



NATIONAL HEAD START ASSOCIATION

Deeper Dive Part 2:

Enhanced Oversight, Reporting and
Additional Provisions

December 1, 2023

Supporting the Head Start Workforce & Consistent Quality Programming

Notice of Proposed Rulemaking

Enhanced Oversight, Reporting and Additional Provisions

Goals for Today

- Discuss the most impactful proposed requirements that present opportunities and or challenges
- Identify where you think OHS got it right, went too far, or not far enough
- Acknowledge the elephant in the room - the consequences, if we do not receive significant funding increases

IMPORTANT: Take notes! You should leave today more informed so you have context for filling out the survey. Including highlighting where more clarity is needed.

Enhanced Oversight and Reporting

- Standards of Conduct
- Incident Reporting
- Preventing and Addressing Lead Exposure

Enhanced Oversight and Reporting

September 2022, Office of Inspector General (OIG) issued a report titled - **“ACF Should Improve Oversight of Head Start To Better Protect Children’s Safety”**. The OIG made three recommendations that focus on improving oversight and reporting.

1. Improve HS grant recipient’s self-reporting of incidents of child abuse, lack of supervision, and unauthorized release through better guidance and stronger consequences for failure to report.
2. Extend reporting requirement to include incidents in blended classrooms in which the victim is not a Head Start-funded child.
3. Improve data-sharing with States about incidents in Head Start centers.

Also, over the past few years OHS has posted videos, published Information Memorandums, conducted webinars on reporting child health and safety incidents and addressing child incidents through a culture of safety. Reducing the number of health and safety incidents is a major priority for OHS.

Enhanced Oversight and Reporting

Reality check- The number of health and safety incidents has increased over the past two years. What's contributing to the increase in health and safety incidents?

- Staffing shortages, turnover, low morale, inexperience?
- Supervisors and coaches covering classrooms instead of supervising and coaching?
- Children's serious behavioral health concerns on the rise?
- Teaching staff overwhelmed with high percentages of children in classroom settings with IEP and serious behavioral health concerns?
- Classroom teacher:child ratios too high?
- Other?

Enhanced Oversight and Reporting: Standards of Conduct

NPRM states-

- Given how critical child safety is in Head Start programs, we propose revisions to ensure **we are as clear as possible** and that our requirements reflect current best practices and **more precise terminology**.
- We believe the proposed **revisions set a higher standard** yet reasonable standard for staff to include prohibition of behaviors that have the potential to negatively impact children,
- The proposed revisions underscore typical responsibilities of mandated reporters of child abuse and neglect, **which applies to ALL staff**.

Standards of Conduct

Adds strong language - Staff, consultants, **volunteers** do not engage in behaviors that would be **reasonably suspected to negatively impact the health, mental health, or safety of children.**

Clarifies the requirement to ensure all staff, consultants, contractors and **volunteers** report reasonably suspected or known incidents of child abuse and neglect as defined by Child Abuse Prevention Treatment Act (CAPTA)

Major changes under **(1302.90 (c)(ii) A-D)** adds **four proposed categories including very specific examples of unacceptable behavior.** Definitions and examples of potential child maltreatment are adapted from CDC resources.

Standards of Conduct 1302.90 (c)(ii) A-D

A. Corporal punishment or physically abusive behavior is the intentional use of physical force that results in, or has the potential to result in, physical injury including, but not limited to hitting, kicking, shaking, biting, forcibly moving, restraining, force feeding, or dragging a child.

B. Sexually abusive behavior is any completed or attempted sexual act, sexual contact, or exploitation, including, but not limited inappropriate touching, inappropriate filming, or exposing a child to other sexual activities.

C. Emotionally harmful or abusive behaviors that harm a child's self-worth or emotional well-being or behaviors that are insensitive to the child's developmental needs, including, but not limited to, using isolation as a discipline, exposing a child to a public or private humiliation, or name calling, shaming, intimidating or threatening a child.

Standards of Conduct 1302.90 (c)(ii) A-D

D. Neglectful behavior is the failure to meet a child's basic and emotional needs including access to food, education, medical care, appropriate supervision by an adequate caregiver, and safe physical and emotional environments, including, but not limited to, withholding food as punishment or refusing to change soiled diapers as punishment.

Questions:

Do these definitions and examples increase your understanding of reportable violations and are they helpful?

Are there any examples that need more clarity?

What do you do when a child is about to hurt themselves, another child or staff?

Incident Reporting

NPRM states:

- Since the revision of the 2016 HSPPS, it is evident that child incidents are not always reported.
- The importance of reporting child incidents to OHS cannot be overstated.
- Proposed changes are to make it clear and strengthen the reporting requirements associated with health and safety incidents.

Proposed changes in the NPRM appear to align with OIG recommendation: Improve HS grant recipient's self-reporting of incidents of child abuse, lack of supervision, and unauthorized release through better guidance and stronger consequences for failure to report.

Question: If not all programs report child incidents, what are the factors that influence a program's decision not to report? Fears? Logistics? Internal procedures?

Incident Reporting

Proposed changes:

- Must report incident within 3 business days unless a natural disaster prevents timely reporting
- Defines a reportable incident **as any significant incident** that affects health, **mental health** or safety of a child that occurs in a setting any where HS services are provided that involve a HS adult or HS child **(refer back to Standards of Conduct, which provides multiple examples of unacceptable behaviors that could impact the health and mental health of a child)**

NPRM states shortening the timeline (3 days) will allow for earlier processing and monitoring of reports and will expedite access to TTA or other supports.

Questions: Will requiring programs to report within 3 business days result in more timely reports and expedite T/TA?

Is it obvious what constitutes a “significant incident”?

Incident Reporting

Proposed changes:

- The following two proposed sub-paragraphs clarify who must be involved in the incident in order for it to be reportable to OHS. Reportable incidents are those that involve either -
 - staff, contractor, volunteer, or other adult that participates in either a classroom or program at least partially funded by HS, regardless of whether the child receives HS services or
 - a child that receives services fully or partially funded by HS or a child who participates in a classroom partially funded by HS

Question: Do these sub-paragraphs make it clear that incidents are reportable to OHS for any setting for which Head Start funding is used?

Incident Reporting

Proposed changes:

- Any incidents involving mandated reporter responsibilities **should** be reported to OHS as well as the appropriate State, local or Tribal authority, independent of the status of the investigation or outcome.
- Must report classroom or center closings (except for circumstances such as natural disasters that interfere with program operations and cannot report timely)

Questions: When you read the word “should” in a proposed change do you view it as a suggestion or a requirement?

What form does reporting take? Is it acceptable to email OHS to inform them of a closing and what if the closing is a day or two due to unanticipated repairs like HVAC?

Incident Reporting

Proposed changes:

- Must submit reports for any violations of **HS Standards of Conduct**, even if they don't require a mandated report to state/local officials
- Must submit reports for significant incidents that may be associated with reasonably suspected or know lack of appropriate supervision or failure to carry out expected maintenance
- Must report any *significant* health and safety incidents, resulting in serious harm to a child, specifically incidents involving hospitalization or emergency room care resulting from lack of adequate maintenance or lack of appropriate supervision

Question: What's the timetable, and system of reporting? What is the purpose of this information gathering?

Incident Reporting

- Must report any incident of lack of staff supervision - includes leaving a child unsupervised anywhere on the grounds of a HS facility -- classroom, bathroom, playground, parking lot, nearby street, on a bus
- Must report any incident of unauthorized release of a child to a person without permission or authorization of a parent or legal guardian and whose identity had not been verified by photo

**Questions: Do these changes clarify the conditions when reports must be submitted?
Will these proposed incident reporting requirements increase the number of incident reports?**

Will these changes create safer environments for HS children?

Preventing and Addressing Lead Exposure

NPRM states:

- Protecting children from exposure to lead is important to promote lifelong good health, as there is no safe level of lead, especially for the ages of children Head Start serves.
- Even low levels of lead in blood have been shown to affect learning, ability to pay attention, and academic achievement.
- These new proposed requirements will help prevent and address lead exposure for children in settings used to provide HS services by ensuring programs test for and remediate lead hazards on a regular basis.

Preventing and Addressing Lead Exposure

Lead in Paint (Effective on date of publication of the final rule; however, programs will not be monitored until 1 year after publication)

Applicable to facilities constructed prior to 1978 unless program can document that lead-based paint no longer exists.

- Must work with a certified risk assessor when inspecting lead in paint
- Immediate restrictions to areas where lead has been detected in paint until abatement occurs by an EPA certified abatement contractor
- Reassess every two years after abatement by a certified risk assessor
- Notification to parents and staff about lead results and remediation

Preventing and Addressing Lead Exposure

Lead in Water (Effective on date of publication of the final rule; however, programs will not be monitored until 1 year after publication)

Facilities built before 2014 would be required to test annually for lead coming from their water fixtures unless program can document that lead-based facility features no longer exist.

- Requires testing water fixtures for lead after remediation actions are completed
- Requires “tester” must be adequately trained to collect samples; water samples must be analyzed in a certified lab
- Requires programs to consider remediation even when detectable lead levels are below 5 parts per billion
- Must use Point of Use devices that are certified by 3rd party consistent with NSF/ANSI standards

Preventing and Addressing Lead Exposure

Questions:

Will this be a significant lift for programs located in older facilities?

Could these proposed requirements disproportionately impact programs in rural areas?

These proposed requirements will not be monitored until one year after the effective date of the final rule. Is this sufficient time to put into place the resources and systems to meet these proposed requirements?

Testing was limited to water and paint should testing of soil be included?

Additional Provisions

- Transportation and Other Barriers to Enrollment and Attendance
- Serving Children with Disabilities
- Adjustment for Housing Costs
- Family Child Care Providers
- Family Service Worker Caseloads

Additional Provisions - Transportation and Other Barriers to Enrollment and Attendance

- Transportation remains a significant barrier for many of the hardest to serve families and impedes Head Start's mission.
- Nationally programs provide transportation to only 20% of enrolled children.
- Programs have made the difficult decision to cut transportation to offset other rising program costs.
- Proposed requirements highlight the importance of transportation and require programs to consider barriers to enrollment and attendance and if possible to provide or facilitate transportation, if needed.
- Proposed changes to the Community Assessment adds explicit language to include transportation.

Additional Provisions - Transportation and Other Barriers to Enrollment and Attendance

Questions:

If your program doesn't provide transportation, does it impact attendance and or enrollment?

Are there factors beyond funding that influenced your program's decision to reduce or eliminate transportation?

If your program restores transportation without increased funding, what are the consequences?

Additional Provisions- Serving Children with Disabilities

Good news!! NPRM revises language regarding meeting 10% of funded enrollment of children with disabilities to 10% of “actual enrollment”. NPRM also states 10% is a floor and encourages programs to serve as many children with disabilities, as possible. **This is not a requirement but a strong message.**

Questions:

- **If programs enroll as many children as possible with children with disabilities, are HS settings mainstream settings or therapeutic settings?**
- **Should teacher:child ratios be lowered if programs enroll significant numbers of children with disabilities, which often do not account for children with significant behavioral concerns?**
- **What are the cost and programmatic implications for enrolling, as many as possible, children with disabilities?**

Additional Provisions- Adjustment for Housing Costs

Head Start eligibility criteria does not account for high cost of living in some areas across the country. Affordable housing costs have long been defined as costs that total 30% or less of a family's total gross income.

- NRPM proposes to allow family's income to account for excessive housing costs 30% or more of gross income, when determining eligibility.
- NPRM proposes a new definition of housing expenses- rent, mortgage payments, homeowner's or renter's insurance, utilities, interest, and taxes on the home.
- This would require programs to document bills, lease agreements, mortgage statements and other documentation that show housing and utility expenses.

Questions: Would your program welcome this change? Will this increase administrative burdens for families and staff? Will it increase the numbers of eligible families?

Additional Provisions - Family Child Care Providers and Family Service Worker Caseloads

Family Child Care (FCC) Providers: NPRM eliminates the position/title of “assistant providers” to ensure that all FCC Providers have the qualifications and experience currently required for FCC Providers. Effective one year from publication of the final rule.

Questions: If you operate FCC, will this be a lift for your program or have significant fiscal implications? Are 12 months adequate to comply with this proposed requirement?

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Family Service Worker Caseloads- NPRM proposes to cap the maximum Family Service Worker caseload at 40:1. Effective 3 years after publication of final rule.

Questions: Did OHS get this right? Should the ratio be lower? What are the fiscal implications for your program if your caseloads exceed 40:1? Is this implementation time of 3 years too long, to soon, or just right?

How You Can Engage

- Fill out the survey, which closes on Dec. 12.
- Engage with your state association leadership for additional opportunities for discussion
- Submit questions and comments – both NPRM and how NHSA can best support you during this process – here:
go.nhsa.org/NPRMwebinarQA