

Notice of Proposed Rulemaking: Supporting the Head Start Workforce and Consistent Quality Programming

Detailed Summary of Proposed Changes

A complete description of the proposed changes described in each summary can be found in relevant sections of the NPRM published in the Federal Register. **Public comment period closes January 19, 2024.**

WORKFORCE SUPPORTS

Over the last several years, Head Start programs nationwide have experienced a severe shortage of staff across a variety of positions, particularly for those that provide direct services to children and families. The staffing shortage is a result of:

- Persistently low wages, particularly for frontline staff
- A lack of comprehensive benefits
- High job stress

The proposed changes are designed to strengthen and stabilize the Head Start workforce to ensure the sustainability of programs nationwide.

This summary describes several proposed changes in the NPRM that support the Head Start workforce. These changes are further described in the Workforce Supports section of the Proposed Rule. Please see the Proposed Rule for a complete description of the proposed changes.

Staff Wages 45 CFR §1302.90(e)

The NPRM proposes new requirements for Head Start staff wages that fall into four areas:

1. **Progress to pay parity:** Programs must make progress toward pay parity for Head Start education staff (teachers, assistant teachers, home visitors, and family child care providers) with kindergarten through third grade teachers in local or neighboring school districts (There is a provision to allow for an alternative method – with ACF approval – if needed). This must be demonstrated by ensuring that, by August 2031, annual salaries for Head Start education staff are at least comparable to the annual salaries of public school preschool teachers, accounting for responsibilities, qualifications, and experience. Programs must also regularly (annual basis) track data on their progress toward pay parity. *What does “measurable progress” mean prior to 2031?*
2. **Pay scale:** Programs must update or establish a pay scale that applies to all staff (HS employees, if salary is paid in part with HS funds, job includes activities/services to support enrolled children/families, contracted staff) and promotes competitive wages across positions. The pay scale must consider responsibilities, qualifications, and experience. **Programs must review this pay structure at least once every five years.**
3. **Salary floor:** Programs must establish a minimum pay floor to ensure all staff receive wages sufficient to cover basic costs of living in the geographic area. (“...basic needs such as food, housing, utilities, medical costs, transportation, and taxes, or would be sufficient if the worker’s hourly rate were paid according to a full-time, full-year schedule.” 2080 hr/yr. ACF expects at a minimum it would be \$15 per hour)
4. **Wage comparability:** Programs must promote wage comparability across Head Start Preschool and Early Head Start positions for staff with similar qualifications and experience.

Staff Benefits 45 CFR §1302.90(f)

The NPRM also proposes new requirements for grant recipients to provide benefits to staff. The proposed requirements vary based on whether staff are part-time or full-time (i.e., work 30 hours a week or more while the program is in session). They would require grant recipients to:

- **Provide or facilitate access to health insurance for all staff.** For full-time staff, programs must either provide employer-sponsored health insurance coverage or facilitate enrollment in another health insurance option, such as through the Healthcare.gov Marketplace, appropriate state-specific health insurance marketplace, or Medicaid. The proposed standard also requires programs to facilitate enrollment of part-time employees in health insurance.

- **Provide paid sick, personal, and family leave for full-time staff.** The proposed standards would require programs to offer:
 - Paid sick leave based on an accrual system or specific number of sick hours offered each year. **(No specific required number or rate of accrual – should it?)**
 - Full or partially paid family leave to those employees that would be eligible for the Family and Medical Leave Act (FMLA) of 1993, regardless of employer size. (Employee for at least 12 months, qualifying reasons match FMLA requirements) Programs may meet this requirement through direct payments or through an employer-sponsored disability insurance plan.
 - Accrual of paid personal leave, if the program operates year-round (i.e., longer than the typical school year).
- **Provide behavioral health services for staff:** Programs must provide access to short-term, free, or low-cost behavioral health services for full-time staff. (3-5 outpatient visits per year)
- **Facilitate access to other relevant benefits.** Programs must facilitate access to Public Service Loan Forgiveness and child care subsidies for eligible staff.
- **Assess benefits package.** At least once every five years, programs must assess whether their benefits package for full-time staff is comparable to elementary school staff and, if feasible, offer additional identified benefits to staff.
- Programs can implement selection criteria that **prioritizes the enrollment of staff members’ children.**
- Also considering **retirement benefits/retirement savings plans** to all full-time staff.

Staff Wellness *45 CFR §1302.93*

The NPRM also proposes requirements for grant recipients to provide:

- **Regular breaks for all staff**, with a minimum of 15 or 30 minutes long depending on shift length. During break times for classroom staff, one teaching staff member may be replaced by one staff member who does not meet the teaching qualifications required for the age. However, this staff member must have the necessary training and experience to ensure the safety of children and minimal disruption to the quality of services.
 - 4 to 6 hour work shift = at least one 15 min break
 - 6 hour or more work shift = at least one 30 min break
- **Access to brief, unscheduled “wellness breaks”** for staff who work directly in classrooms with children. About five minutes in length, these breaks are designed to support stress management, improve well-being, reduce turnover, and expand the quality of services. Programs must also have a plan in place to ensure child safety during these breaks. Staff must have **access to adult-sized furniture** (chairs/desks) to support their physical health.

Employee Engagement *45 CFR §1302.92, §1302.101*

- Clear and reasonable roles and responsibilities for all staff with meaningful and effective employee engagement practices as part of their systematic approach to staff supervision.
- Implement an approach to staff training and professional development that is designed to be informed by input from staff, identified barriers to job performance, and other employee engagement practices.
- This section also explicitly codifies the requirement in the Act for the creation of individual professional development plans.

MENTAL HEALTH SUPPORTS

Head Start programs are designed to provide comprehensive services to children, including mental health and health services. The NPRM proposes enhanced mental health supports to ensure that these services are integrated and consistently delivered to children and adults in the Head Start program. This is especially important with the increases in mental health concerns and the impact of staff mental health on programs. The NPRM also proposes changes throughout the HSPPS to promote a holistic approach to healthy development, elevating the importance of mental health. The proposed changes use strengths-based language and clarify existing mental health policies.

This summary describes several of the proposed changes in the NPRM that focus on mental health. The changes described in this summary and others can be found in the *Mental Health Services (Subpart D; Subpart H; Subpart I)* section of the Proposed Rule.

To promote program-wide support for the well-being of children, families, and staff, proposed requirements include:

- A multidisciplinary team responsible for mental health. *Multidisciplinary* means the involvement of two or more separate disciplines or professions. Programs would have flexibility in determining the appropriate composition of the team.
- Updates to program-wide wellness activities to:
 - Coordinate support for family and staff mental health and well-being
 - Support positive learning environments and encourage the use of best practices to address children’s mental health concerns
 - Ensure screenings for mental health concerns and appropriate follow-up
 - Coordinate mental health support with other relevant program services
 - Build community partnerships to facilitate access to mental health resources
- Extending support for staff well-being using a management approach to encourage:
 - Positive employee engagement
 - Opportunities for training and professional development
 - Ongoing supervisory support

To improve quality and promote best practice for mental health consultation, programs would be required to:

- Clarify that the role of the mental health consultant is to help adults understand best practices for mental health care. Examples include:
 - Ensuring teachers and program staff who engage with children have a basic understanding of child mental health and strategies for responding to common challenges
 - Equipping child and family services staff with strategies that prevent mental health concerns
 - Helping families understand and access additional mental health services
- Engage a mental health consultant to:
 - Develop and support the implementation of policies to limit suspension and prohibit expulsion due to child behavior
 - Support children and families involved in child health, mental health, or safety incidents
- Conduct mental health consultations at least once a month.
- Conduct an annual self-assessment of the mental health consultation approach to ensure services are meeting program needs.
- Ensure all mental health consultants have knowledge and experience serving young children and their families. Programs would be permitted to work with mental health consultants who are providing services under the supervision of a licensed mental health professional.
- Obtain advance authorization from parents for mental health supports as part of the initial consent to receive health-related services, rather than using a separate consent process for mental health consultation.
- Include mental health discussions as part of ongoing communication with parents.

To improve the integration of mental health with other program services, proposed program requirements would:

- Ensure mental health professionals are visibly included as advisors of health services by renaming the “Health Services Advisory Committee” to the “Health and Mental Health Services Advisory Committee.”
- Require mental health to be included in screening for developmental and nutritional needs.
- Ensure family support services include opportunities to discuss common parent mental health concerns and children’s mental health, even when there is not an identified problem.
- Support families in navigating mental health systems, in addition to the broader health system.
- Allow any family member identified by the enrolled pregnant woman or pregnant person to receive prenatal and postpartum information and education, including mental health services.

SUSPENSION AND EXPULSION

This summary describes a few of the proposed changes in the NPRM related to suspension and expulsion practices. The changes described in this summary and others can be found in the associated sections of the Proposed Rule.

Suspension and Expulsion 45 CFR §1302.17

The Administration for Children and Families (ACF) has limited the use of suspension and expulsion across early childhood programs, and aims to reduce the disproportionate use of these practices across different racial and ethnic groups of children. Many of the proposed changes to HSPPS regulations codify this further. The proposed changes are intended to continue to reduce suspension and prohibit expulsion in programs.

The proposed changes would:

- Define the terms expulsion and suspension.
 - Expulsion: the permanent removal of a child from the learning setting or a requirement that a child unenroll in a program.
 - Suspension: the temporary removal of a child from the learning setting including all reductions in the amount of time a child may be in attendance of the regular group setting, either by requiring the child to cease attendance for a particular period of time or reducing the number of days or amount of time that a child may attend. Requiring a child to attend the program away from the other children in the regular group setting is included in this definition. Requiring the parent or the parent's designee to pick up a child for reasons other than illness or injury is also included in this definition.
- Require programs to engage the multidisciplinary mental health team if they are considering removing a child from the classroom.
- Clarify suspension is a measure of last resort, allowing programs extra time to make necessary accommodations as recommended by a mental health consultant.
- Require programs to thoroughly document plans related to suspension. The process of documenting suspension plans would be similar to the current requirements for documenting any transitions to more appropriate placements.
- Strengthen and clarify what a program must do after a suspension so the child can return as quickly as possible.
- Clarify if a program is considering transitioning a child to a more appropriate placement, programs should engage parents to address any problems and facilitate the child's safe participation in the program.
- Confirm that if a program transitions a child to a more appropriate placement, the new placement must be able to immediately enroll and provide services to the child.

HIGH-QUALITY PROGRAMMING SUPPORTS

This summary describes several proposed changes in the NPRM that support consistent, high-quality programming across several areas of Head Start services. Please see the Proposed Rule on the Federal Register for a complete description of the proposed changes.

Community Assessment 45 CFR §1302.11

All Head Start programs are required to complete a community assessment once during the five-year grant period. This community assessment is often used to inform the design of the program. Programs have expressed concerns about the high cost, burden, and overly complex nature of this community assessment. The proposed changes

- Clarify the purpose of the community assessment related to how programs should strategically plan and use their community assessment.
- Leverage existing data as a proxy for data that are more costly or burdensome to collect.
- Require programs to collect relevant data while maintaining the community assessment's content focus on geographic location, race, ethnicity, etc.
- Require programs to conduct annual updates as needed, such as if there are significant shifts in community demographics. Programs decide if an update is needed.

Modernizing Head Start Engagement with Families 45 CFR §§1302.11; 1302.13; 1302.15; 1302.34; 1302.50

OHS proposes changes to the HSPPS that would require programs to identify communication methods and modalities that best engage with prospective and enrolled families of all abilities. They would ensure programs use their community needs assessment to determine the best communication strategies. The proposed changes also outline **requirements for programs to implement modern technologies** to recruit and enroll eligible families for their program and reduce the family's administrative and paperwork burden in the application and enrollment process. Additionally, they require programs to communicate with families in a format that is most accessible.

Transportation and Other Barriers to Enrollment and Attendance 45 CFR §§1302.14; 1302.16

The proposed changes require programs to use data from the selection process to understand why children selected for the program do not **enroll or attend**. Specifically, programs are asked to look at transportation as a potential barrier. Access to transportation is called out in the proposed changes for programs to consider as a barrier to attendance, and for programs to include transportation considerations in their community assessment as part of their strategic planning. Programs are encouraged to address identified barriers where possible, such as by providing transportation services.

MIGRANT AND SEASONAL HEAD START PROGRAMS

This summary describes the proposed changes in the NPRM related to eligibility for Migrant and Seasonal Head Start (MSHS) programs. Please see the Proposed Rule for a complete description of the proposed changes.

Migrant and Seasonal Head Start Eligibility 45 CFR §1302.12

The NPRM includes two proposed changes to MSHS eligibility. First, to be eligible for MSHS currently, a family must demonstrate that their income comes primarily from agricultural labor. This has been interpreted and implemented to mean a family's income must be more than 50% from agricultural work. Agricultural work has become less available and more unstable, resulting in barriers to enrolling farmworker families in need of program services.

The proposed changes would allow for eligibility if one family member is primarily engaged in agricultural employment. A family must still meet an eligibility criterion for Head Start services described in the Head Start Act (e.g., living at or below the 100% poverty guideline, experiencing homelessness, receiving public assistance, or in foster care).

Current HSPPS do not specify how long a family remains eligible for the unique services operated by MSHS programs. The proposed changes would clarify that once an infant or toddler and their family are deemed eligible for an MSHS program, they are considered to be eligible for three years. This is consistent with the requirement that children participating in the Early Head Start program remain eligible for the duration of the program.

EARLY HEAD START PROGRAMS

This summary describes several of the proposed changes in the NPRM for Early Head Start (EHS) programs. The changes described in this summary, and others, can be found in the associated sections of the Proposed Rule.

Center-based Service Duration for Early Head Start 45 CFR §1302.21

This summary describes several of the proposed changes for EHS programs in the NPRM.

Currently, Early Head Start center-based programs are required to provide 1,380 annual hours of planned class operations for all enrolled children. It has been a long-standing expectation of OHS that EHS programs provide continuous services, which is interpreted as full-day, full-year services.

The proposed changes clarify that the **1,380 hours of planned-class operations for children in EHS should occur across a minimum of 46 weeks per year**. This fulfills the intent of the Early Head Start requirement for 1,380 hours of operation to provide full-day, full-year services.

Ratios in Center-based Early Head Start Programs *45 CFR §1302.21*

The current HSPPS require EHS classrooms that serve children under 36 months old to have two teachers with no more than eight children, or three teachers with no more than nine children. They also emphasize the importance of continuity of care for young children and, to support this goal, encourage programs to consider minimizing teacher changes and mixed age groupings.

The proposed changes add additional encouragement for programs to consider a lower teacher to child ratio for the youngest children they serve, provided it does not interfere with continuity of care. While the proposed change is not a requirement, the encouragement sets an example for providing high-quality early education which is appropriate to the role of the Head Start program as a premier early childhood education provider in the United States.

Recommendation: no more than three children to every teacher for classrooms where the majority of children are infants.

Services to Enrolled Pregnant Women and People *45 CFR §§1302.80; 1302.82*

Early Head Start programs are critical in addressing the maternal mortality crisis and other maternal-health related challenges. EHS programs are positioned to provide postpartum support by ensuring the required newborn visit provides intentional opportunities for collaboration, intervention, and support. Current HSPPS require programs to assess access to health care and insurance for pregnant women and pregnant people, facilitate access to comprehensive services, and schedule newborn visits within two weeks of birth. Assessing access within the first two weeks of a child's life allows for programs to identify family needs and offer support. The proposed changes aim to ensure responsive, high-quality services in EHS programs and establish tracking and reporting requirements for data on services provided to pregnant and postpartum women and people.

The proposed changes:

- Establish new requirements for tracking and reporting services provided to pregnant women and pregnant people
- Clarify the intent of the newborn visit (include a discussion of postpartum mental and physical health, infant health, and support for basic needs)
- Specify that if a curriculum is used, it must be appropriate for pregnancy and the post-partum period
- Highlight that services must help address racial and ethnic disparities in pre- and postnatal outcomes.

FAMILY CHILD CARE SETTINGS

This summary describes a few of the proposed changes in the NPRM related to ratios in family child care (FCC) settings. Please see the Proposed Rule for a complete description of the proposed changes.

Ratios in Family Child Care Settings *45 CFR §1302.23*

Family child care is an important component of a robust mixed delivery early care and education system that supports flexibility and choice for parents. HSPPS 45 CFR §1302.23(b) lays out the provider-to-child ratio and group size requirements. These standards for the FCC option reflect a commitment to quality; however, the wording of the existing standards has led to some confusion and proposed changes are aimed at clarifying their intent.

The proposed changes:

- Distinguish between ratio and group size requirements in family child care settings:
 - *Mixed age with preschoolers* is defined as a group of children older than 36 months
 - *Infants and toddlers only* is defined as a group of children that are all younger than 36 months
- Remove references to assistant providers and describes all staff as "family child care providers." All FCC staff must meet the existing qualification requirements for family child care providers.

CHILD SAFETY

Head Start programs must ensure basic health, mental health, and safety measures are taken for the protection of all children. This summary describes a few of the proposed changes in the NPRM that support child safety across Head Start programming. Please see the Proposed Rule for a complete description of the proposed changes.

Safety Practices and Standards of Conduct *45 CFR §§1302.47; 1302.90*

To ensure the HSPPS are clear and continue to reflect best practices, the proposed changes:

- Clarify that Head Start staff, consultants, contractors, and volunteers are expected to follow safety practices
- Align the definition of *child abuse and neglect*, as well as child maltreatment or endangerment, with other existing federal standards
- Clarify children should never be left alone or unsupervised
- Strengthen the Standards of Conduct that are relevant to safety practices
- Reinforce all staff are mandated reporters of suspected child abuse and neglect

Staff Training to Support Child Safety *45 CFR §§1302.92; 1302.101*

Building and applying knowledge of child development, positive guidance, and other developmentally appropriate behavior strategies are key components of reducing caregiver stress and associated safety risks. Ongoing training is critical for preventing child safety incidents as well as promoting consistent implementation of reporting procedures. The proposed changes include requirements to provide staff the following:

- Mandated reporter training on an annual basis
- Training on positive strategies to understand and support children on an annual basis
- Training on institutional reporting procedures

Incident Reporting *45 CFR §1302.102*

The NPRM clarifies and strengthens reporting requirements. The proposed changes to incident reporting include:

- Requiring programs to make reports no later than three business days following the incident
- Clarifying that only incidents that occur in settings where Head Start services are provided are reportable to OHS
- Clarifying that reportable incidents include those that involve either:
 - A staff member, contractor, volunteer, or other adult that participates in either a Head Start program or a classroom that is at least partially Head Start-funded, regardless of whether the child receives Head Start services, OR
 - A child that receives Head Start services (fully or partially Head Start-funded) or a child that participates in a classroom which is at least partially Head Start-funded.
- Clarifying that 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 investigation or outcome of such reports
- Granting a reporting exception for circumstances that interfere with program operations, such as natural disasters, when it may be unsafe or unreasonable to expect a program to report center closings within the proposed timeline, especially if communication channels are not operable.
- Requiring that programs must report:
 - Any violations of the portion of Standards of Conduct that describes behaviors that might impact the health, mental health, or safety of children (i.e., 45 CFR §1302.90(c)(ii))
 - Incidents associated with lack of appropriate supervision or failure to carry out reasonably expected facilities maintenance
 - Incidents involving the unauthorized release of children

PREVENTING AND ADDRESSING LEAD EXPOSURE

OHS is proposing a new section (45 CFR §1302.48) be added to the HSPPS that specifically requires programs to address lead exposure through water and lead-based paint in Head Start facilities. The changes described in this summary and others can be found in the *Preventing and Addressing Lead Exposure (§1302.48)* section of the NPRM.

OHS proposes the following requirements in §1302.48 to prevent and address lead exposure:

Prevent and address lead exposure through water.

Programs in facilities built before 2014 would be required to test annually for lead coming from their water fixtures. Water samples would be taken by someone who is trained specifically in lead sample testing and the testing would be completed by a certified facility.

If results show that water is contaminated with lead (at or above 5 parts per billion) then programs would be required to:

- Restrict access to the contaminated water fixture within 24 hours of result
- Take action to remove or reduce lead
- Ensure devices used as part of any action taken (e.g., water filters) are certified and tested regularly

Flexibilities:

- If your pre-2014 building has had all lead lines, plumbing, and fixtures removed the testing requirement does not apply.
- A program may choose to test water from only a proportion of fixtures each year as long as all are tested at least once every 5 years.

Prevent and address lead exposure through paint.

Programs with facilities built before 1978 would be required to test for lead-based paint. Programs would use certified inspectors to test for lead, and if lead is found, immediately restrict access until the paint is either safely covered or removed. Removal of lead paint would be conducted by a certified contractor. Programs would be required to follow up at least every two years until reassessments determine there are no identifiable hazards accessible to children.

Notify the public of test results and steps taken based on the test results for lead in water and paint.

Programs would be required to notify parents and staff of lead testing results. Programs also would need to be transparent about any planned or completed actions to resolve the issue.

Comply with the more rigorous of federal, state, or local laws and regulations.

As with many areas of the HSPPS, there may be situations in which the standards differ somewhat from state or local laws or regulations. The NPRM proposes to follow the standard practice in those cases- that programs adhere to the more stringent requirement.

FAMILY SERVICE WORKER FAMILY ASSIGNMENTS

This summary describes a proposed change in the NPRM to family assignments for family service workers. The changes described in this summary, and others, can be found in the associated sections of the Proposed Rule.

Family Service Worker Family Assignments *45 CFR §1302.52*

Family partnerships are the cornerstone of the comprehensive Head Start approach to family services. Head Start staff who partner with families play a critical role in helping families achieve their goals and aspirations for themselves and for their children.

Many family services staff are overburdened, which makes it difficult for them to meaningfully support family well-being, parenting, and family engagement around children's early learning and education. Research and data show this workforce can feel overwhelmed and experience burnout when they have high family assignments, also called caseloads.

The proposed change would require programs to ensure **individual family service staff have no more than 40 assigned families**, unless the program can demonstrate high-quality family services with larger caseloads.

HEAD START TERMINOLOGY

This summary describes changes in the NPRM related to Head Start terminology. Please see the Proposed Rule for a complete description of the proposed changes.

Definition of Head Start and Related Terms *45 CFR §1305.2*

The term "Head Start" is used inconsistently throughout the current HSPPS, other policy documents, and training and technical assistance documents published by ACF. This inconsistency may be challenging for those who are new to Head Start programs and troublesome for the early childhood field in general.

The proposed changes include the following definitions:

- *Head Start* — any program authorized under the Head Start Act; it can be used as an umbrella term for the overarching federal program (entire Birth to 5 program)
- *Head Start Preschool (HSP)* — a program that serves children age 3 to compulsory school age
- *Early Head Start (EHS)* — a program that serves pregnant women and children from birth to age 3
- *Program* — Any funded EHS 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”

The proposed changes also include revisions to existing definitions to align with the new terms above. The Proposed Rule includes many changes to purely reflect the updated terminology but do not change policy.

Facilities Valuation 45 CFR §1301.44

To apply for funds to purchase, construct, or renovate a facility, the recipient must submit to the responsible HHS official, among other requirements, an estimate by a licensed independent certified appraiser of the facility’s fair market value. The proposed change eliminates from §1303.44(a)(7) the term “fair market” and replaces it with the term “cost” because the cost valuation is most relevant in determining fair cost of a facility acquisition action under this section. This will assist the awarding agency in making determinations on proposed project costs and fair market costs.

Definition of Federal Interest and Major Renovations 45 CFR §1305.2

Major Renovation.

Clarification that separate renovation activities only equate to a major renovation if 1) they have a cost equal to or exceeding \$250,000, 2) the renovation activities are intended to occur concurrently or consecutively, or altogether address a specific part or feature of a facility, and 3) per §1303.44, certification from a licensed, independent architect or engineer indicates that the repair(s) adds significant value to the real property to be repaired or extends its useful life. If these three conditions are met, the group of renovations should be understood as a Major Renovation.

We propose technical fixes to the definition of Federal Interest to address confusion with respect to the type of facility activities that result in Federal interest and what satisfies the non-Federal matching requirement. Specifically, the proposed additional language, in tandem with the proposed definition for Major Renovation, clarifies the distinction between repairs and minor renovations versus purchase, construction and major renovations under §1303, the latter of which do result in a Federal interest. This proposed definition also clarifies that the non-Federal match, which is separate from the base grant non-Federal match, is only intended to include the non-Federal match associated with the facility activity funded under subpart E.

INCOME CALCULATIONS

This summary describes the changes in the NPRM for how income is defined. It also outlines a new adjustment to account for excessive housing costs when determining if a family is eligible for Head Start services. The changes described in this summary can be found in the associated sections of the Proposed Rule.

Definition of Income 45 CFR §1305.2

Using the current definition of *income* to determine eligibility has caused confusion for many Head Start programs. The NPRM proposes this revised definition, making it up to date, clear, and less burdensome to implement:

“Income means gross income and only includes:

- Wages
- Business income
- Veteran’s benefits
- Social Security benefits
- Unemployment compensation
- Alimony, pension, or annuity payments
- Gifts that exceed the threshold for taxable income
- Military income (excluding special pay for a member subject to hostile fire or imminent danger under 37 U.S.C. 310 or any basic allowance for housing under 37 U.S.C. 403, including housing acquired under the alternative authority under 10 U.S.C. 169 or any related provision of law)

Gross income does not include refundable tax credits nor any forms of public assistance.” Child support is not included. Does this also exclude per capita payments?

This revised definition makes the following changes:

- Eliminates a link to a long and outdated document
- Limits income to only the sources in the list
- Removes public assistance from the list of income sources
- Replaces “earned income” with “wages” and “business income”

Adjustment for Excessive Housing Costs for Eligibility Determination 45 CFR §1302.12

Head Start programs are intended to promote the school readiness of children living in low-income households. However, many programs have expressed concern that Head Start eligibility criteria do not account for high cost of living in some areas across the country. Many families earn just above poverty wages, and a large amount of their income goes to housing costs. These families would be eligible for Head Start if those disproportionately high housing costs were taken into account. Other programs with income requirements, like the Supplemental Nutrition Assistance Program, adjust for excessive housing costs.

The proposed change allows programs to reduce a family’s total income by the amount spent on housing above 30% of total income. This new, adjusted gross income can then be used to determine eligibility. Housing expenses include:

- The total annual applicable expenses spent by the family on rent or mortgage payments
- Homeowner’s or renter’s insurance
- Utilities, including electricity, gas, water, sewer, and trash.
- Interest and taxes on the home

For example, the 2023 federal poverty level for a family of five is \$35,140 in annual income. If a family of five earns \$39,000 in annual gross income, and spends \$21,000 on housing costs per year, this is nearly 54% of their total gross income spent on housing. Under the proposed rule, a program can consider deducting any amount over 30% of a family’s income spent on housing. For this example, 30% of the family’s income would be \$11,700. But since this family spend \$21,000 on housing, this is \$9,300 above the 30% threshold. Therefore, the Head Start program may deduct the amount of \$9,300 from the family’s total income, resulting in an adjusted income of \$29,700 for eligibility determination purposes. Because the adjusted income is now below the federal poverty level for a family of this size, the family is eligible for Head Start services.

$$\text{Annual Gross Income (AGI)} - (\text{Annual Housing Expenses} - (\text{AGI} \cdot 0.3)) = \text{Adjusted Income}$$

EFFECTIVE DATES

The current Head Start Program Performance Standards remain in effect until this NPRM becomes final. We propose for all changes in this NPRM to become effective 60 days after it is published as a final rule in the *Federal Register*, unless otherwise noted in this section. For section 1302.48(a), (b), and (c), while the effective date is upon publication of final rule, programs will not be monitored on the new regulatory requirements until 1 year after publication of the final rule to give programs additional time to adjust to the new regulatory requirements.

Programs may require more time to implement several proposed sections in this NPRM. Therefore, we propose a 1-year delay in implementation deadline for the proposed revisions to the following sections: §1302.11(b); 1302.14(d); 1302.16(a)(2)(v); the changes made to remove “assistant provider” in 1302.23(b); 1302.45(a); 1302.82(a); and 1302.93(d).

The following sections also have longer implementation timelines:

- §1302.52(d)(2): 3 years after publication of final rule;
- §1302.80(e) Enrolled pregnant women: 120 days after publication of final rule;
- §1302.80(f) Enrolled pregnant women: 180 days after publication of final rule;
- §1302.90(e)(1), (e)(2)(i) and (ii), (e)(3) and (e)(4): Staff wages: Effective August 1, 2031;
- §1302.90(f) Staff benefits: 2 years after publication of final rule
- §1302.93(c) Staff Health and Wellness: 3 years after publication of final rule.

