social & emotional development: Connecting science and practice in early childhood settings*. St. Paul, MN: Red Leaf Press.

<sup>37</sup> Zero to Three. (2008). *Caring for infants and toddlers in groups: Developmentally appropriate practice* (2nd ed.). Arlington, VA: Author.

<sup>38</sup> Bernstein, S., West, J., Newsham, R., & Reid, M. (2014). *Kindergartners' Skills at School Entry: An Analysis of the ECLS-K. Mathematica Report*.

<sup>39</sup> Robin, K.B., Frede, E.C., Barnett, W.S. (2006). *Is More Better? The Effects of Full-Day vs. Half-Day Preschool on Early School Achievement. NIEER Working Paper*.

allows for better scaffolding that can lead to improved language and literacy.<sup>40 41</sup> Numerous studies on kindergarten find children learn more in full-day kindergarten than half-day kindergarten.<sup>42 43 44 45 46 47 48</sup> This is not surprising since more instruction is delivered in full-day classrooms.<sup>49</sup> Experts also find that full-day kindergarten particularly helped narrow the achievement gap for dual language learners,<sup>50</sup> which is encouraging since a large and increasing portion of Head Start children are dual language learners.

Moreover, research on effective teaching and curriculum practices for children at risk of school difficulties also support the need for full-day operation. A meta-analysis of pre-kindergarten programs found that those that focused on intentional teaching and small group and one-to-one interactions had larger impacts on child outcomes.<sup>51</sup>

<sup>40</sup> Harris, Golinkoff, & Hirsh-Pasell (2011). Lessons for the Crib for the Classroom: How Children Really Learn Vocabulary. In *Handbook of Early Literacy Research*, Vol 3. Ed by D. Dickinson and S. Neuman (NY: Guilford), 49–65.

<sup>41</sup> Dickinson, D.K., Flushman, T.R., & Freiberg, J.B. (2009). Learning, reading, and classroom supports: Where we are and where we need to be going. In B. Richards, M.H. Daller, D.D. Malvern, P. Meara, J. Milton, & Trefers-Daller (Eds.). *Vocabulary Studies in First and Second Language Acquisition: The Interface Between Theory and Application*. (pp. 23–38). Hampshire, England: Palgrave-McMillan.

<sup>42</sup> DeCicca, P. (2007). Does full-day kindergarten matter? Evidence from the first two years of schooling. *Economics of Education Review*, 26(1), 67–82.

<sup>43</sup> Cryan, J. R., Sheehan, R., Wiechel, J., & Bandy-Hedden, I. G. (1992). Success outcomes of full-day kindergarten: More positive behavior and increased achievement in the years after. *Early Childhood Research Quarterly*, 7(2), 187–203.

<sup>44</sup> Lee, V. E., Burkam, D. T., Ready, D. D., Honigman, J., & Meisels, S. J. (2006). Full-Day versus Half-Day Kindergarten: In Which Program Do Children Learn More? *American Journal of Education*, 112(2), 163–208.

<sup>45</sup> <http://www.thecommunityguide.org/health/education/he-AJPM-evrec-fdk.pd>.

<sup>46</sup> Schroeder, J. (2007). Full-day kindergarten offsets negative effects of poverty on state tests. *European Early Childhood Education Research Journal*, 15(3), 427–439.

<sup>47</sup> Hahn, R.A., Rammohan, V. et al. (2014). Effects of Full-Day Kindergarten on the Long-Term Health Prospects of Children in Low-Income and Racial/Ethnic-Minority Populations. *American Journal of Preventive Medicine*, 46(3), 312–323.

<sup>48</sup> Walston, J.T., and West, J. (2004). *Full-day and Half-day Kindergarten in the United States: Findings from the Early Childhood Longitudinal Study, Kindergarten Class of 1998–99 (NCES 2004–078)*. U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

<sup>49</sup> *Ibid*

<sup>50</sup> Chang, M. (2012). Academic performance of language-minority students and all-day kindergarten: a longitudinal study. *School Effectiveness and School Improvement: An International Journal of Research, Policy and Practice* 23(1), 21–48.

<sup>51</sup> Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). Meta-analysis of the effects of early

education interventions on cognitive and social development. *Teachers College Record*, 112(3), 579–620.

It is very difficult for a half-day program to provide sufficient time for teachers to conduct learning activities and intentional instruction in small group and one-on-one interactions in the areas of skill development experts believe are important to later school success. Researchers believe meaningful skill development in language, literacy, and math requires intentional, frequent, and specific methods of instruction and teacher-child interactions, and for many children in Head Start, need to be conducted in small groups to allow sufficient individualized scaffolding and skill development.<sup>52</sup> Targeted instruction and small group activities are teaching practices that are particularly important for supporting the learning of children who are behind.<sup>53 54 55</sup> For example, language and literacy experts believe teachers must take an active role in supporting language and literacy development for children at risk of reading difficulties. That requires systematic and explicit instruction to foster vocabulary breadth and depth. They recommend in addition to integration into group learning and free play, language and literacy instruction should be explicitly structured and sequenced in 15 to 20 minutes small group sessions at least three times per week.<sup>56</sup> Math experts recommend similar time frames to support development of broad and deep mathematical thinking and knowledge.<sup>57 58</sup> This is not to say that all

education interventions on cognitive and social development. *Teachers College Record*, 112(3), 579–620.

<sup>52</sup> Justice, L.M., McGinty, A., Cabell, S.Q., Kilday, C.R., Knighton, K., & Huffman, G. (2010). Language and literacy curriculum supplement for preschoolers who are academically at risk: A feasibility study. *Language, Speech, and Hearing Services in Schools*, 41, 161–178.

<sup>53</sup> Buysee, V., Peisner-Feinberg, E.S., Saikakou, E., & LaForett, D.R. (2014). Recognition & response: A model of response to Intervention to promote academic learning in early education. Chapter 5 in *Handbook of Response to Intervention in Early Childhood*, Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

<sup>54</sup> Justice, L.M., McGinty, A., Cabell, S.Q., Kilday, C.R., Knighton, K., & Huffman, G. (2010). Language and literacy curriculum supplement for preschoolers who are academically at risk: A feasibility study. *Language, Speech, and Hearing Services in Schools*, 41, 161–178.

<sup>55</sup> Ginsburg, H.P., Ertle, B., & Presser, A.L. (2014). Math curriculum and instruction for young children. Chapter 16 in *Handbook of Response to Intervention in Early Childhood*, Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

<sup>56</sup> Curenton, S.M., Justice, L.M., Zucker, T.A., & McGinty, A.S. (2014). Language and literacy curriculum and instruction. Chapter 15 in *Handbook of Response to Intervention in Early Childhood*, Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

<sup>57</sup> Ginsburg, H.P., Ertle, B., & Presser, A.L. (2014). Math curriculum and instruction for young

activity should be in small groups nor imply intentional instruction means rote learning: Large groups, free play, dramatic play, and child-initiated activities are all essential components of high quality early learning programs. Three and a half hour days are not long enough to support these high quality learning experiences.

In addition, research on summer learning loss and attendance demonstrates the importance of extending the minimum days of operation in Head Start. Experts conclude the average student loses one month worth of skills and development over the summer break.<sup>59</sup> The amount of learning loss is even greater for children from low income families who may not have as much access to educational resources and experiences during the summer and who are already behind their more advantaged peers and need extra time to learn skills and strengthen development.<sup>60 61 62 63 64 65</sup> This pattern is also true for the youngest children in elementary school.<sup>66</sup> Experts believe the effects of summer learning loss for children from low-income families is cumulative and that the disparity in summer gains and losses over the first

children. Chapter 16 in *Handbook of Response to Intervention in Early Childhood*, Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

<sup>58</sup> Clements, D.H., & Sarama, J. (2008).

Experimental evaluation of the effects of a research-based preschool mathematics curriculum. *American Educational Research Journal*, 45(2), 443–494.

<sup>59</sup> Sloan McCombs, J. et al. (2011). Making Summer Count. How Summer Programs Can Boost Children's Learning. Santa Monica, Calif.: RAND Corporation.

<sup>60</sup> Alexander, K. L., Entwistle D. R., & Olson L. S. (2007). Summer learning and its implications: Insights from the Beginning School Study. *New Directions for Youth Development*, 114, 11–32.

<sup>61</sup> Sloan McCombs, J. et al. (2011). Making Summer Count. How Summer Programs Can Boost Children's Learning. Santa Monica, Calif.: RAND Corporation.

<sup>62</sup> Allington, R.L. & McGill-Franzen, A. (2003). The Impact of Summer Setback on the Reading Achievement Gap. *The Phi Delta Kappan*, 85(1), 68–75.

<sup>63</sup> Fairchild, R. & Noam, G. (Eds.) (2007).

*Summertime: Confronting Risks, Exploring Solutions*. San Francisco: Jossey-Bass/Wiley.

<sup>64</sup> Downey, D.B., von Hippel, P.T. & Broh, B.A. (2004). Are Schools the Great Equalizer? Cognitive Inequality During the Summer Months and the School Year. *American Sociological Review*, 69(5), 613–635.

<sup>65</sup> Benson, J., & Borman, G.D. (2010). Family, Neighborhood, and School Settings Across Seasons: When Do Socioeconomic Context and Racial Composition Matter for the Reading Achievement Growth of Young Children? *Teacher's College Record*, 112(5), 1338–1390.

<sup>66</sup> Benson, J., & Borman, G.D. (2010). Family, Neighborhood, and School Settings Across Seasons: When Do Socioeconomic Context and Racial Composition Matter for the Reading Achievement Growth of Young Children? *Teacher's College Record*, 112(5), 1338–1390.

four summers of elementary school is greater than the differential between children from high and low income families at school entry and that summer learning loss in elementary school predicts poor academic achievement in high school.<sup>67</sup>

Research on attendance also finds exposure to additional learning time is important for skill development.<sup>68 69 70 71</sup> A recent study of preschool attendance in Chicago found that even when accounting for children's skill level at the beginning of preschool, attendance predicted better academic outcomes at the end of preschool and beyond and that attendance was most beneficial for children starting preschool with the lowest skills.<sup>72</sup>

Furthermore, our dosage proposal is more aligned with state pre-kindergarten programs that have shown strong effects.<sup>73 74</sup> For example, children who attend North Carolina pre-kindergarten, make gains in language, literacy, math, general knowledge, and social skills. At the end of third grade, children from low-income families who had attended state pre-kindergarten scored higher on math assessments than children from low-income families who did not attend, and dual language learners made gains at even faster rates than other children.<sup>75</sup> Children who

attend New Jersey's state pre-kindergarten, show improvements in language arts, literacy, math, and science at 4th and 5th grade as well as significantly lower rates of grade retention and special education placement.<sup>76</sup> Georgia pre-kindergarten finds medium to large effects on children's language, literacy, and math skills at kindergarten entry.<sup>77</sup> And Tulsa pre-kindergarten, which is mainly a full-day program for children from low-income families, also shows strong affects for children in language and math skills.<sup>78</sup>

Evidence demonstrates current operating minimums (3.5 hours/day and 128 days/year) do not provide Head Start children the necessary breadth and depth of high quality learning experiences they need to succeed in school and beyond. The day is too short for children to receive needed targeted instruction, and the majority of Head Start programs operate with a 4 month break between program years, which we believe undermines the progress Head Start children make during the year and lessens the overall impact of the program. Our proposal will allow children to receive more instructional time and learning activities that support development of skills important to school success. Therefore, we believe these proposed increases, combined with proposals to raise the education standards, are central to achieving the impact Head Start programs should have for children's school readiness and success.

It is imperative that these proposals are understood as minimums and not interpreted to mean center-based programs that currently operate above these minimums should decrease their current service delivery duration. Rather, we believe our proposed changes to increase service duration in many programs are essential to increasing the impact of Head Start on child skill growth and later success in school. Our proposed revisions also

allow programs that wish to serve children for a shorter period of time to request to operate a locally-designed variation that meets minimum requirements in § 1302.24, including evidence of adequate child outcomes.

Paragraph (c)(1) of this proposed section also improves clarity about the service duration requirement for Early Head Start programs by proposing to include a long-standing interpretation of statute. From Congress' initial enactment of Early Head Start in 1994, the law has stated that Early Head Start programs must provide "continuous" services. Since its inception, we have consistently interpreted "continuous" to mean "full-day and full-year" in our grant process for Early Head Start. Therefore, we propose to clarify that Early Head Start programs operate no less than 230 days per year and no less than 6 hours per day. We believe these proposals reflect our long-standing administrative interpretation of law, and, while the majority of programs currently either meet these or are very close to meeting these, there are programs for which this will be a substantive change.

We are specifically seeking public comment about the proposed dosage changes for both Head Start and Early Head Start in center-based programs, including transition strategies and timeframes for programs that do not currently meet these new duration requirements as well as the benefits and potential tradeoffs of this approach to deepening children's early learning experiences. We note that the President's FY2016 Budget proposes significant increased funding for Head Start to support the change to full-day and full-year programs. We have requested these funds because we recognize that for programs that now provide fewer total program hours or operate double sessions, there will be a cost impact of deepening the dosage. But, we are also aware that the research points to the importance of increasing program day and year above current minimums to achieve the positive outcomes for children the program is designed to deliver. We are seeking comment on the intersection of this research basis and available resources.

We propose to retain other structural requirements for center-based options. In paragraph (b)(3) the requirements we propose for ratios and class size for all children remain the same as in our current regulation: no more than 8 children and two teachers in any class serving children under 36 months of age; no more than 17 children with at least one teacher and one teaching assistant in any class of majority 3 year

<sup>67</sup> Alexander, K. L., Entwisle D. R., & Olson L. S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review*, 72, 167–180.

<sup>68</sup> Logan, J.A.R., Piasta, S.B., Justice, L.M., Schatschneider, C., Petrill, S. (2011). Children's attendance rates and quality of teacher-child interactions in at-risk preschool classrooms: Contribution to children's expressive language growth. *Child & Youth Care Forum*, 40(6), 457–477.

<sup>69</sup> Hubbs-Tait, L., McDonald Culp, A., Huey E., Culp, R., Starost, H., and Hare, C. (2002). Relation of Head Start attendance to children's cognitive and social outcomes: moderation by family risk. *Early Childhood Research Quarterly*, 17, 539–558.

<sup>70</sup> *Taking Attendance Seriously: How School Absences Undermine Student and School Performance in New York City*. (2011). Report by The Campaign for Fiscal Equity.

<sup>71</sup> Lamdin, D.J. (1996). Evidence of student attendance as an independent variable in education production functions. *Journal of Educational Research*, 89(3), 155–162.

<sup>72</sup> Ehrlich, S.B., Gwynne, J.A. . . . Sorice, E. (2014). *Preschool Attendance in Chicago Public Schools: Relationships with Learning Outcomes and Reasons for Absences*. University of Chicago Consortium on Chicago School Research. Research Report.

<sup>73</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>74</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

<sup>75</sup> Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects*

*of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study*. Chapel Hill: The University of North Carolina, FPG Child Development Institute.

<sup>76</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

<sup>77</sup> Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study*. Chapel Hill: The University of North Carolina, FPG Child Development Institute.

<sup>78</sup> Gormley, G.T., Gayer, T., Phillips, D., & Dawson, B. (2005). The effects of universal pre-k on cognitive development. *Developmental Psychology*, 41(6), 872–884.

olds; and no more than 20 children and at least one teacher and one teaching assistant in any class of majority 4 and 5 year olds. Our current regulation encourages programs to have a third person in the classroom. While we still believe this is best practice and encourage programs to do so, because the current regulation does not require programs to have a third person in the classroom, we do not include it in this NPRM. We do propose to simplify how programs determine the classroom's age categorization and provide additional local flexibility to enable programs to make adjustments to improve service quality as needed during the program year. We propose to retain the exemption for Migrant and Seasonal programs due to the unique services these programs provide.

We propose to remove current § 1306.32(a)(10), which requires programs to determine the predominant age of each child in the classroom at the start of the year because the current requirement regarding the timing of this determination is overly prescriptive.

#### *Section 1302.22 Home-Based Option.*

In this section, we revise and redesignate most provisions in § 1306.33 in the existing rule and propose the structural requirements for programs that operate a home-based (home-visiting) option, including setting, caseload, service duration, and licensing requirements for group socializations. We also propose to strengthen several structural requirements for the home-based option to improve the quality of services. Our proposal retains a number of the current structural requirements for home-based options. In paragraph (a), we propose to retain language that describes the home-based option. However, we propose to limit this as a standard program option to Early Head Start programs. Currently, only 2% of Head Start programs serving preschoolers provide services through a home-based option. As previously discussed, we believe more intensive educational experiences than can be delivered through a home-based option are required to promote strong early learning outcomes in preschoolers in Head Start. Thus, we believe it is a more appropriate use of taxpayer dollars to eliminate this as a standard option for preschoolers. Programs serving preschoolers who believe a home-based option best meets the needs of their communities may apply for a locally-designed variation as described in 1302.24. In paragraph (b), we propose to retain the maximum caseload and the minimum length of home visit requirements.

Our proposed revisions in paragraph (c)(1) clarify there must be a minimum of 46 visits per year, which codifies long-standing administrative interpretation of the Act. The minimum number of group socializations is also clarified to require a minimum of 22 group socializations in paragraph (c)(2). This codifies existing service duration requirements for infants and toddlers. We believe these important changes will increase the amount of early learning experiences provided by the home-based option and will facilitate improved learning and child outcomes.

In addition, in paragraphs (c)(3) and (c)(4) we propose to maintain provisions that require programs to make up planned home visits and group socializations when cancelled by the program as necessary to meet required minimums, and our proposal maintains provisions that prohibit grantees from replacing home visits or group socializations for medical or social service appointments. Proposed paragraph (d) retains the licensing requirements from current regulation.

To improve clarity and implementation of program requirements for home-based options, we reorganize current provisions from § 1306.33 that do not specifically relate to structural elements of setting, caseload, and service duration for home-based options. For example, we revise and redesignate parts of §§ 1306.33(b) and 1306.33(b)(1) in the current rule to § 1302.91(f) in the Human Resources subpart, and §§ 1302.35(a) and 1302.35(b) in the Education and Child Development subpart, respectively. These provisions describe who conducts the home visit, the design of the home visit, and the purpose of the home visit experiences, and we believe the redesignation supports greater clarity and transparency.

#### *Section 1302.23 Family Child Care Option.*

To streamline and simplify the regulations and make them easier to implement, in this section, we propose to revise and redesignate § 1306.20(g) and (h) and some of the provisions in § 1306.35(a) and (d) in the current rule to consolidate all structural requirements for family child care providers into the same subpart as other program models. In this section, we propose the structural requirements for setting, ratios and group size, service duration, licensing, and child development specialists for family child care providers.

We propose several structural changes to improve the quality of services in family child care options. In paragraph

(d), we propose that family child care providers must be licensed by the state. This increases the accountability and safety for such programs. In addition, in paragraph (a)(1), we propose a new provision to require programs be the employer of the family child care provider or have a legally binding agreement. This reflects one of the recommendations<sup>79</sup> from the Early Head Start for Family Child Care project, and we believe it better reflects best practice. In paragraph (b), we propose to retain ratio and class size requirements from our current regulation.

In paragraph (c), to create consistency across program models, we propose all family child care programs provide planned class operations a minimum of six hours per day of Head Start services for at least 230 days per year for infants and toddlers in Early Head Start and a minimum of six hours per day for at least 180 days for preschool age children in the Head Start program. Most family child care providers operate full year and full day. We believe this is one of the many benefits of offering the family child care option in Early Head Start and Head Start so programs should not interpret these new proposed minimums to indicate we believe family child care providers providing higher service duration should decrease their current duration of operations. Therefore, we also propose to retain the current rule in § 1306.35(a)(1) that requires family child care options to operate sufficient hours to meet the child care needs of families.

As with the proposed dosage changes for center-based programs, we are also specifically seeking public comment about the proposed dosage changes for family child care programs, including transition strategies and timeframes for programs that do not currently meet these new duration requirements as well as the benefits and potential tradeoffs of this approach to deepening children's early learning experiences.

We retain many family child care requirements in the current rule with slight revisions to improve clarity. To ensure programs meet the strongest requirements, we also propose in paragraph (d) to retain the requirement that family child care providers meet state and local, or tribal, licensing requirements and that when such requirements vary from Head Start requirements, the most stringent provisions apply. Finally, we propose in

<sup>79</sup> Del Grosso, P., Akers, L., & Heinkel, L. (2011). *Building Partnerships Between Early Head Start Grantees and Family Child Care Providers: Lessons from the Early Head Start for Family Child Care Project*. Final Report.

paragraph (e), to redesignate and revise the requirement in current § 1306.20(h) that a family child care option provide a child development specialist to support providers and ensure quality services. Consistent with center-based and home-based options, we propose to amend and redesignate requirements for family child care options unrelated to structural requirements to more appropriate sections in this NPRM. For example, we propose to revise and redesignate current provisions in § 1306.35(a)(3) on having appropriate indoor and outdoor space needed to foster cognitive, social, emotional, and physical development to part 1302, subpart C—Education and Child Development Program Services. In addition, we propose to revise and redesignate current § 1306.35(b) and (c), which address safety, to § 1302.47 in this NPRM to align all safety requirements across program models.

#### *Section 1302.24 Locally-Designed Program Option Variations.*

In this section, we propose to remove § 1306.34 and to revise and redesignate §§ 1306.36, 1306.37, and 1306.32(a)(6) in the existing rule, to include new requirements for additional program option variations for locally-designed program models. We propose changes to retain the flexibility center-based, home-based, and family child care programs currently have to implement locally-designed variations for teacher-child ratios, group size, caseload, and service duration, but also propose to increase accountability by requiring programs to demonstrate the locally-designed model appropriately meets the needs of the children and families in their community. Specifically, in paragraph (a), we support local innovation and flexibility by proposing to allow programs the option to request approval from the responsible HHS official to operate a locally-designed program variation that waives one or more of the structural requirements proposed for the center-based, home-based, and family child care options. Under our proposal, no waivers would be permitted for licensing and square footage requirements, ratios for children younger than 2 years old or the specific requirements for the delivery of the full range of comprehensive services as described in subparts C, D, E, F, and G of part 1302 of this NPRM.

Together, the availability of this waiver, as well as the accountability provisions we propose set a high but attainable bar for programs who wish to provide services through a non-standard program option. We anticipate that programs that choose to align their

program schedules to that of their school districts, for example, in order to utilize transportation services for the children they serve; programs that serve teen parents and therefore choose to operate center-based services during the school year and home-based services during the summer; or programs with other innovative approaches to meeting community needs, would be able to demonstrate that children are making progress and would receive this waiver.

Ratios and class size requirements for Early Head Start programs are currently specified in 1304.52(g), separate from the program option requirements for Head Start and Family Child Care (currently in part 1306). This disconnect is the result of part 1306 not being holistically revised since the implementation of Early Head Start in 1996. This disconnect has also led to the current waiver authority for ratios, class size, and other structural program features not applying to Early Head Start. We think the proposed reorganization which brings Early Head Start under the umbrella of this waiver authority, with one important exception, will support implementation of birth to five models, and additional flexibility and innovation among Early Head Start programs. The waiver authority will not apply to ratios for children under 24 months old, which has been made clear in the proposed revision of the regulatory language given the critical importance of low ratios for infants and young toddlers.

Our proposed revisions increase accountability in locally-designed models in several ways. First, we would still allow programs to implement combination or double session program models or home-based models for preschoolers, but only as locally-designed variations approved by the appropriate HHS official. If the responsible HHS official approves a double session, we propose to require those programs to retain current requirements on ratio and length of the day. In paragraph (c)(3) we propose specifications for the required number of home visits and group socializations if the responsible HHS official approves home-based services for preschoolers. Second, to be approved for such a waiver, in paragraph (c)(1) we propose to require a program demonstrate their option effectively supports appropriate child skill development and progress in the goals described in the Head Start Early Learning Outcomes Framework (Birth-5) and either better meets the needs of the community or better supports the continuity of care for individual children than the standard program options and structures

proposed for center-based, home-based, and family child care providers described in this subpart. In § 1302.24(b), we propose to require approval be given every two years to ensure that children and families are receiving effective services, and give the responsible HHS official clear authority to revoke approval for the locally-designed variations if ongoing assessment and monitoring shows that children's educational needs are not being met as described in subpart J.

#### **Education and Child Development Program Services, Subpart C (Currently §§ 1304.20 Through 1304.23, 1304.40, 1304.52, 1306.32, 1306.33, 1306.35, 1308.6, and 1308.21)**

This subpart proposes a significant overhaul of the education and child development requirements for Early Head Start and Head Start, which are primarily located in § 1304.21 of the existing rule but are also found within §§ 1304.20, 1304.23, 1304.40, 1304.52, 1306.32, 1306.33, 1306.35, 1308.6, and 1308.21. Section 1304.21 was last updated in 1998, and many of its provisions precede that revision. Though the existing regulations on education and child development services reflect some key child development principles, the knowledge base on early education has grown considerably after more than 15 years of research on child development, brain development, and program implementation and significant expansion of publicly funded early learning programs. In this subpart, we propose to update, consolidate, and restructure education and child development requirements to reflect best practices in teaching and learning, integrate curriculum and assessment research, support effective use of the Head Start Early Learning Outcomes Framework (Birth-5), and integrate new requirements from the Act. Unlike the current rule that unevenly addresses education services for Early Head Start and Head Start, we propose to apply these provisions to both programs, except where specifically noted. We believe these revisions will provide significantly better information to programs on the elements of high quality early education, strengthen program practices and quality, and improve child outcomes.

There is a large evidence base that demonstrates that early learning opportunities can improve children's cognitive, social, and emotional development so that they enter kindergarten better prepared to succeed in school and



beyond.<sup>80 81 82 83 84 85 86 87 88 89</sup> Providing effective early learning programs is particularly important for supporting the success of children from low-income families. Research finds the well-documented achievement gaps we see in elementary and secondary education begin long before children enter kindergarten.<sup>90 91 92 93</sup> Brain development is at its most rapid during the first five years of life, and neuroscience and other research suggests intervention at this time is particularly important.<sup>94</sup> Head Start and Early Head Start have long led the effort to help prepare disadvantaged children

to succeed in school and in life. For example, one large study of Head Start children found significant gains over the program year in literacy, math, and social and emotional behavior.<sup>95</sup> Another study found Head Start children made additional gains after kindergarten.<sup>96 97</sup>

However, Early Head Start and Head Start can and must do more to provide high quality education and child development services in every program. While, the Head Start Impact Study found modest to moderate positive impacts of Head Start participation across most child outcomes, we believe with improvements in quality, Head Start can have an even greater impact.<sup>98</sup> Research shows considerable variance in Head Start quality.<sup>99</sup> Data from standardized classroom observations also find some elements of teaching practices score very low, on average.<sup>101</sup> For example, Instructional Support scores from Head Start monitoring in 2013 were approximately 3 points lower on a 7 point scale, on average, than either Emotional Support or Classroom Organization scores.<sup>102</sup> This finding is consistent with other types of pre-kindergarten programs but

reflects a clear need for improvement.<sup>103</sup> We intend for the implementation of our proposed revision of the education and child development provisions to improve teaching practices and education service delivery across our programs and help ensure every child in Early Head Start and Head Start receives high quality early learning experiences.

In this subpart, we outline four central elements for delivering high-quality education and child development services: teaching practices and the learning environment; curriculum; screening and assessment; and parent involvement. We propose to raise program quality and child education outcomes by updating the existing education provisions so that each of these four central elements reflects research and best practice in order to better promote skill growth in areas needed for later success in school. Many of these revisions integrate the recommendations offered by our Secretary's Advisory Committee on Head Start Research and Evaluation.<sup>104</sup> The report issued by the Advisory Committee was the culmination of multiple meetings and discussions held with many of the most prominent experts in the field of early education and child development.

In addition, we propose to integrate the Head Start Early Learning Outcomes Framework (Birth-5) into teaching, curriculum, and assessment. Head Start published the first Head Start Child Outcomes Framework in 2000. There have been enormous advances in the development and use of early learning standards since the education requirements were last revised in 1998 and the Framework was first released. Today all States have adopted early learning and development standards for preschool-age children, and many have standards for children beginning at birth. The 2007 Act required the Secretary to update the Framework and incorporate it throughout the program by specifically integrating it into instructional strategies, curriculum, and assessment.<sup>105</sup> In 2010, the Office of Head Start released a revised Framework to reflect a decade of new research and understanding about child learning and development for children ages 3 to 5. An updated version of this

<sup>80</sup> Aikens, N., Kopack Klein, A., Tarullo, L. & West, J. (2013). Getting Ready for Kindergarten: Children's Progress During Head Start. *FACES 2009 Report*. OPRE Report 2013–21a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>81</sup> Barnett, W.S., & Hustedt, J. T. (2005). Head start's lasting benefits. *Infants & Young Children*, 18(1), 16–24.

<sup>82</sup> Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., \* \* \* Zaslow, M. (2013). *Investing in our future: The evidence base on preschool education. Foundation for Child Development*.

<sup>83</sup> Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *The Teachers College Record*, 112, 579–620.

<sup>84</sup> Wong, V.C., Cook, T.D., Barnett, W.S., & Jung, K. (2008). An effectiveness-based evaluation of five state prekindergarten programs. *Journal of Policy Analysis and Management*, 27, 122–154.

<sup>85</sup> Reynolds, A.J. (2000). *Success in early intervention: The Chicago Child-Parent Centers*. Lincoln, Nebraska: University of Nebraska Press.

<sup>86</sup> Schweinhart, L.J., Montie, J., Xiang, Z., Barnett, W.S., Belfield, C.R., & Nores, M. (2005). *Lifetime effects: The HighScope Perry Preschool study through age 40*. Ypsilanti, MI: HighScope Press.

<sup>87</sup> Gormley, W., Gayer, T., Phillips, D.A., & Dawson, B. (2005). The effects of universal Pre-K on cognitive development. *Developmental Psychology*, 41, 872–884.

<sup>88</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>89</sup> Campbell, F.A., Ramey, C.T., Pungello, E., Sparling, J., & Miller-Johnson, S. (2002). Early childhood education: Young adult outcomes from the Abecedarian project. *Applied Developmental Science*, 6, 42–57.

<sup>90</sup> Hart, B., & Risley, T. (1995). *Meaningful differences in the everyday experiences of young American children*. Baltimore: Brookes.

<sup>91</sup> Magnuson, K.A. & Waldfogel, J. (2005). Early childhood care and education: Effects on ethnic and racial gaps in school readiness. *The Future of Children*, 15(1), 169–196.

<sup>92</sup> U.S. Department of Education. (2008). *Preschool: First findings from the third follow-up of the early childhood longitudinal study, birth cohort (ECLS-b)*. (NCES No. 2008–025).

<sup>93</sup> Promoting Effective Early Learning: What Every Policymaker and Educator Should Know. (2007). New York: NY: National Center for Children in Poverty.

<sup>94</sup> Harvard Center on the Developing Child (2007). *The science of early childhood development: Closing the gap between what we know and what we do*. Cambridge, MA: Author.

<sup>95</sup> Aikens, N., Kopack Klein, A., Tarullo, L. & West, J. (2013). Getting Ready for Kindergarten: Children's Progress During Head Start. *FACES 2009 Report*. OPRE Report 2013–21a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>96</sup> Malone, L., Hulsey, L., Aikens, N., West, J., Tarullo, L. (2010). *ACF–OPRE Report: Data Tables for FACES 2006 Head Start Children Go to Kindergarten Report*. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation.

<sup>97</sup> [http://www.acf.hhs.gov/sites/default/files/opre/transition\\_study.pdf](http://www.acf.hhs.gov/sites/default/files/opre/transition_study.pdf)

<sup>98</sup> Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. *US Department of Health and Human Services Office of Planning, Research and Evaluation*.

<sup>99</sup> Moiduddin, E., Aikens, N., Tarullo, L., West, J., Xue, Y. (2012). *Child Outcomes and Classroom Quality in FACES 2009*. OPRE Report 2012–37a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>100</sup> Office of Head Start (2014). *A National Overview of Grantee CLASS(TM) Scores in 2013*. Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>101</sup> Office of Head Start (2013). *A National Overview of Grantee CLASS(TM) Scores in 2012*. Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>102</sup> Office of Head Start (2014). *A National Overview of Grantee CLASS(TM) Scores in 2013*. Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>103</sup> Pianta, R., LaParo, K., & Hamre, B. (2008). *The Classroom Assessment Scoring System Pre-K Manual*. Charlottesville, VA: University of Virginia.

<sup>104</sup> Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

<sup>105</sup> Scott-Little, C., Kagan, S.L., & Frelow, V.S. (2003). *Standards for preschool children's learning and development: who has standards, how were they developed, and how are they used?* Regional Educational Laboratory at SERVE. Greensboro, NC.



Framework is being developed to better reflect an emerging body of research on practice and skill development and to make the Framework inclusive of all ages of children birth to five.

The current revision of the Framework will encompass children from birth to age 5 and focus on the key areas of development and skills important for later success in school. The Advisory Committee noted the most effective early learning models are “focused, intensive, and systematic.”<sup>106</sup> This proposed integration of teaching practices, curriculum, assessment, and the updated Head Start Early Learning Outcomes Framework (Birth-5) will better support the type of program delivery recommended by the Advisory Committee. It will strengthen teachers’ intentional focus on developing key skills and their use of effective teaching practices. This NPRM achieves this increase in focus and intensity without narrowing the breadth of learning experiences children should have as part of a well-rounded education and as required by the Act.

Though we embed core concepts from § 1304.21 in the existing rule throughout this proposed subpart, the need to significantly update the education requirements to capitalize on decades of science and practice leads us to address many of these core concepts in a markedly different way. We believe these revisions are necessary to improve the quality of education services. For example, the current rule includes some specific requirements that programs support children’s social and emotional, cognitive, and physical development in current §§ 1304.21(a)(3), 1304.21(b)(2), 1304.21(a)(4), 1304.21(a)(5), 1304.21(b)(3). Since the previous regulation was drafted, the use of curriculum and early learning standards has changed considerably in early childhood education. Practice and research supports including these types of requirements as part of early learning standards and curriculum. This reflects significant advancement and growth in the field of early childhood education. Therefore, we propose to reflect these advancements, which still retain the centrality of programs supporting social and emotional, cognitive, and physical development throughout the education requirements, but in a more purposeful and appropriate manner. Specifically, we integrate provisions to these developmental areas into the proposed sections on general purpose, teaching and the learning environment,

curriculum, and screening and assessment.

Finally, we propose significant revisions to the home-based education provisions, which are currently spread across multiple sections of the existing rule and provide few specific requirements about high quality learning experiences. Because of the inadequate regulations, delivery of the home-based model has been steered by the guidance, technical assistance, and dissemination of best practices from the Office of Head Start. In 2009, the U.S. Department of Health and Human Services launched the Home Visiting Evidence of Effectiveness review to conduct a thorough and transparent review of the home visiting research literature and provide an assessment of the evidence of effectiveness for home visiting program models that target families with pregnant women and children from birth to age five.<sup>107</sup> This review concluded the Early Head Start home-based model was an effective research-based model.<sup>108</sup> Therefore, we propose to codify these research-based practices in a new section that clearly describes the education and development services that home-based models must implement. We believe this will help ensure that all home-based models have the information they need to provide high quality learning experiences.

#### Section 1302.30 In General

This section proposes an overarching statement of the general purpose and goals for education services in center-based and family child care settings of Early Head Start and Head Start programs. This incorporates the education related purposes stated in the Act as well as our belief about the educational services our programs must deliver. It also includes some of the core philosophies of Head Start enumerated in the existing rule in § 1304.21, such as the need to deliver developmentally, culturally, and linguistically appropriate services, and a clear emphasis on the full inclusion of children with disabilities. This section proposes to set forth the expectation that programs deliver high quality education and child development services that promote children’s cognitive, social, and emotional growth, and the key areas—teaching and the learning environment, curriculum, screening and assessment, and parent involvement—programs must address to ensure each child’s school readiness and long-term outcomes. A unique

general statement of purpose is proposed for home-based education services in § 1302.35 because of the differences in service delivery. Current requirements in this section that were more indicative of early learning standards were removed because they describe what children should know and be able to do rather than what programs and teachers must provide to scaffold their learning.

#### Section 1302.31 Teaching and the Learning Environment

In this section, we propose the key elements of teaching practices and the learning environment that programs must deliver to support children’s skill growth and development. These provisions are central to providing high quality education and learning experiences that will prepare our children to succeed in school. They reflect research on best practices and recommendations offered in the final report issued by our Secretary’s Advisory Committee on Head Start Research and Evaluation.<sup>109</sup> Together with the other requirements in this subpart, this proposal will provide more intentional and focused education experiences that will better promote skill growth and stronger child outcomes without micromanaging local decision-making and creating undue burden.

In paragraph (a), we propose that programs must support effective teaching and a high quality learning environment through regular and ongoing supervision and a system of individualized professional development. Research suggests integration of professional development into guiding effective teaching practices can be central to providing high quality teacher-child interactions.<sup>110 111 112 113 114</sup>

<sup>109</sup> Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

<sup>110</sup> Mashburn, A.J., Pianta, R.C., Hamre, B.K., Downer, J.T., Barbarin, O.A., Bryant, D., . . . & Howes, C. (2008). Measures of classroom quality in prekindergarten and children’s development of academic, language, and social skills. *Child Development*, 79(3), 732–749.

<sup>111</sup> Pianta, R.C., Mashburn, A.J., Downer, J.T., Hamre, B. K., & Justice, L. (2008). Effects of web-mediated professional development resources on teacher-child interactions in pre-kindergarten classrooms. *Early Childhood Research Quarterly*, 23(4), 431–451.

<sup>112</sup> Buysse, V., & Wesley, P.W. (2005). *Consultation in Early Childhood Settings*. Baltimore, MD: Paul H. Brookes Publishing.

<sup>113</sup> Tout, K., Halle, T., Zaslow, M., & Starr, R. (2009). *Evaluation of the Early Childhood Educator Professional Development Program: Final Report*: Report prepared for the U.S. Department of Education.

<sup>114</sup> Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for*

<sup>106</sup> Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

<sup>107</sup> <http://homvee.acf.hhs.gov/default.aspx>

<sup>108</sup> *Ibid*.

In paragraph (b)(1), we focus on the elements of effective teaching practices. The four provisions in this paragraph revise and redesignate parts of §§ 1304.21(a)(1) and (a)(4) and 1302.21(b)(1) and (b)(2) in the existing rule, but update the language to promote more intentional teaching strategies and better instructional practices. These requirements reflect what research and practice demonstrate are central to implementing effective teacher-child relationships and learning experiences that promote children's growth and later school success,<sup>115 116 117 118 119</sup> and retain long-held Head Start philosophies that research continues to support.

First, in paragraph (b)(1)(i), we propose to focus effective teaching practices that promote growth in the skill development areas outlined in the Head Start Early Learning Outcomes Framework (Birth-5), including domains such as language and literacy, mathematics, social and emotional development, and physical development. We propose to require programs to integrate these efforts into their curriculum implementation, schedules, and lesson plans, which is central to a more intentional focus on development of skills important for later school success. Second, in paragraph (b)(1)(ii), we propose to require programs to emphasize nurturing and responsive interactions that foster trust and emotional security and support children's engagement in learning. We also require programs ensure teaching practices and teacher-child interactions are communication- and language- rich and promote language development, critical thinking, and problem-solving. Research is clear that these elements are important for effective high quality early

learning experiences.<sup>120 121 122 123 124 125 126</sup>

In paragraph (b)(1)(iii), we propose that teaching practices must integrate child assessment data in individual and group planning. For example, additional literacy supports should be added to classroom activities if child progress monitoring finds significant delays in emerging literacy skills. Ongoing child assessment is essential to individualizing teaching and making classroom adjustments.<sup>127</sup> Learning experiences will be more targeted and more effective, if valid and reliable assessments that are not too burdensome for teachers, yield usable information, are conducted at appropriate intervals throughout the program year, and are integrated into teaching strategies and lesson plans. Many Head Start programs already effectively use child assessment information to improve classroom practices, but by explicitly requiring these proposed changes we intend for all programs implement this important best practice. This provision aims to support quality improvement.

Finally, in paragraph (b)(1)(iv) we propose that teachers provide learning experiences in language, literacy, social and emotional development, math, science, social studies, creative arts, and physical development that are focused on achieving the goals outlined in the Head Start Early Learning Outcomes

Framework (Birth-5). This important proposal aims to accomplish two goals. First, it is important that we continue to expose children to a broad range of learning experiences, including all of the areas noted in the provision. In addition, based on advice from researchers and practitioners and our Secretary's Advisory Committee on Head Start Evaluation and Research, we propose to require these broad learning experiences be delivered with the intent of promoting the skills outlined in the Head Start Early Learning Outcomes Framework (Birth-5).<sup>128 129</sup> Given the more targeted approach of the new Framework, this proposed requirement will ensure children will continue to have learning experiences in areas such as creative arts and social studies but with greater intentionality for improving key child outcomes.

In paragraphs (b)(2) and (3), we propose a new research-based approach for teachers to better support bilingualism among dual language learners, as well as their overall development. Over the past decade, much has been learned about how to best support the educational needs of dual language learners.<sup>130 131 132 133</sup> Research with young dual language learners,<sup>134 135 136</sup> clearly reflects that children's bilingual skill development promotes overall language development and should be encouraged.

<sup>128</sup> Meeting on Birth—5 Early Learning Standards/Guidelines—Implementation Considerations. Convened by the Office of Head Start, November 13, 2013.

<sup>129</sup> *Ibid.*

<sup>130</sup> Bialystok, E. (2001). *Bilingualism in development: Language, Literacy, & Cognition*. Cambridge: Cambridge University Press.

<sup>131</sup> Genesee, F., Paradis, J., & Crago, M.B. (2004). *Dual language development and disorders: A handbook on bilingualism and second language learning*. Baltimore: Paul H. Brookes.

<sup>132</sup> Castro, D.C. & Espinosa, L.M. (2014). Developmental characteristics of young dual language learners: Implications of policy and practice in infant and toddler care. *Zero To Three*, January, 2014.

<sup>133</sup> Espinosa, L. (2010). *Getting it right for young children from diverse backgrounds: Applying research to improve practice*. Upper Saddle River, NJ: Pearson.

<sup>134</sup> McCaBee, A., Tamis-LeMonda, C.S., Bornstein, M.H., Cates, C.B., Golinkoff, R., et al. (2013). Multilingual children: Beyond Myths and towards Best Practices. *Society for Research in Child Development: Social Policy Report*, 27 (4).

<sup>135</sup> Espinosa, L. (2010). *Getting it right for young children from diverse backgrounds: Applying research to improve practice*. Upper Saddle River, NJ: Pearson.

<sup>136</sup> Farver, J.M., Lonigan, C., & Eppe, S. (2009). Effective early literacy skill development for young Spanish-speaking English Language Learners: An experimental study of two methods. *Child Development*, 80(3), 703–719.

<sup>137</sup> Burchinal, M. et al (2012). Instruction in Spanish in pre-kindergarten classrooms and child

*early childhood educators: A review of the literature*. Report prepared for the U.S. Department of Education.

<sup>115</sup> Hamre, B.K., & Pianta, R.C. (2001). Early teacher-child relationships and the trajectory of children's school outcomes through eighth grade. *Child Development*, 72(2), 625–638.

<sup>116</sup> Pianta, R.C., Nimetz, S.L., & Bennett, E. (1997). Mother-child relationships, teacher-child relationships, and school outcomes in preschool and kindergarten. *Early Childhood Research Quarterly*, 12(3), 263–280.

<sup>117</sup> Peisner-Feinberg, E.S., & Burchinal, M.R. (1997). Relations between preschool children's child-care experiences and concurrent development: The Cost, Quality, and Outcomes Study. *Merrill-Palmer Quarterly* (1982), 451–477.

<sup>118</sup> Burchinal, M., Howes, C., Pianta, R., Bryant, D., Early, D., Clifford, R., & Barbarin, O. (2008). Predicting child outcomes at the end of kindergarten from the quality of pre-kindergarten teacher-child interactions and instruction. *Applied Developmental Science*, 12(3), 140–153.

<sup>119</sup> Neuman, S.B., & Cunningham, L. (2009). The impact of professional development and coaching on early language and literacy instructional practices. *American Educational Research Journal*, 46(2), 532–566.

<sup>120</sup> Peisner-Feinberg, E.S., Burchinal, M.R., Clifford, R.M., Culkin, M.L., Howes, C., Kagan, S.L., & Yazejian, N. (2001). The relation of preschool childcare quality to children's cognitive and social developmental trajectories through second grade. *Child Development*, 72(5), 1534–1553.

<sup>121</sup> National Institute of Child Health and Human Development (NICHD) Early Child Care Research Network. (2000). Characteristics and quality of child care for toddlers and preschoolers. *Applied Developmental Science*, 4(3), 116–135.

<sup>122</sup> Hamre, B.K., & Pianta, R.C. (2001). Early teacher-child relationships and the trajectory of children's school outcomes through eighth grade. *Child Development*, 72(2), 625–638.

<sup>123</sup> Rowe, M.L. (2008). Child-directed speech: relation to socioeconomic status, knowledge of child development and child vocabulary skill. *Journal of Child Language*, 35(1), 185.

<sup>124</sup> Zimmerman, F.J., Gilkerson, J., Richards, J.A., Christakis, D.A., Xu, D., Gray, S., & Yapanel, U. (2009). Teaching by listening: the importance of adult-child conversations to language development. *Pediatrics*, 124(1), 342–349.

<sup>125</sup> Pancsofar, N., & Vernon-Feagans, L. (2006). Mother and father language input to young children: Contributions to later language development. *Journal of Applied Developmental Psychology*, 27(6), 571–587.

<sup>126</sup> Hoff, E. (2006). How social contexts support and shape language development. *Developmental Review*, 26(1), 55–88.

<sup>127</sup> Landry, S.H., Anthony, J.L., Swank, P.R., & Monseque-Bailey, P. (2009). Effectiveness of comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology*, 101(2), 448.

The approach we propose for effective teaching practices with dual language learners differs based on the child's age and the teacher's ability to speak the child's language. For infant and toddler dual language learners, we propose programs ensure teaching practices and teacher-child interactions focus on the development of the home language and also provide experiences in English. For preschool age dual language learners, we propose that teaching practices a focus on both English language acquisition and continued development of the home language. We believe this approach will best support the language and overall development of dual language learners and promote the goal of fluent English language acquisition.

A program should use this approach only if it has a teacher who can capably provide rich language experiences in the child's home language. Monolingual English-speaking teachers should take other steps to support the home language, such as ensuring the availability of books in the home language, displaying words or pictures representative of the home language, and encouraging the involvement of parents or volunteers who speak the home language.

In paragraphs (c) and (d), we redesignate and propose slight revisions to update and streamline provisions from current § 1304.21(a)(1)(iv), (a)(4)(i), (a)(5)(i), (b)(1), and (b)(2)(ii), that require programs provide specific types of learning experiences. Specifically, we redesignate and revise requirements that programs provide well-organized classrooms with developmentally appropriate schedules, opportunities for indoor and outdoor learning experiences, adequate opportunities for choice, play, exploration, and experimentation, and teacher-directed and child-initiated activities in different group sizes.

In paragraph (d) we retain portions of current § 1304.53(b) to require programs change materials intentionally and periodically to support children's interests, continued development, and learning. We continue to believe all of these provisions are integral to high quality education services.

In paragraph (e), we propose requirements for programs to use

approaches to rest, meals, and routines that will support children's learning. We believe these provisions will increase the opportunities for development and skill growth throughout the program day without creating unnecessary burdens on programs. In paragraph (e)(1), we newly propose programs implement an intentional age appropriate approach to accommodate children's need to nap or rest. This includes providing a regular time every day for preschool age children in a full-day program, which is defined as 6 or more hours, to rest or nap. Though maximizing learning time is important, research shows a clear link between adequate sleep and learning, health, and well-being.<sup>137 138 139</sup> Naps or rest time are developmentally appropriate for many young children, and we believe our proposal will increase the learning children can gain from other portions of the day. Quiet learning activities are proposed for children unwilling or unable to nap or rest so programs can implement learning experiences when that is more developmentally appropriate.

In paragraph (e)(2), we propose to revise and redesignate meal time provisions in current § 1304.23(c)(2) through (5) to place a stronger focus on learning and reduce unnecessary burden on programs. Family style meals, as we require in the current rule, are designed to support development and socialization. However, we believe it is less important that we micromanage how food is served and more important that programs approach snack and meal times as learning opportunities that contribute to a child's education and socialization. As a result, we propose programs implement an approach to mealtime that retains key elements to support learning, such as supporting staff-child interactions, without specifically using the term "family style meals," which carries with it unwanted connotations of the requirement, such as type of serving dish. We propose to remove current requirements in § 1304.23, such as a variety of food be served, which is covered under USDA regulations, and that food related

activities involve children because this is unnecessarily prescriptive for federal education requirements. In addition, in paragraph (e)(3), we propose to require programs also approach routines and transitions between activities as opportunities for learning and development. This reflects best practice and will help optimize the frequency of opportunities for skill growth.

#### Section 1302.32 Curriculum

In paragraph (a), we propose significant changes to the curriculum requirements in current in §§ 1304.21(c) and 1304.3(a)(5) to reflect new requirements in section 642(f)(3) of the Act, the current role and use of curricula in the early education field, and a deeper understanding among practitioners about what qualities of curriculum are needed to improve child outcomes. This section does not apply to home-based programs because of inherent differences in the delivery of education services in home-based programs, as compared to center-based services. The current requirements for curricula define it in § 1304.3 as a written plan that includes goals, materials, experiences, and activities. In current § 1304.21(c)(1), programs for preschoolers must implement a curriculum that supports some areas of development and individual learning. Though researchers agree that much is yet to be learned about effectively using curricula, there have been many advances in early childhood curricula since the existing rule on curriculum was written. We believe significant revisions to curricula requirements are necessary to ensure programs deliver high quality early education. In this NPRM, we propose to extend our curriculum requirements to Early Head Start, which § 1304.21(b)(1) in the existing rule does not specifically require. Most Early Head Start programs use a curriculum, but we believe codifying this practice better reflects best practice and will foster better and more developmentally appropriate planning, activities, and emphasis on developmental skill growth among infants and toddlers in Early Head Start programs.

Provisions in paragraph (a) propose requirements that outline the necessary qualities of curricula, as well as the critical characteristics of its use to ensure effective implementation. These requirements will increase the use and effective implementation of curricula that will have greater impacts on child development, learning, and outcomes. Specifically, our new requirements propose that curricula must be based on scientifically valid research, be aligned

outcomes for English Language Learners. *Early Childhood Research Quarterly*, 27(2), 188–197.

<sup>138</sup> Infant and Toddler Early Learning Guidelines/Standards Expert Workgroup. Convened October 22, 2013 by the Office of Head Start. Washington, DC.

<sup>139</sup> Meeting on Early Learning Standards in Head Start: Considering Children who are Dual Language Learners Content and Implementation. Convened January 13, 2014 by the Office of Head Start. Washington, DC.

<sup>137</sup> Bates, J.E., Viken, R.J., Alexander, D.B., Beyers, J., & Stockton, L. (2002). Sleep and adjustment in preschool children: Sleep diary reports by mothers relate to behavior reports by teachers. *Child Development*, 73(1), 62–75.

<sup>138</sup> Lam, J.C., Mahone, E.M., Mason, T.B., & Scharf, S.M. (2011). The effects of napping on cognitive function in preschoolers. *Journal of Developmental and Behavioral Pediatrics*, 32(2), 90.

<sup>139</sup> Kurdziel, L., Duclos, K., & Spencer, R.M. (2013). Sleep spindles in midday naps enhance learning in preschool children. *Proceedings of the National Academy of Sciences*, 110(43), 17267–17272.

with the Head Start Early Learning Outcomes Framework (Birth-5) and state early learning standards as appropriate, as required by the Head Start Act, and have standardized training procedures and curriculum materials to support implementation. Programs should assess their curriculum as necessary to ensure alignment with the Head Start Early Learning Outcomes Framework and, as appropriate, State Early Learning Standards. Programs should consider updating their curriculum or using curricular enhancements to improve alignment and to reflect program data on child progress. In addition, we require curricula include an organized developmental scope and sequence and be sufficiently content rich to promote measurable progress toward the goals outlined in the Head Start Early Learning Outcomes Framework (Birth-5) because research suggests these qualities are key to promoting child outcomes.<sup>140 141 142 143 144 145 146 147 148</sup> We also propose to integrate professional development, supervision, and regular monitoring into curriculum use to

ensure effective curriculum implementation.<sup>149 150</sup> We anticipate that programs may need to use curricular enhancements in order to meet the requirements of this paragraph and that using such enhancements would not trigger the additional requirements for local variation. Many programs currently supplement their base curriculum with curricular enhancements to enrich the content of their curriculum. Programs are encouraged to use curricula with the best available evidence of effectiveness with their population of children.

In paragraph (b), we propose requirements that allow local flexibility for programs that need to develop or significantly adapt a curriculum to better meet the needs of one or more specific populations. These requirements would not be triggered by the use of enhancements as long as the curriculum with these added enhancements meets the requirements in (a)(1)(i)–(ii). Rather, these proposed requirements would allow programs to use enhancements or other significant adaptations, where standardized training and materials may still be in development and a research-base is being built. However, because quality and implementation of curriculum are important for child outcomes,<sup>151</sup> we propose additional requirements for these variations to ensure program quality is not lowered. Specifically, in paragraph (b), we propose that programs work with experts from a college, university, or research organization to develop and evaluate the effectiveness of the curriculum variation. We believe this proposal provides critical flexibility for local programs and researchers to partner in order to drive innovation and growth in the curriculum field, while also ensuring important safeguards for quality and accountability.

#### Section 1302.33 Child Screenings and Assessment

This section applies to all program options and proposes significant revisions to the existing requirements

on screening in § 1304.20(b) and assessment in § 1304.21(c)(2) to integrate advances from research, reflect best practice, and implement new requirements from section 641A(b) of the Act. We include proposals for appropriate use of developmental screening and ongoing child assessment, characteristics such tools must have to ensure their quality, and prohibitions in paragraph (d) on the use of assessment data as required by section 641A(b)(4)(B) of the Act. These requirements will improve the collection and use of important screening information that can identify developmental concerns and ongoing assessment information that can improve teacher practices throughout the program year. The integration of these requirements into the education services section of this proposed rule will improve the quality of such services and strengthen child outcomes.

Paragraph (a) proposes requirements for developmental screening and how programs must use the results to appropriately meet the needs of children. In paragraph (a)(1) and (2), we propose to retain the current 45-day requirement for programs to conduct or obtain screenings to identify concerns regarding a child's developmental, behavioral, motor, language, social, cognitive, and emotional, skills. We revise and redesignate this provision from the current child health and development services in § 1304.20(b), to reflect its appropriate integration into education services. However, because one of the purposes of the developmental screening is to determine if a child requires referral for a formal evaluation for IDEA eligibility, we include a new proposal to reduce unnecessary screening of children and burdens on programs in paragraph (a)(3) by removing this requirement for children who already have a current IFSP or IEP. For all other children, paragraphs (a)(2) and (a)(4) revise the current rule to clarify how screening results must be used and to ensure children who require formal evaluations for IDEA eligibility are promptly referred for such services. This proposed change implements section 640(d)(3) of the Act and will reduce current confusion among programs about when and how screenings, assessments, and formal evaluations should be used and will lead to improved services for children when properly implemented.

In paragraph (a)(5), we propose a new requirement to help ensure all children receive the services they need. In some cases, children experiencing delays in development do not meet a State's

<sup>140</sup> Clements, D.H., & Sarama, J. (2008). Experimental Evaluation of the Effects of a Research-Based Preschool Mathematics Curriculum. *American Educational Research Journal*, 45(2), 443–494.

<sup>141</sup> Starkey, P., Klein, A., & Wakeley, A. (2004). Enhancing young children's mathematical knowledge through a pre-kindergarten mathematics intervention. *Special issue on Early Learning in Math and Science*, 19(1), 99–120.

<sup>142</sup> Bierman, K.L., Domitrovich, C.E., Nix, R.L., Gest, S.D., Welsh, J.A., Greenberg, M.T., . . . Gill, S. (2008). Promoting Academic and Social-Emotional School Readiness: The Head Start REDI Program. *Child Development*, 79(6), 1802–1817.

<sup>143</sup> Clements, D.H. (2007). Curriculum research: Toward a framework for "Research-based Curricula". *Journal for Research in Mathematics Education*, 38(1), 35–70.

<sup>144</sup> Fantuzzo, J.W., Gadsden, V.L., & McDermott, P.A. (2011). An integrated curriculum to improve mathematics, language, and literacy for Head Start children. *American Educational Research Journal*, 48, 763–793.

<sup>145</sup> Lonigan, C.J., Farver, J.M., Phillips, B.M., & Clancy-Menchetti, J. (2011). Promoting the development of preschool children's emergent literacy skills: A randomized evaluation of a literacy-focused curriculum and two professional development models. *Reading and Writing*, 24, 305–337.

<sup>146</sup> Preschool Curriculum Evaluation Research Consortium (2008). Effects of preschool curriculum programs on school readiness (NCER 2008–2009). Washington, DC: National Center for Education Research, Institute of Education Sciences, U.S. Department of Education. Washington, DC: U.S. Government Printing Office.

<sup>147</sup> Wasik, B.A., Bond, M.A., & Hindman, A.H. (2006). The effects of a language and literacy intervention on Head Start children and teachers. *Journal of Educational Psychology*, 98, 63–74.

<sup>148</sup> Riggs, N.R., Greenberg, M.T., Kusché, C.A., & Pentz, M.A. (2006). The mediational role of neurocognition in the behavioral outcomes of a social-emotional prevention program in elementary school students: Effects of the PATHS curriculum. *Prevention Science*, 7, 91–102.

<sup>149</sup> Lieber, J., Butera, G., Hanson, M., Palmer, S., Horn, E., Czaja, C., & Odom, S. (2009). Factors that influence the implementation of a new preschool curriculum: Implications for professional development. *Early Education and Development*, 20(3), 456–481.

<sup>150</sup> Landry, S.H., Anthony, J.L., Swank, P.R., & Monseque-Bailey, P. (2009). Effectiveness of comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology*, 101(2), 448.

<sup>151</sup> Frede, E., & Barnett, W.S. (1992). Developmentally appropriate public school preschool: A study of implementation of the High/Scope curriculum and its effects on disadvantaged children's skills at first grade. *Early Childhood Research Quarterly*, 7(4), 483–499.

eligibility criteria for an infant, toddler, or child with a disability but still exhibit delays that can be mitigated through specific services that target the child's needs, such as speech therapy. We believe it is critically important for programs to work to meet the additional individual needs of these children who may be at risk for experiencing a more substantial delay in development if additional supports are not provided. Therefore, we propose that if, after a formal evaluation, a child is determined not to be eligible for IDEA services, but the evaluation demonstrates delays likely to impact children's school readiness, the program must work with parents to access needed services and supports. We propose to allow program funds to be used if other resources are unavailable. This proposal should not be interpreted to create a separate IFSP- or IEP-like process within Head Start.

In addition, we redesignate and revise the existing rule for developmental assessments in current § 1304.21(c)(2) to propose significant improvements for the use of child assessment data in paragraphs (b)(1) and (2). The current rule only requires staff use ongoing assessment of each child as one strategy to promote and support children's learning and progress. We propose to revise this requirement to ensure programs use appropriate and high-quality assessments and use the data in an effective manner. Some of our proposal reflects requirements in section 641A(b) of the Act to increase the quality of assessments.

Effective integration of ongoing child assessment data can lead to improved individualization of services within the program year. Such integration allows teachers to make necessary instructional adjustments to meet the needs of individual children and the classroom as a whole.<sup>152</sup> Therefore, we propose to require programs conduct structured and standardized assessments for each child that provide ongoing feedback on their development level and progress in outcomes aligned with the goals described in the Head Start Early Learning Outcomes Framework (Birth-5). We also propose to require such assessments be designed to result in useable information and be conducted with sufficient frequency to allow for individualization within the program year, characteristics which are critical to improving practices.<sup>153</sup> It is important to note that our proposal on the

frequency of assessments is not intended to lead to unnecessarily frequent formal evaluations of children. Over-testing young children is burdensome to the teacher, unnecessary to support individualization, and does not reflect good practice.

In paragraph (b)(3), we propose a new requirement that we also intend to increase the effective use of assessment data. Though the initial screenings within 45 days of child enrollment is critical for catching initial concerns about a child's developmental status, information from formal child assessments conducted throughout the year can also reveal concerns sufficient to refer a child for a formal evaluation by the entity that implements IDEA. Therefore, we propose to require programs use assessment data to appropriately identify and address concerns that arise throughout the year, consistent with current § 1304.20(d).

In paragraph (c), we propose the necessary characteristics of screenings and assessments to ensure programs use valid and reliable screening and assessments in an appropriate manner. This revision includes requirements from section 641A(b) of the Act. In paragraph (c)(2), we also propose new requirements about how programs must approach and implement screening and assessment practices for children who are dual language learners, in order to address the unique aspects of dual language development in young children, and to ensure that screening and assessment data are appropriately gathered and used for these children. Specifically, this provision would require programs to assess dual language learners in the language or languages that best capture their skill level and to assess their language development in both their home language and English, utilizing an interpreter as needed. This proposal reflects best practice already used by many Head Start programs and research that demonstrates that children who are dual language learners have different learning experiences across their two languages. For example, a child may learn how to count and to perform simple number operations in Spanish but not in English. At the same time, the child may learn to identify animals in English rather than in Spanish. Unlike monolingual children, young dual language learners may have knowledge, skills and abilities in one of their languages but not the other.<sup>154</sup>

Therefore, for children who are dual language learners, screening and assessment may need to be conducted in both languages in order to gain a complete understanding of these children's knowledge, skills and abilities.<sup>155</sup>

In paragraph (d), we propose to prohibit the use of assessments for ranking, comparing, or evaluating children, providing rewards or sanctions or excluding children from programs consistent with section 641A(b)(3)(B) and section 641A(b)(4)(B) of the Act.

#### Section 1302.34 Parent Involvement

Parents are children's primary and most influential teachers, and engaging parents in their child's educational services in Head Start is one of several fundamental philosophies long held by Head Start. Parent involvement and engagement is addressed throughout the many subparts of the NPRM. This section specifically includes provisions to ensure that center-based and family child care programs structure their education services to encourage parents to engage in their child's education. This section is consistent with the current regulation and does not include any new requirements. Research shows parent involvement this is critical to children's success in school.<sup>156 157 158</sup> We redesignate and revise the requirements so they are easier to read, find, and implement by reorganizing them from the many sections they exist (current §§ 1304.21(a)(2)(i)-(ii); 1304.40(d)(2); 1304.40(e)(1); 1304(e)(5); 1306.22(e); and 1306.32(b)(9)) into this section.

#### Section 1302.35 Education in Home-Based Programs

Our proposal recognizes the approach to education in home-based programs is equally critical to that in center-based and family child care programs, but necessarily quite different in its

<sup>155</sup> Barrueco, S., Lopez, M., Ong, C., & Lozano, P. (2012). *Assessing Spanish-English bilingual preschoolers: A guide to best approaches and measures*. Baltimore, MD: Brookes.

<sup>156</sup> Campbell, F. A., Ramey, C. T., Pungello, E., Sparling, J., & Miller-Johnson, S. (2002). Early childhood education: Young adult outcomes from the Abecedarian Project. *Applied Developmental Science*, 6(1), 42-57.

<sup>157</sup> Fantuzzo, J., McWayne, C., Perry, M. A., & Childs, S. (2004). Multiple dimensions of family involvement and their relations to behavioral and learning competencies for urban, low-income children. *School Psychology Review*, 33(4), 467-480.

<sup>158</sup> McWayne, C., Fantuzzo, J., Cohen, H. L., & Sekino, Y. (2004). A multivariate examination of parent involvement and the social and academic competencies of urban kindergarten children. *Psychology in the Schools*, 41(3), 363-377.

<sup>152</sup> Landry, S. H., Anthony, J. L., Swank, P. R., & Monseque-Bailey, P. (2009). Effectiveness of comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology*, 101(2), 448.

<sup>153</sup> *Ibid.*

<sup>154</sup> Paradis, J., Genesee, F., & Crago, M. B. (2011). *Dual language development and disorders: A handbook on bilingualism and second language learning*. (Second edition). Baltimore: Paul H. Brookes.

delivery. The Act requires structured child-focused home visiting that promotes parents ability to support the child's cognitive, social, emotional, and physical development in section 645A(i)(2)(A). Therefore, we include a new section within this subpart to focus solely on the educational content and structure of home visits and group socializations for the home-based program option. This section redesignates and revises the requirements of § 1306.33(b) and (c)(1) and (2) in the existing rule. However, this section is significantly more comprehensive and better reflects the need for home visits and other home-based services to focus on improving children's outcomes by enabling parents to facilitate their progress in domains critical to school readiness. This section mainly proposes to codify the guidance and technical assistance we have provided to home-based programs for many years. Paragraph (b) clearly describes the requirements for the structure of home visits and retains the requirements in current § 1306.33(b) while aligning these requirements with the assessment and individualization requirements of other program models. Specifically, we propose revisions to the existing rule to require home visitors use ongoing assessment data to individualize home-visit learning experiences. We propose to remove current § 1306.33(b)(2) because we clarify in proposed § 1302.20(b) that regardless of program option, all programs must provide a full range services. We remove the requirement that all program elements be provided monthly because it is overly prescriptive and does not allow programs flexibility to meet individual family needs.

Paragraph (c) proposes new requirements for home-based curricula, including requirements that curricula be aligned to and be sufficiently content-rich within the Head Start Early Learning Outcomes Framework (Birth-5), and include an organized developmental scope and sequence. We also propose to require programs provide appropriate staff supervision and high quality professional development to ensure the curriculum is implemented effectively, in accordance with 645A(i). As with the center-based and family child care options, we propose to allow programs to implement local variations of curricula to better meet the needs of their families provided they continue to meet the requirements described in paragraph (c)(1)(i)–(ii) and (c)(2) to ensure quality and accountability.

Paragraph (d) proposes to clarify and expand upon the purpose of home visit experiences, described in current § 1306.33(b)(1) and provides requirements about the content of visits to scaffold individual child and program progress towards school readiness goals through a home-based model. These requirements are also written to reflect proposed revisions to the education requirements for the other program models. For example, in proposed paragraph (4), just as we do for center-based programs, we propose that home visits focus on the development of the home language and provide additional experiences in English for infant and toddler dual language learners; and we propose requirements that home visits focus on both English language acquisition and continued development of the home language for preschool age dual language learners. In addition, we propose to redesignate and revise current § 1306.33(c)(1) through (2) in paragraph (e) to better describe the requirements for group socialization activities for all children, and for preschoolers in particular. Finally, in paragraph (f), we propose to clarify the requirement that home-based programs engage in screening and assessment as proposed for center-based and family child care options (§ 1302.33) to ensure these important services are also being delivered to children receiving the home-based option.

**Health Program Services; Subpart D (Currently Part 1304, Subpart B, Portions of Part 1304, Subpart D; Part 1306 Subpart C, and § 1306.25)**

This NPRM updates the existing Early Childhood Development and Health Services subpart (part 1304, subpart B) by including provisions related only to health, nutrition, and mental health and by updating, reorganizing, and streamlining requirements in order to make the rules easier to find, follow, and implement. This includes redesignating the sections related to education, and developmental screening and assessment into a new proposed subpart C of part 1302, Education and Child Development Program Services; redesignating language regarding individualization of services into proposed subpart F of part 1302, Additional Services for Children with Disabilities as well as subpart C; and reorganizing the entire Health Program Services subpart for the sake of transparency, clarity, and improved implementation. The Early Childhood Development and Health Services subpart in the existing rule is organized in a confusing manner that does not clearly delineate the services, or outline

the chronological steps programs are required to take to deliver those services. To remedy this confusion, we propose to restructure the existing Early Childhood Development and Health Services subpart to clearly delineate the steps that will ensure programs deliver services that promote the overall health of all children.

We propose to retain and streamline a majority of the policy requirements under the existing subpart. Specifically, we retain the core health services, including screening, ongoing care, and follow-up care as required by the Act (42 U.S.C. 9831). We propose to retain these requirements both because the Act clearly links health, mental health, and nutritional services to the purpose of Head Start, and because research has demonstrated a strong link between child health, school readiness, and long-term outcomes.<sup>159 160 161</sup>

We propose the most substantial changes in §§ 1302.42, 1302.45, 1302.46, and 1302.47. We also propose several important additions. Specifically, we propose to highlight oral health as well as the content of parent education in health more explicitly than in the existing rule by creating new sections that outline requirements in each of these areas. Finally, given the critical importance of mental health, we propose to strengthen the provisions of the existing rule to better reflect best practice in the proposed rule to ensure mental health services are used to improve classroom management and to effectively address challenging behaviors when they arise. In their totality, these proposed changes reflect the overarching goals of the NPRM to improve clarity so that both existing grantees and prospective grantees can easily determine expectations, reduce bureaucratic burden on programs, and improve service delivery.

**Section 1302.40 In General**

We propose to open the Health Program Services subpart D with a new 'in general' statement that explicitly states the goal of the subpart, which is to ensure that programs provide high quality health, mental health, and nutrition services, as well as the purpose of such services, which is to support each child's growth and school readiness.

<sup>159</sup> Currie, J. M. (2005). Health disparities and gaps in school readiness. *The Future of Children*, 15(1), 117–138.

<sup>160</sup> Janus, M., & Duku, E. (2007). The school entry gap: Socioeconomic, family, and health factors associated with children's school readiness to learn. *Early Education and Development*, 18(3), 375–403.

<sup>161</sup> Bruner, C. (2009). *Connecting child health and school readiness* (Issue Brief No. 9). Denver, CO: The Colorado Trust.

### *Section 1302.41 Collaboration and Communication With Parents*

We believe communication and collaboration with Head Start parents is fundamental to the delivery of all Head Start health services. The placement of this section at the forefront of this subpart and the consolidation of its core elements better communicates its critical importance to programs and the public. In this NPRM, the requirements for programs to communicate and collaborate with parents with regard to their children's health is written to reflect the applicability and importance of parental communication, collaboration, permission, and input for the services described throughout the entire Health subpart. In this section, we propose to redesignate §§ 1304.20(e) and 1304.23(b)(4), and concepts from § 1304.24(a)(1). Some of these concepts are also represented, with regard to parent education services in § 1302.46 of the proposed rule, which are described below. Specifically, paragraph (b) proposes requirements for programs to obtain advance parent or guardian authorization for all health and developmental procedures, such as vision and auditory screenings and the administration of any medications, to assist parents in communicating with their children's physician effects of medication on a child's behavior, and to share policies for health emergencies that require rapid response or immediate medical attention.

### *Section 1302.42 Child Health Status and Care*

In the existing rule, section § 1304.20, is organized in a confusing manner because it does not make the required services, or the chronological order of the steps within those services clear. The existing rule conflates requirements that are related to extended follow-up and care with those of initial screening and ongoing care. This proposed section clearly delineates the several explicit steps. In paragraph (a), within 30 calendar days, programs must determine whether each child has an appropriate source of ongoing care and health insurance coverage and, if not, assist the parents in accessing each. In paragraph (b), programs must determine whether children are up to date on schedules of immunizations and well-child care, within 90 calendar days, and, if not, assist parents in getting children up to date or if necessary, directly facilitate the provision of health services for children with parental consent. This direct facilitation could be accomplished by, for example, providing transportation to parents,

bringing a health care provider to the program or organizing a field trip to the local health center. We believe the additional proposed requirement for program to directly facilitate health services, if necessary, is central to ensuring all children are up-to-date, especially with critically important vaccinations, with parental consent. Under paragraph (b)(2) programs must ensure children are screened for health problems, including visual and auditory concerns, and assist parents in accessing care for any identified issues. Finally, in paragraph (c)(2), programs must monitor the implementation of follow-up care and monitor children for new and/or recurring health problems. Each of these four steps is also required in the existing rule, but their individual roles, as well as their order, is difficult to decipher in the existing structure. The explicit inclusion of health insurance also codifies long standing practice since linking families with health insurance is a critical step in helping link them with a provider, but, given its critical importance and the increased availability of coverage, we think being explicit on this requirement is important. We maintain each of these steps because research has shown that children who participate in a consistent schedule of well child care and immunizations are more likely to stay healthy and engage in program activities, leading to improved school readiness.<sup>162</sup>

In addition to this general reorganization, we propose several language and policy changes to the existing rule in this section. Specifically, we propose to reduce the timeframe for determining whether a child has an appropriate source of health care to 30 days. As in the existing rule, we still propose to give programs 90 days to assist parents in accessing such a source of care and to ensure children are up to date with Early Periodic Screening, Diagnosis, and Treatment (EPSDT). We do, however, propose to add language to clarify that an appropriate source of ongoing care must maintain health records and cannot operate primarily as an emergency room or urgent care facility, because research has shown that families who have an ongoing source of continuous care that maintains their health records are more likely to attend well child visits, know what to do when their child is sick, and seek appropriate

care for illnesses or health concerns.<sup>163</sup> In paragraphs (b)(3) and (b)(4), we also propose to reduce to 30 days the time frame programs have to determine whether a child is up to date with EPSDT for children in programs that operate less than 90 days.

Per the changes described in the overview of this subpart, we propose to redesignate the requirements in the existing rule that describe developmental and behavioral screenings and assessments into a new subpart C of part 1302 in the proposed rule, because those screenings and assessments are most directly related to educational services. We do propose to retain sensory screenings and other health related diagnostics tests, including those related to nutritional status, in this section because these screenings and tests must be included in high quality health service delivery. We also propose to redesignate the requirements in the existing rule that such screenings be sensitive to each child's background (§ 1304.20(b)(1)) to § 1302.23(c) and revised them to reflect that this is a core characteristic of an appropriate screening or assessment in subpart C in this part. In paragraphs (d) and (e), we propose to redesignate and revise requirements related to ongoing care and extended follow up and treatment from §§ 1304.20 and 1304.22 in the current rule for clarity and transparency.

Finally, we propose to redesignate § 1304.20(f) and incorporate its key concepts—the importance of individualizing developmental services—to the proposed Additional Services for Children Eligible for IDEA subpart as well as the Education and Child Development Program Services subpart. Given this redesignation, it was determined that health services are individualized by design, and thus the current § 1304.20(f) was no longer relevant in this section or subpart.

### *Section 1302.43 Tooth Brushing*

In this section, we describe the oral hygiene requirements during program hours. The requirements delineated within this section are not new. Rather, we redesignate and revise the current provisions in § 1304.23(b)(3), to more accurately reflect the expectations for hygiene practices upon which programs are monitored, namely ensuring children brush their teeth during program hours. Research has documented a link between oral health

<sup>162</sup> Bruner, C. (2009). *Connecting child health and school readiness* (Issue Brief No. 9). Denver, CO: The Colorado Trust.

<sup>163</sup> Herman, A., & Jackson P. (2011). Empowering low-income parents with skills to reduce excess pediatric emergency room and clinic visits through a tailored low literacy training intervention. *Journal of Health Communications*, 15(8), 895–910.



and specifically dental pain, and children's attendance in preschool programs, as well as their ability to effectively engage in classroom activities.<sup>164 165 166 167</sup> While the existing rule specifies that oral hygiene should be promoted in conjunction with meals, we propose to remove this concept to give programs greater flexibility to determine how best to meet this requirement. Throughout the NPRM, we also propose to revise 'dental' to 'oral health' to reflect current medical terminology.

#### Section 1302.44 Child Nutrition

Under section 641A(a)(1) of the Act, the Secretary must establish performance standards with respect to nutritional services. To implement this requirement, as with other sections of this subpart, we retain the majority of the requirements of the existing rule in this section through a reorganized structure. Specifically, in the proposed rule, we restructure the child nutrition section to solely reflect nutritional services programs provide directly to children, and as a result we propose to limit it to the provisions contained in § 1304.23(b), as well as § 1304.23(c)(5) and (6) in the existing rule. In this vein, we propose to redesignate and restructure current § 1304.23(a) and § 1304.23(b)(4) such that all nutritional assessments are incorporated into child health status, as nutritional status is an integral part of child health status. In addition, we propose to redesignate § 1304.23(c)(1) through (4) and § 1304.23(c)(7) in the proposed rule to the more appropriate placement in section § 1302.31(c) in the proposed Education subpart because the concepts captured by the existing requirements are meant to convey the importance of utilizing meal time as an opportunity for children to continue to learn. We also redesignate some provisions in the existing rule to proposed sections on safety practices in § 1302.47 (e.g. food sanitation) and standards of conduct in § 1302.90(c) (e.g. food may not be used

as punishment or reward) as those sections are more appropriate, given the reorganization of the proposed rule.

In sum, in § 1302.44(a)(2) we propose to maintain the substantive policies contained within the Nutritional Services section at existing § 1304.23(b) and § 1304.23(c)(5) and (6) of the existing rule in this section of the proposed rule with minimal restructuring to improve clarity. We maintain these policies because research demonstrates that one in every five children in America is living in a household without access to adequate food<sup>168</sup> (that rate is likely much higher among the low-income families Head Start serves) and that children who are well nourished are better able to grow and learn.<sup>169</sup> Additionally, we also redesignate § 1304.40(c)(3) in the existing rule, which requires programs to make accommodations for mothers who wish to breastfeed in a center, to this section, as it is directly related to the nutritional needs of infants and research has clearly established the benefits of breastfeeding.<sup>170</sup> In paragraph (b), we propose to redesignate § 1304.23(b)(i) from the current rule regarding payment sources for nutritional services.

#### Section 1302.45 Child Mental Health

In this section, we propose to redesignate and revise the existing section § 1304.24, which focuses on child mental health services, to be more explicit about program requirements while focusing on supporting positive teacher-child interactions and child emotional well-being. Consistent with the approach throughout this proposed subpart, we propose to redesignate and revise all parent education requirements for mental health into the proposed § 1302.46 Family Support Services for Health, Nutrition, and Mental Health.

To improve how programs use mental health consultants, we propose to specify that mental health consultants must be engaged in supporting teachers for effective classroom management, formulating and implementing strategies for supporting children with challenging behaviors, and facilitating community partnerships in mental health. We also propose to remove the requirement that mental health

consultants be utilized on a schedule of 'sufficient frequency' (§ 1304.24(a)(2) in the existing rule). In fact, we do not propose to include any prescribed schedule of mental health consultation for every program because we believe this causes undue burden to programs without adequate evidence of the most effective timing of such services. Rather, in paragraph (b)(2) we propose to maintain some flexibility for programs to determine the best way to guarantee access to mental health consultants for the purposes we propose to explicitly delineate.

Early childhood mental health, or healthy emotional well-being, has been clearly linked to children's school readiness outcomes, and research estimates that between 9 percent and 14 percent of young children experience mental health, or social and emotional, issues that negatively impact their development.<sup>171</sup> As a result, in paragraph (b)(1), we propose to require mental health consultation to support teachers because warm and responsive teacher practices and effective classroom management are critical to helping young children maintain or achieve healthy emotional well-being and to creating a classroom environment conducive to learning.<sup>172 173</sup> Research has demonstrated the benefits of mental health consultation services for child behavior and staff job satisfaction and efficacy in early childhood programs.<sup>174 175 176</sup> This research suggests that in order to achieve its mission, the Office of Head Start must ensure that programs are addressing the mental health needs of enrolled children and that programs promote

<sup>171</sup> Brauner, C. B., & Stephen, B. C. (2006). Estimating the prevalence of early childhood serious emotional/behavioral disorder. *Public Health Reports*, 121, 303–310.

<sup>172</sup> Hair, E., Halle, T., Terry-Humen, E., Lavelle, B., & Calkins, J. (2006). Children's School Readiness in the ECLS-K: Predictions to Academic, Health, and Social Outcomes in First Grade. *Early Childhood Research Quarterly*, 21(4), 431–454.

<sup>173</sup> Raver, C.C., & Knitzer, J. (2002). *Ready to Enter: What Research Tells Policymakers about Strategies to Promote Social and Emotional School Readiness among Three- and Four-Year-Old Children*. National Center for Children in Poverty, New York, NY.

<sup>174</sup> Gilliam, W.S., & Golan, S. (2006). Preschool and child care expulsion and suspension: Rates and predictors in one state. *Infants and Young Children*, 19(3), 228–245.

<sup>175</sup> Perry, D. F., Dunne, M. C., McFadden, L., & Campbell, D. (2008). Reducing the risk for preschool expulsion: Mental health consultation for young children with challenging behaviors. *Journal of Child and Family Studies*, 17(1), 44–54.

<sup>176</sup> Brennan, E. M., Bradley, J. R., Allen, M. D., & Perry, D. F. (2008). The evidence base for mental health consultation in early childhood settings: Research synthesis addressing staff and program outcomes. *Early Education and Development*, 19(6), 982–1022.

<sup>164</sup> Abanto, J., Carvalho, T. S., Mendes, F. M., Wanderley, M. T., Bönecker, M. and Raggio, D. P. (2011). Impact of oral diseases and disorders on oral health-related quality of life of preschool children. *Community Dentistry and Oral Epidemiology*, 39, 105–114. doi: 10.1111/j.1600-0528.2010.00580.x

<sup>165</sup> U.S. General Accounting Office. (2000). *Oral Health: Dental Disease Is a Chronic Problem Among Low Income and Vulnerable Populations*. Washington, DC: General Accounting Office.

<sup>166</sup> Schechter N. 2000. The impact of acute and chronic dental pain on child development. *Journal of the Southeastern Society of Pediatric Dentistry* 6(2), 16.

<sup>167</sup> Altarum Institute. 2007. Issue Brief: *Oral Health Is Critical to the School Readiness of Children in Washington, DC*. Washington, DC: Altarum Institute.

<sup>168</sup> Share Our Strength. (2013). *Childhood Hunger in America*. Washington, DC: Author.

<sup>169</sup> California Childcare Health Program. (2006). *School readiness and health*. San Francisco, CA: University of California, San Francisco School of Nursing, Department of Family Health Care Nursing.

<sup>170</sup> National Women's Health Information Center. (n.d.) *The Comprehensive Benefits of Breastfeeding*. Washington, DC: Author.



healthy emotional well-being through all program services, especially through teachers.<sup>177</sup> The revisions we propose to the existing rule convey the critical importance of child mental health and emotional well-being and make the requirements for programs significantly clearer, without increasing bureaucratic burden.

#### Section 1302.46 Family Support Services for Health, Nutrition, and Mental Health

In this section, we propose to redesignate and consolidate all provisions from the existing rule that address health education and support services that must be delivered to families. The proposed redesignation of each of these provisions into paragraph (b) would provide greater clarity and transparency regarding these requirements. In paragraph (a), we propose to create a standalone section to enumerate program requirements for education and assistance to parents related to health needs in the proposed rule. By doing this, we highlight the critical importance of parental health literacy, defined as a parent's knowledge and understanding about basic health topics as well as their ability to navigate health systems,<sup>178</sup> which has been linked to health and long-term outcomes of young children.<sup>179</sup> In 2009, a systematic review of the literature revealed a link between low parental health literacy and child health outcomes and found evidence that interventions providing written materials and counseling can increase parental health knowledge and improve health behaviors.<sup>180</sup> This research, paired with research that documents a strong link between child health and later educational success,<sup>181 182 183</sup> suggests that

improving parental health literacy has the potential to improve children's school readiness and long-term outcomes, and that Head Start can play a critical role in improving child health and school readiness by directly addressing parental health literacy.<sup>184</sup> In paragraph (b), we propose to redesignate and revise elements at § 1304.40(f) in the current rule.

The proposed redesignation of each of these provisions into this section would provide greater clarity and transparency regarding these requirements. We propose only two new requirements. The first is a requirement that programs provide opportunities for parents to learn about healthy pregnancy and postpartum care. This new requirement would reflect the importance of prenatal and postpartum care for healthy child development and a renewed focus on ensuring that programs reach as many pregnant women as possible, either directly by providing Early Head Start services to them, or through education when another child is enrolled. The second is a requirement that programs inform parents of opportunities to access health insurance. We propose this new requirement because parental health insurance is a significant predictor of child health insurance and that children will get timely health care.

#### Section 1302.47 Safety Practices

In this section, we propose to redesignate all provisions related to safety practices from §§ 1304.22, 1304.23(e), 1304.52, 1304.53, and 1306.25(b) and (c) of the existing rule. Maintaining basic health and safety practices is essential to ensuring high quality care so we propose strong safety practices and procedures that will ensure the health and safety of all children. In some instances, we move away from prescribing extensive detail when such level of regulation is unnecessary to maintain a high standard of safety and too inflexible to allow for growth in standard safety practices. This flexibility allows programs to adjust their policies and procedures according to the most up to date information about how to keep children safe.

In paragraph (a), we propose that programs establish, train staff on, implement, and enforce health and

safety practices that ensure children are safe at all times. This places a greater emphasis on ongoing administrative oversight and staff training than current regulations and should lead to better systems and practice when implemented. To ensure programs are equipped with adequate instruction on how to keep all children safe at all times, we propose programs consult a new ACF resource in this section, *Caring for Our Children Basics*, available at <https://www.federalregister.gov/articles/2014/12/18/2014-29649/caring-for-our-children-basics-comment-request>. *Caring for Our Children Basics* is a set of recommendations, which is intended to create a common framework to align basic health and safety efforts across all early childhood settings. *Caring for Our Children Basics* is based on *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, Third Edition*,<sup>185</sup> a document produced with the expertise of researchers, physicians, and practitioners working with the American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education, and the Maternal and Child Health Bureau in the Department of Health and Human Services.

In paragraph (b), we propose health and safety requirements for facilities, equipment and materials, background checks, staff safety training, safety practices staff must follow, hygiene practices, administrative safety procedures, and disaster preparedness plans. The proposed requirements are informed by research and best practice.<sup>186 187 188 189 190 191 192 193</sup> We

<sup>177</sup> Raver, C.C., & Knitzer, J., (2002). *Ready to Enter: What Research Tells Policymakers about Strategies to Promote Social and Emotional School Readiness among Three- and Four-Year-Old Children*. National Center for Children in Poverty, New York, NY.

<sup>178</sup> U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion. (2010) National Action Plan to Improve Health Literacy. Washington, DC.

<sup>179</sup> Herman, A., & Jackson P. (2011). Empowering low-income parents with skills to reduce excess pediatric emergency room and clinic visits through a tailored low literacy training intervention. *Journal of Health Communications*, 15(8), 895–910.

<sup>180</sup> Dewalt, D.A., & Hink, A., (2009). Health Literacy and Child Health Outcomes: A Systematic Review of the Literature. *Pediatrics*, 124(3), 265–274.

<sup>181</sup> Currie, J., (2009). Healthy, wealthy, and wise: Socioeconomic status, poor health in childhood, and human capital development. *Journal of Economic Literature*, 47(1), 87–122.

<sup>182</sup> Hair, E., Halle, T., Terry-Humen, E., Lavelle, B., & Calkins, J., (2006). Children's School

Readiness in the ECLS–K: Predictions to Academic, Health, and Social Outcomes in First Grade, *Early Childhood Research Quarterly*, 21(4), 431–454.

<sup>183</sup> Bruner, C. (2009). *Connecting child health and school readiness* (Issue Brief No. 9). Denver, CO: The Colorado Trust.

<sup>184</sup> U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion. (2010). National Action Plan to Improve Health Literacy. Washington, DC: Author.

<sup>185</sup> <http://cfoc.nrckids.org>.

<sup>186</sup> Carr, K. (2012). American Academy of Pediatrics issues policy statement on pesticide exposure in children. University of Washington, Seattle, WA.

<sup>187</sup> U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. (2006). Rockville, MD: Author.

<sup>188</sup> Kieran J., Phelan, K. J., Khoury, J., Kalkwarf, H., & Lanphear, B. (2005). Residential injuries in U.S. children and adolescents. *Public Health Reports*, 120, 65–70.

<sup>189</sup> *Ibid*.

<sup>190</sup> Simasek, M., & Blandino, D. (2007). Treatment of the common cold. *American Family Physician*, 75(4), 515–520.

<sup>191</sup> Nandrup, B. I. (2011). Comparative studies of hand disinfection and handwashing procedures as tested by pupils in intervention programs. *American Journal of Infection Control*, 39(6), 450–455.

<sup>192</sup> Mulay, D. A. Keeping All Students Safe: The Need for Federal Standards to Protect Children from Abusive Restraint and Seclusion in Schools.

propose to require that programs develop and implement a system of management, training, ongoing oversight, correction and continuous improvement adequate to ensure child safety. Additionally, we propose to require that all facilities for center-based programs meet licensing requirements and all family child care programs be licensed to maintain a minimum level of safety. This section references these proposed requirements, which are found in 1302.21(d)(1) and § 1302.23(d) of the proposed rule. Finally, in paragraph (c), we propose to require all programs report any safety incidents in accordance with proposed § 1302.102(d)(1)(iii). We specifically request comment on this section in regard to whether we include the appropriate areas of health and safety and whether we include the appropriate amount of specificity for these proposed requirements.

Additional safety practices related to background checks; standards of conduct including Head Start specific supervision requirements and prohibitions on seclusion and restraint; vaccination; and transportation are retained and strengthened in the appropriate subparts throughout the proposed standards to ensure child safety.

#### **Family and Community Partnership Program Services; Subpart E (Currently §§ 1304.40 and § 1304.41)**

This subpart proposes requirements programs must implement to partner with families and communities. Family engagement is central to the mission of Head Start and Early Head Start. This is reflected in how we integrate family- and parent- related requirements throughout the existing and proposed rule. To improve clarity and transparency, we propose to broadly restructure, revise and redesignate most of the provisions from § 1304.40 and § 1304.41 in the existing rule, under a new subpart E, entitled Family and Community Partnership Program Services. In this new subpart, we propose to revise the existing rule to include only the requirements for general approaches to family engagement, parent services to promote child development, family partnership services, and community partnerships. We also propose changes to improve the quality of these services.

To make it easier both for programs to implement and for the public to understand the broad range of Head Start family services and involvement, we propose to redesignate family services requirements from §§ 1304.40 and 1304.41 of the existing rule to the subparts that are the most relevant. For example, we propose to redesignate and revise § 1304.40(c) of the existing rule, which addresses the services that must be provided to enrolled pregnant women, into its own subpart (subpart H) in the proposed rule. Similarly, we propose to redesignate and revise §§ 1304.40(h) and 1304.41(c) of the current rule, both of which address transition services, to their own subpart focused solely on transitions services (subpart G). This proposed reorganization improves clarity about what we expect programs to deliver and properly elevates the importance of transition services to providing high quality early education. In addition, we propose to redesignate and revise § 1304.40(f), which addresses parent involvement in health nutrition, and mental health education, to § 1302.46 Family Support Services for Health, Nutrition, and Mental Health in the proposed subpart D (Health Services).

In addition to the reorganization described above, we propose policy revisions to improve the quality of family services and update community partnerships. We propose to better integrate family engagement practices into all aspects of programs and increase use of research-based strategies. In addition, we propose to clarify the expected outcomes of effective family engagement: Enhanced parenting skills, increased parental engagement in child learning and development, and improved family well-being in order to support child learning. Moreover, we propose to eliminate requirements for written plans, increase our focus on outcomes, and increase local flexibility to better match resources with family needs. We also propose revisions to community partnerships as required by the Act. These revisions will reduce bureaucratic burden and clarify that community partnership priorities should be driven by family needs and goals.

#### **Section 1302.50 In General**

This section proposes the fundamental requirements that apply broadly to all parent and family engagement activities as well as general parent and family practices in Head Start and Early Head Start programs. These fundamental requirements are consistent with long-standing Head Start philosophy about the importance

of parents in the Head Start mission. Some provisions are retained from the current rule and others are updated to reflect best practice and lessons from research.

In paragraph (a), we propose to require programs to integrate parent and family engagement strategies into all systems and program components. We envision program leadership playing an important role in this intentional integration so that all staff value and understand how to support and engage parents and families. Specifically, we propose to require programs to implement strategies into all systems and program components and develop community partnerships that will support family well-being in order to promote child learning and foster parental confidence and skills in ways that promote child learning and development. In parts of this section, we propose to retain some provisions with slight revisions, including current § 1304.40(a)(5), which requires staff to respect family diversity and cultural and ethnic backgrounds, and current § 1304.40(d)(3), which requires programs to provide parents with opportunities to participate as employees or volunteers.

In addition, we propose new requirements that reflect research and best practice. For example, in § 1302.50(b)(1), we propose to require a greater emphasis on supporting regular child attendance because this is central to improving child outcomes in Head Start. Emerging research demonstrates a link between higher attendance rates in preschool and school readiness for kindergarten.<sup>194</sup> Although about half of the days young children miss in preschool are likely due to illness, recent research in Chicago indicates that missed days may also be explained by other challenges, such as transportation, child care, and other demands on the family that make it difficult for the parent to secure child attendance.<sup>195</sup> The proposed change requires programs to work with parents to determine how best to address attendance issues. This important new emphasis is further strengthened by additional systemic requirements for programs to promote regular attendance in § 1302.16 in the proposed rule.

<sup>194</sup> Magnuson, K.A., Meyers, M.K., Ruhm, C.J., Waldfogel, J., (2004). Inequality in preschool education and school readiness. *American Educational Research Journal*, 41(1), 115–157.

<sup>195</sup> Erlich, S.B., *Preschool Attendance in Chicago Public Schools: Relationships with Learning Outcomes and Reasons for Absences*, The University of Chicago Consortium on Chicago School Research, 2013.

<sup>193</sup> Dunlap, G., Ostry, C., & Fox, L. (2011). Preventing the Use of Restraint and Seclusion with Young Children: The Role of Effective, Positive Practices. Issue Brief. *Technical Assistance Center on Social Emotional Intervention for Young Children*.

In paragraph (b)(3) we propose to require programs to implement an intentional focus on father involvement in their children's early learning and development because it has been linked to improve child outcomes.<sup>196</sup> For example, a study of Early Head Start families found that father engagement was associated with increased security and exploration among toddlers and stronger math and reading skills in the fifth grade.<sup>197</sup>

In paragraphs (b)(5) and (6), we propose to add language to ensure programs allow families a choice in where they share personal information and have procedures for communication between family service, education staff, and home visiting staff to share information relevant to best meet the needs of children and families.

#### *Section 1302.51 Parent Activities To Promote Child Learning and Development*

In this section, we propose revisions to existing requirements in § 1304.40(e) describing the parent activities programs must provide to promote child learning and development in order to give more local flexibility to programs in determining the best way to meet the individual needs of families they serve. We also propose revisions to strengthen the quality of services by requiring programs offer parents opportunities to participate in a research-based parenting curriculum. The existing rule does not require research-based approaches, and we believe some parent activities programs provide do not have the impact that research shows is possible. Positive parent-child relationships are fundamental to the goal of promoting child learning and development. In paragraph (a) in this section, we propose to strengthen the longstanding commitment in Head Start and Early Head Start to promoting parenting skills with the incorporation of key concepts that have emerged in recent research: parental efficacy or confidence and parenting education that is designed to model targeted skills. Programs can and should provide supportive environments for parents and families that help them develop positive views of themselves as parents and the knowledge and skills to effectively foster the healthy development and

early learning of their children. Interactions with staff, opportunities to form peer relationships, and access to information and supports can support parental confidence.

Specifically, in proposed § 1302.51(b), we propose a new requirement that all parents be offered the opportunity to practice and enhance parenting skills through participation in a research-based parenting curriculum. We believe this will improve the effectiveness of parent services aimed at enhancing parenting skills that support child learning and development.<sup>198</sup> According to testimony by Dr. Hirokazu Yoshikawa for the Senate Committee on Health, Education, Labor and Pensions, programs with a parenting focus augment preschool effectiveness only if it they provide parents with modeling of positive interactions or opportunities for practice with feedback.<sup>199</sup> One meta-analysis found that early childhood programs that simply provide parenting information had little to no effects, whereas programs that implemented intensive efforts in which desired behaviors are modeled and gave parents opportunities to practice had more significant gains.<sup>200</sup>

#### *Section 1302.52 Family Partnership Services*

In this section, we propose to revise and redesignate parts of § 1304.40(a) and (b) of the existing rule that govern what were formerly named family partnership plans, to clarify the ongoing and strength-based nature of these services, to enumerate a specific sequence of activities programs are to offer families, and to allow more local flexibility in serving families. Existing regulations do not identify the key areas for engagement nor permit local flexibility to meet family needs. We envision a family partnership services approach that continues to be initiated as early as possible, is clearly shaped by parent interest and need, but effectively targets program and staff resources to ensure appropriate levels of intensity of services. We believe these proposed revisions increase local flexibility to meet family needs while placing a greater emphasis on measurable

outcomes, which should lead to more targeted and effective service delivery.

We propose revisions to the family partnership agreement process in this section to de-emphasize the development of a single written plan and instead require programs to offer individualized linkages to services based on family strengths and needs. Our intention is to require programs to analyze what they learn from families about their strengths and needs on an ongoing basis and tailor program family engagement and support strategies and resources as needed. We also make clear in § 1302.52(c) that, while we propose to require all families be offered opportunities for individualized family partnership services, programs must take into account the urgency and intensity of family needs as well as their own program's capacities and triage services as appropriate. Our proposal would give programs the flexibility they need to be able to respond to the range of enrolled families' needs, whether the family is homeless or financially stable; well-functioning or in crisis.

In paragraph (b), we propose new requirements that programs implement intake and enrollment procedures that capture important information about family strengths and needs according to family outcomes outlined in the Head Start Parent Family and Community Engagement Framework, as appropriate. These new requirements make clear that information collected is just the first step of an ongoing process of collaborating with families to identify, prioritize, and access services and supports that are appropriate to address identified strengths and needs, and, if desired, work toward family goals. The proposed requirements also give programs the leeway to judge how best to match program and staff resources according to intensity and urgency of needs and goals. Programs must be able to measure progress in meeting identified needs and goals and work with parents to identify other actions if necessary. Finally, in proposed paragraph (d), we revise § 1304.40(a)(3) in the existing rule, to acknowledge that programs and families operate within a larger community context. We propose to require that programs are aware of existing plans developed by other community agencies and help families access needed resources from other entities in the community, if available, in order to avoid duplication of effort.

#### *Section 1302.53 Community Partnerships*

This section redesignates and revises § 1304.41(a) and (b) of the existing rule, that address community partnerships

<sup>196</sup> Fagan, J., & Iglesias, A. (1999). Father involvement program effects on fathers, father figures, and their Head Start children: A quasi-experimental study. *Early Childhood Research Quarterly*, 14(2), 243–269.

<sup>197</sup> Cook, G.A., Roggman, L.A., & Boyce, L.K. (2011). Fathers' and mothers' cognitive stimulation in early play with toddlers: Predictors of 5th grade reading and math. *Family Science*, 1(2), 131–145.

<sup>198</sup> The National Center on Parent Family and Community Engagement, Research to Practice Series, *Positive Parent-Child Relationships*, 2013.

<sup>199</sup> Yoshikawa, H. Testimony to the Senate HELP Committee—Full-Committee Hearing on Supporting Children and Families through Investments in High-Quality Early Education, February 6, 2014.

<sup>200</sup> Shonkoff, J. (2013). *Minds (Still) Wide Open: Sharpening our Theory of Change and Advancing the Frontiers of Innovation*. Presentation to Frontiers of Innovation Community Workshop, Boston, MA.

and advisory committees, with additions required by the Head Start Act, language updates to streamline existing provisions, and adds new provisions on coordination with state and local Quality Rating and Improvement Systems and agencies funded for early childhood data systems and K–12 statewide data systems (*e.g.*, State Longitudinal Data Systems). We propose to update the existing regulations on community partnerships to reflect the development of an array of services since Head Start's inception. Although in some communities there may be many more potential partners than previously, there continues to be a need for coordination of services for families. We believe Head Start agencies must play an evolving leadership role to coordinate and build local systems as they provide complementary services on behalf of Head Start and Early Head Start children and families.

We intend to strengthen community partnership activities in several additional ways. In § 1302.53(a), we propose to remove documentation requirements and place a greater focus on active implementation. This would reduce bureaucratic burden that is more about process than action. Additional changes in § 1302.53(a) and (b) propose to create a more direct connection between the family partnership services described in this subpart and how programs prioritize the formation of community partnerships. This further clarifies that community partners that can advance family needs and goals, including those for improving family economic well-being and stability, education and credentials, and asset-building, should be prioritized as needed.

In addition, in § 1302.53(b) we propose to add types of providers with which programs should engage in collaborative relationships and partnerships. This includes providers of services to homeless children and families, domestic violence prevention and support, substance abuse prevention, mental health, providers of pre- and post-natal support, Temporary Assistance for Needy Families agencies, and workforce development and training programs; family literacy, adult education, and post-secondary education institutions. Some of these additional partners are proposed as required in section 645A(b)(11) and section 642(e) of the Act, others reflect best practices from the Parent and Community Engagement Framework,<sup>201</sup> and others from recommendations from

the Advisory Committee on Head Start Research and Evaluation.<sup>202</sup>

We propose three additional changes in this section. First, in § 1302.53(c), we propose to retain the requirement that programs must have health advisory committees and we propose to remove language about an option to have other advisory committees. This streamlined proposal reduces unnecessary redundancy. Second, in § 1302.53(d), we reflect a provision described in section 642(e)(5) of the Act that requires a program to enter into a memorandum of understanding with the appropriate local entity responsible for managing publically funded preschool programs in the service area. This has been in effect since 2008 and does not reflect a new requirement on programs. Finally, we propose a new provision that programs should participate in state or local Quality Rating and Improvement Systems if they have been validated to show that the tiers in the State's Tiered Quality Rating and Improvement System accurately reflect differential levels of quality, are related to progress in learning and development, and build toward school readiness and if Head Start programs can participate in the same way as other early childhood providers in the area. We considered making this a stronger requirement that programs must participate and are seeking comment on whether that would be a better approach. We are also specifically requesting comment on whether this provision will assist in improving information for parents and the quality of services for children or will create an undue burden on programs and duplication in monitoring. We are also specifically requesting comments on whether the Quality Rating and Improvements Systems have been appropriately validated, the results are publicly available and we should limit the proposal for Head Start participation in Quality Rating and Improvement Systems to systems that meet these or other requirements.

#### **Additional Services for Children With Disabilities; Subpart F (Currently Part 1308)**

In this subpart of the NPRM, we propose to redesignate requirements in part 1308 in the existing rule, related to Services for Children with Disabilities, and significantly update those requirements to align with the Act. Specifically, we propose revisions to reflect requirements that children must be identified and receive services as

prescribed in the Individuals with Disabilities Education Act (IDEA). In order to communicate its critical importance, we also propose to incorporate requirements for the full inclusion and participation of children with disabilities in all program activities, including but not limited to children eligible for IDEA services, throughout this NPRM.

Prior to reauthorization of the Act in 2007, we permitted programs to use independent evaluators to diagnose disabilities and provide services. In this subpart, we propose to remove all requirements relevant to this outdated authority, including the eligibility criteria, which are outlined for twelve diagnostic categories in the existing rule (§§ 1308.7 through 1308.17). Consistent with revisions throughout this NPRM, we propose to revise this section to include children from birth through the age of kindergarten entry, rather than just preschoolers. Additionally, we propose to remove the entire Appendix to § 1308 in the existing rule because we do not want to provide guidance in tandem with regulations as this often causes confusion and an unwieldy document.

#### **Section 1302.60 In General**

As in other subparts of this NPRM, we propose to include an 'In general' section to outline the requirements contained herein and to specify that programs must ensure all children with disabilities, including but not limited to those who are eligible for IDEA services, and their families receive all applicable program services and are able to fully participate in all program activities.

#### **Section 1302.61 Additional Services for Children With Disabilities**

In paragraph (a) of this section, we require that programs ensure all children with disabilities have access to and full participation in the range of activities and services provided, including individualized accommodations and supports necessary for their full participation. In paragraph (b), we propose new language to require programs to provide appropriate individualized services and supports for children, to the maximum extent possible, during the interim period while the local IDEA agency determines eligibility. It may take several months after referral for children to be evaluated and determined to be eligible to receive services under IDEA Part C or Part B. We believe it is important that their possible early intervention and special education and related service needs are met to the fullest possible extent during this time.

<sup>201</sup> <http://eclkc.ohs.acf.hhs.gov/hslc/tta-system/family>.

<sup>202</sup> Advisory Committee on Head Start Research and Evaluation: Final Report (2012).

Once a local IDEA agency determines a child is eligible for IDEA services, we also propose to require programs to meet the individual needs of children with IFSPs or IEPs. Specifically, in paragraph (c)(1), we propose to require programs to work closely with local IDEA agencies and other service providers, as appropriate, to ensure that indicated services are planned and delivered as required by the IFSP or IEP; children are working toward the goals that are identified in their individual plans; service providers have been identified as necessary for services that the program cannot meet such as for speech, physical or occupational therapy or consultant special education teacher services; and IFSPs and IEPs are revised and updated as required and needed.

Finally, in paragraph (2), we propose to redesignate existing requirements, §§ 1304.8(g) and 1304.20(f)(2)(iii), which describe transition services programs must provide for children with IFSPs or IEPs into this section. This section also retains existing requirements related to inclusion and transitions, with significantly streamlined and reduced language through reference to IDEA requirements. Specifically, we propose to redesignate and revise existing requirements (§ 1304.20(f)(iii)) that programs with children with an IFSP transitioning out of Early Head Start must collaborate with parents, and the local IDEA agency to ensure that there is a timely determination of continued eligibility and service delivery under IDEA. In addition, in this section we propose to redesignate and revise existing provisions in § 1308.4(g), which require programs with children with IEPs transitioning out of Head Start to kindergarten to collaborate with the children's parents and local IDEA agencies to identify continued eligibility and appropriate IDEA service delivery.

#### *Section 1302.62 Additional Services for Parents*

Finally, in this section, we propose to redesignate and revise §§ 1308.6(e), 1304.20(f)(ii), and 1308.21 in the existing rule related to additional services for parents. Specifically, in paragraph (a), we recommend revisions to these requirements to explicitly identify the supports programs must provide to assist the parents of children with disabilities in meeting the needs of their children. We believe these proposed revisions streamline and more accurately enumerate the expectations that are implicit in the existing regulation. These clarified requirements include: Program collaboration with

parents to help parents become advocates for their children; and understand their child's disability and how to meet their needs and support their development. While the existing rule requires that programs inform parents of possible resources such as the Supplemental Security Income (§ 1308.21(a)(7)), the revised rule specifically requires that programs assist parents in accessing the services and resources necessary for their family, including securing adaptive equipment and devices, creating linkages with support groups, and helping parents establish eligibility for additional supportive programs, as applicable (§ 1302.62(a)). We believe that this more expansive language clarifies the expectation the programs assist parents in obtaining the knowledge, equipment, and services they need to support the maximal development of their child. This is crucial as parents' ability to advocate for their children with special needs may play a critical role in acquiring necessary services both as a child is entering the system as an infant, toddler, or preschooler and as they eventually move into school.

In paragraph (b), the clarified requirements apply explicitly to parents of children eligible for IDEA and include programs helping parents: Understand the referral, evaluation, and service provision timelines required under IDEA; actively participate in the eligibility determination and IFSP or IEP development process; understand the purposes and results of the evaluation process and the services that are provided through an IEP or IFSP; and finally, ensure their children's needs are accurately identified and addressed through the IEP or IFSP. We consider Head Start's role in helping parents navigate the IDEA process critical to obtaining needed early intervention and special education and related services.

#### *Section 1302.63 Coordination and Collaboration With the Local Agency Responsible for Implementing IDEA*

Section 645A(b)(8) of the Act requires programs to ensure formal linkages with agencies implementing IDEA and providers of IDEA services. In this section, we propose to largely retain existing provisions (§§ 1308.4(l) and 1304.20(f)(ii)) that describe requirements for programs to work with local agencies responsible for implementing IDEA to identify children who may be eligible. We note that section 637(a)(10) of the IDEA and the IDEA Part C regulations in 34 CFR 303.210 and 303.302(c)(1)(ii)(E) also

require coordination between Head Start and Early Head Start programs and IDEA early intervention service providers to ensure the early identification of, and provision of services to, young children with disabilities. We propose revisions to streamline the language to more clearly express actual program requirements rather than requiring programs to have a plan to address requirements. We propose to update the language in the existing rule which refers only to local education agencies (LEAs) such that it refers to "the agency responsible for implementing IDEA" to reflect that the term "local IDEA agency" is applicable to both children age birth to three and children age three through five and that the entity that provides IDEA Part C services to children with disabilities age birth to three are early intervention service (EIS) providers and that the entity that provides IDEA Part B services to children with disabilities age three through five are LEAs.

In paragraph (b), we propose to redesignate and slightly revise for clarity provisions that require programs to develop agreements with local IDEA agencies to ensure efficient referral, evaluation, service coordination, and transition services (§§ 1308.6(e), 1304.20(f)(ii) and 1308.21 in the existing rule). In paragraph (c), we propose to revise existing provisions (§§ 1308.21 and 1304.20(f)(ii)) that require programs, in collaboration with parents, to participate in the development and implementation of Individualized Education Programs (IEP) and Individualized Family Service Plans (IFSP), including through the provision of screening and other information and participation in meetings. Finally, in paragraph (d), we propose to include a new requirement for programs to retain copies of children's IEPs or IFSPs for the time the child is in the program. We believe this provision will ensure every program has access to a child's individualized plan in order to support implementation to the fullest extent possible.

#### **Transition Services; Subpart G (Currently §§ 1304.40, 1304.41, and 1305.7)**

This subpart proposes to organize all provisions related to transition services from §§ 1304.40(h), 1304.41(c) and 1305.7(c) in the existing rule into a single subpart. Starting kindergarten is a big change for both children and families. Head Start provides transition services to support children and families effectively adapt to this change. Supporting children in this major life event so they feel comfortable with their

new setting and new teachers can lead to better social and academic outcomes for children.<sup>203 204</sup> Supporting families through this transition can lead to more family engagement in kindergarten,<sup>205</sup> and greater family engagement leads to better social and academic outcomes for children.<sup>206 207</sup> Head Start transition services include collaborations with families and schools to help ensure children and families are supported during this change. Planning and implementing transitions from Early Head Start also provides important support for children and families and fosters continuity of services.

We propose to reorganize and update transition services to improve their quality and effectiveness. In the existing rule, transition services are organized primarily under parent and community collaboration in §§ 1304.40(h) and 1304.41(c). We propose to maintain these central linkages to parent and community collaboration but in a new structure that will support better service delivery, make it easier to determine what transition services we require from Early Head Start and Head Start programs, and elevate the importance of these program services.

Despite the structural reorganization, we propose to maintain most of the existing provisions regarding transition services from the existing rule. We propose to streamline and update these provisions to improve clarity. In addition, we propose to include requirements from section 642A of the Act and expand services to better reflect lessons from transitions research, and reflect the changing landscape of available early learning programs. We believe these requirements will foster successful transitions to help children feel comfortable and positive about their new settings. We also believe they will enable parents to support their children emotionally and academically and assist them in understanding how to advocate

for and engage in their children's education.

#### *Section 1302.70 Transitions From Early Head Start*

This section proposes the requirements for supporting successful transitions out of Early Head Start and lays the foundation for sustained parent involvement in their child's education. This includes general requirements that support transitions from Early Head Start, specific requirements about transition planning, family collaborations, and collaboration between Early Head Start and Head Start, in paragraphs (a) through (d) of this section, respectively. Paragraph (e) includes a cross-reference to the additional transition services required for children with an IFSP and described in subpart F.

This section mainly retains the existing requirements regarding these areas of transition services from §§ 1304.40(h), 1304.41(c), and 1305.7(c) because we believe they are important to supporting successful transitions. In paragraph (d)(2), we propose slight language changes to the existing rule to improve clarity and streamline language, and make collaboration requirements subject to privacy requirements proposed in part 1303. In paragraph (c), we also revise § 1304.40(h)(2) to no longer require a staff-parent meeting be held toward the end of the year, but retain the core requirement that programs must provide information to parents about their child's progress during the program year as part of transition services. We believe this will reduce confusion and increase local flexibility without decreasing quality of service delivery. The existing rule requires programs to conduct at least two home visits with parents and at least two teacher-parent conferences. A separate provision under the current rule requires programs conduct a teacher-parent meeting toward the end of the year to help support transitions. Though we have not interpreted this to require three separate teacher-parent meetings, programs have expressed confusion about whether they are required to conduct the transition meeting separately from the parent-teacher conference. We believe elimination of specific mention of an end of year transition meeting will eliminate the confusion of whether a third meeting is required and allow local programs the flexibility to determine when and how (home visit or parent-teacher meeting) to best provide these transition services.

We propose to strengthen transition services by requiring Early Head Start

and Head Start to implement strategies to improve the collaboration and coordination for transition services between Early Head Start and Head Start in § 1302.70(d). Only slightly more than half of Early Head Start children attend Head Start when they become age-eligible,<sup>208 209</sup> and we believe programs must do more to maximize enrollment of Early Head Start children into Head Start, consistent with eligibility requirements. Extending services throughout the birth-to-five period is a more efficient use of Head Start funds and will help more children start kindergarten prepared to succeed in school. With the recent expansion of Early Head Start, this is increasingly important.

#### *Section 1302.71 Transitions From Head Start to Kindergarten*

In this section, we propose the services programs must implement to support successful transitions from Head Start to kindergarten. In paragraphs (a) through (d), respectively, we propose general provisions for programs to implement transition strategies and practices, family collaboration transition services, community collaborations transition services, and learning environment transition activities. Paragraph (e) includes a cross-reference to the additional transition services required for children with an IEP and described in subpart F. We believe these provisions will help Head Start preschoolers make strong transitions to elementary school and lay the foundation for sustained parent involvement in their child's education.

Most of the requirements in this section are provisions we retain from § 1304.40(h) and § 1304.41(c) in the existing rule. We made minor language changes to improve clarity, eliminate confusion, and reflect a provision required by the Head Start Act. For example, in (b)(2)(iii), we propose to revise § 1304.40(h)(3)(i) in the current rule, which requires programs to prepare parents to exercise their rights and responsibilities concerning the education of their children, to reflect requirements in the Section 642A of the Act to help parents of dual language learners understand the availability and appropriateness of language instruction educational programs available at their

<sup>203</sup> Curby, T.W., Rimm-Kaufman, S.E., & Ponitz, C.C. (2009). Teacher-child interactions and children's achievement trajectories across kindergarten and first grade. *Journal of Educational Psychology*, 101(4), 912-925.

<sup>204</sup> Tran, H., & Winsler, A. (2011). Teacher and center stability and school readiness among low-income, ethnically diverse children in subsidized, center-based child care. *Children and Youth Services Review*, 33, 2241-2252.

<sup>205</sup> Schulting, A.B., Moore, P.A., & Dodge, K.A. (2005). The effect of school-based transition policies and practices on child academic outcomes. *Developmental Psychology* 41(6), 860-871.

<sup>206</sup> Barnard, W.M. (2004). Parent involvement in elementary school and educational attainment. *Children and Youth Services Review*, 26, 39-62.

<sup>207</sup> McWayne, C., Hampton, V., Fantuzzo, J., Cohen, H.L., & Sekino, Y. (2004). A multivariate examination of parent involvement and the social and academic competencies in urban kindergarten children. *Psychology in the Schools*, 41(3), 363-377.

<sup>208</sup> Chazan-Cohen, R. & Kisker, E.E. (2012). Links between early care and education experiences birth to age 5 and prekindergarten outcomes. *Monographs of the Society for Research in Child Development*, 78(1), 110-129.

<sup>209</sup> Conversation with the Office of Policy Research and Evaluation, HHS regarding unpublished data. June 2, 2014.

elementary school. In addition, we propose to clarify, in paragraphs (c)(2)(i) through (ii), that transfer of relevant records and communication between Head Start and elementary school staff are consistent with privacy requirements we propose in part 1303.

Furthermore, as with Early Head Start, we revise § 1304.40(h)(2) in the existing rule, which requires programs to hold a staff-parent meeting at the end of the year to provide information about the child's progress during the program year. We propose to retain the core requirement that programs provide this information to parents as part of activities that support successful transitions but remove the meeting requirement. As noted above, we believe this will allow programs more local flexibility to determine when and how to collaborate with parents on transitions services and eliminate confusion about whether the existing rule requires a third teacher-parent meeting.

We propose several small but substantive changes to existing provisions in this section. First, we propose to redesignate and revise current § 1304.41(c)(1) to require programs to implement transition plans and to emphasize that programs must use ongoing transition strategies and practices. Throughout this NPRM, we have made a conscious effort to move away from requiring programs to develop plans and instead emphasize implementation. However, in this instance, research suggests that having a transition plan in place is important to support successful transitions.<sup>210 211 212 213 214</sup> We also

propose to expand upon this same existing rule, which requires programs to “establish and maintain procedures to support successful transitions,” by explicitly proposing in paragraph (d) to require programs include strategies and activities in the learning environment that familiarize children with the transition to kindergarten and foster confidence about the transition. All three of these proposed changes incorporate lessons from research on effective transitions.<sup>215 216 217 218</sup>

Furthermore, we propose additional provisions to strengthen transition services for children moving from Head Start to kindergarten. First, we propose to expand family collaboration services with a new requirement in paragraph (b)(2)(ii) for programs to implement strategies and activities with families that include helping parents understand and use parenting practices that effectively provide academic and social support for their children during transitions. This reflects best practices and will improve service quality.

In paragraphs (c)(1) and (c)(2), we propose to retain provisions consistent with sections 642(d)(3)(B) and 642(b)(13) of the Act that require programs to coordinate with school districts and kindergarten teachers. Secondly, in paragraph (c)(3), we propose to expand Head Start collaboration with school districts to include efforts to enroll Head Start children who will enter kindergarten into available summer school programming. Research finds that elementary students from low-income families lose skills and knowledge during the summer break.<sup>219 220</sup> Though this “summer slide” has not yet been examined with children between their pre-kindergarten and kindergarten years, we are concerned Head Start child in programs that do not operate during the summer months will experience this situation as well. This

new provision aims to address this potential problem.

#### Section 1302.72 Transitions Between Programs

In this section, we propose three new provisions that will support transitions for children and families who might not otherwise receive such services. First, in paragraph (a), we propose to require programs to undertake efforts to enroll and support transitions for children and families moving out of the community in which they are currently served, including homeless families and children involved in the child welfare system, to other Early Head Start and Head Start programs. It is common for children from low-income families to experience housing instability.<sup>221</sup> We also propose to include children in the child welfare system in this provision, given their family instability and the importance of early intervention, like that provided by Head Start, on their school readiness and long-term outcomes.<sup>222</sup> Thus, Early Head Start and Head Start families sometimes move during a program year because of changing and challenging family circumstances.<sup>223</sup> We believe it is important that programs make significant effort to facilitate the continued enrollment of these children in Early Head Start and Head Start programs in their new communities. This provision will improve continuity of services to children and families and improve the efficiency of Head Start funds.

Second, in paragraph (b), we propose a new provision to require Head Start programs to provide transition services to families who decide to enroll their children in a different public pre-kindergarten program in the year prior to kindergarten entry. This reflects the increasing availability of state- or locally-funded pre-kindergarten. These types of transitions may reflect as large a change for children and families as the transition from Head Start to kindergarten so it is important that Head Start programs implement services to support a successful transition.

<sup>210</sup> Pianta, R.C., Cox, M.J., Taylor, L., & Early, D. (1999). Kindergarten teachers' practices related to the transition to school: Results of a national survey. *Elementary School Journal*, 100(1), 71–86.

<sup>211</sup> Patton, C., & Wang, J. (2012). Ready for Success: Creating Collaborative and Thoughtful Transitions into Kindergarten. *Harvard Family Research Project*.

<sup>212</sup> Pianta, R.C., & Kraft-Sayre, M. (2003). *Successful Kindergarten Transition: Your Guide to Connecting Children, Families, & Schools*. Baltimore, Md.: National Center for Early Development and Learning, Paul Brookes Publishing Co.

<sup>213</sup> National Governors Association. (2005). Building the foundation for bright futures: final Report of the NGA Task Force on School Readiness. Retrieved June, 2, 2014.

<sup>214</sup> Bohan-Baker, M., & Little, P.M. (2002). *The transition to kindergarten: A review of current research and promising practices to involve families*. Cambridge, MA: Harvard Family Research Project.

<sup>215</sup> Patton, C., & Wang, J. (2012). Ready for Success: Creating Collaborative and Thoughtful Transitions into Kindergarten. *Harvard Family Research Project*.

<sup>216</sup> McGann, J.F., & Clark, P. (2007). Fostering positive transitions for school success. *Young Children*, 62(6), 77.

<sup>217</sup> Pianta, R.C., Rimm-Kaufman, S.E., & Cox, M.J. (1999). Introduction: An ecological approach to kindergarten transition. In R.C. Pianta & M.J. Cox (Eds.), *The transition to kindergarten* (pp. 3–12). Baltimore, MD: Paul H. Brookes Publishing Co.

<sup>218</sup> LaParo, K.M., Kraft-Sayre, M., & Pianta, R.C. (2003). Preschool to kindergarten transition activities: Involvement and satisfaction of families and teachers. *Journal of Research in Childhood Education*, 17, 147–158.

<sup>219</sup> Cooper, H., Charlton, K., Valentine, J.C., & Muhlenbruck, L. (2000). Making the most of summer school. A meta-analytic and narrative review. *Monographs of the Society for Research in Child Development*, 65 (1, Serial No. 260), 1–118.

<sup>220</sup> Cooper, H., Nye, B., Charlton, K., Lindsay, J., & Greathouse, S. (1996). The effects of summer vacation on achievement test scores: A narrative and meta-analytic review. *Review of Educational Research*, 66, 227–268.

<sup>221</sup> Profiles of Risk: Characterizing Housing Instability. Research Brief 1. (2011). Institute for Children, Poverty, & Homelessness. Washington, DC: Author.

<sup>222</sup> Rankin, V.E., & Gonsoulin, S. (2014). *Early learning is essential: Addressing the needs of young children potentially at risk for system involvement*. Washington, DC: National Evaluation and Technical Assistance Center for Children and Youth Who Are Neglected, Delinquent, or At Risk (NDTAC).

<sup>223</sup> Head Start and Housing (In)stability: Examining the School Readiness of Children Experiencing Homelessness. (2013). Institute for Children, Poverty, & Homelessness. Washington, DC: Author.



In paragraph (c), we propose to require Migrant and Seasonal Head Start programs support effective transitions to other Head Start programs when families move out of the community. Most Migrant and Seasonal Head Start programs already implement this important practice. Given the frequent mobility among families served by Migrant and Seasonal Head Start, supporting these transitions to maximize re-enrollment in Head Start programs and effective transitions is particularly important.

#### **Services to Enrolled Pregnant Women; Subpart H (Currently § 1304.40)**

In this subpart, we propose to redesignate, revise, and build upon concepts from § 1304.40(c) of the existing rule, which describes the services that Early Head Start programs must provide to pregnant women they choose to enroll. We propose to redesignate these requirements from the existing family engagement subpart into a new standalone subpart in order to highlight the importance of prenatal health care and education and to significantly improve the transparency of these requirements for programs serving pregnant women. Long standing research clearly demonstrates the importance of prenatal care and the effectiveness of prenatal interventions in facilitating healthy pregnancies<sup>224 225, 226 227 228</sup> and improving child outcomes that affect later school readiness<sup>229 230 231 232 233</sup>

among at-risk women. While most of this proposed subpart represents a structural revision of existing requirements, it also expands upon currently required services to codify best practices.

#### **Section 1302.80 Enrolled Pregnant Women**

In paragraph (a) of this section, we propose to include a requirement that programs determine whether enrolled pregnant women have ongoing sources of health care and, as appropriate, health insurance coverage and in paragraph (b), we propose that if the enrolled pregnant woman does not have such a source of care and, as appropriate, health insurance coverage, the program must facilitate access to each. We understand how important it is for pregnant women and children to have health insurance coverage. Pregnant women who have health insurance coverage are more likely to receive prenatal care. The link between a pregnant woman's health and the health of her child is a well-established fact. Early Head Start programs help pregnant women access health insurance coverage and will continue to offer this support through a combination of systems and services. This language reflects the proposed revisions to child health status in subpart D of the proposed rule. While this requirement can be inferred from § 1304.40(c)(1)(ii) of the existing rule, our proposed revisions would align with services that programs must deliver to children to reduce confusion and allow programs to use the same process for families of enrolled children and enrolled pregnant women. The prenatal empirical literature demonstrates the importance of such care during pregnancy. Research shows that pregnant mothers who receive consistent, ongoing prenatal care and engage in prenatal education activities are more likely to give birth to a healthy, full-term baby.<sup>234</sup> The research also clearly demonstrates that children who are healthy at birth are more likely to experience healthy development throughout the early childhood years.<sup>235</sup> Further, in paragraph (c), we propose to redesignate and slightly revise

§ 1304.40(c)(1)(i) and (iii) in the existing rule such that we clearly require programs to facilitate access to comprehensive services, such as nutrition counseling and mental health services. The 2002 Early Head Start Research and Evaluation Project found that 52 percent of enrolled mothers were depressed, and 18% of fathers showed signs of depression when their children were 2 years old, leading to poorer outcomes for both children and their families.<sup>236</sup> This research specifically on Early Head Start solidifies the importance of prenatal and postnatal mental health services for the families we serve. Additionally, research has clearly established the benefits of breastfeeding,<sup>237</sup> signaling the critical importance of prenatal nutritional counseling for pregnant mothers enrolled in Early Head Start.

#### **Section 1302.81 Prenatal and Postpartum Services**

In this proposed section, we redesignate, revise, and expand upon provisions describing the prenatal and postpartum education services for pregnant women and relevant family members, in § 1304.40(c)(2) of the existing rule. We propose that education services requirements in this section now include fetal development, the importance of nutrition, risks of alcohol, drugs and smoking, labor and delivery, postpartum recovery, infant care and safe sleep practices, and the benefits of breastfeeding. Paragraph (b) also proposes to emphasize existing requirements and expand upon them to require programs provide supports that promote emotional well-being,<sup>238</sup> nurturing and responsive caregiving,<sup>239 240</sup> and father engagement during pregnancy and early childhood,<sup>241</sup> each of which have been linked to later positive child outcomes. We know that many Early Head Start

<sup>224</sup> Olds, D.L., Henderson, Jr., C.R., Tatelbaum, R., & Chamberlin, R. (1986) Improving the Delivery of Prenatal Care and Outcomes of Pregnancy: A randomized Trial of Nurse Home Visitation. *Pediatrics*, 77(1), 16–28.

<sup>225</sup> Villar, J., Farnot, U., Barros, F., Victora, C., Langer, A., & Belizan J.M. (1992) A Randomized Trial of Psychosocial Support during High Risk Pregnancies, *The New England Journal of Medicine*, 327(18), 1266–1271.

<sup>226</sup> Olds, D.L., & Kitman, H. (1993). Review of Research on Home Visiting for Pregnant Women and Parents of Young Children. *The Future of Children*, 3(3), 53–92.

<sup>227</sup> McLiaghlin, F.J., Altmeier, W.A., Christensen, M.J., Sherrod, K.B., Dietrich, M.S., & Stern, D.T. (1992). Randomized Trial of Comprehensive Prenatal Care for Low-Income Women: Effect on Infant Birth Weight. *Pediatrics*, 89(1), 128–132.

<sup>228</sup> Alexander, G.R., & Korenbrot, C.C. (1995). The Role of Prenatal Care in Preventing Low Birth Weight. *The Future of Children*, 5(1), 103–120.

<sup>229</sup> Larson, C.P. (1980). Efficacy of Prenatal and Postpartum Home Visits on Child Health and Development. *Pediatrics*, 66(2), 191–197.

<sup>230</sup> Olds, D.L., Henderson, Jr., & C.R., Kitzman, H. (1994). Does Prenatal and Infancy Nurse Home Visitation have Enduring Effects on Qualities of Parental Caregiving and Child Health at 25 to 50 Months of Life? *Pediatrics*, 93(1), 89–98.

<sup>231</sup> Olds, D.L., & Kitzman, H. (1990). Can Home Visitation Improve the Health of Women and Children at Environmental Risk? *Pediatrics*, 86(1), 108–116.

<sup>232</sup> Hack, M. Klein, N.K., & Taylor, H.G. (1995). Long-term Developmental Outcomes of Low Birth Weight Infants. *The Future of Children*, 5(1), 176–196.

<sup>233</sup> Reichman, N.E. (2005). Low birth weight and school readiness. *The Future of Children*, 15(1), 91–116.

<sup>234</sup> *Ibid.*

<sup>235</sup> Center on the Developing Child at Harvard University. (2010). *The foundations of lifelong health are built in early childhood*. Cambridge, MA: Author.

<sup>236</sup> Administration for Children and Families, Office of Planning, Research and Evaluation. (2002). *Depression in the lives of Early Head Start families: Research to practice brief*. Washington, DC: Author.

<sup>237</sup> National Women's Health Information Center. (n.d.) *The Comprehensive Benefits of Breastfeeding*. Washington, DC: Author.

<sup>238</sup> Administration for Children and Families, Office of Planning, Research and Evaluation. (2002). *Depression in the lives of Early Head Start families: Research to practice brief*. Washington, DC: Author.

<sup>239</sup> Bornstein, M.H., & Lamb, M.E. (2002). *Development in infancy: An introduction*. Psychology Press.

<sup>240</sup> Sroufe, L.A. (2005). Attachment and development: A prospective, longitudinal study from birth to adulthood. *Attachment & Human Development*, 7(4), 349–367.

<sup>241</sup> Fagan, J., & Iglesias, A. (1999). Father involvement program effects on fathers, father figures, and their Head Start children: A quasi-experimental study. *Early Childhood Research Quarterly*, 14(2), 243–269.



programs already provide these supports and services, which are best practices for prenatal and postnatal care. This proposal simply codifies best practices that many Early Head Start programs already have in place.

*Section 1302.82 Family Partnership Services for Enrolled Pregnant Women*

In general, this section of proposed subpart H, simply highlights that, as with all other families, enrolled pregnant women should be receiving the family partnership services described in proposed subpart E. However, it clarifies that these services should be explicitly directed towards their prenatal and postpartum care needs. We also propose to redesignate § 1304.4(i)(6) of the existing rule in this section to make the requirement more transparent to programs. This provision requires that programs engage in a home visit with the mother within 2 weeks after her child's birth, consistent with 645A(i)(2)(G) of the Act. Finally, we also propose to codify best practices, which excellent programs already follow, with regard to engaging the mother in discussions about program options and transitioning her child into program enrollment during and support the mother, where appropriate.

**Human Resource Management; Subpart I (Currently §§ 1301.31, 1304.21 Through 1304.23, 1304.51, 1304.52, 1306.20 Through 1306.23, and 1306.33)**

In this subpart, we propose to redesignate, update, and combine all current regulations related to human resources management into one coherent section. We believe this will increase transparency and clarify human resources management for programs. Topics related to human resources were included in multiple sections within the existing rule, including §§ 1301, 1304.52, 1306.20(f) and 1306.21. In addition to this broad restructuring, we propose to universally apply several concepts to the revisions to this section. Specifically, we propose to move away from requiring written plans and prescribing how specific requirements should be achieved in order to give greater flexibility to programs in determining the best way to meet the expectations we retain.

These universal themes are reflected in this subpart through the proposed revisions to the written personnel policy requirements, the proposed removal of staff qualifications that were not easily measurable, and the proposed retention of requirements that all staff adhere to appropriate standards of conduct and all staff and consultants have sufficient knowledge, training, and experience to

fulfill the roles and responsibilities of their positions to ensure the delivery of high quality services. We also propose to increase many staff qualifications as required by the Act and improve the focus of professional development for education staff, which will further improve program quality.

*Section 1302.90 Personnel Policies*

In this section, we propose to redesignate, consolidate, and update provisions from §§ 1301.31, 1304.52(i), and 1304.52(g). Consistent with the principles described above, we propose to remove § 1304.52(j) of the existing rule, which prescribed a process for conducting staff appraisals. While we believe that conducting annual staff appraisals is good managerial practice, we also acknowledge that there may be other equally appropriate methods for staff supervision and feedback, and therefore wish to provide programs with flexibility on this process. Additionally, we propose to remove much of § 1301.31(a) of the existing rule, which requires multiple written policies and prescribes what those policies must include, because we believe prescribing the content of these written policies causes undue burden on programs and we believe it will be more efficient and effective to give programs flexibility in meeting their managerial requirements. Therefore, in this section we propose to retain the requirement that programs establish written personnel policies and procedures, but remove the prescription of the topics that those policies and procedures must cover.

In this section, we also propose to retain and strengthen the process for performing background checks on staff and standards of conduct. We propose to largely retain the conceptual process for recruiting and selecting staff (§ 1301.31(b)). Within this process, however, we propose to highlight child safety as a top priority for the Office of Head Start by strengthening the criminal background check requirements to reflect revisions to the Act, align with a new ACF resource guide called *Caring for Our Children Basics* (discussed below), and complement the new background check requirements in the Child Care and Development Block Grant (CCDBG) Act of 2014. The proposed requirement would strengthen the background check process for staff in Head Start programs by requiring both state/local/tribal and federal criminal background checks, as well as clearance through available child abuse and neglect and sex offender registries. Making this requirement complement the new CCDBG requirement will minimize burden on programs that

operate with both Head Start and Child Care Development Funds. In addition, the existing rule requires a background check but does not require programs to act on that information. While we do not propose to include Head Start specific prohibitions based on the background checks, we do propose to require programs use the disqualification factors their state licensing entities establish when making employment decisions.

In paragraph (b)(3), to further protect children's safety, we do propose to require programs provide justification for any hire where an arrest, pending criminal charge, or conviction is present. The strengthening of these proposed provisions aligns with a consistent message from the federal government about the importance and characteristics of high quality background checks, which are critical to ensuring child safety in all early care and education settings. In addition, because section 648A(e) of the Act now requires all staff to have background checks completed prior to employment, we propose to remove all of § 1301.31(b)(2) and § 1301.31(c) of the existing rule because declarations and exclusions on such declarations are no longer relevant. In paragraph (b)(4), we propose to further strengthen background check requirements by requiring programs perform background checks every five years for current staff.

Additionally, in paragraph (b)(5), with regard to hiring parents, we propose to revise the language in the existing rule (§ 1304.52(b)(2)) and redesignate the provision to this section to reflect that "being qualified" and being the best suited for a job are not identical concepts and to increase local flexibility. We want to make sure parents, and their parental status are considered in the hiring process, but we do not want programs to believe they are required to hire any parent who applies with appropriate qualifications, without regard to the program's judgment of how well qualified that parent is or the qualifications and experience of other applicants.

Under paragraph (c) of this section, we also propose to strengthen the current standards of conduct (§ 1304.52(i)(1)) in this section to align with the prohibited behaviors listed in a new ACF resource, *Caring for Our Children Basics*, which is available on the OHS Web site. *Caring for Our Children Basics* is a common set of recommendations, which is intended to create a common framework to align basic health and safety efforts across all early childhood settings. *Caring for Our Children Basics* is based on *Caring for*

*Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, Third Edition*, a document produced with the expertise of researchers, physicians, and practitioners working with the American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education, and the Maternal and Child Health Bureau in the Department of Health and Human Services. The standards of conduct we propose to include strengthen the requirements that ensure all staff, consultants and volunteers interact with family and children with respect and that their actions support the best interests and safety of all children. The standards are strengthened specifically by the inclusion of an explicit prohibition on seclusion and restraint and retain the existing protections for child and safety related to standards of conduct in § 1302.90(c).

Finally, in paragraph (d) of this section, we propose to redesignate language from §§ 1304.52(g) and 1306.20(f) in the existing rule to reflect the importance of staff being able to communicate with dual language learners and their families, either directly or through interpretation or translation. We also clarify, throughout the proposed rule that children for whom English is not their first language are dual language learners, whereas their parents and families (adults) are Limited English Proficient. Given the proportion of dual language learners that Head Start programs serve, it is critical that programs devote the necessary resources within their management of human resources to provide high quality services to these children and their families, and this includes ensuring the ability of staff to communicate with them in their primary language.<sup>242 243 244</sup>

#### *Section 1302.91 Staff Qualification Requirements*

In this section, we propose to redesignate §§ 1304.52(b) through (h) and 1306.21 to ensure that all staff qualification requirements are centrally located within the rule. We propose to

remove §§ 1306.21 and 1304.52(b)(1) to eliminate relying on cross-referencing the Act for qualifications of classroom teachers. Rather, we propose to incorporate language that reflects the requirements of the Act, which include a minimum of an Associate's Degree for all Head Start Teachers and an infant and toddler Child Development Associate (CDA) for Early Head Start. This decision was made because there are several intermediary requirements of the Act, which are no longer in effect at the time of this NPRM, and to provide clarity for programs on the requirements for all staff. The requirements incorporated have been in effect since 2011 and 2012 respectively. While we propose to add the provisions dictating the qualifications of teachers and assistant teachers, the requirements are technically retained from the existing rule per the cross-reference to the Act.

We propose additional revisions to increase staff quality. Building on the section 648A of the Act's requirement of "demonstrated competencies" for teachers, we propose to add key core competencies for all teaching staff and home visitors to better support the delivery of high quality education services. Specifically, we propose to require that teachers demonstrate competencies needed to plan and implement high quality learning experiences, effectively implement curriculum, support a warm environment, and promote progress across the standards in the Head Start Early Learning Outcomes Framework (Birth–5). In paragraph (f), to create a minimum staff qualification for all home visitors which we currently lack, we require that all home visitors have, at a minimum, a home-based CDA credential. We recognize that the Head Start and Early Head Start home visiting workforce is, in general, very well qualified. However, 10 percent of our current workforce does not hold at least a CDA, and given the complex skills necessary to be a successful home visitor, we are motivated to address this shortfall. We feel the home-based CDA offers the minimum level of training and content necessary for home visitors to effectively help children and families make progress on school readiness goals. We would like to invite public comment specifically on this proposed change and whether experts and practitioners would recommend setting an even higher standard.

In addition, we propose to remove qualifications that were especially nebulous or hard to determine during an interview process like "knowledge of" and instead propose to rely on training and experience, and, where possible,

degrees, licenses or certificates. Specifically, we propose to remove qualifications for family service, health, and disabilities staff (§§ 1304.52(b)(1), 1304.52(b)(4) and (5), and 1304.52(b)(6)) because the requirements in the existing rule were not meaningful or measureable, and because research does not support the need for specific degrees. Therefore, we propose to require programs ensure all staff and consultants have sufficient knowledge, training, and experience to fulfill the roles and responsibilities of their positions and deliver high quality services. We propose to revise the requirements for qualifications of a fiscal officer in response to feedback that programs of diverse sizes have diverse needs for fiscal officers. The proposed revision would give programs greater flexibility to assess their own needs and ensure that their fiscal officer is qualified to meet those needs.

While we have not proposed in this NPRM to increase the qualification requirements for teachers beyond what is in the Act, we are specifically seeking public comment on whether all Head Start teachers and potentially all Early Head Start teachers should be required to have a bachelor's degree. The Institute of Medicine and National Research Council recently issued a report entitled, "Transforming the Workforce for Children Birth to Age Eight: A Unifying Foundation." The report includes a specific recommendation that "comprehensive pathways and multiyear timelines at the individual, institutional and policy level [be developed and implemented] for transitioning to a minimum bachelor's degree requirement, with specialized knowledge and competencies, for all lead educators working with children birth through age 8." We believe the proposed requirements in this section will ensure all teachers in Head Start and Early Head Start will have the specialized knowledge and competencies the recommendation includes. Further, we have clarified that all training and professional development should be credit bearing in section 1302.92 of this NPRM but do not require those credits lead to a bachelor's degree. Currently, 71% of Head Start teachers have a bachelor's degree, but only 27% of Early Head Start teachers have their bachelor's. In Early Head Start, such a requirement would potentially be complicated by the lack of a "lead" teacher in these classrooms. Therefore, it is unclear whether all Early Head Start teachers should have a bachelor's degree or if one teacher with a

<sup>242</sup> Castro, D. C. & Espinosa, L. M. (2014). Developmental characteristics of young dual language learners: Implications of policy and practice in infant and toddler care. *Zero To Three*, January, 2014.

<sup>243</sup> Espinosa, L. (2010). *Getting it right for young children from diverse backgrounds: Applying research to improve practice*. Upper Saddle River, NJ: Pearson.

<sup>244</sup> Hakuta, K. (1986). *Mirror of language: The debate on bilingualism*. New York: Basic Books.

bachelor's degree could be assigned greater responsibility and be designated the "lead" educator for this purpose. As a result, rather than increase the qualification requirements for all teachers in this NPRM, we are asking for specific comments for whether and how more teachers in both Head Start and Early Head Start should have a bachelor's degree.

We are also specifically seeking public comments about specific degree requirements that might be required for family service workers, disabilities services staff, and health staff.

#### *Section 1302.92 Training and Professional Development*

In this section, we propose to revitalize requirements for staff training and professional development so that resources are targeted to support effective professional development strategies and the content of such activities focus on the areas most important to supporting elements of teacher and program practice that are most directly linked to improved child outcomes. We instead describe a system of professional development that must include research-based approaches for all staff. We also propose to narrow the focus of professional development for educational staff to a coordinated system of professional development, the majority of which is delivered through individualized coaching. In addition, the approach to family child care providers has been revised to reflect that family child care providers are educators and therefore need the same professional development opportunities as center-based education staff. As a result, we removed the list of requirements that reiterated the need for programs to train family child care providers (§ 1304.52(l)(4) of the existing rule), and included family child care providers in the overall system of professional development.

We propose to improve the focus of the professional development and training system and redesignate and revise language from § 1304.52(l)(1) and (2) in the coordinated system of professional development described in this section. In addition, we propose to add more specific language around supporting education staff to develop the core competencies necessary to better improve child outcomes, including effective curricula implementation, content knowledge of the Head Start Early Learning Outcomes Framework (Birth–5), providing effective teaching and nurturing teacher-child interactions, supporting dual language learners, addressing challenging behaviors, using child

assessment data to individualize child progress, and preparing children for new programs. This more targeted training and professional development reflects research that suggests such an approach has the greatest impacts on quality.<sup>245 246</sup>

Through the coordinated system of professional development we also propose to add a new emphasis on utilizing intensive coaching as a method for delivering effective professional development. We aim for this to largely replace intermittent workshops and conferences, which are not shown to lead to sustained improved practice. There is a growing body of research supporting the effectiveness of intensive professional development for implementing specific research-based practices in early care and education settings.<sup>247 248 249</sup> Recent research documents the emergence of coaching and other on-site, intensive models of professional development as strategies to support the application of teaching practices and overall quality improvement in early care and education settings and find that coaching is associated with improved teacher practice in the classroom and a positive increase in classroom quality.<sup>250 251</sup> In many currently operating coaching systems, the coaching occurs on a weekly or bi-monthly schedule, for less than one program year. Yet, most programs do not have the staffing patterns to ensure that there is a dedicated staff person

<sup>245</sup> Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature*. Report prepared for the U.S. Department of Education.

<sup>246</sup> Tout, K., Halle, T., Zaslow, M., & Starr, R. (2009). *Evaluation of the Early Childhood Educator Professional Development Program: Final Report*. Report prepared for the U.S. Department of Education.

<sup>247</sup> Buysse, V., & Wesley, P.W. (2005). *Consultation in Early Childhood Settings*. Baltimore, MD: Paul H. Brookes Publishing.

<sup>248</sup> Tout, K., Halle, T., Zaslow, M., & Starr, R. (2009). *Evaluation of the Early Childhood Educator Professional Development Program: Final Report*. Report prepared for the U.S. Department of Education.

<sup>249</sup> Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature*. Report prepared for the U.S. Department of Education.

<sup>250</sup> Isner, T., Tout, K., Zaslow, M., Soli, M., Quinn, K., Rothenberg, L., Burkhauser, M. (2011). *Coaching in early care and education programs and Quality Rating and Improvement Systems (QRIS): Identifying promising features*. Child Trends.

<sup>251</sup> Lloyd, C.M., & Modlin, E.L. (2012). *Coaching as a key component in teachers' professional development: Improving classroom practices in Head Start settings*. Administration for Children and Families.

who can conduct regular observations of teacher practice and provide ongoing feedback and support to help them improve. For this reason, we propose to require that all grantees employ expert coaches or mentors who provide regular classroom, family child care, or home based observations and feedback, but we do not propose to designate a specific schedule. We also propose to require that such observations and feedback be directed primarily at the implementation of research-based practices and effective teacher-child interactions.

We recognize that requiring intensive coaching models of professional development may represent a significant increase in burden for some programs, but we are convinced that it is an essential component of raising the quality of educational services in Head Start and improving child outcomes. Given the realities of limited resources, the proposed revisions build in program flexibility to direct these intensive services, at a minimum, to the teachers and education staff, including teaching teams, who would benefit the most from intensive professional development to improve the quality of their instruction and teacher-child relationships. We do propose to require that education staff who do not receive intensive coaching as an individual or as part of a teaching team, at a minimum, continue to receive other research-based professional development opportunities. Proposed requirements in paragraph (c) are consistent with section 648A(a)(5) of the Act which requires each Head Start teacher receive no less than 15 clock hours of professional development per year.

Finally, in paragraph (d), we propose requirements that ensure local flexibility to develop an innovative approach to professional development to better meet the needs of their staff. Specifically, we allow programs to waive or significantly adapt the coaching strategy requirements outlined in paragraphs (b)(4) and (5) of this section. However, because high quality professional development is important for child outcomes,<sup>252</sup> we propose that a program that wished to develop any variation of the approach outlined in this section work with experts from a college, university, or research organization to develop and evaluate the effectiveness of their system. We believe this proposal provides critical flexibility

<sup>252</sup> Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature*. Report prepared for the U.S. Department of Education.

to drive innovation and growth in the field of professional development, while also ensuring important safeguards for quality and accountability.

#### *Section 1302.93 Staff Health and Wellness*

In this section, we propose to separate requirements for staff and volunteers and to support consolidation of all human resources requirements into subpart I. We propose to retain the provision that requires programs to make mental health and wellness information available to staff. A recent survey of Head Start staffs in one state found diagnosed depression was more prevalent among Head Start staff than national estimates, and suggested that depressive symptoms are even more prevalent.<sup>253</sup> Research has also demonstrated a link between caregiver depression and stress, and poorer quality interactions with children.<sup>254 255 256 257</sup> Given this research, it is important for programs to continue to provide supports for staff to understand their own mental health needs and seek support as necessary, as required by proposed paragraph (b).

#### *Section 1302.94 Volunteers*

In this section, we propose to redesignate and slightly revise § 1304.52(k)(2) of the current rule related to the utilization of volunteers, to support consolidation of all human resources requirements into subpart I.

#### **Program Management and Continuous Program Improvement; Subpart J (Currently §§ 1304.51, 1304.52, and 1304.60)**

This proposed subpart enumerates program requirements for management, high quality program operation, and continuous improvement. It establishes

the roles and responsibilities of the management system (§ 1304.52(a) of the existing rule) and proposes to expand the program planning process in § 1304.51(a), (b), and (d) of the existing rule to clarify how each aspect of quality improvement fits into a cycle of continuous program improvement. Specifically, we propose to describe how programs must establish, monitor progress, and reevaluate and revise their goals for continuous program improvement. In addition to this broad restructuring, several concepts were applied universally to the proposed revisions to the program management and continuous program improvement requirements enumerated in this subpart. Specifically, we propose to move away from requiring written plans, and prescribing how specific requirements should be achieved—leaving more flexibility for programs to determine the best way to achieve their goals, without reducing expectations about what the programs must achieve. These universal themes are reflected throughout the proposed revisions in this subpart.

We propose to revise the provisions to emphasize the role of management in ensuring child safety and the provision of high quality effective services that are responsive to child and family needs and promote school readiness. We propose to replace existing requirements for individual “written plans” with requirements that programs implement continuous program improvement informed by the ongoing analysis of data. While many programs may find that developing and implementing written plans is necessary, these revised requirements emphasize the outcomes rather than the processes selected by programs to accomplish those outcomes.

In this section, we also propose to introduce new requirements for the program’s use of data within the cycle of continuous improvement to establish, monitor, and revise program performance goals. Writ large, these proposed revisions reflect the integration of the recommendations offered by our Secretary’s Advisory Committee on Head Start Research and Evaluation.<sup>258</sup> The Advisory Committee’s vision for all Head Start programs was that they become ‘learning organizations’ which are ‘systematically and consistently focused on outcomes’ and are able to use data and research to ‘develop and continually refine [services] to ensure they are systematic, intentional, and intensive enough to achieve their goals

for children’s school readiness and family well-being’. The revisions proposed in this section are aimed at achieving this vision and creating a system that ensures the continuous improvement of all Head Start services, and thereby the outcomes of the vulnerable children and families that Head Start programs serve.

#### *Section 1302.100 In General*

This section succinctly describes the requirements contained herein, specifically that programs must implement program management and an ongoing monitoring and self-improvement process that ensures child safety, enables the provision of high quality services, and ensures continuous program improvement.

#### *Section 1302.101 Management System*

In this section, we propose removing the enumeration of individual management responsibilities (§ 1304.52(a)). Rather, similar to § 1304.5252(a) in the existing rule, we propose requiring programs to ensure their management and delineated responsibilities within management are governed by a system that enables the delivery of the high quality services described throughout the NPRM. We also propose to incorporate § 1304.51(a) into our description of the implementation of the management system by requiring regular and ongoing staff supervision to support continuous program improvement.

In this section, we also propose to require programs establish coordinated approaches to ensure professional development, services for dual language learners, and services for children with disabilities are fully integrated and supported throughout all aspects of the program. We propose to require a coordinated approach to professional development, because the strengthened requirements proposed in § 1302.92 of this NPRM, necessitate adequate program planning to ensure alignment of program performance goals and the content and strategies applied to fulfill those requirements. Supporting the school readiness of dual language learners also necessitates an informed and coordinated approach.<sup>259 260 261</sup> Young children who

<sup>253</sup> Whitaker, R.C., Becker, B.D., Herman, A.N., & Gooze, R.A. (2013). Peer Reviewed: The Physical and Mental Health of Head Start Staff: The Pennsylvania Head Start Staff Wellness Survey, 2012. *Preventing Chronic Disease*, 10.

<sup>254</sup> Hamre, B.K., & Pianta, R.C. (2004). Self-reported depression in non-familial caregivers: prevalence and associations with caregiver behavior in child-care settings. *Early Childhood Research Quarterly*, 19(2), 297–318.

<sup>255</sup> Pianta, R., Howes, C., Burchinal, M., Bryant, D., Clifford, R., Early, D., & Barbarin, O. (2005). Features of pre-kindergarten programs, classrooms, and teachers: Do they predict observed classroom quality and child-teacher interactions? *Applied Developmental Science*, 9(3), 144–159.

<sup>256</sup> Gilliam, W.S., & Golan, S. (2006). Preschool and child care expulsion and suspension: Rates and predictors in one state. *Infants and Young Children*, 19(3), 228–245.

<sup>257</sup> Brennan, E.M., Bradley, J.R., Allen, M.D., & Perry, D.F. (2008). The evidence base for mental health consultation in early childhood settings: Research synthesis addressing staff and program outcomes. *Early Education and Development*, 19(6), 982–1022.

<sup>258</sup> Advisory Committee on Head Start Research and Evaluation: Final Report. (2012).

<sup>259</sup> Hakuta, K. (1986). *Mirror of language: The debate on bilingualism*. New York: Basic Books.

<sup>260</sup> Winsler, A., Díaz, R.M., Espinosa, L., & Rodríguez, J. (1999). When Learning a Second Language Does Not Mean Losing the First: Bilingual Language Development in Low-Income, Spanish-Speaking Children Attending Bilingual Preschool. *Child Development*, 70(2), 349–262.

are dual language learners are highly diverse<sup>262</sup> and as such, programs serving dual language children must be intentional and coordinate what research tells us about dual language development with program policies and practices.<sup>263 264</sup> For example, successful assessment of children requires understanding processes of dual language development, the selection of valid and reliable instruments, as well as communicating with families in order to understand a child's experiences with two languages. Programs must hire and train staff to work with children and families in ways that support their school readiness. Given that nearly one-third of all children served in Head Start in 2013 spoke a language other than English in the home,<sup>265</sup> it is critically important that programs plan for and apply a coordinated approach across all elements of service provision to ensure high quality services for these children and their families.

Similarly, we propose to require a coordinated approach to effectively serving children with disabilities and their families because doing so effectively requires coordinated forethought, planning, and intentionality with as well as entities outside of the program. In addition, ensuring programs have appropriate facilities, program materials, curriculum, instruction, staffing, supervision, and partnerships to effectively serve this population can only be adequately accomplished through a coordinated approach to program management.

Finally, the Administration for Children and Families believes that greater integration of Head Start data into broader State longitudinal data systems is critical to helping states, Head Start grantees, and school districts make informed policy decisions and improve program instruction. As a key step to this effort, we propose a coordinated approach to ensuring effective data systems and data governance. Specifically, programs

would be required to approach data system management and data governance in a thoughtful and intentional way that supports the overall management of Head Start data, including the availability, usability, integrity, and security of data. Data governance is both an organizational process and a structure. Data governance should include a data governance body or council with clear roles and responsibilities assigned to the group and to individual members with ongoing feedback and communication from the agencies' overall governing body and policy council; a framework for decision-making and/or procedures about data management including how data quality will be monitored; how data will be shared while protecting privacy and confidentiality; a plan to execute those procedures; and an accountability structure for meeting these requirements. These procedures and structure are considered best practice in supporting communication and collaboration among data systems and protecting privacy while reducing staff burden and improving data quality. In developing these procedures, Head Start grantees should work with the Head Start State Collaboration Office and/or the state's Early Childhood Advisory Council (HSSCO/ECAC), the State Educational Agency (SEA), and other state coordinating bodies to allow for better integration of Head Start data within State early childhood data systems and sources and K–12 state longitudinal data systems, as appropriate. Finally, grantees should align their data collection and definitions with the Common Education Data Standards.

We recognize that in trying to meet statutory or Federal reporting requirements, Head Start providers may use different data definitions than the States' K–12 data system or other early education data systems that could make integration more difficult. We invite public comment specifically on potential areas where Head Start data may not be aligned with other systems, and how to better align Head Start data collection and definitions to facilitate data sharing.

#### *Section 1302.102 Achieving Program Performance Goals*

In this section, we propose to reorganize sections in the existing rule (§ 1304.51(a), (b), and (d)) which describe goal setting with respect to quality improvement to provide clarity and align with the Designation Renewal System. We believe this reorganization better conveys the importance of establishing goals for effective health

and safety practices, all elements of high quality service provision, and continuous quality improvement for all programs, not just those with identified quality issues or deficiencies. We also propose to require that programs establish program performance goals for school readiness that are aligned with the Head Start Early Learning Outcomes Framework, state or tribal early learning standards as appropriate, and program performance goals for the provision of education, health, nutrition, and family and community engagement services.

In addition, we propose to expand the entire program planning process to clarify how each aspect of quality improvement fits into a continuous cycle and how programs must use each aspect for planning, goal setting, and re-evaluating their goals. We believe this is integral to improving the quality of service delivery. We also propose to expand upon the current requirement for programs to establish program performance goals, including school readiness goals and goals for effective provision of comprehensive services, and monitor their short- and long-term progress towards achieving these goals. However, we propose to no longer require written plans as described in § 1304.60 (c) through (f) of the existing rule. While we do propose to require quality improvement plans in the face of deficiencies, or other issues as prescribed by section 641(A) of the Act, we also propose to require all programs establish goals and monitor their progress towards those goals as well as their compliance with the performance standards. We also propose to require programs to implement strategies for achieving their goals and ensuring compliance and revise those strategies over time to reflect their progress and shifting priorities.

In paragraph (c) of this section, we propose to introduce new requirements for the program's use of data within the cycle of continuous improvement to establish, monitor, and revise program performance goals. Incorporating requirements that reflect the process already established under part 1307, including that data must be aggregated and analyzed at least three times per year, in the existing rule clarifies the need for all programs to collect, aggregate, and analyze data to achieve program performance goals and consistently work to improve quality. This new emphasis on the use of data for the purposes of program management and ongoing improvement is intended to support improved efficiency and effective operations. Using data in this way will allow programs to develop individualized

<sup>261</sup> Bialystok, E. (2001). *Bilingualism in Development: Language, Literacy, & Cognition*. Cambridge: Cambridge University Press.

<sup>262</sup> Genesee, F., Paradis, J., & Crago, M.B. (2004). *Dual language development and disorders: A handbook on bilingualism and second language learning*. Baltimore: Paul H. Brookes.

<sup>263</sup> Castro, D.C. & Espinosa, L.M. (2014). Developmental characteristics of young dual language learners: Implications of policy and practice in infant and toddler care. *Zero To Three*, January, 2014.

<sup>264</sup> Espinosa, L. (2010). *Getting it right for young children from diverse backgrounds: Applying research to improve practice*. Upper Saddle River, NJ: Pearson.

<sup>265</sup> Head Start 2014 Program Information Report. <http://eclkc.ohs.acf.hhs.gov/hslc/data/pir>.

responses and manage their resources more efficiently.<sup>266</sup>

While the concept of written plans (§ 1304.60(c) through (f)) was generally removed to allow programs to focus more on implementing improvements than plans, paragraph (d) of the proposed rule does retain reporting requirements and quality improvement plans for programs when certain deficiencies or other problems arise to ensure needed accountability. We also propose to redesignate and revise concepts from § 1304.52(a)(1)(ii) and (iii) of the existing rule in this section to require that any deficiencies in quality or compliance be reported and corrected and that procedures be put in place to prevent recurrence, and we strengthen this provision to include the reporting and immediate correction of any health and safety incidents. Additionally, this proposed section clearly delineates the expected content of both program annual self-assessments and public reports to include program community needs assessments. Collectively, these proposed requirements reflect the goal of achieving quality improvement, but hold programs accountable for improving rather than simply planning.

#### *Section 1302.103 Implementation of Program Performance Standards*

In this section, we propose a requirement that programs develop a program-wide approach for preparing for and implementing the extensive changes to the program performance standards proposed throughout this NPRM. Specifically, we propose to require current grantees implement an approach that ensures the timely and effective implementation of the changes. Each program's approach must include at a minimum, the purchase of and training on any curriculum, assessment, or other materials, assessment of professional development needs and staffing patterns, the development of coordinated management approaches, the development of appropriate protections for the privacy of child records, and provision of transition services, as needed, for children leaving Early Head Start or Head Start at the end of the program year as a result of any slot reductions. The effective date for the majority of the proposed changes in this NPRM has been set for one full program year following the publication of this NPRM. Therefore, programs must ensure that children currently being

served are not displaced from the program during a program year. Finally, programs may petition the responsible HHS official for a one year extension in meeting the criteria described in §§ 1302.21 through 1302.23 if such an extension is necessary to ensure no currently enrolled children are displaced. These proposed requirements will ensure faithful and timely implementation of the performance standards, without unnecessary enrollment disruptions, and that every program is poised for successful quality improvement.

#### **Financial and Administrative Requirements; Part 1303 (Currently §§ 1301, 1303, 1309, and 1310)**

This part lays out the financial and administrative requirements for agencies currently included in §§ 1301, 1303, 1309 and 1310.

##### *§ 1303.1 Overview*

In this section we summarize the subparts that comprise part 1303 and reference the statutory requirements that serve as the basis for these regulations. Subpart A outlines the financial requirements consistent with sections 640(b) and 644(b) and (c) of the Act. Subpart B specifies the administrative requirements consistent with sections 644(a)(1), 644(e), 653, 654, 655, 656, and 657A of the Act. Subpart C implements the statutory provision at section 641A(b)(4) of the Act that directs the Secretary to ensure the confidentiality of any personally identifiable data, information, and records collected or maintained. Subpart D prescribes regulations for the operation of delegate agencies consistent with section 641(A)(d) of the Act. Subpart E implements the statutory requirements in section 644(c), (f), and (g) of the Act related to facilities. Subpart F prescribes regulations on transportation consistent with section 640(i) of the Act.

#### **Financial Requirements; Subpart A**

In this subpart, we propose to reorganize, revise, and streamline the financial requirements currently in part 1301, subparts A, B, C, and D. We also propose to move provisions or sections, such as personnel policies, that fit more logically in other sections of our proposed structure. We also remove provisions currently in part 1301; for example, we propose to eliminate specific Head Start regulations, such as audit requirements, when there are related government-wide regulations for all federal grants. The purpose of these changes is to organize the requirements in a more logical order, conform to recent changes in regulations that

govern all federal grants, and reduce the administrative burden on agencies.

To summarize the reorganization, we propose to move the existing requirement in § 1301.32 on development and administrative cost limitations to the proposed subpart A where we have the requirements on federal financial assistance and non-federal share match because all of these provisions pertain to financial requirements on agencies. We propose to move the requirement in the existing § 1301.11 related to insurance and bonding to the proposed subpart B, Administrative Requirements. We move the content of § 1301.31 on personnel policies to the proposed part 1302 subpart I, where we consolidate requirements pertaining to Human Resource Management. We also propose to move grantee appeals addressed in the current § 1301.34 to the proposed part 1304 on Federal Administrative Procedures.

Lastly, the most significant change to this subpart is that we propose to remove the existing requirements on the annual audit and the accounting system certification in § 1301.12 and § 1301.13 respectively for two reasons. First, we propose to remove § 1301.12 to conform to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, which requires a Single Audit for all programs receiving more than \$750,000. This new requirement supersedes the requirement in the existing § 1301.12 that all Head Start grantees have an annual audit. The result of this change is that a very small number of Head Start programs will not be required to have an audit. Second, we propose to remove the accounting system certifications in current § 1301.13 because it is not something an independent auditor can reasonably do under their professional standards. In fact, this provision has not been enforced since 2012 because of this conflict so this change codifies what is done in practice.

In this subpart, we propose to include the current list of applicable regulations for all grants made under the Act; the requirements related to federal financial assistance, the non-federal share match, and waivers; and the limitations on development and administrative costs. We discuss key issues with each section according to the structure we propose.

##### *Section 1303.2 In General*

We propose to make minor changes to the existing § 1301.1 for purposes of updating and streamlining the language.

<sup>266</sup> Landry, S. H., Anthony, J. L., Swank, P. R., & Monseque-Bailey, P. (2009). Effectiveness of comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology*, 101(2), 448.

### *Section 1303.3 Other Requirements*

In this section, we propose to update the list of relevant regulations that apply to all grants made under the Act. We propose to remove 45 CFR part 74 and part 92 from the list since the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards now supersedes it. Since 45 CFR part 74 is superseded, we have removed current § 1301.10(b)(1) and (2), which reference this provision.

We propose to add five regulations to the current list of federal regulations applicable to all grant awards. The five we propose to add are not new requirements and are already included in the Terms and Conditions on grantees' Notice of Award, but we add them to update this list and be transparent.

(1) 2 CFR part 170: FFATA Sub-award and Executive Compensation: Head Start awards are subject to the Federal Financial Accountability and Transparency Act sub-award and executive compensation reporting requirements (FFATA).

(2) 2 CFR 25.110: CCR/DUNS requirement: The Dun and Bradstreet Data Universal Numbering System (DUNS) number is a required universal identifier for applicants, recipients and direct sub-recipients of federal financial assistance. The Central Contractor Registration (CCR) is the repository for standard information about applicants and recipients.

(3) 45 CFR part 30: HHS Standards and Procedures for Claims Collection apply should ACF have to pursue the collection of debt from an existing or former grantee.

(4) 45 CFR part 87: Equal Treatment for Faith Based Organizations, which requires that Faith Based Organizations are permitted to receive funding without discrimination and prohibits them from engaging in "inherently religious activities" as part of the program or services HHS funds.

(5) 45 CFR part 75: Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, effective December 26, 2013, consolidates a number of other regulations into one comprehensive guide for administering grants.

### *Section 1303.4 Federal Financial Assistance, Matching and Waiver Requirements*

In this section, we propose to combine and streamline requirements currently included in §§ 1301.20 and 1301.21. This approach consolidates the financial assistance, non-federal share match, and waiver requirements into

one section. We are not proposing any policy changes but rather clarifying, while still conforming to the Act, and removing outdated requirements. Specifically, we propose to clarify that the non-federal share match is 20 percent for each budget period of the five-year project period. We reference the Act for the list of circumstances the Secretary can consider when approving a waiver of non-federal share match, rather than using the more narrow approach in the existing regulation. We remove requirements at §§ 1301.20(a)(2) and (3), 1301.20(b), and 1301.20(c) related to federal financial assistance because they are outdated or unnecessary because the requirement is specified in the Act.

### *Section 1303.5 Limitations on Development and Administrative Costs*

This section addresses the limitations on development and administrative costs currently in § 1301.32. As noted, we propose to move the existing requirement to the proposed subpart A where we have the requirements on federal financial assistance and non-federal share match because all of these provisions pertain to financial requirements on agencies. In accordance with section 644(b) of the Act, we retain the current requirement that agencies must not exceed the 15 percent administrative cap on development and administration, unless the responsible HHS official grants a waiver.

Under section 644(b) of the Act, the Secretary shall establish criteria for determining (1) the costs of developing and administering a program and (2) the total costs of such a program. Under this authority, we propose a much more simplified and streamlined approach that requires grantees to categorize, identify, and allocate costs for determining whether they meet the 15 percent administrative cap. In contrast to current § 1301.32(b) through (f), which weaves together compliance requirements, definitions, and explanations, our proposed approach lays out a clear and concise process for agencies to analyze which of their costs relate to development and administration. Specifically, grantees must: (1) Determine the costs of developing and administering their programs, (2) categorize costs as development and administrative versus program costs, (3) identify and allocate the portion of dual benefit costs that are for development and administration; (4) identify and allocate the portion of indirect costs that are for development and administration versus program costs, and (5) delineate all development and administrative costs in the grant

application and calculate the percentage of total approved costs allocated to development and administration. We propose definitions of development and administrative costs, program costs, and dual benefit costs consolidated in part 1305, to assist grantees in that process.

In paragraph (b), we propose to implement section 644(b) of the Act and to simplify the requirements in the existing § 1301.32(g) pertaining to waivers of the 15 percent administrative cap. We propose to combine the circumstances under which a waiver will be considered into more broadly-stated conditions. We also add language that the responsible HHS official may grant a waiver if an agency is unable to administer the program within the 15 percent administrative cap.

### **Administrative Requirements; Subpart B**

In this subpart, we propose to include the general requirement in the existing § 1301.30 related to agency conduct; the limitations and prohibitions to which agencies must adhere; and the requirements for insurance and bonding.

### *Section 1303.10 In General*

We propose to revise and redesignate the language in the existing § 1301.30 with minor changes to better conform to Section 644(a)(1) of the Act.

### *Section 1303.11 Limitations and Prohibitions*

For purposes of clarity and in response to questions from the field, we propose to reference a number of sections in the Act that place limitations or prohibitions on agencies. These are not new prohibitions because they are included in the Act, but we propose a section that references all of them in one single place. These include prohibitions on using Head Start funds to assist, promote or deter union organization (section 644(e) of the Act); compensating employees in excess of the rate payable for level II of the Executive Schedule (section 653 of the Act); using Head Start funds to pay the contracted costs of construction in excess of \$2,000 where Davis-Bacon Act compliance is not required by the terms of the contract (section 644(g)(3) of the Act) discriminating on the basis of race, creed, color, national origin, sex, political affiliation, beliefs, or disability (section 654 of the Act); conducting unlawful demonstrations, riots or civil disturbances (section 655 of the Act); engaging in political activity or voter registration activities (section 656 of the Act); and administering nonemergency intrusive physical examinations of a



child without parental consent (section 657A of the Act).

#### *Section 1303.12 Insurance and Bonding*

We propose to take a different approach to the requirement on insurance and bonding than the existing requirement at § 1301.11. We propose to remove specific requirements for student accident insurance, liability insurance for accidents on agencies' premises, and liability insurance for transportation—which actually represent an incomplete list of major risk areas—and instead require grantee to maintain a documented process to ensure identification of risks and provide proof of appropriate coverage in their application. Requiring grantees to assess their own risks and determine appropriate cost-effective coverage is a less prescriptive approach than the current regulation.

We also propose requiring agencies, as part of the process of identifying risks, to consider the risk of losses resulting from fraudulent acts by individuals authorized to disburse Head Start funds and to maintain adequate fidelity bond coverage if they have insufficient coverage to protect the federal government's interest. In 2 CFR 200.304 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements, federal awarding agencies can include a provision on bonding in specific circumstances, and one such circumstance is when the non-federal entity lacks sufficient insurance to protect the federal government's interest. We are invoking the authority provided in 2 CFR 200.304 to require agencies to maintain adequate fidelity bond coverage in this circumstance.

#### **Protections for the Privacy of Child Records; Subpart C**

In this subpart, we propose new performance standards designed to protect the privacy of children and families Head Start programs serve. Families entrust Head Start programs with their personal information and expect programs will use the information to serve their needs effectively and efficiently. Section 641A(b)(4) of the Act requires the Secretary to promulgate regulations that provide policies, protections, and rights equivalent to those in section 444 of the General Education Provisions Act,<sup>267</sup> also known as the Family Educational Rights and Privacy Act or FERPA, in order to, ensure the confidentiality of any personally identifiable data, information and records collected or

maintained by any program. FERPA applies to an educational agency or institution that receives funds under a program administered by the U.S. Department of Education. This includes virtually all public schools and school districts and most private and public postsecondary institutions, including medical and other professional schools.<sup>268</sup>

FERPA requires written consent from parents in order to disclose personally identifiable information (PII) from education records, unless the disclosure meets an exception to FERPA's general consent requirements. FERPA recognizes that the benefits of using student data must always be balanced with the need to protect student privacy. Educational agencies and institutions must implement FERPA in a way that protects the privacy of education records while allowing for the effective use of data.

FERPA gives parents certain rights with respect to their children's education records. For example, parents have the right to inspect and review their child's education records. Parents also have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent then has the right to a formal hearing. If, after the hearing, the school still decides not to amend the record, the parent has the right to place a statement with the record setting forth his or her view about the contested information. In addition to giving parents certain rights, FERPA requires educational institutions and agencies to notify parents of students currently in attendance, of their rights annually.

FERPA defines education records as those records that are: (1) Directly related to a student; and (2) maintained by an educational agency or institution, or by a party acting for the agency or institution. Immunization and other health records, as well as records on services and accommodations provided to a student that are directly related to a student under 18 and maintained by an elementary or secondary school, are classified as education records under FERPA. Schools often have legitimate educational reasons to authorize third-parties to access these education records, for purposes such as communicating with parents, improving the effectiveness of education programs, to identify gaps in student services, and reasons as simple as providing secure

data storage.<sup>269</sup> In addition to FERPA, Parts C and B of the IDEA include specific confidentiality provisions applicable to the personally identifiable information in early intervention and education records of infants, toddlers, and children with disabilities.

We broadly address privacy and confidentiality in our current performance standards. In §§ 1304.51(g) and 1304.52(1)(i), we require programs to establish record-keeping systems that keep information confidential and we require programs to ensure staff follow confidentiality policies. However, we do not provide programs with conditions to permit the disclosure of PII in their education records to balance privacy and effective use of data. In this NPRM, we propose standards that provide parents with certain rights with respect to their child's education records and programs with permissions to disclose personally identifiable information in the absence of written consent from parents equivalent to those in FERPA that are appropriate for Head Start programs. However, instead of using the term "education records" as defined by FERPA, we use the term "child records" to reflect the population we serve. Additionally, unlike FERPA, we do not include a commonly used provision to disclose directory information without parental consent and programs must provide parental notice and opportunity to refuse when disclosing PII to officials at a school in which a child intends to enroll. If a Head Start program is governed by FERPA and/or IDEA, programs must comply with those provisions in addition to the Head Start proposed regulations and those provisions take precedence over the Head Start provisions when they differ.

We note that under the Privacy Rule under the Health Insurance Portability and Accountability Act and the statutory and regulatory provisions under FERPA, there are Federal complaint procedures for consumers and parents to seek to enforce the confidentiality requirements of those laws. Additionally, under the IDEA, States must establish State complaint procedures under which parents may enforce specific provisions including the IDEA confidentiality provisions. While we considered proposing such procedures, it was unclear whether they would be necessary or reasonable within the structure of Head Start. The Office of Head Start currently has in place a monitoring system that is aligned with a comprehensive five year

<sup>267</sup> See 20 U.S.C. 1232(g).

<sup>268</sup> See 34 CFR 99.1(d).

<sup>269</sup> See <http://ptac.ed.gov/sites/default/files/LEA%20Transparency%20Best%20Practices%20final.pdf>.



continuous oversight plan that includes a review of complaints, parent interviews and on-site reviews. The Office of Head Start also has a system in place for handling parent complaints, which is currently undergoing improvements to streamline the process of resolving complaints. Additionally, we provide the parent with other rights in other sections of the Head Start standards. Although existing enforcement mechanisms have been sufficient for existing provisions, we expressly invite comment on whether additional enforcement procedures need to be codified in our provisions for the new requirements regarding maintaining the privacy of children and families in Early Head Start and Head Start programs under this section.

#### *Section 1303.20 In General*

Our approach in this section is different from our approach in the existing rule. Currently, we require programs to focus on record keeping and privacy without providing additional provisions to describe how to balance privacy and disclosure. In this section, we set the stage for programs to ensure the protection of the confidentiality of any personally identifiable information in child records consistent with the expanded section on parental consent, parent rights, and recordkeeping. Specifically, we propose to require programs to establish procedures that protect the privacy of child records and that allow appropriate disclosure of personally identifiable information from child records for valid educational purposes while ensuring that there are policies, protections, and rights, equivalent to those provided to a parent, student, or educational agency or institution under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

#### *Section 1303.21 Program Procedures—Applicable Confidentiality Provisions*

In this section, we propose provisions for programs where FERPA and/or IDEA apply. If FERPA and/or IDEA apply, we propose to require programs comply with those provisions in addition to the Head Start requirements described in this section. Further, we propose a requirement that FERPA and/or IDEA provisions take precedence over the Head Start proposed regulations for the specific programs or children to which they apply. In addition to the IDEA, FERPA, and Head Start regulations, state privacy laws may apply if they

afford parents additional privacy protections.<sup>270</sup>

#### *Section 1303.22 Disclosures With, and Without, Parental Consent*

In this section, we propose minimum provisions programs must include in the protection of the privacy of child records and data sharing procedures. In paragraph (e), we propose programs notify parents of their rights under this subpart annually. In paragraph (a), we also propose programs obtain parents' written consent before they disclose personally identifiable information from child records, subject to the exceptions contained in paragraph (b) and (c).

In paragraph (b) and (c), we propose eight exceptions to permit programs to disclose PII from child records to third parties in the absence of written consent if conditions are met. Briefly described, these exceptions are to: (1) Officials in a program, school, or school district where the child seeks or intends to enroll or where the child is already enrolled so long as the disclosure is related to purposes related to the child's enrollment or transfer, if the parent is notified and given an opportunity to refuse; (2) officials within the program or acting for the program, if the program determines the official has legitimate educational interests and informs parents of the provision at enrollment; (3) authorized representatives of local, state or federal entities in connection with an audit or evaluation of a Federally or State-supported education, including early childhood, program (e.g. the Head Start program, Race to the Top-Early Learning Challenge program, a state preschool program funded under preschool development grants), or for enforcement or compliance with the federal legal requirements of the program so long as the official agrees in writing to protect PII; (4) organizations that conduct research to improve child and family outcomes, including improving the quality of programs, for, or on behalf of the program so long as the organization agrees in writing to protect PII; (5) appropriate parties in order to address a disaster or other health or safety emergency, which is limited to the period of the emergency; (6) comply with a judicial order or lawfully issued subpoena, provided the program makes a reasonable effort to notify the parent in advance of the compliance therewith unless the court has ordered that neither the subpoena nor its contents be disclosed or if the parent is a party involved in the court proceeding involving child abuse and

neglect or dependency matters; (7) the Secretary of Agriculture or an authorized representative from the Food and Nutrition Services to conduct program monitoring or evaluation for the Child and Adult Care Food program; and (8) a caseworker or other representative from a state, local, or tribal child welfare agency, who has the right to access a child's case plan so long as the representative agrees in writing to protect PII.

Notably, a provision is not included to permit the disclosure of designated "directory information." Although directory information is generally considered not harmful or an invasion of privacy under FERPA, we are concerned that there could be disclosures of directory information that would be considered harmful or an invasion of privacy to the sensitive populations we serve. Consistent with section 1303.21, Head Start programs governed by FERPA would be able to exercise the right to disclose appropriately designated "directory information" without consent. We invite comment on the exclusion of the right to disclose appropriately designated directory information without parental consent for Head Start programs not governed by FERPA.

In paragraph (d), we propose procedures for written agreements if a program establishes a written agreement with a third party identified in paragraph (c). This requirement only applies if a written agreement is made with a third party. For example, in the case of an emergency, a written agreement does not need to exist with the third party.

In paragraph (e), we propose annual notice requirements that notify parents of their rights described in § 1303.20 through 1303.24, and applicable definitions in 1305. A description of PII that may be disclosed without parental consent must be included in the annual notice. We invite comment on the burden of the annual notice.

#### *Section 1303.23 Parents' Rights*

In this section, we focus on parents' rights. We recognize that parents have a general right to control the disclosure of their children's records, and in that vein, in paragraph (a), we propose that programs give parents the right to inspect information contained in their child's records. This right to confirm information aligns with FERPA and, in paragraph (b), would allow parents to ask programs to amend inaccurate information that the parents believe is inaccurate, misleading, or violates the child's privacy and, if necessary, to challenge information at a hearing

<sup>270</sup> See <https://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf>.

which will be scheduled within a reasonable timeframe under paragraph (c). If parents are still not satisfied with information in their child's records, we propose to require programs to allow parents to place a statement in their child's record that explains why they disagree with the information. We propose to require that programs maintain these statements with children's records for as long as programs maintain the child's records. In paragraph (d), a parent has the right to a copy of an initial record, free of charge, of child records disclosed with parental consent and, upon request, an initial copy of child records disclosed to third parties under one of the exceptions to parental consent. In paragraph (e), a parent has the right to review any written agreements with third parties as provided under section 1303.22 (d).

#### *Section 1303.24 Maintaining Records*

We propose recordkeeping requirements in this section. We propose programs maintain, with each child's record, a list of all individuals, agencies, or organizations that have requested or obtained access to PII from child records. The list must indicate the expressed interests that each person, agency, or organization had to obtain this information. Recordkeeping of disclosures to program officials or parents are not required since it would be too burdensome for Head Start programs. We also propose to require programs ensure that only parents, officials, and appropriate staff have access to records.

#### **Delegation of Program Operations; Subpart D**

We propose to establish a new subpart that consolidates current requirements for the delegation of program operations into one section and revises or removes existing requirements to conform to the Act. Section 641A(d) of the Act requires agencies to establish procedures relating to its delegate agencies and provides further specifics related to evaluation, corrective actions, and terminations. Our proposed subpart D aligns with the Act and is organized into four sections.

#### *Section 1303.30 In General*

In this section, we lay out the clear expectation that a grantee is accountable for the provision of quality services in their delegate agencies. The grantee retains legal authority and financial accountability for the program when services are provided by delegate agencies. It is the responsibility of the grantee to support and oversee delegate agencies and ensure they provide high

quality services to children and families and meet all applicable regulations. A grantee may not terminate without showing cause and must establish a process for delegate agencies to appeal, which is discussed in more detail in § 1303.33.

#### *Section 1303.31 Determining and Establishing Delegate Agencies*

We propose to add a new requirement in paragraph (a) of this section. We require an agency that enters into an agreement with another entity to serve children to determine if the agreement meets the definition of "delegate agency" in section 637(3) of the Act. The rationale for this added requirement is to provide an important clarification. If an entity meets the definition of delegate in the Act, it is a delegate, regardless of what a grantee calls the entity to which it has delegated all or part of the responsibility for operating the program. In paragraph (b) we propose to streamline and move the current requirement in § 1301.33. It states that federal financial assistance is not available for program operations that a grantee delegates unless there is a written agreement the responsible HHS official has approved.

#### *Section 1303.32 Evaluation and Corrective Action for Delegate Agencies*

In this section, we include the requirements in section 641A(d) of the Act with respect to the evaluation of delegate agencies and corrective actions in the event of a deficiency.

#### *Section 1303.33 Termination of Delegate Agencies*

We propose to clarify in this section that an agency can terminate a delegate agency on the basis of cost-effectiveness or showing cause. An agency cannot terminate a delegate agency without showing cause, and the decision to terminate cannot be arbitrary or capricious. To align with section 641A(d)(1)(C) of the Act, we require grantees to establish procedures for defunding a delegate agency, and for a delegate agency to appeal a defunding decision and ensure the process is fair and timely.

We propose to remove the appeal procedures for delegate agencies currently in part 1303 subpart C for several reasons. First, in both the Designation Renewal System and this proposed subsection, we make clear our expectation that the grantee is accountable for the services their delegate agencies provide to children and families. However, we believe grantees must have the necessary tools at their disposal to remove delegate

agencies in order to meet that expectation and be held accountable. We think the current system inappropriately ties the hands of grantees and has become overly bureaucratic. Second, we think timely action to resolve issues with delegates is critical, and the Designation Renewal System and the reality of five-year grants require a swifter pace to resolution. We do require grantees to inform the responsible HHS official of the appeal and the decision.

#### **Facilities; Subpart E (Currently Part 1309)**

In this subpart, we propose to prescribe what a grantee must do to show it is eligible to purchase, construct and renovate facilities as outlined at section 644(c), (f) and (g) of the Act. We arrange the application process chronologically to make it clear for grantees and we propose requirements for grantees that protect federal interest in facilities purchased, constructed or renovated with grant funds.

This subpart differs from part 1309 in three key ways. First, it clarifies what is required in an application to use Head Start funds for purchase, construction or major renovation of facilities and organizes these elements in a logical, sequential and transparent way. We believe our proposed application process makes it easier for grantees to use and better aligns with existing grants analysis procedures. Second, it clearly states and logically organizes all relevant information and requirements for protecting the federal interest under a broad variety of circumstances, recognizing that grantees have evolved to increasingly complex facilities funding and development activities. Third, it removes requirements that are not Head Start-specific but rather are overarching requirements for managing federal grants and aligns all remaining provisions with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

We also propose to define *federal interest* in part 1305. The purpose of the definition is to clarify the term, describe the funding agency rights created by a federal interest in accordance with existing Departmental Appeals Board and judicial decisions, and note that funds spent on facilities are subject to the non-federal share match. The federal government has an interest in all real property and equipment grantees purchase with grant funds. Additionally, part 1309 currently has explanations and information related to federal interest woven throughout different sections. Grantees have

reported difficulty understanding these provisions. We propose a detailed definition of federal interest to clarify the concept and consolidate the explanation in one place. We discuss major issues we propose in each section below.

#### *Section 1303.40 In General*

In this proposed section, we clarify that this subpart applies to major renovations. We explain that these provisions apply only to minor renovations and repairs when they are included in a purchase and are part of the purchase costs.

#### *Section 1303.41 Approval of Previously Purchased Facilities*

The current regulation does not have language on refinancing. But as interest rates have fallen, grantees have asked us for permission to apply for more advantageous loan terms. In this section, we implement section 644(f) of the Act and we propose to expand on current § 1309.2 and allow grantees that have purchased facilities beginning in 1987 and that continue to pay purchase costs or seek to refinance indebtedness to apply for funds to meet costs associated with refinancing. We have also received questions from the field about whether interest is part of purchase costs. We propose to clarify that a purchase includes both principle and interest payments in accordance with section 644(g)(2) of the Act.

#### *Section 1303.42 Eligibility To Purchase, Construct, and Renovate Facilities*

Current § 1309 has separate sections that prescribe what grantees must show to be eligible to construct or renovate a facility. However, part 1309 does not address what a grantee must show to purchase a facility. In this section, we propose to consolidate these requirements, including purchases, into a single uniform set of eligibility criteria we believe would be easier for grantees to understand and for federal staff to evaluate. We also modify one eligibility criterion to clarify that grantees applying for funds to purchase, construct or renovate a facility must establish that the facility will be available to Indian tribes, rural or other low-income communities, which is less restrictive than current § 1309 but more aligned with the Act.

#### *Section 1303.43 Use of Grant Funds To Pay Fees*

In this section, we revise and redesignate current § 1309.43 and propose to clarify the type and extent of pre-project costs, such as project

feasibility studies and professional fees, we may approve before a grantee applies for funding to purchase, construct, and renovate facilities. We also move these provisions up in the regulation to better follow the normal flow of how projects are developed and to bring it to the attention of grantees considering facilities projects. We believe these changes will help grantees better decide whether they are eligible to apply for additional funding.

#### *Section 1303.44 Applications To Purchase, Construct, and Renovate Facilities*

In this section, we propose to reorder the process grantees must use to apply for funds in a more logical sequence based on the normal flow of how facilities projects are developed, implemented, and completed. In the current regulation, there are provisions that require licensed engineers or architects to certify that facilities are structurally sound and comply with licensing and other requirements in separate paragraphs. We propose to group these provisions under one paragraph in this section. We also propose to retain language that allows the responsible HHS official to request additional information for unique individual projects in paragraph (a)(13).

#### *Section 1303.45 Cost Comparison To Purchase, Construct, and Renovate Facilities*

We currently require grantees to compare costs to renovate, to lease an existing facility, or to construct a new facility to determine which activity would be most cost effective to meet program needs. Grantees must demonstrate that they have compared costs and weighed options so we know our investment in a particular facility activity is cost-effective and service-relevant.

In this section, we propose to allow grantees greater flexibility to describe projects and to compare costs to other alternatives within their service areas. We approach this section differently than we currently do in § 1309.11. Cost comparison requirements in § 1309.11 are unclear. Consequently, grantees often submit substantial, and sometimes, unnecessary information that does not give us a comprehensive picture of the relationship between the facility activity proposed and the quality of services to children and families. What we propose in this section strengthens the relationship between the cost justification and the project. We also believe what we propose here ensures the best use of federal funds and encourages grantees to

make decisions about facilities based on the needs of the communities and the families they serve.

#### *Section 1303.46 Recording and Posting Notices of Federal Interest*

In this section and the following section respectively, we propose to revise and redesignate current part 1309 subpart C—protection of federal interest, and to clarify when grantees must file notices of federal interest and what the notices must contain. We intend to mitigate any risk of property loss in a facility transaction and to keep the facilities purchased with federal funds for Head Start purposes. We explain that grantees must file notices in the official real property records in their jurisdiction. We also propose to consolidate facilities activities, including modular units previously covered in a different section, into one section to make it easier for grantees.

#### *Section 1303.47 Contents of Notices of Federal Interest*

In this section, we propose to revise and redesignate parts of current § 1309.21 and to logically and comprehensively explain what notices of federal interest must contain when a grantee owns a facility, when a grantee leases a facility, and when a grantee occupies a modular unit. We believe by being clear and thorough about what notices of federal interest must contain will help protect federal interest. We also want grantees to understand that if we award subsequent funds after the grantee files the initial notice of federal interest, our federal interest is protected under the initial notice of federal interest. We believe this will protect the ongoing investment of federal funds.

We propose to add language in paragraph (a)(8) that requires governing bodies to approve notices of federal interest because governing bodies have “legal and fiscal responsibility for administering and overseeing programs . . . including the safeguarding of federal funds” under section 642(c)(1)(E)(i) of the Act. This requirement will ensure the governing body is aware of the restrictions associated with how federal funds are used for facilities activities.

#### *Section 1303.48 Grantee Limitations on Federal Interest*

This section redesignates and revises § 1309.21, which identifies grantee limitations associated with properties subject to a federal interest.

*Section 1303.49 Protection of Federal Interest in Mortgage Agreements*

Current funding for facilities often includes both federal funds and mortgage proceeds. As facilities funding has become more complex, it is common to find federal funds and mortgages on the same property. In order to protect federal interest, we require grantees to ensure that any mortgage agreements they have include specific provisions that would mitigate our risk of loss and ensure the property remains for Head Start purposes. For example, we propose to require grantees to ensure mortgage agreements specify that the responsible HHS official can intervene when a grantee defaults. We also propose similar clauses that obligate grantees to pay the federal share if they default on mortgage agreements and that protect federal interest even if the responsible HHS official fails to respond to a default notice.

*Section 1303.50 Third Party Leases and Occupancy Arrangements*

Grantees may use federal funds to renovate leased property, often at substantial cost. This section requires grantees to have leases in place for 30 years for construction of a facility and at least 15 years for a renovation or placement of a modular unit to protect underlying federal interests in these unusual cases where the government is putting major costs into facilities on land that they do not own. These terms are based on the minimum useful life as noted in the Internal Revenue Code useful lives tables used for depreciation purposes. We propose to replace language in § 1309.21(d)(1) of the existing rule that is subjective and only requires leases to be long enough to recover the value of federally funded improvements.

*Section 1303.51 Subordination of Federal Interest*

In this section, we propose to revise and redesignate §§ 1309.21(a) and 1309.21(f)(1) to emphasize that only the responsible HHS official can subordinate federal interest to a lender or other third party. Grantees cannot subordinate federal interest on their own. The official must agree to subordination in writing. In addition to a written agreement, the mortgage agreement or security agreement for which subordination is requested must comply with § 1303.49, and the amount of federal funds already contributed to the facility must not exceed the amount provided by the lender seeking subordination. We believe our emphasis here will ensure lender interests do not

prevail over our interests without properly executed agreements.

*Section 1303.52 Insurance, Bonding and Maintenance*

This section revises and redesignates current § 1309.23. Our experience has demonstrated that grantees have not maintained sufficient insurance for replacement of facilities that are substantially damaged or destroyed, particularly through floods and other natural disasters. After Hurricane Sandy, we realized we had to be more vigilant to protect grantees against loss. We mention flood insurance at § 1309.23(a) in our existing regulation. However, we do not clarify when grantees should have flood insurance.

In paragraph (b)(2), we propose to require grantees to obtain flood insurance if their facilities are located in areas the National Flood Insurance Program defines as high risk. We also propose to add language in (b)(1) to clarify for the grantees that physical damage or destruction insurance must cover full replacement value.

*Section 1303.53 Copies of Documents*

This section revises and redesignates current § 1309.40. In this section, we propose to add notices of federal interest to the list of required documents grantees must provide to the responsible HHS official. We also propose to explain that grantees must give copies of notices of federal interest to the responsible HHS official after they have filed the notices in their jurisdiction's property records. This is particularly important because notices of federal interest do not fully protect the federal share until the notices are filed in the appropriate property records.

*Section 1303.54 Record Retention*

This section revises and redesignates current § 1309.41. We propose to clarify what documents grantees must retain as records covered by the record retention requirement, as well as the fact that the retention requirement applies to facilities activities funded wholly or partially with Federal funds. We have not changed the basic retention period, which is aligned with general requirements in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

*Section 1303.55 Procurement Procedures*

In this section, we propose to revise and redesignate current § 1309.52 and to summarize briefly the general procurement procedures as context for

grantees. We also remove references to grants management regulations superseded by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Paragraph (a) clarifies that grantees still need to comply with procurement requirements ensuring full and open competition; nothing in the current part 1309 or proposed subpart diminishes those overarching requirements. Paragraphs (b) through (d), substantially the same as the current regulation, identify circumstances under which the grantee must obtain prior approval for project changes and guarantee HHS rights to access and inspect facilities projects.

*Section 1303.56 Inspection of Work*

In this section, we propose minor changes to current section § 1309.53 to align the elements of the final inspection report with those required in the engineer or architect's certification that accompanies the initial facilities project application. We want to know whether the licensed engineer or architect did the work they said they would do and did not just certify that the project is complete. We believe the changes we propose will ensure inspections of work comply with professional certifications.

**Transportation; Subpart F (Current Part 1310)**

We propose to retain all major provisions from part 1310 of the current rule in this NPRM. In several sections, we propose streamlined version of those provisions. We eliminate redundancy and minor requirements that are unrelated to improving the safety of transportation services. We also propose to add a requirement to help address a dangerous problem some programs have experienced of inadvertently leaving children unsupervised on vehicles. We propose to remove provisions related to the graduated effective dates in the original rule because they are no longer applicable. Consistent with other parts in this NPRM, we reorganized this subpart to be more useful for program staffs that are charged with its implementation. We propose to arrange provisions under this part in 4 sections.

*Section 1303.70 In General*

This section describes transportation services and waiver options for programs. Specifically, in paragraph (a) we propose to streamline § 1310.2(a) in the current rule, to specify how provisions in this part apply to all programs, including those programs that provide transportation services, regardless of whether services are

provided directly on agency-owned or -leased buses or through an arrangement with another provider. We also propose to remove paragraphs (b) and (c) at § 1310.2 in the current rule, because they are no longer applicable.

This section also proposes to revise paragraphs (a) and (b) at § 1310.10 in the current rule. These paragraphs stipulate that programs must either provide transportation services directly to some or all of their children, or make efforts to provide reasonable assistance to families in accessing needed transportation so that children can participate in the program. We propose to retain the provision that requires programs to provide information about transportation options in recruitment announcements so that families who have transportation barriers will not necessarily be discouraged from applying for services. We also propose to include revised provisions from the current rule at § 1310.23 which require programs to make efforts to coordinate transportation services with other human service agencies to maximize cost efficiency, access, and quality. In addition, we propose to retain § 1310.10(f) in the current rule that requires programs that provide transportation services to ensure that accidents are reported in accordance with state regulations.

Finally, we propose to slightly revise § 1310.10(c) in the current rule, which describes waiver application options. We propose to streamline the language to clarify that waivers may be requested as part of the agency's annual funding application or amendment and that the responsible HHS official may request additional documentation. We also propose to retain the stipulation that HHS is not authorized to waive any requirements of the Federal Motor Vehicle Safety Standards (FMVSS).

#### *Section 1303.71 Vehicles*

This section proposes to revise provisions in the current rule related to vehicle types, safety equipment, and vehicle maintenance and inspection. As with much of this section, the provisions we propose are not substantive policy changes. Rather, we propose a revised structure to reduce redundancy and to improve clarity. We propose to consolidate provisions from § 1310.12(a) and (b) in the current rule, which allow programs to use grant funds to purchase school buses or allowable alternate vehicles to transport children. We propose to retain the exemption under § 1310.12(c) in the current rule for the home-based option.

This section also proposes to describe all of the safety equipment requirements

for vehicles that transport children. Specifically, we propose to retain the provision under § 1310.12(a) in current rule that requires vehicles to be equipped for height and weight appropriate child restraint systems. We propose to retain § 1310.12(b) in the current rule that requires vehicles to have reverse beepers. We propose to retain § 1310.10(d)(1) through (4) in the current rule that requires vehicles be equipped with an emergency communication system and appropriate emergency safety equipment, including a seat belt cutter, charged fire extinguisher and first aid kit. We propose to no longer require programs to strategically locate and mark all safety equipment, because we expect programs will ensure that such equipment is readily accessible as needed. We also retain safe seating requirements, including those related to auxiliary seating in current § 1310.10(e) and child restraint systems in current § 1310.11(a), with slight revisions to remove effective date language that is no longer applicable.

Finally, this section also proposes to revise provisions in the current rule related to the vehicle maintenance and inspection. Specifically, we propose to revise § 1310.13(a) through (c) in the current rule, which requires programs to ensure that vehicles are maintained in safe operating condition at all times, and receive, at a minimum, an annual safety inspection, systematic preventive maintenance, and daily pre-trip inspections. We also propose to revise § 1310.14 in the current rule. That section requires programs to have bid announcements for school buses and allowable alternate vehicles that include the correct specifications and a clear statement of the vehicle's intended use and to ensure that vehicles are inspected upon delivery to ensure they comply with those specifications.

#### *Section 1303.72 Operation of Vehicles*

This section proposes to revise provisions in the current regulation that relate to vehicle operation, safety procedures, driver qualifications and applicant reviews, and driver and bus monitor training. Specifically, this section proposes to revise safety procedure requirements in § 1310.15(a) and (d) in the current rule that all children must be seated in height and weight appropriate child safety restraint systems on vehicles equipped for such use. We propose to revise § 1310.15(b) in the current rule that requires programs to ensure baggage and other items are properly stored and secured and that aisles and emergency exits remain unobstructed as in § 1310.15(b).

This section also proposes to require programs to maintain up to date rosters of children transported on all buses or vehicles as well as a list of adults to whom each child is authorized to be released, including alternates, which is at § 1310.10(g) in the current rule. We propose to add a new provision to clarify that programs must ensure that no child is left unattended either at the pick-up location or on a vehicle at the end of a route. This is essential for ensuring child safety. In addition, this section proposes to retain § 1310.15(c) in the current rule that requires all programs, except home based programs, to have at least one bus monitor be on board at all times with additional monitors provided as necessary based on the number and needs of the children.

This section proposes to reorganize and streamline provisions at § 1310.16(a) in the current rule that describe driver qualifications. This section also proposes to revise the applicant review process, described in § 1310.16(b) in the current rule. Finally, this section proposes to revise § 1310.17 in the current rule, which describes training requirements for drivers and bus monitors. These provisions are largely unchanged. However, we propose to remove obsolete effective date language under § 1310.17(a) in the current rule.

#### *Section 1303.73 Trip Routing*

In this section, we propose to retain all provisions under § 1310.20 in the current rule related to trip routing. We propose to slightly revise the language from the current rule to streamline and improve clarity.

#### *Section 1303.74 Safety Procedures*

This section proposes to consolidate and reorganize requirements described in § 1310.21 in the current rule to make them more comprehensible. We propose to revise and redesignate to § 1302.46 the requirement for programs to provide pedestrian safety training for parents and children and eliminate the prescriptive requirement that it occur in the first 30 days of program operation. Additionally, we propose to retain current provisions that require programs to teach children who receive transportation services safe riding practices, procedures for boarding and exiting vehicles, procedures for crossing the street as necessary, in and around danger zones, and emergency evacuation drills. We also propose to retain a current provision that requires programs to train parents on how to escort children to and from the vehicle stop and on how to reinforce the safety

training provided to their children. We also propose to retain the provision in the current rule regarding evacuation drills.

#### *Section 1303.75 Children With Disabilities*

This section proposes to revise and to remove obsolete implementation language in the current rule at § 1310.22. We propose to retain the provision at § 1310.22(a) and (b) in the current rule that requires programs, except the home-based option, to ensure that there are school buses or allowable alternate vehicles adapted or designed to transport children with disabilities who are enrolled in the program and that, to the extent possible, such children are transported in the same vehicles as other enrolled children. Additionally, we propose to retain the provision at § 1310.22 (c) in the current rule that requires programs to ensure that any special transportation requirements identified in a child's IFSP or IEP are followed, including special pick-up and drop-off and requirements, seating requirements, special equipment, necessary additional assistance, or special training.

#### **Federal Administrative Procedures; Part 1304**

In this part, we remove, consolidate, amend, update, or redesignate all of the existing regulations which govern the federal administrative procedures through which the responsible HHS official takes any adverse action against a grantee, determines whether grantees need to compete for renewed funding and decides on the results of competitions for all grantees. This part also includes specific provisions when replacing American Indian/Alaska Native grantees, which have almost entirely been redesignated from current regulations.

#### **Monitoring, Suspension, Termination, Denial of Refunding, Reduction in Funding and Their Appeals; Subpart A**

This proposed subpart includes all of the provisions that outline Office of Head Start monitoring and the authority to and describe the procedures for an adverse action against a grantee, any appeal rights and procedures for a grantee to appeal that action, as well as the one instance required by the Act that a prospective delegate agency may appeal to ACF.

The Act made a number of changes to section 646 that require revisions to the Head Start regulations with regard to suspension at 45 CFR part 1303. We make these changes in §§ 1304.2 and 1304.3 in this proposed rule. Extensive,

detailed and various appeal procedures are described throughout the current part 1303. We propose to eliminate these various procedural provisions and instead adopt the Departmental Appeals Board (DAB) procedures in 45 CFR part 16. We believe this streamlined process will ease administrative burden and reduce confusion caused by unnecessary Head Start specific provisions. Specifically we propose to eliminate procedural requirements at §§ 1303.5, 1303.7, 1303.8, 1303.14(e), 1303.15(h), 1303.16(a) through (d) and probably (e) through (h), and 1303.17.

#### *Section 1304.1 In General*

In this section of the proposed rule, we describe the provisions of the proposed part 1304, which revises, and redesignates parts of parts 1302 and 1303 in the existing rule. We also clarify that this subpart does not apply to reductions to a grantee's financial assistance based on chronic under-enrollment procedures in section 641A of the Act or to any administrative action based on a violation, or alleged violation, of title VI of the Civil Rights Act of 1964.

#### *Section 1304.2 Monitoring*

We propose to redesignate §§ 1304.60 and 1304.61 to this section. We propose to remove current language that is duplicative and to streamline other provisions in accordance with sections 641A of the Act. We propose to streamline current standards to clarify our authority to ensure through monitoring that a grantee complies with standards proposed in parts 1301, 1302, and 1303 under this title. We also propose to clarify for grantees that a deficiency can develop from an uncorrected area of noncompliance and from monitoring findings that show either a grantee's systemic or substantial material failure to comply with standards.

#### *Section 1304.3 Suspension With Notice*

We propose to revise and redesignate § 1303.11 to this section. Section 646(a)(2) in the Act requires OHS to adopt procedures to assure financial assistance is not suspended, except in emergency situations, unless the grantee has been given reasonable notice and opportunity to show cause. The Act made significant changes to suspensions and to the process the responsible HHS official must use in order to suspend grantees. Two major changes require us to update these regulations. Suspensions can no longer last more than 30 days, unless a grantee has deficiencies that have been ongoing and

uncorrected for 180 days and it is appealing a termination, reduction, or denial of refunding and an appeal for suspensions lasting 30 days is no longer required under section 646(a)(5)(B) of the Act. HHS may continue a suspension if the grantee requests that the suspension continue and the responsible HHS official agrees. Nothing in this section precludes the HHS official from imposing a suspension again for an additional 30 days if the cause of the suspension has not been corrected.

We propose to revise two sections of this provision to reflect the amended section 646 of the Act. The current § 1303.11(h) and (k) include statements that read, "If termination proceedings are initiated in accordance with § 1303.14, the suspension of financial assistance will be rescinded." These statements do not reflect the suspension provision in the revised Act at section 646(a)(5)(B) that allows for suspensions longer than 30 days for grantees that are appealing a termination, denial of refunding, or reduction of funding and so they have been removed.

#### *Section 1304.4 Suspension Without Advance Notice*

We propose to revise and redesignate § 1303.12 to this section. Section 1303.12 includes the regulations for summary suspensions. Although most of the regulations remain in this section without change, a few are updated and streamlined. A few parts of this section are revised to implement the changes from the Act that strictly limit the suspension period. Because of the Act's 30-day limit on suspensions, we propose to update current § 1303.12(f) to only include the exception to the 30-day limit for when proceedings for terminations and denials of refunding are initiated against grantees with deficiencies that have been ongoing for 180 days and have not been eliminated. Consequently, suspensions can no longer last more than 30 days, unless the conditions under section 646(a)(5)(B) of the Act apply, or the grantee requests the suspension to continue and the responsible HHS official agrees. We also add proceedings for reductions in financial assistance to that list to align with the Act's language in section 646(a)(3). Because as discussed below, the Act no longer requires appeals for suspensions lasting more than 30 days, we removed provisions in § 1303.12, paragraphs (g) and (h)(2) and (3), that reference appeals in the existing rule. Those redesignated sections are also amended to make it clear that suspensions can only last longer than 30 days in the limited

circumstances allowed by the Act. We also propose a few small changes, specifically adding the term “emergency situation” to the reasons we can suspend without notice, to be more closely aligned with the Act and the elimination of (m) allowing for contributions during the suspended period to count toward in-kind match.

#### *Section 1304.5 Termination and Denial of Refunding*

We propose to combine appeal procedures for terminations and denials of refunding. There is no substantive reason for why these provisions are currently in separate sections, §§ 1303.14 and 1303.15. This just adds to the part’s bulk and complexity and makes it more difficult for a lay person to understand. We propose to retain all of the substantive elements of the current rule including the reasons HHS can terminate, deny refunding or reduce funding. We intend for this proposed section to replace current §§ 1302.20, 1302.21, and 1302.22 which only duplicate the reasons for termination in § 1303.14 and are no longer necessary.

#### *Section 1304.6 Appeal for Prospective Delegate Agencies*

Section 646(a)(1) of the Act requires appeal procedures for certain conflicts between delegates and grantees. The Act requires a timely and expeditious appeal to the Secretary for an entity who wants to serve as a delegate and whose application has been rejected or not acted upon. The current regulation includes an additional step of appealing application decisions to the grantee first. The extra step of appealing to the grantee adds nothing to the application appeal process beyond extending it. Therefore we are proposing streamlined procedures that eliminate the required appeal to the grantee and require only submission of the application and briefings from both sides. In order to have a more efficient process we also propose to eliminate the reconsideration process described in the current § 1303.23. The proposed changes to procedures support the importance of timely action given the new realities of the Designation Renewal System and 5-year grants that requires a swifter pace in resolving delegate issues. The proposed changes to this provision, which is still required by the Act, are consistent with the intent of removing delegate appeals to ACF that are not required by the Act in proposed part 1303.

#### *Section 1304.7 Legal Fees*

In the current regulation, § 1303.3 provides for the right to an attorney and

attorney fees. We are proposing to revise this section in light of amendments to the Act made in the 2007

Reauthorization to section 646(a)(4)(C) which requires the Secretary to prescribe procedures that prohibit a Head Start agency from using program grant funds to pay attorney fees and costs incurred during an appeal.

Accordingly, we propose removing § 1303.3(a)(1) and (2), (b), and (c). They are replaced with § 1304(a) which states that “legal fees or other costs may not be charged to program grants for appeals of terminations, reductions of funding, or denials of applications of refunding.”

However, section 646(a)(6) of the Act gives the Secretary the ability to potentially reimburse Head Start grantees in certain actions. Sections 646(a)(4)(C) and 646(a)(6) read together to allow for reimbursement, though not expenditure of award funds, for legal fees in DAB appeals for termination, reduction, or denial of refunding when the Head Start agency prevails. Section 1304(b) outlines the situation when an agency may apply for reimbursement of fees and the procedures for doing so.

#### **Designation Renewal; Subpart B**

In this section, we propose only technical changes to reorder the existing provision in part 1307 into the logical order of this NPRM. ACF is currently conducting an independent evaluation of the Designation Renewal System that was proposed in response to the Congressional Mandate to establish such a system. Results from that evaluation are still pending. Once the evaluation is completed, ACF will consider the results to determine whether any changes to current regulations should be proposed.

The Administrative Procedure Act does not require an agency to adhere to public procedure and invite comment, when the agency, for good cause, finds notice and public procedure are unnecessary.<sup>271</sup> In this NPRM, we do not invite comment on the Designation Renewal System (DRS), which is under part 1307 in the current rule. We, for good cause, find that to do so is unnecessary. First, we adhered to public procedure when we published the DRS NPRM in 2010.<sup>272</sup> We received approximately 16,000 comments from Head Start grantees, parents, teachers, state and national organizations, academic institutions, and legal entities. We considered each of those comments and responded to them in the DRS final

rule.<sup>273</sup> Second, we do not propose any substantive changes to DRS in this NPRM. We will redesignate §§ 1307.1 and §§ 1307.3 through 1307.7 to proposed part 1304 and § 1307.2 to proposed part 1305. We will also make technical amendments to correct cross references. Our efforts in this NPRM neither change nor alter the substance of what we published in the DRS final rule. The text of this language is included for transparency.

#### **Selection of Grantees Through Competition; Subpart C**

Section 641(d)(2) of the Act outlines the specific criteria the Secretary must use to select grantees and allow consideration of “other factors” and we refer to this citation in our proposed regulatory text. This subpart revises current regulations at §§ 1302.10 and 1302.11 to reflect the more transparent and streamlined process for Head Start grant competitions and outline the other factors to be considered. To do this, we remove vague criteria from § 1302.10 to ground competitions in the criteria announced in the now standardized Funding Opportunity Announcement process. We revise requirements for part 1311 to make it clear that replacement programs only need to consider the employment of effective and qualified personnel.

#### **Replacement of American Indian/Alaska Native Grantees; Subpart D**

This subpart re-designates and minimally revises current regulations at §§ 1302.30, 1302.31, and 1302.32 to ensure that the current requirements for replacing American Indian/Alaska Native Head Start programs apply in all circumstances. We add designation for competition as one of the reasons for using these procedures to address the question of whether this would be the practice which we have received from American Indian/Alaska Native programs. This subpart, § 1304.30 implements section 646(e) of the Act; § 1304.31 implements section 641(d) of the Act; and § 1304.32 implements section 646(e)(2) of the Act.

#### **Head Start Fellows Program; Subpart E**

This subpart redesignates and minimally revises current regulations at §§ 1311.1 through 1311.5 to maintain the current requirements for administration of the Head Start Fellows Program.

<sup>271</sup> See section 533(b)(3)(B) of the Administrative Procedure Act.

<sup>272</sup> See <https://www.federalregister.gov/articles/2010/09/22/2010-23583/head-start-program>.

<sup>273</sup> See <https://www.federalregister.gov/articles/2011/11/09/2011-28880/head-start-program#h-10>.



**Definitions; Part 1305**

In this part, we propose to redesignate definitions from all sections, except for DRS (part 1307), in the existing rule for ease of grantee and prospective grantee understanding and transparency. We do not include definitions from DRS because we do not propose any changes to that section in this NPRM. In the existing rule, definitions are attached to each section. We propose to create one definitions part for the entire NPRM. In order to do this, we propose to consolidate all definitions that were repeated in multiple sections. In addition, we propose to remove many definitions that are either not meaningful or do not add to the widely understood meaning. We also propose to remove definitions that are clearer and more meaningful when they are incorporated into the provisions themselves rather than enumerated as definitions. Finally, we propose to add some new definitions to this section in order to support other proposed revisions throughout this NPRM, and reference the definitions in other relevant pieces of legislation where appropriate. We describe what we propose for each definition only in the first section in which it appears in the current rule. In addition to these changes, we propose to add a definition of *personally identifiable information* (PII) to this section, to clarify proposed language for the new set of provisions related to data sharing and privacy.

**Definitions From Part 1301**

Specifically, from part 1301 in the existing rule, we propose to redesignate and revise the definition of *Act*, and redesignate the definitions of *budget period*, *development and administrative costs*, *dual benefit costs*, *program costs*, and *total approved costs*. We propose to remove definitions for *independent auditor* and *major disaster* because we propose to remove the relevant provisions in this NPRM. We propose to remove the definitions of *community*, *Head Start agency*, and *indirect costs* because they do not add to the widely understood meaning. We also propose to incorporate the meaning of *Head Start program* into the proposed requirements of the NPRM by explicitly noting any time 'program' only refers to Head Start, and not Early Head Start, and therefore we remove it from the definitions section, for improved clarity and transparency. Additionally, we propose to reference the Act for the definition of *delegate agency*. We also propose to add a definition for *directory information* as it relates to confidentiality and privacy.

**Definitions From Part 1302**

From part 1302 in the existing rule, we propose to revise and redesignate the definitions of *financial viability* and *grantee* for improved clarity, and redesignated the definition of *legal status*. We propose to remove the definitions of *approvable application*, *community action agency*, *community action program* and *Head Start grantee* because their definitions do not add to the widely understood meaning. Additionally, we propose to reference the Act for the definition of *Indian tribe*.

**Definitions From Part 1303**

From part 1303 in the existing rule, we propose to redesignate and revise definitions for *responsible HHS official* and *agreement* for clarity, and redesignate the definition of *termination of a grant or delegate agency*. In this section we also propose to remove definitions currently enumerated in part 1303, including *ACYF*, *agreement*, *day*, *denial of refunding*, *funding agency*, *interim grantee*, *prospective delegate agency*, *submittal*, *substantial rejection*, *suspension of a grant and work day* because they are either no longer relevant or do not add to the widely understood meaning.

**Definitions From Part 1304**

From part 1304 in the existing rule, we propose to revise and redesignate the definition of *family* from part 1304 of the existing rule to reflect a more inclusive definition, specifically with regard to foster parents. We also propose to revise and redesignate the definitions of *policy group* and *staff* for clarity. We propose to remove many of the definitions currently enumerated in part 1304, including *collaboration and collaborative relationships*, *contagious*, *developmentally appropriate*, *guardian*, *health*, *minimum requirements*, *program attendance*, *referral*, *teacher* and *volunteer* because they are either no longer relevant, or did not add to the widely understood meaning. We also propose to incorporate the meaning of *assessment*, and *curriculum*, at part 1302 subpart C, *home visitor* at part 1302 subpart I, and *Early Head Start program* by explicitly noting any time 'program' only refers to Early Head Start, and not Head Start. Therefore, we propose to remove them from this definitions section, for improved clarity and transparency. We propose to reference the Individuals with Disabilities Education Act for the definition of *Individual Family Service Plan*. We propose to reference the Head Start Act for the definitions of a *child with a disability* and *deficiency*. Finally,

we propose to add a definition of *continuity of care* to reflect a renewed focus on this critical concept within the proposed program options and program management provisions in this NPRM.

**Definitions From Part 1305**

In this part, we propose to remove definitions currently included part 1305 of the existing rule. Specifically, we propose to remove the definitions of *enrollment*, *enrollment opportunities*, *family for pregnant women*, *low income family*, *selection*, and *vacancy* because they do not add to the widely understood meaning or are unnecessarily confusing. We also propose to incorporate the meaning of *Head Start eligible*, *income guidelines* and *recruitment* into the proposed requirements of this NPRM at part 1302, subpart A, and therefore remove them from this definitions section, for improved clarity and transparency. We propose to redesignate definitions of *enrollment year*, *funded enrollment*, *income*, *migrant family*, *participant*, *recruitment area*, *service area* and *verify* into this section. We also propose to add several definitions related to the provisions that are revised and redesignated from part 1305 of the existing rule. Specifically, we add new definitions of *accepted*, *enrolled*, *foster care*, *Migrant or Seasonal Head Start program*, and *relevant time period* to address grantee confusion and to reflect the evolving demographics of the families that Head Start programs serve.

**Definitions From Part 1306**

In this part, we also propose to incorporate the meaning of definitions currently enumerated in part 1306 into the proposed requirements of this NPRM. Therefore we remove them from this definitions section. Specifically, we propose to incorporate the meaning of *center-based program option*, *double session variation*, *family childcare*, *family childcare program option*, and *home-based program option* into part 1302, subpart B. We propose to incorporate the meaning of *group socialization activities*, *home visits*, and *parent-teacher conference* into part 1302, subpart C. Finally, we propose to incorporate the meaning of *family childcare provider* into part 1302, subpart I. We propose to remove the definitions of *combination program option*, *Head Start class*, *Head Start and Early Head Start services*, and *full-day variation* because they do not add to the widely understood meanings. We also redesignate and revise the definition of *Head Start parent* to be more inclusive of foster parents. Finally, we revise and redesignate the definitions of *days of*



operation and hours of operation for improved clarity.

#### Definitions From Part 1307

We propose to redesignate all of the definitions from part 1307 of the existing rule into this part, but have not been revised them in any way because we will not accept comments on the provisions in part 1307 (part 1304, subpart B in this NPRM) as part of this NPRM. These definitions include *Act*, *ACF*, *agency*, *aggregate child-level assessment data*, *child-level assessment data*, *Early Head Start agency*, *going concern*, *Head Start agency*, *school readiness goals*, and *transition period*.

#### Definitions From Part 1308

With regard to the definitions currently enumerated in part 1308, we propose to remove *commissioner*, *day*, *disabilities coordinator*, *eligibility criteria*, *performance standards*, *related services*, *assistive technology*, *assistive technology service* and *special education* because they do not add to the widely understood meaning or are no longer relevant to the proposed provisions. We also propose to incorporate the definition of *least restrictive environment* into the text of this NPRM at part 1302, subpart F, and therefore remove it from this definitions section. In addition, we propose to add a definition of *local agency responsible for implementing IDEA* to clarify intent. Finally, we propose to reference the Individuals with Disabilities Education Act for the definition of *Individualized Education Program*.

#### Definitions From Part 1309

In this part, we also propose to remove several definitions currently enumerated in part 1309, including *acquire*, *grant funds*, *Head Start center or a direct support facility*, *incidental alterations and renovations*, and *suitable facility* because they do not add to the widely understood meaning. We propose to redesignate and revise *major renovations*, *modular unit*, *real property*, *facility*, and *purchase* for improved transparency and clarity, and redesignate the definition of *construction*. We also propose to add definitions of *repair* and *minor renovations* to resolve confusion amongst grantees.

#### Definitions From Part 1310

In this part, we propose to remove several definitions which are currently enumerated in part 1310 of the existing rule. Specifically, we propose to remove *national standards for school buses and school bus operations*, *reverse beeper* and *seat belt cutter* because they do not

add to the widely understood meanings or are no longer relevant to the proposed provisions. We propose to incorporate the definitions of *agency providing transportation services*, *bus monitor* and *trip routing* into the text of this NPRM at part 1303, subpart F, and therefore remove it from this definitions section. We also propose to reference the Act for the definition of *State*. Lastly, we propose to redesignate the remaining definitions from part 1310 into this section, including *allowable alternative vehicle*, *child restraint system*, *commercial driver's license*, *Federal Motor Vehicle Safety Standards*, *fixed route*, *National Driver Register*, *school bus* and *transportation services* for clarity and transparency.

#### Definitions From Part 1311

Finally, in this section, we propose to remove the definition of *Head Start Fellows* which is currently defined in part 1311 of the existing rule, because the meaning is conveyed in the proposed provisions at part 1304, subpart E.

#### Effective Dates

Current Head Start program performance standards remain in effect until this NPRM becomes final. We propose for this NPRM to become effective 60 days after it is published as a final rule in the **Federal Register**. However, programs may require more time to implement §§ 1302.21(b)(2); 1302.21(c)(1) and (3); 1302.22(c)(1) and (2); and 1302.23(c); 1302.32(a)(1)(iii) and (a)(3); 1302.32(b); 1302.90(b),(2) and (4); 1302.91(f)(1); 1302.92(b)(4) and (5). Therefore, we propose for these provisions to become effective 12 months after the final rule becomes effective. We solicit comments on these effective dates.

#### V. Regulatory Process Matters

##### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA),<sup>274</sup> as amended by the Small Business Regulatory Enforcement Fairness Act, requires federal agencies to determine, to the extent feasible, a rule's economic impact on small entities, explore regulatory options for reducing any significant economic impact on a substantial number of such entities, and explain their regulatory approach.

This NPRM will not result in a significant economic impact on a substantial number of small entities. It is intended to ensure accountability for federal funds consistent with the

purposes of the Head Start Act and is not duplicative of other requirements.

##### Regulatory Planning and Review Executive Order 12866

Executive Order 12866 requires federal agencies to submit significant regulatory actions to the Office of Management and Budget (OMB) for approval. The Order defines "significant regulatory actions," generally as any regulatory action that is likely to result in a rule that may (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.<sup>275</sup>

The provisions proposed in this NPRM, are different from many proposed rules in the federal government in that they will require Head Start programs to allocate funding in different ways, but will not affect the amount of Head Start's appropriation and therefore will not affect the amount of funding that will be provided to Head Start programs overall. Nonetheless, given the costs of these changes and the expected loss of slots for eligible children and teacher employment as a result of these costs, we have determined that this NPRM will have an annual effect on the economy of more than \$100 million. Therefore, the proposed changes in this NPRM represent a significant regulatory action as defined by Executive Order 12866. Given both the directives of the Order and the importance of understanding the benefits, costs, and savings associated with these proposed changes, we describe the costs and benefits associated with the proposed changes and available regulatory alternatives below.

##### 1. Need for Regulatory Action

The purpose of Head Start, as prescribed by the Act, is to "promote the school readiness of low-income children by enhancing their cognitive, social, and emotional

<sup>274</sup> 5 U.S.C. 605(b).

<sup>275</sup> Executive Order 12866, sec. 3(f)(1).

development.”<sup>276</sup> This purpose, and the Head Start program itself is based upon decades of scientific research that documents the strong and lasting impact of children’s experiences in their first five years of life on brain development, learning, and health,<sup>277 278 279</sup> and the significant economic impact of such benefits on children individually and on society as a whole. However, provision of consistently *high quality* early learning experiences is central to reaping these benefits from all Head Start programs. The congressionally mandated, randomized control trial study of Head Start’s impact did not show lasting effects on the outcomes measured. Specifically, while the Impact Study found some initial effects, by third grade the control and treatment groups showed no significant differences.<sup>280</sup> In order for Head Start to achieve its mission to be an effective tool in supporting children’s success in Kindergarten and beyond, all programs must be high quality. Decades of best practice, cutting edge research in early education including the Head Start Impact Study, expert advice, and The Secretary’s Advisory Committee’s recommendations all culminate in a call to action for policy changes that ensure all Head Start programs provide a consistently high quality early learning experience that prepares children for Kindergarten and has long-term effects on their academic success and overall health. We believe the proposed changes in this NPRM will empower all programs to achieve this goal.

## 2. Cost and Savings Analysis

In the following sections, we describe the costs associated with the proposed changes to the current regulation included in this NPRM. First, we detail both the programmatic costs and savings associated with individual provisions

and then determine the projected loss of Head Start slots and teacher jobs associated with those costs without additional funding, given that Head Start program would need to absorb these additional costs into their current program operations. Then, we detail how the net programmatic costs differ from the net cost to society of the provisions based upon the calculation of opportunity costs and transfers. Further, we describe the effect on society by exploring the benefits lost for children who would not have access to Head Start in the future, based upon two scenarios. In the first scenario additional funds are appropriated that cover the cost of the NPRM per the President’s FY2016 budget request to support the extension of the program day and year. In the second scenario, additional funds are not available and children who would have had access to Head Start are cared for in other environments with varying levels of quality and associated benefits for those children.

### Programmatic Costs and Savings

This NPRM includes a number of provisions, associated with costs, intended to increase program quality and, as a result, increase the impact Head Start services will have on the children and families programs serve. This NPRM also includes several provisions, which improve upon important managerial and administrative responsibilities, and streamline processes to reduce unnecessary administrative burden, which are associated with savings. These provisions apply specifically to the approximately 2,815 grantees and delegates currently providing Head Start and/or Early Head Start services.

We estimate the total programmatic costs associated with the provisions in

their entirety proposed in this NPRM at \$1,155,974,916. We estimate the total programmatic savings associated with the provisions proposed in this NPRM at \$104,635,321. Therefore, we estimate net programmatic monetary cost of this NPRM at \$1,051,339,595. As noted above, the President’s FY2016 Budget requests \$1.5 billion in additional Head Start resources to support these quality improvements and continue the new Early Head Start-Child Care Partnerships. If the additional resources are provided by Congress, these costs would be covered. In this situation, there would be no slot or teacher job loss associated with the changes proposed in this NPRM. However, we estimate below the total slots and teacher jobs that would be lost if the additional funding requested in the President’s Budget is not provided.

In order to estimate slot and teacher job loss as programs adjust their budgets in the absence of additional funding, we first determined the proportion of current funded enrollment that are Head Start slots (85%) and Early Head Start slots (15%), respectively. We then applied this proportion to the total monetary cost associated with the NPRM, in FY2014 dollars, and divided the cost that will be borne in Head Start slots (\$893,638,656) by the average cost per slot for Head Start in 2014 or \$7,886, and divided the cost that will be borne in Early Head Start (\$157,700,939) by the average cost per slot for Early Head Start in 2014 or \$12,013. This calculation provided the total estimated slot loss as well as slot loss estimates for regulatory alternatives. Without additional funding, this net cost would be associated with a reduction in slots (or number of children served) of 126,448.

	Proportion of slots	Proportion of net cost	Cost per slot	Number of slots lost
EHS .....	15%	\$157,700,939	\$12,013	13,128
HS .....	85%	893,638,656	7,886	113,320
Total .....	.....	.....	.....	126,448

In order to estimate the total number of teacher jobs which would be lost in association with the slot reduction that

would occur if additional funding requested by the President’s Budget is not provided, we first reduced the net

monetary cost of the NPRM by the cost of eliminating the option for double sessions (\$368,720,660). Double session

<sup>276</sup> 42 U.S.C. 9831.

<sup>277</sup> National Scientific Council on the Developing Child (2007). *The Timing and Quality of Early Experiences Combine to Shape Brain Architecture: Working Paper No. 5*. Cambridge, MA: Author.

<sup>278</sup> Anda R.F., Felitti V.J., Bremner J.D., Walker J.D., Whitfield C., Perry, B.D., Dube, S.R., & Giles, W.H. (2006). The enduring effects of abuse and

related adverse experiences in childhood. A convergence of evidence from neurobiology and epidemiology. *European Archives of Psychiatry and Clinical Neuroscience*, 256(3), 174–186.

<sup>279</sup> National Scientific Council on the Developing Child (2010). *Early Experiences Can Alter Gene Expression and Affect Long-Term Development: Working Paper No. 10*. Cambridge, MA: Author.

<sup>280</sup> Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. *US Department of Health and Human Services Office of Planning, Research and Evaluation*.

programs typically operate a morning and afternoon session of 3.5 hours, which serve different children but utilize the same teachers. As a result, double session teachers should not lose their jobs, even as fewer children are served in those programs. To translate the remaining cost (\$682,618,935) into slot loss, we again applied the proportion of Head Start slots (85%) and Early Head Start slots (15%) to the total monetary cost associated with the NPRM, less the cost of eliminating double sessions, and divided the cost that will be borne in Head Start slots

(\$580,226,095) by the average cost per slot for Head Start, or \$7,886, and the cost that will be borne in Early Head Start (\$102,392,840) by the average cost per slot for Early Head Start, or \$12,013. We then applied current percentages from the Program Information Report (PIR) on the percent of 3- versus 4-year olds in Head Start and the percent in home-based versus center-based in Early Head Start to the estimated slot loss. Then we applied a 1:4 teacher: child ratio to the center-based Early Head Start slots lost (given two teachers for a maximum class size of 8) and 1:12 for

home-based Early Head Start slots lost (given the maximum caseload of 12) to determine the total number of Early Head Start teacher jobs that would be lost. And, for Head Start, we applied a 1:8.5 ratio for the number of 3 year old slots lost (given two teachers for a maximum class size of 17) and a 1:10 ratio for 4 year old slots lost (given two teachers for a maximum class size of 20). The sum of these estimates gave us our cumulative estimate of teacher jobs lost. Without additional funding, this net cost would be associated with a reduction of 9,432 teachers' jobs.

		Number of slots lost (less double session costs)	Ratio applied	Number of teacher jobs lost
EHS .....	Center-based .....	4,858	1:4	1,215
	Home-based .....	3,665	1:12	305
HS .....	3 year olds .....	31,403	1:8.5	3,694
	4 year olds .....	42,174	1:10	4,218
Total .....	.....	.....	.....	9,432

### Societal Cost and Savings

Throughout this Cost and Savings Analysis, we also identify costs and savings to society associated with the proposed changes that are not related to program operation and therefore are not included in estimations of slot and teacher job loss. Specifically, there are two provisions, home visits for frequently absent children and criminal background checks for prospective staff, where there is an opportunity cost associated with prospective staff or parents' time spent complying with new

requirements, and we have monetized these opportunity costs at \$943,530 and \$726,824, respectively, based on foregone earnings. Further, there is one provision that will be associated with opportunity cost savings by reducing parents' time spent on parent committees as a result of the new requirements. We have monetized this opportunity cost savings at \$2,689,098 based on retained earnings. Finally, although we have quantified programmatic savings related to the removal of provisions that allow Head Start Programs to develop their own

IEPs for children, we recognize that from a societal perspective, these savings in the amount of \$41,125,086 should be categorized as a transfer, because the IEPs will still be developed for such children by another entity. Therefore, we have calculated the net total cost to society of the NPRM to be the total programmatic cost \$1,051,339,595 plus the total additional opportunity costs \$40,106,342. Based on these calculations, we estimate the net total cost to society of this NPRM to be \$1,091,445,937.

Opportunity cost/savings/transfer	Estimate	Net total cost to society
Additional Home Visits for Frequently Absent Children (Cost) .....	\$943,530	\$1,051,339,595 + \$40,106,342 = \$1,091,445,937
Criminal Background Checks for Prospective Staff (Cost) .....	726,824	
Removal of Parent Committees (Savings) .....	(2,689,098)	
Removal of IEP Process (Transfer) .....	41,125,086	
Total Additional Opportunity Costs .....	40,106,342	

However, the total societal costs and savings of this NPRM is dependent on the future appropriation for Head Start. It is also dependent on the realization of the potential transfer of benefits from children who might have participated in Head Start but lack access to the program if the additional funding requested by the President's Budget is not provided to those who will receive a greater duration of services and higher quality care in Head Start, as well as the potential transfer of costs of serving these children from Head Start to other Early Childhood Education (ECE) programs. The President's FY2016

Budget included a request for \$1,078,000,000 in additional Head Start funding to support the extension of the Head Start program day and year, which are the two provisions associated with the largest costs in this NPRM.

If Head Start appropriations increase by this or a similar amount, the programmatic costs currently estimated in this section would be borne essentially in full by the federal government but there would be no lost benefit to society of a reduction in Head Start slots. In this case, the net cost to society (borne by the federal government) would be the \$1,091,445,937 calculated above, and

there would be no transfer of benefits. Rather, the full additional potential benefits of higher quality services would be realized for all children receiving Head Start.

However, if Head Start receives no additional funding and the children, who otherwise would have attended Head Start but lack access due to a funding shortfall that results in fewer slots, do not have access to any other early childhood education program, the benefits that these children would have received from attending Head Start would be transferred to children who continue to have access to Head Start and experience an increase in the

duration and quality of services. Transfers may, in spite of holding the same dollar value universally, have different worth for entities on opposite sides of the transfer. In this case, the additional Head Start expenditures accruing to the children receiving more hours (and otherwise higher quality) Head Start services may yield benefits that are equal to, greater than, or less than the benefits lost by the children who lack access to Head Start due to this funding shortfall.<sup>281</sup>

We know that some children who would have otherwise participated in Head Start will be served by other early childhood programs, although they may be of lower quality. In the Head Start Impact Study, many children who did not have access to Head Start received services from other early childhood education programs of varying quality.<sup>282</sup> In this case, determining how the absence of Head Start services for children impacts society depends on how costs and benefits differ between Head Start and the alternative programs. If children have access to pre-kindergarten programs of roughly equivalent quality to Head Start, they will likely have equivalent costs and benefits. Other children, however, will likely enroll in programs that may have both lower costs and lower benefits to

society than Head Start. Finally, given there is significant unmet need and the supply of both affordable and quality early learning opportunities for poor families is limited, some children, as discussed above, will not access any other ECE program. In this case, the cost of the NPRM as currently estimated, though explained in terms of Head Start's programmatic costs, would be borne by whomever pays for the alternative early childhood education programs, e.g. state governments, parents, etc. Meanwhile, among children who lack access to Head Start services, those that enroll in alternative programs of similar quality would experience no additional or lost benefit and would not affect the NPRM's cost to society, while children who enroll in programs of lower quality or no program at all would increase the associated costs to society of the NPRM by the amount that the benefit they would receive from Head Start is reduced in their alternative program.

Although we are unable to quantify the associated costs, benefits, and potential transfers that would arise from these implementation scenarios, it is important to keep these factors in mind as we consider both the societal costs and savings and the cost-benefit analysis of this NPRM.

#### *Itemized Programmatic and Societal Costs and Savings*

In the following sections, we itemize each of the regulatory changes for which we expect there to be associated costs or savings in the areas of structural program option provisions, educator quality provisions, curriculum and assessment provisions, and administrative/managerial provisions.

#### *Structural Program Option Provisions*

This NPRM includes several provisions that increase the duration of the Head Start experience for children. It also includes provisions intended to improve child attendance. We analyzed costs associated with the following specific requirements: Minimum of 180 days of operation for all Head Start center-based programs and family child care homes at § 1302.21(c)(1) and § 1302.23(c); minimum of 36 home visits and 18 group socializations for all Head Start home-based programs at § 1302.22(c)(1); minimum of 230 days for all Early Head Start center-based programs and family child care homes at § 1302.21(c)(1) and § 1302.23(c); minimum of 46 home visits and 22 group socializations for all Head Start home-based programs at § 1302.22(c)(1); minimum of 6 hours per day at § 1302.21 and additional home visits for

chronically absent children at § 1302.16. In all cases, costs are estimated based on data about whether programs are currently meeting these new minimum requirements.

#### *Extension of the Program Year*

This NPRM proposes to extend the minimum Head Start year by 20 days (or one month) for programs operating 160 days (the current average) and by 52 days for programs operating 128 days, at §§ 1302.21(c)(1) and 1302.22(c)(1) and to codify current interpretation of a "full-year" of Early Head Start at 230 days at §§ 1302.21(c)(1) and 1302.22(c)(1). These proposed changes will increase the amount of exposure to Head Start and Early Head Start experiences, or dosage, which research suggests will, in turn, result in larger impacts on child outcomes.<sup>283 284</sup> Specifically, research on summer learning loss and attendance demonstrates the importance of extending the minimum days of operation in Head Start.<sup>285 286 287 288 289 290 291 292 293 294</sup>

<sup>283</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>284</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

<sup>285</sup> Sloan McCombs, J. et al. (2011). *Making Summer Count. How Summer Programs Can Boost Children's Learning*. Santa Monica, Calif.: RAND Corporation.

<sup>286</sup> Alexander, K.L., Entwisle D.R., & Olson L.S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review*, 72, 167–180.

<sup>287</sup> Alexander, K.L., Entwisle D.R., & Olson L.S. (2007). Summer learning and its implications: Insights from the Beginning School Study. *New Directions for Youth Development*, 114, 11–32.

<sup>288</sup> Sloan McCombs, J. et al. (2011). *Making Summer Count. How Summer Programs Can Boost Children's Learning*. Santa Monica, Calif.: RAND Corporation.

<sup>289</sup> Allington, R.L. & McGill-Franzen, A. (2003). The Impact of Summer Setback on the Reading Achievement Gap. *The Phi Delta Kappan*, 85(1), 68–75.

<sup>290</sup> Fairchild, R. & Noam, G. (Eds.) (2007). *Summertime: Confronting Risks, Exploring Solutions*. San Francisco: Jossey-Bass/Wiley.

<sup>291</sup> Downey, D.B., von Hippel, P.T. & Broh, B.A. (2004). Are Schools the Great Equalizer? Cognitive Inequality During the Summer Months and the School Year. *American Sociological Review*, 69(5), 613–635.

<sup>292</sup> Alexander, K.L., Entwisle D.R., & Olson L.S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review*, 72, 167–180.

<sup>293</sup> Logan, J.A.R., Piasta, S.B., Justice, L.M., Schatschneider, C. & Petrill, S. (2011). Children's Attendance Rates and Quality of Teacher-Child Interactions in At-Risk Preschool Classrooms: Contribution to Children's Expressive Language Growth. *Child & Youth Forum* 40(6), 457–477.

Continued

<sup>281</sup> If the resources needed to convert all slots to full school day and full school year are not available, then it is important to consider whether the benefits to those children who have access to Head Start and participate in a longer, higher quality day and program year offsets any potential loss from children who might have otherwise participated in Head Start under the current program minimum requirements that allow for part-day and part-year services. As noted above, the relative sizes of those benefits and costs depend in part on the degree to which those children who might have otherwise participated in Head Start have access to other early education programs and the quality of those programs. If the impact of Head Start deepens significantly if the dosage (hours per day and days per year) is above a threshold level greater than the current program minimum requirements, then the benefit from increasing program dosage above this threshold will be large relative to the proportional increase in dosage. On the other hand, if there are diminishing returns to increasing the dosage, then the gains to increasing the dosage will be smaller than the proportional increase in the program hours, and would be less likely to offset the losses to children who might have otherwise had access to Head Start, though this depends as noted above on the early learning opportunities available to those children. Robin et al. (2006) provide preliminary evidence in support of the latter possibility, in that they find a tripling of hours in Head Start yielding approximately a doubling of children's skill gains. (See Robin, K.B., Frede, E.C., Barnett, W.S. (2006). *Is More Better? The Effects of Full-Day vs. Half-Day Preschool on Early School Achievement. NIEER Working Paper*.) We invite comment on this issue and all aspects of the rule's potential impact on children's skills and life outcomes.

<sup>282</sup> Puma, M., Bell, S., Cook, R., Heid, C., & Lopez, M. (2005). Head Start Impact Study: First Year Findings. *Administration for Children & Families*.

Current Head Start minimums essentially permit 4 months of summer break, making the likelihood and magnitude of skill loss between program years even higher than what we see in elementary and secondary education. The majority of Head Start programs operate with a 4 month break between program years, which we believe undermines the progress Head Start children make during the year and lessens the overall impact of the program. Our new proposed minimums will reduce the allowable summer break to 3 months and should, therefore, decrease summer learning loss of Head Start children.

In order to estimate the costs associated with these provisions, we used Grant Application Budget Instrument (GABI) data and Program Information Report (PIR) data. Specifically, for each of four categories of programs (Head Start center-based, Head Start home-based, Early Head Start center-based, and Early Head Start home-based) we calculated the cost of operating the entire program for an additional day by calculating the average number of days each type of program currently operates and dividing the average cost per child by the days

that programs operate. It is important to note that the cost per child includes teacher salary and fringe, facilities, materials and all other costs associated with administering the program. Head Start grantees are allowed to spend 15 percent of their total funds on administrative costs, which are also included in the cost per child. Therefore, we reduce the cost per child in this estimate by 15 percent because administrative costs such as insurance, staff salaries for management personnel, including the Executive Director, who are employed year-round, and costs associated with occupying and maintaining space, are not associated with the length of the program year. We also removed all programs currently meeting the requirement from the calculation and determined the average number of days programs not meeting the requirement would need to add in order to get to 180 days (36 weeks for home-based) or 230 days (46 weeks for home-based), for Head Start (HS) and Early Head Start (EHS), respectively. These calculations reflected that Head Start center-based programs would need to add 33 days, Head Start home-based programs would need to add 3.8 weeks (19 days), Early Head Start center-based

programs would need to add 35 days, and Early Head Start home-based programs would need to add 2 weeks (10 days).

We then multiplied the cost per child per day by these estimates and the funded enrollment (FE) of programs currently not meeting the requirement to produce a cost estimate. Funded enrollment is the total number of slots programs are funded to provide. We did these estimations separately for Head Start and Early Head Start because the total cost per child in 2014 for Head Start slots was \$7,886 and the total cost per child in 2014 for Early Head Start slots was \$12,013. We also calculated estimates for center-based (CB) and home-based (HB) programs separately because home-based programs report weeks of operation, which we translated into days and center-based programs report days of operation. Finally, we reduced each cost estimate in dollars by 20 percent assuming that a small percentage of programs currently operating fewer days than the new requirement will apply for and receive a waiver under § 1302.24. Using this method, we estimated the total cost of these new minimums to be \$560,596,307.

Program type	Avg. cost/ child	Less 15% admin costs	Avg. days (weeks) of operation	Avg. cost/ day/child	Avg. additional days	Funded enrollment (FE)	Estimated cost	Less 20% waiver
HS CB .....	\$7,886	\$6,703	169	39.66	33	493,041	\$645,336,114	\$516,268,891
HS HB .....	7,886	6,703	170.4 (34.1)	39.34	19	12,420	9,282,849	7,426,280
EHS CB .....	12,000	10,211	215	47.49	35	23,436	38,954,147	31,163,318
EHS HB .....	12,000	10,211	227.5 (45.5)	44.88	10	15,981	7,127,273	5,737,818
Total .....	.....	.....	.....	.....	.....	.....	.....	560,596,307

Extension of the Program Day

This NPRM proposes a new minimum number of hours per day for all center-based Head Start and Early Head Start programs at §§ 1302.21(c)(3) and 1302.22(c). These proposed changes will increase the amount of exposure to Head Start and Early Head Start experiences, or dosage, which research suggests is necessary to support larger impacts on child and family outcomes.<sup>295 296</sup> Specifically, researchers have demonstrated that pre-kindergarten programs that focus on intentional teaching and both small group and one-to-one interactions have larger impacts on child outcomes.<sup>297</sup> It

is extremely difficult for a half-day program to provide sufficient time for teachers to conduct learning activities and intentional instruction in small group and one-on-one interactions. More content-focused curriculum includes at least three hours of cognitive instruction per day, something that cannot be accomplished in programs operating under our current minimums. Our new proposed minimums will ensure that teachers have adequate time to support each child's learning and will, when combined with our proposed higher education standards, improve outcomes.

In order to estimate the costs associated with these provisions, which would extend the Head Start and Early Head Start day to a minimum of 6 hours, we also used GABI data and PIR data. Specifically, we calculated estimates for both Head Start center-based and Early Head Start center-based, and double session and non-double session programs separately. For double session programs, which include two sessions of 3.5 hours, we assumed the entire cost per child would need to be added for half of all funded enrollment slots. To calculate this cost, we divided the current funded enrollment for EHS (418) and HS

<sup>294</sup> Hubbs-Tait, L., McDonald Culp, A., Huey E., Culp, R., Starost, H., & Hare, C. (2002). Relation of Head Start attendance to children's cognitive and social outcomes: moderation by family risk. *Early Childhood Research Quarterly*, 17, 539–558.

<sup>295</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's

mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>296</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National

Institute for Early Education Research Rutgers—The State University of New Jersey.

<sup>297</sup> Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *Teachers College Record*, 112(3), 579–620.

(136,883) double session programs separately by 2 to get a total number of slots for EHS (209) and HS (68,442). We then multiplied the resulting number of slots by the average cost per child for each program. It is important to note that the cost per child includes teacher salary and fringe, facilities, materials and all other costs associated with administering the program. Head Start grantees are allowed to spend 15 percent of their total funds on administrative costs, which are also included in the cost per child. Therefore, we reduce the cost per child in this estimate by 15 percent because administrative costs such as insurance, staff salaries for management personnel, including the Executive Director, who are employed year-round, and costs associated with occupying and

maintaining space, are not associated with the length of the program day.

For non-double session programs we calculate the cost by dividing the cost for an additional hour of the teaching team, based on the average hourly rate for teachers and assistant teachers, by the maximum class size to produce a cost estimate for the cost per child per additional hour. We calculated these costs separately for 4–5 year olds and 3 year olds, given the differing class size maximums of 20 and 17, respectively. For infants and toddlers we used the class size maximum of 8. We then multiplied the average cost per child per hour by the average number of hours that programs not currently meeting the minimum would need to add in order to do so over the program year (360 hours for Head Start programs and 552

hours for Early Head Start programs). This estimate per child was then multiplied by the appropriate funded enrollment (FE) to produce the estimated cost. Finally, we reduced those cost estimates by 20 percent, assuming that a small percentage of programs currently operating fewer hours than the new requirement, or operating double session programs will apply for and receive a waiver under § 1302.24. Using this method, we estimated the total cost of these new minimums to be \$445,226,855. We would like to invite public comment specifically on whether any costs in addition to teacher salary will be affected by this provision and should therefore be included in our estimate.

Program type	Teaching team/hr	Maximum class size	Cost/child	Avg. additional hours/year	FE	Estimated cost	Less 20% waiver
HS CB (4–5) .....	\$29.69	20	\$1.48	360	92,887	\$49,640,568	\$39,712,454
HS CB (3) .....	29.69	17	1.75	360	66,906	42,065,891	33,652,713
EHS CB .....	24.04	8	3.01	552	2,367	3,926,285	3,141,028
Program type	Avg. cost/child	Less 15% admin	FE	Number of slots with new costs	Estimated cost		Less 20% waiver
HS DS .....	7,886	6,703	136,883	68,442	458,766,726	367,013,381	
EHS DS .....	12,013	10,211	418	209	2,134,099	1,707,279	
Grand Total .....							445,226,855

#### *Removal of Home-Based Preschool Standard Option*

This NPRM proposes to remove the home-based option for preschoolers as a standard option. We propose this removal because the home-based option does not provide the intensity of services required to improve children's early learning outcomes. In order to estimate the cost of removing this option, we first determined from PIR data that there are 17,232 home-based preschool slots currently funded. We then calculated the current cost associated with home visitor's salaries for these children by dividing the slot number by the home-visiting caseload (12) and then multiplying by the current average home visitor salary for an estimate of \$41,888,120. We then

calculated the cost that would be associated to serving all of these children in center-based program instead of home-based. To estimate that cost, we divided the slot number by number of children per teacher for Head Start (10) and then multiplied that number the current average teacher and assistance teacher salary to get an estimate of \$41,521,366. We then inflated this cost by the administrative cap (15%) to account for additional administrative burden of center-based programs to estimate the new cost at \$47,749,570. We then found the difference between the home-visitor salary cost and the inflated teacher salary cost, which is \$5,861,450. Finally we estimated the total cost of equipping the newly needed center-based classrooms by dividing the current

home-based slot number by 20 to find the number of new classrooms needed (862) by \$20,000 which represents a cost associated with space, equipment, and supplies, to be \$17,232,000. Therefore, we estimate the cost of this provision to be the \$5,861,450 combined with the \$17,232,000 which is \$23,093,450. However, this provision is also covered by the local variation waiver so we reduced this total by the percentage of programs we expect would receive this waiver (33%). We assume that this waiver will be awarded at a higher rate than other local variation waivers given the unique circumstances that likely drive current programs to use this option to meet community needs. Therefore, we estimate the total net cost of this provision to be \$15,380,238.

Number of HB preschool slots	Current number of home-visitors	Total cost of home-visitors salaries	Number of teachers needed	Total cost of teacher salary	Total cost of equipping classrooms	Total cost of provision
17,232 .....	1,436	\$41,888,120	1,723	\$41,521,366	\$17,232,000 .....	\$23,093,450
Inflated by 15% .....				47,749,570		
Difference in Costs .....				5,861,450	Waiver Reduction (33%) Grand Total.	15,380,238

Waiver Authority for Early Head Start 2 Year Old Classroom Ratios

This NPRM proposes to apply the proposed locally-designed variation authority, discussed above, at § 1302.24 to all programs. As a result, for the first time, programs may request a waiver of ratios for children under the age of 3. We believe that programs in states that allow higher ratios for two year olds classrooms or mixed age classrooms may request waivers to allow them to serve more children and support continuity as children approach pre-school. We anticipate awarding waivers

to programs who propose to serve 2-year old children at a ratio of 1:6 rather than 1:4, provided they have sufficient space to meet square footage requirements. We estimate the savings associated with receipt of this waiver here. First we estimated the savings associated with all 2-year old classrooms operating with a 1:6 ratio. We used the total number of 2-year olds currently being served (65,852) from PIR data to find the number of teachers that would no longer be needed by dividing the number of 2-year olds by the current ratio of 1:4 (which yields 16,463 teachers) and then

by the 1:6 ratio that would now be allowed (which yields 10,975 teachers), and taking the difference (5,488). We then multiply this number of teachers that would no longer be needed (5,488) by the average Early Head Start teacher salary of \$25,495 to get a total potential savings of \$139,916,560. However, we assumed that only approximately one-third of programs currently serving 2-year olds have adequate space to accommodate the larger group size associated with a 1:6 ratio. Therefore, we estimate that the actual total savings for this provision would be \$46,638,853.

Total number of 2 year olds	Current number of teachers (1:4)	New number of teachers (1:6)	Number of teachers no longer needed	Average EHS teacher salary	Total savings
65,852 .....	16,462	10,975	5,488	\$25,495	\$139,916,560
Grand Total (Reduced by ⅔ for programs without adequate space) .....	.....	.....	.....	.....	46,638,853

Waiver Applications for Locally-Designed Program Options

As discussed above, this NPRM includes a provision at § 1302.24 that would require any program wishing to operate a locally-designed program option to submit a waiver application explaining why the local design better meets community needs and demonstrating that children are making sufficient progress. As discussed in further detail in the discussion of the proposed rule at § 1302.24, this proposed change will strengthen program accountability while maintaining local flexibility. In order to estimate the cost associated with this provision we used Grant Application Budget Instrument (GABI) data to determine the total number of program schedules that do not meet the new proposed minimums. It is important to note that most grantees operate more than one program

schedule. It is possible that a single grantee operates program schedules that both meet our minimums and do not and may operate multiple program schedules that would require waiver applications. For example, one grantee may operate three centers with three different program schedules, one of which meets the minimums and two of which do not. In order to ensure our cost estimate captures every grantee that may choose to submit a waiver application, we likely overestimate the total number of programs by using program schedules as the unit of analysis. Among all Head Start and Early Head Start programs, 4,207 program schedules do not meet our proposed minimums. Further, we also used PIR data to find the number of programs currently offering the home-based option for preschoolers, which would also require a locally-designed variation waiver. Currently, 300 programs offer the home-based option

for preschoolers. Finally, we assumed that all Early Head Start and Migrant programs serving 2-year olds (965) would apply for the associated ratio waiver. These numbers were summed to find a total number of programs that might apply for a waiver (5,472). To estimate the cost associated with waiver applications, we assume that 50 percent of all programs that could be eligible for a waiver will apply (2,736). We also assume that submission of a waiver application will require 8 hours of a center director's time at \$45.19 per hour (PIR salary data of \$33.98 per hour inflated by 33% for fringe benefits). Therefore, we calculate the cost associated with the applications by multiplying the number of programs schedules by 8 hours of a center director's hourly wage (\$361.52). Using this method, we calculate the total cost associated with this provision at \$989,119.

Number of program schedules	Number of waiver applications	8 hours of center directors hourly wage	Estimated cost
5,472 .....	2,736	\$361.52	\$989,119

University of Chicago Consortium on Chicago School Research.  
299 Community Action Project Tulsa County. (2012) *Attendance Works Peer Learning Network Webinar*.  
300 Connolly, F., & Olson, L. S. (2012). Early Elementary Performance and Attendance in Baltimore City Schools' Pre-Kindergarten and Kindergarten. *Baltimore Education Research Consortium*.

298 Ehrlich, S. B., Gwynne, J. A., Pareja, A. S., & Allensworth, E. M. (2013). *Preschool Attendance in Chicago Public Schools. Research Summary*.

### Home Visits for Frequently Absent Children

This NPRM includes a new provision that requires programs to attempt to conduct an extra home visit with families of children who are frequently absent (for non-illness or IFSP/IEP related reasons) at § 1302.16. As described in further detail in the discussion of the proposed rule for § 1302.16, this proposed change will improve consistent attendance, which is important because research demonstrates that attendance is predictive of school success.<sup>298 299 300</sup>

We considered both monetary costs as well as opportunity costs in estimating the total cost of these new provisions in § 1302.16. In order to estimate the associated monetary costs, we used data from the Family and Child Experience Survey (FACES) and babyFACES national surveys. Using these databases, we were able to estimate the proportion of children in both Head Start and Early Head Start who are absent for more than

20 days in a given school year. For Head Start, we used this proportion (5.6%) as a proxy for the proportion of children who are frequently absent, and would trigger the requirement in the NPRM for an additional home visit. For Early Head Start, we assumed approximately half of this proportion would be children for whom absences were explained the frequency of illness among very young children and thus would not trigger this requirement. Therefore, we used half of the estimated proportion from babyFACES (34%) as a proxy for children in Early Head Start who are chronically absent and would thus trigger the extra home visit. Then, we estimated the number of extra home visits this requirement will trigger by multiplying cumulative enrollment for center-based programs in HS and EHS, respectively, by these proxy proportions. Finally, we estimated the monetary cost of this provision by multiplying the number of extra home visits by the average wage of a teacher

and an assistant teacher for two hours, because we expect some home visits will be conducted by teachers or home visitors and others may be conducted by the family service worker (usually paid on par with assistant teachers). Using this method, we estimate the total monetary cost of this proposed requirement to be \$1,854,026.

To calculate the opportunity cost, we estimated foregone wages for parents meeting this requirement of one additional home visit. This represents the value of their time when they participate in an additional home visit rather than working. We used the number from our estimate of children experiencing chronic absenteeism (65,071) and assumed one parent per child. We then used the average hourly wage from the Bureau of Labor Statistics and assumed two hours of time for each parent to meet this additional requirement. This results in a monetized opportunity cost of \$943,530.

### MONETARY COSTS

Program type	National survey proxy %	FE	Estimated number of additional HVs	Avg. wage/2 hours	Estimated cost
HS .....	5.6	915,672	51,278	\$29.69	\$1,522,433
EHS .....	17	81,138	13,793	\$24.04	\$331,593
Total .....	.....	.....	.....	.....	\$1,854,026

### OPPORTUNITY COSTS

Total number of parents	Hourly wage forgone	Number of hours	Estimated cost
65,071 .....	\$7.25	2	\$943,530
Total .....	.....	.....	\$943,530

### Educator Quality Provisions

This NPRM also includes several provisions to improve the quality of education staff in Head Start and Early Head Start programs. Specifically, we analyzed costs associated with the following requirements: minimum of associate's degree for all Head Start teachers at § 1302.91(c); minimum of CDA or equivalent credential for all home visitors at § 1302.91(f); and mentor coaching at § 1302.92(b)(4).

### Associate's Degree for Head Start Teachers

The Act detailed new degree requirements for all Head Start teachers. Specifically, one of those provisions codified a minimum requirement that all Head Start teachers have at least an associate's degree. While progress towards meeting this requirement has been substantial, a small percentage of Head Start teachers in 2012 did not have such a degree. In this NPRM, we propose adding this requirement into the staff qualifications section of the performance standards at § 1302.91(c).

Given that some teachers do not have the minimum degree, we estimated the cost associated with this requirement by finding the difference in average salaries for teachers with no credential and teachers with a Child Development Associate (CDA), compared to teachers with associate's degrees, respectively. We then multiplied the additional salary needed for each group of teachers by the number of teachers who currently have no credential or the number of teachers who currently have only a CDA. Using this method, we estimate the total cost for Head Start programs to

<sup>298</sup> Ehrlich, S. B., Gwynne, J. A., Pareja, A. S., & Allensworth, E. M. (2013). *Preschool Attendance in Chicago Public Schools. Research Summary.* University of Chicago Consortium on Chicago School Research.

<sup>299</sup> Community Action Project Tulsa County. (2012). *Attendance Works Peer Learning Network Webinar.*

<sup>300</sup> Connolly, F., & Olson, L. S. (2012). *Early Elementary Performance and Attendance in Baltimore City Schools' Pre-Kindergarten and Kindergarten.* Baltimore Education Research Consortium.



fully fulfill this requirement to be \$4,167,135.

Current credential	Salary differential (w/AA)	Number of teachers	Cost of additional salary for credentialed teachers
CDA .....	\$1,983	1,595	\$3,162,885
None .....	1,339	750	1,004,250
Total .....	.....	.....	\$4,167,135

#### CDA for Home Visitors

In this NPRM, we also propose to require that all home visitors have, at a minimum, a home-based CDA credential or equivalent at § 1302.91(f). As described in further detail in the discussion of the proposed rule for §§ 1302.91, this proposed change will ensure that all home visitors are equipped with the critical content knowledge offered through a home-based CDA which we believe is linked to being a successful home visitor. In

order to estimate the costs associated with this new minimum requirement, we estimated the proportional salary differential of teachers with associate degrees compared to teachers with CDAs and applied that proportion to the current average home visitor salary to estimate the additional costs to hire more qualified home visitors. We took this approach because our current PIR data does not differentiate between credential types for home visitor salaries, but does differentiate by

credential for teacher salaries. We then applied this cost for more highly qualified home visitors to the number of home visitors who currently have no credential. This gives us an estimate of the total cost of requiring higher credentials for home visitors. Using this method, we estimate the total cost of meeting this new requirement to be \$1,607,540. We would like to invite public comment specifically on whether the salary assumptions in our estimate are appropriate for home visitors.

Current credential	Proportion of salary differential (Teachers: CDA to AA)	Avg. HV salary	Additional salary	Number of HVs w/o credential	Cost of additional salary for credentialed HVs
None .....	6.69%	\$29,170	\$1,951	824	\$1,607,540

#### Mentor Coaching

In this NPRM, we propose requirements that programs have a system of professional development in place that includes an intensive coaching strategy for teachers. As described in further detail in the discussion of the proposed rule for § 1302.92, this proposed change will ensure teaching staff receive effective professional development, based on a growing body of research demonstrating the effectiveness of intensive professional development for improving teacher practices in early care and education settings<sup>301 302 303</sup> and research demonstrating that such strategies support are associated with improved teacher practice in the classroom and a positive increase in classroom

quality.<sup>304 305</sup> The proposed provision also gives programs some flexibility to identify the education staff that would benefit most from this form of intensive professional development and direct their efforts accordingly.

In order to estimate the costs associated with this requirement, we assumed that in most cases, programs would assign one coach per 15 teachers or teaching teams. We also assumed the coach would receive a salary comparable to that of an education manager (\$47,945 from PIR), inflated for overhead and fringe benefits, which would be estimated at \$75,000 for each mentor coach. We then calculated the total number of mentor coaches needed to support all education staff by using 64,000 teachers (the number of lead Head Start and Early Head Start

teachers) as a proxy for the total number of teachers and teaching teams that could receive mentor coaching. We estimated the cost of providing 4,267 coaches for 64,000 teachers or teaching teams at \$320,025,000. We then assume that programs will utilize their flexibility to identify education staff or teaching teams who would most benefit from this type of professional development. We believe this will result in approximately one-third of teachers/teaching teams receiving intensive coaching. Therefore, our final estimate for the cost of the requirement is \$106,675,000. Given poor quality data regarding the quality and scope of coaching strategies programs may currently be using, we do not give any credit for programs that may already utilize mentor coaches in this estimate.

<sup>301</sup> Buysse, V., & Wesley, P. W. (2005). *Consultation in Early Childhood Settings*. Baltimore, MD: Paul H. Brookes Publishing.

<sup>302</sup> Tout, K., Halle, T., Zaslow, M., & Starr, R. (2009). *Evaluation of the Early Childhood Educator Professional Development Program: Final Report*. Report prepared for the U.S. Department of Education.

<sup>303</sup> Zaslow, M., Tout, K., Halle, T., Vick, J., & Lavelle, B. (2010). *Towards the identification of features of effective professional development for early childhood educators: A review of the literature*. Report prepared for the U.S. Department of Education.

<sup>304</sup> Isner, T., Tout, K., Zaslow, M., Soli, M., Quinn, K., Rothenberg, L., & Burkhauser, M. (2011).

*Coaching in early care and education programs and Quality Rating and Improvement Systems (QRIS): Identifying promising features*. Child Trends.

<sup>305</sup> Lloyd, C. M., & Modlin, E. L. (2012). *Coaching as a key component in teachers' professional development: Improving classroom practices in Head Start settings*. Administration for Children and Families.

Mentor coach salary and benefits	Number of teachers	Number of coaches	Estimate for all teachers	Estimate for 1/3 of teachers
\$75,000 .....	64,000	4,267	\$320,025,000	\$106,675,000

### Curriculum and Assessment Provisions

This NPRM includes several provisions to improve curriculum and assessment and eliminate redundancy in the screening process. We analyzed costs associated with the following specific requirements: Improving curriculum at § 1302.32(a)(1); monitoring the fidelity of curriculum implementation at § 1302.32(a)(3); and language assessment in home language and English for all dual language learners at § 1302.33(c)(2)(ii). We analyzed savings associated with the elimination of screening requirements for children who already have an IEP or IFSP at § 1302.33(a)(3) and the removal of Head Start designed IEPs.

### Improving Curriculum

In this NPRM, we include several provisions intended to improve the quality of curricula that programs select at § 1302.32(a)(1). Specifically, these

new provisions would require programs to critically analyze the curricula they use to determine whether they are appropriately aligned with and content-rich enough to support growth of all children in the domains outlined in the Head Start Early Learning Outcomes Framework (Birth–5). As described in further detail in the discussion of the proposed rule for § 1302.32, this proposed change will ensure all programs select and implement curricula with the key qualities that research suggests are critical to promoting child outcomes.<sup>306 307 308 309 310 311 312 313 314</sup> For some programs, these new provisions may require purchasing new curricula, or purchasing curricular add-ons or enhancements.

In order to estimate the cost associated with these provisions, we assumed that education managers would need to allocate an additional 20 hours of analysis and planning time. We

estimated the average hourly rate from the average annual salary of education managers and determined the total cost per manager for twenty hours. We then multiplied the cost by the total number of all programs. In addition, we estimated the average cost of a curricular enhancement for the most frequently used curriculum in Head Start programs at \$135 from online purchase forms. We know that most programs routinely upgrade their curriculum or purchase a new curriculum. For this cost estimate, we assumed an average of two-thirds of programs would identify the need to purchase additional curricular enhancements each year, and multiplied that number of programs by the average cost of an enhancement to estimate its total cost. Finally, we summed the two estimates, and found the total estimated cost of meeting this new requirement to be \$1,551,065.

	Avg. Ed manager salary	Cost of 20 hours	Number of programs	Estimated cost
Additional Staff Time .....	\$47,945 .....	\$461 .....	2,815 .....	\$1,297,715
	Avg. cost of enhancement	Number of programs	66% of programs	
Curricular Enhancement .....	\$135 .....	2,815 .....	1,877 .....	\$253,350
Total .....				\$1,551,065

### Monitoring Fidelity of Curriculum Implementation

In addition to the curriculum quality requirements described in the previous section, this NPRM also includes a provision that will require programs to

monitor the fidelity of curriculum implementation at § 1302.32(a)(3). As described in further detail in the discussion of the proposed rule for § 1302.32, this proposed change will ensure all programs provide adequate

supervision and regular monitoring of curriculum use to ensure effective curriculum implementation, which is critical to reaping the benefits of using high quality curricula described above.<sup>315 316</sup>

<sup>306</sup> Clements, D. H., & Sarama, J. (2008). Experimental Evaluation of the Effects of a Research-Based Preschool Mathematics Curriculum. *American Educational Research Journal*, 45(2), 443–494.

<sup>307</sup> Starkey, P., Klein, A., & Wakeley, A. (2004). Enhancing young children's mathematical knowledge through a pre-kindergarten mathematics intervention. *Special issue on Early Learning in Math and Science*, 19(1), 99–120.

<sup>308</sup> Bierman, K. L., Domitrovich, C. E., Nix, R. L., Gest, S. D., Welsh, J. A., Greenberg, M. T., . . . Gill, S. (2008). Promoting Academic and Social-Emotional School Readiness: The Head Start REDI Program. *Child Development*, 79(6), 1802–1817.

<sup>309</sup> Clements, D. H. (2007). Curriculum research: Toward a framework for "Research-based

Curricula". *Journal for Research in Mathematics Education*, 38(1), 35–70.

<sup>310</sup> Fantuzzo, J. W., Gadsden, V. L., & McDermott, P. A. (2011). An integrated curriculum to improve mathematics, language, and literacy for Head Start children. *American Educational Research Journal*, 48, 763–793.

<sup>311</sup> Lonigan, C. J., Farver, J. M., Phillips, B. M., & Clancy-Menchetti, J. (2011). Promoting the development of preschool children's emergent literacy skills: A randomized evaluation of a literacy-focused curriculum and two professional development models. *Reading and Writing*, 24, 305–337.

<sup>312</sup> Preschool Curriculum Evaluation Research Consortium (2008). Effects of preschool curriculum programs on school readiness (NCER 2008–2009). Washington, DC: National Center for Education

Research, Institute of Education Sciences, U.S. Department of Education. Washington, DC: U.S. Government Printing Office.

<sup>313</sup> Wasik, B. A., Bond, M. A., & Hindman, A. H. (2006). The effects of a language and literacy intervention on Head Start children and teachers. *Journal of Educational Psychology*, 98, 63–74.

<sup>314</sup> Riggs, N. R., Greenberg, M. T., Kusché, C. A., & Pentz, M. A. (2006). The mediational role of neurocognition in the behavioral outcomes of a social-emotional prevention program in elementary school students: Effects of the PATHS curriculum. *Prevention Science*, 7, 91–102.

<sup>315</sup> Lieber, J., Butera, G., Hanson, M., Palmer, S., Horn, E., Czaja, C., . . . & Odom, S. (2009). Factors that influence the implementation of a new preschool curriculum: Implications for professional

In order to estimate the cost associated with this provision, we researched the cost of curriculum fidelity kits. At present, few curricula offer such a kit. However, based on those that are available, we assessed the average cost of an implementation tool kit at \$50. We then multiplied that

estimate by the number of programs to find the total cost of this provision. We did not estimate additional staff time, because monitoring and staff supervision is required in the current rule and individualization of this information is included in our mentor coaching estimate. Using this method,

we estimate the total cost of meeting this new requirement to be \$140,750. We would like to invite public comment specifically on whether the costs associated with an implementation tool-kit represents the full costs associated with this provision or what other costs may need to be included.

Avg. cost of implementation tool kit	Number of programs	Total estimated cost
\$50 .....	2,815	\$140,750

#### *Assessments for Dual Language Learners*

In this NPRM, we also propose a new requirement to codify best practice in assessing dual language learners (DLL) at § 1302.33(c)(2)(ii) that in some cases requires programs to administer language assessments to dual language learners in both English and their home language, either directly or through interpreters. As described in further detail in the discussion of the proposed rule for § 1302.33, this proposed change will ensure that screening and assessment data is collected in both languages to ensure a more complete understanding of these children's knowledge, skills and abilities.<sup>317</sup> In order to estimate the costs associated with this proposal, we first determined the number of DLLs across Head Start and Early Head Start by assuming all

children who speak a language other than English in the home are DLLs. We then determined the proportion of DLL children who speak Spanish in the home and the number of children who speak other languages. For the purposes of this estimate, we assume that all DLLs who speak Spanish in the home will receive a direct assessment in Spanish, and for all DLLs who speak any language other than Spanish in the home will be assessed through an interpreter. For Spanish-speaking DLLs (280,752 children), we assumed the average cost of a Spanish-language assessment tool-kit (using the most frequently reported assessment as our proxy) is \$200 and the average cost per pack of 25 assessment forms is \$50. We determined the total number of tool-kits needed by finding the number of programs serving at least one Spanish speaking child. We determined the

number of packs of assessment forms needed by dividing the total number of Spanish-speaking children by 25. We then multiplied the cost of the tool-kit by the number of programs and the cost of the assessment forms by the number of children and summed them to find the total cost of this provision for children who can be directly assessed. For DLLs speaking languages other than Spanish (51,899 children), we found the average hourly rate for an interpreter from the Bureau of Labor Statistics and assumed two hours for each assessment. We then multiplied that cost by the number of non-Spanish speaking DLLs to find the cost of this provision for children who need to be assessed through an interpreter. Finally, we summed these two estimates to produce a total cost estimate for the provision: \$3,295,456.

Type of DLL	Avg. cost of spanish assessment	Avg. cost of 25 Forms	Number of programs	Number of form packs	Estimated cost
Spanish-speaking .....	\$200	\$50	2,283	8,947	\$903,950
.....	Avg. hourly wage for interpreter	Cost/ assessment	Number of children	.....	
Other .....	\$23.04	\$46.08	.....	51,899	\$2,391,506
Total .....	.....	.....	.....	.....	\$3,295,456

#### *Screenings for Children With IEPs and IFSPs*

In this NPRM, we propose a new provision that explicitly eliminates the requirement to perform initial developmental screenings on children who enter the program with a current IEP or IFSP at § 1302.33(a)(3). This proposed change will eliminate unnecessary testing for children, reduce

unnecessary redundancy, and eliminate an extra burden on programs. In order to estimate the total savings associated with this new provision, we first determined that in 2012, 72,774 of the 136,259 children with disabilities in Head Start and Early Head Start, entered the program with an IEP or IFSP already in place. We then estimated the cost of the developmental screening by multiplying the average hourly wage for

Disabilities Coordinators by an assumed two hours of time per screening. We then multiplied this cost by the number of children who already have an IEP or IFSP in place at the beginning of the program year and summed the estimates to find the total savings associated with this provision to be \$2,950,258.

development. *Early Education and Development*, 20(3), 456–481.

<sup>316</sup> Landry, S. H., Anthony, J. L., Swank, P. R., & Monseque-Bailey, P. (2009). Effectiveness of

comprehensive professional development for teachers of at-risk preschoolers. *Journal of Educational Psychology*, 101(2), 448.

<sup>317</sup> Barrueco, S., Lopez, M., Ong, C., & Lozano, P. (2012). *Assessing Spanish-English bilingual preschoolers: A guide to best approaches and measures*. Baltimore, MD: Brookes.

Avg. wage for 2 hours of disability coordinator time	Number of children	Total estimated savings
\$40.54 .....	72,774	\$2,950,258

#### *Removal of Head Start-specific IEPs*

The reauthorization of the Head Start Act in 2007 removed previously held authority for Head Start programs to create their own IEPs for children with disabilities. As a result, no programs currently create their own IEPs for children, prior to 2007, Head Start programs frequently created such IEPs at great cost to programs. In accordance with OMB Circular A-4, we estimate the cost/savings associated with all new

provisions in the NPRM, including the removal of this authority and the extensive regulatory requirements that accompany it in § 1308 of the existing rule.

In order to estimate the savings associated with the removal of these provisions, we first estimated the number of children in the 2004–2005 program year who's IEP was created by Head Start, which was the last year in which the PIR collected this data. PIR data from that year indicate 14,758 children had IEPs but were not eligible for services under IDEA. We assumed, at a minimum, that the IEPs for all of these children were created through the Head Start process. In order to estimate the cost of an IEP, we first assumed 2 hours

of staff time for both the Education Manager and the Disabilities Coordinator. We also assumed 4 hours of Special Education Specialist consultant work, at \$50 per hour on average. We then multiplied this staff time by the number of IEPs. We also researched the cost of a multi-disciplinary evaluation and estimated, based on a sample of state estimates, the cost to be \$2,500 on average. We multiplied this cost by the number of IEPs and then added it to the estimated cost of staff time to determine our total savings estimate for this policy change at \$41,125,086. We would like to invite public comment specifically on whether the estimated \$2,500 for a multi-disciplinary evaluation is appropriate.

Cost	Cost/hour for staff	Cost of consultation	Number of IEPs	Estimated cost
Staff/Consultant Time .....	\$86.63	\$200	14,758	\$4,230,086
	Cost of Evaluation		Number of IEPs	.....
Multi-disciplinary Evaluation .....	.....	\$2,500	14,758	\$36,895,000
Total .....	.....	.....	.....	\$41,125,086

#### *Administrative/Managerial Provisions*

This NPRM includes several provisions to improve important managerial and administrative responsibilities, and to reduce unnecessary administrative burden. We analyzed costs associated with the following specific requirements: Memoranda of Understanding at § 1302.32; and background checks at § 1302.93(c)(2)(ii). We analyzed savings associated with the following specific requirements: removal of annual audits; removal of parent committees; removal of delegate appeal process at the federal level; clarification of the facilities application process at § 1303.40; revision of community needs assessment at § 1302.11(b)(1); and revision of managerial planning at § 1302.101(b).

#### *Memoranda of Understanding (MOU)*

This NPRM includes a new provision requiring programs to establish formal agreements with the local entity responsible for publicly funded preschool at § 1302.32. This proposed change will reflect a provision of the Act that requires MOUs and has been in effect since 2008. Nonetheless, per the OMB Circular Requirements for Regulatory Impact Analysis, we must estimate the costs associated with the provision, as though no programs have implemented the statutory change.

In order to estimate the costs associated with meeting this new requirement, we first estimated that establishing an MOU with such entities will require approximately 2 hours of management time, based on grantee experience implementing similar MOUs. To estimate the cost of that time, we multiplied the average hourly salary of all management positions by 2. We then multiplied that cost by the total number of programs. Using this method, we estimated the total cost associated with this requirement to be \$129,631. This may be an over-estimate of cost given that one purpose of the MOU is to better coordinate and share local resources which may lead to savings associated with implementation of the MOU. However, we have insufficient data to estimate these savings. As such, we would like to invite public comment specifically on the cost savings associated with implementation of MOUs.

Avg. wage for 2 hours of management time	Number of programs	Total estimated cost
\$46.05 .....	2,815	\$129,631

#### *Criminal Background Checks*

This NPRM includes two new provisions that strengthen the requirements programs currently must

meet with regard to criminal background checks for staff at § 1302.93(c)(2)(ii). As described in further detail in the discussion of the proposed rule at § 1302.93, these changes will provide alignment across federal programs about the importance and key characteristics of comprehensive background checks, which are critical to ensuring child safety in all early care and education settings. Specifically, the first provision would require programs perform both a state and FBI criminal background check on all prospective employees, whereas the current rule only requires programs perform one of the two checks. The second provision requires programs to renew criminal background checks for all employees once every five years. The FBI estimates the average cost of a criminal background check is \$21. The cost of state background checks vary significantly, with some states charging significantly more than \$21. However, some states cover costs of the checks for early care providers and other states reduce costs for a combined FBI and state check. Therefore, we assume \$55 to be the average cost of both the FBI and state background check, together, based on information from the Office of Child Care's CCDF State Plans, in producing our cost estimate.

We considered both monetary costs and opportunity costs when estimating

the cost of the first provision. To estimate the monetary cost requiring both FBI and state background checks for new hires, we used the turnover rate of teachers from the PIR data (10%) and applied it to all staff to estimate the average number of new hires due to turnover per year. We then multiplied the number of new hires by the average cost of the FBI background check (\$21) to estimate the cost associated with this provision. In addition to these monetary costs, we also estimated the opportunity cost for prospective employees to meet this requirement. This represents the value of time (measured as forgone earnings) of a prospective employee during the time they spend to complete a background check. To calculate the opportunity cost, we averaged the

hourly wage for a teacher and an assistant teacher (inflated by 33% for fringe benefits), multiplied it by 1.5 hours for the estimated time it would take, and multiplied that by the average number of new hires due to turnover per year.

To estimate the cost of the second provision, we multiplied the cost of a full background check (\$55) by the total number of staff for all grantees, divided by five the annual number in need of a five-year renewal. In addition, we estimated the cost associated with staff time to process each additional background check. To calculate this, we assumed the hourly wage of an administrative assistant at the same rate as teacher assistants (\$11.55). We then added the applicable number of staff

that would need additional background checks per year (73,591) and divided that number by 6 assuming each application will take approximately 10 minutes to process. This provided an estimate for the number of hours administrative staff would spend processing the background checks (12,265). Finally, we multiplied the number of hours by the hourly wage to estimate the total cost of processing at \$141,661. Using this method, we estimate the total costs, including monetary costs and opportunity costs, associated with these provisions to be \$4,081,479. We would like to invite public comment specifically on whether our assumption of 10 minutes to process each background check is appropriate.

MONETARY COSTS

Provision	Avg. cost of check	Total number of staff	Applicable staff	Estimated cost
FBI and State Check .....	\$21	245,303	24,530	\$515,130
5-year Renewal .....	55	245,303	49,061	2,698,355
.....	Hourly wage	Applicable Staff	Number of Hours	Estimated Cost
Staff time to process checks .....	11.55	73,591	12,265	141,661
Total .....	.....	.....	.....	3,355,146

OPPORTUNITY COSTS

Provision	Avg. hourly wage	Estimated time in hours	Total wage cost	Applicable staff	Estimated cost
FBI and State Check .....	\$19.75	1.5	\$29.63	24,530	\$726,824
Total .....	.....	.....	.....	.....	\$726,824

Removal of Annual Audits

This NPRM eliminates the separate audit requirement for Head Start programs at § 1301.12 in favor of aligning with the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Omni Circular). As described in further detail in the

discussion of the proposed rule at § 1301.12, this proposed change will eliminate unnecessary burden on small grantees and the Office of Head Start. The Omni Circular requires a Single Audit of entities if their total federal expenditures exceed \$750,000. As a result of this \$750,000 threshold, there are 13 grantees and 24 sub-recipients

that will no longer be required to have an audit. Using an estimate of \$17,000 per audit per the suggestion of regional grants management staff who oversee audit procedures, we estimate a savings of \$629,000. We would like to invite public comment specifically on whether our assumption of \$17,000 per annual audit is accurate.

Provision	Cost	Number of programs	Estimated savings
Removal of audit for grants less than \$750,000 .....	\$17,000	37	\$629,000

Removal of Parent Committees

This NPRM does not require agencies to establish parent committees at the program option level, as is currently required at § 1304.50(a)(1)(iii), as well as other provisions at § 1304.50(d)(2)(i) through (iii) and § 1304.50(e)(1) through (3). We estimate both monetary and opportunity-cost savings associated

with the removal of this provision. Specifically, although this is primarily a parent-driven activity, we assume some staff involvement in coordinating meetings. For purposes of estimating the monetary cost associated with removing this requirement, we used the assistant teacher salary as a proxy for the level of staff involved in supporting the parent

committee and we assume one hour per week or four hours per month for eight months. This is based on the assumption that there is one 2-hour meeting each month and 2 hours of planning time in preparation. Therefore we estimate the potential savings from the removal of this requirement to total \$6,431,826. However, we assume that a

large proportion of programs will choose to retain their parent committees regardless of the fact that it is no longer a requirement. Therefore, we estimate the total actual savings to programs to be 25% of the \$6,431,826 or \$1,607,957.

To calculate the opportunity cost, we estimated an opportunity-cost savings associated with parent time no longer spent on parent committees. We use estimated parent wages to approximate

the value of parents' time that will no longer be taken for this activity. We estimated 10% of all slots occupied by children (FY2014 Funded Enrollment 927,275) have a parent who serves on a parent committee, for a total parent number of 92,728. We then used the average hourly wage from the Bureau of Labor Statistics and assumed two hours per month (eight on average) or 16 of time for each parent to serve on a parent

committee. This results in a monetized opportunity-cost savings of \$10,756,390. However, we assume 75% of programs will maintain their parent committees regardless of the fact that they are no longer required. Therefore we find the estimated actual opportunity cost savings of this provision is 25% of \$10,756,390, or \$2,689,098.

#### MONETARY SAVINGS

Provision	Hourly wage for assistant teacher	Number of hours for 8 months	Number of programs	Estimated potential savings	Estimated actual savings
Removal of parent committees .....	\$11.49	32	17,493	\$6,431,826	\$1,607,957

#### OPPORTUNITY COST SAVINGS

Total number of parents	Hourly wage forgone	Number of hours	Estimated potential savings	Estimated actual savings
92,728 .....	\$7.25	16	\$10,756,390	\$2,689,098

#### *Delegate Appeals*

This NPRM proposes to align with section 641A(d) of the Act, by requiring grantees to establish procedures for a delegate agency to appeal a defunding decision. As a result, we propose to eliminate the process by which current delegates can appeal grantee decisions to HHS, as outlined in § 1303.21. As described in further detail in the discussion of the proposed rule, this

proposed change will eliminate unnecessary burden on grantees and the Office of Head Start. To estimate the savings associated with the removal of this process, we determined the number of delegate appeals that have occurred across ACF's 12 regions over two years (25) and then divided that number by two to find the number of appeals annually (12.5). We obtained an estimate from a grantee on the costs of their individual appeal (\$66,691) and

multiplied it by two to factor in both the cost to the grantee and the delegate agency of the appeal process. We then divided that total by two based on the assumption that half of the costs are spent on the HHS phase of the appeal, which we propose to remove. We then multiplied the average cost by the average number of appeals per year (12.5) to arrive at the annual savings. We estimate savings of \$69,359 as a result of this change.

Avg. grantee cost of delegate appeal	Avg. cost of delegate appeal	Savings from removal of HHS phase of appeal	Number of delegate appeals/year	Estimated savings
\$66,691 .....	\$133,382	\$66,691	12.5	\$833,638

#### *Clarification of the Facilities Application Process*

This NPRM proposes to reorder the application requirements for funds to purchase, construct or renovate facilities to align with typical project development at § 1303.40. In doing so, we anticipate savings associated with grantees who are likely to identify unfeasible projects more quickly prior to soliciting costly professional advice or unnecessary testing (e.g. environmental), referred to as soft costs. To estimate the savings associated with these revisions, we assumed a per project cost for facilities projects of

\$500,000, based on our experience with facilities costs.

Since the savings would come from the soft costs that grantees incur at the beginning of a project—which under our reordered application process could be avoided for projects that grantees realize more quickly are not fundable—we assume that approximately 30 percent of the average per project costs, or \$150,000 are for soft costs. Our data systems do not capture the number of applications for facility projects each year so as a proxy, we are using the total number of facilities with federal interest for the past 10 years, which is the timeframe for which we have data, with

that total divided by 10 for the number of facilities with federal interest per year (3,896). Based on our experience, and specifically the knowledge of our in-house facilities expert, we then estimate that 8 percent of the 3,896 facilities with federal interest (31.17 facilities projects) submit un-fundable applications annually. As a result, we then multiplied the \$150,000 in estimated soft costs by 31.17 grantees to determine the savings that would result if those grantees realized the unfeasibility of their projects earlier and never spent those funds. We estimate the total savings associated with these revisions to total \$4,675,500.

Avg. cost of facility project	Avg. "soft" costs	Facilities with federal interest/year	Unfundable facility applications/year	Estimated savings
\$500,000 .....	\$150,000	3,896	31.17	\$4,675,500

### Community Assessment

This NPRM also includes provisions that change the existing requirement for programs to conduct full community assessments from every three years to every five years at § 1302.11(b)(1). As described in further detail in the discussion of the proposed rule at § 1302.11, this proposed change will streamline the community assessment process and eliminate unnecessary burden on grantees and the Office of Head Start. We estimated the current cost of the community assessment and assumed a reduction in costs of 40 percent, based on the change from three to five years. To determine the average cost of a community assessment, we incorporated grantee feedback about both the frequency with which they choose to perform the assessment internally versus hiring consultants, and the average cost, in staff time and consultant fees, respectively of those

assessments. From this feedback, we assumed 75 percent of programs perform their community assessments using Head Start staff, while the remaining 25 percent hire consultants. We estimated the costs associated with Head Start staff time for 75 percent of programs by calculating the average hourly wage of the entire management team (for the director, education manager, health services manager, and disabilities coordinator combined), and assumed 40 hours of the entire management team's time to complete the assessment (\$3,910). We then multiplied the cost of these 40 hours by the number of programs using Head Start staff to complete their assessments. We estimated the costs associated with consultants for 25 percent of programs by the average cost for a consultant to perform the community assessment at \$6,000 and assumed an additional 10 hours of the management team's support time to complete the assessment

(\$977.14). We then multiplied these costs by the number of programs who choose to hire consultants for their community assessment. Finally, we summed these costs and divided the total by three to find the current annual cost. We then divided that total by five to find the new annual cost, and calculated the difference, which represents the annualized savings for this policy change. We estimated the savings for this policy change to be \$1,755,480. We would like to invite public comment specifically on whether the staff time associated with both options for completing a community assessment accurately reflects staff time required, and whether the savings assumptions accurately reflect the new requirement that programs update their assessment annually for significant changes in the availability of full-day public pre-kindergarten, rates of homelessness, and other demographic shifts.

Option	Cost of support staff time	Cost of consultation	Number of programs	Estimated cost	Current annual cost	New annual cost	Difference between costs/savings
Hire Consultants .....	\$977.14	\$6,000	704	\$4,912,090	\$1,637,365	\$982,418	\$654,945
	Cost of Staff Time		.....	.....	.....	.....	.....
Internal .....	.....	\$3,910	2,111	\$8,254,010	\$2,751,337	\$1,650,802	\$1,100,535
Total Annualized Savings .....	.....	.....	.....	.....	.....	.....	\$1,755,480

### Managerial Planning

This NPRM includes two new provisions that lessen the administrative planning burden on programs by reducing the number and prescriptiveness of planning processes that are required at § 1302.101(b). Specifically, the first provision reduces current planning topics from four in the existing rule (Education, Health, Family & Community Partnerships, and Program Design and Management) to two in the NPRM. The second provision significantly reduces the prescriptiveness of the disabilities services plan and as a result

significantly reduces the costs associated with the requirement for that planning. In order to estimate the costs associated with the first provision, we assumed the four plans required in the existing rule took approximately two weeks of the education manager's time to develop. Our proposed provision would reduce the number of required plans by half. As a result, we assume one week of the education manager's salary as savings for each program. Then we multiplied this salary by the number of programs to estimate the savings associated with this provision. For the second provision, we assumed the

disabilities service plan as outlined in the existing rule took an average of one week of the disabilities coordinator's time. We also assume that the changes to this provision will result in an 80 percent decrease in burden, and as such, estimate the savings per program to be 80 percent of the disabilities coordinator's average weekly wage. We then find estimated savings associated with this provision by multiplying this amount by the total number of programs. Finally, we sum these two savings to find the total estimated savings for this policy change to be \$4,419,550.

Cost	Cost of staff time/week	Savings per program	Number of programs	Estimated savings
Reduction of Plans .....	\$922	.....	2,815	\$2,595,430

Cost	Cost of staff time/week	Savings per program	Number of programs	Estimated savings
Revision of Disabilities Plan .....	811	\$648	2,815	1,824,120
Total .....				\$4,419,550

### Implementation of Changes in the Program Performance Standards

This NPRM includes numerous changes to Head Start's Program Performance Standards. As a result, we have included provisions at § 1302.103 that require programs to develop a

program-wide approach to prepare for and implement these changes, in order to ensure their effectiveness. In order to estimate the cost associated with these provisions, we estimated the costs associated with Head Start staff time by calculating the average hourly wage of the entire management team (for the

director, education manager, health services manager, and disabilities coordinator combined), and assumed 40 hours of the entire management team's time to develop the approach (\$3,910). Using this method we estimate the total cost of this provision at \$11,006,650.

Provision	Hourly rate of management team	40 Hours of management team time	Number of programs	Estimated cost
Implementation Planning .....	\$97.74	\$3,910	2,815	\$11,006,650

### 1. Regulatory Impact Analysis

As part of our full regulatory analysis, we considered long-standing economic analysis of the return on investment through benefits to society of high quality early education, how they are linked to the changes we propose, and the expectation for increased return on investment that our proposed changes create. We also considered the potential for distributional effects, in which the proposed changes will benefit one distinct population, while potentially harming another. Finally, we considered the costs, savings, and potential benefits associated with several regulatory alternatives.

#### Cost-benefit analysis

There is no question that high quality early learning programs yield significant benefits to children and society.<sup>318</sup> Early learning programs provide a unique opportunity to intervene and support children's development during a period in which learning and growth is at its most rapid.<sup>319 320 321</sup> Early learning programs have short and long term

effects on children's math, reading and behavior skills, and can reduce grade retention, teen pregnancy, and the need for special education services and in the long-term can increase lifetime earnings and reduce crime.<sup>322 323 324 325</sup>  
326 327 328 329 330 331 332 333 334 Numerous

<sup>322</sup> Aikens, N., Kopack Klein, A., Tarullo, L., & West, J. (2013). Getting Ready for Kindergarten: Children's Progress During Head Start. FACES 2009 Report. OPRE Report 2013–21a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>323</sup> Schweinhart, L. J., Montie, J., Xiang, Z., Barnett, W. S., Belfield, C. R., & Nores, M. (2005). *Lifetime effects: The HighScope Perry Preschool study through age 40*. Ypsilanti, MI: HighScope Press.

<sup>324</sup> Barnett, W. S., & Hustedt, J. T. (2005). Head start's lasting benefits. *Infants & Young Children*, 18(1), 16–24.

<sup>325</sup> Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., . . . Zaslow, M. (2013). Investing in our future: The evidence base on preschool education. Foundation for Child Development. New York, NY.

<sup>326</sup> Camilli, G., Vargas, S., Ryan, S., & Barnett, W. S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *The Teachers College Record*, 112, 579–620.

<sup>327</sup> Wong, V. C., Cook, T. D., Barnett, W. S., & Jung, K. (2008). An effectiveness-based evaluation of five state prekindergarten programs. *Journal of Policy Analysis and Management*, 27, 122–154.

<sup>328</sup> Reynolds, A.J. (2000). Success in early intervention: The Chicago Child-Parent Centers. Lincoln, Nebraska: University of Nebraska Press.

<sup>329</sup> Schweinhart, L. J., Montie, J., Xiang, Z., Barnett, W. S., Belfield, C. R., & Nores, M. (2005). *Lifetime effects: The HighScope Perry Preschool study through age 40*. Ypsilanti, MI: HighScope Press.

<sup>330</sup> Gormley, W., Gayer, T., Phillips, D.A., & Dawson, B. (2005). The effects of universal Pre-K on cognitive development. *Developmental Psychology*, 41, 872–884.

Campbell, F. A., Ramey, C. T., Pungello, E., Sparling, J., & Miller-Johnson, S. (2002). Early childhood education: Young adult outcomes from the Abecedarian project. *Applied Developmental Science*, 6, 42–57.

evaluations of both small-scale and large-scale early education programs demonstrate that the benefits to children and our society outweigh the financial costs of funding these programs. Studies examining the return on investment for early learning programs find a range of levels for positive returns. For example, the Perry Preschool project, a two-year early learning intervention for children from low-income families, netted approximately 7–10 dollars back for every dollar spent on the program, with a baseline estimate of \$8.60.<sup>335 336</sup> Most of these financial benefits came from later reductions in crime. Evaluations of the Chicago Child-Parent Center program (CPC) also show benefits from medium and long-term positive effects. When CPC participants reach age 21, analyses demonstrates that one and a half years of CPC preschool participation yielded a return for society

<sup>331</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>332</sup> Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012-2013 evaluation study*. Chapel Hill: The University of North Carolina, FPG Child Development Institute.

<sup>333</sup> Campbell, F. A., Ramey, C. T., Pungello, E., Sparling, J., & Miller-Johnson, S. (2002). Early childhood education: Young adult outcomes from the Abecedarian project. *Applied Developmental Science*, 6, 42–57.

<sup>334</sup> The Council of Economic Advisers. (December, 2014). *The Economics of Early Childhood Investments*. Washington, DC: Authors.

<sup>335</sup> Heckman, J.J., Moon, S.H., Pinto, R., Savelyev, P.A. & Yavitz, A. (2010). The Rate of Return to the High/Scope Perry Preschool Program. *Journal of Public Economics*, 94(1–2), 114–128.

<sup>336</sup> The Council of Economic Advisers. (December, 2014). *The Economics of Early Childhood Investments*. Washington, DC: Authors.

<sup>318</sup> Heckman, J. J., Moon, S. H., Pinto, R., Savelyev, P. A., & Yavitz, A. (2010). The rate of return to the HighScope Perry Preschool Program. *Journal of Public Economics*, 94, 114–128.

<sup>319</sup> National Scientific Council on the Developing Child (2007). *The Timing and Quality of Early Experiences Combine to Shape Brain Architecture: Working Paper No. 5*. Retrieved from [www.developingchild.harvard.edu](http://www.developingchild.harvard.edu).

<sup>320</sup> Anda R.F., Felitti V.J., Bremner J.D., Walker J.D., Whitfield C., Perry, B.D., Dube, S.R., & Giles, W.H. (2006). The enduring effects of abuse and related adverse experiences in childhood. A convergence of evidence from neurobiology and epidemiology. *European Archives of Psychiatry and Clinical Neuroscience*, 256(3), 174–186.

<sup>321</sup> National Scientific Council on the Developing Child (2010). *Early Experiences Can Alter Gene Expression and Affect Long-Term Development: Working Paper No. 10*. Cambridge, MA: Author.



of \$7.10. In comparison to preschool children who did not participate in CPC, the preschool participants had lower rates of special education placement and grade retention and a higher rate of high school completion. They also had lower rates of juvenile arrests and lower arrest rates for a violent offense.<sup>337</sup> A recent analysis by some of the country's premier child development and early intervention experts conclude universal pre-kindergarten returns \$3–5 in benefits for every dollar spent.<sup>338</sup> Nobel Prize winning economist James Heckman concludes that educational interventions in the first five years of life show much greater benefits than later interventions.<sup>339</sup>

However, early learning programs must be sufficiently high quality to reap these benefits. While there are some direct estimates of Head Start's return on investment,<sup>340 341</sup> these estimates rely largely on outdated data (when children who did not receive Head Start received no other early education experiences) and generally provide imprecise estimates that vary widely. These studies and other data give us confidence that Head Start programs presently yield some return on the federal investment. However, based on monitoring data, including CLASS, and findings from FACES and the Head Start Impact Study, we also know that there is significant variance in quality among Head Start programs and more must be done to ensure every Head Start program is providing high quality services that will promote strong and lasting child outcomes.<sup>342 343 344</sup>

The proposals in this NPRM are designed to strengthen Head Start quality, improve child outcomes, and increase the return on taxpayer dollars. Proposed changes to improve teaching practices, including implementation of content-rich curriculum and effective use of assessment data, and proposed changes to professional development are central to our effort to ensure every child in Head Start receives high quality early learning experiences that will build the skills they need to succeed in school and beyond. In order to maximize the effectiveness of Head Start and yield a high rate of return on investment, we believe it is essential to pair these improvements to the early learning experiences provided by Head Start with increases in program dosage.

The Secretary's Advisory Committee recommended Head Start look to "optimize dosage," and our new proposed minimums are more aligned with state pre-kindergarten programs that have shown strong effects.<sup>345 346</sup> For example, North Carolina pre-kindergarten, which is offered to lower income families and operates 6.5 hours per day and 180 days per year, demonstrates strong effects. Children who attend the program make gains in language, literacy, math, general knowledge and social skills. At the end of 3rd grade, children from low income families who had attended state pre-kindergarten scored higher on math assessments than children from low income families who did not attend. Moreover, children who are dual language learners make gains at even faster rates than other children.<sup>347</sup> New Jersey's state pre-kindergarten, which operates between 6–10 hours per day and 180–245 days per year shows significant impacts for child learning. Children who attend New Jersey pre-kindergarten show improvements in language, print awareness, and math at kindergarten entry, 1st grade, and 2nd

grade. Gains still exist in language arts, literacy, math, and science at 4th and 5th grade. They also show a 40 percent decrease in grade retention and a 31 percent decrease in special education placement.<sup>348</sup>

Other states with dosage consistent with our proposed minimums find strong results for children. For example, Georgia pre-kindergarten, which operates 6.5 hours per day and typically runs 180 days per year, finds medium to large effects on children's language, literacy, and math skills at kindergarten entry.<sup>349</sup> Tulsa pre-kindergarten also shows strong effects for children in language and math skills. This program operates 180 days per year and is mainly a full-day program for low-income children. There is some evidence that full-day attendance in Tulsa supports better outcomes for low income and minority children.<sup>350</sup> Boston pre-kindergarten, which also operates for a full school day and school year, demonstrates large effects on children's language and math skills.<sup>351</sup>

Only a small amount of research with young children has been able to isolate the impact of dosage on child learning, but what does exist links increasing the length of the program day and program year to improved children's outcomes. For example, a randomized control study in which one group of children attended pre-kindergarten for 8 hours per day for 45 weeks and another group of children attended the same program for 2.5–3 hours per day for 41 weeks found that by the spring of kindergarten, the children who had attended full-day pre-kindergarten had improved almost twice as much on vocabulary and math skills compared to the children who attended half day.<sup>352</sup> Research with children in child care settings found 30 hours of participation each week to be necessary for low and middle income

<sup>337</sup> Reynolds, A.J., Temple, J.A., Robertson, D.L., Mann, E.A. (2002). Age 21 Cost-Benefit Analysis of the Title I Chicago Child-Parent Centers. *Educational Evaluation and Policy Analysis*. 24(4), 267–303.

<sup>338</sup> Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., . . . Zaslow, M. (2013). Investing in our future: The evidence base on preschool education. Foundation for Child Development.

<sup>339</sup> Heckman, J. J., Moon, S. H., Pinto, R., Savelyev, P. A., & Yavitz, A. (2010). The rate of return to the HighScope Perry Preschool Program. *Journal of Public Economics*, 94, 114–128.

<sup>340</sup> Ludwig, J., & Phillips, D. A. (2007). *The benefits and costs of Head Start* (No. w12973). National Bureau of Economic Research.

<sup>341</sup> Deming, D. (2009). Early childhood intervention and life-cycle skill development: Evidence from Head Start. *American Economic Journal: Applied Economics*, 111–134.

<sup>342</sup> Office of Head Start (2014). *A National Overview of Grantee CLASS(TM) Scores in 2013*. Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>343</sup> Aikens, N., Kopack Klein, A., Tarullo, L., & J. West. (2013). Getting Ready for Kindergarten: Children's Progress During Head Start. *FACES 2009 Report*. OPRE Report 2013–21a. Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>344</sup> Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. *U.S. Department of Health and Human Services Office of Planning, Research and Evaluation*.

<sup>345</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>346</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

<sup>347</sup> Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study*. Chapel Hill: The University of North Carolina, FPG Child Development Institute.

<sup>348</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

<sup>349</sup> Peisner-Feinberg, E. S., Schaaf, J. M., LaForett, D. R., Hildebrandt, L.M., & Sideris, J. (2014). *Effects of Georgia's Pre-K Program on children's school readiness skills: Findings from the 2012–2013 evaluation study*. Chapel Hill: The University of North Carolina, FPG Child Development Institute.

<sup>350</sup> Gormley, G.T., Gayer, T., Phillips, D., & Dawson, B. (2005). The effects of universal pre-k on cognitive development. *Developmental Psychology*, 41(6), 872–884.

<sup>351</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children's mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>352</sup> Robin, K.B., Frede, E.C., Barnett, W.S. (2006). Is More Better? The Effects of Full-Day vs. Half-Day Preschool on Early School Achievement. *NIEER Working Paper*.

children to see stronger learning outcomes.<sup>353</sup>

Moreover, research on effective teaching practices for children at risk of school difficulties also support the need for full-day operation. A six hour program day will better support delivery of high quality learning experiences that are developmentally appropriate and targeted to improve individualization and skill growth. A meta-analysis of pre-kindergarten programs found that those that focused on intentional teaching and small group and one-to-one interactions had larger impacts on child outcomes.<sup>354</sup> It is very difficult for a half-day program to provide sufficient time for teachers to conduct learning activities and intentional instruction in small group and one-on-one interactions in the areas of skill development experts believe are important to later school success.

Researchers believe meaningful skill development in language, literacy, and math requires intentional, frequent, and specific methods of instruction and teacher-child interactions. These types of interactions are often complex, require a variety of types of interactions and intensities, and for many children in Head Start, need to be conducted in small groups to allow sufficient individualized scaffolding and skill development.<sup>355</sup> Experts believe math curriculum and instruction must support development of broad and deep mathematical thinking and knowledge, including development of abstract thought and reasoning.<sup>356</sup> Targeted instruction and small group activities are teaching practices that are particularly important to include for supporting the learning of children who are behind.<sup>357</sup> <sup>358</sup> Language and literacy

experts believe teachers must take an active role in supporting language and literacy development for children at risk of reading difficulties. That requires systematic and explicit instruction to foster vocabulary breadth and depth. Research with toddlers and preschool age children also finds that greater exposure to rich vocabulary enrichment allows for better scaffolding that can lead to improved language and literacy.<sup>359</sup> <sup>360</sup> As such, experts recommend in addition to integration into group learning and free play, language and literacy instruction should be explicitly structured and sequenced in 15–20 minutes small group session at least three times per week.<sup>361</sup> Math experts have similar time estimates for supporting adequate high quality learning experiences.<sup>362</sup> <sup>363</sup>

This targeted instruction in key school readiness areas requires more time than what is provided in a half-day program. Thus, it is not surprising to note that a recent analysis of the Head Start Impact data found the more effective programs were full-day.<sup>364</sup> Therefore, we believe for Head Start to better reach its potential for closing the achievement gap and helping children arrive at school ready to succeed, a full-day program is central to providing a supportive and warm learning environment that promotes positive

social and emotional skill development and supports Head Start children learning key academic skills.

Research with slightly older children also finds longer program days are important for children's skill development and academic success. Numerous studies on kindergarten find children learn more in full-day kindergarten than half-day kindergarten.<sup>365</sup> <sup>366</sup> <sup>367</sup> <sup>368</sup> <sup>369</sup> This is not surprising since more instruction is delivered in full-day classrooms.<sup>370</sup> A recent meta-analysis of studies examining the effects of full-day kindergarten finds that full-day kindergarten led to better skills in 1st grade than half-day kindergarten.<sup>371</sup> Analysis of the large national Early Childhood Longitudinal Study (ECLS) data also found children in full-day kindergarten improved more in math and reading than children in half-day kindergarten.<sup>372</sup> Another study found full-day kindergarten helped narrow the achievement gap for dual language learners in particular.<sup>373</sup> This finding is important since a large and increasing portion of Head Start children are dual language learners.

<sup>365</sup> DeCicca, P. (2007). Does full-day kindergarten matter? Evidence from the first two years of schooling. *Economics of Education Review*, 26(1), 67–82.

<sup>366</sup> Cryan, J. R., Sheehan, R., Wiechel, J., & Bandy-Hedden, I. G. (1992). Success outcomes of full-day kindergarten: More positive behavior and increased achievement in the years after. *Early Childhood Research Quarterly*, 7(2), 187–203.

<sup>367</sup> Lee, V. E., Burkam, D. T., Ready, D. D., Honigman, J., & Meisels, S. J. (2006). Full-Day versus Half-Day Kindergarten: In Which Program Do Children Learn More? *American Journal of Education*, 112(2), 163–208.

<sup>368</sup> <http://www.thecommunityguide.org/health/education/he-AJPM-evrec-fdk.pdf>.

<sup>369</sup> Schroeder, J. (2007). Full-day kindergarten offsets negative effects of poverty on state tests. *European Early Childhood Education Research Journal*, 15(3), 427–439.

<sup>370</sup> Walston, J.T., and West, J. (2004). Full-day and Half-day Kindergarten in the United States: Findings from the Early Childhood Longitudinal Study, Kindergarten Class of 1998–99 (NCES 2004–078). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

<sup>371</sup> Hahn, R.A., Rammohan, V. et al. (2014). Effects of Full-Day Kindergarten on the Long-Term Health Prospects of Children in Low-Income and Racial/Ethnic-Minority Populations. *American Journal of Preventive Medicine*, 46(3), 312–323.

<sup>372</sup> Walston, J.T., & West, J. (2004). Full-day and Half-day Kindergarten in the United States: Findings from the Early Childhood Longitudinal Study, Kindergarten Class of 1998–99 (NCES 2004–078). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

<sup>373</sup> Chang, M. (2012). Academic performance of language-minority students and all-day kindergarten: a longitudinal study. *School Effectiveness and School Improvement: An International Journal of Research, Policy and Practice* 23(1), 21–48.

<sup>353</sup> Loeb, S., Bridges, M., Bassok, D., Fuller, B., Rumberger, R., (2005). How much is too much? The influence of preschool centers on children's social and cognitive development. Working paper. National Bureau Of Economic Research.

<sup>354</sup> Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). Meta-analysis of the effects of early education interventions on cognitive and social development. *Teachers College Record*, 112(3), 579–620.

<sup>355</sup> Justice, L.M., McGinty, A., Cabell, S.Q., Kilday, C.R., Knighton, K., & Huffman, G. (2010). Language and literacy curriculum supplement for preschoolers who are academically at risk: A feasibility study. *Language, Speech, and Hearing Services in Schools*, 41, 161–178.

<sup>356</sup> Ginsburg, H.P., Ertle, B., & Presser, A.L. (2014). Math curriculum and instruction for young children. Chapter 16 in *Handbook of Response to Intervention in Early Childhood*, Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

<sup>357</sup> Buysee, V., Peisner-Feinber, E.S., Saikakou, E., & LaForett, D.R. (2014). Recognition & response: A model of response to Intervention to promote academic learning in early education. Chapter 5 in *Handbook of Response to Intervention in Early*

*Childhood*, Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

<sup>358</sup> Justice, L.M., McGinty, A., Cabell, S.Q., Kilday, C.R., Knighton, K., & Huffman, G. (2010). Language and literacy curriculum supplement for preschoolers who are academically at risk: A feasibility study. *Language, Speech, and Hearing Services in Schools*, 41, 161–178.

<sup>359</sup> Harris, Golinkoff, & Hirsh-Pasell (2011). Lessons for the Crib for the Classroom: How Children Really Learn Vocabulary. In *Handbook of Early Literacy Research*, Vol 3. Ed by D. Dickinson and S. Neuman (NY: Guilford). 49–65.

<sup>360</sup> Dickinson, D.K., Flushman, T.R., & Freiberg, J.B. (2009). Learning, reading, and classroom supports: Where we are and where we need to be going. In B. Richards, M.H. Daller, D.D. Malvern, P. Meara, J. Milton, & Trefers-Daller (Eds.). *Vocabulary Studies in First and Second Language Acquisition: The Interface Between Theory and Application*. (pp. 23–38). Hampshire, England: Palgrave-McMillan.

<sup>361</sup> Curenton, S.M., Justice, L.M., Zucker, T.A., & McGinty, A.S. (2014). Language and literacy curriculum and instruction. Chapter 15 in *Handbook of Response to Intervention in Early Childhood*, Buysee, V., & Peisner-Feinberg, E. (Eds.). Baltimore: Paul H. Brookes Publishing.

<sup>362</sup> Clements, D.H., Sarama, J., Wolfe, C.B., & Spitler, M.E. (2012). Longitudinal evaluation of a scale-up model for teaching mathematics with trajectories and technologies: persistence of effects in the third. *American Educational Research Journal*.

<sup>363</sup> Clements, D.H., & Sarama, J., (2008). Experimental evaluation of the effects of a research-based preschool mathematics curriculum. *American Educational Research Journal*, 45(2), 443–494.

<sup>364</sup> Walters, C. (2014). *Inputs in the production of early childhood human capital: Evidence from Head Start*. Working paper. Berkley, CA.

Research on summer learning loss demonstrates the importance of extending the minimum days of operation in Head Start. Research on reading skills found high-income students gained skills over summer break, middle income students maintained their skill level, and children from lower income families lost skills.<sup>374</sup> Experts conclude the average student loses one month worth of skills and development over the summer break.<sup>375</sup> The amount of learning loss is even greater for children from low income families who may not have as much access to educational resources and experiences during the summer and who are already behind their more advantaged peers and need extra time to learn skills and strengthen development.<sup>376 377 378 379 380 381</sup> This pattern is also true for the youngest children in elementary school. Analysis of the ECLS finds that children from families with higher incomes learn more over the summer between kindergarten and 1st grade than do children from families with lower incomes.<sup>382</sup> In fact, researchers believe the effects of summer learning loss for children from low-income families is cumulative and that the disparity in summer gains and losses over the first four summers of elementary school is greater than the differential between children from high and low income families at school

entry.<sup>383</sup> Experts also conclude summer learning loss in elementary school predicts poor academic achievement in high school.<sup>384</sup>

Research on attendance also finds exposure to additional learning time is important for skill development.<sup>385 386</sup> Research with elementary school children has shown an increase in school attendance predicted improved reading scores.<sup>387</sup> A recent study of preschool attendance in Chicago found that even when accounting for children's skill level at the beginning of preschool, attendance predicted better academic outcomes at the end of preschool and beyond and that attendance was most beneficial for children starting preschool with the lowest skills. Children who missed more preschool had lower math, letter recognition, and social-emotional skills and were also rated as lower on work habits by their teachers.<sup>388</sup>

Current Head Start minimums permit 4 months of summer break, making the likelihood of skill loss between program years even higher than what we see in elementary and secondary education. The majority of Head Start programs operate with a 4 month break between program years, which we believe undermines the progress Head Start children make during the year and lessens the overall impact of the program.

In sum, providing high quality early education is not a simple task. Standards must be high to create learning environments that allow teachers to facilitate effective early learning experiences and support must be provided that continuously build teachers' skills and knowledge. Taken together, the full-day, instructional time, summer loss, and attendance research

clearly indicate current Head Start minimums for program operations are inadequate to achieve the results researchers and economist have shown are possible. This rule aims to ensure every Head Start program implements the standards and supports necessary to foster effective teaching practices and strong child outcomes, and meet the mandates of the Act, leading to larger returns on the federal investment.

It is our goal that this rule will be implemented with sufficient funds to avoid slot loss resulting from costs associated with this rule. The President's FY2016 Budget includes a request for \$1.5 billion in additional Head Start funding, with more than \$1 billion of that to support the extension of the Head Start program day and year, which are the two provisions associated with the largest costs in this NPRM. If Head Start appropriations increase by this or a similar amount, the programmatic costs currently estimated in this section would be borne in full by the federal government, and there would be no lost benefit to society as a result of a reduction in Head Start slots. Instead, the changes we propose would result in a significant increase in the quality of Head Start for children and the associated benefits of Head Start participation for all children.

In the absence of additional funding, this proposed rule will result in approximately 13 percent decrease in available slots. This slot loss has costs to society since fewer children will have access to Head Start in the future. This cost to society may be mitigated by the availability of other early learning programs, given findings from the Head Start Impact Study that indicate a wide range of ECE utilization among children who do not have access to Head Start.<sup>389</sup> In this case, determining how the loss of slots impacts society depends on how benefits differ between Head Start and the alternative ECE programs. Among children whose future Head Start slots are eliminated, those that enroll in alternative ECE programs of similar quality would not experience a loss of benefits, while children who enroll in programs of lower quality or no program at all would experience lost benefits. To be sure, quality and affordable early learning programs for poor families are limited and there is significant unmet need. A reduction in Head Start slots

<sup>374</sup> Benson, J., & Borman, G.D. (2010). Family, Neighborhood, and School Settings Across Seasons: When Do Socioeconomic Context and Racial Composition Matter for the Reading Achievement Growth of Young Children? *Teacher's College Record*, 112(5), 1338–1390.

<sup>375</sup> Sloan McCombs, J. et al., (2011). *Making Summer Count. How Summer Programs Can Boost Children's Learning*. Santa Monica, Calif.: RAND Corporation.

<sup>376</sup> Alexander, K. L., Entwisle D. R., & Olson L. S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review*, 72, 167–180.

<sup>377</sup> *Ibid*.

<sup>378</sup> Sloan McCombs, J. et al., (2011). *Making Summer Count. How Summer Programs Can Boost Children's Learning*. Santa Monica, Calif.: RAND Corporation.

<sup>379</sup> Allington, R.L. & McGill-Franzen, A. (2003). The Impact of Summer Setback on the Reading Achievement Gap. *The Phi Delta Kappan*, 85(1), 68–75.

<sup>380</sup> Fairchild, R. & Noam, G. (Eds.) (2007). *Summertime: Confronting Risks, Exploring Solutions*. San Francisco: Jossey-Bass/Wiley.

<sup>381</sup> Downey, D.B., von Hippel, P.T. & Broh, B.A. (2004). Are Schools the Great Equalizer? Cognitive Inequality During the Summer Months and the School Year. *American Sociological Review*, 69(5), 613–635.

<sup>382</sup> Burkam, D.T., Ready, D.D., Lee, V.E. & LoGerfo, L.F. (2004). Social-Class Differences in Summer Learning Between Kindergarten and First Grade: Model Specification and Estimation. *Sociology of Education*, 77, 1–3.

<sup>383</sup> Alexander, K. L., Entwisle D. R., & Olson L. S. (2007). Lasting consequences of the summer learning gap. *American Sociological Review*, 72, 167–180.

<sup>384</sup> *Ibid*.

<sup>385</sup> Logan, J.A.R., Piasta, S.B., Justice, L.M., Schatschneider, C., & Petrill, S. (2011). Children's Attendance Rates and Quality of Teacher-Child Interactions in At-Risk Preschool Classrooms: Contribution to Children's Expressive Language Growth. *Child & Youth Forum* 40(6), 457–477.

<sup>386</sup> Hubbs-Tait, L., McDonald Culp, A., Huey E., Culp, R., Starost, H., & Hare, C. (2002). Relation of Head Start attendance to children's cognitive and social outcomes: moderation by family risk. *Early Childhood Research Quarterly*, 17, 539–558.

<sup>387</sup> Lamdin, D.J. (1996). Evidence of student attendance as an independent variable in education production functions. *Journal of Educational Research*, 89(3), 155–162.

<sup>388</sup> Ehrlich, S.B., Gwynne, J.A., . . . Soric, E. (2014). *Preschool Attendance in Chicago Public Schools: Relationships with Learning Outcomes and Reasons for Absences*. University of Chicago Consortium on Chicago School Research. Research Report.

<sup>389</sup> Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). Third grade follow-up to the Head Start impact study final report. *US Department of Health and Human Services Office of Planning, Research and Evaluation*.

may not be fully absorbed by other programs.

Continuing to operate under widely varying minimums for program dosage, in the face of the mounting evidence provided here, limits Head Start's overall effectiveness and undermines Head Start's mission. Our proposal, and specifically the most costly changes proposed in this NPRM, are designed to ensure every child in Head Start receives the highest quality program and thus are inextricably linked to reaping the full range of benefits that researchers and economists have demonstrated are possible.

*Accounting Statement—Table of Quantified and Non-Quantified Benefits, Costs, and Transfers*

As required by OMB Circular A-4, we have prepared an accounting statement table showing the classification of the impacts associated with implementation of this proposed rule. We decided to use a 10-year window for this regulatory impact analysis and distinguish between average annual costs in year 1, year 2, and average annual ongoing costs in subsequent years 3–10. As required by the Office of Management and Budget (OMB), we discount costs at 3 percent and 7 percent and have

included total present value as well as annualized value of these estimates in our analyses below.

We chose to distinguish between the first two years of costs and the ongoing costs because we have delayed the majority of the regulatory changes for the first year to allow time for programs to plan, and because some of the costs we estimate will only occur in the first year of implementation (second year of costs estimated here), while most of the costs will recur annually. We also include here several costs and savings to society, separate from those identified for programs, which are described in detail above.

	Year 1	Year 2	Years 3–10 (Annually)
Programmatic Savings .....	(\$57,996,468)	(\$104,635,321)	(\$104,635,321)
Programmatic Costs .....	\$14,491,427	\$1,142,984,610	\$1,141,433,545
Societal Opportunity Costs and Savings .....	\$726,824	\$40,106,342	\$40,106,342
Net Costs* .....	(\$42,778,217)	\$1,078,455,630	\$1,076,904,565

\* Note these costs do not include the potential lost benefits of children who no longer have access to Head Start or the impact on children who attend other ECE programs.

These costs were then discounted and annualized using the 10 year window and the OMB discounting rates. In total, the 10-year present value of the costs associated with the proposed changes in

this NPRM are estimated to be \$8,343,623,913, discounted at 3 percent, and \$6,974,954,727, discounted at 7 percent. The annualized costs of the proposed changes in this NPRM are

estimated to be \$949,638,115 discounted at 3 percent, and \$928,109,005, discounted at 7 percent.

	Average annualized (years 1–10)		10 Year Total	
	Discounted 3%	Discounted 7%	Discounted 3%	Discounted 7%
Net Costs .....	\$949,638,115	\$928,109,005	\$8,343,623,913	\$6,974,954,727

*Distributional Effects*

As part of our regulatory analysis, we considered whether the changes we propose would disproportionately benefit or harm a particular subpopulation. If the funding proposed in the President's Budget is not provided, the proposal will result in a loss in the number of children being served by Head Start and an improvement in quality for the much larger group of low-income children who continue to participate. We do not expect the children who may lose access to Head Start if the funding is not provided to be systematically different in terms of meaningful subpopulations from the children who will be receiving greater benefits from higher quality services. We also acknowledge that, if the funding in the President's Budget is not provided, 9,432 teachers, assistant teachers, and home visitors will no longer be employed as a result of this proposal. Again, while these teachers will be economically harmed as a result of this proposal, the remaining 105,621

teachers, assistant teachers, and home visitors whose employment is not terminated, should receive pay increases as a result of working longer hours and longer program years. We do not expect the teachers who are no longer employed to be systematically different in terms of meaningful subpopulations from the teachers who will see increased pay as a result of this proposal.

We also considered whether there would be a differential impact of the proposed changes, specifically the extended day and year provisions, on both children and teachers based upon geographic location or tribal affiliation. While we found significant variation at the state level with regard to the percentage of slots that meet the new proposed minimums, there were no systematic differences based on the region of the country (e.g., North vs. South; Midwest vs. West, etc.). We also found no systematic differences between tribal programs and non-tribal

programs with regard to meeting the new proposed minimums.

*Regulatory Alternatives*

As part of our full regulatory analysis, we have considered several regulatory alternatives, which we outline below. Specifically, we have considered alternatives to the policy changes we have determined to be our largest cost-drivers: Extension of the program year, extension of the program day, and mentor coaching. We consider alternatives to these policy changes by analyzing the effect of the net cost in dollars, slots, and teacher jobs of making no change to the existing rule, as well as more costly policy changes. We also consider how these regulatory alternatives might be impacted by the availability of additional funds consistent with the President's FY2016 Budget request to support the extension of the program day and year. Our justification for choosing to make a policy change is provided in depth in the relevant sections of this NPRM.

However, we do provide additional rationale for not opting to propose the more costly regulatory alternatives in this section.

Extension of the Program Year

This NPRM proposes to extend the minimum Head Start year to 180 days, and to codify current interpretation of a “full-year” of Early Head Start at 230 days. As described in great detail above, these proposed changes will increase the amount of instructional time in Head Start programs, which research suggests is critical to reaping the full benefits of the other quality improvement provisions we have proposed.<sup>390 391</sup> In our cost analysis, we estimated the total cost of these new minimums to be \$560,596,307.

As part of our full regulatory analysis, we considered two alternatives to this policy change. Specifically, we considered the alternative of making no change to our current minimums, thus eliminating the associated cost of \$560,596,307. Using the calculation enumerated above, making no change to this policy would be associated with 67,424 fewer slots lost and 7,746 fewer teachers no longer employed. However,

not making this change would also prevent the significant predicted increase in impacts on child outcomes we have described below. If Head Start receives the appropriations requested in the President’s FY2016 Budget, the cost associated with this provision would be borne by the federal government and there would be no associated slot or teacher job loss for our proposal, but the benefits described below would be maintained.

We also considered the alternative of extending the program year for Head Start to a true “full-year” as is often implemented in child care programs. This alternative would involve increasing the minimum program year for all programs to 230 days, as is interpreted for Early Head Start. Using the same method employed in our original cost analysis, the total associated costs of this alternative would be \$1,534,726,851, which would result in a total of 184,585 slots lost and 21,206 teachers no longer employed for this provision alone. For this regulatory alternative, we also calculated the cost and associated slot and teacher job loss if Head Start receives the appropriations requested in the President’s FY2016

Budget. In this case, the additional associated costs of this alternative, assuming the proposed regulatory change as a base, would be \$974,130,544 more than our proposed change (and more than the budget request supports), which would result in 117,161 additional slots lost and 13,460 additional teachers no longer employed.

While it is possible that increasing the program year for all programs to 230 days would result in greater impacts on child outcomes, our proposed regulatory action of increasing to 180 days is modeled after high quality pre-kindergarten programs that have, in fact, demonstrated significant impacts on child outcomes. We also believe that extending the program year for all programs to 230 days would be an inappropriate regulatory mandate. Head Start is not a one-size fits all program, especially considering the range of ages and needs of the children we serve. Extending the program year for preschoolers to 180 days achieves our goal of increasing dosage without unnecessarily limiting program flexibility to best meet the needs of their communities.

ESTIMATES WITHOUT ADDITIONAL FUNDING

	Status quo (128 days minimum)	Proposed (180 days minimum)	230 days
Programmatic Cost .....	0	\$560,596,307	\$1,534,726,851
Slot Loss .....	0	67,424	184,585
Loss in teacher jobs .....	0	7,746	21,206
Estimates if FY2016 Budget Request is Appropriated			
Programmatic Cost .....	0	0	\$974,130,544
Slot Loss .....	0	0	117,161
Loss in teacher jobs .....	0	0	13,460

Extension of the Program Day

This NPRM proposes a new minimum number of hours for all center-based Head Start, Early Head Start programs and family child care programs. As also discussed in great detail above, these proposed changes will increase the amount of exposure to learning experiences which research suggests will result in larger impacts on child outcomes.<sup>392 393</sup> As part of our full regulatory analysis, we also considered two alternatives to this policy change. Specifically, we considered the

alternative of making no change to our current minimums, thus eliminating the associated cost of \$449,052,165. Making no change to this policy would be associated with 54,009 fewer slots lost and 1,110 fewer teachers no longer employed. It is important to note that fewer teachers are lost in this estimate because we anticipate maintaining all double session teachers. However, given the arguments we have made in prior sections, we believe extending the program day is necessary to ensure all children receive an adequate dosage of

high quality early learning experiences in order to improve child outcomes. If Head Start receives the appropriations requested in the President’s FY2016 Budget, the cost associated with this provision would be borne by the federal government and there would be no associated slot or teacher job loss for our proposal, but the benefits of extending the program day would be maintained.

We also considered the alternative of extending the program day to a true “full-day” as is often implemented in child care programs. This alternative would involve increasing the minimum

<sup>390</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children’s mathematics, language, literacy, executive function, and emotional skills. *Child Development*, 84, 2112–2130.

<sup>391</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal*

*Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

<sup>392</sup> Weiland, C., & Yoshikawa, H. (2013). Impacts of a prekindergarten program on children’s mathematics, language, literacy, executive function,

and emotional skills. *Child Development*, 84, 2112–2130.

<sup>393</sup> Barnett, W.S., Jung, K., Youn, M.J., and Frede, E.C. (2013). *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research Rutgers—The State University of New Jersey.

program day to 10 hours. This may be more beneficial to supporting parental employment and allows even more time for exposure to rich early learning experiences. Using the same method employed in our original cost analysis, the associated costs of this alternative would be \$609,930,063, which would result in 73,358 slots lost and 3,333 teachers no longer employed for this provision alone. We estimate the addition of these hours is substantially less than the estimated cost of moving from a 3.5 hour minimum to a 6 hour minimum. It is important to understand that this estimate is in addition to our original estimate which includes the cost of converting double session programs. For non-double session programs, the cost of adding each additional hour of program duration is

significantly less. For this regulatory alternative, we also calculated the cost and associated slot and teacher job loss if Head Start receives the appropriations requested in the President's FY2016 Budget. In this case, the additional associated costs of this alternative, assuming the proposed regulatory changes as a base, would be \$160,877,898 more than our proposed change (and more than the budget request supports), which would result in 19,349 slots lost and 2,233 teachers no longer employed.

While it is again possible that extending the minimum program day for all programs to 10 hours would result in greater impacts on child outcomes, as with our proposed regulatory action to extend the program year, our proposal to extend the

program day to 6 hours is sufficient for implementation of content-rich learning experiences that support strong child outcomes in key areas of school readiness and is modeled after high quality pre-Kindergarten programs that have demonstrated significant impacts on child outcomes. We also believe that extending the program day for all programs to 10 hours would be an inappropriate federal mandate. Head Start is not a one-size fits all program, especially considering the range of ages and needs of the children we serve. Extending the program day to 6 hours achieves our goal of increasing dosage without unnecessarily limiting program flexibility to best meet the needs of their communities, especially where parents do not need extended child care.

#### ESTIMATES WITHOUT ADDITIONAL FUNDING

	Status quo (3.5 hours minimum)	Proposed (6 hours minimum)	10 hour minimum
Financial Cost .....	0	\$449,052,165	\$609,930,063
Loss in students served .....	0	54,009	73,358
Loss in teacher jobs .....	0	1,110	3,333

#### Estimates if FY2016 Budget Request is Appropriated

Financial Cost .....	0	0	\$160,877,898
Loss in students served .....	0	0	19,349
Loss in teacher jobs .....	0	0	2,233

#### Mentor Coaching

In this NPRM, we propose requirements that programs have a system of professional development in place that includes an intensive coaching strategy. As with our other largest cost drivers, as part of our full regulatory analysis, we considered two alternatives to this policy change. Specifically, we considered the alternative of not requiring mentor coaches for any teachers, thus eliminating the associated cost of \$106,675,000. This alternative would be associated with 12,830 fewer slots lost and 1,474 fewer teachers no longer

employed. We also considered the alternative of requiring mentor coaches for all 64,000 teachers, rather than allowing programs to allocate mentor coaches to the teachers which need intensive professional development most (an estimated one-third of all teachers). Using the same method employed in our original cost analysis, the additional associated costs of this alternative would be \$320,025,000 total or \$213,350,000 more than our proposed change, which would result in 38,490 total or 25,660 additional slots lost and 4,422 total or 2,948 additional teachers no longer employed. As described in previous sections, we strongly believe

that more intensive, focused professional development is critical to improving teaching quality and thereby increasing impacts on child outcomes. However, we believe it would be inefficient to mandate that every teacher receive intensive individualized coaching when other local professional development needs may need to be met. The regulatory action we propose will achieve our goal of improving teacher practices by targeting teachers most in need of coaching to improve their teaching practices while still maintaining local flexibility for individualized professional development.

	Status quo (no coaching)	Proposed (one third of teachers receiving coaching)	All 64,000 receiving coaching
Financial Cost .....	0	\$106,675,000	\$320,025,000
Loss in students served .....	0	12,830	38,490
Loss in teacher jobs .....	0	1,474	4,422

### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act (UMRA)<sup>394</sup> was enacted to avoid imposing unfunded federal mandates on state, local, and tribal governments, or on the private sector. Most of UMRA's provisions apply to proposed and final rules for which a general notice of proposed rulemaking was published, and that include a federal mandate that may result in expenditures by state, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. This NPRM will not impose unfunded mandates on state, local, and tribal governments, or on the private sector.

### *Treasury and General Government Appropriations Act of 1999*

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. This rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, we conclude that it is not necessary to prepare a family policymaking assessment.<sup>395</sup>

### *Federalism Assessment Executive Order 13132*

Executive Order 13132 requires federal agencies to consult with state and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This proposed rule will not have substantial direct impact on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive

Order 13132, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### *Congressional Review*

The Congressional Review Act (CRA) allows Congress to review "major" rules issued by federal agencies before the rules take effect.<sup>396</sup> The CRA defines a major rule as one that has resulted or is likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.<sup>397</sup> This regulation is a major rule because it will likely result in an annual effect of more than \$100 million on the economy.

### *Paperwork Reduction Act of 1995*

Sections 1302 and 1303 contain new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), the Administration for Children and Families has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review. OMB regulations define "information" as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic or other media.<sup>398</sup> This includes requests for information to be sent to the government, such as forms, written reports, and surveys, recordkeeping requirements, and third-party or public disclosures.<sup>399</sup> Descriptions of the information collections and estimates of the annual reporting, recordkeeping, and third-party disclosure burden are as follows:

<sup>396</sup> 5 U.S.C. 802(a).

<sup>397</sup> 5 U.S.C. Chapter 8.

<sup>398</sup> 5 CFR 1320.3(h).

<sup>399</sup> 5 CFR 1320.3(c).

### *Title: Head Start Grants Administration.*

**Description:** We propose information collections related to the protection for the privacy of child records. These requirements include a new collection of parental written consent before disclosing personally identifiable information from child records, an annual notice that notify parents of their rights described in § 1303.20 through 1303.24, applicable definitions in 1305, and a description of PII that may be disclosed without parental consent, and a recordkeeping requirement that the program must maintain, with each child's record, a list of all individuals, agencies, or organizations that have requested or obtained access to PII from child records and their expressed interests.

### *Title: Head Start Performance Standards.*

**Description:** We propose a new requirement to codify best practice in assessing dual language learners (DLL). Specifically, we require programs to administer language assessments to dual language learners in both English and their home language, either directly or through interpreters.

We propose to strengthen background check procedures by requiring both state/local/tribal and federal criminal background checks, as well as clearance through available child abuse and neglect and sex offender registries. Making this requirement consistent with the Office of Child Care's requirement will minimize burden on programs that operate with both Head Start and Child Care Development Funds. This will increase the record-keeping burden related to criminal record checks.

**Description of Respondents and Burden Estimate:** The total annual burden hours estimated is 472,894 hours. For some items, burden hours are calculated for individual children and families, for others the burden hours are calculated for staff. The burden hours table and Key that follows the table indicate the basis for each calculation. See the Regulatory Impact Analysis section for cost estimations.

ACF estimates the burden for these collections of information as follows:

<sup>394</sup> 2 U.S.C. 1501 *et seq.*

<sup>395</sup> Pub. L. 105-277

Information collection	OMB Control No.	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours
<b>Annual Reporting Burden Estimates</b>					
N/A .....	N/A .....	N/A .....	N/A .....	N/A .....	N/A
<b>Annual Recording Keeping Burden Estimates</b>					
<i>Head Start Grants Administration</i> —§ 1303.22, 1303.24 Parental Consent, Annual Notice, and Recordkeeping of PII Disclosure.	0970–0423 ..	988,923 (F)	1 .....	20 minutes ..	329,641
<i>Head Start Performance Standards</i> —§ 1302.33 Language Assessments of Dual Language Learners.	0970–0148 ..	332,651 (C)	1 .....	2 hours .....	665,302
<i>Head Start Performance Standards</i> —§ 1302.93 Background Checks.	0970–0148 ..	73,591 (S) ...	1 .....	20 minutes ..	24,530
<b>Annual Third-Party Disclosure Burden Estimates</b>					
N/A .....	N/A .....	N/A .....	N/A .....	N/A .....	N/A
<i>Total Burden Hours</i> .....	.....	.....	.....	.....	1,019,473

**Key:** C = Children, F = Families, S = Staff

ACF invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of Head Start and Early Head Start Grants, including whether the information will have practical utility; (2) the accuracy of ACF's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate and other forms of information technology. To ensure that public comments have maximum effect in developing the final regulations, ACF urges that each comment clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations.

For informational purposes, collections of information that will no longer be required are described below:

- *Head Start Grants Administration.* The NPRM, at part 1301, removed certain requirements for grantee agencies including the submission of audits, accounting systems certifications, and provisions applicable to personnel management.
- *Appeal Procedures for Head Start Grantees and Current or Prospective Delegate Agencies.*—The NPRM removed the appeal procedures by delegate agencies that came from denials or failure to act by grantees. It

also removed the appeal procedures by a grantee of a suspension continuing for more than 30 days.

- *Head Start Program Performance Standards.* Numerous record-keeping requirements were removed which will result in a decrease in burden, *i.e.* documentation of the level of effort undertaken to establish community partnerships, written records of roles and responsibilities for each governing body members, the annual written and approval of plans for implementation services for each program area, provisions applicable to personnel management, and record-keeping and sharing of a set of community services and resources.

- *Purchase, Construction and Major Renovation of Head Start Facilities.* Some requirements were removed that involved collection of information that will result in a reduction in burden, including the submission of drawings and specifications, costs related to installation of modular unit, statement of procurement procedure for modular units, and obtaining an independent analysis of the cost comparison.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget,

Paperwork Reduction Project, Fax: 202–395–7285, or [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov), Attention: Desk Officer for the Administration for Children and Families. All comments should be identified with the title, “NPRM for Head Start Performance Standards”.

#### List of Subjects

##### 45 CFR Part 1301

Administrative practice and procedure, Education of disadvantaged, Grant programs-social programs.

##### 45 CFR Part 1302

Education of disadvantaged, Grant programs-social programs.

##### 45 CFR Part 1303

Administrative practice and procedure, Education of disadvantaged, Grant programs-social programs, Reporting and recordkeeping requirements.

##### 45 CFR Part 1304

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

##### 45 CFR Part 1305

Education of disadvantaged, Grant programs-social programs.

##### 45 CFR Part 1306

Education of disadvantaged, Grant programs-social programs.



**45 CFR Part 1307**

Education of disadvantaged, Grant programs-social programs

**45 CFR Part 1308**

Education of disadvantaged, Grant programs-social programs, Health care, Individuals with disabilities, Nutrition, Reporting and recordkeeping requirements.

**45 CFR Part 1309**

Education of disadvantaged, Grant programs-social programs, Real property acquisition.

**45 CFR Part 1310**

Education of disadvantaged, Grant programs-social programs, Transportation.

**45 CFR Part 1311**

Education of disadvantaged, Grant programs-social programs, Scholarships and fellowships.

Dated: January 6, 2015.

**Mark H. Greenberg,**

*Acting Assistant Secretary for Children and Families.*

Approved: January 6, 2015.

**Sylvia M. Burwell,**

*Secretary.*

**Proposed Regulation Text**

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 9801 *et seq.*, we propose to revise subchapter B of 45 CFR Chapter XIII to read as follows:

**SUBCHAPTER B—THE ADMINISTRATION FOR CHILDREN AND FAMILIES, HEAD START PROGRAM****PART 1301—PROGRAM GOVERNANCE****PART 1302—PROGRAM OPERATIONS****PART 1303—FINANCIAL AND ADMINISTRATIVE REQUIREMENTS****PART 1304—FEDERAL ADMINISTRATIVE PROCEDURES****PART 1305—DEFINITIONS****PART 1301—PROGRAM GOVERNANCE**

Sec.

1301.1 In general.

1301.2 Training.

1301.3 Governing body.

1301.4 Policy councils and policy committees.

1301.5 Impasse procedures.

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

**§ 1301.1 In general.**

An agency must establish and maintain a formal structure for program governance that includes a governing

body and policy groups. Governing bodies have a legal and fiscal responsibility to administer and oversee the agency's Head Start and Early Head Start programs. Policy councils are responsible for the direction of the agency's Head Start and Early Head Start programs.

**§ 1301.2 Training.**

An agency must provide appropriate training and technical assistance or orientation to the governing body and any advisory committee members and the policy council, including training on program performance standards to ensure the members understand the information they receive and can effectively oversee and participate in the programs in the Head Start agency.

**§ 1301.3 Governing body.**

(a) *Composition.* The composition of a governing body must be in accordance with the requirements specified at section 642(c)(1)(B) of the Act, except where specific exceptions are authorized in the case of public entities at section 642(c)(1)(D) of the Act. Agencies must ensure members of the governing body do not have a conflict of interest, pursuant to section 642(c)(1)(C) of the Act.

(b) *Duties and responsibilities.* (1) The governing body is responsible for activities specified at section 642(c)(1)(E) of the Act.

(2) The governing body must rely on ongoing monitoring results, school readiness goals, and information described at section 642(d)(2) of the Act to conduct its responsibilities.

(c) *Advisory committees.* A governing body may, at its own discretion, establish an advisory committee to oversee key responsibilities related to program governance, including supervision of program management, provided the governing body establishes written procedures that:

(1) Specify that the governing body retains legal and fiscal responsibility for the Head Start agency as required under section 642 (c)(1)(A) of the Act even if it establishes an advisory committee;

(2) Describe key responsibilities, specific duties, actions, and obligations the advisory committee must fulfill in overseeing responsibilities related to program governance;

(3) Specify how and with what frequency, but not less than twice a year, the advisory committee will keep the governing body apprised of its decisions related to program governance; and,

(4) Describe the membership of the advisory committee and the process for how members are selected, including

requiring that members of the advisory committee meet the same composition requirements that apply to governing bodies in section 642(c)(1)(B) of the Act. Such procedures must prohibit any conflict of interest described in section 642(c)(1)(C). If a governing body intends to establish an advisory committee to oversee key responsibilities related to program governance, it must do so by written agreement and must notify the responsible HHS official by submission of such agreement prior to its effective date.

**§ 1301.4 Policy councils and policy committees.**

(a) *In general.* Each agency must establish and maintain a policy council responsible for the direction of the Head Start program at the agency level and a policy committee at the delegate level. If an agency has delegated operational responsibility for the entire Head Start or Early Head Start program to one delegate agency, the policy council and policy committee can be the same entity.

(b) *Composition.* A program must establish a policy council in accordance with section 642(c)(2)(B) of the Act, or a policy committee at the delegate level in accordance with section 642(c)(3) of the Act, as early in the program year as possible. Parents of children currently enrolled in a program option must be proportionately represented on policy groups. The program must ensure members of policy groups do not have a conflict of interest pursuant to sections 642(c)(2)(C) and 642(c)(3)(B) of the Act.

(c) *Duties and responsibilities.* (1) A policy council is responsible for activities specified at section 642(c)(2)(D) of the Act. A policy committee must approve and submit to the delegate agency its decisions in each of the following areas referenced at section 642(c)(2)(D)(i) through (vii) of the Act.

(2) A policy council, and a policy committee at the delegate level, must rely on ongoing monitoring results, school readiness goals, and information described in section 642(d)(2) of the Act to conduct its responsibilities.

(d) *Term.* (1) A member will serve for one year.

(2) If the member intends to serve for another year, s/he must stand for re-election.

(3) The policy group must include in its bylaws how many one-year terms, not to exceed five terms, a person may serve.

(4) A program cannot dissolve a policy group until a successor group is seated.

(e) *Reimbursement.* A program must enable low-income members to participate fully in their policy council or policy committee responsibilities by providing, if necessary, reimbursements for reasonable expenses incurred by the members.

#### **§ 1301.5 Impasse procedures.**

(a) Each agency's governing body and policy group jointly must establish written procedures for resolving internal disputes that include impasse procedures between the governing board and policy group.

(b) A program must establish and follow impasse procedures that:

(1) Demonstrate that the governing body considers recommendations from the policy group;

(2) Require the governing body to notify the policy group in writing why it does not accept a recommendation;

(3) Describe a process and a timeline to resolve issues and reach decisions that are not arbitrary, capricious, or illegal; and,

(4) Require the governing body to notify the policy group in writing of its final decision.

### **PART 1302—PROGRAM OPERATIONS**

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

#### **§ 1302.1 Overview.**

(a) Section 645 of the Act directs the Secretary to prescribe by regulation who is eligible to participate in Head Start programs. Section 645A gives the Secretary the authority to prescribe requirements for Early Head Start programs. Section 641A(a)(1) directs the Secretary of Health and Human Services to review and revise, as necessary, Head Start program performance standards including those standards related to health, parent involvement, nutritional and social services, transition activities and other services. This section was amended in 2007 to include “scientifically based and developmentally appropriate education performance standards related to school

readiness that are based on the Head Start Child Outcomes Framework.” The section further requires the Office of Head Start to include standards for management, conditions for facilities, and any other standards the Secretary determines. The section requires that revisions do not result in the elimination of or any reduction in quality, scope or types of services required by the 2007 amendments.

(b) This part implements these statutory requirements by describing all of the program performance standards which are required to operate Head Start, Early Head Start, American Indian/Alaska Native and Migrant and Seasonal Head Start programs. The part covers the full range of operations from enrolling eligible children and providing program services to those children and their families, to managing programs to ensure staff are qualified and supported to effectively provide services. This part also focuses on using data through ongoing program improvement to ensure high quality service. As required in the Act, these provisions do not narrow the scope or quality of services covered in previous regulations. Instead, these regulations raise the quality standard to reflect science and best practices, and streamline and simplify requirements so programs can better understand what is required for quality services.

#### **Subpart A—Eligibility, Recruitment, Selection, Enrollment, and Attendance**

##### **§ 1302.10 In general.**

This subpart describes requirements of prospective grantees for determining community needs and recruitment areas. It contains requirements and procedures for the eligibility determination, recruitment, selection, enrollment and attendance of children and explains the policy concerning the charging of fees.

##### **§ 1302.11 Determining community strengths and needs.**

(a) *Service area.* (1) A program must propose a service area in the grant application and define the area by county or sub-county area, such as a municipality, town or census tract or jurisdiction of a federally recognized Indian reservation.

(i) A tribal program may propose a service area that includes areas where members of Indian tribes or those eligible for such membership reside, including but not limited to Indian reservation land, areas designated as near-reservation by the Bureau of Indian Affairs (BIA) provided that the service area is approved by the tribe's governing

council, Alaska Native Villages, Alaska Native Regional Corporations with land-based authorities, Oklahoma Tribal Statistical Areas, and Tribal Designated Statistical Areas where federally recognized Indian tribes do not have a federally established reservation.

(ii) If the tribe's service area includes any land-base specified in paragraph (a)(1)(i) of this section, and that area is also served by another program, the tribe may serve children from families who are members of or eligible to be members of such tribe and who reside in such areas as well as children from families who are not members of the tribe, but who reside within the tribe's established land-base.

(2) If a program decides to change the service area after ACF has approved its grant application, the program must submit to ACF a new service area proposal.

(b) *Community assessment.* (1) To design a program that meets community needs, a program must conduct a community assessment at least once over the 5-year grant period. The community assessment must include current service area estimates of:

(i) Eligible infants, toddlers, preschool age children, and expectant mothers, including their geographic location, race, ethnicity, and languages they speak;

(ii) Families with young children experiencing homelessness;

(iii) Young children in foster care;

(iv) Other child development, child care centers, and family child care programs that serve eligible children, including home visiting, publicly funded state and local preschools, and the approximate number of eligible children served;

(v) Typical work, school, and training schedules of parents with eligible children;

(vi) Children with disabilities, four years old or younger, including types of disabilities and relevant services and resources provided to these children by community agencies;

(vii) The education, health, nutrition and social service needs of eligible children and their families; and,

(viii) Resources that are available in the community to address the needs of eligible children and their families.

(2) A program must annually review and update the community assessment to reflect any significant changes including increased availability of publicly-funded full-day pre-kindergarten, rates of family and child homelessness, and significant shifts in community demographics.

(3) A program must consider whether the characteristics of the community

allow it to operate classrooms that include children from diverse economic backgrounds, in addition to the program's eligible funded enrollment.

#### **§ 1302.12 Determining, verifying, and documenting eligibility.**

(a) *Process overview.* (1) Program staff must:

(i) Conduct an in-person interview with each family, unless paragraph (a)(2) of this section applies;

(ii) Verify information as required in paragraphs (h) through (i) of this section; and,

(iii) Create an eligibility determination record for enrolled participants according to paragraph (k) of this section.

(2) Program staff may interview the family over the telephone if an in-person interview is not possible. In addition to meeting the criteria provided in paragraph (a)(1) of this section, program staff must note in the eligibility determination record reasons why the in-person interview was not possible.

(3) If a program has an alternate method to reasonably determine eligibility based on its community assessment, geographic and administrative data, or from other reliable data sources, it may petition the responsible HHS official to waive requirements in paragraphs (a)(1)(i) and (ii).

(b) *Age requirements.* (1) For Early Head Start, except when the child is transitioning to Head Start, a child must be an infant or a toddler younger than three years old.

(2) For Head Start, a child must:

(i) Be at least three years old or, turn three years old by the date used to determine eligibility for public school in the community in which the Head Start program is located; and,

(ii) Be no older than the age required to attend school.

(3) For Migrant or Seasonal Head Start, a child must be younger than compulsory school age by the date used to determine public school eligibility for the community in which the program is located.

(c) *Eligibility requirements.* (1) A pregnant woman or a child is eligible if:

(i) The family's income is equal to or below the poverty line; or

(ii) The family is eligible for or, in the absence of child care, would be potentially eligible for public assistance; or

(iii) The child is homeless, as defined in part 1305 of this chapter; or

(iv) The child is in foster care.

(2) If the family does not meet a criterion under paragraph (c)(1) of this

section, a program may enroll a pregnant woman or a child who would benefit from services, provided that these participants only make up to 10 percent of a program's enrollment in accordance with paragraph (d) of this section.

(d) *Additional allowances for programs.* (1) A program may enroll an additional 35 percent of participants whose families do not meet a criterion described in paragraph (c) of this section and whose incomes are below 130 percent of the poverty line, if the program:

(i) Establishes and implements outreach, and enrollment policies and procedures to ensure it is meeting the needs of eligible pregnant women, children, and children with disabilities, before serving ineligible pregnant women or children; and,

(ii) Establishes criteria that ensure eligible pregnant women and children are served first.

(2) If a program chooses to enroll participants who do not meet a criterion in paragraph (c) of this section, and whose family incomes are between 100 and 130 percent of the poverty line, it must be able to report to the Head Start regional program office:

(i) How it is meeting the needs of low-income families or families potentially eligible for public assistance, homeless children, and children in foster care, and include local demographic data on these populations;

(ii) Outreach and enrollment policies and procedures that ensure it is meeting the needs of eligible children or pregnant women, before serving over-income children or pregnant women;

(iii) Efforts, including outreach, to be fully enrolled with eligible pregnant women or children;

(iv) Policies, procedures, and selection criteria it uses to serve eligible children;

(v) Its current enrollment and its enrollment for the previous year;

(vi) The number of pregnant women and children served, disaggregated by whether they are eligible or meet the over-income requirement in paragraph (c)(2) of this section; and,

(vii) The eligibility criteria category of each child on the program's waiting list.

(e) *Additional allowances for Indian tribes.* (1) Notwithstanding paragraph (c)(2) of this section, a tribal program may fill more than 10 percent of its enrollment with participants who are not otherwise eligible, if:

(i) The program has served all eligible pregnant women or children who wish to be enrolled from Indian and non-Indian families living within the land-base of the tribal agency;

(ii) The program has served all eligible Indian pregnant women or children who wish to be enrolled residing in the program's approved service area;

(iii) The tribe has resources within its grant, without using additional funds from HHS intended to expand Early Head Start or Head Start services, to enroll pregnant women or children whose family incomes exceed low-income guidelines or who are not categorically eligible; and,

(iv) At least 51 percent of the program's participants meet an eligibility criterion under paragraph (c) of this section.

(2) If another program does not serve a non-reservation area, the program must serve all eligible Indian and non-Indian pregnant women or children who wish to enroll before serving over-income pregnant women or children.

(3) A program that meets the conditions of this paragraph must annually set criteria that are approved by the policy council and the tribal council for selecting over-income pregnant women or children who would benefit from program services.

(4) An Indian tribe or tribes that operates both an Early Head Start program and a Head Start program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian tribe or tribes during a year may not serve as a basis for any reduction of the base grant for either program in succeeding years.

(f) *Migrant or Seasonal eligibility requirements.* A child is eligible for Migrant or Seasonal Head Start, if the family meets an eligibility criterion in paragraph (c) of this section; or, the family meets a categorical requirement in paragraph (d) of this section; and the family's income comes primarily from agricultural work.

(g) *Eligibility requirements for communities with 1,000 or fewer individuals.* (1) A program may establish its own criteria for eligibility provided that it meets the criteria outlined in section 645(a)(2) of the Act.

(2) No child residing in such community whose family is eligible under criteria described in paragraphs (c) through (f) of this section, may be denied an opportunity to participate in the program under the eligibility criteria established under this paragraph.

(h) *Verifying age.* Program staff must verify a child's age according to program policies and procedures. A program's policies and procedures cannot require staff to collect documents that confirm a child's age, if doing so creates a barrier for the family to enroll the child.

(i) *Verifying eligibility.* (1) To verify eligibility based on income, program staff must use tax forms, pay stubs, or other proof of income to determine the family income for the relevant time period.

(i) If the family cannot provide all tax forms, pay stubs, or other proof of income for the relevant time period, program staff may accept written statements from employers for the relevant time period and use information provided to calculate total annual income with appropriate multipliers.

(ii) If the family reports no income for the relevant time period, a program may accept the family's signed declaration to that effect, if program staff describes efforts made to verify the family's income, and explains how the family's total income was calculated or seeks information from third parties about the family's eligibility, if the family gives written consent. If a family gives consent to contact third parties, program staff must adhere to program safety and privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2) of this section.

(iii) If the family can demonstrate a significant change in income for the relevant time period, program staff may consider current income circumstances.

(2) To verify whether a family is eligible for, or in the absence of child care, would be potentially eligible for public assistance, the program must have documentation from either the state, local, or tribal public assistance agency that shows the family either receives public assistance or that shows the family is potentially eligible to receive public assistance.

(3) To verify whether a family is homeless, a program may accept a written statement from a homeless services provider, school personnel, or other service agency attesting that the child is homeless or any other documentation that indicates homelessness, including documentation from a public or private agency, a declaration, information gathered on enrollment or application forms, or notes from an interview with staff to establish the child is homeless, as defined in § 1305.2 of this chapter; or any other document that establishes homelessness.

(i) If a family can provide one of the documents described in paragraph (i)(1) of this section, program staff must described efforts made to verify the accuracy of the information provided and, states whether the family is categorically eligible.

(ii) If a family cannot provide one of the documents described in paragraph (i)(5) of this section to prove the child is homeless, a program may accept the family's signed declaration to that effect, if, in a written statement, program staff:

(A) Describe the efforts made to verify that a child is homeless, as defined in part 1305 of this chapter; and,

(B) Describe the child's living situation, including the specific condition described in § 1305.2 of this chapter under which the child was determined to be homeless.

(iii) Program staff may seek information from third parties who have first-hand knowledge about a family's living situation, if the family gives written consent. If the family gives consent to contact third parties, program staff must adhere to program privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2)(i)(B) of this section.

(4) To verify whether a child is in foster care, program staff must accept either a court order or other legal or government-issued document, a written statement from a government child welfare official that demonstrates the child is in foster care, or proof of a foster care payment.

(j) *Eligibility duration.* (1) If a child is determined eligible under this section and is participating in a Head Start program, he or she will remain eligible through the end of the succeeding program year except that the Head Start program may choose not to enroll a child when there are compelling reasons for the child not to remain in Head Start, such as when there is a change in the child's family income and there is a child with a greater need for Head Start services.

(2) Children who are enrolled in a program receiving funds under the authority of section 645A of the Act remain eligible while they participate in the program.

(3) If a child moves from an Early Head Start program to a Head Start program, program staff must verify the family's eligibility again.

(4) If a program operates both an Early Head Start and a Head Start program, and the parents wish to enroll their child who has been enrolled in the program's Early Head Start, the program must ensure, whenever possible, the child receives Head Start services until enrolled in school.

(k) *Records.* (1) A program must keep eligibility determination records for each participant and ongoing training records for program staffs. A program may keep these records electronically.

(2) Each eligibility determination record must include:

(i) Copies of any documents or statements, including declarations, that are deemed necessary to verify eligibility under paragraphs (h) and (i) of this section;

(ii) A statement that program staff has made reasonable efforts to verify information by:

(A) Conducting either an in-person, or a telephonic interview with the family as described under paragraph (a) of this section; and

(B) Describing efforts made to verify eligibility, as required under paragraphs (h) through (i) of this section; and, collecting documents required for third party verification that includes the family's written consent to contact each third party, the third parties' names, titles, and affiliations, and information from third parties regarding the family's eligibility.

(iii) A statement that identifies whether:

(A) The family's income is below income guidelines for its size, and lists the family's size;

(B) The family is eligible for or, in the absence of child care, potentially eligible for public assistance;

(C) The child is a homeless child, as defined at part 1305 of this chapter including the specific condition described in part 1305 under which the child was determined to be homeless, or the child is in foster care;

(D) The family meets the over-income requirement in paragraph (c)(2) of this section; or

(E) The family meets alternative criteria under paragraph (d) of this section.

(3) A program must keep eligibility determination records for those currently enrolled, as long as they are enrolled, and, for one year after they have either stopped receiving services; or are no longer enrolled.

(l) *Program policies and procedures on violating eligibility determination regulations.* A program must establish policies and procedures that describe all actions taken against staff who intentionally violate federal and program eligibility determination regulations and who enroll pregnant women and children that are not eligible to receive Early Head Start or Head Start services.

(m) *Training.* (1) A program must train all governing body, policy council, management, and staff who determine

eligibility on applicable federal regulations and program policies and procedures. Training must, at a minimum:

(i) Include methods on how to collect complete and accurate eligibility information from families and third party sources;

(ii) Incorporate strategies for treating families with dignity and respect and for dealing with possible issues of domestic violence, stigma, and privacy; and,

(iii) Explain program policies and procedures that describe actions taken against staff, families, or participants who attempt to provide or intentionally provide false information.

(2) A program must train management and staff members who make eligibility determinations within 90 days following the effective date of this rule, and as soon as possible, but within 90 days of hiring new staff after the initial training has been conducted.

(3) A program must train all governing body and policy council members within 180 days following the effective date of this rule, and within 180 days of the beginning of the term of a new governing body or policy council member after the initial training has been conducted.

(4) A program must develop policies on how often training will be provided after the initial training.

#### **§ 1302.13 Recruitment of children.**

In order to reach those most in need of services, a program must develop and implement a recruitment process designed to actively inform all families with eligible children within the recruitment area of the availability of program services, encourage and assist them in applying for admission to the program, and include specific efforts to actively locate and recruit children with disabilities.

#### **§ 1302.14 Selection process.**

(a) *Selection criteria.* (1) A program must annually establish selection criteria that weighs the prioritization of selection of participants, based on community needs identified in the community needs assessment as described in § 1302.11(b), and including family income, whether the child is homeless, whether the child is in foster care, the child's age, whether the child is eligible for special education and related services, or early intervention services, as appropriate, as determined under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*) and, other relevant family or child risk factors.

(2) If a program serves migrant or seasonal families, it must select participants according to criteria in paragraph (a)(1) of this section, and give priority to children whose families can demonstrate they have relocated frequently within the past two-years to pursue agricultural work.

(3) If a program operates in a service area with high quality publicly funded pre-kindergarten that is available for a full school day, the program must prioritize child age to serve younger children.

(4) A program must not deny enrollment based on a disability or chronic health condition or its severity.

(b) *Children eligible for IDEA services.*

(1) A program must ensure at least 10 percent of its total enrollment is children eligible for IDEA services, unless the responsible HHS official grants a waiver.

(2) If the requirement in paragraph (b)(1) of this section has been met, children eligible for IDEA services should be prioritized for the available slots in accordance with the program's selection criteria.

(c) *Waiting lists.* A program must develop at the beginning of each enrollment year and maintain during the year a waiting list that ranks children according to the program's selection criteria.

#### **§ 1302.15 Enrollment.**

(a) *Funded enrollment.* A program must maintain its funded enrollment level and fill any vacancy within 30 days.

(b) *Continuity of enrollment.* (1) A program must make efforts to maintain enrollment of eligible children for the following year.

(2) Children who are enrolled in a program receiving funds under the authority of section 645A of the Act remain income eligible while they participate in the program. When a child moves from a program serving infants and toddlers to a Head Start program serving children age three and older, the program must verify family income again.

(3) Under exceptional circumstances, a program may maintain a child's enrollment for a third year, provided that family income is verified again.

(4) If a program serves homeless children or children in foster care, it must make efforts to maintain the child's enrollment regardless of whether the family or child moves to a different service area, or transition the child to a program in a different service area, as required in § 1302.72(b), according to the family's needs.

(c) *Reserved slots.* If a program determines from the community assessment there are families experiencing homelessness in the area, or children in foster care that could benefit from services, the program may reserve one or more enrollment slots for pregnant women and children experiencing homelessness and children in foster care, when a vacancy occurs. No more than 3 percent of a program's funded enrollment slots may be reserved. If the reserved enrollment slot is not filled within 30 days, the enrollment slot becomes vacant and then must be filled within 30 days in accordance with paragraph (a) of this section.

(d) *Other enrollment.* A program should consider whether it is feasible to enroll children from diverse economic backgrounds who would be funded from other sources that include private pay, in addition to the program's eligible funded enrollment.

(e) *State immunization enrollment requirements.* A program must comply with state immunization enrollment and attendance requirements, with the exception of homeless children as described in § 1302.16(c)(1).

#### § 1302.16 Attendance.

(a) *Promoting regular attendance.* A program must track attendance for each child.

(1) If a child is unexpectedly absent and a parent has not contacted the program within 1 hour of program start time, the program must contact the parent to ensure the child is safe.

(2) If a child has four or more consecutive unexcused absences or is frequently absent program staff must conduct a home visit or other direct contact with the child's parents to emphasize the benefits of regular attendance, while at the same time remaining sensitive to family circumstances, and, provide support services, as necessary, to promote the child's regular attendance.

(3) If a child ceases to attend a program and the program is either unable to contact the child's family and the program makes appropriate effort, as described in paragraph (a)(2) of this section, and the child's attendance does not resume, then the program must consider that slot vacant. This action is not considered expulsion as described in § 1302.17.

(b) *Managing systematic program attendance issues.* If a program's monthly average daily attendance rate falls below 85 percent, the program must analyze the causes of absenteeism to identify any systematic issues that contribute to the program's absentee

rate. The program must use this data to make necessary changes in a timely manner as part of ongoing oversight and correction as described in § 1302.102(b) and inform its continuous improvement efforts as described in § 1302.102(c).

(c) *Supporting attendance of homeless children.* (1) If a program determines a child is categorically eligible under § 1302.12(c)(1)(iii), it must allow the child to attend for up to 90 days, without immunization and other medical records, proof of residency, birth certificates, or other documents to give the family reasonable time to present these documents.

(2) If a child experiencing homelessness is unable to attend classes regularly because the family does not have transportation to and from the program facility, the program must utilize community resources, where possible, to provide transportation for the child.

#### § 1302.17 Suspension and expulsion.

(a) *Limitations on suspension.* (1) A program must prohibit or severely limit the use of suspension.

(2) Temporary suspensions for challenging behavior must only be used as a last resort in extraordinary circumstances where there is a serious safety threat that cannot be reduced or eliminated by the provision of reasonable modifications.

(3) When a temporary suspension is deemed necessary, a program must engage a mental health consultant, collaborate with parents, and utilize appropriate community resources, as needed, to help the child return to full participation in all program activities, as quickly as possible while ensuring child safety.

(b) *Prohibition on expulsion.* (1) A program cannot expel or unenroll children from Head Start because of a child's behavior.

(2) When children exhibit persistent and serious challenging behaviors, a program must employ exhaustive steps to address such problems, and facilitate the child's safe participation in the program. Such steps must be guided by the program's mental health consultant and, at a minimum, engage a mental health consultant as described in § 1302.45(b), and include consultation with the parents and with the child's physician, and if the child:

(i) Has an IFSP or IEP, the program must consult with the agency responsible for the IFSP or IEP to ensure that the child receives the needed support services; or,

(ii) Does not have an IFSP or IEP, the program must collaborate, with parental consent, with the local agency

responsible for administering IDEA to determine the child's eligibility for services.

(3) If, after completing the exhaustive steps described in paragraph (b)(2) of this section, a program, in consultation with the parents, the child's physician, the agency responsible for IDEA, and the mental health consultant, determines that the child's continued enrollment presents a continued serious safety threat to the child or other enrolled children and determines the program is not the most appropriate placement for the child, the program must work with such entities to directly facilitate the transition of such child to a more appropriate placement.

(c) *Voluntary parent participation.* Parent participation in any program activity is voluntary, including consent for data sharing, and not required as a condition of the child's enrollment.

#### § 1302.18 Fees.

(a) *Policy on fees.* A program must not charge eligible families a fee to participate in Head Start, and cannot in any way condition an eligible child's enrollment or participation in the program upon the payment of a fee.

(b) *Allowable fees.* (1) A program can accept a fee from eligible families for hours that extend beyond the Head Start funded day.

(2) In order to support programs serving children from diverse economic backgrounds or using multiple funding sources, including private pay, a program may charge a fee to families who are not part of the Head Start funded enrollment.

(3) A program may use other funding sources for the provision of services under Part C of the IDEA that are not part of the Early Head Start or Head Start services, consistent with the State's system of payments on file under 34 CFR part 300.

#### Subpart B—Program Structure

##### § 1302.20 In general.

(a) *Choose a program option.* (1) A program must choose to operate one or more of the following program options: center-based, home-based for Early Head Start programs, family child-care, or an approved locally-designed variation as described in § 1302.24. The program option(s) chosen must meet the needs of children and families based on the community assessment described in § 1302.11(b). Existing programs must annually consider whether they would better meet local needs through conversion of existing part-day slots to full-day or full-working day slots, extending services to a full calendar

year, or conversion of existing preschool slots to Early Head Start slots as described in paragraph (c) of this section.

(2) To develop a program calendar, a program must consider options that would allow it to operate for the full year, promote continuity of care and services, and meet child and family needs identified in the community assessment.

(3) A program must work to identify alternate sources to support extended hours. If no additional funding is available, program resources may be used.

(b) *Comprehensive services.* All program options must deliver the full range of services, as described in subparts C, D, E, F, and G of this part, except that §§ 1302.30 through 1302.32 and § 1302.34 do not apply to home-based options.

(c) *Conversion.* (1) Consistent with section 645(a)(5) of the Head Start Act, grantees may request to convert Head Start slots to Early Head Start slots through the re-funding application process or as a separate grant amendment.

(2) Any grantee proposing a conversion of Head Start services to Early Head Start services must obtain governing body approval and submit the request to their Regional Office.

(3) With the exception of American Indian and Alaska Native grantees as described in paragraph (c)(4) of this section, the request to the Regional Office must include:

(i) A grant application budget and a budget narrative that clearly identifies the funding amount for the Head Start and Early Head Start programs before and after the proposed conversion;

(ii) The results of the community needs assessment demonstrating how the proposed use of funds would best meet the needs of the community, including a description of how the needs of eligible Head Start children will be met in the community when the conversion takes place;

(iii) A revised program schedule that describes the program option(s) and the number of funded enrollment slots for Head Start and Early Head Start programs before and after the proposed conversion;

(iv) A description of how the needs of pregnant women, infants, and toddlers will be addressed;

(v) A discussion of the agency's capacity to carry out an effective Early Head Start program in accordance with the requirements of section 645A(b) of the Head Start Act and all applicable regulations;

(vi) Assurances that the agency will participate in training and technical assistance activities required of all Early Head Start grantees;

(vii) A discussion of the qualification and competencies of the child development staff proposed for the Early Head Start program, as well as a description of the facilities and program infrastructure that will be used to support the new or expanded Early Head Start program;

(viii) A discussion of any one-time funding necessary to implement the proposed conversion and how the agency intends to secure such funding; and

(ix) The proposed timetable for implementing this conversion.

(4) Consistent with section 645(d)(3) of the Act, any American Indian and Alaska Native grantees operating both an Early Head Start program and a Head Start program may reallocate funds between the programs at its discretion and at any time during the grant period involved, in order to address fluctuations in client populations. Any American Indian and Alaska Native grantee that exercises this discretion must notify the Regional Office prior to the effective date of such reallocation.

#### § 1302.21 Center-based option.

(a) *Setting.* The center-based option provides education and early childhood development services to children primarily in classroom settings.

(b) *Ratios and class size.* (1) Staff-child ratios and class size maximums must be determined by the age of the majority of children and the needs of children present. A program must determine the age of the majority of children in a classroom at the start of the year. A program may use their judgment as to whether this determination should be adjusted during the program year. Where state or local licensing requirements are more stringent than the teacher-child ratios and class size specifications in this section, a program must meet the stricter requirements. Programs must maintain appropriate ratios during all hours of program operation.

(2) A classroom that serves children under 36 months old, must have no more than 8 children and have two teachers. Each teacher must be assigned consistent, primary responsibility for no more than four children to promote continuity of care for individual children. Programs must minimize teacher changes throughout a child's enrollment, whenever possible, and consider mixed age group classrooms to support continuity of care.

(3) A classroom that serves a majority of children who are three years old must have no more than 17 children and a teacher and teaching assistant or two teachers.

(4) A classroom that serves a majority of children, four and five years old, must have no more than 20 children and a teacher and a teaching assistant or two teachers.

TABLE TO § 1302.21(b)—RATIOS AND CLASS SIZE

4 and 5 year olds.	No more than 20 children enrolled in any class.
3 year olds .....	No more than 17 children enrolled in any class.
Under 3 year olds.	No more than 8 children enrolled in any class.

(c) *Service*—(1) *Days per year.* At a minimum, a program that serves preschool age children must offer no less than 180 days of planned operation per year, and Early Head Start programs must offer no less than 230 days of planned operation per year. A program must:

(i) Plan their year using a reasonable estimate of the number of days during a year that classes may be closed due to problems such as inclement weather, based on their experience in previous years; and,

(ii) Make every effort to schedule makeup days using existing resources if days of planned operation fall below the number required per year.

(2) *Exemption for Migrant or Seasonal Head Start programs.* A Migrant or Seasonal program is not subject to the requirement for a minimum number of days of planned operation per year, but must make every effort to provide as many days of service as possible to each child and family.

(3) *Hours per day.* A program must offer a minimum of six hours of operation per day but is encouraged to offer longer service days if it meets the needs of children and families.

(d) *Licensing and square footage requirements.* (1) The facilities used by a program must meet state, tribal, or local licensing requirements. When state, tribal, or local requirements vary from Head Start requirements, the most stringent provision takes precedence.

(2) A center-based program must have at least 35 square feet of usable indoor space per child available for the care and use of children (exclusive of bathrooms, halls, kitchen, staff rooms, and storage places) and at least 75 square feet of usable outdoor play space per child.



**§ 1302.22 Home-based option.**

(a) *Setting.* The home-based option delivers education and early childhood development services, consistent with § 1302.20(b), through visits with the child's parents, primarily in the child's home and provides group socialization opportunities in a Head Start classroom, community facility, home, or on field trips. The home-based option is only a standard program option for children under 36 months of age. When serving children 36 months and older in the home-based option would better meet a community's need, programs can apply to operate a locally designed option.

(b) *Caseload.* A program that implements a home-based option must maintain an average caseload of 10 to 12 families per home visitor with a maximum of 12 families for any individual home visitor. Programs must maintain appropriate ratios during all hours of program operation.

(c) *Service duration.* A program that implements a home-based option must:

(1) Provide one home visit per week per family that lasts at least an hour and a half and provide a minimum of 46 visits per year;

(2) Provide, at a minimum, two group socialization activities per month for each child, with a minimum of 22 group socialization activities each year;

(3) Make up planned home visits or scheduled group socialization activities that were canceled by the program when this is necessary to meet the minimums stated above; and,

(4) Not replace home visits or scheduled group socialization activities for medical or social service appointments for the purposes of meeting the minimum requirements described in this paragraph (c).

(d) *Licensing requirements.* The facilities used for group socializations in the home-based option must meet state, tribal, or local licensing requirements. When state, tribal or local requirements vary from Head Start requirements, the most stringent provision applies.

**§ 1302.23 Family child care option.**

(a) *Setting.* The family child care program option provides a full range of education and early childhood development services, described in subparts C, D, E, F, and G of this part, primarily by a family child care provider to provide services in their home or other family-like setting. A program may choose to offer the family child care option if:

(1) The program is the employer of the family child care provider or the program has a legally binding agreement with the family child care provider that clearly defines the provider's roles and

responsibilities to ensure that children and families enrolled in this option receive the full range of services described in subparts C, D, E, F, and G of this part; and,

(2) The program ensures there are family child care homes available that are accessible and can serve children with disabilities and parents with disabilities, as appropriate.

(b) *Ratios and group size.* (1) A program that operates the family child care option, where Head Start children are enrolled, must ensure group size does not exceed the limits specified in this section. If the family child care provider's own children under the age of 6 are present, they must be included in the group size.

(2) When there is one family child care provider, the maximum group size is six children and no more than two of the six may be under two years of age. When there is a provider and an assistant, the maximum group size is twelve children with no more than four of the twelve children under two years of age.

(3) One family child care provider may care for up to four infants and toddlers, with no more than two of the four children under the age of 18 months.

(4) Programs must maintain appropriate ratios during all hours of program operation.

(c) *Service duration.* Whether family child care option services are provided directly or via contractual arrangement, a program must ensure that family child care providers operate sufficient hours to meet the child care needs of families and at a minimum, offer planned Head Start or Early Head Start class operations at least six hours each day and for a minimum of 230 days per year for children in Early Head Start and at least six hours each day and for a minimum of 180 days to children over 36 months old. A migrant or seasonal program is not subject to the requirement for a minimum number of days of planned operation per year, but must make every effort to provide as many days of service as possible to each child or family.

(d) *Licensing requirements.* A family child-care provider must be licensed by the state, tribal, or local entity to provide services in their home or family like setting. When state, tribal, or local requirements vary from Head Start requirements, the most stringent provision applies.

(e) *Child development specialist.* A program that offers the family child care option must provide a child development specialist to support family child care providers and ensure

the provision of quality services at each family child care home. Child development specialists must:

(1) Conduct regular visits to each home, some of which are unannounced, not less than once every two weeks;

(2) Periodically verify compliance with either contract requirements or agency policy;

(3) Facilitate ongoing communication between program staff, family child care providers, and enrolled families; and,

(4) Provide recommendations for technical assistance and support the family child care provider in developing relationships with other child care professionals.

**§ 1302.24 Locally-designed program option variations.**

(a) *In general.* Programs may request to operate a locally-designed program option that innovates to meet the unique needs of their communities or to demonstrate or test alternative approaches for providing program services. In order to operate a locally-designed program option, programs must seek a waiver as detailed in paragraph (c), must comply with the requirements of paragraphs (b) and (c) of this section, and must deliver the full range of services, as described in subparts C, D, E, F, and G of this part.

(b) *Request for approval.* A request for operating a locally-designed variation must be approved by the responsible HHS official every two years. Such approval may be revoked based on ongoing assessment and monitoring as described in subpart J of this part.

(c) *Waiver requirements.* (1) The responsible HHS official may waive one or more of the requirements contained in §§ 1302.21 through 1302.23, including service duration, ratios and group size, and caseload, with the exception of licensing, square footage and ratios for children under 24 months requirements, for a program seeking to provide a locally-designed variation, including a combination of program options, consistent with the minimums described in section 640(k)(1) of the Act for center-based programs. In order to receive a waiver, a program must demonstrate that the locally-designed variation effectively supports appropriate skill development and progress in the goals described in the Head Start Early Learning Outcomes Framework (Birth-5) and provide supporting evidence that demonstrates:

(i) The locally-designed variation better meets the needs of the community than the other options described in §§ 1302.21 through 1302.23; or,



(ii) The locally-designed variation better supports continuity of care for individual children.

(2) Locally-designed variations providing a double-session model that are approved under paragraph (c)(1) of this section must:

(i) Limit group size for three year olds to no more than 15 children and employ at least one teacher and teacher's assistant or two teachers;

(ii) Limit group size for four and five year olds to no more than 17 children and employ at least one teacher and a teacher's assistant or two teachers; and,

(iii) Operate for at least three and a half hours per session.

(3) Locally-designed variations providing a home-based option for children at least 36 months of age that are approved under paragraph (c)(1) of this section must comply with § 1302.22(d) and:

(i) Provide one home visit per family that lasts at least an hour and a half and provide a minimum of 36 visits per year; and,

(ii) Provide, at a minimum, two group socializations per month for each family with a minimum of 18 group socialization activities each year.

### Subpart C—Education and Child Development Program Services

#### § 1302.30 In general.

A center-based or family child care program must provide high quality education and child development services, including for children with disabilities, that promote children's cognitive, social, and emotional growth for later success in school. A program must embed positive and effective teacher-child interactions, a research-based curriculum, and screening and assessment procedures that support individualization during the program year, and family engagement. A program must deliver developmentally, culturally, and linguistically appropriate learning experiences in language, literacy, mathematics, social and emotional functioning, approaches to learning, science, physical skills, and creative arts. To deliver such high quality education and child development services, a program must implement, at a minimum, the elements contained in §§ 1302.31 through 1302.34.

#### § 1302.31 Teaching and the learning environment.

(a) *Teaching and the learning environment.* A center-based and family child care program must ensure teachers and other relevant staff provides an effective teaching and organized

learning environment that promotes healthy development and children's skill growth aligned with the Head Start Early Learning Outcomes Framework (Birth-5), including for children with disabilities. A program must also support implementation of such environment with integration of regular and ongoing supervision and a system of individualized and ongoing professional development, as appropriate.

(b) *Effective teaching practices.* (1) A program must ensure teaching practices:

(i) Focus on promoting growth in the skill development described in the Head Start Early Learning Outcomes Framework (Birth-5) by using the Framework and the curricula to direct planning of organized activities, schedules, lesson plans, and the implementation of high quality early learning experiences that are sensitive to and build upon each child's individual pattern of development and learning;

(ii) Emphasize nurturing and responsive interactions and environments that foster trust and emotional security; are communication and language rich; promote critical thinking, problem-solving, social emotional, behavioral, and language development; provide supportive feedback for learning; motivate continued effort; and support all children's engagement in activities and learning;

(iii) Integrate child assessment data in individual and group planning; and,

(iv) Include developmentally appropriate learning experiences in language, literacy, social and emotional development, math, science, social studies, creative arts, and physical development that are focused toward achieving progress outlined in the Head Start Early Learning Outcomes Framework (Birth-5).

(2) For dual language learners, a program must recognize bilingualism as a strength and implement research-based teaching practices that support its development. These practices must include, to the extent possible:

(i) For an infant or toddler dual language learner, a program must ensure teaching practices that focus on the development of the home language, when there is a teacher with appropriate language competency, and provide experiences that expose the child to English; and

(ii) For a preschool age dual language learner, a program must ensure teaching practices that focus on both English language acquisition and the continued development of the home language.

(c) *Learning environment.* A program must ensure teachers implement well-organized classrooms with developmentally appropriate schedules, lesson plans, and indoor and outdoor learning experiences that provide adequate opportunities for choice, play, exploration, and experimentation among a variety of learning, sensory, and motor experiences and:

(1) For preschool age children, include teacher-directed and child-initiated activities, active and quiet learning activities, and opportunities for individual, small group, and large group learning activities; and,

(2) For infants and toddlers, promote relational learning and include individualized and small group activities that integrate appropriate daily routines into a flexible schedule of learning experiences.

(d) *Materials and space for learning.* To support implementation of the curriculum and the requirements described in paragraphs (a), (b), (c), and (e) of this section a program must provide age-appropriate equipment, materials, supplies and physical space for indoor and outdoor learning environments, including functional space. The equipment, materials and supplies must include any necessary accommodations and the space must be accessible to children with disabilities. Programs must change materials intentionally and periodically to support children's interests, development, and learning.

(e) *Promoting learning through approaches to rest, meals, and routines.*

(1) A program must implement an intentional, age appropriate approach to accommodate children's need to nap or rest, and that, for preschool age children in a full-day program provides a regular time every day at which preschool age children are encouraged but not forced to rest or nap. A program must provide alternative quiet learning activities for children who do not need or want to rest or nap.

(2) A program must approach snack and meal times as learning opportunities that support staff-child interactions and foster conversations that contribute to a child's learning, development, and socialization. For bottle-fed infants, this approach must include holding infants during feeding to support socialization. This approach must also provide sufficient time for children to eat, not use food as reward or punishment, and not force children to finish their food.

(3) A program must approach routines, such as hand washing and diapering, and transitions between activities, as opportunities for

strengthening development, learning, and skill growth.

#### **§ 1302.32 Curriculum.**

(a) *Curriculum.* (1) Center-based and family child care programs must implement developmentally appropriate research-based early childhood curriculum, including additional curricular enhancements, as appropriate that:

(i) Is based on scientifically valid research and has standardized training procedures and curriculum materials to support implementation;

(ii) Is aligned with the Head Start Early Learning Outcomes Framework (Birth-5) and, as appropriate, state early learning and development standards; and,

(iii) Includes an organized developmental scope and sequence and is sufficiently content-rich within the Head Start Early Learning Outcomes Framework (Birth-5) to promote measurable progress toward development outlined in such Framework.

(2) A program must provide systemic and intensive support for appropriate staff through the system of training and professional development and supervision that ensures effective implementation of curriculum.

(3) A program must regularly monitor staff implementation of the curriculum and use the monitoring information to improve how effectively the curriculum is implemented.

(b) *Variation.* In order to better meet the needs of one or more specific populations, a program may choose to develop or significantly adapt a curriculum, such that it does not meet the requirements in paragraphs (a)(1)(iii) and (a)(3) of this section. If a program chooses to implement such a variation, it must work with early childhood education expert staff or consultants from a college, university, or a research organization, to develop and evaluate the effectiveness of the variation. Programs must report the use of such variations to the responsible HHS official. Programs must use the evaluation of effectiveness to determine the continued use of such variation, consistent with the process described in subpart J of this part.

#### **§ 1302.33 Child screenings and assessment.**

(a) *Screening.* (1) In collaboration with each child's parent and with parental consent, and within 45 calendar days of the child's entry into the program, a program must complete a developmental screening to identify concerns regarding a child's

developmental, behavioral, motor, language, social, cognitive, and emotional skills. A program must use one or more research-based developmental standardized screening tools to complete the screening. A program must use as part of the screening additional information from family members, teachers, and relevant staff familiar with the child's typical behavior.

(2) With direct guidance from a mental health or child development professional, as appropriate, a program must promptly and appropriately address any needs identified through screening and additional relevant information through:

(i) Referrals to the local agency responsible for administering IDEA for formal evaluation to assess the child's eligibility for services under IDEA; and,

(ii) Partnership with the child's parents and the relevant local agency to ensure the formal evaluation is completed promptly.

(3) A program is not required to conduct the screening in paragraph (a)(1) of this section for children who have a current IFSP or IEP as long as the program has record of such IFSP or IEP.

(4) If a child is determined to be eligible for IDEA services, the program must partner with parents and the local agency responsible for implementing IDEA, as appropriate, and deliver the services in subpart F of this part.

(5) If, after the formal evaluation described in paragraph (a)(2)(i) of this section, the local agency responsible for implementing IDEA determines the child is not eligible for IDEA under the state definition, but the program determines, with guidance from mental health or child development professional, that the formal evaluation shows the child has a significant delay in one or more areas of development that are likely to interfere with the child's development and school readiness:

(i) The program must ensure appropriate staff partner with parents to meet the child's needs, including accessing needed services and supports; and,

(ii) Program funds may be used for such services and supports when no other sources of funding are available but programs must be able to demonstrate efforts were first made to access other available sources of funding.

(b) *Assessment for individualization.*

(1) A program must conduct standardized and structured assessments for each child that provide ongoing information to evaluate the child's developmental level and

progress in outcomes aligned to the goals described in the Head Start Early Learning Child Outcomes Framework. Such assessments must result in usable information for teachers, home visitors, and parents and be conducted with sufficient frequency to allow for individualization within the program year.

(2) A program must use information from paragraph (b)(1) of this section with informal teacher observations and additional information from family and staff, as relevant, to determine a child's strengths and needs, adjust strategies to better support individualized learning and improve classroom practices in center-based and family child care settings and improve home visit strategies in home based models.

(3) If warranted from the information gathered from paragraphs (b)(1) and (b)(2) of this section and with direct guidance from a mental health or child development professional, a program must refer the child to the local agency responsible for IDEA for a formal evaluation to assess a child's eligibility for IDEA services.

(c) *Characteristics of screenings and assessments.* (1) Screenings and assessments must be valid and reliable for the population and purpose for which they will be used, including by being conducted by qualified personnel, and being age, developmentally, culturally and linguistically appropriate; and appropriate for children with disabilities, as needed.

(2) If a program serves a child who speaks a language other than English, the program must:

(i) Conduct screenings and assessments in the language or languages that best capture the child's development and skills in the specific domain;

(ii) Assess language skills in English and the child's home language, to assess both the child's progress in the home language and in English language acquisition; and,

(iii) Ensure that those conducting the screening or assessment know and understand the child's language and culture and have sufficient skill level in the child's home language to accurately administer the screening or assessment and to record and understand the child's responses, interactions, and communications. If such a person is unavailable, or an interpreter needs to be used to conduct the screening or assessment, the program must use multiple sources of information, including speaking with the family, to best capture the child's development and skill level and progress.

(d) *Prohibitions on use of screening and assessment data.* The use of screening and assessment items and data on any screening or assessment authorized under this subchapter by any agent of the federal government is prohibited for the purposes of ranking, comparing, or otherwise evaluating individual children for purposes other than research, training, or technical assistance and is prohibited for the purposes of providing rewards or sanctions for individual children or teachers. A program must not use screening or assessments to exclude children from enrollment or participation.

#### **§ 1302.34 Parent involvement.**

(a) *In general.* Center-based and family child care programs must structure education and child development services to encourage parents to engage in their child's education.

(b) *Engaging parents and family members.* Such structure must include varied opportunities for parents and family members to be involved in a program's education services and implement policies to ensure:

(1) The program's settings are open to parents during all program hours;

(2) Teachers hold parent conferences, as needed, but no less than two times per program year, to enhance the knowledge and understanding of both staff and parents of the child's education and developmental progress and activities in the program;

(3) Parents and family members have the opportunity to learn about and to provide feedback on selected curricula and instructional materials used in the program;

(4) Parents and family members have opportunities to volunteer in the classroom and during group activities;

(5) Appropriate staff inform parents and family members, about the purposes of and the results from screenings and assessments and discuss their child's progress;

(6) Teachers, except those described in paragraph (b)(7) of this section, conduct two home visits annually with each family, including one before the program year begins, if feasible, to engage the family in the child's learning and development, except that such visits may take place at a program site or another safe location that affords privacy at the parent's request, or if a visit to the home presents significant safety hazards for staff; and,

(7) Teachers that serve migrant or seasonal families make every effort to conduct home visits to engage the

family in the child's learning and development.

#### **§ 1302.35 Education in home-based programs.**

(a) *In general.* A home-based program must implement a research-based curriculum that delivers developmentally, linguistically, and culturally appropriate home visits and group socialization activities that support children's cognitive, social, and emotional growth for later success in school. Such visits and activities must promote secure parent-child relationships and help parents provide high quality learning experiences in language, literacy, mathematics, social and emotional development, approaches to learning, science, physical skills, and creative arts.

(b) *Home-based program design.* A home-based program must ensure that all home visits are:

(1) Planned jointly by the home visitor and parents, and reflect the critical role of parents in the early learning and development of their children;

(2) Planned using information from ongoing assessments that individualize learning experiences;

(3) Scheduled with sufficient time to serve all enrolled children in the home and conducted with parents and are not conducted when only babysitters or other temporary caregivers are present;

(4) Scheduled with sufficient time and appropriate staff to ensure effective delivery of services described in subparts D, E, F, and G of this part through home visiting, to the extent possible.

(c) *Home-based curriculum.* A program that operates the home-based option must:

(1) Ensure home-visiting and group socializations implement an evidence based curriculum that:

(i) Promotes the parent's role as the child's teacher through experiences focused on the parent-child relationship and, as appropriate, the family's traditions, cultural skills, values, and beliefs;

(ii) Aligns with the Head Start Early Learning Outcomes Framework (Birth-5) and, as appropriate, state early learning standards; and,

(iii) Includes organized developmental scope and sequence and is sufficiently content-rich within the Head Start Early Learning Outcomes Framework (Birth-5) to promote measurable progress toward goals outlined in the Framework;

(2) Provide systemic and intensive support for appropriate staff through training, professional development, and

supervision to ensure effective implementation of the curriculum;

(3) Regularly monitor staff implementation of the curriculum and use the monitoring information to improve how effectively the curriculum is implemented; and,

(4) Provide parents with an opportunity to review selected curricula and instructional materials used in the program.

(5) In order to better meet the needs of one or more specific populations, a program may choose to develop or significantly adapt a home-based curriculum, such that it does not meet the requirements in paragraphs (c)(1)(iii) and (c)(3) of this section. If a program chooses to implement such a variation, it must work with early childhood education expert staff or consultants from a college, university, or a research organization, to develop and evaluate the effectiveness of the variation.

Programs must report the use of such variations to the responsible HHS official. Programs must use the evaluation of effectiveness to determine the continued use of such variation, consistent with the process described in Subpart J.

(d) *Home visit experiences.* A program that operates the home-based option must ensure all home visits focus on promoting high quality early learning experiences in the home and growth towards the goals outlined in the Head Start Early Learning Outcomes Framework (Birth-5) and must use such goals and the curriculum to plan home visit activities that implement:

(1) Age and developmentally appropriate, structured child-focused learning experiences;

(2) Strategies and activities that promote parents' ability to support the child's cognitive, social, emotional, and physical development;

(3) Strategies and activities that promote the home as a learning environment that is safe, nurturing, responsive, and language- and communication- rich, and parents' ability to support children's language development and literacy skills;

(4) Research-based strategies and activities for children who are dual language learners that, to the extent possible:

(i) Focus on the development of the home or Native language, while providing experiences that expose both parents and children to English for infants and toddlers; and,

(ii) Focus on both English language acquisition and the continued development of the home or Native language for preschoolers receiving

homes-based services under a locally designed option; and,

(5) Follow-up with the families to discuss learning experiences provided in the home between each visit, address concerns, and inform strategies to promote progress toward school readiness goals.

(e) *Group socialization.* (1) A program that operates the home-based option must ensure that group socializations are planned jointly with families, conducted with both child and parent participation, occur in a classroom, community facility, home or field trip setting, as appropriate.

(2) Group socializations must be structured to:

(i) Provide age appropriate activities for participating children that are intentionally aligned to school readiness goals, the Head Start Early Learning Outcomes Framework (Birth-5) and the home-based curriculum; and

(ii) Encourage parents to share experiences related to their children's development with other parents in order to strengthen parent-child relationships and to help promote parents understanding of child development;

(3) For preschoolers receiving home-based services under a locally designed option, group socializations also must provide opportunities for parents to participate in workshop activities, as appropriate and must emphasize peer group interactions designed to promote children's social, emotional and language development, and progress towards school readiness goals, while encouraging parents to observe and actively participate in activities, as appropriate.

(f) *Screening and assessments.* A program that operates the home-based option must implement provisions in § 1302.33.

#### Subpart D—Health Program Services

##### § 1302.40 In general.

A program must provide high quality health, mental health, and nutrition services that are developmentally and linguistically appropriate and that will support each child's growth and school readiness.

##### § 1302.41 Collaboration and communication with parents.

(a) For all activities described in this part, programs must collaborate with parents as partners in the health and well-being of their children in a linguistically and culturally appropriate manner and communicate with parents about their child's health needs and development concerns in a timely and effective manner.

(b) At a minimum, a program must:

(1) Obtain advance parent or guardian authorization for all health and developmental procedures administered through the program or by contract or agreement, and, maintain written documentation if a parent or guardian refuses to give authorization for health services; and

(2) Share policies for health emergencies that require rapid response on the part of staff or immediate medical attention.

##### § 1302.42 Child health status and care.

(a) *Source of health care.* (1) A program, within 30 calendar days from the child's enrollment, must determine whether each child has ongoing sources of continuous, accessible health care—provided by a health care professional that maintains the child's ongoing health record and is not primarily a source of emergency or urgent care—and health insurance coverage.

(2) If the child does not have such a source of ongoing care and health insurance coverage, the program must assist families in accessing a source of care and health insurance that will meet these criteria, as quickly as possible.

(b) *Ensuring up-to-date child health status.* (1) Within 90 calendar days from the child's enrollment, with the exceptions noted in paragraph (b)(3) of this section, a program must:

(i) Obtain a determination from a health care professional as to whether the child is up-to-date on a schedule of age appropriate preventive and primary medical and oral health care, which incorporates the requirements for a schedule of well-child visits as prescribed by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the State in which they operate, immunization recommendations issued by the Centers for Disease Control and Prevention and any additional recommendations from the local Health Services Advisory Committee that are based on prevalent community health problems;

(ii) Assist parents with making necessary arrangements to bring the child up-to-date as quickly as possible; and

(iii) If necessary directly facilitate provision of health services to bring the child up-to-date, as necessary, with parent consent as described in § 1302.41(b)(1).

(2) Within 45 calendar days of the child's enrollment, a program must either perform or obtain screening procedures to identify concerns regarding a child's visual and auditory sensory development.

(3) If a program operates for 90 days or less, it has 30 days from the date the child enrolled to satisfy paragraphs (b)(1) and (2) of this section.

(4) A program must identify each child's nutritional health needs, taking into account staff and family discussions concerning height, weight, hemoglobin/hematocrit, body mass index and any other relevant nutrition-related assessment data, special dietary requirements, including food allergies, and information about major community nutritional issues, as identified through the community assessment or by the health services advisory committee or the local health department.

(c) *Ongoing care.* (1) A program must help parents continue to follow recommended schedules of well-child and oral health care.

(2) A program must implement periodic observations or other appropriate strategies for program staff and parents to identify any new or recurring medical or mental health concerns.

(3) A program must facilitate and monitor necessary oral health treatment and follow-up, including fluoride supplements and topical fluoride treatments as recommended by oral health professionals in communities where a lack of adequate fluoride levels has been determined or for every child with moderate to severe tooth decay and other necessary preventive measures and further oral health treatment as recommended by the oral health professional.

(d) *Extended follow-up care.* (1) Facilitate further diagnostic testing, examination, and treatment, as appropriate, by a licensed or certified professional for each child with a health or developmental problem; and,

(2) Develop a system to track referrals and services provided and monitor the implementation of a follow-up plan to meet any treatment needs associated with a health or developmental problem.

(3) Assist parents, as needed, in obtaining any prescribed medications, aids or equipment for medical and oral health conditions.

(e) *Use of funds.* Program funds may be used for professional medical and oral health services when no other source of funding is available. When program funds are used for such services, grantee and delegate agencies must have written documentation of their efforts to access other available sources of funding.

**§ 1302.43 Tooth brushing.**

A program must promote effective oral health hygiene by ensuring children age one and over are assisted by appropriate staff, or volunteers, if available, in brushing their teeth once daily.

**§ 1302.44 Child nutrition.**

(a) *Nutrition service requirements.* (1) A program must design and implement nutrition services that meet the nutritional needs of and accommodate the feeding requirements of each child, including children with special dietary needs and children with disabilities.

(2) Specifically, a program must:

(i) Ensure each child in a part-day center-based setting receives meals and snacks that provide at least one third of the child's daily nutritional needs;

(ii) Ensure each child in a center-based full-day program receives meals and snacks that provide one half to two thirds of the child's daily nutritional needs, depending upon the length of the program day;

(iii) Serve 3- to 5-year-olds meals and snacks that conform to USDA requirements in 7 CFR parts 210, 220, and 226, and are high in nutrients and low in fat, sugar, and salt;

(iv) Feed infants and toddlers according to their individual developmental readiness and feeding skills as recommended in USDA requirements outlined in 7 CFR parts 210, 220, and 226, and ensure that infants and young toddlers are fed on demand to the extent possible;

(v) Ensure bottle-fed infants are never laid down to sleep with a bottle;

(vi) Serve all children in morning center-based settings who have not received breakfast upon arrival at the program a nourishing breakfast;

(vii) Provide appropriate snacks and meals to each child during group socialization activities in the home-based option; and,

(viii) Promote breastfeeding, including providing facilities to properly store and handle breast milk and make accommodations, as necessary, for mothers who wish to breastfeed during program hours.

(b) *Payment sources.* A program must use funds from USDA Food and Consumer Services Child Nutrition Programs as the primary source of payment for meal services. Early Head Start and Head Start funds may be used to cover those allowable costs not covered by the USDA.

**§ 1302.45 Child mental health.**

(a) *Wellness promotion.* A program must work with mental health consultants, as needed to implement:

(1) Program-wide positive behavioral practices and supports that promote healthy emotional well-being through effective classroom management and supportive teacher practices;

(2) Strategies for supporting children with challenging behaviors and mental health issues; and

(3) Community partnerships to facilitate access to additional mental health resources and services, as needed.

(b) *Mental health consultants.* (1) A program must have access to mental health consultants to help teachers improve classroom management and teacher practices, that include using classroom observations as needed, to address teacher and individual child needs.

(2) A program must ensure that a mental health consultant is available to partner with staff in a timely and effective manner to identify and intervene in behavioral and mental health concerns, and at the request of parents or staff to address specific concerns.

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

(a) *Parent collaboration.* Programs must collaborate with parents to promote children's health and well-being by providing medical, oral, nutrition, and mental health education support services that are understandable to individuals with low health literacy.

(b) *Opportunities.* (1) Such collaboration must include opportunities for parents to:

(i) Learn about preventive medical and oral health care, emergency first aid, environmental hazards, and safety practices for the home;

(ii) Discuss their child's nutritional status with staff, including the importance of physical activity and learn how to select and prepare nutritious foods that meet the family's nutrition and food budget needs;

(iii) Learn about healthy pregnancy and postpartum care, as appropriate; and,

(iv) Discuss and identify issues related to child mental health and emotional well-being such that staff can solicit parent information and concerns about their child's mental health, share observations, discuss the child's behavior and development, and how to appropriately respond to the child's behaviors.

(v) Learn about appropriate vehicle and pedestrian safety for keeping children safe.

(2) A program must provide ongoing support to assist parents' navigation through health systems to meet the

general health and specifically identified needs of their children and must assist parents:

(i) In understanding how to access health insurance for themselves and their families;

(ii) In understanding the results of diagnostic and treatment procedures as well as plans for ongoing care; and,

(iii) In familiarizing their children with services they will receive while enrolled in the program and to enroll and participate in a system of ongoing family health care.

**§ 1302.47 Safety practices.**

(a) A program must establish, train staff on, implement, and enforce health and safety practices that ensure children are kept safe at all times. Programs should consult *Caring for our Children Basics* for additional information to develop and implement adequate safety policies and practices described in this subpart.

(b) A program must develop and implement a system of management including ongoing training, oversight, correction and continuous improvement in accordance with § 1302.102 that includes policies and practices to ensure all facilities, equipment and materials, background checks, safety training, safety and hygiene practices and administrative safety procedures are adequate to ensure child safety. At a minimum this system must ensure that:

(1) *Facilities.* All facilities where children are served, including areas for learning, playing, sleeping, toileting, and eating are:

(i) Licensed in accordance with § 1302.21(d)(1) and § 1302.23(d);

(ii) Clean and free from pests;

(iii) Free from pollutants, hazards and toxins that are accessible to children and could endanger children's safety;

(iv) Designed to prevent child injury and free from hazards, including choking, strangulation, electrical, and drowning hazards, hazards posed by appliances and all other safety hazards;

(v) Well lit, including emergency lighting;

(vi) Equipped with safety supplies that are readily accessible to staff, including, at a minimum, fully-equipped and up-to-date first aid kits and appropriate fire safety supplies;

(vii) Free from firearms or other weapons that are accessible to children; and,

(viii) Designed to separate toileting and diapering areas from areas for cooking, eating, or children's activities.

(2) *Equipment and materials.* All equipment and materials, including indoor and outdoor equipment and play spaces, including cribs are:

(i) Clean and safe for children's use and are appropriately disinfected;

(ii) Accessible only to children for whom they are age appropriate;

(iii) Meet standards set by CPSC and ASTM;

(iv) Are designed to ensure appropriate supervision of children at all times; and,

(v) Allow for the separation of infants and toddlers from preschoolers during play in center-based programs.

(3) *Background checks.* All staff have complete background checks in accordance with § 1302.90(b).

(4) *Safety training.* All staff have initial orientation training within three months of hire and ongoing training in all state, local, tribal, federal and program developed health, safety and child care requirements to ensure the safety of children in their care; including, at a minimum training in:

(i) Methods for identifying and reporting child abuse and neglect as described in § 1302.92(b)(1);

(ii) CPR and first aid;

(iii) The storage, record and administration of medication;

(iv) Safe sleep practices, including the prevention of Sudden Infant Death Syndrome;

(v) Food safety, including procedures for addressing food allergies;

(vi) The program's emergency and disaster preparedness procedures;

(vii) Infectious disease procedures;

(viii) Sun safety; and,

(ix) Prevention of shaken baby syndrome and head trauma.

(5) *Safety practices.* All staff follow appropriate practices to keep children safe during all activities, including, at a minimum:

(i) Reporting of suspected or known child abuse and neglect, including that staff comply with applicable federal, state, local, or tribal laws;

(ii) Safe sleep practices, including ensuring that all sleeping arrangements for children under 18 months of age use firm mattresses or cots, as appropriate, and for children under 12 months avoid soft bedding materials;

(iii) Appropriate indoor and outdoor supervision of children at all times;

(iv) Only releasing children to an authorized adult, and;

(v) All standards of conduct described in § 1302.90(c).

(6) *Standards of conduct.* Staff properly supervise children at all times, only release children to an authorized adult, and follow all standards of conduct described in § 1302.90(c);

(7) *Hygiene practices.* All staff systematically and routinely implement hygiene practices that at a minimum ensure:

(i) Appropriate toileting, hand washing, and diapering procedures are followed;

(ii) Safe food preparation; and,

(iii) Spills of bodily fluids are handled consistent with standards of the Occupational Safety Health Administration.

(8) *Administrative safety procedures.* Programs establish, follow, and practice, as appropriate, procedures for, at a minimum:

(i) Emergencies;

(ii) Fire prevention and response;

(iii) Protection from contagious disease, including appropriate inclusion and exclusion policies for when a child is ill, and from an infectious disease outbreak, including appropriate notifications of any reportable illness;

(iv) The handling, storage, administration, and record of administration of medication;

(v) Maintaining procedures and systems to ensure that children are only released to an authorized adult; and,

(vi) Child specific health care needs and food allergies that include accessible plans of action for emergencies. For food allergies, a program must also post individual child food allergies prominently where staff can view wherever food is served.

(9) *Disaster preparedness plan.* The program has disaster preparedness and response plans for more and less likely events including natural disasters and violence in or near programs.

(c) A program must report any safety incidents in accordance with § 1302.102(d)(1)(iii).

#### **Subpart E—Family & Community Partnership Program Services**

##### **§ 1302.50 In general.**

(a) A program must integrate parent and family engagement strategies into all systems and program components and develop community partnerships to support family well-being in order to promote child learning and development and foster parental confidence and skills that will promote the early learning and development of their children.

(b) A program must:

(1) Promote shared responsibility with parents for children's early learning and development, provide parents with information about the importance of their child's regular attendance, and partner with parents, as necessary, to promote consistent attendance;

(2) Develop relationships with parents and structure services to encourage trust and respectful ongoing two-way communication between staff and parents to create welcoming program

environments that are responsive to and reflect the unique cultural, ethnic, and linguistic backgrounds of families in the program and community, including conducting family engagement services in the family's preferred language, or through an interpreter, to the extent possible;

(3) Implement intentional strategies to engage parents in their children's learning and development, including specific strategies for father engagement;

(4) Provide parents with opportunities to participate in the program as employees or volunteers;

(5) Offer families the choice of sharing personal information in an environment in which they feel safe, and allow this to occur at the same time as the home visit conducted by the child's teacher; and,

(6) Implement procedures for teachers, home visitors, and family support staff to share information with each other, as appropriate, to ensure coordinated family engagement strategies with children and families in the classroom, home, and community.

##### **§ 1302.51 Parent activities to promote child learning and development.**

(a) A program must recognize parents as a child's primary influence and implement family engagement strategies that are designed to foster parental confidence and skills in promoting children's learning and development, including parent child-activities that support language and literacy development.

(b) A program must, at a minimum, offer opportunities for parents to participate in research-based parenting curriculum in which they practice parenting skills and developmentally appropriate parent-child activities to foster confidence and skills in promoting children's learning and development.

##### **§ 1302.52 Family partnership services.**

(a) *Family partnership process.* A program must implement a family partnership process that includes the sequence of activities described in this section to support family well-being, to support child learning and development, to foster parental confidence and skills that promote the early learning and development of their children. The process must be initiated as early in the program year as possible and continue for as long as the family participates in the program, based on parent interest and need.

(b) *Identification of family strengths and needs.* A program must implement intake and assessment procedures together with parents to identify family

strengths and needs in the areas listed, as appropriate, in the Head Start Parent Family and Community Engagement Framework. These areas must include family well-being and financial stability, parent-child relationships and parenting skill development, parent engagement and involvement in child education, parent literacy, adult and post-secondary education, and employment, transitions within and between the early learning and school environment, family connections to peers and the local community, and parent leadership in the program and community.

(c) *Individualized family partnership services.* A program must offer parents the opportunity to collaborate with staff to identify, prioritize, and access individualized family partnership services and supports. Such services and supports may be accessed through the program or through community partnerships to address identified family strengths and needs, including, as appropriate, pathways to achieving family goals. To support family access to individualized family partnership services and supports, a program must:

(1) Take into consideration the urgency and intensity of identified family needs and goals and assign appropriate staff based on such needs and goals and the availability of program resources;

(2) Implement strategies to ensure that both parents and staff are aware of, intentionally measure progress towards, and evaluate whether identified needs and goals are met, and take alternative actions, if necessary.

(d) *Existing plans and community resources.* In implementing this section, a program must take into consideration any existing plans for the family made with other community agencies and availability of other community resources to address family needs, strengths, and goals, in order to avoid duplication of effort.

#### **§ 1302.53 Community partnerships.**

(a) *Community systems.* A program must take an active role in promoting coordinated systems of comprehensive early childhood services to low-income children and families in their community through communication, cooperation, and the sharing of information among agencies and their community partners, in accordance with the program's confidentiality policies.

(b) *Partnerships.* (1) A program must establish ongoing collaborative relationships and partnerships with community organizations such as establishing joint agreements, procedures, or contracts and arranging for onsite delivery of services as

appropriate, to facilitate access of children and families to community services that are responsive to their strengths, needs, and goals as described in § 1302.52 and to community needs, as determined by the community assessment described in § 1302.11(b).

(2) A program must establish necessary collaborative relationships and partnerships, with community organizations that may include:

(i) Health care providers, including child and adult mental health professionals, dentists, other health professionals, nutritional service providers, providers of prenatal and postnatal support, and substance abuse treatment providers;

(ii) Individuals and agencies that provide services to children with disabilities and their families, elementary schools, state preschool providers, and providers of child care services;

(iii) Family preservation and support services and child protective services and any other agency to which child abuse must be reported under state or tribal law;

(iv) Educational and cultural institutions, such as libraries and museums, for both children and families;

(v) Temporary Assistance for Needy Families, nutrition, and housing assistance agencies, workforce development and training programs, adult or family literacy, adult education, and post-secondary education institutions, and agencies or financial institutions that provide asset-building education, products and services to enhance family financial stability and savings;

(vi) Providers of support to homeless children and families, including local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*);

(vii) Agencies that are funded by federal or state entities for the design, development, or implementation of a statewide data system including early childhood programs;

(viii) Domestic violence prevention and support providers; and,

(ix) Any other organizations or businesses that may provide support and resources to families.

(c) *Health services advisory committee.* Each grantee directly operating an Early Head Start or Head Start program, and each delegate agency, must establish and maintain a Health Services Advisory Committee, which includes Head Start parents, professionals, and other volunteers from the community.

(d) *Memorandum of understanding.* A program must enter into a memorandum of understanding with the appropriate local entity responsible for managing publicly funded preschool programs in the service area of the program, as described in section 642(e)(5) of the Act.

(e) *Quality Rating and Improvement Systems.* A program should participate in their state or local Quality Rating and Improvement System if their state or local system has been validated to show that the tiers accurately reflect differential levels of quality, are related to progress in learning and development, and build toward school readiness and that Head Start programs are able to participate in the same way as other early childhood programs in the state.

### **Subpart F—Additional Services for Children With Disabilities**

#### **§ 1302.60 In general.**

A program must ensure enrolled children with disabilities, including but not limited to those who are eligible for IDEA services, and their families receive all applicable program services and fully participate in all program activities.

#### **§ 1302.61 Additional services for children.**

(a) *Additional services for children with disabilities.* Programs must ensure the individualized needs of children with disabilities, including but not limited to those eligible for IDEA services, are being met and all children have access to and can fully participate in the full range of activities and services. Programs must provide any necessary modifications to the environment, multiple and varied formats for instruction, and individualized accommodations and supports as necessary to support the full participation of children with disabilities. Programs must ensure that all individuals with disabilities are protected from discrimination under and provided with all services and program modifications required by section 504 of the Rehabilitation Act (29 U.S.C. 794), the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*), and their implementing regulations.

(b) *Services during IDEA eligibility determination.* While the local agency responsible for implementing IDEA determines a child's eligibility, a program must provide individualized services and supports, to the maximum extent possible, to meet the child's needs.

(c) *Additional services for children with an IFSP or IEP.* To ensure the



individualized needs of children eligible for IDEA services are met, programs must:

(1) Work closely with the local agency responsible for implementing the IDEA, the family, and other service partners, as appropriate, to ensure:

(i) Services for a child with disabilities will be planned and delivered as required by their IFSP or IEP, as appropriate;

(ii) Children are working towards the goals in their IFSP or IEP;

(iii) Elements of the IFSP or IEP that the program cannot implement are implemented by other appropriate agencies; and,

(iv) IFSP's and IEP's are being revised and updated as required and needed;

(2) Plan and implement the transition services described in subpart G of this part, including at a minimum:

(i) For children with an IFSP who are transitioning out of Early Head Start, collaborate with the parents, and the local agency responsible for the implementation of IDEA, to ensure appropriate steps are undertaken in a timely and appropriate manner to determine the child's eligibility for services under Part B of IDEA; and,

(ii) For children with an IEP who are transitioning out of Head Start to kindergarten, collaborate with the parents, and the local agency responsible for the implementation of IDEA, to ensure steps are undertaken in a timely and appropriate manner to support the child and family as they transition to a new setting.

#### **§ 1302.62 Additional services for parents.**

(a) *Parents of all children with disabilities.* (1) A program must collaborate with parents of children with disabilities, including but not limited to children eligible for IDEA, to ensure the needs of their children are being met, including support to help parents become advocates for services that meet their children's needs and information and skills to help parents understand their child's disability and how to best support the child's development;

(2) A program must assist parents to access services and resources for their family, including securing adaptive equipment and devices, creating linkages to family support programs, and helping parents establish eligibility for additional support programs, as needed and practicable.

(b) *Parents of children eligible for IDEA services.* For parents of children eligible for IDEA services, programs must also help parents:

(1) Understand the referral, evaluation, and service timelines required under IDEA;

(2) Actively participate in the eligibility process and IFSP or IEP development process with the local agency responsible for implementing IDEA, including by informing parents of their right to invite the program to participate in all meetings;

(3) Understand the purposes and results of evaluations and services provided under an IFSP or IEP; and,

(4) Ensure their children's needs are accurately identified in, and addressed through, the IFSP or IEP.

#### **§ 1302.63 Coordination and collaboration with the local agency responsible for implementing IDEA.**

(a) A program must coordinate with the local agency responsible for implementing IDEA to identify children enrolled or who intend to enroll in a program that may be eligible for IDEA services, including through the process described in § 1302.33(a)(2) and through participation in the local agency Child Find efforts.

(b) A program must work to develop interagency agreements with the local agency responsible for implementing IDEA to improve service delivery to children eligible for IDEA services, including the referral and evaluation process, service coordination, and transition services and, other appropriate agencies that would improve service delivery to children with disabilities.

(c) A program must participate in the development of the IFSP or IEP if requested by the child's parents, and the implementation of the IFSP or IEP. At a minimum, the program must offer:

(1) To provide relevant information from its screenings, assessments, and observations to the team developing a child's IFSP or IEP; and,

(2) To participate in meetings with the local agency responsible for implementing the IDEA to develop or review an IEP or IFSP for a child being considered for Head Start enrollment, a currently enrolled child, or a child transitioning from a program.

(d) A program must retain a copy of the IEP or IFSP for any child enrolled in Head Start for the time the child is in the program, consistent with the IDEA requirements in 34 CFR parts 300 and 303.

### **Subpart G—Transition Services**

#### **§ 1302.70 Transitions from Early Head Start.**

(a) *Implementing transition strategies and practices.* An Early Head Start program must implement strategies and

practices to support successful transitions for children and their families transitioning out of Early Head Start.

(b) *Timing for transitions.* To ensure the most appropriate placement and service following participation in Early Head Start, such programs must, at least six months prior to each child's third birthday, implement transition planning for each child and family that:

(1) Takes into account the child's developmental level and health status, progress made by the child and family while in Early Head Start, current and changing family circumstances and, the availability of Head Start, other public pre-kindergarten, and other early education and child development services in the community that will meet the needs of the child and family; and,

(2) Transitions the child into Head Start or another program as soon as possible after their third birthday but permits the child to remain in Early Head Start for a limited number of additional months following their third birthday if necessary for an appropriate transition.

(c) *Family collaborations.* A program must collaborate with parents of Early Head Start children to implement strategies and activities that support successful transitions from Early Head Start, and at a minimum, provide information about the child's progress during the program year and provide strategies for parents to continue their involvement in and advocacy for the education and development of their child.

(d) *Early Head Start and Head Start collaboration.* Early Head Start and Head Start programs must work together to maximize enrollment transitions, from Early Head Start to Head Start, consistent with the eligibility provisions in subpart A of this part, and promote successful transitions through collaboration and communication.

(e) *Transition services for children with an IFSP.* A program must provide additional transition services for children with an IFSP, at a minimum, as described in subpart F of this part.

#### **1302.71 Transitions from Head Start to kindergarten.**

(a) *Implementing transition strategies and practices.* A program that serves children who will enter kindergarten in the following year must implement transition strategies to support a successful transition to kindergarten.

(b) *Family collaborations for transitions.* (1) A program must collaborate with parents of enrolled children to implement strategies and



activities that will help parents advocate for and promote successful transitions to kindergarten for their children, including their continued involvement in the education and development of their child.

(2) At a minimum, such strategies and activities must:

(i) Help parents understand their child's progress during Head Start;

(ii) Help parents understand and use the parenting practices that will effectively provide academic and social support for their children during their transition to kindergarten and foster their continued involvement in the education of their child;

(iii) Prepare parents to exercise their rights and responsibilities concerning the education of their children in the elementary school setting, including the availability and appropriateness of participation for their child in language instruction educational programs, including those focused on Native language instruction; and,

(iv) Assist parents in the ongoing communication with teachers and other school personnel so that parents can participate in decisions related to their children's education.

(c) *Community collaborations for transitions.* (1) A program must collaborate with local education agencies to support parental involvement under section 642(b)(13) of the Act and state departments of education, as appropriate, and kindergarten teachers to implement strategies and activities that promote successful transitions to kindergarten for children, their families, and the elementary school.

(2) At a minimum, such strategies and activities must include:

(i) Coordination with schools or other appropriate agencies to ensure children's relevant records are transferred to the school or next placement in which a child will enroll, consistent with privacy requirements in part 1303 of this chapter;

(ii) Communication between appropriate staff and their counterparts in the schools to facilitate continuity of learning and development, consistent with privacy requirements in subpart C of part 1303 of this chapter; and,

(iii) Participation, as possible, for joint training and professional development activities for Head Start and kindergarten teachers and staff.

(3) A program that does not operate during the summer must collaborate with school districts to determine the availability of summer school programming for children who will be entering kindergarten and work with parents and school districts to enroll

children in such programs, as appropriate.

(d) *Learning environment activities.* A program must implement strategies and activities in the learning environment that promote successful transitions to kindergarten for enrolled children, and at a minimum, include approaches that familiarize children with the transition to kindergarten and foster confidence about such transition.

(e) *Transition services for children with an IEP.* A program must provide additional transition services for children with an IEP, at a minimum, as described in subpart F of this part.

#### **§ 1302.72 Transitions between programs.**

(a) For families and children moving out of the community in which they are currently served, including homeless families and foster children, a program must undertake efforts to support effective transitions to other Early Head Start or Head Start programs.

(b) A program that serves children whose families have decided to transition them to other high quality early education programs, including public pre-kindergarten, in the year prior to kindergarten entry must undertake strategies and activities described in § 1302.71(b), (c)(1), and (c)(2), as practicable and appropriate.

(c) A migrant and seasonal Head Start program must undertake efforts to support effective transitions to other migrant and seasonal Head Start, Early Head Start, or Head Start programs for families and children moving out of the community in which they are currently served.

### **Subpart H—Services to Enrolled Pregnant Women**

#### **§ 1302.80 Enrolled pregnant women.**

(a) Within 30 days of enrollment, a program must determine whether each pregnant woman has an ongoing source of continuous, accessible health care—provided by a health care professional that maintains her ongoing health record and is not primarily a source of emergency or urgent care—and, as appropriate, health insurance coverage;

(b) If the enrolled pregnant woman does not have such a source of ongoing care and, as appropriate, health insurance coverage, a program must, as quickly as possible, facilitate her access to such a source of care that will meet their needs; and,

(c) A program must facilitate the ability of all enrolled pregnant women to access comprehensive services through referrals that, at a minimum, include nutritional counseling, food assistance, oral health care, mental

health services, substance abuse prevention and treatment, and emergency shelter or transitional housing in cases of domestic violence.

#### **§ 1302.81 Prenatal and postpartum services.**

(a) A program must provide enrolled pregnant women, fathers, and partners or other relevant family members the prenatal and postpartum services that address, as appropriate, prenatal and postpartum education, fetal development, the importance of nutrition, the risks of alcohol, drugs, and smoking, labor and delivery, postpartum recovery, infant care and safe sleep practices, and the benefits of breastfeeding.

(b) A program must also address, as appropriate, supports for emotional well-being, nurturing and responsive caregiving, and father engagement during pregnancy and early childhood.

#### **§ 1302.82 Family partnership services for enrolled pregnant women.**

(a) A program must engage enrolled pregnant women and other relevant family members in the family partnership services as described in § 1302.52 and include a specific focus on factors that influence prenatal and postpartum maternal and infant health.

(b) A program must provide a health staff visit to each mother and newborn within two weeks after the infant's birth to ensure the well-being of both the mother and the child; and,

(c) A program must engage enrolled pregnant women in discussions about program options, plan for the infant's transition to program enrollment, and support the mother during the transition process, where appropriate.

### **Subpart I—Human Resources Management**

#### **§ 1302.90 Personnel policies.**

(a) *In general.* A program must establish written personnel policies and procedures that are approved by the policy council or policy committee.

(b) *Recruitment and selection procedures for all staff.* (1) Before an individual is hired, a program must conduct an interview, verify references, and obtain the following to ensure child safety:

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

(B) Federal Bureau of Investigation criminal history records, including fingerprint checks; and,

(ii) Clearance through child abuse and neglect registry, if available; and,

(iii) Clearance through sex offender registries, if available.

(2) Within 90 days after an employee is hired, a program must complete the background check process by obtaining whichever check listed in (b)(1)(i) was not obtained prior to employment.

(3) A program must review each employment application to assess the relevancy of any issue uncovered by the complete background check including any arrest, pending criminal charge, or conviction and must use State licensing disqualification factors in any employment decisions.

(4) A program must conduct a complete background check as described at paragraph (b) of this section for each staff member at least once every five years.

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

(6) A program must conduct the background screening described in paragraphs (b)(1)(ii) and (iii) of this section for individuals with whom the agencies contract to transport children.

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

(i) Ensure staff behavior does not endanger the health or safety of children, including, at a minimum, that staff must not:

- (A) Use corporal punishment;
- (B) Use isolation to discipline a child;
- (C) Bind or tie a child to restrict movement or tape a child's mouth;
- (D) Use or withhold food as a punishment or reward;
- (E) Use toilet learning/training methods that punish, demean, or humiliate a child;

(F) Use any form of emotional abuse, including rejecting, terrorizing, extended ignoring, or corrupting a child;

(G) Physically abuse or maltreat a child;

(H) Use abusive, profane, sarcastic language or verbal abuse, threats, or derogatory remarks about the child or child's family;

(I) Use any form of public or private humiliation; and,

(J) Take away a child's physical activity/outdoor time as punishment;

(ii) Ensure staff respect and promote the unique identity of each child and family and refrain from stereotyping on the basis of gender, race, ethnicity, culture, religion, disability, or family composition;

(iii) Require staff comply with program confidentiality policies concerning information about children, families, and other staff members; and,

(iv) Ensure no child is left alone or unsupervised by staff while under their care.

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

(d) *Communication with dual language learners and their families.* (1) A program must ensure staff and program consultants 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 families with limited English proficiency.

(2) If a majority of children in a classroom or home-based program speak the same language, at least one classroom staff member or home visitor must speak such language.

#### **§ 1302.91 Staff qualification requirements.**

(a) *In general.* A program must ensure that all staff and consultants, including family service, health, and disabilities staff and consultants providing program services have sufficient knowledge, training and experience to fulfill the roles and responsibilities of their positions and to ensure high quality service delivery in accordance with the program performance standards.

(b) *Early Head Start center-based teachers.* As prescribed in section 645A(h) of the Act, a program must ensure:

(1) All center-based teachers that provide direct services to infants and toddlers in Early Head Start centers have a minimum of a Child Development Associate (CDA) credential, and have been trained or have equivalent coursework in early childhood development with a focus on infant and toddler development; and,

(2) All center-based teachers demonstrate competency to provide effective and nurturing teacher-child interactions, plan and implement high quality learning experiences that ensure effective curriculum implementation and promote children's progress across the standards described in the Head Start Early Learning Outcomes Framework (Birth-5);

(c) *Head Start center-based teachers.* The Secretary must ensure that no less than fifty percent of all Head Start teachers, nationwide, have a baccalaureate degree in child development, early childhood education, or equivalent coursework. As prescribed in section 648A(a)(2)(A) of the Act, a program must ensure:

(1) All center-based teachers have at least an associate's or bachelor's degree in child development or early childhood education, or equivalent coursework; and,

(2) All center-based teachers demonstrate competency to provide effective and nurturing teacher-child interactions, plan and implement learning experiences that ensure effective curriculum implementation and promote children's progress across the standards described in the Head Start Early Learning Outcomes Framework (Birth-5) and applicable State early learning and development standards, including for children eligible for IDEA.

(d) *Head Start assistant teachers.* As prescribed in section 648A(a)(2)(B)(ii) of the Act, a program must ensure all Head Start assistant teachers, at a minimum, have a CDA credential, are, are enrolled in a program that will lead to an associate or baccalaureate degree or, are enrolled in a CDA credential program to be completed within two years of the time of hire.

(e) *Education coordinators.* As prescribed in section 648A(a)(2)(B)(i) of the Act, a program must ensure staff and consultants that serve as education coordinators, including those that serve as curriculum specialists, have a baccalaureate or advanced degree in early childhood education or a baccalaureate or advanced degree and equivalent coursework in early childhood education with early education teaching experience.

(f) *Home visitors.* A program must ensure home visitors providing home-based education services:

(1) Have a minimum of a home-based CDA credential, or equivalent coursework as part of an associate's or bachelor's degree, and have training or experience in early childhood education, prenatal and child development, strength-based parent education, and family support; and the knowledge of community resources to link families with appropriate agencies and services; and,

(2) Demonstrate competency to plan and implement home-based learning experiences that ensure effective implementation of the home visiting curriculum and promote children's progress across the standards described in the Head Start Early Learning Outcomes Framework (Birth-5).

(g) *Family child care providers.* (1) A program must ensure that family child care providers have previous early child care experience and, at a minimum, are enrolled in a Family Child Care CDA program or state equivalent, or an associates or baccalaureate degree program in child development or early childhood education prior to beginning service provision. In addition, the program must ensure family child care providers acquire the CDA credential, at

a minimum, within eighteen months of beginning service provision.

(2) A program that operates a family child-care option must make substitute staff and assistant providers with the necessary training and experience available to ensure quality services to children are not interrupted.

(3) At the time of hire, a child development specialist must have, at a minimum, an associate degree in child development or early childhood education.

(h) *Additional staff qualifications.* (1) A program must use staff or consultants, who are registered dietitians or nutritionists, to support nutrition services.

(2) A program must use staff or consultants, who are licensed or certified mental health professionals, to support mental health services.

(3) A program must assess staffing needs in order to meet federal financial management requirements and secure regularly scheduled or ongoing services of a fiscal officer qualified to meet their needs.

(i) *Early Head Start or Head Start director.* If a program hires an Early Head Start or Head Start director after the effective date of this regulation, it must ensure the director has either a baccalaureate or an advanced degree, at a minimum, and experience in staff and fiscal management.

#### **§ 1302.92 Training and professional development.**

(a) A program must provide to all new staff, consultants, and volunteers an orientation that focuses on, at a minimum, the goals and underlying philosophy of the program and on the ways they are implemented.

(b) A program must establish and implement a systematic approach to staff training and development designed to assist staff in acquiring or increasing the knowledge and skills needed to provide high quality services within the scope of their job responsibilities, and attached to academic credit as appropriate. At a minimum, the system must include:

(1) Training on methods to handle suspected or known child abuse and neglect cases, that comply with applicable federal, state, local, or tribal laws;

(2) Training on best practices to support parent engagement strategies, as described in §§ 1302.50 and 1302.52, and training for family services staff and home visitors on the knowledge and skills outlined in the relationship based competencies;

(3) Research-based approaches to professional development for teachers,

assistant teachers, home visitors, and family child care providers, that are focused on effective curricula implementation, knowledge of the content in Head Start Early Learning Outcomes Framework (Birth-5) providing effective and nurturing teacher-child interactions, supporting dual language learners as appropriate, addressing challenging behaviors, preparing children for transitions (as described in subpart G of this part), and improving child outcomes for all children; and,

(4) A coordinated coaching strategy that aligns with the program's school readiness goals, curricula, and other approaches to professional development, and that:

(i) Utilizes a coach with adequate training and experience in using assessment data to drive coaching strategies aligned with program performance goals;

(ii) Ensures the coach has training or experience in adult learning; and,

(iii) Ensures ongoing communication between the coach, program director, education director, and any other relevant staff.

(5) Coaching strategies must include:

(i) Clearly articulated goals informed by the program's performance goals, as described in § 1302.102(a), and a process for achieving those goals;

(ii) An assessment for all education staff to identify areas of needed support to achieve program performance goals;

(iii) At a minimum, for education staff who would benefit the most from intensive coaching, opportunities to be observed and receive feedback and modeling of effective teacher practices directly related to program performance goals;

(iv) At a minimum, for education staff members who do not need intensive coaching, opportunities to receive other forms of research-based professional development aligned with program performance goals, which may include a group coaching approach; and,

(v) Policies that ensure needs assessment results are not used to solely determine punitive actions for staff identified as needing support, without providing time and resources for staff to improve.

(c) A program must ensure all teachers, assistant teachers, home visitors, and family child care providers complete a minimum of 15 clock hours of professional development per year through the professional development system described in paragraph (b) of this section.

(d) If a program wishes to develop an approach to professional development to better meet the training needs of

program staff, the program may adapt or be exempt from the requirements in paragraphs (b)(4) and (5) of this section, if the program works with early childhood education expert staff or consultants from a college, university, or a research organization, to develop and evaluate the effectiveness of the professional development. Programs must report the use of such variations to the responsible HHS official. Programs must use the evaluation of effectiveness to determine the continued use of such professional development consistent with the process laid out in subpart J of this part.

#### **§ 1302.93 Staff health and wellness.**

(a) A program must ensure each staff member has an initial health examination (that includes screening for tuberculosis) and a periodic re-examination (as recommended by their health care provider or as mandated by state, tribal, or local laws). The program must ensure staff do not, because of communicable diseases, pose a significant risk to the health or safety of others in the program that cannot be eliminated or reduced by reasonable accommodation, in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

(b) A program must make mental health and wellness information available to staff regarding health issues that may affect their job performance.

#### **§ 1302.94 Volunteers.**

(a) A program must ensure that regular volunteers have been screened for tuberculosis in accordance with state, tribal or local laws. In the absence of state, tribal or local law, the Health Services Advisory Committee must be consulted regarding the need for such screenings.

(b) A program must ensure children are never left under the sole supervision of volunteers.

### **Subpart J—Program Management and Quality Improvement**

#### **§ 1302.100 In general.**

A program must provide management and a process of ongoing monitoring and self-improvement for achieving program performance goals that ensures child safety and the continuous delivery of effective, high quality program services.

#### **§ 1302.101 Management system.**

(a) *Implementation.* A program must implement a management system with adequate record keeping for effective oversight of all program areas that:

(1) Includes program directors and management staff who provide oversight

for all program areas, to enable delivery of high quality services in all of the program services described in subparts C, D, E, F, G, and H of this part;

(2) Provides regular and ongoing supervision to support individual staff professional development and continuous program quality improvement; and,

(3) Ensures budget and staffing patterns to promote continuity of care for all children enrolled that provide sufficient time for staff to participate in appropriate training and professional development, and for provision of the full range of services described in subparts C, D, E, F, G, and H of this part.

(b) *Coordinated approaches.* At the beginning of each program year, and on an ongoing basis throughout the year, a program must design and implement program-wide coordinated approaches that ensure:

(1) The system of training and professional development, as described in § 1302.92, effectively supports staff delivery and continuous improvement of high quality services;

(2) The full and effective participation of children who are dual language learners and their families, by providing services with appropriate program materials, curriculum, instruction, staffing, supervision, and partnerships, at a minimum;

(3) The full and effective participation of all children with disabilities, including but not limited to children eligible for IDEA services, by providing services with appropriate facilities, program materials, curriculum, instruction, staffing, supervision, and partnerships, at a minimum, consistent with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act; and

(4) The data system and data governance procedures effectively support the overall management of Head Start data, including the availability, usability, integrity, and security of data. As part of these procedures, a program should:

(i) Identify a data governance body or council with clear roles and responsibilities, establish a framework for decision-making and/or procedures on data management, including how data quality will be monitored, how data will be shared while protecting privacy and confidentiality, a plan to execute those procedures, and an accountability structure for meeting these requirements;

(ii) Consult with the Head Start State Collaboration Office and/or the state's Early Childhood Advisory Council (HSSCO/ECAC) and the State Educational Agency (SEA) in

developing these procedures, as appropriate;

(iii) Integrate Head Start data with other early childhood data systems or sources and work with the state's K–12 Statewide Longitudinal Data System to share relevant data, to the extents practicable; and

(iv) Align Head Start data collection and definitions, where possible, with the Common Education Data Standards.

#### **§ 1302.102 Achieving program performance goals.**

(a) *Establishing program performance goals.* A program, in collaboration with the governing body and policy council, must establish goals and measurable objectives that include:

(1) Effective health and safety practices to ensure children are safe at all times, per the requirements in §§ 1302.47, 1302.90(b) and (c), 1302.92(b)(1), 1302.94, and part 1303, subpart F of this chapter.

(2) School readiness goals that are aligned with the Head Start Early Learning Outcomes Framework (Birth–5), state and tribal early learning standards, as appropriate, and requirements and expectations of schools Head Start children will attend, per the requirements of subpart B of part 1304 of this chapter;

(3) Goals for the provision of educational, health, nutritional, and family and community engagement services as described in the program performance standards to further promote the school readiness of enrolled children; and

(4) Strategic long-term goals for ensuring programs are and remain responsive to community needs as identified in their community assessment as described in subpart A of this part.

(b) *Monitoring program performance.*

(1) *Ongoing compliance oversight and correction.* In order to ensure effective ongoing oversight and correction, a program must establish and implement ongoing oversight procedures that ensure effective implementation of the program performance standards, including ensuring child safety, and other applicable federal regulations as described in this part, and must:

(i) Correct quality and compliance issues immediately, or as quickly as possible;

(ii) Work with the governing body and the policy council to address issues during the ongoing oversight and correction process and during federal oversight; and,

(iii) Implement procedures that prevent recurrence of previous quality and compliance issues, including

previously identified deficiencies, safety incidents, and audit findings.

(2) *Ongoing assessment of program performance goals.* Programs must effectively oversee progress towards performance goals on an ongoing basis and annually must:

(i) Conduct a self-assessment that evaluates the program's progress towards meeting goals established under paragraph (a) of this section, using aggregated child assessment data where applicable, compliance with program performance standards throughout the program year, and the effectiveness of the professional development and family engagement systems in promoting school readiness, using classroom, professional development, and parent and family engagement data, as appropriate;

(ii) Communicate and collaborate with the governing body or policy council, program staff, and parents of enrolled children when conducting the annual self-assessment; and,

(iii) Submit findings of the self-assessment, including information listed in paragraph (b)(3)(i) of this section to the responsible HHS official.

(c) *Using data for continuous improvement.* (1) A program must implement a process for using data to identify program strengths and needs, develop and implement plans that address program needs, and continually evaluate progress towards achieving program performance goals described in paragraph (a) of this section and complying with program performance standards.

(2) This process must:

(i) Ensure data is aggregated, analyzed and compared in such a way to assist agencies in identifying risks and informing strategies for continuous improvement in all program service areas;

(ii) Ensure child assessment data is aggregated and analyzed at least three times a year, including for sub-groups, such as dual language learners and children with disabilities, as appropriate, and used with other program data to direct continuous improvement related to curriculum choice and implementation, teaching practices, professional development, program design and other program decisions, including changing or targeting scope of services; and,

(iii) Use lessons from ongoing monitoring and the annual self-assessment, and program data on standardized teacher observations, staffing and professional development, child assessments, family needs assessments, and comprehensive services, to identify program needs, and

develop, and implement plans for program improvement; and,

(iv) Use program improvement plans as needed to either strengthen or adjust content and strategies for professional development, change program scope and services, refine school readiness and other program performance goals, and use strategies to better address the needs of sub-groups.

(d) *Reporting.* (1) A program must submit:

(i) Status reports, determined by ongoing oversight data, to the governing body and policy council, at least semi-annually;

(ii) Reports, as appropriate, to the responsible HHS official immediately or as soon as practicable, related to any risk affecting the health and safety of program participants;

(iii) Reports, as appropriate, to the responsible HHS official immediately or as soon as practicable, regarding circumstances affecting the financial viability of the program, or program involvement in legal proceedings, including at a minimum:

(A) Any matter for which notification or a report to state, tribal, or local authorities is required by applicable law;

(B) Any reports regarding agency staff or volunteer compliance with federal, state, tribal, or local laws governing sex offenders or laws addressing child abuse and neglect;

(C) Incidents that require classrooms or centers to be closed for any reason;

(D) Legal proceedings by any party that involve the program, management, program staff, or volunteer as a party; and,

(E) All conditions required to be reported under § 1304.13 of this chapter.

(2) Annually, a program must release a report that complies with section 644(a)(2) of the Act and includes the community needs assessment as described in § 1302.11(b), consistent with privacy protections in subpart C of part 1303 of this chapter.

(3) If a program has had a deficiency identified, it must submit, to the responsible HHS official, a quality improvement plan as required in section 641A(e)(2) of the Act.

### **1302.103 Implementation of program performance standards.**

(a) A current program at the time of the publication of this part, must implement a program-wide approach for the effective and timely implementation of the changes to the program performance standards, including the purchase of materials and allocation of staff time, as appropriate.

(b) A program's approach to implementation of the changes included

in parts 1301 through 1304 of this chapter must ensure:

(1) Adequate preparation for effective and timely service delivery to children and their families including, at a minimum, review of community assessment data to determine the most appropriate strategy for implementing any slot reductions, as necessary, the purchase of and training on any curriculum, assessment, or other materials, as needed, assessment of program-wide professional development needs, assessment of staffing patterns, the development of coordinated approaches described in § 1302.101(b), and the development of appropriate protections for data sharing; and

(2) Currently enrolled children are not displaced during a program year and that children leaving Early Head Start or Head Start at the end of the program year following the publication of this rule as a result of any slot reductions received services described in § 1302.72 to facilitate successful transitions to other programs.

(c) A program may request a one year extension from the responsible HHS official of the requirements outlined in §§ 1302.21(c)(1), 1302.22(c)(1) and 1302.23(c), if an extension is necessary to ensure currently enrolled children are not displaced from the Early Head Start or Head Start program as described in paragraph (b)(2) of this section.

## **PART 1303—FINANCIAL AND ADMINISTRATIVE REQUIREMENTS**

Sec.

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

### **§ 1303.1 Overview**

Section 641A of the Act requires that the Secretary modify as necessary program performance standards including administrative and financial management standards (section 641A(a)(1)(C)). This part specifies the financial and administrative requirements of agencies. Subpart A outlines the financial requirements consistent with sections 640(b) and 644(b) and (c) of the Act. Subpart B of this part specifies the administrative requirements consistent with sections 644(a)(1), 644(e), 653, 654, 655, 656, and 657A of the Act. Subpart C of this part implements the statutory provision at section 641A(b)(4) of the Act that directs the Secretary to ensure the confidentiality of any personally identifiable data, information, and records collected or maintained. Subpart D of this part prescribes regulations for the operation of delegate agencies consistent with section 641(A)(d) of the Act. Subpart E of this part implements the statutory requirements in section 644(c), (f) and (g) of the Act related to facilities. Subpart F of this part prescribes

regulations on transportation consistent with section 640(i) of the Act.

### Subpart A—Financial Requirements

#### § 1303.2 In general.

This subpart establishes regulations applicable to program administration and grants management for all grants under the Act.

#### § 1303.3 Other requirements.

The following chart includes HHS regulations that apply to all grants made under the Act:

Cite	Title
45 CFR part 16.	Department grant appeals process.
45 CFR part 30.	HHS Standards and Procedures for Claims collection.
45 CFR part 46.	Protection of human subjects.
45 CFR part 75.	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
45 CFR part 80.	Nondiscrimination under programs receiving federal assistance through the Department of Health and Human Services—Effectuation of title VI of the Civil Rights Act of 1964.
45 CFR part 81.	Practice and procedure for hearings under part 80.
45 CFR part 84.	Nondiscrimination on the basis of handicap in federally assisted programs.
45 CFR part 87.	Equal treatment for faith based organizations.
2 CFR 170	FFATA Sub-award and executive compensation.
2 CFR 25.110.	CCR/DUNS requirement.

#### § 1303.4 Federal financial assistance, non-federal share matching and waiver requirements.

In accordance with section 640(b) of the Act, federal financial assistance to a grantee will not exceed 80 percent of the approved total program costs. A grantee must contribute 20 percent as non-federal share match each budget period. The responsible HHS official may approve a waiver of all or a portion of the non-federal share matching requirement on the basis of the grantee's written application submitted during the budget period and any supporting evidence the responsible HHS official requires. In deciding whether to grant a waiver, the responsible HHS official will consider the circumstances specified at section 640(b) of the Act and whether the grantee has made a reasonable effort to comply with the non-federal share matching requirement.

#### § 1303.5 Limitations on development and administrative costs.

(a) *In general.* (1) Costs to develop and administer a program cannot be excessive or exceed 15% of the total approved program costs. Allowable costs to develop and administer a Head Start program cannot exceed 15 percent of the total approved program costs, which includes both federal costs and non-federal match, unless the responsible HHS official grants a waiver under paragraph (b) of this section that approves a higher percentage in order to carry out the purposes of the Act.

(2) To assess total program costs and determine whether a grantee meets the requirement specified in paragraph (a) of this section, the grantee must:

(i) Determine the costs of developing and administering its program, including the local costs of necessary resources;

(ii) Categorize total costs as development and administrative or program costs;

(iii) Identify and allocate the portion of dual benefits costs that are for development and administration;

(iv) Identify and allocate the portion of indirect costs that are for development and administration versus program costs; and,

(v) Delineate all development and administrative costs in the grant application and calculate the percentage of total approved costs allocated to development and administration.

(b) *Waivers.* (1) The responsible HHS official may grant a waiver for each budget period of a specific time not to exceed 12 months, if a delay or disruption to program services is caused by circumstances beyond the agency's control, or if an agency is unable to administer the program within the 15 percent limitation and if the agency can demonstrate efforts to reduce its development and administrative costs.

(2) If at any time within the grant funding cycle, a grantee estimates development and administration costs will exceed 15 percent of total approved costs, it must submit a waiver request to the responsible HHS official that explains why costs exceed the limit, that indicates the time period the waiver will cover, and that describes what the grantee will do to reduce its development and administrative costs to comply with the 15 percent limit after the waiver period.

### Subpart B—Administrative Requirements

#### § 1303.10 In general.

A grantee must observe standards of organization, management, and

administration that will ensure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of the Act and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism.

#### § 1303.11 Limitations and prohibitions.

An agency must adhere to sections 644(e), 644(g)(3), 653, 654, 655, 656, and 657A of the Act. These sections pertain to union organizing, the Davis-Bacon Act, limitations on compensation, nondiscrimination, unlawful activities, political activities, and obtaining parental consent.

#### § 1303.12 Insurance and bonding.

An agency must have an ongoing process to identify risks and have cost-effective insurance for those identified risks; a grantee must require the same for its delegates. The agency must specifically consider the risk of accidental injury to children while participating in the program. The grantee must submit proof of appropriate coverage in its initial application for funding. The process of identifying risks must also consider the risk of losses resulting from fraudulent acts by individuals authorized to disburse Head Start funds. Consistent with 45 CFR part 75, if the agency lacks sufficient coverage to protect the federal government's interest, the agency must maintain adequate fidelity bond coverage.

### Subpart C—Protections for the Privacy of Child Records

#### § 1303.20 In general.

A program must establish procedures to ensure the protection of the confidentiality of any personally identifiable information in child records and which procedures meet the requirements in §§ 1303.21 through 1303.24 and applicable definitions in part 1305 of this chapter.

#### § 1303.21 Program procedures—Applicable confidentiality provisions.

If a program is an educational agency or institution subject to the confidentiality provisions under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99, it must comply with those confidentiality provisions of FERPA and those provisions govern (if they differ in any respect) from the provisions in §§ 1303.20 through 1303.24. A program must also comply with the confidentiality provisions under the Individuals with Disabilities Education Act (IDEA) under either 34 CFR 300.610

through 300.626 (Part B of IDEA) or 34 CFR 303.401 through 303.417 (Part C of IDEA) to protect the personally identifiable information in records of children served by the Head Start or Early Start program who are also eligible for, or receiving services, under Parts B and C of the IDEA and those provisions under the IDEA govern (if they differ in any respect) from the provisions in §§ 1303.20 through 1303.24 and the provisions in FERPA.

**§ 1303.22 Disclosures with, and without, parental consent.**

*(a) Disclosure with parental consent.*

(1) Subject to the provisions referenced in § 1303.21 and the exceptions in paragraph (b) and (c) of this section, the procedures must require the program to obtain a parent's written consent before the program may disclose personally identifiable information from child records.

(2) The procedures must require the program to ensure that the parent's written consent specifies what child records will be disclosed and explains why and to whom the records will be disclosed. The written consent must be signed and dated.

(3) "Signed and dated written consent" under this part may include a record and signature in electronic form that—

(i) Identifies and authenticates a particular person as the source of the electronic consent; and

(ii) Indicates such person's approval of the information.

(4) The program must explain to the parent that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (*i.e.*, it does not apply to an action that occurred before the consent was revoked).

*(b) Disclosure without parental consent but with parental notice and opportunity to refuse.* Subject to the provisions in § 1303.21, the procedures must allow the program to disclose personally identifiable information from child records without parental consent if the program notifies the parent about the disclosure, provides the parent, upon the parent's request, a copy of the personally identifiable information from child records to be disclosed in advance, and gives the parent an opportunity to challenge and refuse disclosure of the information in the records, before the program forwards the records to officials at a program, school, or school district in which the child seeks or intends to enroll or where the child is already enrolled so long as the

disclosure is related to the child's enrollment or transfer.

*(c) Disclosure without parental consent.* Subject to the provisions referenced in § 1303.21, the procedures must allow the program to disclose personally identifiable information from child records without parental consent to:

(1) Officials within the program or acting for the program (*i.e.* individuals in the Head Start or Early Head Start program who provide program services to the child), if the program determines the official has legitimate educational interests and informs parents of this provision at enrollment;

(2) Authorized representatives of local, state or federal officials in connection with the audit or evaluation of Federally or State-supported education, including early childhood, programs, or for enforcement of, or compliance with, the Federal legal requirements of these programs; Provided, that except when collection of personally identifiable information is specifically authorized by Federal law, the official agrees in writing (not including any authorized representative of the responsible HHS officials) that any data collected shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials and their authorized representatives, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements;

(3) Organizations that conduct studies to improve child and family outcomes, including improving the quality of programs, for, or on behalf of, the program, as long as the organization agrees in writing to protect personally identifiable information from disclosure to individuals other than representatives of the organization conducting the study that have a legitimate interest in the information, to use personally identifiable information for specific purposes intended, and to destroy personally identifiable information when no longer needed for the purpose for which the research was conducted;

(4) Appropriate parties in order to address a disaster or other health or safety emergency during the period of the emergency, if the program determines that disclosing the personally identifiable information from child records are necessary to protect the health or safety of children or other persons;

(5) Comply with a judicial order or lawfully issued subpoena, provided the program makes a reasonable effort to

notify the parent about all such subpoenas and court orders in advance of the compliance therewith, except if:

(i) A disclosure is in compliance with a federal grand jury subpoena or with any other subpoena that a court has issued and has ordered that neither the subpoena nor its contents be disclosed or

(ii) A parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the program is not required;

(6) The Secretary of Agriculture or an authorized representative from the Food and Nutrition Service to conduct program monitoring, evaluations, and performance measurements for the Child and Adult Care Food Program under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, if the results will be reported in an aggregate form that does not identify any individual: provided, that any data collected must be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary of Agriculture and any personally identifiable data must be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements; and,

(7) A caseworker or other representative from a state, local, or tribal child welfare agency, who has the right to access a case plan for a child who is in foster care placement, when such agency is legally responsible for the child's care and protection, under state or tribal law, if the agency agrees in writing to protect personally identifiable information, to use information from the child's case plan for specific purposes intended of addressing the child's needs, and to destroy information that is no longer needed for those purposes.

*(d) Written agreements.* If a program establishes a written agreement with a third party identified in paragraph (c) of this section, the procedures must require the program to review and update the agreement annually, if necessary, and to prohibit the third party from access to records for at least 5 years, if the third party violates the agreement.

*(e) Annual notice.* The procedures must require the program to annually notify parents of their rights in writing described in §§ 1303.20 through



1303.24, and applicable definitions in part 1305, and include in that notice, a description of the personally identifiable information that may be disclosed without parental consent.

#### **§ 1303.23 Parents' rights.**

(a) *Inspect record.* A parent has the right to inspect child records. If the parent requests to inspect child records, the program must make the child records available within a reasonable time, but no more than 45 days after receipt of request. If a program maintains child records that contain information on more than one child, the program must ensure the parent only inspects information that pertains to the parent's child.

(b) *Amend record.* (1) A parent has the right to ask the program to amend information in the child record that the parent believes is inaccurate, misleading, or violates the child's privacy.

(2) The program must consider the parent's request and, if the request is denied, render a written decision to the parent within a reasonable time that informs the parent of the right to a hearing.

(c) *Hearing.* (1) If the parent requests a hearing to challenge information in the child record, the program must schedule a hearing within a reasonable time, notify the parent, in advance, about the hearing, and ensure the person who conducts the hearing does not have a direct interest in its outcome.

(2) The program must ensure the hearing affords the parent a full and fair opportunity to present evidence relevant to the issues.

(3) If the program determines from evidence presented at the hearing that the information in the child records is inaccurate, misleading, or violates the child's privacy, the program must either amend or remove the information and notify the parent in writing.

(4) If the program determines from evidence presented at the hearing that information in the child records is accurate, does not mislead, or otherwise does not violate the child's privacy, the program must inform the parent of the right to place a statement in the child records that either comments on the contested information or that states why the parent disagrees with the program's decision, or both.

(d) *Right to copy of record.* The program must provide a parent, free of charge, an initial copy of child records disclosed to third parties with parental consent and, upon parent request, an initial copy of child records disclosed to third parties under one of the

exceptions to parental consent in §§ 1303.21, and 1303.22(b) and (c).

(e) *Right to inspect written agreements.* A parent has the right to review any written agreements with third parties as provided under § 1303.22(d).

#### **§ 1303.24 Maintaining records.**

(a) A program must maintain child records in a manner that ensures only parents, and officials within the program or acting for the program have access.

(b) A program must maintain, with the child records, for as long as the records are maintained, information on all individuals, agencies, or organizations to whom a disclosure of personally identifiable information from the child records was made (except for program officials and parents) and that indicates their expressed interests in the child records. If a program uses a web-based data system to maintain child records, the program must ensure that such child records are adequately protected and maintained according to current industry security standards.

(c) If a parent places a statement in the child record in accordance with § 1303.23(c)(4), the program must maintain the statement with the contested part of the child record for as long as the program maintains the record and, disclose the statement whenever it discloses the portion of the child record to which the statement relates.

### **Subpart D—Delegation of Program Operations**

#### **§ 1303.30 In general.**

A grantee is accountable for the services its delegate agencies provide. The grantee supports, oversees and ensures delegate agencies provide high quality services to children and families and meet all applicable Head Start requirements. The grantee can only terminate a delegate agency if the grantee shows cause why termination is necessary and provides a process for delegate agencies to appeal termination decisions. The grantee retains legal responsibility and authority and bears financial accountability for the program when services are provided by delegate agencies.

#### **§ 1303.31 Determining and establishing delegate agencies.**

(a) If a grantee enters into an agreement with another entity to serve children, the grantee must determine whether the agreement meets the definition of "delegate agency" in section 637(3) of the Act.

(b) A grantee must not award a delegate agency federal financial assistance unless there is a written agreement and the responsible HHS official approves the agreement before the grantee delegates program operations.

#### **§ 1303.32 Evaluations and corrective actions for delegate agencies.**

A grantee must evaluate and ensure corrective action for delegate agencies according to section 641A(d) of the Act.

#### **§ 1303.33 Termination of delegate agencies.**

(a) If a grantee shows cause why termination is appropriate or demonstrates cost effectiveness, the grantee may terminate a delegate agency's contract.

(b) The grantee's decision to terminate must not be arbitrary or capricious.

(c) The grantee must establish a process for defunding a delegate agency, including an appeal of a defunding decision and must ensure the process is fair and timely.

(d) The grantee must notify the responsible HHS official about the appeal and its decision.

### **Subpart E—Facilities**

#### **§ 1303.40 In general.**

This subpart prescribes what a grantee must establish to show it is eligible to purchase, construct and renovate facilities as outlined at section 644(c), (f) and (g) of the Act. It explains how a grantee may apply for funds, details what measures a grantee must take to protect federal interest in facilities purchased, constructed or renovated with grant funds, and concludes with other administrative provisions. This subpart applies to major renovations. It only applies to minor renovations and repairs, when they are included with a purchase application and are part of purchase costs.

#### **§ 1303.41 Approval of previously purchased facilities.**

If a grantee purchased a facility beginning in 1987, and continues to pay purchase costs for the facility or seeks to refinance current indebtedness, the grantee may apply for funds to meet those costs. The grantee must submit an application that conforms to requirements in this part and in the Act to the responsible HHS official. If the responsible HHS official approves the grantee's application, the grantee may only use the funds to pay purchase costs, which include amortizing, principal, and interest on loans.



**§ 1303.42 Eligibility to purchase, construct, and renovate facilities.**

(a) *Preliminary eligibility.* Before a grantee can apply for funds to purchase, construct, or renovate a facility under § 1303.44, it must establish that:

(1) The facility will be available to Indian tribes, or rural or other low-income communities;

(2) The proposed purchase, construction or major renovation is within the grantee's designated service area; and,

(3) The proposed purchase, construction or major renovation is necessary because the lack of suitable facilities in the grantee's service area will inhibit the operation of the program.

(4) If applying to construct a facility, that the construction of such facility is more cost-effective than the purchase of available facilities or renovation.

(b) *Proving a lack of suitable facilities.* To satisfy paragraph (a)(3) of this section, the grantee must have a written statement from a licensed independent certified appraiser in the grantee's service area that supports factors the grantee considers and supports how the grantee determines there are no other suitable facilities in the area.

**§ 1303.43 Use of grant funds to pay fees.**

A grantee may submit a written request to the responsible HHS official for reasonable fees and costs necessary to determine preliminary eligibility under § 1303.42 before it submits an application under § 1303.44. If the responsible HHS official approves the grantee's application, the grantee may use federal funds to pay fees and costs.

**§ 1303.44 Applications to purchase, construct, and renovate facilities.**

(a) *Application requirements.* If a grantee is preliminarily eligible under § 1303.42 to apply for funds to purchase, construct, or renovate a facility, it must submit to the responsible HHS official:

(1) A statement that explains the anticipated effect the proposed purchase, construction or renovation has had or will have on program enrollment, activities and services, and how it determined what the anticipated effect would be;

(2) A deed or other document showing legal ownership of the real property where facilities activity is proposed, legal description of the facility site, and an explanation why the location is appropriate for the grantee's service area;

(3) Plans and specifications for the facility, including square footage, structure type, the number of rooms the

facility will have or has, how the rooms will be used, where the structure will be positioned or located on the building site, and whether there is space available for outdoor play and for parking;

(4) Certification by a licensed engineer or architect that the facility is, or will be upon completion, structurally sound and safe for use as a Head Start facility and that the facility complies, or will comply upon completion, with local building codes, applicable child care licensing requirements, the access requirements of the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, the Flood Disaster Protection Act of 1973, and the National Historic Preservation Act of 1966;

(5) A description of proposed renovations or repairs to make the facility suitable for program activities, and plans and specification that describe the facility after renovation or repair;

(6) A proposed schedule that details when the grantee will acquire, renovate, repair and occupy the facility;

(7) An estimate, from a licensed independent certified appraiser, of the facility's fair market value after proposed purchase, construction, renovation or repair activities;

(8) The cost comparison described in § 1303.45;

(9) A statement that shows what share of the purchase, construction, or major renovation will be paid with grant funds and what the grantee proposes to contribute as a nonfederal match to the purchase, construction or major renovation;

(10) A statement from a lender, if a grantee applies to use Head Start funds to continue purchase on a facility or refinance existing debt on a facility that indicates the lender is willing to comply with § 1303.49;

(11) The terms of any proposed or existing loan(s) related to purchase, construction or major renovation of the facility, including copies of any funding commitment letters, mortgages, promissory notes, potential security agreements to be entered into, information on all other sources of funding, construction or major renovation, and any restrictions or conditions imposed by other funding sources;

(12) A Phase I environmental site assessment that describes the environmental condition of the proposed facility site and any structures on the site; and,

(13) A description of the efforts by the grantee to coordinate or collaborate with other providers in the community to

seek assistance, including financial assistance, prior to the use of funds under this section;

(14) Any additional information the responsible HHS official may require.

(b) *Additional requirements for leased properties.* (1) If a grantee applies to renovate leased property, it must submit to the responsible HHS official information described in paragraph (a) of this section, an official a copy of the existing or proposed lease agreement, and the landlord or lessor's consent.

(2) If a grantee applies to purchase a modular unit it intends to site on leased property or on other property the grantee does not own, the grantee must submit to the responsible HHS official information described in paragraph (a) of this section and a copy of the proposed lease or other occupancy agreement which will allow the grantee access to the modular unit for at least 15 years.

(c) *Non-federal match.* Any non-federal match associated with facilities activities becomes part of the federal share of the facility.

**§ 1303.45 Cost-comparison to purchase, construct, and renovate facilities.**

(a) *Cost comparison.* (1) If a grantee proposes to purchase, construct, or renovate a facility, it must submit a detailed cost estimate of the proposed activity, compare the costs associated with the proposed activity to other available alternatives in the service area, and provide any additional information the responsible HHS official requests. The grantee must demonstrate that the proposed activity will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out program.

(2) In addition to requirements in paragraph (a)(1) of this section, the grantee must:

(i) Identify who owns the property;

(ii) List all costs related to the purchase, construction, or renovation;

(iii) Identify costs over the structure's useful life, which is at least 20 years for a facility that the grantee purchased or constructed and at least 15 years for a modular unit the grantee renovated, and deferred costs, including mortgage balloon payments, as costs with associated due dates; and,

(iv) Demonstrated how the proposed purchase, construction, or major renovation is consistent with program management and fiscal goals, community needs, enrollment and program options and how the proposed facility will support the grantee as it provides quality services to children and families.

(b) *Continue purchase or refinance.* To use funds to continue purchase on a facility or to refinance an existing indebtedness, the grantee must compare the costs of continued purchase against the cost of purchasing a comparable facility in the service area over the remaining years of the facility's useful life. The grantee must demonstrate that the proposed activity will result in savings when compared to the cost that would be incurred to acquire the use of an alternative facility to carry out the program.

(c) *Multi-purpose use.* If the grantee intends to use a facility to operate a Head Start program and for another purpose, it must disclose what percentage of the facility will be used for non-Head Start activities, along with costs associated with those activities, in accordance with applicable cost principles.

**§ 1303.46 Recording and posting notices of federal interest.**

(a) *Survival of federal interest.* A grantee that receives funds under this subpart must file notices of federal interest as set forth in paragraph (b) of this section. Federal interest cannot be defeated by a grantee's failure to file a notice of federal interest.

(b) *Recording notices of federal interest.* (1) If a grantee uses federal funds to purchase real property or a facility, excluding modular units, appurtenant to real property, it must record a notice of federal interest in the official real property records for the jurisdiction where the facility is or will be located. The grantee must file the notice of federal interest as soon as it uses Head Start funds to either fully or partially purchase a facility or real property where a facility will be constructed or as soon as it receives permission from the responsible HHS official to use Head Start funds to continue purchase on a facility.

(2) If a grantee uses federal funds in whole or in part to construct a facility, it must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to construct the facility.

(3) If a grantee uses federal funds to renovate a facility that it, or a third party owns, the grantee must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to renovate the facility.

(4) If a grantee uses federal funds in whole or in part to purchase a modular unit or to renovate a modular unit, the

grantee must post the notice of federal interest, in clearly visible locations, on the exterior of the modular unit and inside the modular unit.

**§ 1303.47 Contents of notices of federal interest.**

(a) *Facility and real property a grantee owns.* A notice of federal interest for a facility, other than a modular unit, and real property the grantee owns or will own, must include:

(1) The grantee's correct legal name and current mailing address;

(2) A legal description of the real property;

(3) Grant award number, amount and date of initial facilities funding award or initial use of base grant funds for ongoing purchase or mortgage payments;

(4) Acknowledgement that the notice of federal interest includes funds awarded in grant award(s) and any Head Start funds subsequently used to purchase, construct or to make major or minor renovations on the real property;

(5) A statement that the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations;

(6) A statement that the facility and real property will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

(7) A statement that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer of the property to another party or any other action the grantee takes without the responsible HHS official's written permission;

(8) A statement that proves the grantee disclosed to the governing body that it filed a notice of federal interest and that shows the date the governing body approved a copy of the proposed notice of federal interest; however, the governing bodies' failure to approve a copy of the proposed notice of federal interest does not defeat the federal interest and,

(9) The name, title, and signature of the person who drafted the notice.

(b) *Facility leased by a grantee.* (1) A notice of federal interest for a leased facility, excluding a modular unit, on land the grantee does not own, must be recorded in the official real property records for the jurisdiction where the facility is located and must include:

(i) The grantee's correct legal name and current mailing address;

(ii) A legal description of affected real property;

(iii) The grant award number, amount and date of initial funding award or

initial use of base grant funds for major renovation;

(iv) Acknowledgement that the notice of federal interest includes any Head Start funds subsequently used to make major renovations on the affected real property;

(v) A statement the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations; and,

(vi) The lease or occupancy agreement that includes information from paragraphs (a)(1) through (9) of this section may be recorded in the official real property records for the jurisdiction where the facility is located.

(2) If a grantee cannot file the lease or occupancy agreement described in paragraph (b)(1)(vi) of this section in the official real property records for the jurisdiction where the facility is located, it may file an abstract. The abstract must include the names and addresses of parties to the lease or occupancy agreement, terms of the lease or occupancy agreement, and information described in paragraphs (a)(1) through (9) of this section.

(c) *Modular units.* A notice of federal interest on a modular unit the grantee purchased or renovated must be visible and clearly posted on the exterior of the modular and inside the modular and must include:

(1) The grantee's correct legal name and current mailing address;

(2) The grant award number, amount and date of initial funding award or initial use of base grant funds to purchase or renovate;

(3) Proof that the notice of federal interest includes any Head Start funds subsequently used to renovate the modular unit;

(4) A statement that the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations;

(5) A statement that the modular unit will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

(6) A statement that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer to another party, or any other action the grantee takes without the responsible HHS official's written permission;

(7) A statement that the modular unit cannot be moved to another location without the responsible HHS official's written permission;

(8) A statement that confirms the grantee disclosed to the agency's

governing body that it filed a notice of federal interest and the date the governing body approved a copy of the proposed notice of federal interest; however, the governing bodies' failure to approve a copy of the proposed notice of federal interest does not defeat the federal interest and,

(9) The name, title, and signature of the person who completed the notice for the grantee agency.

**§ 1303.48 Grantee limitations on federal interest.**

(a) *In general.* A grantee cannot mortgage, use as collateral for a credit line or for other loan obligations, or, sell or transfer to another party, a facility, real property, or a modular unit it has purchased, constructed or renovated with Head Start funds, without the responsible HHS official's written permission.

(b) *Limitations.* A grantee must have the responsible HHS official's written permission before it can use real property, a facility, or a modular unit subject to federal interest for a purpose other than that for which the grantee's application was approved.

**§ 1303.49 Protection of federal interest in mortgage agreements.**

(a) Any mortgage agreement or other security instrument that is secured by real property or a modular unit constructed or purchased in whole or in part with federal funds or subject to renovation with federal funds must:

(1) Specify that the responsible HHS official can intervene in case the grantee defaults on, terminates or withdraws from the agreement;

(2) Designate the responsible HHS official to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;

(3) Include a clause that requires any action to foreclose the mortgage agreement or security agreement be suspended for 60 days after the responsible HHS official receives the default notice to allow the responsible HHS official reasonable time to respond;

(4) Include a clause that preserves the notice of federal interest and the grantee's obligation for its federal share if the responsible HHS official fails to respond to any notice of default provided under this section;

(5) Include a statement that requires the responsible HHS official to be paid the federal interest before foreclosure proceeds are paid to the lender, unless the official's rights under the notice of federal interest have been subordinated by a written agreement in conformance with § 1303.51;

(6) Include a clause that gives the responsible HHS official the right to cure any default under the agreement within the designated period to cure the default; and,

(7) Include a clause that gives the responsible HHS official the right to assign or transfer the agreement to another interim or permanent grantee.

(b) A grantee must immediately notify the responsible HHS official about any default under a real property or mortgage agreement.

**§ 1303.50 Third party leases and occupancy arrangements.**

(a) If a grantee receives federal funds to construct or renovate a facility on real property the grantee does not own or to purchase or renovate a modular unit on real property the grantee does not own, the grantee must have a lease or other occupancy agreement of at least 30 years for construction of a facility and at least 15 years for a major renovation or placement of a modular unit.

(b) The lease or occupancy agreement must:

(1) Provide for the grantee's right of continued use and occupancy of the leased or occupied premises during the entire term of the lease;

(2) Designate the regional grants management officer to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;

(3) Specify that the responsible HHS official has the right to cure any default under the lease or occupancy agreement within the designated period to cure default; and,

(4) Specify that the responsible HHS official has the right to transfer the lease to another interim or replacement grantee.

**§ 1303.51 Subordination of the federal interest.**

Only the responsible HHS official can subordinate federal interest to the rights of a lender or other third party if the official agrees in writing, the mortgage agreement or security agreement for which subordination is requested complies with § 1303.49, and, the amount of federal funds already contributed to the facility does not exceed the amount provided by the lender seeking subordination.

**§ 1303.52 Insurance, bonding and maintenance.**

(a) *In general.* If a grantee uses federal funds to purchase or continue purchase on a facility, excluding modular units, the grantee must obtain a title insurance policy for the purchase price that names

the responsible HHS official as an additional loss payee.

(b) *Insurance coverage.* (1) If a grantee uses federal funds to purchase or continue purchase on a facility or modular unit the grantee must maintain physical damage or destruction insurance at the full replacement value of the facility, for as long as the grantee owns or occupies the facility.

(2) If a facility is located in an area the National Flood Insurance Program defines as high risk, the grantee must maintain flood insurance for as long as the grantee owns or occupies the facility.

(3) A grantee must submit to the responsible HHS official, within 10 days after coverage begins, copies of insurance papers.

(c) *Maintenance.* A grantee must keep all facilities purchased or constructed in whole or in part with Head Start funds in good repair in accordance with all applicable federal state and local laws, rules and regulations, including Head Start requirements, zoning requirements, building codes, health and safety regulations and child care licensing standards.

**§ 1303.53 Copies of documents.**

A grantee must submit to the responsible HHS official, within 10 days after filing or execution, copies of deeds, leases, loan instruments, mortgage agreements, notices of federal interest, and other legal documents related to the purchase, construction, renovation, or the discharge of any debt secured by the facility.

**§ 1303.54 Record retention.**

A grantee must retain records pertinent to the lease, purchase, construction or renovation of a facility funded in whole or in part with Head Start funds, for as long as the grantee owns or occupies the facility, plus 3 years.

**§ 1303.55 Procurement procedures.**

(a) A grantee must comply with all grants management regulations, including specific regulations applicable to transactions in excess of the current simplified acquisition threshold, cost principles, and its own procurement procedures, and must provide, to the maximum extent practical, open and full competition.

(b) A grantee must obtain the responsible HHS official's written approval before it uses Head Start funds, in whole or in part, to contract construction or renovation services. The grantee must ensure these contracts are paid on a lump sum fixed-price basis.

(c) A grantee must obtain prior written approval from the responsible

HHS official for contract modifications that would change the scope or objective of a project or would materially alter the costs, by increasing the amount of grant funds needed to complete the project.

(d) A grantee must ensure all construction and renovation contracts paid, in whole or in part with Head Start funds contain a clause that gives the responsible HHS official or his or her designee access to the facility, at all reasonable times, during construction and inspection.

#### **§ 1303.56 Inspection of work.**

The grantee must submit to the responsible HHS official a final facility inspection report by a licensed engineer or architect within 30 calendar days after the project is completed. The inspection report must certify that the facility complies with local building codes, applicable child care licensing requirements, is structurally sound and safe for use as a Head Start facility, complies with the access requirements of the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act of 1973 and the Flood Disaster Protection Act of 1973, and complies with National Historic Preservation Act of 1966.

### **Subpart F—Transportation**

#### **§ 1303.70 In general.**

(a) *Applicability.* This subpart applies to all agencies, including those that provide transportation services, with the exceptions and exclusions provided in this section, regardless of whether such transportation is provided directly on agency owned or leased vehicles or through arrangement with a private or public transportation provider.

(b) *Providing transportation services.* (1) If a program does not provide transportation services, either for all or a portion of the children, it must provide reasonable assistance to the families of such children to arrange transportation to and from its activities, and provide information about these transportation options in recruitment announcements.

(2) A program that provides transportation services must make reasonable efforts to coordinate transportation resources with other human services agencies in its community in order to control costs and to improve the quality and the availability of transportation services.

(3) A program that provides transportation services must ensure that all accidents involving vehicles that transport children are reported in

accordance with applicable State requirements.

(c) *Waiver.* (1) A program that provides transportation services must comply with all provisions in this subpart. A Head Start program may request to waive a specific requirement in this part, in writing, to the responsible HHS official, as part of an agency's annual application for financial assistance or amendment and must submit any required documentation the responsible HHS official deems necessary to support the waiver. The responsible HHS official is not authorized to waive any requirements with regard to children enrolled in an Early Head Start program. A program may request a waiver when:

(i) Adherence to a requirement in this part would create a safety hazard in the circumstances faced by the agency; and, (ii) For preschool children, compliance with requirements related to child restraint systems at §§ 1303.71(d) and 1303.72(a)(1) or bus monitors at § 1303.72(a)(4) of this chapter will result in a significant disruption to the program and the agency demonstrates that waiving such requirements is in the best interest of the children involved.

(2) The responsible HHS official is not authorized to waive any requirements of the Federal Motor Vehicle Safety Standards (FMVSS) made applicable to any class of vehicle under 49 CFR part 571.

#### **§ 1303.71 Vehicles.**

(a) *Required use of schools buses or allowable alternative vehicles.* A program, with the exception of transportation services to children served under a home-based option, must ensure that all vehicles used or purchased with grant funds to provide transportation services to enrolled children are school buses or allowable alternate vehicles that are equipped for use of height- and weight-appropriate child restraint systems, and that have reverse beepers.

(b) *Emergency equipment.* A program must ensure that each vehicle used in providing such services is equipped with an emergency communication system and appropriate emergency safety equipment, including a seat belt cutter, charged fire extinguisher, and first aid kit.

(c) *Auxiliary seating.* A program must ensure that any auxiliary seating, such as temporary or folding jump seats, used in vehicles of any type providing such services are built into the vehicle by the manufacturer as part of its standard design, are maintained in proper working order, and are inspected as part

of the annual inspection required under paragraph (f) of this section.

(d) *Child restraint systems.* A program must ensure that each vehicle used to transport children receiving such services is equipped for use of height- and weight-appropriate child safety restraint systems.

(e) *Vehicle maintenance.* (1) A program must ensure vehicles used to provide such services are in safe operating condition at all times.

(2) The program must:

(i) At a minimum, conduct an annual thorough safety inspection of each vehicle through an inspection program licensed or operated by the state; (ii) Carry out systematic preventive maintenance on vehicles; and, (iii) Ensure each driver implements daily pre-trip vehicle inspections.

(f) *New vehicle inspection.* A program must ensure that bid announcements for school buses and allowable alternate vehicles to transport children in its program include correct specifications and a clear statement of the vehicle's intended use. The program must ensure that vehicles are examined at delivery to ensure that they are equipped in accordance with the bid specifications and that the manufacturer's certification of compliance with the applicable FMVSS is included with the vehicle.

#### **§ 1303.72 Vehicle operation.**

(a) *Safety.* A program must ensure that:

(1) Vehicles seat each child in a child restraint system appropriate to the child's height and weight;

(2) Baggage and other items transported in the passenger compartment are properly stored and secured, and the aisles remain clear and the doors and emergency exits remain unobstructed at all times;

(3) Up-to-date child rosters and lists of the adults each child is authorized to be released to, including alternates in case of emergency, are maintained and no child is left behind, either at the classroom or on the vehicle at the end of the route; and,

(4) With the exception of transportation services to children served under a home-based option, there is at least one bus monitor on board at all times, with additional bus monitors provided as necessary.

(b) *Driver qualifications.* A program, with the exception of transportation services to children served under a home-based option, must ensure that drivers, at a minimum:

(1) In states where such licenses are granted, have a valid Commercial Driver's License (CDL) for vehicles in the same class as the vehicle the driver will operating; and,

(2) Meet any physical, mental, and other requirements as necessary to perform job-related functions with any necessary reasonable accommodations.

(c) *Driver application review.* In addition to the applicant review process prescribed § 1302.90(b) of this chapter, a program, with the exception of transportation services to children served under a home-based option, must ensure the applicant review process for drivers includes, at minimum:

(1) Disclosure by the applicant of all moving traffic violations, regardless of penalty;

(2) A check of the applicant's driving record through the appropriate state agency, including a check of the applicant's record through the National Driver Register, if available in the state;

(3) A check that drivers qualify under the applicable driver training requirements in the state or tribal jurisdiction; and,

(4) After a conditional employment offer to the applicant and before the applicant begins work as a driver, a medical examination, performed by a licensed doctor of medicine or osteopathy, establishing that the individual possesses the physical ability to perform any job-related functions with any necessary accommodations.

(d) *Driver training.* (1) A program must ensure any person employed as a driver receives training prior to transporting any enrolled child and receives refresher training each year.

(2) Training must include:

(i) Classroom instruction and behind-the-wheel instruction sufficient to enable the driver to operate the vehicle in a safe and efficient manner, to safely run a fixed route, to administer basic first aid in case of injury, and to handle emergency situations, including vehicle evacuation, operate any special equipment, such as wheelchair lifts, assistance devices or special occupant restraints, conduct routine maintenance and safety checks of the vehicle, and maintain accurate records as necessary; and,

(ii) Instruction on the topics listed in § 1303.75 related to transportation services for children with disabilities.

(3) A program must ensure the annual evaluation of each driver of a vehicle used to provide such services includes an on-board observation of road performance.

(e) *Bus monitor training.* A program must train each bus monitor before the monitor begins work, on child boarding and exiting procedures, how to use child restraint systems, completing any required paperwork, how to respond to emergencies and emergency evacuation procedures, how to use special

equipment, child pick-up and release procedures, how to conduct and pre- and post-trip vehicle checks. Bus monitors are also subject to staff safety training requirements in § 1303.47(b)(4) including CPR and first aid.

#### **§ 1303.73 Trip routing.**

(a) A program must consider safety of the children it transports when it plans fixed routes.

(b) A program must also ensure:

(1) The time a child is in transit to and from the program must not exceed one hour unless there is no shorter route available or any alternative shorter route is either unsafe or impractical;

(2) Vehicles are not loaded beyond maximum passenger capacity at any time;

(3) Drivers do not back up or make "U" turns, except when necessary for safety reasons or because of physical barriers;

(4) Stops are located to minimize traffic disruptions and to afford the driver a good field of view in front of and behind the vehicle;

(5) When possible, stops are located to eliminate the need for children to cross the street or highway to board or leave the vehicle;

(6) Either a bus monitor or another adult escorts children across the street to board or leave the vehicle if curbside pick-up or drop off is impossible; and,

(7) Drivers use alternate routes in the case of hazardous conditions that could affect the safety of the children who are being transported, such as ice or water build up, natural gas line breaks, or emergency road closing.

#### **§ 1303.74 Safety procedures.**

(a) A program must ensure children who receive transportation services are taught safe riding practices, safety procedures for boarding and leaving the vehicle and for crossing the street to and from the vehicle at stops, recognition of the danger zones around the vehicle, and emergency evacuation procedures, including participating in an emergency evacuation drill conducted on the vehicle the child will be riding.

(b) A program that provides transportation services must ensure that at least two bus evacuation drills are conducted during the program year.

#### **§ 1303.75 Children with disabilities.**

(a) A program must ensure that there are school buses or allowable alternate vehicles adapted or designed for transportation of children with disabilities available as necessary to transport such children enrolled in the program. This requirement does not apply to the transportation of children

receiving home-based services unless school buses or allowable alternate vehicles are used to transport the other children served under the home-based option by the grantee. Whenever possible, children with disabilities must be transported in the same vehicles used to transport other children enrolled in the Head Start or Early Head Start program.

(b) A program must ensure that special transportation requirements in a child's IEP or IFSP are followed, including special pick-up and drop-off requirements, seating requirements, equipment needs, any assistance that may be required, and any necessary training for bus drivers and monitors.

### **PART 1304—FEDERAL ADMINISTRATIVE PROCEDURES**

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

## Subpart A—Monitoring, Suspension, Termination or Denial of Refunding, Reduction in Funding, and their Appeals

### § 1304.1 In general.

(a) Section 641A(c) of the Act requires the Secretary to monitor whether a grantee meets program governance, program operations, and financial and administrative standards described in this regulation and to identify areas for improvements and areas of strength as part of the grantee's ongoing self-assessment process. This subpart focuses on the monitoring process. It discusses areas of noncompliance, deficiencies, and corrective action through quality improvement plans.

(b) Section 646(a) of the Act requires the Secretary to prescribe procedures for notice and appeal for certain adverse actions. This subpart establishes rules and procedures to suspend financial assistance to a grantee, deny a grantee's application for refunding, terminate, or reduce a grantee's assistance under the Act when the grantee improperly uses federal funds or fails to comply with applicable laws, regulations, policies, instructions, assurances, terms and conditions or, if the grantee loses its legal status or financial viability. This subpart does not apply to reductions to a grantee's financial assistance based on chronic under-enrollment procedures at section 641A(h) of the Act or to matters described in subpart B. This subpart does not apply to any administrative action based upon any violation, or alleged violation, of title VI of the Civil Rights Act of 1964. Except as otherwise provided for in this subpart, the appeals and processes in this subpart will be governed by the Departmental Appeals Board regulations at 45 CFR part 16.

### § 1304.2 Monitoring.

(a) *Areas of noncompliance.* If a responsible HHS official determines through monitoring, pursuant to section 641A(c)(1) and (2) of the Act, that a grantee fails to comply with any of the standards described in parts 1301, 1302, and 1303 under this title, the official will notify the grantee promptly in writing, identify the area of noncompliance, and specify when the grantee must correct the area of noncompliance.

(b) *Deficiencies.* If the Secretary determines that a grantee meets one of the criteria for a deficiency, as defined in section 637(2)(C) of the Act, the Secretary shall inform the grantee of the deficiency. The grantee must correct the deficiency pursuant to section

641A(e)(1)(B) of the Act, as the responsible HHS official determines.

(c) *Quality improvement plans.* If the responsible HHS official does not require the grantee to correct a deficiency immediately as prescribed under section 641A(e)(1)(B)(i) of the Act, the grantee must submit to the official, for approval, a quality improvement plan that adheres to section 641A(e)(2)(A) of the Act.

### § 1304.3 Suspension with notice.

(a) *Grounds to suspend financial assistance with notice.* If a grantee breaches or threatens to breach any requirement stated in § 1304.1, the responsible HHS official may suspend the grantee's financial assistance, in whole or in part, after it has given the grantee notice and an opportunity to show cause why assistance should not be suspended.

(b) *Notice requirements.* (1) The responsible HHS official must notify the grantee in writing that ACF intends to suspend financial assistance, in whole or in part. The notice must:

(i) Specify grounds for the suspension;

(ii) Include the date suspension will become effective;

(iii) Inform the grantee that it has the opportunity to submit to the responsible HHS official, at least 7 days before suspension becomes effective, any written material it would like the official to consider, and to inform the grantee that it may request, in writing, no later than 7 days after the suspension notice was mailed, to have an informal meeting with the responsible HHS official;

(iv) Invite the grantee to voluntarily correct the deficiency; and,

(v) Include a copy of this subpart.

(2) The responsible HHS official must promptly transmit the suspension notice to the grantee. The notice becomes effective when the grantee receives the notice, when the grantee refuses delivery, or when the suspension notice is returned to sender unclaimed.

(3) The responsible HHS official must send a copy of the suspension notice to any delegate agency whose actions or whose failures to act substantially caused or contributed to the proposed suspension. The responsible HHS official will inform the delegate agency that it is entitled to submit written material to oppose the suspension and to participate in the informal meeting, if one is held. In addition, the responsible HHS official may give notice to the grantee's other delegate agencies.

(4) After the grantee receives the suspension notice, it has 3 days to send a copy of the notice to delegate agencies

that would be financially affected by a suspension.

(c) *Opportunity to show cause.* The grantee may submit to the responsible HHS official any written material to show why financial assistance should not be suspended. The grantee may also request, in writing, to have an informal meeting with the responsible HHS official. If the grantee requests an informal meeting, the responsible HHS official must schedule the meeting within 7 days after the grantee receives the suspension notice.

(d) *Extensions.* If the responsible HHS official extends the time or the date by which a grantee has to make requests or to submit material, it must notify the grantee in writing.

(e) *Decision.* (1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grantee has adequately corrected what led to suspension, and will render a decision within 5 days after the informal meeting. If no informal meeting is held, the responsible HHS official will render a decision within 5 days after it receives written material from all concerned parties.

(2) If the responsible HHS official finds the grantee failed to show cause why ACF should not suspend financial assistance, the official may suspend financial assistance, in whole or in part, and under terms and conditions as he or she deems appropriate.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B) are applicable or the grantee requests the suspension continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grantee to operate the program until the grantee's suspension is lifted, or as otherwise provided under section 646(a)(5)(B) of the Act.

(f) *Obligations incurred during suspension.* New obligations the grantee incurs while under suspension are not allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from obligations the grantee properly incurred before suspension and not in anticipation of suspension or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to

satisfy cost sharing or matching requirements.

(g) *Modify or rescind suspension.* The responsible HHS official may modify or rescind suspension at any time, if the grantee can satisfactorily show that it has adequately corrected what led to suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for an additional 30 days if the cause of the suspension has not been corrected.

#### **§ 1304.4 Emergency suspension without advance notice.**

(a) *Grounds to suspend financial assistance without advance notice.* The responsible HHS official may suspend financial assistance, in whole or in part, without prior notice and an opportunity to show cause if there is an emergency situation, such as a serious risk for substantial injury to property or loss of project funds, a federal, state, or local criminal statute violation, or harm to staff or participants' health and safety.

(b) *Emergency suspension notification requirements.* (1) The emergency suspension notification must:

- (i) Specify the grounds for the suspension;
- (ii) Include terms and conditions of any full or partial suspension;
- (iii) Inform that grantee it cannot make or incur any new expenditures or obligations under suspended portion of the program; and,
- (iv) Advise the grantee that it may request, in writing, within 5 days after the date the emergency suspension became effective, an informal meeting with the responsible HHS official, to show why the suspension should be rescinded.

(2) The responsible HHS official must promptly transmit the emergency suspension notification to the grantee by any means showing the date of receipt. The emergency suspension becomes effective upon delivery of the notification or upon the date the grantee refuses delivery, or upon return of the notification unclaimed.

(3) After the grantee receives the emergency suspension notification, it must send a copy to delegate agencies affected by the suspension, within 2 workdays.

(4) The responsible HHS official must inform affected delegate agencies that they have the right to participate in the informal meeting.

(c) *Opportunity to show cause.* If the grantee requests an informal meeting, the responsible HHS official must schedule a meeting within 5 workdays after it receives the grantee's request. The suspension will continue until the

grantee has been afforded such opportunity and until the responsible HHS official renders a decision. Notwithstanding provisions in section, the responsible HHS official may proceed to deny refunding or to initiate termination proceedings at any time even though the grantee's financial assistance has been suspended in whole or in part.

(d) *Decision.* (1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grantee has adequately corrected what led to suspension, and render a decision within five work days after the informal meeting.

(2) If the responsible HHS official finds the grantee failed to show cause why suspension should be rescinded, the responsible HHS official may continue the suspension, in whole or in part, and under the terms and conditions specified in the emergency suspension notification.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B) are applicable or the grantee requests the suspension to continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grantee to operate the program until either the grantee's emergency suspension is lifted or a new grantee is selected.

(e) *Obligations incurred during suspension.* Any new obligations the grantee incurs during the suspension period will not be allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if those costs result from obligations properly incurred before suspension and not in anticipation of suspension, denial of refunding or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to satisfy cost sharing or matching requirements.

(f) *Modify or rescind suspension.* The responsible HHS official may modify or rescind suspension at any time, if the grantee can satisfactorily show that it has adequately corrected what led to the suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for an

additional 30 days if the cause of the suspension has not been corrected.

#### **§ 1304.5 Termination and denial of refunding.**

(a) *Grounds to terminate financial assistance or deny a grantee's application for refunding.* (1) A responsible HHS official may terminate financial assistance in whole or in part to a grantee or deny a grantee's application for refunding.

(2) The responsible HHS official may terminate financial assistance in whole or in part, or deny refunding to a grantee for any one or for all of the following reasons:

- (i) The grantee is no longer financially viable;
- (ii) The grantee has lost the requisite legal status or permits;
- (iii) The grantee has failed to timely correct one or more deficiencies as defined in the Act;
- (iv) The grantee has failed to comply with eligibility requirements;
- (v) The grantee has failed to comply with the Head Start grants administration or fiscal requirements set forth in 45 CFR part 1303;
- (vi) The grantee has failed to comply with requirements in the Act;
- (vii) The grantee is debarred from receiving federal grants or contracts; or
- (viii) The grantee has failed to abide by any other terms and conditions of its award of financial assistance, or any other applicable laws, regulations, or other applicable federal or state requirements or policies.

(b) *Notice requirements.* (1) The responsible HHS official will notify the grantee and such notice will:

- (i) Include the legal basis for termination or adverse action as described at paragraph (a) of this section;
- (ii) Include factual findings on which the action is based or reference specific findings in another document that form the basis for termination or denial of refunding;
- (iii) Cite to any statutory provisions, regulations, or policy issuances on which ACF is relies for its determination;

(iv) Inform the grantee that it may appeal the denial or termination within 30 days to the Departmental Appeals Board, that the appeal will be governed by 45 CFR part 16, except as otherwise provided in the Head Start appeals regulations, that a copy of the appeal must sent to the responsible HHS official, and that it has the right to request and receive a hearing, as mandated under section 646 of the Act;

(v) Inform the grantee that only its board of directors, or an official acting



on the board's behalf can appeal the decision;

(vi) Name the delegate agency, if the actions of that delegate are the basis, in whole or in part, for the proposed action; and,

(vii) Inform the grantee that the appeal must meet requirements in paragraph (d) of this section; and, that if the responsible HHS official fails to meet requirements in this paragraph, the pending action may be dismissed without prejudice or remanded to reissue it with corrections.

(2) The responsible HHS official must provide the grantee as much advance notice, but no later than 30 days after ACF receives the application, that it has the opportunity for a full and fair hearing on whether refunding should be denied.

(c) *Grantee's appeal.* (1) The grantee must adhere to procedures and requirements for appeals in 45 CFR part 16, file the appeal with the Departmental Appeals Board, and serve a copy of the appeal on the responsible HHS official who issued the termination or denial of refunding notice. The grantees must also serve a copy of its appeal on any affected delegate.

(2) While a grantee appeals a termination decision, funding will continue unless the responsible HHS official renders an adverse decision, or unless the current budget period is expired. If the responsible HHS official has not rendered a decision by the end of the current budget period, the official will award the grantee interim funding until a decision is made.

(d) *Funding during suspension.* If a grantee's funding is suspended, the grantee will not receive funding during the termination proceedings, or at any other time, unless the action is rescinded or the grantee's appeal is successful.

(e) *Interim and replacement grantees.* The responsible HHS official may appoint an interim or replacement grantee as soon as a termination action is affirmed by the Departmental Appeals Board.

(f) *Opportunity to show cause.* (1) If the Departmental Appeals Board sets a hearing for a proposed termination or denial of refunding action, the grantee has 5 workdays to send a copy of the notice it receives from the Departmental Appeals Board, to all delegate agencies that would be financially affected by termination and to each delegate agency identified in the notice.

(2) The grantee must send to the Departmental Appeals Board and to the responsible HHS official a list of the delegate agencies it notified and the dates when it notified them.

(3) If the responsible HHS official initiated proceedings because of a delegate agency's activities, the official must inform the delegate agency that it may participate in the hearing. If the delegate agency chooses to participate in the hearing, it must notify the responsible HHS official in writing within 30 days of the grantee's appeal. If any other delegate agency, person, agency or organization wishes to participate in the hearing, it may request permission to do so from the Departmental Appeals Board.

(4) If the grantee fails to appear at the hearing, without good cause, the grantee will be deemed to have waived its right to a hearing and consented to have the Departmental Appeals Board make a decision based on the parties' written information and argument.

(5) A grantee may waive the hearing and submit written information and argument for the record, within a reasonable period of time to be fixed by the Departmental Appeals Board.

(6) The responsible HHS official may attempt, either personally or through a representative, to resolve the issues in dispute by informal means prior to the hearing.

(g) *Decision.* The Departmental Appeals Board's decision and any measure the responsible HHS official takes after the decision is fully binding upon the grantee and its delegate agencies, whether or not they actually participated in the hearing.

#### **§ 1304.6 Appeal for prospective delegate agencies.**

(a) *In general.* If a grantee denies, or fails to act on, a prospective delegate agency's funding application, the prospective delegate may appeal the grantee's decision or inaction.

(b) *Process for prospective delegates.* To appeal, a prospective delegate must:

(1) Submits the appeal, including a copy of the funding application, to the responsible HHS official within 30 days after it receives the grantee's decision; or within 30 days after the grantee has had 120 days to review but has not notified the applicant of a decision; and,

(2) Provide the grantee with a copy of the appeal at the same time the appeal is filed with the responsible HHS official.

(c) *Process for grantees.* When an appeal is filed with the responsible HHS official, the grantee must respond to the appeal and submit a copy of its response to the responsible HHS official and to the prospective delegate agency within 30 work days.

(d) *Decision.* (1) The responsible HHS official will sustain the grantee's decision, if the official determines the

grantee did not act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements.

(2) The responsible HHS official will render a written decision to each party within a reasonable timeframe. The official's decision is final and not subject to further appeal.

(3) If the responsible HHS official finds the grantee did act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements, the grantee will be directed to reevaluate their applications.

#### **§ 1304.7 Legal fees.**

(a) An agency is not authorized to charge to its grant legal fees or other costs incurred to appeal terminations, reductions of funding, or denials of applications of refunding decisions.

(b) If a program prevails in a termination, reduction, or denial of refunding decision, the responsible HHS official may reimburse the agency for reasonable and customary legal fees, incurred during the appeal, if:

(1) The Departmental Appeals Board overturns the responsible HHS official's decision;

(2) The agency can prove it incurred fees during the appeal; and,

(3) The agency can prove the fees incurred are reasonable and customary.

### **Subpart B—Designation Renewal**

#### **§ 1304.10 Purpose and scope.**

The purpose of this subpart is to set forth policies and procedures for the designation renewal of Head Start and Early Head Start programs. It is intended that these programs be administered effectively and responsibly; that applicants to administer programs receive fair and equitable consideration; and that the legal rights of current Head Start and Early Head Start grantees be fully protected. The Designation Renewal System is established in this Part to determine whether Head Start and Early Head Start agencies deliver high quality services to meet the educational, health, nutritional, and social needs of the children and families they serve; meet the program and financial requirements and standards described in section 641A(a)(1) of the Head Start Act; and qualify to be designated for funding for five years without competing for such funding as required under section 641(c) of the Head Start Act with respect to Head Start agencies and pursuant to section 645A(b)(12) and (d) with respect to Early Head Start agencies. A competition to select a new Head Start or Early Head Start agency to replace a



Head Start or Early Head Start agency that has been terminated voluntarily or involuntarily is not part of the Designation Renewal System established in this Part, and is subject instead to the requirements of § 1304.20.

**§ 1304.11 Basis for determining whether a Head Start agency will be subject to an open competition.**

A Head Start or Early Head Start agency shall be required to compete for its next five years of funding whenever the responsible HHS official determines that one or more of the following seven conditions existed during the relevant time period covered by the responsible HHS official's review under § 1304.15:

(a) An agency has been determined by the responsible HHS official to have one or more deficiencies on a single review conducted under section 641A(c)(1)(A), (C), or (D) of the Act in the relevant time period covered by the responsible HHS official's review under § 1304.15.

(b) An agency has been determined by the responsible HHS official based on a review conducted under section 641A(c)(1)(A), (C), or (D) of the Act during the relevant time period covered by the responsible HHS official's review under § 1304.15 not to have:

(1) After December 9, 2011, established program goals for improving the school readiness of children participating in its program in accordance with the requirements of section 641A(g)(2) of the Act and demonstrated that such goals:

(i) Appropriately reflect the ages of children, birth to five, participating in the program;

(ii) Align with the Birth to Five Head Start Child Outcomes Framework, State early learning guidelines, and the requirements and expectations of the schools, to the extent that they apply to the ages of children, birth to five, participating in the program and at a minimum address the domains of language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development;

(iii) Were established in consultation with the parents of children participating in the program.

(2) After December 9, 2011, taken steps to achieve the school readiness goals described under paragraph (b)(1) of this section demonstrated by:

(i) Aggregating and analyzing aggregate child-level assessment data at least three times per year (except for programs operating less than 90 days, which will be required to do so at least twice within their operating program period) and using that data in

combination with other program data to determine grantees' progress toward meeting its goals, to inform parents and the community of results, and to direct continuous improvement related to curriculum, instruction, professional development, program design and other program decisions; and

(ii) Analyzing individual ongoing, child-level assessment data for all children birth to age five participating in the program and using that data in combination with input from parents and families to determine each child's status and progress with regard to, at a minimum, language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development and to individualize the experiences, instructional strategies, and services to best support each child.

(c) An agency has been determined during the relevant time period covered by the responsible HHS official's review under § 1304.15:

(1) After December 9, 2011, to have an average score across all classrooms observed below the following minimum thresholds on any of the three CLASS: Pre-K domains from the most recent CLASS: Pre-K observation:

(i) For the Emotional Support domain the minimum threshold is 4;

(ii) For the Classroom Organization domain, the minimum threshold is 3;

(iii) For the Instructional Support domain, the minimum threshold is 2;

(2) After December 9, 2011, to have an average score across all classrooms observed that is in the lowest 10 percent on any of the three CLASS: Pre-K domains from the most recent CLASS: Pre-K observation among those currently being reviewed unless the average score across all classrooms observed for that CLASS: Pre-K domain is equal to or above the standard of excellence that demonstrates that the classroom interactions are above an exceptional level of quality. For all three domains, the "standard of excellence" is a 6.

(d) An agency has had a revocation of its license to operate a Head Start or Early Head Start center or program by a State or local licensing agency during the relevant time period covered by the responsible HHS official's review under § 1304.15 of this chapter, and the revocation has not been overturned or withdrawn before a competition for funding for the next five-year period is announced. A pending challenge to the license revocation or restoration of the license after correction of the violation shall not affect application of this requirement after the competition for

funding for the next five-year period has been announced.

(e) An agency has been suspended from the Head Start or Early Head Start program by ACF during the relevant time period covered by the responsible HHS official's review under § 1304.16 and the suspension has not been overturned or withdrawn. If there is a pending appeal and the agency did not have an opportunity to show cause as to why the suspension should not have been imposed or why the suspension should have been lifted if it had already been imposed under this part 1304, the agency will not be required to compete based on this condition. If an agency has received an opportunity to show cause, the condition will be implemented regardless of appeal status.

(f) An agency has been debarred from receiving Federal or State funds from any Federal or State department or agency or has been disqualified from the Child and Adult Care Food Program (CACFP) any time during the relevant time period covered by the responsible HHS official's review under § 1304.15 but has not yet been terminated or denied refunding by ACF. (A debarred agency will only be eligible to compete for Head Start funding if it receives a waiver described in 2 CFR 180.135.)

(g) An agency has been determined within the twelve months preceding the responsible HHS official's review under § 1304.15 to be at risk of failing to continue functioning as a going concern. The final determination is made by the responsible HHS official based on a review of the findings and opinions of an audit conducted in accordance with section 647 of the Act; an audit, review or investigation by a State agency; a review by the National External Audit Review (NEAR) Center; or an audit, investigation or inspection by the Department of Health and Human Services Office of Inspector General.

**§ 1304.12 Grantee reporting requirements concerning certain conditions.**

(a) Head Start agencies must report in writing to the responsible HHS official within 30 working days of December 9, 2011, if the agency has had a revocation of a license to operate a center by a State or local licensing entity during the period between June 12, 2009, and December 9, 2011.

(b) Head Start agencies must report in writing to the responsible HHS official within 10 working days of occurrence any of the following events following December 9, 2011:

(1) The agency has had a revocation of a license to operate a center by a State or local licensing entity.

(2) The agency has filed for bankruptcy or agreed to a reorganization plan as part of a bankruptcy settlement.

(3) The agency has been debarred from receiving Federal or State funds from any Federal or State department or agency or has been disqualified from the Child and Adult Care Food Program (CACFP).

(4) The agency has received an audit, audit review, investigation or inspection report from the agency's auditor, a State agency, or the cognizant Federal audit agency containing a determination that the agency is at risk for ceasing to be a going concern.

**§ 1304.13 Requirements to be considered for designation for a five-year period when the existing grantee in a community is not determined to be delivering a high quality and comprehensive Head Start program and is not automatically renewed.**

In order to compete for the opportunity to be awarded a five-year grant, an agency must submit an application to the responsible HHS official that demonstrates that it is the most qualified entity to deliver a high quality and comprehensive Head Start or Early Head Start program. The application must address the criteria for selection listed at section 641(d)(2) of the Act for Head Start. Any agency that has had its Head Start or Early Head Start grant terminated for cause in the preceding five years is excluded from competing in such competition for the next five years. A Head Start or Early Head Start agency that has had a denial of refunding, as defined in 45 CFR part 1305, in the preceding five years is also excluded from competing.

**§ 1304.14 Tribal government consultation under the Designation Renewal System for when an Indian Head Start grant is being considered for competition.**

(a) In the case of an Indian Head Start or Early Head Start agency determined not to be delivering a high quality and comprehensive Head Start or Early Head Start program, the responsible HHS official will engage in government-to-government consultation with the appropriate Tribal government or governments for the purpose of establishing a plan to improve the quality of the Head Start program or Early Head Start program operated by the Indian Head Start or Indian Early Head Start agency.

(1) The plan will be established and implemented within six months after the responsible HHS official's determination.

(2) Not more than six months after the implementation of that plan, the responsible HHS official will reevaluate

the performance of the Indian Head Start or Early Head Start agency.

(3) If the Indian Head Start or Early Head Start agency is still not delivering a high quality and comprehensive Head Start or Early Head Start program, the responsible HHS official will conduct an open competition to select a grantee to provide services for the community currently being served by the Indian Head Start or Early Head Start agency.

(b) A non-Indian Head Start or Early Head Start agency will not be eligible to receive a grant to carry out an Indian Head Start program, unless there is no Indian Head Start or Early Head Start agency available for designation to carry out an Indian Head Start or Indian Early Head Start program.

(c) A non-Indian Head Start or Early Head Start agency may receive a grant to carry out an Indian Head Start program only until such time as an Indian Head Start or Indian Early Head Start agency in such community becomes available and is designated pursuant to this part.

**§ 1304.15 Designation request, review and notification process.**

(a) Grantees must apply to be considered for Designation Renewal.

(1) For the transition period, each Head Start or Early Head Start agency wishing to be considered to have their designation as a Head Start or Early Head Start agency renewed for a five year period without competition shall request that status from ACF within six months of December 9, 2011.

(2) After the transition period, each Head Start or Early Head Start agency wishing to be considered to have their designation as a Head Start or Early Head Start agency renewed for another five year period without competition shall request that status from ACF at least 12 months before the end of their five year grant period or by such time as required by the Secretary.

(b) ACF will review the relevant data to determine if one or more of the conditions under § 1304.11 were met by the Head Start and Early Head Start agency's program:

(1) During the first year of the transition period, ACF shall review the data on each Head Start and Early Head Start agency to determine if any of the conditions under § 1304.11(a) or (d) through (g) were met by the agency's program since June 12, 2009.

(2) During the remainder of the transition period, ACF shall review the data on each Head Start and Early Head Start agency still under grants with indefinite project periods and for whom ACF has relevant data on all of the conditions in § 1304.11(a) through (g) to

determine if any of the conditions under § 1304.11(a) or (d) through (g) were met by the agency's program since June 12, 2009, or if the conditions under § 1304.11 (b) or (c) of this chapter existed in the agency's program since December 9, 2011.

(3) Following the transition period, ACF shall review the data on each Head Start and Early Head Start agency in the fourth year of the grant to determine if any of the conditions under § 1304.11 existed in the agency's program during the period of that grant.

(c) ACF will give notice to grantees on Designation Renewal System status, except as provided in § 1304.14:

(1) During the first year of the transition period, ACF shall give written notice to all grantees meeting any of the conditions under § 1304.11(a) or (d) through (g) of this part since June 12, 2009, by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee, stating that the Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period, identifying the conditions ACF found, and summarizing the basis for the finding. All grantees that do not meet any of the conditions under § 1304.11(a) or (d) through (g) will remain under indefinite project periods until the time period described under § 1304.15(b)(2).

(2) During the remainder of the transition period, ACF shall give written notice to all grantees still under grants with indefinite project periods and on the conditions in § 1304.11(a) through (g) by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee stating either:

(i) The Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under § 1304.11 (a) through (g) has been met during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or

(ii) That such agency has been determined on a preliminary basis to be eligible for renewed funding for five years without competition because ACF finds that none of the conditions under § 1304.11 have been met during the relevant time period described in paragraph (b) of this section. If prior to the award of that grant, ACF determines that the grantee has met one of the conditions under § 1304.11 during the relevant time period described in paragraph (b) of this section, this determination will change and the

grantee will receive notice under paragraph (c)(2)(i) of this section that it will be required to compete for funding for an additional five-year period.

(3) Following the transition period, ACF shall give written notice to all grantees at least 12 months before the expiration date of a Head Start or Early Head Start agency's then current grant by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee, stating:

(i) The Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under § 1304.11 were met by the agency's program during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or,

(ii) That such agency has been determined on a preliminary basis to be eligible for renewed funding for five years without competition because ACF finds that none of the conditions under § 1304.11 have been met during the relevant time period described in paragraph (b) of this section. If prior to the award of that grant, ACF determines that the grantee has met one of the conditions under § 1304.11 during the relevant time period described in paragraph (b) of this section, this determination will change and the grantee will receive notice under paragraph (c)(3)(i) of this section that it will be required to compete for funding for an additional five-year period.

#### **§ 1304.16 Use of CLASS: Pre-K Instrument in the Designation Renewal System.**

Except when all children are served in a single classroom, ACF will conduct observations of multiple classes operated by the grantee based on a random sample of all classes and rate the conduct of the classes observed using the CLASS: Pre-K instrument. When the grantee serves children in its program in a single class, that class will be observed and rated using the CLASS: Pre-K instrument. The domain scores for that class will be the domain scores for the grantee for that observation. After the observations are completed, ACF will report to the grantee the scores of the classes observed during the CLASS: Pre-K observations in each of the domains covered by the CLASS: Pre-K instrument. ACF will average CLASS: Pre-K instrument scores in each domain for the classes operated by the agency that ACF observed to determine the agency's score in each domain.

### **Subpart C—Selection of Grantees through Competition**

#### **§ 1304.20 Selection among applicants.**

(a) In selecting an agency to be designated to provide Head Start, Early Head Start, Migrant and Seasonal Head Start or tribal Head Start or Early Head Start services, the responsible HHS official will consider the applicable criteria at section 641(d) of the Head Start Act and any other criteria outlined in the Funding Opportunity Announcement.

(b) In competitions to replace or potentially replace a grantee the responsible HHS official will also consider the extent to which the applicant supports continuity for participating children, the community and the continued employment of effective, well qualified personnel.

(c) In competitions to replace or potentially replace a current grantee, the responsible HHS official will give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood education and development services and programs to children and their families.

### **Subpart D—Replacement of American Indian/Alaska Native Grantees**

#### **§ 1304.30 Procedure for identification of alternative agency.**

(a) An Indian tribe whose Head Start grant has been terminated, relinquished, designated for competition or which has been denied refunding as a Head Start agency, may identify an alternate agency and request the responsible HHS official to designate such agency as an alternative agency to provide Head Start services to the tribe if:

(1) The tribe was the only agency that was receiving federal financial assistance to provide Head Start services to members of the tribe; and,

(2) The tribe would be otherwise precluded from providing such services to its members because of the termination or denial of refunding.

(b)(1) The responsible HHS official, when notifying a tribal grantee of the intent to terminate financial assistance or deny its application for refunding, or its designation for competition must notify the grantee that it may identify an agency and request that the agency serve as the alternative agency in the event that the grant is terminated or refunding denied, or the grant is not renewed without competition.

(2) The tribe must identify the alternate agency to the responsible HHS official in writing.

(3) The responsible HHS official will notify the tribe, in writing, whether the

alternative agency proposed by the tribe is found to be eligible for Head Start funding and capable of operating a Head Start program. If the alternative agency identified by the tribe is not an eligible agency capable of operating a Head Start program, the tribe will have 15 days from the date of the sending of the notification to that effect from the responsible HHS official to identify another agency and request that the agency be designated. The responsible HHS official will notify the tribe in writing whether the second proposed alternate agency is found to be an eligible agency capable of operating the Head Start program.

(4) If the tribe does not identify an eligible, suitable alternative agency, a grantee will be designated under this part.

(c) If the tribe appeals a termination of financial assistance or a denial of refunding, it will, consistent with the terms of part 1303 of this chapter, continue to be funded pending resolution of the appeal. However, the responsible HHS official and the grantee will proceed with the steps outlined in this subpart during the appeal process.

(d) If the tribe does not identify an agency and request that the agency be appointed as the alternative agency, the responsible HHS official will seek a permanent replacement grantee under this subpart.

#### **§ 1304.31 Requirements of alternative agency.**

The agency identified by the Indian tribe must establish that it meets all requirements established by the Head Start Act and these requirements for designation as a Head Start grantee and that it is capable of conducting a Head Start program. The responsible 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 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 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 In general.

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 concerned 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 Cross references to definitions.

1305.2 Definitions.

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

#### 1305.1 Cross references to definitions.

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

(a) The following terms are defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801: *child with a disability, deficiency, delegate agency, Indian tribe, and state.*

(b) The following terms are defined in the same manner as presented in the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*) *Individualized Education Program, and Individualized Family Service Plan.*

#### 1305.2 Definitions.

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

*Accepted* means a child or pregnant woman has met the eligibility criteria and has completed the enrollment process.

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

*Act* means the Head Start Act, 42 U.S.C. 9831, *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 classrooms, 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.

*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 are:

(1) Directly related to the child;

(2) Maintained by the program, or by a party acting for the program; and

(3) Includes information recorded in any way, including, but not limited to, print (including handwriting) or electronic or digital means, including computer media, video or audio tape, film, microfilm, and microfiche.

*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.

*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, 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.

*Days of operation* means the planned days during which children will be receiving early learning and development and comprehensive services with Head Start or Early Head Start teachers, assistant teachers, or staff.

*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 personally identifiable information 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.

*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).

*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* means a child has been accepted and attended at least one class, has received at least one home visit, or has received at least one direct service while pending completion of necessary documentation for attendance in a center, based on state and local licensing requirements.

*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 organization, 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-day* means six or more hours of Head Start or Early Head Start services per day.

*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.

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

*Hours of operation* mean the planned hours per day during which children and families will be receiving Head Start or Early Head Start services in a classroom, on a field trip, while receiving medical or dental services, or during a home visit or group socialization activity. Hours of operation do not include travel time to and from the center at the beginning and end of a session.

*Income* means gross cash income and includes earned income, military income (including pay and allowances), 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.

*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.

*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 or local IDEA agency* 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 that involves the production and harvesting of tree and field crops 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

(B) 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 Alaska Native Head Start program.

*Personally identifiable information* means personally identifiable information as defined in 34 CFR 99.3, as amended, except that the term "student" in the definition of personally identifiable information in 34 CFR 99.3 means "child" as used in this part and any reference to "school" or "educational agency" or "educational institution" means "program" or "Early Head Start program" or "Head Start program" as used in this part.

*Policy group* means the policy council, and as appropriate the policy committee at the delegate level.

*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 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 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.

*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.

*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.

*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;

(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 share, including non-federal share 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 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 and from necessary services, are not included under the term.

*Verify* or any variance of the word means to check or determine the correctness or truth by investigation or by reference.

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