



NATIONAL HEAD START ASSOCIATION

Key Concerns Regarding Final Rule on Head Start Program Performance Standards

Having faced down a global pandemic with creativity, ingenuity, grit, and support from Congress, Head Start now looks to its next chapter. The NPRM attempts to help chart this course with worthy goals and objectives, and we commend the Administration for proposing such broad and widely-encompassing changes. Yet, we are **deeply concerned about the consequences, intended or unintended**, that will result from many parts of the proposal as currently written.

- Returning to overly-prescriptive and punitive compliance does not keep children safer.
- Building in compensation and benefit requirements without a realistic assessment of their impact on small programs or programs with enormous gaps in pay parity may do more harm than good in the absence of new funding.
- Flexibility is imperative in order for the rule to achieve the worthy goals set forth by the Biden-Harris Administration.

Therefore, as the Administration looks to finalize this proposed rule, we urge you to consider:

- Our full January 19 comment letter (and we appreciated hearing from several members of the Administration that the issues we raised are being seriously considered),
- the open letter to President Biden signed by 25,000 Head Start parents and caregivers,
- a description of the concerns raised by the Head Start community about the Risk Assessment Notification (RAN) review process, and
- the several issues we want to reiterate below.

Cost of the Proposed Rule

Data tables computing costs of the proposed rule calculate a total of \$16.809 billion (nominal dollars) between FY24 - FY33. Evenly distributed over the ten year period, this totals about \$1.6 billion per year (nominal dollars). We have been told, however, that the total 10 year cost of the rule is \$1.6 billion, which does not appear to align with the data tables we have seen in the NPRM. These numbers have been confusing at best and potentially inaccurate. To put in context, a 4.4% cost of living adjustment (COLA) in the president's budget request for FY25 totals \$544 million. In order to understand the true impact of the proposed rule, we seek further clarification in the final rule.

We know that the gap between current wage and benefit levels and those required in the proposed rule is considerable, and not one which programs have been able to bridge through change-in-scope applications. Underestimating what it will take to reach the aspirational goals of pay parity, a living wage for all employees, and a comprehensive benefits package clouds the true cost and will result in a further reduction in the number of children able to be served by Head Start. Already, we have seen more than a 200,000 reduction in slots over the past three years, a difficult post-pandemic legacy. We do not want to exacerbate this reduction in access to opportunity through unfunded requirements in a final rule.

We have also received feedback from Capitol Hill suggesting that if Head Start continues to receive small COLAs every year, then it would address the needs for increased resources. This is not accurate and such an assumption could be detrimental to many, if not all, Head Start programs. COLAs ensure that



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Head Start programs do not have to cut services or salaries due to inflationary pressure. However, they are not the same as the increased investments needed to reset Head Start's salary structure.

Recommendation:

1. Publish clearer cost estimates for the final rule including all assumptions about slot reductions and needed resources.
2. Phase in workforce compensation and benefit requirements with built-in flexibilities contingent on additional funding from Congress for those purposes beyond COLA.

Sec. 1302.17(b) Suspension and Expulsion; Prohibition on Expulsion

We are concerned with the requirement in subsection (b)(3) around the transition of a child to a more appropriate placement that can immediately enroll and provide services to the child. This type of immediate transition depends not only on a more appropriate placement existing, but also on its having the capacity to accept the child. In reality, for many rural areas, as well as for children with complex needs, few immediate placement options exist for this transition.

Head Start was always intended to be an inclusive environment that enrolled, at a minimum, ten percent of children with disabilities and behavioral challenges. However, it is imperative that we recognize the profound needs of a small number of children who cannot be best served in a Head Start classroom, whether permanently or temporarily. For example:

This year we have witnessed, like so many other programs, a child whom we cannot manage, despite doing everything we can to support him and his mother. The school system has been incredibly supportive, but they are at a loss also and are concerned that the child will be entering kindergarten in the fall and will be in a much larger classroom. The school sent a behavioral therapist to support the child, but she refused to return due to his violent behavior towards her and an OT tried to complete an evaluation but was unable to, given his violent behavior towards her, as well.

The child has an IEP and was diagnosed with autism by his pediatrician earlier this program year. We question if this is the right diagnosis. We are a rural program and the closest clinic for autism has a five year wait list for evaluation and he is on the waitlist.

The child really enjoys engaging with his peers and will engage with his teachers and visitors, but without warning he has extremely unpredictable violent outbursts. He has broken windows, light fixtures, kicked in walls, urinated on his peers, slapped his teachers, spit in their face, and I could go on and on.

We never want to expel or suspend a child but when we have a child that we have done everything we can for and he is hurting his peers and his teachers, how do we approach that with OHS? We asked the regional office if we could set up in-home services for this child and were told we could not because it wasn't an approved option in our grant. This year has been a complete wash for 15 other classmates, we have lost children due to parents being concerned



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about the safety of their child, our teachers have stated that they do not think they will be back next year and if they come back to a behavior like this they will resign.

Recommendation: We encourage OHS to provide additional flexibility in subsection (b)(3) to account for the limited placement options available for some children who can not be safely or adequately served in Head Start programs, especially for those children with the most profound needs or behavioral challenges, including by striking the proposed added language “that can immediately enroll and provide services.”

Sec. 1302.90(c), Sec. 1302.102(d) Personnel Policies - Standards of Conduct; Program Goals, Continuous Improvement, and Reporting

Proposed incident reporting requirements, reflecting current RAN practice, appear to overlook the importance of context – when an incident is caused by an individual staff’s shortcoming, mistake, or lack of knowledge about best practice as opposed to a deeper grant recipient-wide problem. This is an important distinction especially since prevention of future incidents is a primary goal of the monitoring process.

Whether it’s health care, the airline industry, or human services, [safety science](#) research is clear: ever more strict reporting and enforcement requirements and a climate of fear do not improve safety outcomes. In the words of one program director, “The need to report every child incident, even if the lapse was for a second, is creating a toxic work environment for the front line staff, but also for us as leadership. It’s very demoralizing. It creates a culture of fear and blame and staff are scared to work here if it means that their personal actions or inactions, even if it just happened once, can cause the agency to go into recompetition.”

Recommendation: Reconsider child incident reporting requirements through an evidence-based lens on what is known to work to improve child health and safety. For example, distinguish between and establish different reporting requirements for human error/staff behavior where staff were not following best practice and such behavior was addressed, from those incidents that were egregious and potentially harmful to children.