



January 19, 2024

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The Honorable Khari Garvin
Director
Office of Head Start
330 C Street, S.W.
Washington, D.C., 20201

Submitted via regulations.gov.

**Re: Supporting the Head Start Workforce and Consistent Quality Programming;
RIN 0970—AD01**

Dear Director Garvin:

The American Federation of State, County & Municipal Employees (AFSCME) is pleased to respond to the Office of Head Start (OHS) on its proposed rule modifying the Head Start Program Performance Standards (HSPPS) to support and stabilize the Head Start workforce and promote quality of services across Head Start programs. **While acknowledging the need for new and expanded funding for Head Start, we generally support the proposed rule with some modifications to ensure the long-term sustainability of the program and strengthen its relationship with other aspects of the child care market.**

AFSCME members provide the vital services that make America happen. With 1.4 million members in communities across the nation, AFSCME advocates for fairness in the workplace, excellence in public services and freedom and opportunity for all working families. Thousands of AFSCME members work in Head Start agencies across the country or run Child Care and Development Fund (CCDF)-subsidized home-based child care programs with Head Start slots. Many other AFSCME members serving in hundreds of different occupations—from nurses to corrections officers, EMTs to sanitation workers—are among the millions of working parents who struggle to access affordable, high-quality child care. Our members working in child care and who rely on high-quality child care whether through Head Start, CCDF or in the private market have a personal interest in how the Head Start program is administered and its effects on the broader child care market.

AFSCME supports much of the proposed rule and the intention of OHS to build toward a better child care system. Congress passed the Head Start Act to provide high-quality, low-cost child care options for the most vulnerable working families. We strongly agree with OHS that the Head Start program, like other parts of the care

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economy, has been “subsidized by low-paid workers committed to the mission.” We believe Head Start agencies should take greater responsibility for the way low pay for child care workers has become integral to their operations and take steps to improve compensation and benefits for the workers who make Head Start possible. However, we urge OHS to adopt important changes to the proposed provisions to ensure child care workers and the families they serve can truly benefit from this rule.

With modifications, we generally support the provisions to improve compensation for the Head Start workforce.

We strongly support the proposed requirements to provide Head Start staff with appropriate compensation and stabilize the program long-term. Recent revisions to the HSPPS have enhanced requirements and responsibilities for program staff without any concomitant requirement for enhanced pay or benefits. In the meantime, grantees have routinely prioritized serving more children over voluntarily increasing compensation for Head Start staff to be comparable to educational settings competing for these workers, much less with the basic costs of living. In the absence of improved federal funding, grantees have instead relied on their dedicated and hard-working staff to absorb the difference between the true cost of Head Start’s educational and family services and the revenue available to grantees.

Head Start agencies are not alone in making these decisions. This pattern of undervaluing the labor of women, especially women of color, has persisted since the founding days of this country. Nor do employers necessarily bare any ill-will toward their workforces. We commend those Head Start employers like Champaign County Head Start in central Illinois that have utilized OHS guidance to restructure their program while maintaining their current budget. After slot reductions, the agency was able to improve compensation by a range of 15%–51% and fill numerous vacancies, all while taking more children off the waitlist. Council 31 AFSCME members who staff this agency reported great satisfaction in their employer’s proactive approach to increasing worker compensation and addressing long-standing staffing issues that threatened program quality.

Their counterparts working for a Community Action Agency (CAA) in the state capital, the Springfield Urban League, have faced a drastically different situation with starting pay for a Head Start teacher falling about \$15,000 behind that of a school district teacher though both positions require a bachelor’s degree. The situation is made worse by the step pay scale of the local school district. After 17 years, a public school teacher with a BA would rise from \$46,417 to a maximum of \$69,000 a year, while the Head Start teacher would still be making the same \$30,924, cost of living adjustments notwithstanding. AFSCME members report that management has neglected to properly consider OHS guidance on improving staff compensation even as they face vacancies so severe, they have had to close classrooms. **We strongly agree with OHS that grant recipients’ longstanding neglect of Head Start staff compensation, even in the face of closed classrooms and high turnover, makes “clear that regulatory action is needed in order to provide Head Start staff with appropriate compensation and stabilize the program long-term.”**¹ We agree with OHS that local flexibility is important for agencies to be able to adequately meet the needs of their local communities. **The industry, however, should no longer be allowed**

¹ 88 Fed. Reg. 80,818, 80,825 (Nov. 20, 2023).

to use this flexibility to neglect the needs of the local staff who make the Head Start program possible.

Clarifying the Applicability of the Proposed Staff Wages, Benefits & Wellness Standards

We strongly support the proposed wage, benefit and wellness standards but OHS must modify these to reflect the needs and realities faced by all Head Start staff, both employees and contractors. **In the broadest sense this means OHS must clarify to whom each provision applies, especially throughout Subpart I.** Within the NPRM, OHS states unambiguously the need for clarity on this issue:

It is our intention that these newly proposed standards improve wages for staff in the program who are either employees or contractors and who provide regular services for children and families in the program that are integral to program quality or function.²

Yet, in the actual proposed text of Subpart I, including the proposed standards to improve wages, the term “staff” is used without obvious referent. In proposed section 1302.90(c)(1), for example, the proposed language on conduct makes clear throughout that it applies to “staff, consultants, contractors, and volunteers.”

In this context, the proposed provisions for staff wages and benefits in proposed section 1302.90(e)–(f), as well as proposed sections 1302.92, 1302.93 and 1302.101, seem to apply only to direct employees of Head Start programs, not to any consultants, contractors or volunteers. This way of talking about “staff” distinguishes them from all others who perform essential functions but who are not direct employees, seemingly in direct contradiction to OHS’ stated intention above. **We urge OHS to correct this ambiguity and make clear either that the term “staff” as used throughout the proposed regulations includes contracted staff or that “staff” means only those who are “employees of the Head Start program, whose salaries are paid at least in part with Head Start funds, and whose regular job responsibilities include activities or services to support enrolled children and families.”**³ In the former case, OHS should clarify within the regulations that all mentions of the term “staff” are meant to include all contractors who provide ongoing services such as disabilities specialists, mental health professionals and bus drivers. In the latter case, the rule should make clear that the proposed sections on wages and benefits in proposed section 1302.90(e)–(f) apply to both Head Start employees and contracted staff. Further, if OHS intended to include or exclude contract staff from certain or most provisions, such as those for minimum break standards for “each staff member” in proposed section 1302.93, OHS must clarify the proposed regulations.

In either case, OHS must also clarify the applicability of the proposed regulations on wages and benefits to grant recipients exercising the family child care option, as many of those family child care providers are funded through contracts with the grant recipient rather than as employees. As it is explained in the NPRM, the Head Start regulations should specifically codify that for all contracted staff, including family child care providers, “language in the contract must provide for wages comparable to what the recipient

² Id. at 80,832.

³ Id.

organization would provide if they were the employer.”⁴ We believe benefits should also be included in this requirement. Although just 0.2% of Head Start Preschool and 4% of Early Head Start enrollment utilized the family child care option in FY 2022,⁵ families report great appreciation for their ability to participate in the family child care option, especially if it means keeping their children together or with the same providers over a longer period. If OHS values family child care providers’ participation in the Head Start program, OHS must clarify the applicability of the proposed standards to family child care providers and their assistants. The vast majority of family child care providers are already struggling to make ends meet through a combination of private pay and child care and development block grant funds and simply cannot afford to participate in Head Start given higher ratio requirements. To maintain or increase family child care provider participation in the program, **OHS must include language in the regulations specifying that contract terms with Head Start grant recipients must provide for sufficient funding to allow contracted family child care providers to keep pace with these wage requirements for both operators and their staff. Additionally OHS should ensure the same requirement applies to extending benefits to family child care providers and their staff.**

We provide additional comments on the ratio requirements for family child care settings below.

Strengthening the Proposed Staff Wage Standards

We strongly support the proposed requirements for improved pay for Head Start staff, including requiring progress to pay parity for education staff with kindergarten through third grade public school teachers, establishing or updating pay scales for all staff and minimum pay for all staff that is sufficient to cover the basic cost of living. We urge OHS to modify these proposed sections to ensure Head Start grant recipients make adequate and equitable progress to pay parity over the phase-in period and make realistic appraisals of the basic cost of living.

First, we agree with other labor partners that OHS must require Head Start grant recipients to demonstrate publicly their progress toward true pay parity over the course of the phase-in period. As explained below, this entails, in part, grant recipients publishing information about pay and benefit comparisons of their staff with K–3 teachers. But the Head Start staffing crisis is too urgent to set the only pay parity benchmark at seven years after the final rule is published. OHS should require grant recipients to show incremental progress toward pay parity before the proposed 2031 deadline, potentially at three and five years after the final rule is published. More frequent checks would allow OHS to offer targeted assistance to grant recipients who are failing to make measurable progress over time and to highlight the successes of grant recipients that are able to restructure their programs to improve wages and benefits for staff sooner than the deadline.

OHS must also modify the pay parity requirements to better reflect the reality of divergent compensation between early childhood education and public schools. **We join other labor partners in urging OHS to require grant recipients to reach parity in total compensation,**

⁴ Id.

⁵ “Head Start Program Facts: Fiscal Year 2022,” <https://eclkc.ohs.acf.hhs.gov/data-ongoing-monitoring/article/head-start-program-facts-fiscal-year-2022>.

including the value of both salary and benefits offered, in order to ensure true parity. Further, as is acknowledged in the section on paid vacation and personal time, many Head Start staff work a full-day schedule for longer than a regular school year while most public preschool teachers work shorter hours over a shorter year. **OHS should require programs to adjust the target compensation levels proportionally to reflect differences in annual hours of work.** We also urge OHS to consider an alternative benchmark for the seven-year deadline given variations in the pay difference between preschool and K-3 teachers even in the same geographic areas. **We urge OHS to require programs to reach pay parity with either the salaries received by public preschool teachers or 90% of the salaries received by public school K-3 teachers, whichever is higher.** In this way, OHS can avoid replicating existing inequalities in compensation for early childhood educators in line with the intentions of the proposed rule.

To ensure grant recipients do not misuse their flexibility in interpreting responsibilities, qualifications and experience of staff, OHS should clarify in the pay parity and pay scale requirements how these various factors should generally be weighted and to what extent programs are allowed to reduce compensation for teachers and family child care provider partners who lack certain credentials that are more common for public preschool and K-3 teachers including licenses and degrees. We believe experienced educators, including family child care provider partners, should not be penalized due to longstanding barriers to receiving formal education credentials. Failure to provide proper guidance and oversight to Head Start grant recipients on this provision risks reinforcing existing inequalities and contradicting the rule's stated goal of increasing compensation separate from increasing requirements on staff.

Finally, in establishing minimum pay standards, we agree with other labor partners that OHS must provide clear guidance and oversight to ensure grant recipients realistically calculate the basic cost of living in their area. OHS should state clearly that though \$15 an hour may be a sufficient wage floor in some parts of the country, in many other areas it will need to be adjusted to account for significantly higher costs of living. Further, given the demographics of Head Start staff, we urge OHS to require recipients to take into account a minimum pay standard that would be sufficient for staff with children, rather than just single adults, and to include child care among the list of basic needs an employee's wages should be expected to cover.

Strengthening the Proposed Staff Benefit and Employee Engagement Standards

We strongly support the proposed requirements for comprehensive benefits for full-time Head Start staff including health insurance options; paid sick leave; paid vacation and personal leave; job-protected paid family and medical leave; access to short-term free or low-cost mental health services; access to child care resources and the Public Service Loan Forgiveness program and prioritized enrollment in a program's child care services. Many Head Start grant recipients already offer some of these benefits to their staff, and the proposed requirements would set a new minimum standard for Head Start employers.

OHS should also require Head Start programs to offer retirement benefits for full-time staff, thereby setting a standard that early childhood education workers need and deserve to be able to retire. Further, we urge OHS to replace the narrow term "retirement savings plans"⁶ with

⁶ 88 Fed. Reg. 80,818, 80,904.

a broader term, such as “retirement plans” or “pension and retirement savings plans,” when addressing which kinds of retirement benefits a program should or could provide. The term “retirement savings plans” inappropriately suggests that 401(k)- and 403(b)-type individual retirement account plans are the only types of plans that should be considered. Such plans typically place the primary burden for accumulating and managing retirement savings on individual workers and do not provide guaranteed income during retirement. By contrast, defined benefit pension plans, like the collectively bargained plan sponsored by the Head Start Sponsoring Board Council of the City of New York, Inc., for Head Start program employees⁷, provide workers a monthly paycheck in retirement that lasts throughout their lives.

For this rule to truly live up to its stated intentions, we urge OHS to strengthen benefit standards for part-time staff, expand the paid family and medical leave provision and offer comprehensive guidance clarifying key provisions. First, we believe that part-time workers should 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 and should apply to the paid sick, vacation and personal leave provisions as well as any retirement benefits offered to full-time staff.⁸ In this vein, both full- and part-time workers would benefit from minimum requirements, especially for paid sick leave, since this is the category of benefits many workers rely on to care for themselves and their families before they apply for or when they cannot resort to paid or unpaid family and medical leave. We join other labor partners in suggesting a minimum requirement of one hour of sick leave accrued per 30 hours worked, the most common minimum requirement set by states with paid sick leave laws.⁹ Aligning with the benefits offered to most private industry workers, we also suggest OHS adopt a minimum standard for vacation and personal leave of 5–10 days for employees with more than a year of seniority and 10–15 days for employees with more than five years of seniority.¹⁰

Additionally, both full- and part-time workers would benefit from strengthening the job-protected paid family leave provisions in proposed section 1302.90(f)(iii). We urge OHS to clarify the language of the proposed rule to specify paid family and medical leave rather than just family leave since the terms are not interchangeable and the latter often excludes leave for a worker’s own serious health condition. **We also urge OHS to extend eligibility for paid family and medical leave benefits to part-time employees** as there are no such exclusions within the FMLA or state-sponsored paid family and medical leave plans. Given the importance of part-time employees to program operations, the high turnover of early childhood education workers and the exclusion of the workers who would most benefit from these minimum benefit requirements from state-sponsored paid family and medical leave programs, **OHS must also set eligibility requirements lower than those of the FMLA.** The American Time Use Survey showed that in 2018 nearly half of U.S. employees were not eligible for FMLA leave. The majority of those employees were ineligible because they had worked for their employer for less than the

⁷ See <https://www.headstartsbdc.org/hssbcdefinedpensionplan>.

⁸ 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>.

⁹ Molly Weston Williamson, “The State of Paid Sick Time in the U.S. in 2024,” *Center for American Progress*, Jan. 17, 2024, <https://www.americanprogress.org/article/the-state-of-paid-sick-time-in-the-u-s-in-2024/>.

¹⁰ U.S. Bureau of Labor Statistics, Employee Benefits: Who Receives Paid Vacations?, Sept. 23, 2021, <https://www.bls.gov/ebs/factsheets/paid-vacations.htm>.

required 1,250 hours or for less than a year.¹¹ While we commend OHS for inclusion of all Head Start programs regardless of employer size, the tenure and hours worked requirements of the FMLA will still be a significant barrier to access for many Head Start workers. Similarly, the same research showed many workers had either not heard of (24%) or completely misunderstood their eligibility for FMLA leave. More than half of employees (56%) believed that the FMLA covered more reasons for leave than it actually does, reflecting the gap between how employees may want or need to use paid leave—for example to care for a seriously ill grandparent or sibling for whom they are responsible—and what the FMLA actually covers. **We urge OHS to require Head Start grantees to educate their staff about all the benefits available to them and to adopt an inclusive, realistic family definition** as part of lowering eligibility requirements and ensuring workers can take leave when they need it.¹²

Further, OHS should require Head Start programs to offer at least 12 weeks of paid family and medical leave, at wage replacement levels at or close to 100% and with lower eligibility requirements than the FMLA. Research on employer- and state-sponsored paid family and medical leave benefits shows workers need adequate benefit levels in order to actually access leave. Many workers who are eligible for the FMLA cannot afford to take unpaid leave and forgo or delay needed medical treatment for themselves or their family members as a result.¹³ Twelve weeks of paid time off is a minimum standard among state-sponsored paid family and medical leave programs¹⁴ and experts agree 12 weeks of parental leave is beneficial for both maternal and child health and wellbeing.¹⁵ While every employee is not likely to need extensive medical leave benefits, those that do really need a comprehensive leave policy. The American Cancer Society found that 69% of cancer patients and survivors surveyed missed more than four weeks of work while 39% missed more than three months (12 weeks) of work.¹⁶ Benefit levels also need to replace enough wages to be affordable. Most newer state-sponsored programs use a progressive, sliding scale wage replacement model in which lower-wage workers receive a higher percentage of their salary in weekly benefits, often 90% or more.¹⁷ We urge OHS to require a progressive benefit model that either offers at or near total wage replacement for all staff or at the very least for lower-wage staff, with benefit durations of at least 12 weeks per year.

¹¹ Brown, S., Herr, J., Roy, R., & Klerman, J. A. (2020). *Employee and Worksite Perspectives of the FMLA: Who is Eligible?* Produced for the U.S. Department of Labor, Chief Evaluation Office. Rockville, MD: Abt Associates Inc, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018PB1WhoIsEligible_StudyBrief_Aug2020.pdf.

¹² “The Importance of an Inclusive, Realistic Family Definition in Paid Family and Medical Leave and Paid Sick Time Policies,” *A Better Balance*, Oct. 2023, <https://www.abetterbalance.org/wp-content/uploads/2017/05/Broad-Family-Definition-Update-October-2023.pdf>.

¹³ Brown et al, “Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys,” *Department of Labor*, July 2020, pg. 46, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018SurveyResults_FinalReport_Aug2020.pdf.

¹⁴ Vicki Shabo, “Explainer: Paid Leave Benefits and Funding in the United States,” *New America*, Jan. 2, 2024, <https://www.newamerica.org/better-life-lab/briefs/explainer-paid-leave-benefits-and-funding-in-the-united-states/>.

¹⁵ Jessica Booth, “How Maternity Leave Affects Your Health,” *Forbes*, Oct. 9, 2023, <https://www.forbes.com/health/womens-health/how-maternity-leave-affects-health/>.

¹⁶ “Survivor Views: Missed Work and Paid Leave,” *American Cancer Society Cancer Action Network*, Dec. 7, 2021, <https://www.fightcancer.org/policy-resources/survivor-views-missed-work-and-paid-leave>.

¹⁷ Shabo

Finally, we urge OHS to provide comprehensive guidance to grant recipients clarifying the meaning of these requirements and, specifically, terms such as “high-quality,” “affordable,” “facilitate access” and “meaningful and effective employee engagement practices.” As the NPRM acknowledges, OHS is aware that current health insurance offerings for many Head Start staff are neither high-quality nor affordable: “[W]hile many Head Start staff may be offered employer-sponsored health coverage, it may not cover many health expenses, may not cover family members and/or may entail considerable out of pocket costs for staff.”¹⁸ Further, the health insurance, child care and Public Service Loan Forgiveness provisions all contain significant ambiguities regarding the term “facilitate access” that could allow Head Start grant recipients to cut corners and fail to live up to the stated intention of the rule. The same is true of the provisions on employee engagement, which only bear a passing resemblance to the longer and more extensive expectations outlined in the NPRM that employers avoid “top-down” management approaches and instead engage holistically and collaboratively with their staff regardless of collective bargaining status. For these sections to fulfill their stated intention, **OHS must provide the guidance and technical assistance to ensure Head Start grant recipients understand how exactly they must meet these standards.** By making this guidance public, Head Start staff and their representatives are also better positioned to hold their programs accountable to these requirements and negotiate for improved benefits and workplace engagement practices through collective bargaining.

Improving Head Start Program Accountability and Compliance

In addition to setting new requirements for staff wages and benefits in the final rule, **OHS must include oversight and enforcement mechanisms that take into account the realities faced by the Head Start workforce.** As the NPRM makes clear, regulatory action is needed precisely because programs have long neglected voluntary improvements to staff compensation.

We urge OHS to use its existing oversight powers to ensure Head Start programs comply with the proposed rule and its prescribed implementation timelines. OHS could do this by requiring information on current staff compensation in comparison to the proposed wage parity and minimum pay targets be included in both Program Information Reports and routine and targeted Monitoring Review Reports. Through Program Information Reports, agencies can publicly report information on staff compensation, such as the pay scale they would have to update or establish under proposed section 1302.90(e)(1); progress toward minimum pay levels that cover the local cost of living under proposed section 1302.90(e)(3); wage comparisons between staff working with different age levels under proposed section 1302.90(e)(4) and wage comparisons between their staff and public preschool through third grade education staff that they would already be required to collect under proposed section 1302.90(e)(2). OHS could then require that the subsequent reviews of pay scales and benefits required to occur once every five years after the implementation deadline be publicly shared either in summary within Program Information Reports or in accordance with the existing public reporting requirements of Section 644(a)(2) of the Head Start Act and 45 CFR 1302.102(d)(2). **The public, including Head Start families and staff, could then better exercise direct oversight over program compliance with the proposed rule and their progress toward pay equity and wage parity targets.** As stated above, more frequent wage targets throughout the seven-year phase-in period would also better allow the public to ensure agencies make meaningful progress rather than waiting until the proposed 2031 deadline.

¹⁸ 88 Fed. Reg. 80,818, 80,833.

Through Monitoring Review Reports, OHS already reviews each local Head Start agency to ensure compliance with the HSPPS, all in a form accessible to the public through the ACF website. If the intent of the rule is to ensure wage and benefit standards are part of criteria for judging program compliance with the HSPPS, it is incumbent on OHS to include review of staff compensation and workforce development strategies in qualitative and quantitative terms in the existing mechanism of Monitoring Review Reports. Finally, in reviewing program compliance, **we urge OHS to make use of its powers to identify and address program deficiencies in these areas including through follow-up reviews, corrective action plans and, in the most severe cases, termination or denial of funds in accordance with 45 CFR 1304.5.**

We are concerned Head Start grantees may subvert the intentions of the rule by violating workers' rights to organize and exercise their voice through collective bargaining agreements. As in so many other industries, Head Start staff and their unions maintain special insight into day-to-day grantee practices and grantees' compliance with federal, state and local laws. This insight allows organized workers to fight for meaningful progress toward and even beyond the wage and benefit standards in the proposed rule. Yet, the power of this collective voice is exactly why many Head Start grantees, like so many other non-profit and community-oriented organizations, have unfortunately fought tooth and nail against worker organizing up to the point of repeatedly violating both federal labor law and Section 644(e) of the Head Start Act, which explicitly aimed to prevent employers from utilizing federal funds to "assist, promote or deter union organizing" efforts. **We urge OHS to recognize the reality that management actions taken to punish, disincentivize or deter workers' right to organize necessarily hinder compliance with other workforce compensation, engagement and wellness standards of the proposed rule.**

We urge OHS to use its existing oversight and compliance authority to fully enforce union neutrality in accordance with Head Start Act and the recommendations of White House Task Force on Worker Organizing and Empowerment released in 2022. OHS should issue regulations or sub-regulatory guidance establishing an enforcement mechanism. To address grantees' ongoing efforts to evade the statutory neutrality requirement, OHS should clarify that promoting, deterring or assisting union organizing includes any executive, managerial or supervisory official acting, in their official capacity, in a manner designed to influence a worker's choice on whether to form, join or assist a labor organization or refrain from doing so. Violations of this requirement should be included in Monitoring Review Reports and serve as potential criteria for findings of noncompliance or deficiency. Further, annual reports by grantees should include an attestation by the chief executive of compliance with the neutrality requirement. Finally, we agree with other labor partners that ACF should 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. If OHS is serious about addressing the urgent staffing crisis in Head Start, they must be willing to enforce this rule and exercise active oversight of Head Start grantees.

OHS should modify provisions on ratios to reduce unnecessary burdens on family child care settings.

In addition to our suggestion above that OHS clarify the applicability of wage and benefit standards to family child care partners, **we urge OHS to modify proposed section 1302.23 to better align Head Start requirements for family child care partners with state licensing standards.** We agree with other family child care advocacy organizations that the current proposed rules risk further disincentivizing the family child care option.

First, we urge OHS to retain the role of assistant family child care provider and include it within the staff qualifications and competency section in current 45 CFR 1302.91(e) as an identified and compensated role comparable to an Assistant Head Start Teacher. Removing reference to assistants and replacing it with reference to multiple family child care providers simply does not reflect the realities of most family child care programs, which are owned and operated by individuals with perhaps one or two assistants. A single provider and an assistant with appropriate experience and qualifications are more than capable of caring for mixed age groups with children over 36 months old as specified in 1302.23(b)(2). Requiring a second provider in order to care for more than six children is unrealistic and unattainable.

Second, in reference to the “infants and toddlers only” category clarified under proposed section 1302.23(b)(3), OHS must allow providers to meet the 1-to-4-teacher-child ratio requirement by hiring assistant family child care providers meeting the competency and qualification requirements proposed above to be added to 45 CFR 1302.91(e). As written, the proposed regulation simply caps the maximum group size for a family child care provider serving only infants and toddlers at four children. As other family child care advocacy organizations have argued, this proposed language is out of line with most state licensing regulations, which currently allow for six children except in care for children under 12 months. Infants and toddlers are the most expensive children to care for across early childhood education because of the low teacher-to-child ratio, and, as written, this rule would force providers to operate below their licensed capacity in order to participate in the Head Start program. This is not financially viable for family child care providers and runs counter to the reality that home-based settings are the providers of choice and necessity for serving infants and toddlers and other underserved groups of children. **OHS should modify this section to allow providers to serve groups of more than four children under 36 months of age by hiring an assistant family child care provider. Alternatively, as other child care advocacy organizations have suggested, OHS could require Head Start grant recipients to compensate family child care providers for the lost revenue associated with vacancies these ratio caps would require.**

Conclusion

With this rule OHS will stand unequivocally on the side of true progress rather than further austerity and flagging expectations. **We urge OHS to stand firm on these requirements while offering guidance to assist agencies with making the proposed changes in the best way possible with respect to both the needs of children and families and of workers and their existing collective bargaining agreements.** The long phase-in of the most ambitious requirements should allow Head Start agencies to figure out, in consultation with their staff and communities,

how they can adjust services in order to comply while also granting the whole Head Start community time to advocate for the increased funding needed to increase the size of the pie for all. We agree with OHS's analysis showing that potential slot reductions that would be needed for agencies to comply with this rule will largely be absorbed by the scores of closed classrooms across the country. Should increased funding come within the phase-in period, we urge OHS to issue guidance on how programs can restructure with sustainable growth in mind. In the meantime, stabilizing the head start workforce is too important to delay. **As the NPRM concludes, "A stable, well-qualified workforce is fundamental to providing high-quality Head Start services to children and families."**¹⁹

We urge OHS to make the above changes to better ensure the protection of the interests of all Head Start staff, including part-time staff and contractors like family child care providers. OHS must issue comprehensive guidance and direction to Head Start grant recipients showing how they are expected to comply with the rule while enacting strong oversight and transparency requirements so OHS and Head Start families and staff can hold grant recipients accountable to the final rule.

If you have any questions about our comments, please contact Yvonne Bramble at ybramble@afscme.org. We look forward to working with OHS to pursue additional measures to improve compensation for the whole Head Start workforce.

Sincerely,

/s/ Dalia R. Thornton

Dalia R. Thornton
Director
Department of Research and
Collective Bargaining Services

¹⁹ 88 Fed. Reg. 80,818, 80,825.