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January 19, 2024

Katie Hamm
Deputy Assistant Secretary for Early Childhood Development
Office of Early Childhood Development
Administration for Children and Families
Mary E. Switzer Building
330 C ST SW, Room 4502
Washington, DC 20201

RE: Docket No. ACF–2023–0011, Supporting the Head Start Workforce and Consistent Quality Programming

Dear Deputy Assistant Secretary Hamm:

The Service Employees International Union (SEIU) appreciates the opportunity to comment on the Notice for Proposed Rulemaking (NPRM) that aims to support and stabilize the federal Head Start program through new requirements for staff wages, benefits, and health and wellness supports. Since its inception, the Head Start program has stood by its mission to provide high-quality services that support the development of children from low-income families, preparing them to succeed in school and in life.

SEIU is a union that represents 100,000 early learning and child care workers, including federally-funded Head Start workers across the country. The most essential component to achieving Head Start's mission of providing high-quality services lies in its workforce. These dedicated individuals play a vital role in educating and providing comprehensive services to children from birth to age five in center and home-based settings. Strong and stable relationships formed between children and their early educators create the foundation for effective learning and development, serving as a key factor in positive child outcomes.[1] However, for decades, the Head Start program has been subsidized by the labor of low-wage workers, predominantly women of color and immigrants, performing historically undervalued work. This has led to high turnover rates among workers, disrupting the continuity of services critical for children's developmental outcomes.[2] As a result, there is a severe nationwide staffing shortage at its highest peak in two decades,[3] with Head Start programs struggling to both retain and hire qualified staff.

[1] Pianta, R and Stuhlman, M.W., 2019, Teacher-Child Relationships and Children's Success in the First Years of School. School Psychology Review, 33, 444-458.

[2] Id. a 1.

[3] Head Start Program Information Report, Fiscal Year 2022, https://eclkc.ohs.acf.hhs.gov/data-ongoing-monitoring/article/head-start-program-facts-fiscal-year-2022

Recognizing this crisis, SEIU fully supports the NPRM's goals to support the Head Start workforce through living wages, benefits, and supports for health and wellness. The proposed rule is urgently needed to ensure there is a stable workforce to maintain consistent operations for disadvantaged communities.

We look forward to partnering with the Administration for Children and Families (ACF) to implement the final rule and to secure the federal funding critical for successful implementation. In the attached comments, we begin with a discussion on program accountability, union neutrality, and grant recipient selection and workforce retention. In the sections that follow, we have organized our comments based on major proposals outlined in the NPRM and offer recommendations for specific changes that we believe will strengthen the proposed rule. For any additional follow up, please contact Cathy Sarri at cathy.sarri@seiu.org.

Respectfully,

Heather Conroy, Executive Vice President

I. Head Start Program Accountability

The NPRM does not outline enforcement requirements to ensure that Head Start programs comply with the proposed rule or prescribed implementation timelines. Without robust enforcement mechanisms, programs may have limited incentive to make measurable progress towards the stated goals, which could undermine the effectiveness of the NRPM. Consequently, we strongly urge ACF to prioritize timely implementation, supported by strong accountability and enforcement measures outlined in guidance, training and technical assistance, or other program outreach.

Grant recipients have an affirmative duty to demonstrate compliance and should be required to include specific data relevant to the proposed rule's standards in their annual audits. ACF already has authority to require grant recipients to report on and provide such data (such as information from payroll records and comparisons of budgeted and actual expenses) and to conduct follow up reviews of grant recipients with one or more program deficiencies or significant areas of noncompliance.

Failing to meet the proposed rule's terms and conditions, failing to meet performance standards for implementation, or failing to meet requirements for program administration or reporting go beyond noncompliance and constitute program deficiencies. In recognition of the urgent staffing crisis in child care that the proposed rule is designed to mitigate, we urge ACF to prioritize identifying and addressing such deficiencies, up to and including terminating and/or denying renewal of funding for grant recipients that fail to implement new standards, consistent with 45 C.F.R.§1304.5.

II. Head Start Union Neutrality and Compliance with Federal Labor Law

For decades, SEIU has worked alongside the early learning workforce to secure better working conditions through collective bargaining agreements. When workers speak with a collective voice through their labor union, they are able to improve wages, increase access to benefits, and address workplace concerns that contribute to high staff turnover. Accordingly, employers who refrain from interfering with workers' rights to unionize are indirectly supporting conditions for recruiting and retaining a robust workforce. This stance aligns with Congress's intent in Section 644(e) of the Head Start Act, which aims to prevent employers from interfering with employee choice by prohibiting the use of federal funds to assist, promote, or deter union organizing efforts. We believe that union neutrality and compliance with federal labor law should not only be recognized by ACF as a critical part of promoting staff wellness[4] but also as a strategy to recruit and retain a stable workforce. Full enforcement of union neutrality would ensure that Head Start programs uphold federal laws and would remove obstacles to workers' collective ability to advocate for working conditions that support long-term retention of high-quality staff.

In the experience of SEIU members and Head Start workers across the country who have sought to organize and negotiate collective bargaining agreements, Head Start grant recipients have ignored program requirements and deterred union organizing efforts in response to workers' collective action. In addition to opposing workers' initial efforts to form a union, grant recipients have also attempted to deter union organizing by intentionally delaying negotiations

[4] Administration for Children and Families, Information Memoranda: Supporting the Wellness of All Staff in the Head Start Workforce, ACF-IM-HS-21-05, https://eclkc.ohs.acf.hhs.gov/policy/im/acf-im-hs-21-05

for first and subsequent contracts, including refusing to meet with workers and bargaining representatives, failing to provide information necessary for bargaining, and postponing contract proposals, all aimed at delaying the bargaining process for several years and deterring workers from further organizing efforts. Additionally, programs may even seek to disband the union through a decertification vote.

Grant recipients' efforts to interfere with workers' rights have even risen to the level of violations of the National Labor Relations Act. Regardless of whether federal funds are used to support unlawful activity, violations of federal labor law demonstrate distinct grounds for noncompliance or deficiency, such as a failure to establish rules to assure compliance with laws and regulations or unwillingness to correct unlawful action.

We recognize the NPRM does not propose regulatory changes regarding union neutrality or federal labor laws, but nonetheless, grant recipients' compliance on these issues is relevant because it impacts the problem the proposed rule seeks to address. Grant recipients' interference with child care workers' efforts to collectively improve their workplace effectively undermines a key strategy for responding to the staffing crisis; yet grant recipients have not consistently been held accountable for such violations in the past. Accordingly, we are not proposing a regulatory change on these issues in this comment, but rather advocating that—to truly address the staffing shortage—ACF must fully exercise its authority under current regulations to prevent grant recipients from violating program requirements and deterring workers who seek to use collective power to improve their working conditions. We therefore urge ACF to commit to thorough investigation of grant recipients' use of federal funds when they interfere with worker choice and robust enforcement of the Head Start Act's requirements for use of funds and compliance with federal labor laws.

Additionally, we encourage ACF to issue a current, updated *Head Start and Labor Unions Information Memorandum* that clarifies the broad applicability of the neutrality requirement for spending and reporting the use of federal funds and explains penalties for violations of funding restrictions. *See* Head Start Bureau, *Head Start and Labor Unions Information Memorandum*, Admin. for Children and Families, U.S. Dep't of Health and Human Services (March 27, 2000), https://eclkc.ohs.acf.hhs.gov/archive/policy/im/acyf-im-hs-00-11.

III. Grant Recipient Selection and Workforce Retention (§1304.20)

In order to improve rather than exacerbate Head Start staffing shortages, we urge ACF to amend the regulations around grant recipient transitions to promote retention of existing staff. In SEIU's experience, transitions between grant recipients frequently result in layoffs of significant numbers of experienced Head Start staff who are ready and willing to continue serving Head Start children with the new grant recipient, many of whom end up leaving the early childhood field entirely after their layoff. Prioritizing retention of these experienced and interested workers is an important component of addressing the Head Start staff shortage. ACF should mirror the steps taken by President Biden and the Department of Labor for federal service contracts in Executive Order 14055 and 88 FR 86736 (2023) by granting qualified staff a right of first refusal of employment at the replacement grant recipient. We recommend that ACF amend the language at §1304.20(b) to state "In competitions to replace or potentially replace a grant recipient the responsible HHS official will give priority to applicants which support continuity for participating children, the community and the continued employment of effective, well qualified personnel. Applicants will be required to commit to offering employment to qualified staff of the prior grant recipient before considering external applicants." ACF should provide technical assistance to grant recipients regarding the implementation of this requirement and the definition of “qualified staff”, including allowing existing staff to meet degree or credential requirements through a professional development plan rather than as a condition of hire.

The grant recipient selection process should also more broadly reflect the NPRM's goals of supporting and stabilizing the Head Start workforce, by adding a provision at §1304.20(d) stating that "In competitions to replace or potentially replace a current grant recipient, the responsible HHS official will give priority to applicants that commit to best practices in the areas of workforce compensation, workforce supports, and employee engagement." Including this language will clearly communicate ACF's intent to elevate the importance of workforce well-being in the Head Start program, and increases ACF’s ability to drive change by adding an emphasis on selecting and rewarding programs which are implementing best practices, supplementing the NPRM’s current focus on across-the-board minimum standards.

III. Workforce Supports: Staff Wages (§1302.90)

A. Staff Wages: Progress to Pay Parity for Head Start Education Staff, Section 1302.90(e)(2)

Overview of NPRM proposal: The NPRM proposes pay parity for Head Start education staff with kindergarten through third grade teachers in their local, or in some instances neighboring, school district by providing these staff with wages that are at least comparable to those paid to public school preschool teachers, adjusted for qualifications, experience, and job responsibilities. Programs must regularly track data on progress and make measurable progress by August 1, 2031. **SEIU supports the proposed pay parity requirements for Head Start teachers and education staff.**

Suggested Recommendations

- While we applaud the requirement that salaries for Head Start teachers match that of public school teachers, we suggest two important adjustments to the proposed rule to better reflect actual parity. In SEIU’s experience, there are two major differences beyond annual salary that often contribute to Head Start programs losing staff to public schools: benefits and hours of work. ACF should address these disparities in the following ways: 1) Rather than tracking only the salaries for public school preschool teachers, programs should be required to identify the total value of the compensation package including benefits, with technical assistance provided by ACF on how to estimate the value of benefits such as health insurance and pensions. Programs should be required to reach parity in total compensation, which may include paying higher salaries than public school preschool teachers if the value of the other benefits they provide are lower. 2) Many Head Start staff work a full working-day, full-year schedule, while most public school preschool teachers work fewer hours. Programs should be required to adjust the target compensation levels proportionally to reflect differences in annual hours of work.

- The proposed rule requires Head Start programs to regularly track data on how wages paid to their education staff compare to wages paid to preschool through third grade teachers in their local or neighboring school district. Programs must adjust wages based on staff responsibilities, qualifications, and experience and show measurable progress by August 1, 2031. While there is flexibility in how programs calculate pay parity, the proposal recommends tracking this data annually. ACF should promote transparency that ensures that both the existing workforce and potential applicants are publicly informed about progress toward parity that promotes equity in wage distribution among staff. ACF should require each individual Head Start program to publish an annual comprehensive report detailing salary comparisons, staff adjustments, and actual wages paid to all workers in order to demonstrate incremental progress by August 1, 2031 and thereafter. The absence of a transparent process poses the risk of wage suppression or unfair wage distribution among staff.

- The proposed rule allows programs broad flexibility in adjusting wages based on responsibilities, qualifications, and experience. Given that Head Start staff frequently do not have precisely the same qualifications as public school teachers (particularly when it comes to teacher certification/licensure), we are concerned that this flexibility may undermine the intent of the proposed rule by allowing most programs to justify and implement wages that fall far short of public school preschool or K-3 teachers. ACF should include specific and clear limitations on how much compensation can be lowered based on qualifications; we suggest that programs be allowed to decrease compensation by no more than a nominal percentage. In addition, we suggest that ACF indicate that compensation should not be adjusted downwards based on the lack of teacher certification/licensure; if programs wish to reward staff who have achieved teacher certification/licensure, this should be done by increasing wages for these staff above the baseline for parity.

- ACF requested comment on whether the benchmark of annual salaries paid to public school preschool teachers is an accurate reflection of approximately 90 percent of annual salaries paid to kindergarten teachers with comparable qualifications. In SEIU's experience, this varies substantially by location; in some areas public school preschool teachers are paid far less than K-3 teachers, while in others they are paid nearly or exactly the same. We suggest that programs be required to pay Head Start staff based on either the salaries received by public school preschool teachers or 90 percent of the salaries received by public school K-3 teachers, whichever is higher.

- The NPRM's wage proposals require programs to make "measurable progress" by August 1, 2031. We strongly recommend ACF clarify that each program must "at a minimum, make incremental progress each year" through August 1, 2031 to underscore the urgency to implement policies that address the workforce shortage and to incentivize programs into proactive measures. The progress should be documented in an annual comprehensive report, as referenced in Section A above. Additionally, guidance and technical assistance may suggest programs adopt a shorter implementation timeline if they have established policies and structures in place capable of implementing the proposed rule.

B. Staff Wages: Pay Scale For All Staff, Section 1302.90(e)(1)

Overview of NPRM proposal: The NPRM proposes that, by August 1, 2031, programs must implement a pay scale, salary scale, wage ladder, or other pay structure that applies to all staff in the program. This pay structure must promote salaries that are comparable to similar services in relevant industries in their geographic area. The pay structure must also consider, at a minimum, responsibilities, qualifications, and experience relevant to the position, and schedule or hours worked. **SEIU supports the pay scale requirement for all Head Start staff.**

Suggested Recommendation

- Head Start programs are required to review their pay structure at least once every five years to ensure it continues to provide competitive wages for staff. ACF affirms it will offer training and technical assistance support to programs after the final rule is published. We recommend that ACF require programs to review their pay structure with industry stakeholders, including staff and worker organizations, in technical assistance and other guidance. This approach will ensure that programs align the review of their pay structure with other planning and stakeholder outreach requirements within the broader context of their five-year grant cycle.

C. Staff Wages: Minimum Pay Requirement, Section 1302.90(e)(3)

Overview of NPRM proposal: The NPRM proposes that programs establish a salary floor or minimum pay that is sufficient to cover basic costs of living in the geographic area by August 1, 2031. **SEIU supports a salary or wage floor for all workers**.

Suggested Recommendations

- The proposal requires Head Start programs to establish a salary or wage floor that is "generally sufficient" to cover basic needs. Recognizing the various methods and resources to assess costs of living, ACF affirms its commitment to provide technical assistance to support programs. To promote transparency in wage determinations and ensure incremental progress by August 1, 2031, we recommend that ACF require programs to conduct an annual review of cost of living adjustments. Additionally, programs should report their methodologies used, calculations, and the actual wages paid to all workers in an annual report. This data can be integrated into the comprehensive annual report that we proposed in Section A.

- We appreciate and support ACF's clear statement that it expects that the wage floor should be at least $15 per hour in most areas of the country. However, given the likelihood of significant increases in cost of living by the time the rule is fully implemented, we urge ACF to clarify that the intent is to refer to $15 per hour in 2023 dollars, adjusted upwards for increases in the cost of living over time.

- Given that $15 an hour falls demonstrably short of a living wage in many areas already, we also suggest that ACF more clearly state that the floor of $15 per hour "will" not be sufficient in some areas and "will" need to be adjusted to reflect higher costs of living, rather than that it "may" not be sufficient in some areas and "may" need to be adjusted.

- We urge ACF to clearly state that the minimum pay standard should be sufficient to cover basic needs for staff with children, especially in light of Head Start's emphasis on employing current and former Head Start parents. While we agree that rates of pay should not be adjusted based on an individual employee's family size or structure, we are concerned that the language in the proposed rule suggests that programs should base their calculations on the wage needed for adults with no children, which is typically not sufficient to cover parents' basic costs of living. We also recommend that "child care" be added to the list of basic needs which an employee's wages should be expected to cover.

D. Staff Wages: Wage Comparability Across Head Start Preschool and Early Head Start, Section 1302.90(e)(4)

Overview of NPRM proposal: The NPRM proposes wage comparability across Head Start Preschool and Early Head Start staff positions by requiring that the pay structure established or updated under the proposed rule does not differ by age of children served for similar program staff positions with similar qualifications and experience. **SEIU supports wage comparability for all ages served.**

Response to Concerns About Compliance and Collective Bargaining Agreements:

A collective bargaining agreement is neither an obstacle to compliance nor a reasonable excuse for noncompliance with the proposed rule's minimum compensation thresholds for Head Start staff. Section 1302.90 already includes other requirements for personnel policies (on topics that would typically be bargained over), and they are treated as a minimum standard or "floor" for bargaining. Indeed, all collective bargaining agreements that are negotiated are subject to the laws and regulations that govern the employer and employees.

It is clear from the proposed rule's repeated use of the words "at least" that it is setting a minimum standard for wages, which would not restrict negotiations or contracts for wages above that minimum. Thus grant recipients who are subject to a collective bargaining agreement that has established higher wage rates than the proposed rule requires would already be in compliance. And in future contract negotiations, employers and workers would have the freedom to negotiate wages above the proposed rule's minimum standard.

The only restriction in the proposed rule that would limit the wages that could be negotiated in a collective bargaining agreement is Sec. 1302.90(e)(ii)'s requirement that staff wages cannot be "in excess of Level II of the Executive Schedule," in accordance with federal law. This caps annual wages at $212,100,[5] which is so far above the wages child care workers currently earn as to render absurd any purported concern that a collective bargaining agreement would somehow prevent compliance.

A collective bargaining agreement would similarly pose no bar to compliance where employers are currently paying less than the proposed rule's required standards; employers would simply need to work together with the representative union on implementing the wage increases. Depending on the specific language in their individual contract, employers would likely be required to provide notice to the union and to bargain over the impact of wage increases.

In a bargaining unit that includes Head Start-funded workers as well as other workers funded by state or local programs, the employer and the union would work together to address the different legal requirements and the impact of raises for Head Start workers on all members of the unit. They could also collaborate on advocacy to increase other sources of funding in order to address wages for non-Head Start workers. While implementation in this situation is more complicated than for a more homogenous bargaining unit comprised solely of Head Start workers, it does not follow that the collective bargaining agreement somehow prohibits implementation of Head Start regulations in regards to Head Start workers. Nor is there any reason that ACF's response to the child care staffing crisis should be limited based on unrelated state and local policies governing other workers at community agencies simply because Head Start and non-Head Start workers may share a bargaining unit.

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[5] See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2023/executive-senior-level

In our view, a grant recipient that asserts they cannot implement the proposed rule's wage standards because of a collective bargaining agreement either has not read the proposed rule or is making disingenuous claims. But to the extent there is legitimate confusion, we suggest that ACF clarify that the rule's wage standards do not prevent grant recipients or their delegates from negotiating higher wages with workers and their unions. ACF could also encourage programs to engage annually with worker organizations, where applicable, to ensure compliance with the proposed rule and implement prompt adjustments to collective bargaining agreements to align with the new standards. This should be applicable to all Head Start programs and their delegate agencies. Additionally, programs should be strongly urged to partner with worker organizations to secure the requisite federal funding necessary to raise wage standards for all Head Start-funded staff.

IV. Workforce Supports: Staff Benefits (§1302.90)

Overview of NPRM proposal. The NPRM outlines requirements for Head Start programs to provide benefits to staff two years after publication of the final rule. The comprehensive benefits that programs must implement include: a) health insurance options for all staff, b) paid sick leave for full-time staff, c) accrual of paid vacation or personal leave for full-time staff, d) job-protected periods of paid family leave, e) access to short-term free or low-cost mental health services for full-time workers, f) access to child care resources and subsidies and the Public Student Loan Forgiveness program, g) prioritized enrollment in child care, g) and a consideration of retirement benefits. **SEIU fully supports comprehensive benefits for both full-time and part-time Head Staff staff.**

Suggested Recommendations

- We commend ACF for its proposals that secure access to essential benefits for Head Start staff. To promote equity and uplift standards across the workforce, ACF should actively encourage Head Start programs to facilitate or provide access to comprehensive benefits for all workers. In alignment with the inclusion of full-time and part-time staff in the proposed wage standards, it is important that all workers have the opportunity to accrue a "pro-rata" or proportional allocation of benefits based on their number of hours worked. This standard would be in line with the prorated benefits offered to part-time employees set forth by the U.S. Office of Personnel Management.[6]

- Eligibility for the majority of proposed benefits is contingent on maintaining full-time status. ACF should monitor the proportion of full-time staff within each program to ensure that programs uphold a commitment to sustaining full-time positions. ACF should require Head Start programs to publish an annual report detailing both the percentage and aggregate count of their full-time and part-time staff. This data can be integrated into the comprehensive annual report that we proposed in Section A.

- We support the new requirement of paid sick leave at paragraph (f)(1)(ii). Paid sick leave is a crucial policy in early childhood programs, both to prevent the spread of illness from staff to young children (many of whom are particularly vulnerable), and to ensure that staff who are ill are able to stay home without loss of pay. However, without a minimum requirement, we are concerned that programs will provide insufficient paid sick leave. We suggest that the minimum requirement be 1 hour of sick leave accrued per 30

[6] U.S. Office of Personnel Management, Benefits for Part-Time Permanent Employees, https://www.opm.gov/policy-data-oversight/hiring-information/part-time-and-job-sharing/#url=Benefits

hours worked, the most common minimum requirement set by states with paid sick leave laws.[7]

- We support the new requirement of job-protected paid family leave at paragraph (f)(1)(iii), but we urge ACF to specify that workers must be provided with at least 12 weeks of paid family leave, the standard for most state paid family leave laws,[8] at wage replacement levels that enable them to use their leave and still meet their family's needs, and provide at a minimum a living wage. Paid family leave programs in some states have adopted a sliding scale approach to paid leave benefits and provide higher wage replacements to low-wage workers. For example, Washington state's program replaces 90 percent of wages for low-wage workers and uses a blended rate for other workers.[9]

- We support the new requirement at paragraph (f)(1)(iv) of paid vacation or personal leave for staff working longer than a typical school year, which we believe to be important for attracting and retaining qualified staff. We urge ACF to set a minimum requirement for vacation and personal leave as well; we suggest that the minimum be 10 days for employees with less than 5 years of seniority and 15 days for employees with more than 10 years of seniority. This aligns with what the majority of private industry workers are granted for paid vacation.[10]

- Promoting benefits and wellness education is essential to empower workers to understand their options and make informed decisions. ACF should encourage programs to support mandatory education and training of all benefits for Head Start workers through collaborative efforts with worker organizations that cover wages, benefits, and workforce supports under the proposed rule or through labor-management partnerships. Worker organizations are well-suited to offer high-quality training and education programming due to their extensive relationships with the workforce. Additionally, worker organizations possess real-time industry knowledge, utilize culturally- and linguistically-relevant approaches, and offer innovative mentoring and apprenticeship opportunities. ACF should further advocate for joint labor-management trusts as a highly effective mechanism for delivering benefits to the early learning workforce.

- The proposed rule requires programs to assess and determine the competitiveness of their benefits package at least once every five years. We recommend that ACF require programs to review their benefits package with industry stakeholders, including Head Start staff. The knowledge and expertise of workers and stakeholders are critical to evaluate the impact of potential new or existing benefit options and to ensure that options are effective, equitable, and affordable for the workforce.

- The proposal requires programs to facilitate staff access to affordable child care resources and information, including connections to child care resources and referral agencies. To help staff make more informed care decisions and to expand the sources of care, programs should inform staff they can use federal subsidies with a diversity of

[7] Williamson, Molly Weston, The State of Paid Sick Leave in the U.S. in 2023, Fact Sheet, Center for American Progress, January 5, 2023,https://www.americanprogress.org/article/the-state-of-paid-sick-time-in-the-u-s-in-2023/
[8] Id. at 5.
[9] Shabo, Vicki, Explainer: Paid Leave Benefits and Funding in the United States, New America, January 2, 2024, https://www.newamerica.org/better-life-lab/briefs/explainer-paid-leave-benefits-and-funding-in-the-united-states/
[10] U.S. Bureau of Labor Statistics, Employee Benefits (2021), https://www.bls.gov/ebs/factsheets/paid-vacations.htm

care providers, e.g. child care centers, family child care homes, family, friend, and neighbor care, and school-based options. ACF can also encourage programs to publicize information about additional resources available in the local area to help staff locate child care services that are in short supply, such as providers offering non-traditional hours care, providers located in child care deserts, and family child care providers. Non-profit online referral registries like CarinaCare[11] are an important tool to help families, struggling to find child care that meets their needs, identify and connect with child care providers in their area with availability to enroll more children.

- SEIU supports a requirement that Head Start programs provide retirement benefits for all staff. Worker compensation should capture the full cost of living in a geographic region and include a benefits package covering retirement savings. Promoting retirement benefits not only serves as an additional incentive to attract and retain staff, but this benefit is particularly needed among the broader early learning workforce, a significant portion of which are aged 35 or older with limited or nonexistent retirement savings. In response to ACF's request for comment regarding the administrative difficulty or expense creating these benefits would entail, we wish to note the cost and time efficiencies of providing benefits through multiemployer funds established through collective bargaining.[12]

> *Child Care Providers United, a family child care provider union in California, created a defined-contribution plan with the state of California through a joint-management trust fund.*
>
> *SEIU Local 775 (Washington State) established a multi-employer retirement fund through collective bargaining, where the state of Washington and private employers contribute on behalf of their employees. The amount of benefit that a participant receives depends on the individual's age and the amount of money that is in the individual's account.*

V. Workforce Supports: Staff Wellness (§1302.93)

Overview of NPRM proposal: The NPRM proposes that programs must promote staff physical and mental wellness on the job, including minimal level of regular breaks for staff, brief unscheduled `wellness breaks' for staff who work directly in classrooms with children, and access to adult size furniture in classrooms to support ergonomic health. **SEIU supports the proposed staff wellness rule, particularly to mitigate the effects of high levels of stress experienced by underserved communities and populations.**

VI. Workforce Supports: Employee Engagement (§1302.92, §1302.101)

Overview of NPRM proposal: The NPRM proposes that programs implement a management system that provides regular and ongoing staff supervision to support individual professional development and continuous program quality improvement. **SEIU supports the proposed employee engagement provisions.**

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[11] CARINA, https://carina.org/childcare

[12] Rhinehart, Lynn and Mc Nicolas, Celine, Collective Bargaining Beyond the Worksite, Economic Policy Institute, May 4, 2020, https://www.epi.org/publication/collective-bargaining-beyond-the-worksite-how-workers-and-their-unions-build-power-and-set-standards-for-their-industries/

Suggested Recommendations

- One of the most substantive and valuable methods of employee engagement is through collective bargaining and other interactions between employers and their employees' unions at unionized programs, and we urge ACF to include a reference to unions among the long list of examples it provides of meaningful and effective employee engagement practices in its discussion of § 1302.101(a)(2).

- Unfortunately, in SEIU's experience, many unionized employers squander this valuable opportunity for employee engagement through costly and often illegal bad faith interactions or refusals to interact with their employees' union, in an attempt to undermine workers' ability to join and keep their union. Accordingly, we recommend that ACF add further language to its discussion of § 1302.101(a)(2), stating that "In unionized programs, the collective bargaining process provides an opportunity for meaningful and effective employee engagement. We remind unionized programs that bad faith bargaining or excessive delays in the bargaining process in an attempt to deter union organizing are violations of the law, cannot be paid for by Head Start funds, and interfere with programs' ability to use the bargaining process to support meaningful and effective employee engagement."

- Worker organizations and labor-management initiatives often provide effective and cost-efficient trainings, apprenticeships, and other programs to enhance workforce quality and supply. ACF should encourage programs to create partnerships with worker organizations to stabilize the workforce.

> *SEIU Early Educator Training Center*[13] *is an apprenticeship program developed through a partnership between SEIU locals in the state of California. Since 2015, the SEIU Early Educator Training Center has received state funding for developing and implementing Early Care and Education Apprenticeships, and providing training and college coursework to early childhood workers across the state. The apprenticeships provide licensed family child care providers, center-based workers, and Head Start educators with on-the-job mentoring/coaching, college coursework leading to state permits and college degrees, and cohort support and academic guidance. As well, the Head Start pre-apprenticeship provides an onramp for unemployed parents to enter the early childhood field through an intensive 6-month work/study program.*

VII. Mental Health Services (§1302.17, §1302.40, §1302.45, §1302.81-82, §1302.91, §1302.93)

Overview of NPRM proposal: The NPRM proposes enhanced mental health supports, including reducing barriers to services, preventative approaches, and a multidisciplinary team to address mental health. **SEIU supports the proposed mental health provisions.**

VIII. Ratios in Center-Based Early Head Start Programs (§1302.21)

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[13] Petig, Abby Copeman, Chavez, Raul, and Austin, Lea J.E., Strengthening the Knowledge, Skills, and Professional Identify of Early Educators, December, 2019, Center for the Study of Child Care Employment, https://cscce.berkeley.edu/publications/report/strengthening-the-knowledge-skills-and-professional-identity-of-early-educators/

Overview of NPRM proposal: The NPRM proposes to encourage programs to lower Early Head Start teacher-child ratios to 3:1in infant classrooms. **SEIU has heard informal reports that programs "round-up" the age of children, grouping more infants and toddlers with mixed-age children. We suggest that ACF clearly specify how a child's age should be determined for staff ratio purposes.**