



NATIONAL HEAD START ASSOCIATION

How Head Start Responds to
the NPRM & A First Look

November 20, 2023

Supporting the Head Start Workforce & Consistent Quality Programming

Notice of Proposed Rulemaking

Notice of Proposed Rulemaking (NPRM)

- Published in [Federal Register](#) on November 20, 2023
- 60 day public comment period
- Comments due January 19, 2024
- Final Rule would likely be published in late summer/early fall of 2024
- Effective Date: 60 days after Final Rule is issued, unless otherwise noted
 - Many requirements in this rule have longer effective dates, ranging from 120 days up to seven years

Why This Matters

First proposed rule of this magnitude since 2015-16

Sweeping in scope

Touches upon many aspects of Head Start

It might make your job harder ... or easier

It might improve the services provided to children ... and increase paperwork

And ... it is not funded.

And yet, with Head Start at a crossroads, facing staffing and enrollment challenges plus competition from other programs, it is critical that we come together to navigate these proposed changes, embracing its strengths and providing constructive feedback to its drawbacks.

NHSA's Plan of Action

- **TODAY:** Familiarize the Head Start community with the proposed changes starting with today's webinar
- Followed by two webinars to take a deeper dive into the proposed changes
- Seek feedback via surveys, work groups, [direct comments](#)
- Aggregate feedback and share with you where the community has consensus and where the field has differing opinions
- Smaller workgroup with external experts + Head Start leaders to discuss feedback and ideas
- Finalize comments, obtain sign-on's and submit to OHS by January 19, 2024

NHSA's Timeline

- Nov. 18 - Jan. 1:** Submit questions and comments directly: go.nhsa.org/NPRMwebinarQA
- Nov. 20** Webinar 1: How Head Start Responds to the NPRM and First Look
- Nov. 29** [Webinar 2](#): Workforce Supports, Mental Health, and Prenatal Services
- Nov. 29** Survey opens
- Dec. 1** [Webinar 3](#): Enhanced Oversight, Reporting, and Additional Provisions
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- Jan. TBD** Webinar 4: Reviewing draft comments
- Early Jan** Circulate draft comment letter for feedback; gather signatures on comment letter and/or encourage individual letters
- Jan. 19** Comments due

NPRM Overview

- Proposes approximately 67 requirements with a significant focus on Workforce Supports, Health, Mental Health, and Reporting of Health and Safety Incidents
- Additionally, more than 60 updates to existing requirements to reflect current best practices, some of which lack clarity and are open to multiple interpretations
- Includes several new definitions and revises some existing definitions
- Adds a new section on lead testing in paint and water
- Overall proposed requirements increase program accountability, tracking and documentation, reporting to OHS, and increased responsibilities for management and line staff

Key

Expensive 

Thumbs up 

Impacts staffing 

Requires new or enhanced systems of tracking / oversight



Goals for Today

- Provide a comprehensive overview of the proposed changes
- Highlight the most impactful changes
- Set the foundation for the “deeper dive” webinars
- Collect your questions and comments, which will inform our next webinars and other activities, all to culminate in the submission of thoughtful, comprehensive and compelling comments in response to the NPRM

Definitions

New Definitions

Goal: Provide clearer and more consistent terminology. Most notably, it distinguishes Head Start Preschool from Head Start.

- **Head Start:** Any program authorized under the Head Start Act
- **Head Start Preschool:** Programs providing services from age 3 to compulsory school age
- **Early Head Start:** Programs serving pregnant women and children from birth to age 3

New Definitions (*cont'd*)

- **Program:** Any funded HS Preschool, EHS, Migrant or Seasonal and Tribal or other programs authorized
- **Head Start Agency:** Head Start Preschool program and Early Head Start program, or a Migrant or Seasonal Head Start program pursuant to the Head Start Act
- **Grant recipient:** Now codified to replace the term “grantee”

Note: ACF will not consider any comments on these definitions.

Workforce Supports

- Staff Wages
- Pay Scale for All Staff
- Minimum Pay Requirement
- Wage Comparability Across HS Preschool and EHS
- Staff Benefits
- Staff Wellness
- Employee Engagement



Workforce Supports

- The Workforce Supports proposes sweeping changes.
- OHS recognizes low wages and poor benefits are key drivers of increasing staff turnover.
- NPRM proposes a “ramp up period” of seven years to reach full compliance in most areas, which would mean, without increased funding, slot reduction would not be immediately expected.
- Several proposed requirements are very prescriptive.

Staff Wages:



Progress to Parity for Education Staff

- Education staff includes those who work directly with children as part of their daily job responsibilities, including lead teachers, assistant teachers, home visitors, and family child care providers.
- Must **make measurable progress** towards pay parity for HS and EHS teachers comparable to teacher salaries in K-3 in their local school district (or in some cases, a neighboring district)
- Must ensure that Head Start teachers receive annual salaries that at least comparable to the annual salaries of public preschool teachers

Effective: August 1, 2031

Staff Wages: Progress to Parity



- Must pay teachers commensurate with experience and qualifications
 - EX: A new teacher should not be paid the same as a ten-year experienced teacher or a teacher with an AA should not receive the same pay as a teacher with a BA or master's degree
- Must achieve pay parity for all education staff working directly with children considering hours worked and experience
- Programs must examine their progress to pay parity by **regularly tracking data** on how wages paid to education staff compare with wages paid to preschool through 3rd grade in their local or neighboring school district

Effective: August 1, 2031

Relevant HSPPS Section(s): 1302.90

NPRM pages 15-36

Pay Scale for All Staff



- Must implement a pay scale, salary schedule, wage ladder, structure for all staff
- Pay structure must promote salaries comparable to similar service industries and must consider responsibilities, qualifications, experience and hours worked
- Must **review pay structure once every 5 years** to ensure competitive wages
- Programs cannot exceed rate payable for Level II of Executive Schedule- *this requirement is in the Act but codified in the NPRM*

Effective: August 1, 2031

Minimum Pay Requirement and Wage Comparability



Minimum Pay Requirement

- Programs must establish a salary floor/minimum pay sufficient to cover basic costs of living in the geographic area
- Must provide a wage to all staff that is generally sufficient to cover basic needs
- Required minimum pay would be sufficient if the workers' hourly wage were paid according to a full-time, full year schedule

Wage Comparability Across Head Start Preschool and Early Head Start

- Wage comparability for all ages served. Targeted to ensure HS and EHS teachers with same qualifications and experience are paid the same

Relevant HSPPS Section(s): 1302.90 (e)(3) and (e)(4) NPRM pages 40-43



Staff Benefits

- Codifies that a full-time position is 30 hours or more per week
- Program must provide or facilitate access to high quality and affordable health care
- Must offer paid sick leave to full-time staff (based on hours worked) or by offering specific number of days updated annually
- Programs must offer job-protected periods of paid family leave to employees consistent with eligibility for and protections in the Family Medical Leave Act (FMLA), regardless of employer size
- Must offer full-time staff the accrual of paid vacation or personal leave commensurate with experience or time working at the program

Effective: 2 years after publication date of final rule



Staff Benefits

- Full-time employees must have access to 3 to 5 outpatient behavioral health visits annually with minimal or no out of pocket cost
- Connect staff with affordable child care resources and information and to facilitate enrollment of staff members who may be eligible for the child care subsidy program
- Programs can choose to prioritize enrollment of staffs' children through selection criteria
- Facilitate access to Public Service Loan Forgiveness plan or other applicable student loan relief program
- Programs must **assess and determine at least every five years if their benefit package is adequate** for recruiting and retaining full-time staff. Also programs may offer additional benefits including more enhanced health benefits, retirement saving plans, flexible saving accounts, life, disability and long-term care insurance

Relevant HSPPS Section(s): 1309.90 NPRM pages 47-60

Effective: 2 years after publication date of final rule



Staff Wellness

- Require 15-minute break for staff working 4 to 6 hours and a 30-minute break for staff working 6 or more hours
- When one teacher is on break, they can be replaced by one staff member who does not meet the teacher qualifications for the age group so long as that staff member has the necessary training and experience to ensure the safety of the children and minimal disruption of quality services
- Offer unscheduled 5-minute wellness break for teaching staff
- Must provide staff access to adult size furniture in classroom - chairs or desks depending on what the classroom layout allows ***(Implementation 1 year from publication of final rule)***

Effective: 3 years after publication date of final rule



Employee Engagement

- Promotes clear and reasonable roles and responsibilities for staff with meaningful and effective employee engagement practices as part of their **systemic approach** to staff supervision.
- Program must **establish and implement a systemic approach to staff training and professional development** designed to assist staff in acquiring or increasing the knowledge and skills needed to provide high quality, comprehensive services within the scope of their job responsibilities and attached to academic credit as appropriate, and integrated with employee engagement practices.
- Codifies statute requiring a Professional Development Plan and that PD must be high-quality, sustained, intensive, and classroom focused in order to have a lasting positive impact on classroom instruction and performance.

Mental Health Services

1302 Subpart A: ERSEA

1302 Subpart D: Health Program Services

1302 Subpart H: Services to Enrolled Pregnant Women

1302 Subpart I: HR Management

ERSEA - Suspension and Expulsion

- New definition for expulsion: permanent removal of a child from the learning setting or a requirement that a child unenroll in a program (OHS prohibits expulsion)
- Modifies suspension regulation: last resort used only when a serious safety risk has not been reduced or eliminated to emphasize that the program should take active steps to attempt to reduce or eliminate the concern and demonstrate that these steps have not worked.
- Modifies existing regulation to require the **Mental Health Multidisciplinary Team** be part of discussion when a temporary suspension is being considered and the program must implement interventions and supports as recommended by the mental health consultant prior to consideration of suspension.



ERSEA - Suspension and Expulsion

- Strengthens existing regulation – must explore all steps and **document all steps to facilitate the child's safe re-entry** and continued participation in the program
- Strengthens existing regulations – the Mental Health Multidisciplinary Team and other staff must continue to engage to support the child, adds home visits as a service during suspension, and requires coordination with child's IEP/IFSP
- Adds requirement that if a program makes a determination that there is a more appropriate placement for the child, the program must work to directly facilitate the transition of a child to a more appropriate placement that can **IMMEDIATELY** enroll and provide services to the child

Health Services

- Health Services Advisory Committee renamed to **Health and Mental Health Services Advisory Committee**
- Adds “mental health” whenever health is mentioned in HSPPS
- Adds “mental health” to align with EPSDT
- Adds when a program is identifying a child’s nutritional health needs, developmental and *mental health* concerns should also be considered
- Changes “Wellness promotion” to “Program-wide wellness supports” for children and adults
- Replaces section title “Child mental health and social and emotional well-being to “ Supports for mental health and well-being”

Health Services



Program must have a **Multidisciplinary Team for mental health** responsible for:

- Coordinating supports for adult mental health and well being including engaging in nurturing and responsive relationships with families
- Engaging families in home visiting services, and promoting staff health and wellness
- Facilitate coordination and collaboration between mental health and other relevant program services, including education, disability, family engagement
- **Conducting annual assessment** of program's approach to MH consultation to ensure it meets the needs of children and adults
- Ensures all children receive adequate screening and follow up and parent receives referrals to access services for social, emotional, behavioral or other mental health concerns

Relevant HSPPS Section(s): 1302 Subpart D NPRM pages 76-89



Health Services

- Replaces “challenging behaviors” with “behavioral health concerns”- aligns with MH language and is less stigmatizing. Replaces “substance abuse problems” with “substance abuse concerns”
- Removes unnecessary and misleading administrative burden to obtain parental consent for MH consultant because the MH health consultant does not provide services to the child
- Changes language regarding mental health consultation from “schedule of sufficient and consistent frequency” to “no less than once a month”
- Revises required quals for MH consultant – if a program cannot find a licensed MH consultant, the program can hire a person working towards license and under the supervision of a licensed MH professional.
- MH consultant can work with any staff working with children and their families

Health Services



- Emphasizes role of mental health consultant when considering suspension or expulsion
- Adds understanding mental health and accessing mental health interventions during a natural disaster
- Requires programs to provide necessary supports to child and family impacted by a significant health and safety incident
- Must support family's navigation of health and mental health systems
- Requires support to pregnant women and other members of the family during prenatal period

Services to Enrolled Pregnant Women and People

- Broadens the scope of awareness of the mental health information and education that may be helpful to provide to expectant families
- Removes “relevant” that precedes “family members” to be inclusive of family compositions as identified by the enrolled pregnant women and not the program
- Programs must support pregnant women, mothers, fathers, partners or other family members to access mental health services, to address concerns including perinatal depression, anxiety, grief or loss, birth trauma and substance use
- Program must address pregnant women’s needs for appropriate supports for social and emotional well-being, nurturing and responsive caregiving, and father, partner or other family member engagement during pregnancy and early childhood



Human Resource Management

Staff Qualifications and Competency Requirements (1302.91)

- Mental Health consultant can be in process of obtaining license

Staff Health and Wellness (1302.93)

- Should cultivate a program-wide culture of wellness so staff and effective accomplish work in high quality manner

Other Proposed Changes

- Modernizing HS's Engagement with Families
- Adjustment for Excessive Housing Costs for Eligibility Determination
- Migrant and Seasonal Head Start Eligibility
- Transportation and Other Barriers to Enrollment and Attendance
- Serving Children with Disabilities
- Ratios in Center-Based EHS programs

Other Proposed Changes

- Center-Based Duration for EHS
- Center-Based Duration for HS
- Ratios in Family Child Care Settings
- Safety Practices
- Preventing and Addressing Lead Exposure
- Family Service Worker Assignments
- Participating in Quality Rating and Improvement Systems
- Services to Enrolled Pregnant Women and People

Other Proposed Changes

- Standards of Conduct
- Staff Training to Support Child Safety
- Incident Reporting
- Facilities Valuation
- Definition of Income
- Definition of Federal Interest and Major Renovations
- Definition of Poverty Line

Modernizing Head Start's Engagement with Families: Community Assessment

- Several revisions to the collection of data for Community Assessment (CA) to increase clarity
- Details the objectives of the CA to include who programs will serve, associated risk factors; how they will serve them in a manner that reflects their needs and diversity while promoting equity, inclusion and accessibility informing ERSEA process to prioritize enrollment for those most in need
- Proposes programs must identify communications and modalities that best engage with prospective and enrolled families of all abilities. (E.g., texts, automated phone lines)

Implementation 1 year after publication of Final Rule

Modernizing Head Start's Engagement with Families: Community Assessment

- Eliminates requirement to provide “counts of eligible children and expectant mothers and proposes to add “to collect relevant demographic data and other data about eligible children and expectant mothers”, including “Children in Poverty”
- Requires a strategic approach to determine what data to collect prior to conducting the CA
- Allows programs to use publicly available data as a proxy to reduce cost and burden of their own data collection Includes requirement to ensure that transportation needs and resources are part of the community wide strategic planning and needs assessment
- Adds explicit language to include “transportation” in CA because transportation remains a significant barriers for many of the families most in need and impedes Head Start’s mission.

Implementation 1 year after publication of Final Rule

Relevant HSPPS Section(s): 1302.11 NPRM pages 94-103

Modernizing Head Start's Engagement with Families



Recruitment of Children (1302.13)

- Programs must use modern technologies to encourage and assist families in applying for admission, and to streamline the admission and enrollment process, while ensuring families without access have equitable access to the program.

Enrollment (1302.15)

- Requires a user-friendly enrollment process and programs **must regularly examine their enrollment processes** and implement any identified improvements to streamline the enrollment experience for families

Parent and Family Engagement in Education and Child Development Services (1302.34)

- Communication methods and modalities should be the best for engaging families of all abilities, including currently enrolled families as well as prospective families

Family Engagement (1302.50)

- Must communicate with families in a format that is most accessible - what families prefer, and what's necessary to address the needs of family members who have limited English proficiency or who are individuals with disabilities.

Housing Costs



Adjustment for Housing Costs for Eligibility Determination

- Allows programs to make adjustment to a family's gross income calculation for the purpose of determining eligibility in order to account for excessive housing expenses
- Program should determine if a family spends more than 30% of their total gross on housing costs when determining eligibility and if applicable programs may reduce the gross income by the amount spent in housing costs above the 30% threshold
- Housing costs include rent, mortgage payments, homeowner's or renter's insurance, utilities, interest and taxes on the home. Utilities include water, electricity, gas, sewer and trash.

Migrant and Seasonal Eligibility



- Changes requirement that a family's income must come primarily from agricultural work to ***“one family member is primarily engaged in agricultural employment”***
- Migrant and Seasonal programs no longer required to verify infant and toddler eligibility after two years, instead aligning the determination after three years to the traditional EHS requirement

Barriers to Transportation & Other Barriers to Enrollment and Attendance



- Requires programs to consider barriers to enrollment and attendance
- Use data from the selection process to understand why children selected for the program do not enroll or attend.
- Requires programs to examine barriers to regular attendance
- Requires programs to, if possible, to provide or facilitate transportation if needed

Effective: 1 year after publication of final rule

Serving Children with Disabilities



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- Revises language regarding meeting 10% enrollment of children with disabilities to say “10% of actual enrollment” instead of “10% of funded enrollment”
 - 10% of actual enrollment intended as a floor and OHS encourages programs to serve as many children as possible with disabilities



EHS Ratios and HS/EHS Duration

Ratios in Center-based EHS programs (1302.21) *NPRM pages 111-113*

- Programs are encouraged to lower EHS teacher child ratios to 3:1 where majority of children are under 12 months provided it does not jeopardize continuity of care

Center Based Duration for EHS (1302.21) *NPRM pages 114-115*

- Requires 1,380 hours be provided across 46 weeks minimum for EHS center-based services

Center-Based Duration for HS Preschool (1302.21, 1302.24) *NPRM pages 115-117*

- Removes all obsolete language to align with current regulations passed after the 2016 HSPPS were issued
- Program must provide 1,020 annual hours of planned classroom operations over the course of at least 8 months per year for at least 45% of HS preschool funded enrollment
- Removes reference to aide with “assistant teacher”

Relevant HSPPS Section(s): 1302.21, 1302.24 NPRM pages 111-117



Ratios in Family Child Care Settings

- No changes just clarifications about FCC provider ratio/ group size for “**Mixed Age with Preschoolers**”- maximum group size with one FCC provider and six children with no more than two under 24 months
- “**Infants and Toddlers Only**” - one FCC provider with a group of children all under 36 months of age the maximum group size is four
- Eliminated reference to “assistant providers” and replaces with **two providers** to ensure both providers have the experience and qualifications (**effective one year from publication of Final Rule**)

Safety Practices

- Added volunteers should be aware of and follow safety practices
- Clarifies that volunteers cannot be left alone to supervise children anywhere anytime
- Revises definition of child abuse and neglect to align with the definition in the federal Child Abuse Prevention and Treatment Act (CAPTA)
- Strengthens language related to supervision at all times



Preventing and Addressing Lead Exposure

Lead in Water

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

Effective on date of publication of the final rule; however, programs will not be monitored until 1 year after publication.



Preventing and Addressing Lead Exposure

Lead in Paint

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

Family Service Worker Assignments and QRIS



Family Service Worker Assignments (1302.52)

- FSW caseloads cannot exceed 40:1

Effective date: 3 years after publication date for final rule.

Participation in QRIS (1302.53)

- Softens requirement from “must” participate to “should” participate
- Eliminates conditions related to program’s participation

Relevant HSPPS Section(s): 1302.52 NPRM pages 133-137; 1302.53 NPRM pages 138-141



Services to Pregnant Women and People

- Requires newborn visit to include discussion of postpartum mental and physical health, infant help and support for basic needs
- Requires program to track/document services to pregnant women

Effective date: 120 days after final publication of rule

- Enrolled pregnant women should receive Family Partnership services directed towards their perinatal and postpartum care needs
- If a program chooses to use a curriculum they should select a curriculum that focuses on maternal and child health
- Requires identification and reduction of barriers to healthy pregnancy outcomes

Effective date: 180 days after final publication of rule

Standards of Conduct

- New language under 1302.90 (c) (1) (ii) - Staff, consultants, volunteers do not engage in behaviors that would be reasonably suspected to negatively impact the health, mental health, or safety of children
- Adds several very specific definitions and examples of unacceptable behavior to ensure clarity, best practices and more precise terminology **1302.90 (c)(ii) A-D**
- Clarifies who is required to report incidents of abuse and neglect- staff, consultants, volunteers and contractors
- Strengthens language to clarify volunteers **CANNOT** be alone with children



Staff Training to Support Child Safety

- Requires annual mandated reporter training
- Annual training on positive strategies to understand and support children’s social and emotional development and tools for preventing and managing challenging behavior
- Requires a “system” to ensure all staff are trained in reporting procedures



Incident Reporting

- 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
- The following two new 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



Incident Reporting

- 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
- Must report any violation of HS Standards of Conduct, even if they don't require a mandate report to state/local officials



Incident Reporting

- 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
- Clarifies lack of supervision, while in the care of staff 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

Other Important Changes

Facilities Evaluation (1303.44) NPRM pages 158-160

- Eliminates use of term “fair market” and replaces it with “cost”

Definition of Income (1305.2) NPRM pages 160-163

- Revises definition – excludes refundable tax credits and any form of public assistance

Definition of Federal Interest and Major Renovations (1305.2) NPRM pages 164-166

- Provides technical fixes to improve understanding of what a major renovation includes
- Tweaks the definition of federal interest

Definition of Poverty Line (1305.2) NPRM page 166

- Aligns with 1302.12(c) and (d) on income eligibility to clarify and codify existing practice

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Next Steps

Register for the deeper dive webinars on Nov. 29 and Dec. 1;
submit your comments and questions

Be on the lookout for this PPT and a bill summary, coming to your
inboxes soon

Start familiarizing yourself with the NPRM and reflect on how it will
impact your program and families

BUT FIRST, ENJOY YOUR THANKSGIVING!!

