Head Start Program Performance Standards

45 CFR Chapter XIII
September 2016

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Head Start

ADMINISTRATION FOR CHILDREN & FAMILIES

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This compilation was prepared to assist grantees implementing the Head Start Program Performance Standards. If OHS identifies information that would enhance the utility of this compilation, an updated version will be posted.

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[1] *Note: There are references throughout this compilation of the Head Start Program Performance Standards. The references will be cited by number and are located in the Appendix starting on page 117.*

[2] *Note: The Compliance Table of Effective Dates sites dates for implementation of specific provisions of the Head Start Program Performance Standards.*

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 9801 *et seq.*, subchapter B of 45 CFR chapter XIII is revised to read as follows:

Subchapter B — The Administration for Children and Families, Head Start Program

Part 1301 — Program Governance

Part 1302 — Program Operations

Part 1303 — Financial and Administrative Requirements

Part 1304 — Federal Administrative Procedures

Part 1305 — Definitions

Part 1301 — Program Governance

Section
1301.1 Purpose.
1301.2 Governing body.
1301.3 Policy council and policy committee.
1301.4 Parent committees.
1301.5 Training.
1301.6 Impasse procedures.

AUTHORITY: 42 U.S.C. 9801 *et seq.*

§1301.1 Purpose.

An agency, as defined in part 1305 of this chapter, must establish and maintain a formal structure for program governance that includes a governing body, a policy council at the agency level and policy committee at the delegate level, and a parent committee. Governing bodies have a legal and fiscal responsibility to administer and oversee the agency's Head Start and Early Head Start programs. Policy councils are responsible for the direction of the agency's Head Start and Early Head Start programs.

§1301.2 Governing body.

(a) Composition. The composition of a governing body must be in accordance with the requirements specified at section 642(c)(1)(B)[1] of the Act, except where specific exceptions are authorized in the case of public entities at section 642(c)(1)(D)[2] of the Act. Agencies must ensure members of the governing body do not have a conflict of interest, pursuant to section 642(c)(1)(C)[3] of the Act.

(b) Duties and responsibilities.

(1) The governing body is responsible for activities specified at section 642(c)(1)(E)[4] of the Act.

(2) The governing body must use ongoing monitoring results, data on school readiness goals, other information described in §1302.102, and information described at section 642(d)(2)[5] of the Act to conduct its responsibilities.

(c) Advisory committees.

(1) A governing body may establish advisory committees as it deems necessary for effective governance and improvement of the program.

(2) If a governing body establishes an advisory committee to oversee key responsibilities related to program governance, it must:

(i) Establish the structure, communication, and oversight in such a way that the governing body continues to maintain its legal and fiscal responsibility for the Head Start agency; and,

(ii) Notify the responsible HHS official of its intent to establish such an advisory committee.

§1301.3 Policy council and policy committee.

(a) Establishing policy councils and policy committees. Each agency must establish and maintain a policy council responsible for the direction of the Head Start program at the agency level, and a policy committee at the delegate level. If an agency delegates operational responsibility for the entire Head Start or Early Head Start program to one delegate agency, the policy council and policy committee may be the same body.

(b) Composition.

(1) A program must establish a policy council in accordance with section 642(c)(2)(B)[6] of the Act, or a policy committee at the delegate level in accordance with section 642(c)(3)[7] of the Act, as early in the program year as possible. Parents of children currently enrolled in each program option must be proportionately represented on the policy council and on the policy committee at the delegate level.

(2) The program must ensure members of the policy council, and of the policy committee at the delegate level, do not have a conflict of interest pursuant to sections 642(c)(2)(C)[8] and 642(c)(3)(B)[9] of the Act. Staff may not serve on the policy council or policy committee at the delegate level except parents who occasionally substitute as staff. In the case of tribal grantees, this exclusion applies only to tribal staff who work in areas directly related to or which directly impact administrative, fiscal, or programmatic issues.

Note: References are located in the Appendix, starting at page 117.

(c) Duties and responsibilities.

(1) A policy council is responsible for activities specified at section 642(c)(2)(D)[10] of the Act. A policy committee must approve and submit to the delegate agency its decisions in each of the following areas referenced at section 642(c)(2)(D)(i) through (vii)[10] of the Act.

(2) A policy council, and a policy committee at the delegate level, must use ongoing monitoring results, data on school readiness goals, other information described in §1302.102, and information described in section 642(d)(2)[5] of the Act to conduct its responsibilities.

(d) Term.

(1) A member will serve for one year.

(2) If the member intends to serve for another year, s/he must stand for re-election.

(3) The policy council, and policy committee at the delegate level, must include in its bylaws how many one-year terms, not to exceed five terms, a person may serve.

(4) A program must seat a successor policy council, or policy committee at the delegate level, before an existing policy council, or policy committee at the delegate level, may be dissolved.

(e) Reimbursement. A program must enable low-income members to participate fully in their policy council or policy committee responsibilities by providing, if necessary, reimbursements for reasonable expenses incurred by the low-income members.

§1301.4 Parent committees.

(a) Establishing parent committees. A program must establish a parent committee comprised exclusively of parents of currently enrolled children as early in the program year as possible. This committee must be established at the center level for center-based programs and at the local program level for other program options. When a program operates more than one option, parents may choose to have a separate committee for each option or combine membership. A program must ensure that parents of currently enrolled children understand the process for elections to the policy council or policy committee and other leadership opportunities.

(b) Requirements of parent committees. Within the parent committee structure, a program may determine the best methods to engage families using strategies that are most effective in their community, as long as the program ensures the parent committee carries out the following minimum responsibilities:

(1) Advise staff in developing and implementing local program policies, activities, and services to ensure they meet the needs of children and families;

(2) Have a process for communication with the policy council and policy committee; and

(3) Within the guidelines established by the governing body, policy council or policy committee, participate in the recruitment and screening of Early Head Start and Head Start employees.

Note: References are located in the Appendix, starting at page 117.

§1301.5 Training.

An agency must provide appropriate training and technical assistance or orientation to the governing body, any advisory committee members, and the policy council, including training on program performance standards and training indicated in §1302.12(m) to ensure the members understand the information they receive and can effectively oversee and participate in the programs in the Head Start agency.

§1301.6 Impasse procedures.

(a) To facilitate meaningful consultation and collaboration about decisions of the governing body and the policy council, each agency's governing body and policy council jointly must establish written procedures for resolving internal disputes between the governing board and policy council in a timely manner that include impasse procedures. These procedures must:

(1) Demonstrate that the governing body considers proposed decisions from the policy council and that the policy council considers proposed decisions from the governing body;

(2) If there is a disagreement, require the governing body and the policy council to notify the other in writing why it does not accept a decision; and,

(3) Describe a decision-making process and a timeline to resolve disputes and reach decisions that are not arbitrary, capricious, or illegal.

(b) If the agency's decision-making process does not result in a resolution and an impasse continues, the governing body and policy council must select a mutually agreeable third party mediator and participate in a formal process of mediation that leads to a resolution of the dispute.

(c) For all programs except American Indian and Alaska Native programs, if no resolution is reached with a mediator, the governing body and policy council must select a mutually agreeable arbitrator whose decision is final.

Part §1302 — Program Operations

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Subpart E — Family and Community Engagement Program Services

1302.50 Family engagement.
1302.51 Parent activities to promote child learning and development.
1302.52 Family partnership services.

Note: References are located in the Appendix, starting at page 117.

1302.53 Community partnerships and coordination with other early childhood and education programs.

Subpart F — Additional Services for Children with Disabilities

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Subpart G — Transition Services

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Subpart H — Services to Enrolled Pregnant Women

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Subpart I — Human Resources Management

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Subpart J — Program Management and Quality Improvement

1302.100 Purpose.
1302.101 Management system.
1302.102 Achieving program goals.
1302.103 Implementation of program performance standards.

AUTHORITY: 42 U.S.C. 9801 *et seq.*

§1302.1 Overview.

This part implements these statutory requirements in Sections 641A, 645, 645A, and 648A of the Act by describing all of the program performance standards that are required to operate Head Start, Early Head Start, American Indian and Alaska Native and Migrant or Seasonal Head Start programs. The part covers the full range of operations from enrolling eligible children and providing program services to those children and their families, to managing programs to ensure staff are qualified and supported to effectively provide services. This part also focuses on using data through ongoing program improvement to ensure high-quality service. As required in the Act, these provisions do not narrow the scope or quality of services covered in previous regulations. Instead, these regulations raise the quality standard to reflect science and best practices, and streamline and simplify requirements so programs can better understand what is required for quality services.

Subpart A — Eligibility, Recruitment, Selection, Enrollment, and Attendance

§1302.10 Purpose.

This subpart describes requirements of grantees for determining community strengths, needs and resources as well as recruitment areas. It contains requirements and procedures for the eligibility determination, recruitment, selection, enrollment and attendance of children and explains the policy concerning the charging of fees.

§1302.11 Determining community strengths, needs, and resources.

(a) Service area.

(1) A program must propose a service area in the grant application and define the area by county or sub-county area, such as a municipality, town or census tract or jurisdiction of a federally recognized Indian reservation.

(i) A tribal program may propose a service area that includes areas where members of Indian tribes or those eligible for such membership reside, including but not limited to Indian reservation land, areas designated as near-reservation by the Bureau of Indian Affairs (BIA) provided that the service area is approved by the tribe's governing council, Alaska Native Villages, Alaska Native Regional Corporations with land-based authorities, Oklahoma Tribal Statistical Areas, and Tribal Designated Statistical Areas where federally recognized Indian tribes do not have a federally established reservation.

(ii) If the tribe's service area includes any area specified in paragraph (a)(1)(i) of this section, and that area is also served by another program, the tribe may serve children from families who are members of or eligible to be members of such tribe and who reside in such areas as well as children from families who are not members of the tribe, but who reside within the tribe's established service area.

(2) If a program decides to change the service area after ACF has approved its grant application, the program must submit to ACF a new service area proposal for approval.

(b) Community wide strategic planning and needs assessment (community assessment).

(1) To design a program that meets community needs, and builds on strengths and resources, a program must conduct a community assessment at least once over the five-year grant period. The community assessment must use data that describes community strengths, needs, and resources and include, at a minimum:

(i) The number of eligible infants, toddlers, preschool age children, and expectant mothers, including their geographic location, race, ethnicity, and languages they speak, including:

Note: References are located in the Appendix, starting at page 117.

(A) Children experiencing homelessness in collaboration with, to the extent possible, McKinney-Vento Local Education Agency Liaisons (42 U.S.C. 11432 (6)(A))[11];

(B) Children in foster care; and

(C) Children with disabilities, including types of disabilities and relevant services and resources provided to these children by community agencies;

(ii) The education, health, nutrition and social service needs of eligible children and their families, including prevalent social or economic factors that impact their well-being;

(iii) Typical work, school, and training schedules of parents with eligible children;

(iv) Other child development, child care centers, and family child care programs that serve eligible children, including home visiting, publicly funded state and local preschools, and the approximate number of eligible children served;

(v) Resources that are available in the community to address the needs of eligible children and their families; and,

(vi) Strengths of the community.

(2) A program must annually review and update the community assessment to reflect any significant changes including increased availability of publicly-funded pre-kindergarten (including an assessment of how the pre-kindergarten available in the community meets the needs of the parents and children served by the program, and whether it is offered for a full school day), rates of family and child homelessness, and significant shifts in community demographics and resources.

(3) A program must consider whether the characteristics of the community allow it to include children from diverse economic backgrounds that would be supported by other funding sources, including private pay, in addition to the program's eligible funded enrollment. A program must not enroll children from diverse economic backgrounds if it would result in a program serving less than its eligible funded enrollment.

§1302.12 Determining, verifying, and documenting eligibility.

(a) Process overview.

(1) Program staff must:

(i) Conduct an in-person interview with each family, unless paragraph (a)(2) of this section applies;

(ii) Verify information as required in paragraphs (h) and (i) of this section; and,

(iii) Create an eligibility determination record for enrolled participants according to paragraph (k) of this section.

(2) Program staff may interview the family over the telephone if an in-person interview is not possible or convenient for the family.

(3) If a program has an alternate method to reasonably determine eligibility based on its community assessment, geographic and administrative data, or from other reliable data sources, it may petition the responsible HHS official to waive requirements in paragraphs (a)(1)(i) and (ii) of this section.

(b) Age requirements.

(1) For Early Head Start, except when the child is transitioning to Head Start, a child must be an infant or a toddler younger than three years old.

(2) For Head Start, a child must:

(i) Be at least three years old or, turn three years old by the date used to determine eligibility for public school in the community in which the Head Start program is located; and,

(ii) Be no older than the age required to attend school.

(3) For Migrant or Seasonal Head Start, a child must be younger than compulsory school age by the date used to determine public school eligibility for the community in which the program is located.

(c) Eligibility requirements.

(1) A pregnant woman or a child is eligible if:

(i) The family's income is equal to or below the poverty line; or,

(ii) The family is eligible for or, in the absence of child care, would be potentially eligible for public assistance; including TANF child-only payments; or,

(iii) The child is homeless, as defined in part 1305; or,

(iv) The child is in foster care.

(2) If the family does not meet a criterion under paragraph (c)(1) of this section, a program may enroll a child who would benefit from services, provided that these participants only make up to 10 percent of a program's enrollment in accordance with paragraph (d) of this section.

(d) Additional allowances for programs.

(1) A program may enroll an additional 35 percent of participants whose families do not meet a criterion described in paragraph (c) of this section and whose incomes are below 130 percent of the poverty line, if the program:

(i) Establishes and implements outreach, and enrollment policies and procedures to ensure it is meeting the needs of eligible pregnant women, children, and children with disabilities, before serving pregnant women or children who do not meet the criteria in paragraph (c) of this section; and,

(ii) Establishes criteria that ensure pregnant women and children eligible under the criteria listed in paragraph (c) of this section are served first.

Note: References are located in the Appendix, starting at page 117.

(2) If a program chooses to enroll participants who do not meet a criterion in paragraph (c) of this section, and whose family incomes are between 100 and 130 percent of the poverty line, it must be able to report to the Head Start regional program office:

(i) How it is meeting the needs of low-income families or families potentially eligible for public assistance, homeless children, and children in foster care, and include local demographic data on these populations;

(ii) Outreach and enrollment policies and procedures that ensure it is meeting the needs of eligible children or pregnant women, before serving over-income children or pregnant women;

(iii) Efforts, including outreach, to be fully enrolled with eligible pregnant women or children;

(iv) Policies, procedures, and selection criteria it uses to serve eligible children;

(v) Its current enrollment and its enrollment for the previous year;

(vi) The number of pregnant women and children served, disaggregated by the eligibility criteria in paragraphs (c) and (d)(1) of this section; and,

(vii) The eligibility criteria category of each child on the program's waiting list.

(e) Additional allowances for Indian tribes.

(1) Notwithstanding paragraph (c)(2) of this section, a tribal program may fill more than 10 percent of its enrollment with participants who are not eligible under the criteria in paragraph (c) of this section, if:

(i) The tribal program has served all eligible pregnant women or children who wish to be enrolled from Indian and non-Indian families living within the approved service area of the tribal agency;

(ii) The tribe has resources within its grant, without using additional funds from HHS intended to expand Early Head Start or Head Start services, to enroll pregnant women or children whose family incomes exceed low-income guidelines or who are not otherwise eligible; and,

(iii) At least 51 percent of the program's participants meet an eligibility criterion under paragraph (c)(1) of this section.

(2) If another program does not serve the approved service area, the program must serve all eligible Indian and non-Indian pregnant women or children who wish to enroll before serving over-income pregnant women or children.

(3) A program that meets the conditions of this paragraph (e) must annually set criteria that are approved by the policy council and the tribal council for selecting over-income pregnant women or children who would benefit from program services.

(4) An Indian tribe or tribes that operates both an Early Head Start program and a Head Start

program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian tribe or tribes during a year may not serve as a basis for any reduction of the base grant for either program in succeeding years.

(f) Migrant or Seasonal eligibility requirements. A child is eligible for Migrant or Seasonal Head Start, if the family meets an eligibility criterion in paragraphs (c) and (d) of this section; and the family's income comes primarily from agricultural work.

(g) Eligibility requirements for communities with 1,000 or fewer individuals.

(1) A program may establish its own criteria for eligibility provided that it meets the criteria outlined in section 645(a)(2)[12] of the Act.

(2) No child residing in such community whose family is eligible under criteria described in paragraphs (c) through (f) of this section, may be denied an opportunity to participate in the program under the eligibility criteria established under this paragraph (g).

(h) Verifying age. Program staff must verify a child's age according to program policies and procedures. A program's policies and procedures cannot require families to provide documents that confirm a child's age, if doing so creates a barrier for the family to enroll the child.

(i) Verifying eligibility.

(1) To verify eligibility based on income, program staff must use tax forms, pay stubs, or other proof of income to determine the family income for the relevant time period.

(i) If the family cannot provide tax forms, pay stubs, or other proof of income for the relevant time period, program staff may accept written statements from employers, including individuals who are self-employed, for the relevant time period and use information provided to calculate total annual income with appropriate multipliers.

(ii) If the family reports no income for the relevant time period, a program may accept the family's signed declaration to that effect, if program staff describes efforts made to verify the family's income, and explains how the family's total income was calculated or seeks information from third parties about the family's eligibility, if the family gives written consent. If a family gives consent to contact third parties, program staff must adhere to program safety and privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2) of this section.

(iii) If the family can demonstrate a significant change in income for the relevant time period, program staff may consider current income circumstances.

(2) To verify whether a family is eligible for, or in the absence of child care, would be potentially eligible for public assistance, the program must have documentation from either the state, local, or tribal public assistance agency that shows the family either receives public assistance or that shows the family is potentially eligible to receive public assistance.

(3) To verify whether a family is homeless, a program may accept a written statement from a homeless services provider, school personnel, or other service agency attesting that the child is homeless or any other documentation that indicates homelessness, including documentation from a public or private agency, a declaration, information gathered on enrollment or application forms, or notes from an interview with staff to establish the child is homeless; or any other document that establishes homelessness.

(i) If a family can provide one of the documents described in this paragraph (i)(3), program staff must describe efforts made to verify the accuracy of the information provided and state whether the family is eligible because they are homeless.

(ii) If a family cannot provide one of the documents described in this paragraph (i)(3) to prove the child is homeless, a program may accept the family's signed declaration to that effect, if, in a written statement, program staff describe the child's living situation that meets the definition of homeless in part 1305 of this chapter.

(iii) Program staff may seek information from third parties who have firsthand knowledge about a family's living situation, if the family gives written consent. If the family gives consent to contact third parties, program staff must adhere to program privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k) of this section.

(4) To verify whether a child is in foster care, program staff must accept either a court order or other legal or government-issued document, a written statement from a government child welfare official that demonstrates the child is in foster care, or proof of a foster care payment.

(j) Eligibility duration.

(1) If a child is determined eligible under this section and is participating in a Head Start program, he or she will remain eligible through the end of the succeeding program year except that the Head Start program may choose not to enroll a child when there are compelling reasons for the child not to remain in Head Start, such as when there is a change in the child's family income and there is a child with a greater need for Head Start services.

(2) Children who are enrolled in a program receiving funds under the authority of section 645A[13] of the Act remain eligible while they participate in the program.

(3) If a child moves from an Early Head Start program to a Head Start program, program staff must verify the family's eligibility again.

(4) If a program operates both an Early Head Start and a Head Start program, and the parents wish to enroll their child who has been enrolled in the program's Early Head Start, the program must ensure, whenever possible, the child receives Head Start services until enrolled in school, provided the child is eligible.

(k) Records.

(1) A program must keep eligibility determination records for each participant and ongoing records of the eligibility training for staff required by paragraph (m) of this section. A program may keep these records electronically.

(2) Each eligibility determination record must include:

(i) Copies of any documents or statements, including declarations, that are deemed necessary to verify eligibility under paragraphs (h) and (i) of this section;

(ii) A statement that program staff has made reasonable efforts to verify information by:

(A) Conducting either an in-person, or a telephone interview with the family as described under paragraph (a)(1)(i) or (a)(2) of this section; and,

(B) Describing efforts made to verify eligibility, as required under paragraphs (h) through (i) of this section; and, collecting documents required for third party verification that includes the family's written consent to contact each third party, the third parties' names, titles, and affiliations, and information from third parties regarding the family's eligibility.

(iii) A statement that identifies whether:

(A) The family's income is below income guidelines for its size, and lists the family's size;

(B) The family is eligible for or, in the absence of child care, potentially eligible for public assistance;

(C) The child is a homeless child or the child is in foster care;

(D) The family was determined to be eligible under the criterion in paragraph (c)(2) of this section; or,

(E) The family was determined to be eligible under the criterion in paragraph (d)(1) of this section.

(3) A program must keep eligibility determination records for those currently enrolled, as long as they are enrolled, and, for one year after they have either stopped receiving services; or are no longer enrolled.

(l) Program policies and procedures on violating eligibility determination regulations. A program must establish written policies and procedures that describe all actions taken against staff who intentionally violate federal and program eligibility determination regulations and who enroll pregnant women and children that are not eligible to receive Early Head Start or Head Start services.

(m) Training on eligibility.

(1) A program must train all governing body, policy council, management, and staff who determine eligibility on applicable federal regulations and program policies and procedures. Training must, at a minimum:

(i) Include methods on how to collect complete and accurate eligibility information from families and third party sources;

(ii) Incorporate strategies for treating families with dignity and respect and for dealing with possible issues of domestic violence, stigma, and privacy; and,

Note: References are located in the Appendix, starting at page 117.

(iii) Explain program policies and procedures that describe actions taken against staff, families, or participants who attempt to provide or intentionally provide false information.

(2) A program must train management and staff members who make eligibility determinations within 90 days of hiring new staff.

(3) A program must train all governing body and policy council members within 180 days of the beginning of the term of a new governing body or policy council.

(4) A program must develop policies on how often training will be provided after the initial training.

§1302.13 Recruitment of children.

In order to reach those most in need of services, a program must develop and implement a recruitment process designed to actively inform all families with eligible children within the recruitment area of the availability of program services, and encourage and assist them in applying for admission to the program. A program must include specific efforts to actively locate and recruit children with disabilities and other vulnerable children, including homeless children and children in foster care.

§1302.14 Selection process.

(a) Selection criteria.

(1) A program must annually establish selection criteria that weigh the prioritization of selection of participants, based on community needs identified in the community needs assessment as described in §1302.11(b), and including family income, whether the child is homeless, whether the child is in foster care, the child's age, whether the child is eligible for special education and related services, or early intervention services, as appropriate, as determined under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*)[19] and, other relevant family or child risk factors.

(2) If a program serves migrant or seasonal families, it must select participants according to criteria in paragraph (a)(1) of this section, and give priority to children whose families can demonstrate they have relocated frequently within the past two-years to pursue agricultural work.

(3) If a program operates in a service area where Head Start eligible children can enroll in high-quality publicly funded pre-kindergarten for a full school day, the program must prioritize younger children as part of the selection criteria in paragraph (a)(1) of this section. If this priority would disrupt partnerships with local education agencies, then it is not required. An American Indian and Alaska Native or Migrant or Seasonal Head Start program must consider whether such prioritization is appropriate in their community.

(4) A program must not deny enrollment based on a disability or chronic health condition or its severity.

(b) Children eligible for services under IDEA.

(1) A program must ensure at least 10 percent of its total funded enrollment is filled by children eligible for services under IDEA, unless the responsible HHS official grants a waiver.

(2) If the requirement in paragraph (b)(1) of this section has been met, children eligible for services under IDEA should be prioritized for the available slots in accordance with the program's selection criteria described in paragraph (a) of this section.

(c) Waiting lists. A program must develop at the beginning of each enrollment year and maintain during the year a waiting list that ranks children according to the program's selection criteria.

§1302.15 Enrollment.

(a) Funded enrollment. A program must maintain its funded enrollment level and fill any vacancy as soon as possible. A program must fill any vacancy within 30 days.

(b) Continuity of enrollment.

(1) A program must make efforts to maintain enrollment of eligible children for the following year.

(2) Under exceptional circumstances, a program may maintain a child's enrollment in Head Start for a third year, provided that family income is verified again. A program may maintain a child's enrollment in Early Head Start as described in §1302.12(j)(2).

(3) If a program serves homeless children or children in foster care, it must make efforts to maintain the child's enrollment regardless of whether the family or child moves to a different service area, or transition the child to a program in a different service area, as required in §1302.72(a), according to the family's needs.

(c) Reserved slots. If a program determines from the community assessment there are families experiencing homelessness in the area, or children in foster care that could benefit from services, the program may reserve one or more enrollment slots for pregnant women and children experiencing homelessness and children in foster care, when a vacancy occurs. No more than three percent of a program's funded enrollment slots may be reserved. If the reserved enrollment slot is not filled within 30 days, the enrollment slot becomes vacant and then must be filled in accordance with paragraph (a) of this section.

(d) Other enrollment. Children from diverse economic backgrounds who are funded with other sources, including private pay, are not considered part of a program's eligible funded enrollment.

(e) State immunization enrollment requirements. A program must comply with state immunization enrollment and attendance requirements, with the exception of homeless children as described in §1302.16(c)(1).

(f) Voluntary parent participation. Parent participation in any program activity is voluntary, including consent for data sharing, and is not required as a condition of the child's enrollment.

Note: References are located in the Appendix, starting at page 117.

§1302.16 Attendance.

(a) Promoting regular attendance. A program must track attendance for each child.

(1) A program must implement a process to ensure children are safe when they do not arrive at school. If a child is unexpectedly absent and a parent has not contacted the program within one hour of program start time, the program must attempt to contact the parent to ensure the child's well-being.

(2) A program must implement strategies to promote attendance. At a minimum, a program must:

(i) Provide information about the benefits of regular attendance;

(ii) Support families to promote the child's regular attendance;

(iii) Conduct a home visit or make other direct contact with a child's parents if a child has multiple unexplained absences (such as two consecutive unexplained absences); and,

(iv) Within the first 60 days of program operation, and on an ongoing basis thereafter, use individual child attendance data to identify children with patterns of absence that put them at risk of missing ten percent of program days per year and develop appropriate strategies to improve individual attendance among identified children, such as direct contact with parents or intensive case management, as necessary.

(3) If a child ceases to attend, the program must make appropriate efforts to reengage the family to resume attendance, including as described in paragraph (a)(2) of this section. If the child's attendance does not resume, then the program must consider that slot vacant. This action is not considered expulsion as described in §1302.17.

(b) Managing systematic program attendance issues. If a program's monthly average daily attendance rate falls below 85 percent, the program must analyze the causes of absenteeism to identify any systematic issues that contribute to the program's absentee rate. The program must use this data to make necessary changes in a timely manner as part of ongoing oversight and correction as described in §1302.102(b) and inform its continuous improvement efforts as described in §1302.102(c).

(c) Supporting attendance of homeless children.

(1) If a program determines a child is eligible under §1302.12(c)(1)(iii), it must allow the child to attend for up to 90 days or as long as allowed under state licensing requirements, without immunization and other records, to give the family reasonable time to present these documents. A program must work with families to get children immunized as soon as possible in order to comply with state licensing requirements.

(2) If a child experiencing homelessness is unable to attend classes regularly because the family does not have transportation to and from the program facility, the program must utilize community resources, where possible, to provide transportation for the child.

§1302.17 Suspension and expulsion.

(a) Limitations on suspension.

(1) A program must prohibit or severely limit the use of suspension due to a child's behavior. Such suspensions may only be temporary in nature.

(2) A temporary suspension must be used only as a last resort in extraordinary circumstances where there is a serious safety threat that cannot be reduced or eliminated by the provision of reasonable modifications.

(3) Before a program determines whether a temporary suspension is necessary, a program must engage with a mental health consultant, collaborate with the parents, and utilize appropriate community resources – such as behavior coaches, psychologists, other appropriate specialists, or other resources – as needed, to determine no other reasonable option is appropriate.

(4) If a temporary suspension is deemed necessary, a program must help the child return to full participation in all program activities as quickly as possible while ensuring child safety by:

(i) Continuing to engage with the parents and a mental health consultant, and continuing to utilize appropriate community resources;

(ii) Developing a written plan to document the action and supports needed;

(iii) Providing services that include home visits; and,

(iv) Determining whether a referral to a local agency responsible for implementing IDEA is appropriate.

(b) Prohibition on expulsion.

(1) A program cannot expel or unenroll a child from Head Start because of a child's behavior.

(2) When a child exhibits persistent and serious challenging behaviors, a program must explore all possible steps and document all steps taken to address such problems, and facilitate the child's safe participation in the program. Such steps must include, at a minimum, engaging a mental health consultant, considering the appropriateness of providing appropriate services and supports under section 504 of the Rehabilitation Act to ensure that the child who satisfies the definition of disability in 29 U.S.C. 705(9)(b)[14] of the Rehabilitation Act is not excluded from the program on the basis of disability, and consulting with the parents and the child's teacher and:

(i) If the child has an individualized family service plan (IFSP) or individualized education program (IEP), the program must consult with the agency responsible for the IFSP or IEP to ensure the child receives the needed support services; or,

(ii) If the child does not have an IFSP or IEP, the program must collaborate, with parental consent, with the local agency responsible for implementing IDEA[19] to determine the child's eligibility for services.

Note: References are located in the Appendix, starting at page 117.

(3) If, after a program has explored all possible steps and documented all steps taken as described in paragraph (b)(2) of this section, a program, in consultation with the parents, the child's teacher, the agency responsible for implementing IDEA (if applicable), and the mental health consultant, determines that the child's continued enrollment presents a continued serious safety threat to the child or other enrolled children and determines the program is not the most appropriate placement for the child, the program must work with such entities to directly facilitate the transition of the child to a more appropriate placement.

§1302.18 Fees.

(a) Policy on fees. A program must not charge eligible families a fee to participate in Head Start, including special events such as field trips, and cannot in any way condition an eligible child's enrollment or participation in the program upon the payment of a fee.

(b) Allowable fees.

(1) A program must only accept a fee from families of enrolled children for services that are in addition to services funded by Head Start, such as child care before or after funded Head Start hours. A program may not condition a Head Start child's enrollment on the ability to pay a fee for additional hours.

(2) In order to support programs serving children from diverse economic backgrounds or using multiple funding sources, a program may charge fees to private pay families and other non-Head Start enrolled families to the extent allowed by any other applicable federal, state or local funding sources.

Subpart B — Program Structure

§1302.20 Determining program structure.

(a) Choose a program option.

(1) A program must choose to operate one or more of the following program options: center-based, home-based, family child care, or an approved locally-designed variation as described in §1302.24. The program option(s) chosen must meet the needs of children and families based on the community assessment described in §1302.11(b). A Head Start program serving preschool-aged children may not provide only the option described in §1302.22(a) and (c)(2).

(2) To choose a program option and develop a program calendar, a program must consider in conjunction with the annual review of the community assessment described in §1302.11(b)(2), whether it would better meet child and family needs through conversion of existing slots to full school day or full working day slots, extending the program year, conversion of existing Head Start slots to Early Head Start slots as described in paragraph (c) of this section, and ways to promote continuity of care and services. A program must work to identify alternate

sources to support full working day services. If no additional funding is available, program resources may be used.

(b) Comprehensive services. All program options must deliver the full range of services, as described in subparts C, D, E, F, and G of this part, except that §§1302.30 through 1302.32 and §1302.34 do not apply to home-based options.

(c) Conversion.

(1) Consistent with section 645(a)(5)[15] of the Head Start Act, grantees may request to convert Head Start slots to Early Head Start slots through the re-funding application process or as a separate grant amendment.

(2) Any grantee proposing a conversion of Head Start services to Early Head Start services must obtain policy council and governing body approval and submit the request to their regional office.

(3) With the exception of American Indian and Alaska Native grantees as described in paragraph (c)(4) of this section, the request to the regional office must include:

(i) A grant application budget and a budget narrative that clearly identifies the funding amount for the Head Start and Early Head Start programs before and after the proposed conversion;

(ii) The results of the community assessment demonstrating how the proposed use of funds would best meet the needs of the community, including a description of how the needs of eligible Head Start children will be met in the community when the conversion takes places;

(iii) A revised program schedule that describes the program option(s) and the number of funded enrollment slots for Head Start and Early Head Start programs before and after the proposed conversion;

(iv) A description of how the needs of pregnant women, infants, and toddlers will be addressed;

(v) A discussion of the agency's capacity to carry out an effective Early Head Start program in accordance with the requirements of section 645A(b) of the Head Start Act and all applicable regulations;

(vi) Assurances that the agency will participate in training and technical assistance activities required of all Early Head Start grantees;

(vii) A discussion of the qualifications and competencies of the child development staff proposed for the Early Head Start program, as well as a description of the facilities and program infrastructure that will be used to support the new or expanded Early Head Start program;

(viii) A discussion of any one-time funding necessary to implement the proposed conversion and how the agency intends to secure such funding; and,

Note: References are located in the Appendix, starting at page 117.

(ix) The proposed timetable for implementing this conversion, including updating school readiness goals as described in subpart J of this part.

(4) Consistent with section 645(d)(3)[16] of the Act, any American Indian and Alaska Native grantee that operates both an Early Head Start program and a Head Start program may reallocate funds between the programs at its discretion and at any time during the grant period involved, in order to address fluctuations in client populations. An American Indian and Alaska Native program that exercises this discretion must notify the regional office.

(d) Source of funding. A program may consider hours of service that meet the Head Start Program Performance Standards, regardless of the source of funding, as hours of planned class operations for the purposes of meeting the Head Start and Early Head Start service duration requirements in this subpart.

§1302.21 Center-based option.

(a) Setting. The center-based option delivers the full range of services, consistent with §1302.20(b). Education and child development services are delivered primarily in classroom settings.

(b) Ratios and group size.

(1) Staff-child ratios and group size maximums must be determined by the age of the majority of children and the needs of children present. A program must determine the age of the majority of children in a class at the start of the year and may adjust this determination during the program year, if necessary. Where state or local licensing requirements are more stringent than the teacher-child ratios and group size specifications in this section, a program must meet the stricter requirements. A program must maintain appropriate ratios during all hours of program operation, except:

(i) For brief absences of a teaching staff member for no more than five minutes; and,

(ii) During nap time, one teaching staff member may be replaced by one staff member or trained volunteer who does not meet the teaching qualifications required for the age.

(2) An Early Head Start or Migrant or Seasonal Head Start class that serves children under 36 months old must have two teachers with no more than eight children, or three teachers with no more than nine children. Each teacher must be assigned consistent, primary responsibility for no more than four children to promote continuity of care for individual children. A program must minimize teacher changes throughout a child's enrollment, whenever possible, and consider mixed age group classes to support continuity of care.

(3) A class that serves a majority of children who are three years old must have no more than 17 children with a teacher and teaching assistant or two teachers. A double session class that serves a majority of children who are three years old must have no more than 15 children with a teacher and teaching assistant or two teachers.

(4) A class that serves a majority of children who are four and five years old must have no more than 20 children with a teacher and a teaching assistant or two teachers. A double session

class that serves a majority of children who are four and five years old must have no more than 17 children with a teacher and a teaching assistant or two teachers.

Table to §1302.21(b) — Center-based group size

4 and 5 year olds	No more than 20 children enrolled in any class. No more than 17 children enrolled in any double session class.
3 year olds	No more than 17 children enrolled in any class No more than 15 children enrolled in any double session class.
Under 3 years old	No more than 8 or 9 children enrolled in any class, depending on the number of teachers.

(c) Service duration.

(1) Early Head Start.

(i) By August 1, 2018, a program must provide 1,380 annual hours of planned class operations for all enrolled children.

(ii) A program that is designed to meet the needs of young parents enrolled in school settings may meet the service duration requirements in paragraph (c)(1)(i) of this section if it operates a center-based program schedule during the school year aligned with its local education agency requirements and provides regular home-based services during the summer break.

(2) Head Start.

(i) Until a program is operating all of its Head Start center-based funded enrollment at the standard described in paragraph (c)(2)(iv) or (v) of this section, a program must provide, at a minimum, at least 160 days per year of planned class operations if it operates for five days per week, or at least 128 days per year if it operates four days per week. Classes must operate for a minimum of 3.5 hours per day.

(ii) Until a program is operating all of its Head Start center-based funded enrollment at the standard described in paragraph (c)(2)(iv) or (v) of this section, if a program operates a double session variation, it must provide classes for four days per week for a minimum of 128 days per year and 3.5 hours per day. Each double session class staff member must be provided adequate break time during the course of the day. In addition, teachers, aides, and volunteers must have appropriate time to prepare for each session together, to set up the classroom environment, and to give individual attention to children entering and leaving the center.

(iii) By August 1, 2019, a program must provide 1,020 annual hours of planned class operations over the course of at least eight months per year for at least 50 percent of its Head Start center-based funded enrollment.

(iv) By August 1, 2021, a program must provide 1,020 annual hours of planned class operations over the course of at least eight months per year for all of its Head Start center-based funded enrollment.

Note: References are located in the Appendix, starting at page 117.

(v) A Head Start program providing fewer than 1,020 annual hours of planned class operations or fewer than eight months of service is considered to meet the requirements described in paragraphs (c)(2)(iii) and (iv) of this section if its program schedule aligns with the annual hours required by its local education agency for grade one and such alignment is necessary to support partnerships for service delivery.

(3) Secretarial determination.

(i) On or before February 1, 2018, the Secretary may lower the required percentage described in paragraph (c)(2)(iii) of this section, based on an assessment of the availability of sufficient funding to mitigate a substantial reduction in funded enrollment; and,

(ii) On or before February 1, 2020, the Secretary may lower the required percentage described in paragraph (c)(2)(iv) of this section, based on an assessment of the availability of sufficient funding to mitigate a substantial reduction in funded enrollment.

(4) Extension. If an extension is necessary to ensure children enrolled in the program on November 7, 2016 are not displaced from the Early Head Start or Head Start program, a program may request a one-year extension from the responsible HHS official of the requirements outlined in paragraphs (c)(1) and (c)(2)(iii) of this section.

(5) Exemption for Migrant or Seasonal Head Start programs. A Migrant or Seasonal program is not subject to the requirements described in §1302.21(c)(1) or (2), but must make every effort to provide as many days and hours of service as possible to each child and family.

(6) Calendar planning. A program must:

(i) Plan its year using a reasonable estimate of the number of days during a year that classes may be closed due to problems such as inclement weather; and,

(ii) Make every effort to schedule makeup days using existing resources if hours of planned class operations fall below the number required per year.

(d) Licensing and square footage requirements.

(1) The facilities used by a program must meet state, tribal, or local licensing requirements, even if exempted by the licensing entity. When state, tribal, or local requirements vary from Head Start requirements, the most stringent provision takes precedence.

(2) A center-based program must have at least 35 square feet of usable indoor space per child available for the care and use of children (exclusive of bathrooms, halls, kitchen, staff rooms, and storage places) and at least 75 square feet of usable outdoor play space per child.

(3) A program that operates two or more groups within an area must ensure clearly defined, safe divisions to separate groups. A program must ensure such spaces are learning environments that facilitate the implementation of the requirements in subpart C of this part. The divisions must limit noise transfer from one group to another to prevent disruption of an effective learning environment.

§1302.22 Home-based option.

(a) Setting. The home-based option delivers the full range of services, consistent with §1302.20(b), through visits with the child's parents, primarily in the child's home and through group socialization opportunities in a Head Start classroom, community facility, home, or on field trips. For Early Head Start programs, the home-based option may be used to deliver services to some or all of a program's enrolled children. For Head Start programs, the home-based option may only be used to deliver services to a portion of a program's enrolled children.

(b) Caseload. A program that implements a home-based option must maintain an average caseload of 10 to 12 families per home visitor with a maximum of 12 families for any individual home visitor.

(c) Service duration.

(1) Early Head Start. By August 1, 2017, an Early Head Start home-based program must:

(i) Provide one home visit per week per family that lasts at least an hour and a half and provide a minimum of 46 visits per year; and,

(ii) Provide, at a minimum, 22 group socialization activities distributed over the course of the program year.

(2) Head Start. A Head Start home-based program must:

(i) Provide one home visit per week per family that lasts at least an hour and a half and provide a minimum of 32 visits per year; and,

(ii) Provide, at a minimum, 16 group socialization activities distributed over the course of the program year.

(3) Meeting minimum requirements. A program that implements a home-based option must:

(i) Make up planned home visits or scheduled group socialization activities that were canceled by the program, and to the extent possible attempt to make up planned home visits canceled by the family, when this is necessary to meet the minimums described in paragraphs (c)(1) and (2) of this section; and,

(ii) Not replace home visits or scheduled group socialization activities for medical or social service appointments for the purposes of meeting the minimum requirements described in paragraphs (c)(1) and (2) of this section.

(d) Safety requirements. The areas for learning, playing, sleeping, toileting, preparing food, and eating in facilities used for group socializations in the home-based option must meet the safety standards described in §1302.47(1)(ii) through (viii).

§1302.23 Family child care option.

(a) Setting. The family child care program option delivers the full range of services, consistent with §1302.20(b). Education and child development services are primarily delivered by a family child care

Note: References are located in the Appendix, starting at page 117.

provider in their home or other family-like setting. A program may choose to offer the family child care option if:

(1) The program has a legally binding agreement with one or more family child care provider(s) that clearly defines the roles, rights, and responsibilities of each party, or the program is the employer of the family child care provider, and ensures children and families enrolled in this option receive the full range of services described in subparts C, D, E, F, and G of this part; and,

(2) The program ensures family child care homes are available that can accommodate children and families with disabilities.

(b) Ratios and group size.

(1) A program that operates the family child care option where Head Start children are enrolled must ensure group size does not exceed the limits specified in this section. If the family child care provider's own children under the age of six are present, they must be included in the group size.

(2) When there is one family child care provider, the maximum group size is six children and no more than two of the six may be under 24 months of age. When there is a provider and an assistant, the maximum group size is twelve children with no more than four of the twelve children under 24 months of age.

(3) One family child care provider may care for up to four children younger than 36 months of age with a maximum group size of four children, and no more than two of the four children may be under 18 months of age.

(4) A program must maintain appropriate ratios during all hours of program operation. A program must ensure providers have systems to ensure the safety of any child not within view for any period. A program must make substitute staff and assistant providers available with the necessary training and experience to ensure quality services to children are not interrupted.

(c) Service duration. Whether family child care option services are provided directly or via contractual arrangement, a program must ensure family child care providers operate sufficient hours to meet the child care needs of families and not less than 1,380 hours per year.

(d) Licensing requirements. A family child-care provider must be licensed by the state, tribal, or local entity to provide services in their home or family-like setting. When state, tribal, or local requirements vary from Head Start requirements, the most stringent provision applies.

(e) Child development specialist. A program that offers the family child care option must provide a child development specialist to support family child care providers and ensure the provision of quality services at each family child care home. Child development specialists must:

(1) Conduct regular visits to each home, some of which are unannounced, not less than once every two weeks;

(2) Periodically verify compliance with either contract requirements or agency policy;

(3) Facilitate ongoing communication between program staff, family child care providers, and enrolled families; and,

(4) Provide recommendations for technical assistance and support the family child care provider in developing relationships with other child care professionals.

§1302.24 Locally-designed program option variations.

(a) Waiver option. Programs may request to operate a locally-designed program option, including a combination of program options, to better meet the unique needs of their communities or to demonstrate or test alternative approaches for providing program services. In order to operate a locally-designed program option, programs must seek a waiver as described in this section and must deliver the full range of services, consistent with §1302.20(b), and demonstrate how any change to their program design is consistent with achieving program goals in subpart J of this part.

(b) Request for approval. A program's request to operate a locally-designed variation may be approved by the responsible HHS official through the end of a program's current grant or, if the request is submitted through a grant application for an upcoming project period, for the project period of the new award. Such approval may be revoked based on progress toward program goals as described in §1302.102 and monitoring as described in §1304.2.

(c) Waiver requirements.

(1) The responsible HHS official may waive one or more of the requirements contained in §1302.21(b), (c)(1)(i), and (c)(2)(iii) and (iv); §1302.22(a) through (c); and §1302.23(b) and (c), but may not waive ratios or group size for children under 24 months. Center-based locally-designed options must meet the minimums described in section 640(k)(1)[17] of the Act for center-based programs.

(2) If the responsible HHS official determines a waiver of group size for center-based services would better meet the needs of children and families in a community, the group size may not exceed the limits below:

(i) A group that serves children 24 to 36 months of age must have no more than ten children; and,

(ii) A group that serves predominantly three-year-old children must have no more than twenty children; and,

(iii) A group that serves predominantly four-year-old children must have no more than twenty-four children.

(3) If the responsible HHS official approves a waiver to allow a program to operate below the minimums described in §1302.21(c)(2)(iii) or (iv), a program must meet the requirements described in §1302.21(c)(2)(i), or in the case of a double session variation, a program must meet the requirements described in §1302.21(c)(2)(ii).

(4) In order to receive a waiver under this section, a program must provide supporting evi-

Note: References are located in the Appendix, starting at page 117.

dence that demonstrates the locally-designed variation effectively supports appropriate development and progress in children's early learning outcomes.

(5) In order to receive a waiver of service duration, a program must meet the requirement in paragraph (c)(4) of this section, provide supporting evidence that it better meets the needs of parents than the applicable service duration minimums described in §1302.21(c)(1), and (c)(2)(iii) and (iv), §1302.22(c), or §1302.23(c), and assess the effectiveness of the variation in supporting appropriate development and progress in children's early learning outcomes.

(d) Transition from previously approved program options. If, before November 7, 2016, a program was approved to operate a program option that is no longer allowable under §§1302.21 through 1302.23, a program may continue to operate that model until July 31, 2018.

Subpart C — Education and Child Development Program Services

§1302.30 Purpose.

All programs must provide high-quality early education and child development services, including for children with disabilities, that promote children's cognitive, social, and emotional growth for later success in school. A center-based or family child care program must embed responsive and effective teacher-child interactions. A home-based program must promote secure parent-child relationships and help parents provide high-quality early learning experiences. All programs must implement a research-based curriculum, and screening and assessment procedures that support individualization and growth in the areas of development described in the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* and support family engagement in children's learning and development. A program must deliver developmentally, culturally, and linguistically appropriate learning experiences in language, literacy, mathematics, social and emotional functioning, approaches to learning, science, physical skills, and creative arts. To deliver such high-quality early education and child development services, a center-based or family child care program must implement, at a minimum, the elements contained in §§1302.31 through 1302.34, and a home-based program must implement, at a minimum, the elements in §§1302.33 and 1302.35.

§1302.31 Teaching and the learning environment.

(a) Teaching and the learning environment. A center-based and family child care program must ensure teachers and other relevant staff provide responsive care, effective teaching, and an organized learning environment that promotes healthy development and children's skill growth aligned with the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*, including for children with disabilities. A program must also support implementation of such environment with integration of regular and ongoing supervision and a system of individualized and ongoing professional development, as appropriate. This includes, at a minimum, the practices described in paragraphs (b) through (e) of this section.

(b) Effective teaching practices.

(1) Teaching practices must:

(i) Emphasize nurturing and responsive practices, interactions, and environments that foster trust and emotional security; are communication and language rich; promote critical thinking and problem-solving; social, emotional, behavioral, and language development; provide supportive feedback for learning; motivate continued effort; and support all children's engagement in learning experiences and activities;

(ii) Focus on promoting growth in the developmental progressions described in the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* by aligning with and using the Framework and the curricula as described in §1302.32 to direct planning of organized activities, schedules, lesson plans, and the implementation of high-quality early learning experiences that are responsive to and build upon each child's individual pattern of development and learning;

(iii) Integrate child assessment data in individual and group planning; and,

(iv) Include developmentally appropriate learning experiences in language, literacy, social and emotional development, math, science, social studies, creative arts, and physical development that are focused toward achieving progress outlined in the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*.

(2) For dual language learners, a program must recognize bilingualism and biliteracy as strengths and implement research-based teaching practices that support their development. These practices must:

(i) For an infant or toddler dual language learner, include teaching practices that focus on the development of the home language, when there is a teacher with appropriate language competency, and experiences that expose the child to English;

(ii) For a preschool age dual language learner, include teaching practices that focus on both English language acquisition and the continued development of the home language; or,

(iii) If staff do not speak the home language of all children in the learning environment, include steps to support the development of the home language for dual language learners such as having culturally and linguistically appropriate materials available and other evidence-based strategies. Programs must work to identify volunteers who speak children's home language/s who could be trained to work in the classroom to support children's continued development of the home language.

(c) Learning environment. A program must ensure teachers implement well-organized learning environments with developmentally appropriate schedules, lesson plans, and indoor and outdoor learning experiences that provide adequate opportunities for choice, play, exploration, and experimentation among a variety of learning, sensory, and motor experiences and:

(1) For infants and toddlers, promote relational learning and include individualized and small group activities that integrate appropriate daily routines into a flexible schedule of learning experiences; and,

Note: References are located in the Appendix, starting at page 117.

(2) For preschool age children, include teacher-directed and child-initiated activities, active and quiet learning activities, and opportunities for individual, small group, and large group learning activities.

(d) Materials and space for learning. To support implementation of the curriculum and the requirements described in paragraphs (a), (b), (c), and (e) of this section a program must provide age-appropriate equipment, materials, supplies and physical space for indoor and outdoor learning environments, including functional space. The equipment, materials and supplies must include any necessary accommodations and the space must be accessible to children with disabilities. Programs must change materials intentionally and periodically to support children's interests, development, and learning.

(e) Promoting learning through approaches to rest, meals, routines, and physical activity.

(1) A program must implement an intentional, age appropriate approach to accommodate children's need to nap or rest, and that, for preschool age children in a program that operates for 6 hours or longer per day provides a regular time every day at which preschool age children are encouraged but not forced to rest or nap. A program must provide alternative quiet learning activities for children who do not need or want to rest or nap.

(2) A program must implement snack and meal times in ways that support development and learning. For bottle-fed infants, this approach must include holding infants during feeding to support socialization. Snack and meal times must be structured and used as learning opportunities that support teaching staff-child interactions and foster communication and conversations that contribute to a child's learning, development, and socialization. Programs are encouraged to meet this requirement with family style meals when developmentally appropriate. A program must also provide sufficient time for children to eat, not use food as reward or punishment, and not force children to finish their food.

(3) A program must approach routines, such as hand washing and diapering, and transitions between activities, as opportunities for strengthening development, learning, and skill growth.

(4) A program must recognize physical activity as important to learning and integrate intentional movement and physical activity into curricular activities and daily routines in ways that support health and learning. A program must not use physical activity as reward or punishment.

§1302.32 Curricula.

(a) Curricula.

(1) Center-based and family child care programs must implement developmentally appropriate research-based early childhood curricula, including additional curricular enhancements, as appropriate that:

(i) Are based on scientifically valid research and have standardized training procedures and curriculum materials to support implementation;

(ii) Are aligned with the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*

and, as appropriate, state early learning and development standards; and are sufficiently content-rich to promote measurable progress toward development and learning outlined in the Framework; and,

(iii) Have an organized developmental scope and sequence that include plans and materials for learning experiences based on developmental progressions and how children learn.

(2) A program must support staff to effectively implement curricula and at a minimum monitor curriculum implementation and fidelity, and provide support, feedback, and supervision for continuous improvement of its implementation through the system of training and professional development.

(b) Adaptation. A program that chooses to make significant adaptations to a curriculum or a curriculum enhancement described in paragraph (a)(1) of this section to better meet the needs of one or more specific populations must use an external early childhood education curriculum or content area expert to develop such significant adaptations. A program must assess whether the adaptation adequately facilitates progress toward meeting school readiness goals, consistent with the process described in §1302.102(b) and (c). Programs are encouraged to partner with outside evaluators in assessing such adaptations.

§1302.33 Child screenings and assessments.

(a) Screening.

(1) In collaboration with each child's parent and with parental consent, a program must complete or obtain a current developmental screening to identify concerns regarding a child's developmental, behavioral, motor, language, social, cognitive, and emotional skills within 45 calendar days of when the child first attends the program or, for the home-based program option, receives a home visit. A program that operates for 90 days or less must complete or obtain a current developmental screening within 30 calendar days of when the child first attends the program.

(2) A program must use one or more research-based developmental standardized screening tools to complete the screening. A program must use as part of the screening additional information from family members, teachers, and relevant staff familiar with the child's typical behavior.

(3) If warranted through screening and additional relevant information and with direct guidance from a mental health or child development professional a program must, with the parent's consent, promptly and appropriately address any needs identified through:

(i) Referral to the local agency responsible for implementing IDEA[19] for a formal evaluation to assess the child's eligibility for services under IDEA as soon as possible, and not to exceed timelines required under IDEA; and,

(ii) Partnership with the child's parents and the relevant local agency to support families through the formal evaluation process.

Note: References are located in the Appendix, starting at page 117.

(4) If a child is determined to be eligible for services under IDEA, the program must partner with parents and the local agency responsible for implementing IDEA, as appropriate, and deliver the services in subpart F of this part.

(5) If, after the formal evaluation described in paragraph (a)(3)(i) of this section, the local agency responsible for implementing IDEA determines the child is not eligible for early intervention or special education and related services under IDEA, the program must:

(i) Seek guidance from a mental health or child development professional to determine if the formal evaluation shows the child has a significant delay in one or more areas of development that is likely to interfere with the child's development and school readiness; and,

(ii) If the child has a significant delay, partner with parents to help the family access services and supports to help address the child's identified needs.

(A) Such additional services and supports may be available through a child's health insurance or it may be appropriate for the program to provide needed services and supports under section 504 of the Rehabilitation Act[18] if the child satisfies the definition of disability in 29 U.S.C. section 705(9)(b) of the Rehabilitation Act[14], to ensure that the child who satisfies the definition of disability in 29 U.S.C. 705(9)(b) of the Rehabilitation Act is not excluded from the program on the basis of disability.

(B) A program may use program funds for such services and supports when no other sources of funding are available.

(b) Assessment for individualization.

(1) A program must conduct standardized and structured assessments, which may be observation-based or direct, for each child that provide ongoing information to evaluate the child's developmental level and progress in outcomes aligned to the goals described in the *Head Start Early Learning Child Outcomes Framework: Ages Birth to Five*. Such assessments must result in usable information for teachers, home visitors, and parents and be conducted with sufficient frequency to allow for individualization within the program year.

(2) A program must regularly use information from paragraph (b)(1) of this section along with informal teacher observations and additional information from family and staff, as relevant, to determine a child's strengths and needs, inform and adjust strategies to better support individualized learning and improve teaching practices in center-based and family child care settings, and improve home visit strategies in home-based models.

(3) If warranted from the information gathered from paragraphs (b)(1) and (2) of this section and with direct guidance from a mental health or child development professional and a parent's consent, a program must refer the child to the local agency responsible for implementing IDEA for a formal evaluation to assess a child's eligibility for services under IDEA.

(c) Characteristics of screenings and assessments.

(1) Screenings and assessments must be valid and reliable for the population and purpose for which they will be used, including by being conducted by qualified and trained personnel, and being age, developmentally, culturally and linguistically appropriate, and appropriate for children with disabilities, as needed.

(2) If a program serves a child who speaks a language other than English, a program must use qualified bilingual staff, contractor, or consultant to:

(i) Assess language skills in English and in the child's home language, to assess both the child's progress in the home language and in English language acquisition;

(ii) Conduct screenings and assessments for domains other than language skills in the language or languages that best capture the child's development and skills in the specific domain; and,

(iii) Ensure those conducting the screening or assessment know and understand the child's language and culture and have sufficient skill level in the child's home language to accurately administer the screening or assessment and to record and understand the child's responses, interactions, and communications.

(3) If a program serves a child who speaks a language other than English and qualified bilingual staff, contractors, or consultants are not able to conduct screenings and assessments, a program must use an interpreter in conjunction with a qualified staff person to conduct screenings and assessments as described in paragraphs (c)(2)(i) through (iii) of this section.

(4) If a program serves a child who speaks a language other than English and can demonstrate that there is not a qualified bilingual staff person or interpreter, then screenings and assessments may be conducted in English. In such a case, a program must also gather and use other information, including structured observations over time and information gathered in a child's home language from the family, for use in evaluating the child's development and progress.

(d) Prohibitions on use of screening and assessment data. The use of screening and assessment items and data on any screening or assessment authorized under this subchapter by any agent of the federal government is prohibited for the purposes of ranking, comparing, or otherwise evaluating individual children for purposes other than research, training, or technical assistance, and is prohibited for the purposes of providing rewards or sanctions for individual children or staff. A program must not use screening or assessments to exclude children from enrollment or participation.

§1302.34 Parent and family engagement in education and child development services.

(a) Purpose. Center-based and family child care programs must structure education and child development services to recognize parents' roles as children's lifelong educators, and to encourage parents to engage in their child's education.

(b) Engaging parents and family members. A program must offer opportunities for parents and family members to be involved in the program's education services and implement policies to ensure:

Note: References are located in the Appendix, starting at page 117.

(1) The program's settings are open to parents during all program hours;

(2) Teachers regularly communicate with parents to ensure they are well-informed about their child's routines, activities, and behavior;

(3) Teachers hold parent conferences, as needed, but no less than two times per program year, to enhance the knowledge and understanding of both staff and parents of the child's education and developmental progress and activities in the program;

(4) Parents have the opportunity to learn about and to provide feedback on selected curricula and instructional materials used in the program;

(5) Parents and family members have opportunities to volunteer in the class and during group activities;

(6) Teachers inform parents, about the purposes of and the results from screenings and assessments and discuss their child's progress;

(7) Teachers, except those described in paragraph (b)(8) of this section, conduct at least two home visits per program year for each family, including one before the program year begins, if feasible, to engage the parents in the child's learning and development, except that such visits may take place at a program site or another safe location that affords privacy at the parent's request, or if a visit to the home presents significant safety hazards for staff; and,

(8) Teachers that serve migrant or seasonal families make every effort to conduct home visits to engage the family in the child's learning and development.

§1302.35 Education in home-based programs.

(a) Purpose. A home-based program must provide home visits and group socialization activities that promote secure parent-child relationships and help parents provide high-quality early learning experiences in language, literacy, mathematics, social and emotional functioning, approaches to learning, science, physical skills, and creative arts. A program must implement a research-based curriculum that delivers developmentally, linguistically, and culturally appropriate home visits and group socialization activities that support children's cognitive, social, and emotional growth for later success in school.

(b) Home-based program design. A home-based program must ensure all home visits are:

(1) Planned jointly by the home visitor and parents, and reflect the critical role of parents in the early learning and development of their children, including that the home visitor is able to effectively communicate with the parent, directly or through an interpreter;

(2) Planned using information from ongoing assessments that individualize learning experiences;

(3) Scheduled with sufficient time to serve all enrolled children in the home and conducted with parents and are not conducted when only babysitters or other temporary caregivers are present;

(4) Scheduled with sufficient time and appropriate staff to ensure effective delivery of services described in subparts D, E, F, and G of this part through home visiting, to the extent possible.

(c) Home visit experiences. A program that operates the home-based option must ensure all home visits focus on promoting high-quality early learning experiences in the home and growth towards the goals described in the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* and must use such goals and the curriculum to plan home visit activities that implement:

(1) Age and developmentally appropriate, structured child-focused learning experiences;

(2) Strategies and activities that promote parents' ability to support the child's cognitive, social, emotional, language, literacy, and physical development;

(3) Strategies and activities that promote the home as a learning environment that is safe, nurturing, responsive, and language- and communication- rich;

(4) Research-based strategies and activities for children who are dual language learners that recognize bilingualism and biliteracy as strengths, and:

(i) For infants and toddlers, focus on the development of the home language, while providing experiences that expose both parents and children to English; and,

(ii) For preschoolers, focus on both English language acquisition and the continued development of the home language; and,

(5) Follow-up with the families to discuss learning experiences provided in the home between each visit, address concerns, and inform strategies to promote progress toward school readiness goals.

(d) Home-based curriculum. A program that operates the home-based option must:

(1) Ensure home-visiting and group socializations implement a developmentally appropriate research-based early childhood home-based curriculum that:

(i) Promotes the parent's role as the child's teacher through experiences focused on the parent-child relationship and, as appropriate, the family's traditions, culture, values, and beliefs;

(ii) Aligns with the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* and, as appropriate, state early learning standards, and, is sufficiently content-rich within the Framework to promote measurable progress toward goals outlined in the Framework; and,

(iii) Has an organized developmental scope and sequence that includes plans and materials for learning experiences based on developmental progressions and how children learn.

(2) Support staff in the effective implementation of the curriculum and at a minimum monitor curriculum implementation and fidelity, and provide support, feedback, and supervision for

Note: References are located in the Appendix, starting at page 117.

continuous improvement of its implementation through the system of training and professional development.

(3) If a program chooses to make significant adaptations to a curriculum or curriculum enhancement to better meet the needs of one or more specific populations, a program must:

(i) Partner with early childhood education curriculum or content experts; and,

(ii) Assess whether the adaptation adequately facilitates progress toward meeting school readiness goals consistent with the process described in §1302.102(b) and (c).

(4) Provide parents with an opportunity to review selected curricula and instructional materials used in the program.

(e) Group socialization.

(1) A program that operates the home-based option must ensure group socializations are planned jointly with families, conducted with both child and parent participation, occur in a classroom, community facility, home or field trip setting, as appropriate.

(2) Group socializations must be structured to:

(i) Provide age appropriate activities for participating children that are intentionally aligned to school readiness goals, the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* and the home-based curriculum; and,

(ii) Encourage parents to share experiences related to their children's development with other parents in order to strengthen parent-child relationships and to help promote parents understanding of child development;

(3) For parents with preschoolers, group socializations also must provide opportunities for parents to participate in activities that support parenting skill development or family partnership goals identified in §1302.52(c), as appropriate and must emphasize peer group interactions designed to promote children's social, emotional and language development, and progress towards school readiness goals, while encouraging parents to observe and actively participate in activities, as appropriate.

(f) Screening and assessments. A program that operates the home-based option must implement provisions in §1302.33 and inform parents about the purposes of and the results from screenings and assessments and discuss their child's progress.

§1302.36 Tribal language preservation and revitalization.

A program that serves American Indian and Alaska Native children may integrate efforts to preserve, revitalize, restore, or maintain the tribal language for these children into program services. Such language preservation and revitalization efforts may include full immersion in the tribal language for the majority of the hours of planned class operations. If children's home language is English, exposure to English as described in §1302.31(b)(2)(i) and (ii) is not required.

Subpart D — Health Program Services

§1302.40 Purpose.

(a) A program must provide high-quality health, oral health, mental health, and nutrition services that are developmentally, culturally, and linguistically appropriate and that will support each child's growth and school readiness.

(b) A program must establish and maintain a Health Services Advisory Committee that includes Head Start parents, professionals, and other volunteers from the community.

§1302.41 Collaboration and communication with parents.

(a) For all activities described in this part, programs must collaborate with parents as partners in the health and well-being of their children in a linguistically and culturally appropriate manner and communicate with parents about their child's health needs and development concerns in a timely and effective manner.

(b) At a minimum, a program must:

(1) Obtain advance authorization from the parent or other person with legal authority for all health and developmental procedures administered through the program or by contract or agreement, and, maintain written documentation if they refuse to give authorization for health services; and,

(2) Share with parents the policies for health emergencies that require rapid response on the part of staff or immediate medical attention.

§1302.42 Child health status and care.

(a) Source of health care.

(1) A program, within 30 calendar days after the child first attends the program or, for the home-based program option, receives a home visit, must consult with parents to determine whether each child has ongoing sources of continuous, accessible health care – provided by a health care professional that maintains the child's ongoing health record and is not primarily a source of emergency or urgent care – and health insurance coverage.

(2) If the child does not have such a source of ongoing care and health insurance coverage or access to care through the Indian Health Service, the program must assist families in accessing a source of care and health insurance that will meet these criteria, as quickly as possible.

(b) Ensuring up-to-date child health status.

(1) Within 90 calendar days after the child first attends the program or, for the home-based program option, receives a home visit, with the exceptions noted in paragraph (b)(3) of this section, a program must:

Note: References are located in the Appendix, starting at page 117.

(i) Obtain determinations from health care and oral health care professionals as to whether or not the child is up-to-date on a schedule of age appropriate preventive and primary medical and oral health care, based on: the well-child visits and dental periodicity schedules as prescribed by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the state in which they operate, immunization recommendations issued by the Centers for Disease Control and Prevention, and any additional recommendations from the local Health Services Advisory Committee that are based on prevalent community health problems;

(ii) Assist parents with making arrangements to bring the child up-to-date as quickly as possible; and, if necessary, directly facilitate provision of health services to bring the child up-to-date with parent consent as described in §1302.41(b)(1).

(2) Within 45 calendar days after the child first attends the program or, for the home-based program option, receives a home visit, a program must either obtain or perform evidence-based vision and hearing screenings.

(3) If a program operates for 90 days or less, it has 30 days from the date the child first attends the program to satisfy paragraphs (b)(1) and (2) of this section.

(4) A program must identify each child's nutritional health needs, taking into account available health information, including the child's health records, and family and staff concerns, including special dietary requirements, food allergies, and community nutrition issues as identified through the community assessment or by the Health Services Advisory Committee.

(c) Ongoing care.

(1) A program must help parents continue to follow recommended schedules of well-child and oral health care.

(2) A program must implement periodic observations or other appropriate strategies for program staff and parents to identify any new or recurring developmental, medical, oral, or mental health concerns.

(3) A program must facilitate and monitor necessary oral health preventive care, treatment and follow-up, including topical fluoride treatments. In communities where there is a lack of adequate fluoride available through the water supply and for every child with moderate to severe tooth decay, a program must also facilitate fluoride supplements, and other necessary preventive measures, and further oral health treatment as recommended by the oral health professional.

(d) Extended follow-up care.

(1) A program must facilitate further diagnostic testing, evaluation, treatment, and follow-up plan, as appropriate, by a licensed or certified professional for each child with a health problem or developmental delay, such as elevated lead levels or abnormal hearing or vision results that may affect child's development, learning, or behavior.

(2) A program must develop a system to track referrals and services provided and monitor the

implementation of a follow-up plan to meet any treatment needs associated with a health, oral health, social and emotional, or developmental problem.

(3) A program must assist parents, as needed, in obtaining any prescribed medications, aids or equipment for medical and oral health conditions.

(e) Use of funds.

(1) A program must use program funds for the provision of diapers and formula for enrolled children during the program day.

(2) A program may use program funds for professional medical and oral health services when no other source of funding is available. When program funds are used for such services, grantee and delegate agencies must have written documentation of their efforts to access other available sources of funding.

§1302.43 Oral health practices.

A program must promote effective oral health hygiene by ensuring all children with teeth are assisted by appropriate staff, or volunteers, if available, in brushing their teeth with toothpaste containing fluoride once daily.

§1302.44 Child nutrition.

(a) Nutrition service requirements.

(1) A program must design and implement nutrition services that are culturally and developmentally appropriate, meet the nutritional needs of and accommodate the feeding requirements of each child, including children with special dietary needs and children with disabilities. Family style meals are encouraged as described in §1302.31(e)(2).

(2) Specifically, a program must:

(i) Ensure each child in a program that operates for fewer than six hours per day receives meals and snacks that provide one third to one half of the child's daily nutritional needs;

(ii) Ensure each child in a program that operates for six hours or more per day receives meals and snacks that provide one half to two thirds of the child's daily nutritional needs, depending upon the length of the program day;

(iii) Serve three- to five-year-olds meals and snacks that conform to USDA requirements in 7 CFR parts 210, 220, and 226[20], and are high in nutrients and low in fat, sugar, and salt;

(iv) Feed infants and toddlers according to their individual developmental readiness and feeding skills as recommended in USDA requirements outlined in 7 CFR parts 210, 220, and 226, and ensure infants and young toddlers are fed on demand to the extent possible;

(v) Ensure bottle-fed infants are never laid down to sleep with a bottle;

Note: References are located in the Appendix, starting at page 117.

(vi) Serve all children in morning center-based settings who have not received breakfast upon arrival at the program a nourishing breakfast;

(vii) Provide appropriate healthy snacks and meals to each child during group socialization activities in the home-based option;

(viii) Promote breastfeeding, including providing facilities to properly store and handle breast milk and make accommodations, as necessary, for mothers who wish to breastfeed during program hours, and if necessary, provide referrals to lactation consultants or counselors; and,

(ix) Make safe drinking water available to children during the program day.

(b) Payment sources. A program must use funds from USDA Food, Nutrition, and Consumer Services child nutrition programs as the primary source of payment for meal services. Early Head Start and Head Start funds may be used to cover those allowable costs not covered by the USDA.

§1302.45 Child mental health and social and emotional well-being.

(a) Wellness promotion. To support a program-wide culture that promotes children's mental health, social and emotional well-being, and overall health, a program must:

(1) Provide supports for effective classroom management and positive learning environments; supportive teacher practices; and, strategies for supporting children with challenging behaviors and other social, emotional, and mental health concerns;

(2) Secure mental health consultation services on a schedule of sufficient and consistent frequency to ensure a mental health consultant is available to partner with staff and families in a timely and effective manner;

(3) Obtain parental consent for mental health consultation services at enrollment; and,

(4) Build community partnerships to facilitate access to additional mental health resources and services, as needed.

(b) Mental health consultants. A program must ensure mental health consultants assist:

(1) The program to implement strategies to identify and support children with mental health and social and emotional concerns;

(2) Teachers, including family child care providers, to improve classroom management and teacher practices through strategies that include using classroom observations and consultations to address teacher and individual child needs and creating physical and cultural environments that promote positive mental health and social and emotional functioning;

(3) Other staff, including home visitors, to meet children's mental health and social and emotional needs through strategies that include observation and consultation;

(4) Staff to address prevalent child mental health concerns, including internalizing problems such as appearing withdrawn and externalizing problems such as challenging behaviors; and,

(5) In helping both parents and staff to understand mental health and access mental health interventions, if needed.

(6) In the implementation of the policies to limit suspension and prohibit expulsion as described in §1302.17.

§1302.46 Family support services for health, nutrition, and mental health.

(a) Parent collaboration. Programs must collaborate with parents to promote children's health and well-being by providing medical, oral, nutrition and mental health education support services that are understandable to individuals, including individuals with low health literacy.

(b) Opportunities.

(1) Such collaboration must include opportunities for parents to:

(i) Learn about preventive medical and oral health care, emergency first aid, environmental hazards, and health and safety practices for the home including health and developmental consequences of tobacco products use and exposure to lead, and safe sleep;

(ii) Discuss their child's nutritional status with staff, including the importance of physical activity, healthy eating, and the negative health consequences of sugar-sweetened beverages, and how to select and prepare nutritious foods that meet the family's nutrition and food budget needs;

(iii) Learn about healthy pregnancy and postpartum care, as appropriate, including breastfeeding support and treatment options for parental mental health or substance abuse problems, including perinatal depression;

(iv) Discuss with staff and identify issues related to child mental health and social and emotional well-being, including observations and any concerns about their child's mental health, typical and atypical behavior and development, and how to appropriately respond to their child and promote their child's social and emotional development; and,

(v) Learn about appropriate vehicle and pedestrian safety for keeping children safe.

(2) A program must provide ongoing support to assist parents' navigation through health systems to meet the general health and specifically identified needs of their children and must assist parents:

(i) In understanding how to access health insurance for themselves and their families, including information about private and public health insurance and designated enrollment periods;

Note: References are located in the Appendix, starting at page 117.

(ii) In understanding the results of diagnostic and treatment procedures as well as plans for ongoing care; and,

(iii) In familiarizing their children with services they will receive while enrolled in the program and to enroll and participate in a system of ongoing family health care.

§1302.47 Safety practices.

(a) A program must establish, train staff on, implement, and enforce a system of health and safety practices that ensure children are kept safe at all times. A program should consult Caring for our Children Basics, available at http://www.acf.hhs.gov/sites/default/files/ecd/caring_for_our_children_basics.pdf, for additional information to develop and implement adequate safety policies and practices described in this part.

(b) A program must develop and implement a system of management, including ongoing training, oversight, correction and continuous improvement in accordance with §1302.102, that includes policies and practices to ensure all facilities, equipment and materials, background checks, safety training, safety and hygiene practices and administrative safety procedures are adequate to ensure child safety. This system must ensure:

(1) Facilities. All facilities where children are served, including areas for learning, playing, sleeping, toileting, and eating are, at a minimum:

(i) Meet licensing requirements in accordance with §§1302.21(d)(1) and 1302.23(d);

(ii) Clean and free from pests;

(iii) Free from pollutants, hazards and toxins that are accessible to children and could endanger children's safety;

(iv) Designed to prevent child injury and free from hazards, including choking, strangulation, electrical, and drowning hazards, hazards posed by appliances and all other safety hazards;

(v) Well lit, including emergency lighting;

(vi) Equipped with safety supplies that are readily accessible to staff, including, at a minimum, fully-equipped and up-to-date first aid kits and appropriate fire safety supplies;

(vii) Free from firearms or other weapons that are accessible to children;

(viii) Designed to separate toileting and diapering areas from areas for preparing food, cooking, eating, or children's activities; and,

(ix) Kept safe through an ongoing system of preventative maintenance.

(2) Equipment and materials. Indoor and outdoor play equipment, cribs, cots, feeding chairs, strollers, and other equipment used in the care of enrolled children, and as applicable, other equipment and materials meet standards set by the Consumer Product Safety Commission

(CPSC) or the American Society for Testing and Materials, International (ASTM). All equipment and materials must at a minimum:

(i) Be clean and safe for children's use and are appropriately disinfected;

(ii) Be accessible only to children for whom they are age appropriate;

(iii) Be designed to ensure appropriate supervision of children at all times;

(iv) Allow for the separation of infants and toddlers from preschoolers during play in center-based programs; and,

(v) Be kept safe through an ongoing system of preventative maintenance.

(3) Background checks. All staff have complete background checks in accordance with §1302.90(b).

(4) Safety training.

(i) Staff with regular child contact. All staff with regular child contact have initial orientation training within three months of hire and ongoing training in all state, local, tribal, federal and program-developed health, safety and child care requirements to ensure the safety of children in their care; including, at a minimum, and as appropriate based on staff roles and ages of children they work with, training in:

(A) The prevention and control of infectious diseases;

(B) Prevention of sudden infant death syndrome and use of safe sleeping practices;

(C) Administration of medication, consistent with standards for parental consent;

(D) Prevention and response to emergencies due to food and allergic reactions;

(E) Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;

(F) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;

(G) Emergency preparedness and response planning for emergencies;

(H) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;

(I) Appropriate precautions in transporting children, if applicable;

(J) First aid and cardiopulmonary resuscitation; and,

(K) Recognition and reporting of child abuse and neglect, in accordance with the requirement at paragraph (b)(5) of this section.

Note: References are located in the Appendix, starting at page 117.

(ii) Staff without regular child contact. All staff with no regular responsibility for or contact with children have initial orientation training within three months of hire; ongoing training in all state, local, tribal, federal and program-developed health and safety requirements applicable to their work; and training in the program's emergency and disaster preparedness procedures.

(5) Safety practices. All staff and consultants follow appropriate practices to keep children safe during all activities, including, at a minimum:

(i) Reporting of suspected or known child abuse and neglect, including that staff comply with applicable federal, state, local, and tribal laws;

(ii) Safe sleep practices, including ensuring that all sleeping arrangements for children under 18 months of age use firm mattresses or cots, as appropriate, and for children under 12 months, soft bedding materials or toys must not be used;

(iii) Appropriate indoor and outdoor supervision of children at all times;

(iv) Only releasing children to an authorized adult, and;

(v) All standards of conduct described in §1302.90(c).

6) Hygiene practices. All staff systematically and routinely implement hygiene practices that at a minimum ensure:

(i) Appropriate toileting, hand washing, and diapering procedures are followed;

(ii) Safe food preparation; and,

(iii) Exposure to blood and body fluids are handled consistent with standards of the Occupational Safety Health Administration.

(7) Administrative safety procedures. Programs establish, follow, and practice, as appropriate, procedures for, at a minimum:

(i) Emergencies;

(ii) Fire prevention and response;

(iii) Protection from contagious disease, including appropriate inclusion and exclusion policies for when a child is ill, and from an infectious disease outbreak, including appropriate notifications of any reportable illness;

(iv) The handling, storage, administration, and record of administration of medication;

(v) Maintaining procedures and systems to ensure children are only released to an authorized adult; and,

(vi) Child specific health care needs and food allergies that include accessible plans of action for emergencies. For food allergies, a program must also post individual child food allergies prominently where staff can view wherever food is served.

(8) Disaster preparedness plan. The program has all-hazards emergency management/disaster preparedness and response plans for more and less likely events including natural and man-made disasters and emergencies, and violence in or near programs.

(c) A program must report any safety incidents in accordance with §1302.102(d)(1)(ii).

Subpart E — Family and Community Engagement Program Services

§1302.50 Family engagement.

(a) Purpose. A program must integrate parent and family engagement strategies into all systems and program services to support family well-being and promote children's learning and development. Programs are encouraged to develop innovative two-generation approaches that address prevalent needs of families across their program that may leverage community partnerships or other funding sources.

(b) Family engagement approach. A program must:

(1) Recognize parents as their children's primary teachers and nurturers and implement intentional strategies to engage parents in their children's learning and development and support parent-child relationships, including specific strategies for father engagement;

(2) Develop relationships with parents and structure services to encourage trust and respectful, ongoing two-way communication between staff and parents to create welcoming program environments that incorporate the unique cultural, ethnic, and linguistic backgrounds of families in the program and community;

(3) Collaborate with families in a family partnership process that identifies needs, interests, strengths, goals, and services and resources that support family well-being, including family safety, health, and economic stability;

(4) Provide parents with opportunities to participate in the program as employees or volunteers;

(5) Conduct family engagement services in the family's preferred language, or through an interpreter, to the extent possible, and ensure families have the opportunity to share personal information in an environment in which they feel safe; and,

(6) Implement procedures for teachers, home visitors, and family support staff to share information with each other, as appropriate and consistent with the requirements in part 1303 subpart C, of this chapter; FERPA; or IDEA[21], to ensure coordinated family engagement strategies with children and families in the classroom, home, and community.

Note: References are located in the Appendix, starting at page 117.

§1302.51 Parent activities to promote child learning and development.

(a) A program must promote shared responsibility with parents for children's early learning and development, and implement family engagement strategies that are designed to foster parental confidence and skills in promoting children's learning and development. These strategies must include:

(1) Offering activities that support parent-child relationships and child development including language, dual language, literacy, and bi-literacy development as appropriate;

(2) Providing parents with information about the importance of their child's regular attendance, and partner with them, as necessary, to promote consistent attendance; and,

(3) For dual language learners, information and resources for parents about the benefits of bilingualism and biliteracy.

(b) A program must, at a minimum, offer opportunities for parents to participate in a research-based parenting curriculum that builds on parents' knowledge and offers parents the opportunity to practice parenting skills to promote children's learning and development. A program that chooses to make significant adaptations to the parenting curriculum to better meet the needs of one or more specific populations must work with an expert or experts to develop such adaptations.

§1302.52 Family partnership services.

(a) Family partnership process. A program must implement a family partnership process that includes a family partnership agreement and the activities described in this section to support family well-being, including family safety, health, and economic stability, to support child learning and development, to provide, if applicable, services and supports for children with disabilities, and to foster parental confidence and skills that promote the early learning and development of their children. The process must be initiated as early in the program year as possible and continue for as long as the family participates in the program, based on parent interest and need.

(b) Identification of family strengths and needs. A program must implement intake and family assessment procedures to identify family strengths and needs related to the family engagement outcomes as described in the *Head Start Parent Family and Community Engagement Framework*, including family well-being, parent-child relationships, families as lifelong educators, families as learners, family engagement in transitions, family connections to peers and the local community, and families as advocates and leaders.

(c) Individualized family partnership services. A program must offer individualized family partnership services that:

(1) Collaborate with families to identify interests, needs, and aspirations related to the family engagement outcomes described in paragraph (b) of this section;

(2) Help families achieve identified individualized family engagement outcomes;

(3) Establish and implement a family partnership agreement process that is jointly developed and shared with parents in which staff and families to review individual progress, revise goals,

evaluate and track whether identified needs and goals are met, and adjust strategies on an ongoing basis, as necessary, and;

(4) Assign staff and resources based on the urgency and intensity of identified family needs and goals.

(d) Existing plans and community resources. In implementing this section, a program must take into consideration any existing plans for the family made with other community agencies and availability of other community resources to address family needs, strengths, and goals, in order to avoid duplication of effort.

§1302.53 Community partnerships and coordination with other early childhood and education programs.

(a) Community partnerships.

(1) A program must establish ongoing collaborative relationships and partnerships with community organizations such as establishing joint agreements, procedures, or contracts and arranging for onsite delivery of services as appropriate, to facilitate access to community services that are responsive to children's and families' needs and family partnership goals, and community needs and resources, as determined by the community assessment.

(2) A program must establish necessary collaborative relationships and partnerships, with community organizations that may include:

(i) Health care providers, including child and adult mental health professionals, Medicaid managed care networks, dentists, other health professionals, nutritional service providers, providers of prenatal and postnatal support, and substance abuse treatment providers;

(ii) Individuals and agencies that provide services to children with disabilities and their families, elementary schools, state preschool providers, and providers of child care services;

(iii) Family preservation and support services and child protective services and any other agency to which child abuse must be reported under state or tribal law;

(iv) Educational and cultural institutions, such as libraries and museums, for both children and families;

(v) Temporary Assistance for Needy Families, nutrition assistance agencies, workforce development and training programs, adult or family literacy, adult education, and post-secondary education institutions, and agencies or financial institutions that provide asset-building education, products and services to enhance family financial stability and savings;

(vi) Housing assistance agencies and providers of support for children and families experiencing homelessness, including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*)[11];

Note: References are located in the Appendix, starting at page 117.

(vii) Domestic violence prevention and support providers; and,

(viii) Other organizations or businesses that may provide support and resources to families.

(b) Coordination with other programs and systems. A program must take an active role in promoting coordinated systems of comprehensive early childhood services to low-income children and families in their community through communication, cooperation, and the sharing of information among agencies and their community partners, while protecting the privacy of child records in accordance with subpart C of part 1303 of this chapter and applicable federal, state, local, and tribal laws.

(1) Memorandum of understanding. To support coordination between Head Start and publicly funded preschool programs, a program must enter into a memorandum of understanding with the appropriate local entity responsible for managing publicly funded preschool programs in the service area of the program, as described in section 642(e)(5)[22] of the Act.

(2) Quality Rating and Improvement Systems. A program, with the exception of American Indian and Alaska Native programs, must participate in its state or local Quality Rating and Improvement System (QRIS) if:

(i) Its state or local QRIS accepts Head Start monitoring data to document quality indicators included in the state's tiered system;

(ii) Participation would not impact a program's ability to comply with the Head Start Program Performance Standards; and,

(iii) The program has not provided the Office of Head Start with a compelling reason not to comply with this requirement.

(3) Data systems. A program, with the exception of American Indian and Alaska Native programs unless they would like to and to the extent practicable, should integrate and share relevant data with state education data systems, to the extent practicable, if the program can receive similar support and benefits as other participating early childhood programs.

(4) American Indian and Alaska Native programs. An American Indian and Alaska Native program should determine whether or not it will participate in the systems described in paragraphs (b)(2) and (3) of this section.

Subpart F — Additional Services for Children with Disabilities

§1302.60 Full participation in program services and activities.

A program must ensure enrolled children with disabilities, including but not limited to those who are eligible for services under IDEA[19], and their families receive all applicable program services delivered in the least restrictive possible environment and that they fully participate in all program activities.

§1302.61 Additional services for children.

(a) Additional services for children with disabilities. Programs must ensure the individualized needs of children with disabilities, including but not limited to those eligible for services under IDEA, are being met and all children have access to and can fully participate in the full range of activities and services. Programs must provide any necessary modifications to the environment, multiple and varied formats for instruction, and individualized accommodations and supports as necessary to support the full participation of children with disabilities. Programs must ensure all individuals with disabilities are protected from discrimination under and provided with all services and program modifications required by section 504 of the Rehabilitation Act (29 U.S.C. 794), the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*)[18], and their implementing regulations.

(b) Services during IDEA eligibility determination. While the local agency responsible for implementing IDEA determines a child's eligibility, a program must provide individualized services and supports, to the maximum extent possible, to meet the child's needs. Such additional supports may be available through a child's health insurance or it may be appropriate or required to provide the needed services and supports under section 504 of the Rehabilitation Act if the child satisfies the definition of disability in section 705(9)(b) of the Rehabilitation Act[14]. When such supports are not available through alternate means, pending the evaluation results and eligibility determination, a program must individualize program services based on available information such as parent input and child observation and assessment data and may use program funds for these purposes.

(c) Additional services for children with an IFSP or IEP. To ensure the individual needs of children eligible for services under IDEA are met, a program must:

(1) Work closely with the local agency responsible for implementing IDEA, the family, and other service partners, as appropriate, to ensure:

(i) Services for a child with disabilities will be planned and delivered as required by their IFSP or IEP, as appropriate;

(ii) Children are working towards the goals in their IFSP or IEP;

(iii) Elements of the IFSP or IEP that the program cannot implement are implemented by other appropriate agencies, related service providers and specialists;

(iv) IFSPs and IEPs are being reviewed and revised, as required by IDEA; and,

(v) Services are provided in a child's regular Early Head Start or Head Start classroom or family child care home to the greatest extent possible.

(2) Plan and implement the transition services described in subpart G of this part, including at a minimum:

(i) For children with an IFSP who are transitioning out of Early Head Start, collaborate with the parents, and the local agency responsible for implementing IDEA, to ensure appropriate steps are undertaken in a timely and appropriate manner to determine the child's eligibility for services under Part B of IDEA; and,

Note: References are located in the Appendix, starting at page 117.

(ii) For children with an IEP who are transitioning out of Head Start to kindergarten, collaborate with the parents, and the local agency responsible for implementing IDEA, to ensure steps are undertaken in a timely and appropriate manner to support the child and family as they transition to a new setting.

§1302.62 Additional services for parents.

(a) Parents of all children with disabilities.

(1) A program must collaborate with parents of children with disabilities, including but not limited to children eligible for services under IDEA[19], to ensure the needs of their children are being met, including support to help parents become advocates for services that meet their children's needs and information and skills to help parents understand their child's disability and how to best support the child's development;

(2) A program must assist parents to access services and resources for their family, including securing adaptive equipment and devices and supports available through a child's health insurance or other entities, creating linkages to family support programs, and helping parents establish eligibility for additional support programs, as needed and practicable.

(b) Parents of children eligible for services under IDEA. For parents of children eligible for services under IDEA, a program must also help parents:

(1) Understand the referral, evaluation, and service timelines required under IDEA;

(2) Actively participate in the eligibility process and IFSP or IEP development process with the local agency responsible for implementing IDEA, including by informing parents of their right to invite the program to participate in all meetings;

(3) Understand the purposes and results of evaluations and services provided under an IFSP or IEP; and,

(4) Ensure their children's needs are accurately identified in, and addressed through, the IFSP or IEP.

§1302.63 Coordination and collaboration with the local agency responsible for implementing IDEA.

(a) A program must coordinate with the local agency responsible for implementing IDEA to identify children enrolled or who intend to enroll in a program that may be eligible for services under IDEA, including through the process described in §1302.33(a)(3) and through participation in the local agency Child Find efforts.

(b) A program must work to develop interagency agreements with the local agency responsible for implementing IDEA to improve service delivery to children eligible for services under IDEA, including the referral and evaluation process, service coordination, promotion of service provision in the least restrictive appropriate community-based setting and reduction in dual enrollment which causes reduced time in a less restrictive setting, and transition services as children move from ser-

vices provided under Part C of IDEA to services provided under Part B of IDEA and from preschool to kindergarten.

(c) A program must participate in the development of the IFSP or IEP if requested by the child's parents, and the implementation of the IFSP or IEP. At a minimum, the program must offer:

(1) To provide relevant information from its screenings, assessments, and observations to the team developing a child's IFSP or IEP; and,

(2) To participate in meetings with the local agency responsible for implementing IDEA to develop or review an IEP or IFSP for a child being considered for Head Start enrollment, a currently enrolled child, or a child transitioning from a program.

(d) A program must retain a copy of the IEP or IFSP for any child enrolled in Head Start for the time the child is in the program, consistent with the IDEA requirements in 34 CFR parts 300 and 303.

Subpart G — Transition Services

§1302.70 Transitions from Early Head Start.

(a) Implementing transition strategies and practices. An Early Head Start program must implement strategies and practices to support successful transitions for children and their families transitioning out of Early Head Start.

(b) Timing for transitions. To ensure the most appropriate placement and service following participation in Early Head Start, such programs must, at least six months prior to each child's third birthday, implement transition planning for each child and family that:

(1) Takes into account the child's developmental level and health and disability status, progress made by the child and family while in Early Head Start, current and changing family circumstances and, the availability of Head Start, other public pre-kindergarten, and other early education and child development services in the community that will meet the needs of the child and family; and,

(2) Transitions the child into Head Start or another program as soon as possible after the child's third birthday but permits the child to remain in Early Head Start for a limited number of additional months following the child's third birthday if necessary for an appropriate transition.

(c) Family collaborations. A program must collaborate with parents of Early Head Start children to implement strategies and activities that support successful transitions from Early Head Start and, at a minimum, provide information about the child's progress during the program year and provide strategies for parents to continue their involvement in and advocacy for the education and development of their child.

(d) Early Head Start and Head Start collaboration. Early Head Start and Head Start programs must work together to maximize enrollment transitions from Early Head Start to Head Start, consistent with the eligibility provisions in subpart A, and promote successful transitions through collaboration and communication.

Note: References are located in the Appendix, starting at page 117.

(e) Transition services for children with an IFSP. A program must provide additional transition services for children with an IFSP, at a minimum, as described in subpart F of this part.

§1302.71 Transitions from Head Start to kindergarten.

(a) Implementing transition strategies and practices. A program that serves children who will enter kindergarten in the following year must implement transition strategies to support a successful transition to kindergarten.

(b) Family collaborations for transitions.

(1) A program must collaborate with parents of enrolled children to implement strategies and activities that will help parents advocate for and promote successful transitions to kindergarten for their children, including their continued involvement in the education and development of their child.

(2) At a minimum, such strategies and activities must:

(i) Help parents understand their child's progress during Head Start;

(ii) Help parents understand practices they use to effectively provide academic and social support for their children during their transition to kindergarten and foster their continued involvement in the education of their child;

(iii) Prepare parents to exercise their rights and responsibilities concerning the education of their children in the elementary school setting, including services and supports available to children with disabilities and various options for their child to participate in language instruction educational programs; and,

(iv) Assist parents in the ongoing communication with teachers and other school personnel so that parents can participate in decisions related to their children's education.

(c) Community collaborations for transitions. (1) A program must collaborate with local education agencies to support family engagement under section 642(b)(13)[23] of the Act and state departments of education, as appropriate, and kindergarten teachers to implement strategies and activities that promote successful transitions to kindergarten for children, their families, and the elementary school.

(2) At a minimum, such strategies and activities must include:

(i) Coordination with schools or other appropriate agencies to ensure children's relevant records are transferred to the school or next placement in which a child will enroll, consistent with privacy requirements in subpart C of part 1303 of this chapter;

(ii) Communication between appropriate staff and their counterparts in the schools to facilitate continuity of learning and development, consistent with privacy requirements in subpart C of part 1303 of this chapter; and,

(iii) Participation, as possible, for joint training and professional development activities for Head Start and kindergarten teachers and staff.

(3) A program that does not operate during the summer must collaborate with school districts to determine the availability of summer school programming for children who will be entering kindergarten and work with parents and school districts to enroll children in such programs, as appropriate.

(d) Learning environment activities. A program must implement strategies and activities in the learning environment that promote successful transitions to kindergarten for enrolled children, and at a minimum, include approaches that familiarize children with the transition to kindergarten and foster confidence about such transition.

(e) Transition services for children with an IEP. A program must provide additional transition services for children with an IEP, at a minimum, as described in subpart F of this part.

§1302.72 Transitions between programs.

(a) For families and children who move out of the community in which they are currently served, including homeless families and foster children, a program must undertake efforts to support effective transitions to other Early Head Start or Head Start programs. If Early Head Start or Head Start is not available, the program should assist the family to identify another early childhood program that meets their needs.

(b) A program that serves children whose families have decided to transition them to other early education programs, including public pre-kindergarten, in the year prior to kindergarten entry must undertake strategies and activities described in §1302.71(b) and (c)(1) and (2), as practicable and appropriate.

(c) A migrant or seasonal Head Start program must undertake efforts to support effective transitions to other migrant or seasonal Head Start or, if appropriate, Early Head Start or Head Start programs for families and children moving out of the community in which they are currently served.

Subpart H — Services to Enrolled Pregnant Women

§1302.80 Enrolled pregnant women.

(a) Within 30 days of enrollment, a program must determine whether each enrolled pregnant woman has an ongoing source of continuous, accessible health care – provided by a health care professional that maintains her ongoing health record and is not primarily a source of emergency or urgent care – and, as appropriate, health insurance coverage.

(b) If an enrolled pregnant woman does not have a source of ongoing care as described in paragraph (a) of this section and, as appropriate, health insurance coverage, a program must, as quickly as possible, facilitate her access to such a source of care that will meet her needs.

(c) A program must facilitate the ability of all enrolled pregnant women to access comprehensive services through referrals that, at a minimum, include nutritional counseling, food assistance, oral

Note: References are located in the Appendix, starting at page 117.

health care, mental health services, substance abuse prevention and treatment, and emergency shelter or transitional housing in cases of domestic violence.

(d) A program must provide a newborn visit with each mother and baby to offer support and identify family needs. A program must schedule the newborn visit within two weeks after the infant's birth.

§1302.81 Prenatal and postpartum information, education, and services.

(a) A program must provide enrolled pregnant women, fathers, and partners or other relevant family members the prenatal and postpartum information, education and services that address, as appropriate, fetal development, the importance of nutrition, the risks of alcohol, drugs, and smoking, labor and delivery, postpartum recovery, parental depression, infant care and safe sleep practices, and the benefits of breastfeeding.

(b) A program must also address needs for appropriate supports for emotional well-being, nurturing and responsive caregiving, and father engagement during pregnancy and early childhood.

§1302.82 Family partnership services for enrolled pregnant women.

(a) A program must engage enrolled pregnant women and other relevant family members, such as fathers, in the family partnership services as described in §1302.52 and include a specific focus on factors that influence prenatal and postpartum maternal and infant health.

(b) A program must engage enrolled pregnant women and other relevant family members, such as fathers, in discussions about program options, plan for the infant's transition to program enrollment, and support the family during the transition process, where appropriate.

Subpart I — Human Resources Management

§1302.90 Personnel policies.

(a) Establishing personnel policies and procedures. A program must establish written personnel policies and procedures that are approved by the governing body and policy council or policy committee and that are available to all staff.

(b) Background checks and selection procedures.

(1) Before a person is hired, directly or through contract, including transportation staff and contractors, a program must conduct an interview, verify references, conduct a sex offender registry check and obtain one of the following:

(i) State or tribal criminal history records, including fingerprint checks; or,

(ii) Federal Bureau of Investigation criminal history records, including fingerprint checks.

(2) A program has 90 days after an employee is hired to complete the background check process by obtaining:

(i) Whichever check listed in paragraph (b)(1) of this section was not obtained prior to the date of hire; and,

(ii) Child abuse and neglect state registry check, if available.

(3) A program must review the information found in each employment application and complete background check to assess the relevancy of any issue uncovered by the complete background check including any arrest, pending criminal charge, or conviction and must use Child Care and Development Fund (CCDF) disqualification factors described in 42 U.S.C. 9858f(c)(1)(D) and 42 U.S.C. 9858f(h)(1)[24] or tribal disqualifications factors to determine whether the prospective employee can be hired or the current employee must be terminated.

(4) A program must ensure a newly hired employee, consultant, or contractor does not have unsupervised access to children until the complete background check process described in paragraphs (b)(1) through (3) of this section is complete.

(5) A program must conduct the complete background check for each employee, consultant, or contractor at least once every five years which must include each of the four checks listed in paragraphs (b)(1) and (2) of this section, and review and make employment decisions based on the information as described in paragraph (b)(3) of this section, unless the program can demonstrate to the responsible HHS official that it has a more stringent system in place that will ensure child safety.

(6) A program must consider current and former program parents for employment vacancies for which such parents apply and are qualified.

(c) Standards of conduct.

(1) A program must ensure all staff, consultants, contractors, and volunteers abide by the program's standards of conduct that:

(i) Ensure staff, consultants, contractors, and volunteers implement positive strategies to support children's well-being and prevent and address challenging behavior;

(ii) Ensure staff, consultants, contractors, and volunteers do not maltreat or endanger the health or safety of children, including, at a minimum, that staff must not:

(A) Use corporal punishment;

(B) Use isolation to discipline a child;

(C) Bind or tie a child to restrict movement or tape a child's mouth;

(D) Use or withhold food as a punishment or reward;

(E) Use toilet learning/training methods that punish, demean, or humiliate a child;

Note: References are located in the Appendix, starting at page 117.

(F) Use any form of emotional abuse, including public or private humiliation, rejecting, terrorizing, extended ignoring, or corrupting a child;

(G) Physically abuse a child;

(H) Use any form of verbal abuse, including profane, sarcastic language, threats, or derogatory remarks about the child or child's family; or,

(I) Use physical activity or outdoor time as a punishment or reward;

(iii) Ensure staff, consultants, contractors, and volunteers respect and promote the unique identity of each child and family and do not stereotype on any basis, including gender, race, ethnicity, culture, religion, disability, sexual orientation, or family composition;

(iv) Require staff, consultants, contractors, and volunteers to comply with program confidentiality policies concerning personally identifiable information about children, families, and other staff members in accordance with subpart C of part 1303 of this chapter and applicable federal, state, local, and tribal laws; and,

(v) Ensure no child is left alone or unsupervised by staff, consultants, contractors, or volunteers while under their care.

(2) Personnel policies and procedures must include appropriate penalties for staff, consultants, and volunteers who violate the standards of conduct.

(d) Communication with dual language learners and their families.

(1) A program must ensure staff and program consultants or contractors are familiar with the ethnic backgrounds and heritages of families in the program and are able to serve and effectively communicate, either directly or through interpretation and translation, with children who are dual language learners and to the extent feasible, with families with limited English proficiency.

(2) If a majority of children in a class or home-based program speak the same language, at least one class staff member or home visitor must speak such language.

§1302.91 Staff qualifications and competency requirements.

(a) Purpose. A program must ensure all staff, consultants, and contractors engaged in the delivery of program services have sufficient knowledge, training and experience, and competencies to fulfill the roles and responsibilities of their positions and to ensure high-quality service delivery in accordance with the program performance standards. A program must provide ongoing training and professional development to support staff in fulfilling their roles and responsibilities.

(b) Early Head Start or Head Start director. A program must ensure an Early Head Start or Head Start director hired after November 7, 2016, has, at a minimum, a baccalaureate degree and experience in supervision of staff, fiscal management, and administration.

(c) Fiscal officer. A program must assess staffing needs in consideration of the fiscal complexity of the organization and applicable financial management requirements and secure the regularly sched-

uled or ongoing services of a fiscal officer with sufficient education and experience to meet their needs. A program must ensure a fiscal officer hired after November 7, 2016, is a certified public accountant or has, at a minimum, a baccalaureate degree in accounting, business, fiscal management, or a related field.

(d) Child and family services management staff qualification requirements.

(1) Family, health, and disabilities management. A program must ensure staff responsible for management and oversight of family services, health services, and services to children with disabilities hired after November 7, 2016 have, at a minimum, a baccalaureate degree, preferably related to one or more of the disciplines they oversee.

(2) Education management. As prescribed in section 648A(a)(2)(B)(i)[25] of the Act, a program must ensure staff and consultants that serve as education managers or coordinators, including those that serve as curriculum specialists, have a baccalaureate or advanced degree in early childhood education or a baccalaureate or advanced degree and equivalent coursework in early childhood education with early education teaching experience.

(e) Child and family services staff.

(1) Early Head Start center-based teacher qualification requirements. As prescribed in section 645A(h)[26] of the Act, a program must ensure center-based teachers that provide direct services to infants and toddlers in Early Head Start centers have a minimum of a Child Development Associate (CDA) credential or comparable credential, and have been trained or have equivalent coursework in early childhood development with a focus on infant and toddler development.

(2) Head Start center-based teacher qualification requirements.

(i) The Secretary must ensure no less than fifty percent of all Head Start teachers, nationwide, have a baccalaureate degree in child development, early childhood education, or equivalent coursework.

(ii) As prescribed in section 648A(a)(3)(B)[27] of the Act, a program must ensure all center-based teachers have at least an associate's or bachelor's degree in child development or early childhood education, equivalent coursework, or otherwise meet the requirements of section 648A(a)(3)(B) of the Act.

(3) Head Start assistant teacher qualification requirements. As prescribed in section 648A(a)(2)(B)(ii)[28] of the Act, a program must ensure Head Start assistant teachers, at a minimum, have a CDA credential or a state-awarded certificate that meets or exceeds the requirements for a CDA credential, are enrolled in a program that will lead to an associate or baccalaureate degree or, are enrolled in a CDA credential program to be completed within two years of the time of hire.

(4) Family child care provider qualification requirements.

(i) A program must ensure family child care providers have previous early child care experience and, at a minimum, are enrolled in a Family Child Care CDA program or state equivalent, or an associate's or baccalaureate degree program in child development

Note: References are located in the Appendix, starting at page 117.

or early childhood education prior to beginning service provision, and for the credential acquire it within eighteen months of beginning to provide services.

(ii) By August 1, 2018, a child development specialist, as required for family child care in §1302.23(e), must have, at a minimum, a baccalaureate degree in child development, early childhood education, or a related field.

(5) Center-based teachers, assistant teachers, and family child care provider competencies. A program must ensure center-based teachers, assistant teachers, and family child care providers demonstrate competency to provide effective and nurturing teacher-child interactions, plan and implement learning experiences that ensure effective curriculum implementation and use of assessment and promote children's progress across the standards described in the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* and applicable state early learning and development standards, including for children with disabilities and dual language learners, as appropriate.

(6) Home visitors. A program must ensure home visitors providing home-based education services:

(i) Have a minimum of a home-based CDA credential or comparable credential, or equivalent coursework as part of an associate's or bachelor's degree; and,

(ii) Demonstrate competency to plan and implement home-based learning experiences that ensure effective implementation of the home visiting curriculum and promote children's progress across the standards described in the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*, including for children with disabilities and dual language learners, as appropriate, and to build respectful, culturally responsive, and trusting relationships with families.

(7) Family services staff qualification requirements. A program must ensure staff who work directly with families on the family partnership process hired after November 7, 2016, have within eighteen months of hire, at a minimum, a credential or certification in social work, human services, family services, counseling or a related field.

(8) Health professional qualification requirements.

(i) A program must ensure health procedures are performed only by a licensed or certified health professional.

(ii) A program must ensure all mental health consultants are licensed or certified mental health professionals. A program must use mental health consultants with knowledge of and experience in serving young children and their families, if available in the community.

(iii) A program must use staff or consultants to support nutrition services who are registered dieticians or nutritionists with appropriate qualifications.

(f) Coaches. A program must ensure coaches providing the services described in 1302.92(c) have a minimum of a baccalaureate degree in early childhood education or a related field.

§1302.92 Training and professional development.

(a) A program must provide to all new staff, consultants, and volunteers an orientation that focuses on, at a minimum, the goals and underlying philosophy of the program and on the ways they are implemented.

(b) A program must establish and implement a systematic 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. At a minimum, the system must include:

(1) Staff completing a minimum of 15 clock hours of professional development per year. For teaching staff, such professional development must meet the requirements described in section 648A(a)(5)[29] of the Act.

(2) Training on methods to handle suspected or known child abuse and neglect cases, that comply with applicable federal, state, local, and tribal laws;

(3) Training for child and family services staff on best practices for implementing family engagement strategies in a systemic way, as described throughout this part;

(4) Training for child and family services staff, including staff that work on family services, health, and disabilities, that builds their knowledge, experience, and competencies to improve child and family outcomes; and,

(5) Research-based approaches to professional development for education staff, that are focused on effective curricula implementation, knowledge of the content in *Head Start Early Learning Outcomes Framework: Ages Birth to Five*, partnering with families, supporting children with disabilities and their families, providing effective and nurturing adult-child interactions, supporting dual language learners as appropriate, addressing challenging behaviors, preparing children and families for transitions (as described in subpart G of this part), and use of data to individualize learning experiences to improve outcomes for all children.

(c) A program must implement a research-based, coordinated coaching strategy for education staff that:

(1) Assesses all education staff to identify strengths, areas of needed support, and which staff would benefit most from intensive coaching;

(2) At a minimum, provides opportunities for intensive coaching to those education staff identified through the process in paragraph (c)(1) of this section, including opportunities to be observed and receive feedback and modeling of effective teacher practices directly related to program performance goals;

(3) At a minimum, provides opportunities for education staff not identified for intensive coaching through the process in paragraph (c)(1) of this section to receive other forms of research-based professional development aligned with program performance goals;

Note: References are located in the Appendix, starting at page 117.

(4) Ensures intensive coaching opportunities for the staff identified through the process in paragraph (c)(1) of this section that:

(i) Align with the program's school readiness goals, curricula, and other approaches to professional development;

(ii) Utilize a coach with adequate training and experience in adult learning and in using assessment data to drive coaching strategies aligned with program performance goals;

(iii) Provide ongoing communication between the coach, program director, education director, and any other relevant staff; and,

(iv) Include clearly articulated goals informed by the program's goals, as described in §1302.102, and a process for achieving those goals; and,

(5) Establishes policies that ensure assessment results are not used to solely determine punitive actions for staff identified as needing support, without providing time and resources for staff to improve.

(d) If a program needs to develop or significantly adapt their approach to research-based professional development to better meet the training needs of education staff, such that it does not include the requirements in paragraph (c) of this section, the program must partner with external early childhood education professional development experts. A program must assess whether the adaptation adequately supports staff professional development, consistent with the process laid out in subpart J of this part.

§1302.93 Staff health and wellness.

(a) A program must ensure each staff member has an initial health examination and a periodic re-examination as recommended by their health care provider in accordance with state, tribal, or local requirements, that include screeners or tests for communicable diseases, as appropriate. The program must ensure staff do not, because of communicable diseases, pose a significant risk to the health or safety of others in the program that cannot be eliminated or reduced by reasonable accommodation, in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act[18].

(b) A program must make mental health and wellness information available to staff regarding health issues that may affect their job performance, and must provide regularly scheduled opportunities to learn about mental health, wellness, and health education.

§1302.94 Volunteers.

(a) A program must ensure regular volunteers have been screened for appropriate communicable diseases in accordance with state, tribal or local laws. In the absence of state, tribal or local law, the Health Services Advisory Committee must be consulted regarding the need for such screenings.

(b) A program must ensure children are never left alone with volunteers.

Subpart J — Program Management and Quality Improvement

§1302.100 Purpose.

A program must provide management and a process of ongoing monitoring and continuous improvement for achieving program goals that ensures child safety and the delivery of effective, high-quality program services.

§1302.101 Management system.

(a) Implementation. A program must implement a management system that:

(1) Ensures a program, fiscal, and human resource management structure that provides effective management and oversight of all program areas and fiduciary responsibilities to enable delivery of high-quality services in all of the program services described in subparts C, D, E, F, G, and H of this part;

(2) Provides regular and ongoing supervision to support individual staff professional development and continuous program quality improvement;

(3) Ensures budget and staffing patterns that promote continuity of care for all children enrolled, allow sufficient time for staff to participate in appropriate training and professional development, and allow for provision of the full range of services described in subparts C, D, E, F, G, and H of this part; and,

(4) Maintains an automated accounting and record keeping system adequate for effective oversight.

(b) Coordinated approaches. At the beginning of each program year, and on an ongoing basis throughout the year, a program must design and implement program-wide coordinated approaches that ensure:

(1) The training and professional development system, as described in §1302.92, effectively supports the delivery and continuous improvement of high-quality services;

(2) The full and effective participation of children who are dual language learners and their families, by

(i) Utilizing information from the program's community assessment about the languages spoken throughout the program service area to anticipate child and family needs;

(ii) Identifying community resources and establishing ongoing collaborative relationships and partnerships with community organizations consistent with the requirements in §1302.53(a); and,

(iii) Systematically and comprehensively addressing child and family needs by facilitating meaningful access to program services, including, at a minimum, curriculum, instruction,

Note: References are located in the Appendix, starting at page 117.

staffing, supervision, and family partnerships with bilingual staff, oral language assistance and interpretation, or translation of essential program materials, as appropriate.

(3) The full and effective participation of all children with disabilities, including but not limited to children eligible for services under IDEA, by providing services with appropriate facilities, program materials, curriculum, instruction, staffing, supervision, and partnerships, at a minimum, consistent with section 504 of the Rehabilitation Act and the Americans with Disabilities Act[18]; and,

(4) The management of program data to effectively support the availability, usability, integrity, and security of data. A program must establish procedures on data management, and have them approved by the governing body and policy council, in areas such as quality of data and effective use and sharing of data, while protecting the privacy of child records in accordance with subpart C of part 1303 of this chapter and applicable federal, state, local, and tribal laws.

§1302.102 Achieving program goals.

(a) Establishing program goals. A program, in collaboration with the governing body and policy council, must establish goals and measurable objectives that include:

(1) Strategic long-term goals for ensuring programs are and remain responsive to community needs as identified in their community assessment as described in subpart A of this part;

(2) Goals for the provision of educational, health, nutritional, and family and community engagement program services as described in the program performance standards to further promote the school readiness of enrolled children;

(3) School readiness goals that are aligned with the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*, state and tribal early learning standards, as appropriate, and requirements and expectations of schools Head Start children will attend, per the requirements of subpart B of part 1304 of this part; and,

(4) Effective health and safety practices to ensure children are safe at all times, per the requirements in §§1302.47, 1302.90(b) and (c), 1302.92(c)(1), and 1302.94 and part 1303 subpart F, of this chapter.

(b) Monitoring program performance.

(1) Ongoing compliance oversight and correction. In order to ensure effective ongoing oversight and correction, a program must establish and implement a system of ongoing oversight that ensures effective implementation of the program performance standards, including ensuring child safety, and other applicable federal regulations as described in this part, and must:

(i) Collect and use data to inform this process;

(ii) Correct quality and compliance issues immediately, or as quickly as possible;

(iii) Work with the governing body and the policy council to address issues during the ongoing oversight and correction process and during federal oversight; and,

(iv) Implement procedures that prevent recurrence of previous quality and compliance issues, including previously identified deficiencies, safety incidents, and audit findings.

(2) Ongoing assessment of program goals. A program must effectively oversee progress towards program goals on an ongoing basis and annually must:

(i) Conduct a self-assessment that uses program data including aggregated child assessment data, and professional development and parent and family engagement data as appropriate, to evaluate the program's progress towards meeting goals established under paragraph (a) of this section, compliance with program performance standards throughout the program year, and the effectiveness of the professional development and family engagement systems in promoting school readiness;

(ii) Communicate and collaborate with the governing body and policy council, program staff, and parents of enrolled children when conducting the annual self-assessment; and,

(iii) Submit findings of the self-assessment, including information listed in paragraph (b)(2)(i) of this section to the responsible HHS official.

(c) Using data for continuous improvement.

(1) A program must implement a process for using data to identify program strengths and needs, develop and implement plans that address program needs, and continually evaluate compliance with program performance standards and progress towards achieving program goals described in paragraph (a) of this section.

(2) This process must:

(i) Ensure data is aggregated, analyzed and compared in such a way to assist agencies in identifying risks and informing strategies for continuous improvement in all program service areas;

(ii) Ensure child-level assessment data is aggregated and analyzed at least three times a year, including for sub-groups, such as dual language learners and children with disabilities, as appropriate, except in programs operating fewer than 90 days, and used with other program data described in paragraph (c)(2)(iv) of this section to direct continuous improvement related to curriculum choice and implementation, teaching practices, professional development, program design and other program decisions, including changing or targeting scope of services; and,

(iii) For programs operating fewer than 90 days, ensures child assessment data is aggregated and analyzed at least twice during the program operating period, including for subgroups, such as dual language learners and children with disabilities, as appropriate, and used with other program data described in paragraph (c)(2)(iv) of this section to direct continuous improvement related to curriculum choice and implementation, teaching practices, professional development, program design and other program decisions, including changing or targeting scope of services;

(iv) Use information from ongoing monitoring and the annual self-assessment, and pro-

Note: References are located in the Appendix, starting at page 117.

gram data on teaching practice, staffing and professional development, child-level assessments, family needs assessments, and comprehensive services, to identify program needs, and develop and implement plans for program improvement; and,

(v) Use program improvement plans as needed to either strengthen or adjust content and strategies for professional development, change program scope and services, refine school readiness and other program goals, and adapt strategies to better address the needs of sub-groups.

(d) Reporting.

(1) A program must submit:

(i) Status reports, determined by ongoing oversight data, to the governing body and policy council, at least semi-annually;

(ii) Reports, as appropriate, to the responsible HHS official immediately or as soon as practicable, related to any significant incidents affecting the health and safety of program participants, circumstances affecting the financial viability of the program, breaches of personally identifiable information, or program involvement in legal proceedings, any matter for which notification or a report to state, tribal, or local authorities is required by applicable law, including at a minimum:

(A) Any reports regarding agency staff or volunteer compliance with federal, state, tribal, or local laws addressing child abuse and neglect or laws governing sex offenders;

(B) Incidents that require classrooms or centers to be closed for any reason;

(C) Legal proceedings by any party that are directly related to program operations; and,

(D) All conditions required to be reported under §1304.12, including disqualification from the Child and Adult Care Food Program (CACFP) and license revocation.

(2) Annually, a program must publish and disseminate a report that complies with section 644(a)(2)[30] of the Act and includes a summary of a program's most recent community assessment, as described in §1302.11(b), consistent with privacy protections in subpart C of part 1303 of this chapter.

(3) If a program has had a deficiency identified, it must submit, to the responsible HHS official, a quality improvement plan as required in section 641A(e)(2)[31] of the Act.

§1302.103 Implementation of program performance standards.

(a) A current program as of November 7, 2016, must implement a program-wide approach for the effective and timely implementation of the changes to the program performance standards, including the purchase of materials and allocation of staff time, as appropriate.

(b) A program's approach to implement the changes included in parts 1301 through 1304 of this chapter must ensure adequate preparation for effective and timely service delivery to children and their families including, at a minimum, review of community assessment data to determine the most appropriate strategy for implementing required program changes, including assessing any changes in the number of children who can be served, as necessary, the purchase of and training on any curriculum, assessment, or other materials, as needed, assessment of program-wide professional development needs, assessment of staffing patterns, the development of coordinated approaches described in §1302.101(b), and the development of appropriate protections for data sharing; and children enrolled in the program on November 7, 2016 are not displaced during a program year and that children leaving Early Head Start or Head Start at the end of the program year following November 7, 2016 as a result of any slot reductions received services described in §§1302.70 and 1302.72 to facilitate successful transitions to other programs.

Note: References are located in the Appendix, starting at page 117.

§1303 — Financial and Administrative Requirements

Section

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AUTHORITY: 42 U.S.C. 9801 *et seq.*

§1303.1 Overview.

Section 641A of the Act requires that the Secretary modify as necessary program performance standards including administrative and financial management standards (section 641A(a)(1)(C)). This part specifies the financial and administrative requirements of agencies. Subpart A of this part outlines the financial requirements consistent with sections 640(b) and 644(b) and (c) of the Act. Subpart B of this part specifies the administrative requirements consistent with sections 644(a)(1), 644(e), 653, 654, 655, 656, and 657A of the Act. Subpart C of this part implements the statutory provision at section 641A(b)(4) of the Act that directs the Secretary to ensure the confidentiality of any personally identifiable data, information, and records collected or maintained. Subpart D of this part prescribes regulations for the operation of delegate agencies consistent with Section 641(A)(d). Subpart E of this part implements the statutory requirements in Section 644(c), (f) and (g) related to facilities. Subpart F prescribes regulations on transportation consistent with section 640(i) of the Act.

Subpart A — Financial Requirements

§1303.2 Purpose.

This subpart establishes regulations applicable to program administration and grants management for all grants under the Act.

§1303.3 Other requirements.

The following chart includes HHS regulations that apply to all grants made under the Act:

Cite	Title
45 CFR part 16	Department grant appeals process
45 CFR part 30	HHS Standards and Procedures for Claims collection
45 CFR part 46	Protection of human subjects

Cite	Title
45 CFR part 75	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
45 CFR part 80	Nondiscrimination under programs receiving federal assistance through the Department of Health and Human Services- Effectuation of title VI and VII of the Civil Rights Act of 1964
45 CFR part 81	Practice and procedure for hearings under part 80
45 CFR part 84	Nondiscrimination on the basis of handicap in federally assisted programs
45 CFR part 87	Equal treatment for faith based organizations
2 CFR part 170	FFATA Sub-award and executive compensation
2 CFR 25.110	CCR/DUNS requirement

§1303.4 Federal financial assistance, non-federal match, and waiver requirements.

In accordance with section 640(b)[32] of the Act, federal financial assistance to a grantee will not exceed 80 percent of the approved total program costs. A grantee must contribute 20 percent as non-federal match each budget period. The responsible HHS official may approve a waiver of all or a portion of the non-federal match requirement on the basis of the grantee's written application submitted for the budget period and any supporting evidence the responsible HHS official requires. In deciding whether to grant a waiver, the responsible HHS official will consider the circumstances specified at section 640(b) of the Act and whether the grantee has made a reasonable effort to comply with the non-federal match requirement.

§1303.5 Limitations on development and administrative costs.

(a) Limitations.

(1) Costs to develop and administer a program cannot be excessive or exceed 15 percent of the total approved program costs. Allowable costs to develop and administer a Head Start program cannot exceed 15 percent of the total approved program costs, which includes both federal costs and non-federal match, unless the responsible HHS official grants a waiver under paragraph (b) of this section that approves a higher percentage in order to carry out the purposes of the Act.

(2) To assess total program costs and determine whether a grantee meets this requirement, the grantee must:

(i) Determine the costs to develop and administer its program, including the local costs of necessary resources;

(ii) Categorize total costs as development and administrative or program costs;

(iii) Identify and allocate the portion of dual benefits costs that are for development and administration;

Note: References are located in the Appendix, starting at page 117.

(iv) Identify and allocate the portion of indirect costs that are for development and administration versus program costs; and,

(v) Delineate all development and administrative costs in the grant application and calculate the percentage of total approved costs allocated to development and administration.

(b) Waivers.

(1) The responsible HHS official may grant a waiver for each budget period if a delay or disruption to program services is caused by circumstances beyond the agency's control, or if an agency is unable to administer the program within the 15 percent limitation and if the agency can demonstrate efforts to reduce its development and administrative costs.

(2) If at any time within the grant funding cycle, a grantee estimates development and administration costs will exceed 15 percent of total approved costs, it must submit a waiver request to the responsible HHS official that explains why costs exceed the limit, that indicates the time period the waiver will cover, and that describes what the grantee will do to reduce its development and administrative costs to comply with the 15 percent limit after the waiver period.

Subpart B — Administrative Requirements

§1303.10 Purpose.

A grantee must observe standards of organization, management, and administration that will ensure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of the Act and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism.

§1303.11 Limitations and prohibitions.

An agency must adhere to sections 644(e)[33], 644(g)(3)[34], 653[35], 654[36], 655[37], 656[38], and 657A[39] of the Act. These sections pertain to union organizing, the Davis-Bacon Act, limitations on compensation, non-discrimination, unlawful activities, political activities, and obtaining parental consent.

§1303.12 Insurance and bonding.

An agency must have an ongoing process to identify risks and have cost-effective insurance for those identified risks; a grantee must require the same for its delegates. The agency must specifically consider the risk of accidental injury to children while participating in the program. The grantee must submit proof of appropriate coverage in its initial application for funding. The process of identifying risks must also consider the risk of losses resulting from fraudulent acts by individuals authorized to disburse Head Start funds. Consistent with 45 CFR part 75[40], if the agency lacks sufficient coverage to protect the federal government's interest, the agency must maintain adequate fidelity bond coverage.

Subpart C — Protections for the Privacy of Child Records

§1303.20 Establishing procedures.

A program must establish procedures to protect the confidentiality of any personally identifiable information (PII) in child records.

§1303.21 Program procedures – applicable confidentiality provisions.

(a) If a program is an educational agency or institution that receives funds under a program administered by the Department of Education and therefore is subject to the confidentiality provisions under the Family Educational Rights and Privacy Act (FERPA), then it must comply with those confidentiality provisions of FERPA instead of the provisions in this subpart.

(b) If a program serves a child who is referred to, or found eligible for services under, IDEA, then a program must comply with the applicable confidentiality provisions in Part B or Part C of IDEA[19] to protect the PII in records of those children, and, therefore, the provisions in this subpart do not apply to those children.

§1303.22 Disclosures with, and without, parental consent.

(a) Disclosure with parental consent.

(1) Subject to the exceptions in paragraphs (b) and (c) of this section, the procedures to protect PII must require the program to obtain a parent's written consent before the program may disclose such PII from child records.

(2) The procedures to protect PII must require the program to ensure the parent's written consent specifies what child records may be disclosed, explains why the records will be disclosed, and identifies the party or class of parties to whom the records may be disclosed. The written consent must be signed and dated.

(3) "Signed and dated written consent" under this part may include a record and signature in electronic form that:

(i) Identifies and authenticates a particular person as the source of the electronic consent; and,

(ii) Indicates such person's approval of the information.

(4) The program must explain to the parent that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive and therefore it does not apply to an action that occurred before the consent was revoked.

Note: References are located in the Appendix, starting at page 117.

(b) Disclosure without parental consent but with parental notice and opportunity to refuse. The procedures to protect PII must allow the program to disclose such PII from child records without parental consent if the program notifies the parent about the disclosure, provides the parent, upon the parent's request, a copy of the PII from child records to be disclosed in advance, and gives the parent an opportunity to challenge and refuse disclosure of the information in the records, before the program forwards the records to officials at a program, school, or school district in which the child seeks or intends to enroll or where the child is already enrolled so long as the disclosure is related to the child's enrollment or transfer.

(c) Disclosure without parental consent. The procedures to protect PII must allow the program to disclose such PII from child records without parental consent to

(1) Officials within the program or acting for the program, such as contractors and subrecipients, if the official provides services for which the program would otherwise use employees, the program determines it is necessary for Head Start services, and the program maintains oversight with respect to the use, further disclosure, and maintenance of child records, such as through a written agreement;

(2) Officials within the program, acting for the program, or from a federal or state entity, in connection with an audit or evaluation of education or child development programs, or for enforcement of or compliance with federal legal requirements of the program; provided the program maintains oversight with respect to the use, further disclosure, and maintenance of child records, such as through a written agreement, including the destruction of the PII when no longer needed for the purpose of the disclosure, except when the disclosure is specifically authorized by federal law or by the responsible HHS official;

(3) Officials within the program, acting for the program, or from a federal or state entity, to conduct a study to improve child and family outcomes, including improving the quality of programs, for, or on behalf of, the program, provided the program maintains oversight with respect to the use, further disclosure, and maintenance of child records, such as through a written agreement, including the destruction of the PII when no longer needed for the purpose of the disclosure;

(4) Appropriate parties in order to address a disaster, health or safety emergency during the period of the emergency, or a serious health and safety risk such as a serious food allergy, if the program determines that disclosing the PII from child records is necessary to protect the health or safety of children or other persons;

(5) Comply with a judicial order or lawfully issued subpoena, provided the program makes a reasonable effort to notify the parent about all such subpoenas and court orders in advance of the compliance therewith, unless:

(i) A court has ordered that neither the subpoena, its contents, nor the information provided in response be disclosed;

(ii) The disclosure is in compliance with an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) con-

cerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

(iii) A parent is a party to a court proceeding directly involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101)[41] or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the program is not required; or,

(iv) A program initiates legal action against a parent or a parent initiates legal action against a program, then a program may disclose to the court, also without a court order or subpoena, the child records relevant for the program to act as plaintiff or defendant.

(6) The Secretary of Agriculture or an authorized representative from the Food and Nutrition Service to conduct program monitoring, evaluations, and performance measurements for the Child and Adult Care Food Program under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, if the results will be reported in an aggregate form that does not identify any individual: provided, that any data collected must be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary of Agriculture and any PII must be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements;

(7) A caseworker or other representative from a state, local, or tribal child welfare agency, who has the right to access a case plan for a child who is in foster care placement, when such agency is legally responsible for the child's care and protection, under state or tribal law, if the agency agrees in writing to protect PII, to use information from the child's case plan for specific purposes intended of addressing the child's needs, and to destroy information that is no longer needed for those purposes; and,

(8) Appropriate parties in order to address suspected or known child maltreatment and is consistent with applicable federal, state, local, and tribal laws on reporting child abuse and neglect.

(d) Written agreements. When a program establishes a written agreement with a third party, the procedures to protect such PII must require the program to annually review and, if necessary, update the agreement. If the third party violates the agreement, then the program may:

(1) Provide the third party an opportunity to self-correct; or,

(2) Prohibit the third party from access to records for a set period of time as established by the programs governing body and policy council.

(e) Annual notice. The procedures to protect PII must require the program to annually notify parents of their rights in writing described in this subpart and applicable definitions in part 1305 of this chapter, and include in that notice a description of the types of PII that may be disclosed, to whom the PII may be disclosed, and what may constitute a necessary reason for the disclosure without parental consent as described in paragraph (c) of this section.

(f) Limit on disclosing PII. A program must only disclose the information that is deemed necessary for the purpose of the disclosure.

Note: References are located in the Appendix, starting at page 117.

§1303.23 Parental rights.

(a) Inspect record.

(1) A parent has the right to inspect child records.

(2) If the parent requests to inspect child records, the program must make the child records available within a reasonable time, but no more than 45 days after receipt of request.

(3) If a program maintains child records that contain information on more than one child, the program must ensure the parent only inspects information that pertains to the parent's child.

(4) The program shall not destroy a child record with an outstanding request to inspect and review the record under this section.

(b) Amend record.

(1) A parent has the right to ask the program to amend information in the child record that the parent believes is inaccurate, misleading, or violates the child's privacy.

(2) The program must consider the parent's request and, if the request is denied, render a written decision to the parent within a reasonable time that informs the parent of the right to a hearing.

(c) Hearing.

(1) If the parent requests a hearing to challenge information in the child record, the program must schedule a hearing within a reasonable time, notify the parent, in advance, about the hearing, and ensure the person who conducts the hearing does not have a direct interest in its outcome.

(2) The program must ensure the hearing affords the parent a full and fair opportunity to present evidence relevant to the issues.

(3) If the program determines from evidence presented at the hearing that the information in the child records is inaccurate, misleading, or violates the child's privacy, the program must either amend or remove the information and notify the parent in writing.

(4) If the program determines from evidence presented at the hearing that information in the child records is accurate, does not mislead, or otherwise does not violate the child's privacy, the program must inform the parent of the right to place a statement in the child records that either comments on the contested information or that states why the parent disagrees with the program's decision, or both.

(d) Right to copy of record. The program must provide a parent, free of charge, an initial copy of child records disclosed to third parties with parental consent and, upon parent request, an initial copy of child records disclosed to third parties, unless the disclosure was for a court that ordered neither the subpoena, its contents, nor the information furnished in response be disclosed.

(e) Right to inspect written agreements. A parent has the right to review any written agreements with third parties.

§1303.24 Maintaining records.

(a) A program must maintain child records in a manner that ensures only parents, and officials within the program or acting on behalf of the program have access, and such records must be destroyed within a reasonable timeframe after such records are no longer needed or required to be maintained.

(b) A program must maintain, with the child records, for as long as the records are maintained, information on all individuals, agencies, or organizations to whom a disclosure of PII from the child records was made (except for program officials and parents) and why the disclosure was made. If a program uses a web-based data system to maintain child records, the program must ensure such child records are adequately protected and maintained according to current industry security standards.

(c) If a parent places a statement in the child record, the program must maintain the statement with the contested part of the child record for as long as the program maintains the record and, disclose the statement whenever it discloses the portion of the child record to which the statement relates.

Subpart D — Delegation of Program Operations

§1303.30 Grantee responsibility and accountability.

A grantee is accountable for the services its delegate agencies provide. The grantee supports, oversees and ensures delegate agencies provide high-quality services to children and families and meet all applicable Head Start requirements. The grantee can only terminate a delegate agency if the grantee shows cause why termination is necessary and provides a process for delegate agencies to appeal termination decisions. The grantee retains legal responsibility and authority and bears financial accountability for the program when services are provided by delegate agencies.

§1303.31 Determining and establishing delegate agencies.

(a) If a grantee enters into an agreement with another entity to serve children, the grantee must determine whether the agreement meets the definition of "delegate agency" in section 637(3)[42] of the Act.

(b) A grantee must not award a delegate agency federal financial assistance unless there is a written agreement and the responsible HHS official approves the agreement before the grantee delegates program operations.

§1303.32 Evaluations and corrective actions for delegate agencies.

A grantee must evaluate and ensure corrective action for delegate agencies according to section 641A(d)[43] of the Act.

Note: References are located in the Appendix, starting at page 117.

§1303.33 Termination of delegate agencies.

(a) If a grantee shows cause why termination is appropriate or demonstrates cost effectiveness, the grantee may terminate a delegate agency's contract.

(b) The grantee's decision to terminate must not be arbitrary or capricious.

(c) The grantee must establish a process for defunding a delegate agency, including an appeal of a defunding decision and must ensure the process is fair and timely.

(d) The grantee must notify the responsible HHS official about the appeal and its decision.

Subpart E — Facilities

§1303.40 Purpose.

This subpart prescribes what a grantee must establish to show it is eligible to purchase, construct and renovate facilities as outlined in section 644(c), (f) and (g)[44] of the Act. It explains how a grantee may apply for funds, details what measures a grantee must take to protect federal interest in facilities purchased, constructed or renovated with grant funds, and concludes with other administrative provisions. This subpart applies to major renovations. It only applies to minor renovations and repairs, when they are included with a purchase application and are part of purchase costs.

§1303.41 Approval of previously purchased facilities.

If a grantee purchased a facility after December 31, 1986, and seeks to use grant funds to continue to pay purchase costs for the facility or to refinance current indebtedness and use grant funds to service the resulting debt, the grantee may apply for funds to meet those costs. The grantee must submit an application that conforms to requirements in this part and in the Act to the responsible HHS official. If the responsible HHS official approves the grantee's application, Head Start funds may be used to pay ongoing purchase costs, which include principal and interest on approved loans.

§1303.42 Eligibility to purchase, construct, and renovate facilities.

(a) Preliminary eligibility.

(1) Before a grantee can apply for funds to purchase, construct, or renovate a facility under §1303.44, it must establish that:

(i) The facility will be available to Indian tribes, or rural or other low-income communities;

(ii) The proposed purchase, construction or major renovation is within the grantee's designated service area; and,

(iii) The proposed purchase, construction or major renovation is necessary because the lack of suitable facilities in the grantee's service area will inhibit the operation of the program.

(2) If a program applies to construct a facility, that the construction of such facility is more cost-effective than the purchase of available facilities or renovation.

(b) Proving a lack of suitable facilities. To satisfy paragraph (a)(1)(iii) of this section, the grantee must have a written statement from an independent real estate professional familiar with the commercial real estate market in the grantee's service area, that includes factors considered and supports how the real estate professional determined there are no other suitable facilities in the area.

§1303.43 Use of grant funds to pay fees.

A grantee may submit a written request to the responsible HHS official for reasonable fees and costs necessary to determine preliminary eligibility under §1303.42 before it submits an application under §1303.44. If the responsible HHS official approves the grantee's application, the grantee may use federal funds to pay fees and costs.

§1303.44 Applications to purchase, construct, and renovate facilities.

(a) Application requirements. If a grantee is preliminarily eligible under §1303.42 to apply for funds to purchase, construct, or renovate a facility, it must submit to the responsible HHS official:

(1) A statement that explains the anticipated effect the proposed purchase, construction or renovation has had or will have on program enrollment, activities and services, and how it determined what the anticipated effect would be;

(2) A deed or other document showing legal ownership of the real property where facilities activity is proposed, legal description of the facility site, and an explanation why the location is appropriate for the grantee's service area;

(3) Plans and specifications for the facility, including square footage, structure type, the number of rooms the facility will have or has, how the rooms will be used, where the structure will be positioned or located on the building site, and whether there is space available for outdoor play and for parking;

(4) Certification by a licensed engineer or architect that the facility is, or will be upon completion, structurally sound and safe for use as a Head Start facility and that the facility complies, or will comply upon completion, with local building codes, applicable child care licensing requirements, the accessibility requirements of the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973[18], the Flood Disaster Protection Act of 1973, and the National Historic Preservation Act of 1966.[45]

(5) A description of proposed renovations or repairs to make the facility suitable for program activities, and plans and specification that describe the facility after renovation or repair;

(6) A proposed schedule that details when the grantee will acquire, renovate, repair and occupy the facility;

(7) An estimate by a licensed independent certified appraiser of the facility's fair market value

Note: References are located in the Appendix, starting at page 117.

after proposed purchase and associated repairs and renovations construction, or major renovation is completed is required for all facilities activities except for major renovations to leased property;

(8) The cost comparison described in §1303.45;

(9) A statement that shows what share of the purchase, construction, or major renovation will be paid with grant funds and what the grantee proposes to contribute as a nonfederal match to the purchase, construction or major renovation;

(10) A statement from a lender, if a grantee applies to use Head Start funds to continue purchase on a facility or refinance existing debt on a facility that indicates the lender is willing to comply with §1303.49;

(11) The terms of any proposed or existing loan(s) related to purchase, construction or major renovation of the facility, including copies of any funding commitment letters, mortgages, promissory notes, potential security agreements to be entered into, information on all other sources of funding, construction or major renovation, and any restrictions or conditions imposed by other funding sources;

(12) A Phase I environmental site assessment that describes the environmental condition of the proposed facility site and any structures on the site;

(13) A description of the efforts by the grantee to coordinate or collaborate with other providers in the community to seek assistance, including financial assistance, prior to the use of funds under this section; and,

(14) Any additional information the responsible HHS official may require.

(b) Additional requirements for leased properties.

(1) If a grantee applies to renovate leased property, it must submit to the responsible HHS official information described in paragraph (a) of this section, a copy of the existing or proposed lease agreement, and the landlord or lessor's consent.

(2) If a grantee applies to purchase a modular unit it intends to site on leased property or on other property the grantee does not own, the grantee must submit to the responsible HHS official information described in paragraph (a) of this section and a copy of the proposed lease or other occupancy agreement that will allow the grantee access to the modular unit for at least 15 years.

(c) Non-federal match. Any non-federal match associated with facilities activities becomes part of the federal share of the facility.

§1303.45 Cost-comparison to purchase, construct, and renovate facilities.

(a) Cost comparison.

(1) If a grantee proposes to purchase, construct, or renovate a facility, it must submit a detailed

cost estimate of the proposed activity, compare the costs associated with the proposed activity to other available alternatives in the service area, and provide any additional information the responsible HHS official requests. The grantee must demonstrate that the proposed activity will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out program.

(2) In addition to requirements in paragraph (1) of this section, the grantee must:

(i) Identify who owns the property;

(ii) List all costs related to the purchase, construction, or renovation;

(iii) Identify costs over the structure's useful life, which is at least 20 years for a facility that the grantee purchased or constructed and at least 15 years for a modular unit the grantee renovated, and deferred costs, including mortgage balloon payments, as costs with associated due dates; and,

(iv) Demonstrate how the proposed purchase, construction, or major renovation is consistent with program management and fiscal goals, community needs, enrollment and program options and how the proposed facility will support the grantee as it provides quality services to children and families.

(b) Continue purchase or refinance. To use funds to continue purchase on a facility or to refinance an existing indebtedness, the grantee must compare the costs of continued purchase against the cost of purchasing a comparable facility in the service area over the remaining years of the facility's useful life. The grantee must demonstrate that the proposed activity will result in savings when compared to the cost that would be incurred to acquire the use of an alternative facility to carry out the program.

(c) Multi-purpose use. If the grantee intends to use a facility to operate a Head Start program and for another purpose, it must disclose what percentage of the facility will be used for non-Head Start activities, along with costs associated with those activities, in accordance with applicable cost principles.

§1303.46 Recording and posting notices of federal interest.

(a) Survival of federal interest. A grantee that receives funds under this subpart must file notices of federal interest as set forth in paragraph (b) of this section. Federal interest cannot be defeated by a grantee's failure to file a notice of federal interest.

(b) Recording notices of federal interest.

(1) If a grantee uses federal funds to purchase real property or a facility, excluding modular units, appurtenant to real property, it must record a notice of federal interest in the official real property records for the jurisdiction where the facility is or will be located. The grantee must file the notice of federal interest as soon as it uses Head Start funds to either fully or partially purchase a facility or real property where a facility will be constructed or as soon as it receives permission from the responsible HHS official to use Head Start funds to continue purchase on a facility.

Note: References are located in the Appendix, starting at page 117.

(2) If a grantee uses federal funds in whole or in part to construct a facility, it must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to construct the facility.

(3) If a grantee uses federal funds to renovate a facility that it, or a third party owns, the grantee must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to renovate the facility.

(4) If a grantee uses federal funds in whole or in part to purchase a modular unit or to renovate a modular unit, the grantee must post the notice of federal interest, in clearly visible locations, on the exterior of the modular unit and inside the modular unit.

§1303.47 Contents of notices of federal interest.

(a) Facility and real property a grantee owns. A notice of federal interest for a facility, other than a modular unit, and real property the grantee owns or will own, must include:

(1) The grantee's correct legal name and current mailing address;

(2) A legal description of the real property;

(3) Grant award number, amount and date of initial facilities funding award or initial use of base grant funds for ongoing purchase or mortgage payments;

(4) A statement that the notice of federal interest includes funds awarded in grant award(s) and any Head Start funds subsequently used to purchase, construct or to make major renovations to the real property;

(5) A statement that the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations;

(6) A statement that the facility and real property will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

(7) A statement that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer of the property to another party or any other action the grantee takes without the responsible HHS official's written permission;

(8) A statement that confirms that the agency's governing body received a copy of the notice of federal interest prior to filing and the date the governing body was provided with a copy; and,

(9) The name, title, and signature of the person who drafted the notice.

(b) Facility leased by a grantee.

(1) A notice of federal interest for a leased facility, excluding a modular unit, on land the grant-

ee does not own, must be recorded in the official real property records for the jurisdiction where the facility is located and must include:

(i) The grantee's correct legal name and current mailing address;

(ii) A legal description of affected real property;

(iii) The grant award number, amount and date of initial funding award or initial use of base grant funds for major renovation;

(iv) Acknowledgement that the notice of federal interest includes any Head Start funds subsequently used to make major renovations on the affected real property;

(v) A statement the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations; and,

(vi) A lease or occupancy agreement that includes the required information from paragraphs (b)(1)(i) through (v) of this section may be recorded in the official real property records for the jurisdiction where the facility is located to serve as a notice of federal interest.

(2) If a grantee cannot file the lease or occupancy agreement described in paragraph (b)(1)(vi) of this section in the official real property records for the jurisdiction where the facility is located, it may file an abstract. The abstract must include the names and addresses of parties to the lease or occupancy agreement, terms of the lease or occupancy agreement, and information described in paragraphs (a)(1) through (9) of this section.

(c) Modular units. A notice of federal interest on a modular unit the grantee purchased or renovated must be visible and clearly posted on the exterior of the modular and inside the modular and must include:

(1) The grantee's correct legal name and current mailing address;

(2) The grant award number, amount and date of initial funding award or initial use of base grant funds to purchase or renovate;

(3) A statement that the notice of federal interest includes any Head Start funds subsequently used for major renovations to the modular unit;

(4) A statement that the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations;

(5) A statement that the modular unit will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

(6) A statement that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer to another party, or any other action the grantee takes without the responsible HHS official's written permission;

(7) A statement that the modular unit cannot be moved to another location without the responsible HHS official's written permission;

Note: References are located in the Appendix, starting at page 117.

(8) A statement that confirms that the agency's governing body has received a copy of the filed notice of federal interest and the date the governing body was provided with a copy; and,

(9) The name, title, and signature of the person who completed the notice for the grantee agency.

§1303.48 Grantee limitations on federal interest.

(a) A grantee cannot mortgage, use as collateral for a credit line or for other loan obligations, or, sell or transfer to another party, a facility, real property, or a modular unit it has purchased, constructed or renovated with Head Start funds, without the responsible HHS official's written permission.

(b) A grantee must have the responsible HHS official's written permission before it can use real property, a facility, or a modular unit subject to federal interest for a purpose other than that for which the grantee's application was approved.

§1303.49 Protection of federal interest in mortgage agreements.

(a) Any mortgage agreement or other security instrument that is secured by real property or a modular unit constructed or purchased in whole or in part with federal funds or subject to renovation with federal funds must:

(1) Specify that the responsible HHS official can intervene in case the grantee defaults on, terminates or withdraws from the agreement;

(2) Designate the responsible HHS official to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;

(3) Include a clause that requires any action to foreclose the mortgage agreement or security agreement be suspended for 60 days after the responsible HHS official receives the default notice to allow the responsible HHS official reasonable time to respond;

(4) Include a clause that preserves the notice of federal interest and the grantee's obligation for its federal share if the responsible HHS official fails to respond to any notice of default provided under this section;

(5) Include a statement that requires the responsible HHS official to be paid the federal interest before foreclosure proceeds are paid to the lender, unless the official's rights under the notice of federal interest have been subordinated by a written agreement in conformance with §1303.51;

(6) Include a clause that gives the responsible HHS official the right to cure any default under the agreement within the designated period to cure the default; and,

(7) Include a clause that gives the responsible HHS official the right to assign or transfer the agreement to another interim or permanent grantee.

(b) A grantee must immediately notify the responsible HHS official of any default under an agreement described in paragraph (a) of this section.

§1303.50 Third party leases and occupancy arrangements.

(a) After November 7, 2016, if a grantee receives federal funds to purchase, construct or renovate a facility on real property the grantee does not own or to purchase or renovate a modular unit on real property the grantee does not own, the grantee must have a lease or other occupancy agreement of at least 30 years for purchase or construction of a facility and at least 15 years for a major renovation or placement of a modular unit.

(b) The lease or occupancy agreement must:

(1) Provide for the grantee's right of continued use and occupancy of the leased or occupied premises during the entire term of the lease;

(2) Designate the regional grants management officer to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;

(3) Specify that the responsible HHS official has the right to cure any default under the lease or occupancy agreement within the designated period to cure default; and,

(4) Specify that the responsible HHS official has the right to transfer the lease to another interim or replacement grantee.

§1303.51 Subordination of the federal interest.

Only the responsible HHS official can subordinate federal interest to the rights of a lender or other third party. Subordination agreements must be in writing and the mortgage agreement or security agreement for which subordination is requested must comply with §1303.49. When the amount of federal funds already contributed to the facility exceeds the amount to be provided by the lender seeking subordination, the federal interest may only be subordinated if the grantee can show that funding is not available without subordination of the federal interest

§1303.52 Insurance, bonding, and maintenance.

(a) Purpose. If a grantee uses federal funds to purchase or continue purchase on a facility, excluding modular units, the grantee must obtain a title insurance policy for the purchase price that names the responsible HHS official as an additional loss payee.

(b) Insurance coverage.

(1) If a grantee uses federal funds to purchase or continue purchase on a facility or modular unit the grantee must maintain physical damage or destruction insurance at the full replacement value of the facility, for as long as the grantee owns or occupies the facility.

Note: References are located in the Appendix, starting at page 117.

(2) If a facility is located in an area the National Flood Insurance Program defines as high risk, the grantee must maintain flood insurance for as long as the grantee owns or occupies the facility.

(3) A grantee must submit to the responsible HHS official, within 10 days after coverage begins, proof of insurance coverage required under paragraphs (a) and (b) of this section.

(c) Maintenance. A grantee must keep all facilities purchased or constructed in whole or in part with Head Start funds in good repair in accordance with all applicable federal, state, and local laws, rules and regulations, including Head Start requirements, zoning requirements, building codes, health and safety regulations and child care licensing standards.

§1303.53 Copies of documents.

A grantee must submit to the responsible HHS official, within 10 days after filing or execution, copies of deeds, leases, loan instruments, mortgage agreements, notices of federal interest, and other legal documents related to the use of Head Start funds for purchase, construction, major renovation, or the discharge of any debt secured by the facility.

§1303.54 Record retention.

A grantee must retain records pertinent to the lease, purchase, construction or renovation of a facility funded in whole or in part with Head Start funds, for as long as the grantee owns or occupies the facility, plus three years.

§1303.55 Procurement procedures.

(a) A grantee must comply with all grants management regulations, including specific regulations applicable to transactions in excess of the current simplified acquisition threshold, cost principles, and its own procurement procedures, and must provide, to the maximum extent practical, open and full competition.

(b) A grantee must obtain the responsible HHS official's written approval before it uses Head Start funds, in whole or in part, to contract construction or renovation services. The grantee must ensure these contracts are paid on a lump sum fixed-price basis.

(c) A grantee must obtain prior written approval from the responsible HHS official for contract modifications that would change the scope or objective of a project or would materially alter the costs, by increasing the amount of grant funds needed to complete the project.

(d) A grantee must ensure all construction and renovation contracts paid, in whole or in part with Head Start funds contain a clause that gives the responsible HHS official or his or her designee access to the facility, at all reasonable times, during construction and inspection.

§1303.56 Inspection of work.

The grantee must submit to the responsible HHS official a final facility inspection report by a licensed engineer or architect within 30 calendar days after the project is completed. The inspection report must certify that the facility complies with local building codes, applicable child care licensing requirements, is structurally sound and safe for use as a Head Start facility, complies with the access requirements of the Americans with Disabilities Act, section 504 of the Rehabilitation Act, and the Flood Disaster Protection Act of 1973, and complies with National Historic Preservation Act of 1966.[45]

Subpart F — Transportation

§1303.70 Purpose.

(a) Applicability. This rule applies to all agencies, including those that provide transportation services, with the exceptions and exclusions provided in this section, regardless of whether such transportation is provided directly on agency owned or leased vehicles or through arrangement with a private or public transportation provider.

(b) Providing transportation services.

(1) If a program does not provide transportation services, either for all or a portion of the children, it must provide reasonable assistance, such as information about public transit availability, to the families of such children to arrange transportation to and from its activities, and provide information about these transportation options in recruitment announcements.

(2) A program that provides transportation services must make reasonable efforts to coordinate transportation resources with other human services agencies in its community in order to control costs and to improve the quality and the availability of transportation services.

(3) A program that provides transportation services must ensure all accidents involving vehicles that transport children are reported in accordance with applicable state requirements.

(c) Waiver.

(1) A program that provides transportation services must comply with all provisions in this subpart. A Head Start program may request to waive a specific requirement in this part, in writing, to the responsible HHS official, as part of an agency's annual application for financial assistance or amendment and must submit any required documentation the responsible HHS official deems necessary to support the waiver. The responsible HHS official is not authorized to waive any requirements with regard to children enrolled in an Early Head Start program. A program may request a waiver when:

(i) Adherence to a requirement in this part would create a safety hazard in the circumstances faced by the agency; and,

Note: References are located in the Appendix, starting at page 117.

(ii) For preschool children, compliance with requirements related to child restraint systems at §§1303.71(d) and 1303.72(a)(1) or bus monitors at §1303.72(a)(4) will result in a significant disruption to the program and the agency demonstrates that waiving such requirements is in the best interest of the children involved.

(2) The responsible HHS official is not authorized to waive any requirements of the Federal Motor Vehicle Safety Standards (FMVSS) made applicable to any class of vehicle under 49 CFR part 571.

§1303.71 Vehicles.

(a) Required use of schools buses or allowable alternative vehicles. A program, with the exception of transportation services to children served under a home-based option, must ensure all vehicles used or purchased with grant funds to provide transportation services to enrolled children are school buses or allowable alternate vehicles that are equipped for use of height- and weight-appropriate child restraint systems, and that have reverse beepers.

(b) Emergency equipment. A program must ensure each vehicle used in providing such services is equipped with an emergency communication system clearly labeled and appropriate emergency safety equipment, including a seat belt cutter, charged fire extinguisher, and first aid kit.

(c) Auxiliary seating. A program must ensure any auxiliary seating, such as temporary or folding jump seats, used in vehicles of any type providing such services are built into the vehicle by the manufacturer as part of its standard design, are maintained in proper working order, and are inspected as part of the annual inspection required under paragraph (e)(2)(i) of this section.

(d) Child restraint systems. A program must ensure each vehicle used to transport children receiving such services is equipped for use of age-, height- and weight-appropriate child safety restraint systems as defined in part 1305 of this chapter.

(e) Vehicle maintenance.

(1) A program must ensure vehicles used to provide such services are in safe operating condition at all times.

(2) The program must:

(i) At a minimum, conduct an annual thorough safety inspection of each vehicle through an inspection program licensed or operated by the state;

(ii) Carry out systematic preventive maintenance on vehicles; and,

(iii) Ensure each driver implements daily pre-trip vehicle inspections.

(f) New vehicle inspection. A program must ensure bid announcements for school buses and allowable alternate vehicles to transport children in its program include correct specifications and a clear statement of the vehicle's intended use. The program must ensure vehicles are examined at delivery to ensure they are equipped in accordance with the bid specifications and that the manufacturer's certification of compliance with the applicable FMVSS is included with the vehicle.

§1303.72 Vehicle operation.

(a) Safety. A program must ensure:

(1) Each child is seated in a child restraint system appropriate to the child's age, height, and weight;

(2) Baggage and other items transported in the passenger compartment are properly stored and secured, and the aisles remain clear and the doors and emergency exits remain unobstructed at all times;

(3) Up-to-date child rosters and lists of the adults each child is authorized to be released to, including alternates in case of emergency, are maintained and no child is left behind, either at the classroom or on the vehicle at the end of the route; and,

(4) With the exception of transportation services to children served under a home-based option, there is at least one bus monitor on board at all times, with additional bus monitors provided as necessary.

(b) Driver qualifications. A program, with the exception of transportation services to children served under a home-based option, must ensure drivers, at a minimum:

(1) In states where such licenses are granted, have a valid Commercial Driver's License (CDL) for vehicles in the same class as the vehicle the driver will operating; and,

(2) Meet any physical, mental, and other requirements as necessary to perform job-related functions with any necessary reasonable accommodations.

(c) Driver application review. In addition to the applicant review process prescribed §1302.90(b) of this chapter, a program, with the exception of transportation services to children served under a home-based option, must ensure the applicant review process for drivers includes, at minimum:

(1) Disclosure by the applicant of all moving traffic violations, regardless of penalty;

(2) A check of the applicant's driving record through the appropriate state agency, including a check of the applicant's record through the National Driver Register, if available;

(3) A check that drivers qualify under the applicable driver training requirements in the state or tribal jurisdiction; and,

(4) After a conditional employment offer to the applicant and before the applicant begins work as a driver, a medical examination, performed by a licensed doctor of medicine or osteopathy, establishing that the individual possesses the physical ability to perform any job-related functions with any necessary accommodations.

(d) Driver training.

(1) A program must ensure any person employed as a driver receives training prior to transporting any enrolled child and receives refresher training each year.

Note: References are located in the Appendix, starting at page 117.

(2) Training must include:

(i) Classroom instruction and behind-the-wheel instruction sufficient to enable the driver to operate the vehicle in a safe and efficient manner, to safely run a fixed route, to administer basic first aid in case of injury, and to handle emergency situations, including vehicle evacuation, operate any special equipment, such as wheelchair lifts, assistance devices or special occupant restraints, conduct routine maintenance and safety checks of the vehicle, and maintain accurate records as necessary; and,

(ii) Instruction on the topics listed in §1303.75 related to transportation services for children with disabilities.

(3) A program must ensure the annual evaluation of each driver of a vehicle used to provide such services includes an on-board observation of road performance.

(e) Bus monitor training. A program must train each bus monitor before the monitor begins work, on child boarding and exiting procedures, how to use child restraint systems, completing any required paperwork, how to respond to emergencies and emergency evacuation procedures, how to use special equipment, child pick-up and release procedures, how to conduct and pre- and post-trip vehicle checks. Bus monitors are also subject to staff safety training requirements in §1302.47(b)(4) of this chapter including Cardio Pulmonary Resuscitation (CPR) and first aid.

§1303.73 Trip routing.

(a) A program must consider safety of the children it transports when it plans fixed routes.

(b) A program must also ensure:

(1) The time a child is in transit to and from the program must not exceed one hour unless there is no shorter route available or any alternative shorter route is either unsafe or impractical;

(2) Vehicles are not loaded beyond maximum passenger capacity at any time;

(3) Drivers do not back up or make U-turns, except when necessary for safety reasons or because of physical barriers;

(4) Stops are located to minimize traffic disruptions and to afford the driver a good field of view in front of and behind the vehicle;

(5) When possible, stops are located to eliminate the need for children to cross the street or highway to board or leave the vehicle;

(6) Either a bus monitor or another adult escorts children across the street to board or leave the vehicle if curbside pick-up or drop off is impossible; and,

(7) Drivers use alternate routes in the case of hazardous conditions that could affect the safety of the children who are being transported, such as ice or water build up, natural gas line breaks, or emergency road closing.

§1303.74 Safety procedures.

(a) A program must ensure children who receive transportation services are taught safe riding practices, safety procedures for boarding and leaving the vehicle and for crossing the street to and from the vehicle at stops, recognition of the danger zones around the vehicle, and emergency evacuation procedures, including participating in an emergency evacuation drill conducted on the vehicle the child will be riding.

(b) A program that provides transportation services must ensure at least two bus evacuation drills in addition to the one required under paragraph (a) of this section are conducted during the program year.

§1303.75 Children with disabilities.

(a) A program must ensure there are school buses or allowable alternate vehicles adapted or designed for transportation of children with disabilities available as necessary to transport such children enrolled in the program. This requirement does not apply to the transportation of children receiving home-based services unless school buses or allowable alternate vehicles are used to transport the other children served under the home-based option by the grantee. Whenever possible, children with disabilities must be transported in the same vehicles used to transport other children enrolled in the Head Start or Early Head Start program.

(b) A program must ensure special transportation requirements in a child's IEP or IFSP are followed, including special pick-up and drop-off requirements, seating requirements, equipment needs, any assistance that may be required, and any necessary training for bus drivers and monitors.

Note: References are located in the Appendix, starting at page 117.

Part 1304 — Federal Administrative Procedures

Section

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AUTHORITY: 42 U.S.C. 9801 *et seq*.

Note: References are located in the Appendix, starting at page 117.

Subpart A — Monitoring, Suspension, Termination, Denial of Refunding, Reduction in Funding, and their Appeals

§1304.1 Purpose.

(a) Section 641A(c) of the Act requires the Secretary to monitor whether a grantee meets program governance, program operations, and financial and administrative standards described in this regulation and to identify areas for improvements and areas of strength as part of the grantee's ongoing self-assessment process. This subpart focuses on the monitoring process. It discusses areas of noncompliance, deficiencies, and corrective action through quality improvement plans.

(b) Section 646(a) of the Act requires the Secretary to prescribe procedures for notice and appeal for certain adverse actions. This subpart establishes rules and procedures to suspend financial assistance to a grantee, deny a grantee's application for refunding, terminate, or reduce a grantee's assistance under the Act when the grantee improperly uses federal funds or fails to comply with applicable laws, regulations, policies, instructions, assurances, terms and conditions or, if the grantee loses its legal status or financial viability. This subpart does not apply to reductions to a grantee's financial assistance based on chronic under-enrollment procedures at section 641A(h) of the Act or to matters described in subpart B. This subpart does not apply to any administrative action based upon any violation, or alleged violation, of title VI of the Civil Rights Act of 1964. Except as otherwise provided for in this subpart, the appeals and processes in this subpart will be governed by the Departmental Appeals Board regulations at 45 CFR part 16.

§1304.2 Monitoring.

(a) Areas of noncompliance. If a responsible HHS official determines through monitoring, pursuant to section 641(A)(c)(1) and (2)[46] of the Act, that a grantee fails to comply with any of the standards described in parts 1301, 1302, and 1303 of this chapter, the official will notify the grantee promptly in writing, identify the area of noncompliance, and specify when the grantee must correct the area of noncompliance.

(b) Deficiencies. If the Secretary determines that a grantee meets one of the criteria for a deficiency, as defined in section 637(2)(C)[47] of the Act, the Secretary shall inform the grantee of the deficiency. The grantee must correct the deficiency pursuant to section 641A(e)(1)(B)[48] of the Act, as the responsible HHS official determines.

(c) Quality improvement plans. If the responsible HHS official does not require the grantee to correct a deficiency immediately as prescribed under section 641A(e)(1)(B)(i)[49] of the Act, the grantee must submit to the official, for approval, a quality improvement plan that adheres to section 641A(e)(2)(A) of the Act[50].

§1304.3 Suspension with notice.

(a) Grounds to suspend financial assistance with notice. If a grantee breaches or threatens to breach

any requirement stated in §§1304.3 through 1304.5, the responsible HHS official may suspend the grantee's financial assistance, in whole or in part, after it has given the grantee notice and an opportunity to show cause why assistance should not be suspended.

(b) Notice requirements.

(1) The responsible HHS official must notify the grantee in writing that ACF intends to suspend financial assistance, in whole or in part. The notice must:

(i) Specify grounds for the suspension;

(ii) Include the date suspension will become effective;

(iii) Inform the grantee that it has the opportunity to submit to the responsible HHS official, at least seven days before suspension becomes effective, any written material it would like the official to consider, and to inform the grantee that it may request, in writing, no later than seven days after the suspension notice was mailed, to have an informal meeting with the responsible HHS official;

(iv) Invite the grantee to voluntarily correct the deficiency; and,

(v) Include a copy of this subpart.

(2) The responsible HHS official must promptly transmit the suspension notice to the grantee. The notice becomes effective when the grantee receives the notice, when the grantee refuses delivery, or when the suspension notice is returned to sender unclaimed.

(3) The responsible HHS official must send a copy of the suspension notice to any delegate agency whose actions or whose failures to act substantially caused or contributed to the proposed suspension. The responsible HHS official will inform the delegate agency that it is entitled to submit written material to oppose the suspension and to participate in the informal meeting, if one is held. In addition, the responsible HHS official may give notice to the grantee's other delegate agencies.

(4) After the grantee receives the suspension notice, it has three days to send a copy of the notice to delegate agencies that would be financially affected by a suspension.

(c) Opportunity to show cause. The grantee may submit to the responsible HHS official any written material to show why financial assistance should not be suspended. The grantee may also request, in writing, to have an informal meeting with the responsible HHS official. If the grantee requests an informal meeting, the responsible HHS official must schedule the meeting within seven days after the grantee receives the suspension notice.

(d) Extensions. If the responsible HHS official extends the time or the date by which a grantee has to make requests or to submit material, it must notify the grantee in writing.

(e) Decision.

(1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grantee has adequately corrected what led to suspension, and will render a decision within five days after the informal meeting. If no infor-

Note: References are located in the Appendix, starting at page 117.

mal meeting is held, the responsible HHS official will render a decision within five days after it receives written material from all concerned parties.

(2) If the responsible HHS official finds the grantee failed to show cause why ACF should not suspend financial assistance, the official may suspend financial assistance, in whole or in part, and under terms and conditions as he or she deems appropriate.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B)[51] are applicable or the grantee requests the suspension continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grantee to operate the program until the grantee's suspension is lifted, or as otherwise provided under section 646(a)(5)(B)[51] of the Act.

(f) Obligations incurred during suspension. New obligations the grantee incurs while under suspension are not allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from obligations the grantee properly incurred before suspension and not in anticipation of suspension or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to satisfy cost sharing or matching requirements.

(g) Modify or rescind suspension. The responsible HHS official may modify or rescind suspension at any time, if the grantee can satisfactorily show that it has adequately corrected what led to suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for additional 30 day periods if the cause of the suspension has not been corrected.

§1304.4 Emergency suspension without advance notice.

(a) Grounds to suspend financial assistance without advance notice. The responsible HHS official may suspend financial assistance, in whole or in part, without prior notice and an opportunity to show cause if there is an emergency situation, such as a serious risk for substantial injury to property or loss of project funds, a federal, state, or local criminal statute violation, or harm to staff or participants' health and safety.

(b) Emergency suspension notification requirements.

(1) The emergency suspension notification must:

(i) Specify the grounds for the suspension;

(ii) Include terms and conditions of any full or partial suspension;

(iii) Inform that grantee it cannot make or incur any new expenditures or obligations under suspended portion of the program; and,

(iv) Advise that within five days after the emergency suspension becomes effective, the grantee may request, in writing, an informal meeting with the responsible HHS official

to show why the basis for the suspension was not valid and should be rescinded and that the grantee has corrected any deficiencies.

(2) The responsible HHS official must promptly transmit the emergency suspension notification to the grantee that shows the date of receipt. The emergency suspension becomes effective upon delivery of the notification or upon the date the grantee refuses delivery, or upon return of the notification unclaimed.

(3) Within two workdays after the grantee receives the emergency suspension notification, the grantee must send a copy of the notice to delegate agencies affected by the suspension.

(4) The responsible HHS official must inform affected delegate agencies that they have the right to participate in the informal meeting.

(c) Opportunity to show cause. If the grantee requests an informal meeting, the responsible HHS official must schedule a meeting within five workdays after it receives the grantee's request. The suspension will continue until the grantee has been afforded such opportunity and until the responsible HHS official renders a decision. Notwithstanding provisions in this section, the responsible HHS official may proceed to deny refunding or to initiate termination proceedings at any time even though the grantee's financial assistance has been suspended in whole or in part.

(d) Decision.

(1) The responsible HHS official will consider any written material presented before or during the informal meeting, as well as any proof the grantee has adequately corrected what led to suspension, and render a decision within five work days after the informal meeting.

(2) If the responsible HHS official finds the grantee failed to show cause why suspension should be rescinded, the responsible HHS official may continue the suspension, in whole or in part, and under the terms and conditions specified in the emergency suspension notification.

(3) A suspension must not exceed 30 days, unless the conditions under section 646(a)(5)(B)[51] are applicable or the grantee requests the suspension to continue for an additional period of time and the responsible HHS official agrees.

(4) The responsible HHS official may appoint an agency to serve as an interim grantee to operate the program until either the grantee's emergency suspension is lifted or a new grantee is selected.

(e) Obligations incurred during suspension. Any new obligations the grantee incurs during the suspension period will not be allowed unless the responsible HHS official expressly authorizes them in the suspension notice or in an amendment to the suspension notice. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if those costs result from obligations properly incurred before suspension and not in anticipation of suspension, denial of refunding or termination. The responsible HHS official may allow third-party in-kind contributions applicable to the suspension period to satisfy cost sharing or matching requirements.

(f) Modify or rescind suspension. The responsible HHS official may modify or rescind suspension at any time, if the grantee can satisfactorily show that is has adequately corrected what led to the

Note: References are located in the Appendix, starting at page 117.

suspension and that it will not repeat such actions or inactions. Nothing in this section precludes the HHS official from imposing suspension again for additional 30 day periods if the cause of the suspension has not been corrected.

§1304.5 Termination and denial of refunding.

(a) Grounds to terminate financial assistance or deny a grantee's application for refunding.

(1) A responsible HHS official may terminate financial assistance in whole or in part to a grantee or deny a grantee's application for refunding.

(2) The responsible HHS official may terminate financial assistance in whole or in part, or deny refunding to a grantee for any one or for all of the following reasons:

(i) The grantee is no longer financially viable;

(ii) The grantee has lost the requisite legal status or permits;

(iii) The grantee has failed to timely correct one or more deficiencies as defined in the Act;

(iv) The grantee has failed to comply with eligibility requirements;

(v) The grantee has failed to comply with the Head Start grants administration or fiscal requirements set forth in 45 CFR part 1303;

(vi) The grantee has failed to comply with requirements in the Act;

(vii) The grantee is debarred from receiving federal grants or contracts; or

(viii) The grantee has failed to abide by any other terms and conditions of its award of financial assistance, or any other applicable laws, regulations, or other applicable federal or state requirements or policies.

(b) Notice requirements.

(1) The responsible HHS official will notify the grantee and such notice will:

(i) Include the legal basis for termination or adverse action as described in paragraph (a) of this section;

(ii) Include factual findings on which the action is based or reference specific findings in another document that form the basis for termination or denial of refunding;

(iii) Cite to any statutory provisions, regulations, or policy issuances on which ACF relies for its determination;

(iv) Inform the grantee that it may appeal the denial or termination within 30 days to the Departmental Appeals Board, that the appeal will be governed by 45 CFR part 16[52], except as otherwise provided in the Head Start appeals regulations, that a copy of the appeal must sent to the responsible HHS official, and that it has the right to request and receive a hearing, as mandated under section 646 of the Act;

(v) Inform the grantee that only its board of directors, or an official acting on the board's behalf can appeal the decision;

(vi) Name the delegate agency, if the actions of that delegate are the basis, in whole or in part, for the proposed action; and,

(vii) Inform the grantee that the appeal must meet requirements in paragraph (c) of this section; and, that if the responsible HHS official fails to meet requirements in this paragraph, the pending action may be dismissed without prejudice or remanded to reissue it with corrections.

(2) The responsible HHS official must provide the grantee as much notice as possible, but must notify the grantee no later than 30 days after ACF receives the annual application for refunding, that it has the opportunity for a full and fair hearing on whether refunding should be denied.

(c) Grantee's appeal.

(1) The grantee must adhere to procedures and requirements for appeals in 45 CFR part 16[52], file the appeal with the Departmental Appeals Board, and serve a copy of the appeal on the responsible HHS official who issued the termination or denial of refunding notice. The grantees must also serve a copy of its appeal on any affected delegate.

(2) Unless funding has been suspended, funding will continue while a grantee appeals a termination decision, unless the responsible HHS official renders an adverse decision, or unless the current budget period is expired. If the responsible HHS official has not rendered a decision by the end of the current budget period, the official will award the grantee interim funding until a decision is made or the project period ends.

(d) Funding during suspension. If a grantee's funding is suspended, the grantee will not receive funding during the termination proceedings, or at any other time, unless the action is rescinded or the grantee's appeal is successful.

(e) Interim and replacement grantees. The responsible HHS official may appoint an interim or replacement grantee as soon as a termination action is affirmed by the Departmental Appeals Board.

(f) Opportunity to show cause.

(1) If the Departmental Appeals Board sets a hearing for a proposed termination or denial of refunding action, the grantee has five workdays to send a copy of the notice it receives from the Departmental Appeals Board, to all delegate agencies that would be financially affected by termination and to each delegate agency identified in the notice.

(2) The grantee must send to the Departmental Appeals Board and to the responsible HHS official a list of the delegate agencies it notified and the dates when it notified them.

(3) If the responsible HHS official initiated proceedings because of a delegate agency's activities, the official must inform the delegate agency that it may participate in the hearing. If the delegate agency chooses to participate in the hearing, it must notify the responsible HHS official in writing within 30 days of the grantee's appeal. If any other delegate agency, person,

Note: References are located in the Appendix, starting at page 117.

agency or organization wishes to participate in the hearing, it may request permission to do so from the Departmental Appeals Board.

(4) If the grantee fails to appear at the hearing, without good cause, the grantee will be deemed to have waived its right to a hearing and consented to have the Departmental Appeals Board make a decision based on the parties' written information and argument.

(5) A grantee may waive the hearing and submit written information and argument for the record, within a reasonable period of time to be fixed by the Departmental Appeals Board.

(6) The responsible HHS official may attempt, either personally or through a representative, to resolve the issues in dispute by informal means prior to the hearing.

(g) Decision. The Departmental Appeals Board's decision and any measure the responsible HHS official takes after the decision is fully binding upon the grantee and its delegate agencies, whether or not they actually participated in the hearing.

§1304.6 Appeal for prospective delegate agencies.

(a) Appeal. If a grantee denies, or fails to act on, a prospective delegate agency's funding application, the prospective delegate may appeal the grantee's decision or inaction.

(b) Process for prospective delegates. To appeal, a prospective delegate must:

(1) Submits the appeal, including a copy of the funding application, to the responsible HHS official within 30 days after it receives the grantee's decision; or within 30 days after the grantee has had 120 days to review but has not notified the applicant of a decision; and,

(2) Provide the grantee with a copy of the appeal at the same time the appeal is filed with the responsible HHS official.

(c) Process for grantees. When an appeal is filed with the responsible HHS official, the grantee must respond to the appeal and submit a copy of its response to the responsible HHS official and to the prospective delegate agency within 30 work days.

(d) Decision.

(1) The responsible HHS official will sustain the grantee's decision, if the official determines the grantee did not act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements.

(2) The responsible HHS official will render a written decision to each party within a reasonable timeframe. The official's decision is final and not subject to further appeal.

(3) If the responsible HHS official finds the grantee did act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements, the grantee will be directed to reevaluate their applications.

§1304.7 Legal fees.

(a) An agency is not authorized to charge to its grant legal fees or other costs incurred to appeal terminations, reductions of funding, or denials of applications of refunding decisions.

(b) If a program prevails in a termination, reduction, or denial of refunding decision, the responsible HHS official may reimburse the agency for reasonable and customary legal fees, incurred during the appeal, if:

(1) The Departmental Appeals Board overturns the responsible HHS official's decision;

(2) The agency can prove it incurred fees during the appeal; and,

(3) The agency can prove the fees incurred are reasonable and customary.

Subpart B — Designation Renewal

§1304.10 Purpose and scope.

The purpose of this subpart is to set forth policies and procedures for the designation renewal of Head Start and Early Head Start programs. It is intended that these programs be administered effectively and responsibly; that applicants to administer programs receive fair and equitable consideration; and that the legal rights of current Head Start and Early Head Start grantees be fully protected. The Designation Renewal System is established in this part to determine whether Head Start and Early Head Start agencies deliver high-quality services to meet the educational, health, nutritional, and social needs of the children and families they serve; meet the program and financial requirements and standards described in section 641A(a)(1)[53] of the Head Start Act; and qualify to be designated for funding for five years without competing for such funding as required under section 641(c) of the Head Start Act with respect to Head Start agencies and pursuant to section 645A(b)(12) and (d) with respect to Early Head Start agencies. A competition to select a new Head Start or Early Head Start agency to replace a Head Start or Early Head Start agency that has been terminated voluntarily or involuntarily is not part of the Designation Renewal System established in this Part, and is subject instead to the requirements of §1304.20.

§1304.11 Basis for determining whether a Head Start agency will be subject to an open competition.

A Head Start or Early Head Start agency shall be required to compete for its next five years of funding whenever the responsible HHS official determines that one or more of the following seven conditions existed during the relevant time period covered by the responsible HHS official's review under §1304.15:

(a) An agency has been determined by the responsible HHS official to have one or more deficiencies on a single review conducted under section 641A(c)(1)(A), (C), or (D)[54] of the Act in the relevant time period covered by the responsible HHS official's review under §1304.15.

Note: References are located in the Appendix, starting at page 117.

(b) An agency has been determined by the responsible HHS official based on a review conducted under section 641A(c)(1)(A), (C), or (D)[54] of the Act during the relevant time period covered by the responsible HHS official's review under §1304.15 not to have:

(1) After December 9, 2011, established program goals for improving the school readiness of children participating in its program in accordance with the requirements of section 641A(g)(2)[55] of the Act and demonstrated that such goals:

(i) Appropriately reflect the ages of children, birth to five, participating in the program;

(ii) Align with the *Birth to Five Head Start Child Outcomes Framework*, state early learning guidelines, and the requirements and expectations of the schools, to the extent that they apply to the ages of children, birth to five, participating in the program and at a minimum address the domains of language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development;

(iii) Were established in consultation with the parents of children participating in the program.

(2) After December 9, 2011, taken steps to achieve the school readiness goals described under paragraph (b)(1) of this section demonstrated by:

(i) Aggregating and analyzing aggregate child-level assessment data at least three times per year (except for programs operating less than 90 days, which will be required to do so at least twice within their operating program period) and using that data in combination with other program data to determine grantees' progress toward meeting its goals, to inform parents and the community of results, and to direct continuous improvement related to curriculum, instruction, professional development, program design and other program decisions; and,

(ii) Analyzing individual ongoing, child-level assessment data for all children birth to age five participating in the program and using that data in combination with input from parents and families to determine each child's status and progress with regard to, at a minimum, language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development and to individualize the experiences, instructional strategies, and services to best support each child.

(c) An agency has been determined during the relevant time period covered by the responsible HHS official's review under §1304.15:

(1) After December 9, 2011, to have an average score across all classrooms observed below the following minimum thresholds on any of the three CLASS: Pre-K domains from the most recent CLASS: Pre-K observation:

(i) For the Emotional Support domain the minimum threshold is 4;

(ii) For the Classroom Organization domain, the minimum threshold is 3;

(iii) For the Instructional Support domain, the minimum threshold is 2;

(2) After December 9, 2011, to have an average score across all classrooms observed that is in the lowest 10 percent on any of the three CLASS: Pre-K domains from the most recent CLASS: Pre-K observation among those currently being reviewed unless the average score across all classrooms observed for that CLASS: Pre-K domain is equal to or above the standard of excellence that demonstrates that the classroom interactions are above an exceptional level of quality. For all three domains, the "standard of excellence" is a 6.

(d) An agency has had a revocation of its license to operate a Head Start or Early Head Start center or program by a state or local licensing agency during the relevant time period covered by the responsible HHS official's review under §1304.15, and the revocation has not been overturned or withdrawn before a competition for funding for the next five-year period is announced. A pending challenge to the license revocation or restoration of the license after correction of the violation shall not affect application of this requirement after the competition for funding for the next five-year period has been announced.

(e) An agency has been suspended from the Head Start or Early Head Start program by ACF during the relevant time period covered by the responsible HHS official's review under §1304.16 and the suspension has not been overturned or withdrawn. If there is a pending appeal and the agency did not have an opportunity to show cause as to why the suspension should not have been imposed or why the suspension should have been lifted if it had already been imposed under this part, the agency will not be required to compete based on this condition. If an agency has received an opportunity to show cause, the condition will be implemented regardless of appeal status.

(f) An agency has been debarred from receiving federal or state funds from any federal or state department or agency or has been disqualified from the Child and Adult Care Food Program (CACFP) any time during the relevant time period covered by the responsible HHS official's review under §1304.15 but has not yet been terminated or denied refunding by ACF. (A debarred agency will only be eligible to compete for Head Start funding if it receives a waiver described in 2 CFR 180.135[56].)

(g) An agency has been determined within the twelve months preceding the responsible HHS official's review under §1304.15 to be at risk of failing to continue functioning as a going concern. The final determination is made by the responsible HHS official based on a review of the findings and opinions of an audit conducted in accordance with section 647[57] of the Act; an audit, review or investigation by a state agency; a review by the National External Audit Review (NEAR) Center; or an audit, investigation or inspection by the Department of Health and Human Services Office of Inspector General.

§1304.12 Grantee reporting requirements concerning certain conditions.

(a) Head Start agencies must report in writing to the responsible HHS official within 30 working days of December 9, 2011, if the agency has had a revocation of a license to operate a center by a state of local licensing entity during the period between June 12, 2009, and December 9, 2011.

(b) Head Start agencies must report in writing to the responsible HHS official within 10 working days of occurrence any of the following events following December 9, 2011:

Note: References are located in the Appendix, starting at page 117.

(1) The agency has had a revocation of a license to operate a center by a state or local licensing entity.

(2) The agency has filed for bankruptcy or agreed to a reorganization plan as part of a bankruptcy settlement.

(3) The agency has been debarred from receiving federal or state funds from any federal or state department or agency or has been disqualified from the Child and Adult Care Food Program (CACFP).

(4) The agency has received an audit, audit review, investigation or inspection report from the agency's auditor, a state agency, or the cognizant federal audit agency containing a determination that the agency is at risk for ceasing to be a going concern.

§1304.13 Requirements to be considered for designation for a five-year period when the existing grantee in a community is not determined to be delivering a high-quality and comprehensive Head Start program and is not automatically renewed.

In order to compete for the opportunity to be awarded a five-year grant, an agency must submit an application to the responsible HHS official that demonstrates that it is the most qualified entity to deliver a high-quality and comprehensive Head Start or Early Head Start program. The application must address the criteria for selection listed at section 641(d)(2)[58] of the Act for Head Start. Any agency that has had its Head Start or Early Head Start grant terminated for cause in the preceding five years is excluded from competing in such competition for the next five years. A Head Start or Early Head Start agency that has had a denial of refunding, as defined in 45 CFR part 1305, in the preceding five years is also excluded from competing.

§1304.14 Tribal government consultation under the Designation Renewal System for when an Indian Head Start grant is being considered for competition.

(a) In the case of an Indian Head Start or Early Head Start agency determined not to be delivering a high-quality and comprehensive Head Start or Early Head Start program, the responsible HHS official will engage in government-to-government consultation with the appropriate tribal government or governments for the purpose of establishing a plan to improve the quality of the Head Start program or Early Head Start program operated by the Indian Head Start or Indian Early Head Start agency.

(1) The plan will be established and implemented within six months after the responsible HHS official's determination.

(2) Not more than six months after the implementation of that plan, the responsible HHS official will reevaluate the performance of the Indian Head Start or Early Head Start agency.

(3) If the Indian Head Start or Early Head Start agency is still not delivering a high-quality and comprehensive Head Start or Early Head Start program, the responsible HHS official will con-

duct an open competition to select a grantee to provide services for the community currently being served by the Indian Head Start or Early Head Start agency.

(b) A non-Indian Head Start or Early Head Start agency will not be eligible to receive a grant to carry out an Indian Head Start program, unless there is no Indian Head Start or Early Head Start agency available for designation to carry out an Indian Head Start or Indian Early Head Start program.

(c) A non-Indian Head Start or Early Head Start agency may receive a grant to carry out an Indian Head Start program only until such time as an Indian Head Start or Indian Early Head Start agency in such community becomes available and is designated pursuant to this part.

§1304.15 Designation request, review and notification process.

(a) Grantees must apply to be considered for Designation Renewal.

(1) For the transition period, each Head Start or Early Head Start agency wishing to be considered to have their designation as a Head Start or Early Head Start agency renewed for a five year period without competition shall request that status from ACF within six months of December 9, 2011.

(2) After the transition period, each Head Start or Early Head Start agency wishing to be considered to have their designation as a Head Start or Early Head Start agency renewed for another five year period without competition shall request that status from ACF at least 12 months before the end of their five year grant period or by such time as required by the Secretary.

(b) ACF will review the relevant data to determine if one or more of the conditions under §1304.11 were met by the Head Start and Early Head Start agency's program:

(1) During the first year of the transition period, ACF shall review the data on each Head Start and Early Head Start agency to determine if any of the conditions under §1304.11(a) or (d) through (g) were met by the agency's program since June 12, 2009.

(2) During the remainder of the transition period, ACF shall review the data on each Head Start and Early Head Start agency still under grants with indefinite project periods and for whom ACF has relevant data on all of the conditions in §1304.11(a) through (g) to determine if any of the conditions under §1304.11 (a) or (d) through (g) were met by the agency's program since June 12, 2009, or if the conditions under §1304.11(b) or (c) existed in the agency's program since December 9, 2011.

(3) Following the transition period, ACF shall review the data on each Head Start and Early Head Start agency in the fourth year of the grant to determine if any of the conditions under §1304.11 existed in the agency's program during the period of that grant.

(c) ACF will give notice to grantees on Designation Renewal System status, except as provided in §1304.14:

(1) During the first year of the transition period, ACF shall give written notice to all grantees meeting any of the conditions under §1304.11(a) or (d) through (g) since June 12, 2009,

Note: References are located in the Appendix, starting at page 117.

by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee, stating that the Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period, identifying the conditions ACF found, and summarizing the basis for the finding. All grantees that do not meet any of the conditions under §1304.11(a) or (d) through (g) will remain under indefinite project periods until the time period described under paragraph (b)(2) of this section.

(2) During the remainder of the transition period, ACF shall give written notice to all grantees still under grants with indefinite project periods and on the conditions in §1304.11(a) through (g) by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee stating either:

(i) The Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under §1304.11(a) through (g) has been met during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or

(ii) That such agency has been determined on a preliminary basis to be eligible for renewed funding for five years without competition because ACF finds that none of the conditions under §1304.11 have been met during the relevant time period described in paragraph (b) of this section. If prior to the award of that grant, ACF determines that the grantee has met one of the conditions under §1304.11 during the relevant time period described in paragraph (b) of this section, this determination will change and the grantee will receive notice under paragraph (c)(2)(i) of this section that it will be required to compete for funding for an additional five-year period.

(3) Following the transition period, ACF shall give written notice to all grantees at least 12 months before the expiration date of a Head Start or Early Head Start agency's then current grant by certified mail return receipt requested or other system that establishes the date of receipt of the notice by the addressee, stating:

(i) The Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under §1304.11 were met by the agency's program during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or,

(ii) That such agency has been determined on a preliminary basis to be eligible for renewed funding for five years without competition because ACF finds that none of the conditions under §1304.11 have been met during the relevant time period described in paragraph (b) of this section. If prior to the award of that grant, ACF determines that the grantee has met one of the conditions under §1304.11 during the relevant time period described in paragraph (b) of this section, this determination will change and the grantee will receive notice under paragraph (c)(3)(i) of this section that it will be required to compete for funding for an additional five-year period.

§1304.16 Use of CLASS: Pre-K instrument in the Designation Renewal System.

Except when all children are served in a single classroom, ACF will conduct observations of multiple classes operated by the grantee based on a random sample of all classes and rate the conduct of the classes observed using the CLASS: Pre-K instrument. When the grantee serves children in its program in a single class, that class will be observed and rated using the CLASS: Pre-K instrument. The domain scores for that class will be the domain scores for the grantee for that observation. After the observations are completed, ACF will report to the grantee the scores of the classes observed during the CLASS: Pre-K observations in each of the domains covered by the CLASS: Pre-K instrument. ACF will average CLASS: Pre-K instrument scores in each domain for the classes operated by the agency that ACF observed to determine the agency's score in each domain.

Subpart C — Selection of Grantees through Competition

§1304.20 Selection among applicants.

(a) In selecting an agency to be designated to provide Head Start, Early Head Start, Migrant or Seasonal Head Start or tribal Head Start or Early Head Start services, the responsible HHS official will consider the applicable criteria at Section 641(d) of the Head Start Act and any other criteria outlined in the funding opportunity announcement.

(b) In competitions to replace or potentially replace a grantee the responsible HHS official will also consider the extent to which the applicant supports continuity for participating children, the community and the continued employment of effective, well qualified personnel.

(c) In competitions to replace or potentially replace a current grantee, the responsible HHS official will give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood education and development services and programs to children and their families.

Subpart D — Replacement of American Indian and Alaska Native Grantees

§1304.30 Procedure for identification of alternative agency.

(a) An Indian tribe whose Head Start grant has been terminated, relinquished, designated for competition or which has been denied refunding as a Head Start agency, may identify an alternate agency and request the responsible HHS official to designate such agency as an alternative agency to provide Head Start services to the tribe if:

(1) The tribe was the only agency that was receiving federal financial assistance to provide Head Start services to members of the tribe; and,

Note: References are located in the Appendix, starting at page 117.

(2) The tribe would be otherwise precluded from providing such services to its members because of the termination or denial of refunding.

(b)

(1) The responsible HHS official, when notifying a tribal grantee of the intent to terminate financial assistance or deny its application for refunding, or its designation for competition must notify the grantee that it may identify an agency and request that the agency serve as the alternative agency in the event that the grant is terminated or refunding denied, or the grant is not renewed without competition.

(2) The tribe must identify the alternate agency to the responsible HHS official in writing.

(3) The responsible HHS official will notify the tribe, in writing, whether the alternative agency proposed by the tribe is found to be eligible for Head Start funding and capable of operating a Head Start program. If the alternative agency identified by the tribe is not an eligible agency capable of operating a Head Start program, the tribe will have 15 days from the date of the sending of the notification to that effect from the responsible HHS official to identify another agency and request that the agency be designated. The responsible HHS official will notify the tribe in writing whether the second proposed alternate agency is found to be an eligible agency capable of operating the Head Start program.

(4) If the tribe does not identify an eligible, suitable alternative agency, a grantee will be designated under these regulations.

(c) If the tribe appeals a termination of financial assistance or a denial of refunding, it will, consistent with the terms of §1304.5, continue to be funded pending resolution of the appeal. However, the responsible HHS official and the grantee will proceed with the steps outlined in this regulation during the appeal process.

(d) If the tribe does not identify an agency and request that the agency be appointed as the alternative agency, the responsible HHS official will seek a permanent replacement grantee under these regulations.

§1304.31 Requirements of alternative agency.

The agency identified by the Indian tribe must establish that it meets all requirements established by the Head Start Act and these requirements for designation as a Head Start grantee and that it is capable of conducting a Head Start program. The responsible HHS official, in deciding whether to designate the proposed agency, will analyze the capacity and experience of the agency according to the criteria found in section 641(d) of the Head Start Act and §1304.20.

§1304.32 Alternative agency—prohibition.

(a) No agency will be designated as the alternative agency pursuant to this subpart if the agency includes an employee who:

(1) Served on the administrative or program staff of the Indian tribal grantee described under section 646(e)(1)(A) of the Act[59]; and

(2) Was responsible for a deficiency that:

(i) Relates to the performance standards or financial management standards described in section 641A(a)(1)[53] of the Act; and,

(ii) Was the basis for the termination of assistance under section 646(e)(1)(A)[59] of the Act or denial of refunding described in §1304.4.

(b) The responsible HHS official shall determine whether an employee was responsible for a deficiency within the meaning and context of this section.

Subpart E — Head Start Fellows Program

§1304.40 Purpose.

As provided in section 648A(d)[60] of the Act, the Head Start Fellows Program is designed to enhance the ability of Head Start Fellows to make significant contributions to Head Start and to other child development and family services programs.

§1304.41 Head Start Fellows Program.

(a) Selection. An applicant must be working on the date of application in a local Head Start program or otherwise working in the field of child development and family services. The qualifications of the applicants for Head Start Fellowship positions will be competitively reviewed.

(b) Placement. Head Start Fellows may be placed in the Head Start national and regional offices; local Head Start agencies and programs; institutions of higher education; public or private entities and organizations concerned with services to children and families; and other appropriate settings.

(c) Restrictions. A Head Start Fellow who is not an employee of a local Head Start agency or program may only be placed in the national or regional offices within the Department of Health and Human Services that administer Head Start or local Head Start agencies. Head Start Fellows shall not be placed in any agency whose primary purpose, or one of whose major purposes is to influence federal, state or local legislation.

(d) Duration. Head Start Fellowships will be for terms of one year, and may be renewed for a term of one additional year.

(e) Status. For the purposes of compensation for injuries under chapter 81 of title 5, United States Code, Head Start Fellows shall be considered to be employees, or otherwise in the service or employment, of the federal government. Head Start Fellows assigned to the national or regional offices within the Department of Health and Human Services shall be considered employees in the Executive Branch of the federal government for the purposes of chapter 11 of title 18, United States Code, and for the purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

Note: References are located in the Appendix, starting at page 117.

Part 1305 — Definitions

Section
1305.1 Purpose.
1305.2 Terms.

AUTHORITY: 42 U.S.C. 9801 *et seq.*

§1305.1 Purpose.

The purpose of this part is to define terms for the purposes of this subchapter.

§1305.2 Terms.

For the purposes of this subchapter, the following definitions apply:

ACF means the Administration for Children and Families in the Department of Health and Human Services.

Act means the Head Start Act, Sec. 635 *et seq.*, Pub. L. 97-35, 95 Stat. 499-511 (codified as amended at 42 U.S.C. Section 9801, *et seq.*).

Agency means the body that receives the Head Start grant.

Aggregate child-level assessment data means the data collected by an agency on the status and progress of the children it serves that have been combined to provide summary information about groups of children enrolled in specific classes, centers, home-based or other options, groups or settings, or other groups of children such as dual language learners, or to provide summary information by specific domains of development.

Allowable alternate vehicle means a vehicle designed for carrying eleven or more people, including the driver, that meets all the Federal Motor Vehicle Safety Standards applicable to school buses, except 49 CFR 571.108 and 571.131.

Budget period means the interval of time, into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes.

Case plan is defined as presented in 42 U.S.C. 675(1)[61] which, in summary, is a written document that must include a number of specified items including, but is not limited to, a plan for safe and proper care of the child in foster care placement, health records, and a plan for ensuring the educational stability of the child in foster care.

Child-level assessment data means the data collected by an agency on an individual child from one or more valid and reliable assessments of a child's status and progress, including but not limited to direct assessment, structured observations, checklists, staff or parent report measures, and portfolio records or work samples.

Note: References are located in the Appendix, starting at page 117.

Child records means records that:

(1) Are directly related to the child;

(2) Are maintained by the program, or by a party acting for the program; and

(3) Include information recorded in any way, such as print, electronic, or digital means, including media, video, image, or audio format.

Child restraint system means any device designed to restrain, seat, or position children that meets the current requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213, for children in the weight category established under the regulation, or any device designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213.

Child with a disability is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801.

CLASS: Pre-K means The Classroom Assessment Scoring System (CLASS). The CLASS is an observational instrument that assesses classroom quality in preschool through third grade classrooms. This tool meets the requirements described in 641(c)(1)(D) and 641A(c)(2)(F) of the Head Start Act (42 U.S.C. 9836(c)(1)(D) and 9836a(c)(2)(F)). The CLASS assesses three domains of classroom experience: Emotional Support, Classroom Organization, and Instructional Support.

(1) Emotional Support measures children's social and emotional functioning in the classroom, and includes four dimensions: Positive Climate, Negative Climate, Teacher Sensitivity and Regard for Student Perspectives. Positive Climate addresses the emotional connection, respect, and enjoyment demonstrated between teachers and children and among children. Negative Climate addresses the level of expressed negativity such as anger, hostility, or aggression exhibited by teachers and/or children in the classroom. Teacher Sensitivity addresses teachers' awareness of and responsivity to children's academic and emotional concerns. Regard for Student Perspectives addresses the degree to which teachers' interactions with children and classroom activities place an emphasis on children's interests, motivations, and points of view.

(2) Classroom Organization measures a broad array of classroom processes related to the organization and management of children's behavior, time, and attention in the classroom. It includes three dimensions: Behavior Management, Productivity, and Instructional Learning Formats. Behavior Management addresses how effectively teachers monitor, prevent, and redirect behavior. Productivity addresses how well the classroom runs with respect to routines and the degree to which teachers organize activities and directions so that maximum time can be spent on learning activities. Instructional Learning Formats addresses how teachers facilitate activities and provide interesting materials so that children are engaged and learning opportunities are maximized.

(3) Instructional Support measures the ways in which teachers implement curriculum to effectively support cognitive and language development. It includes three dimensions: Concept Development, Quality of Feedback, and Language Modeling. Concept Development addresses how teachers use instructional discussions and activities to promote children's higher order

thinking skills in contrast to a focus on rote instruction. Quality of Feedback addresses how teachers extend children's learning through their responses to children's ideas, comments, and work. Language Modeling addresses the extent to which teachers facilitate and encourage children's language.

(4) Assessments with the CLASS involve observation-based measurement of each dimension on a seven point scale. A score ranging from 1 (minimally characteristic) to 7 (highly characteristic) is given for each dimension and represents the extent to which that dimension is characteristic of that classroom. Relevant dimension scores are used to calculate each domain score.

Commercial Driver's License (CDL) means a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR part 383[62], to an individual which authorizes the individual to operate a class of commercial motor vehicles.

Construction means new buildings, and excludes renovations, alterations, additions, or work of any kind to existing buildings.

Continuity of care means Head Start or Early Head Start services provided to children in a manner that promotes primary caregiving and minimizes the number of transitions in teachers and teacher assistants that children experience over the course of the day, week, program year, and to the extent possible, during the course of their participation from birth to age three in Early Head Start and in Head Start.

Deficiency is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801[47].

Delegate agency is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801[42].

Development and administrative costs mean costs incurred in accordance with an approved Head Start budget which do not directly relate to the provision of program component services, including services to children with disabilities, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

Disclosure means to permit access to or the release, transfer, or other communication of PII contained in child records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Double session variation means a center-based option that employs a single teacher to work with one group of children in the morning and a different group of children in the afternoon.

Dual benefit costs mean costs incurred in accordance with an approved Head Start budget which directly relate to both development and administrative functions and to the program component services, including services to children with disabilities, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

Dual language learner means a child who is acquiring two or more languages at the same time, or a child who is learning a second language while continuing to develop their first language. The term "dual language learner" may encompass or overlap substantially with other terms frequently used,

Note: References are located in the Appendix, starting at page 117.

such as bilingual, English language learner (ELL), Limited English Proficient (LEP), English learner, and children who speak a Language Other Than English (LOTE).

Early Head Start agency means a public or private non-profit or for-profit entity designated by ACF to operate an Early Head Start program to serve pregnant women and children from birth to age three, pursuant to Section 645A(e) of the Head Start Act.

Enrolled (or any variation of) means a child has been accepted and attended at least one class for center-based or family child care option or at least one home visit for the home-based option.

Enrollment year means the period of time, not to exceed twelve months, during which a Head Start program provides center or home-based services to a group of children and their families.

Facility means a structure, such as a building or modular unit, appropriate for use in carrying out a Head Start program and used primarily to provide Head Start services, including services to children and their families, or for administrative purposes or other activities necessary to carry out a Head Start program.

Family means all persons living in the same household who are supported by the child's parent(s)' or guardian(s)' income; and are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption; or are the child's authorized caregiver or legally responsible party.

Federal interest is a property right which secures the right of the federal awarding agency to recover the current fair market value of its percentage of participation in the cost of the facility in the event the facility is no longer used for Head Start purposes by the grantee or upon the disposition of the property. When a grantee uses Head Start funds to purchase, construct or renovate a facility, or make mortgage payments, it creates a federal interest. The federal interest includes any portion of the cost of purchase, construction, or renovation contributed by or for the entity, or a related donor organization, to satisfy a matching requirement.

Federal Motor Vehicle Safety Standards (FMVSS) means the National Highway and Traffic Safety Administration's standards for motor vehicles and motor vehicle equipment (49 CFR part 571) established under section 30111 of Title 49, United States Code.

Financial viability means that an organization is able to meet its financial obligations, balance funding and expenses and maintain sufficient funding to achieve organizational goals and objectives.

Fixed route means the established routes to be traveled on a regular basis by vehicles that transport children to and from Head Start or Early Head Start program activities, and which include specifically designated stops where children board or exit the vehicle.

Foster care means 24-hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child-care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is federal matching of any payments that are made.

Full-working-day means not less than 10 hours of Head Start or Early Head Start services per day.

Funded enrollment means the number of participants which the Head Start grantee is to serve, as indicated on the grant award.

Going concern means an organization that operates without the threat of liquidation for the foreseeable future, a period of at least 12 months.

Grantee means the local public or private non-profit agency or for-profit agency which has been designated as a Head Start agency under 42 U.S.C. 9836 and which has been granted financial assistance by the responsible HHS official to operate a Head Start program.

Head Start agency means a local public or private non-profit or for-profit entity designated by ACF to operate a Head Start program to serve children age three to compulsory school age, pursuant to section 641(b) and (d) of the Head Start Act.

Head Start Early Learning Outcomes Framework: Ages Birth to Five means the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*, which describes the skills, behaviors, and knowledge that programs must foster in all children. It includes five central domains: Approaches to Learning; Social and Emotional Development; Language and Literacy; Cognition; and Perceptual, Motor, and Physical Development. These central domains are broken into five domains for infants and toddlers and seven domains for preschoolers. Infant and Toddler domains are Approaches to Learning; Social and Emotional Development; Language and Communication; Cognition; and Perceptual, Motor, and Physical Development. Preschool domains are Approaches to Learning; Social and Emotional Development; Language and Communication; Literacy; Mathematics Development; Scientific Reasoning; and Perceptual, Motor, and Physical Development. Domains are divided into sub-domains with goals that describe broad skills, behaviors, and concepts that are important for school success. Developmental progressions describe the skills, behaviors and concepts that children may demonstrate as they progress. As described in the Head Start Act, the Framework is central to program operations that promote high-quality early learning environments (42 U.S.C. 9832(21)(G)(iv)(II)(aa), 42 U.S.C. 9835(o), 42 U.S.C. 9836(d)(2)(C), 42 U.S.C. 9836a(g)(2)(A), 42 U.S.C. 9837(f)(3)(E), 42 U.S.C. 9837a(a)(3), 42 U.S.C. 9837a(a)(14), 42 U.S.C. 9837b(a)(2)(B)(iii), 42 U.S.C. 9837b(a)(4)(A)(i), and 42 U.S.C. 9837b(a)(4)(B)(iii)).

Homeless children means the same as homeless children and youths in Section 725(2)[63] of the McKinney-Vento Homeless Assistance Act at 42 U.S.C. 11434a (2).

Home visitor means the staff member in the home-based program option assigned to work with parents to provide comprehensive services to children and their families through home visits and group socialization activities.

Hours of planned class operations means hours when children are scheduled to attend. Professional development, training, orientation, teacher planning, data analysis, parent-teacher conferences, home visits, classroom sanitation, and transportation do not count toward the hours of planned class operations.

Income means gross cash income and includes earned income, military income (including pay and allowances, except those described in Section 645(a)(3)(B)[64] of the Act), veteran's benefits, Social Security benefits, unemployment compensation, and public assistance benefits. Additional examples of gross cash income are listed in the definition of "income" which appears in U.S. Bureau of the Census, Current Population Reports, Series P-60-185 (available at https://www2.census.gov/prod2/popscan/p60-185.pdf).

Indian Head Start agency means a program operated by an Indian tribe (as defined by the Act) or designated by an Indian tribe to operate on its behalf.

Indian tribe is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801[65].

Individualized Education Program is defined in the same manner as presented in the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*)[66].

Individualized Family Service Plan is defined in the same manner as presented in the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*)[67].

Legal status means the existence of an applicant or grantee as a public agency or organization under the law of the state in which it is located, or existence as a private nonprofit or for-profit agency or organization as a legal entity recognized under the law of the state in which it is located. Existence as a private non-profit agency or organization may be established under applicable state or federal law.

Local agency responsible for implementing IDEA means the early intervention service provider under Part C of IDEA and the local educational agency under Part B of IDEA.

Major renovation means any individual or collection renovation that has a cost equal to or exceeding $250,000. It excludes minor renovations and repairs except when they are included in a purchase application.

Migrant family means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who changed their residence by moving from one geographic location to another, either intrastate or interstate, within the preceding two years for the purpose of engaging in agricultural work and whose family income comes primarily from this activity.

Migrant or Seasonal Head Start Program means:

(1) With respect to services for migrant farm workers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from one geographic location to another in the preceding 2-year period; and,

(2) With respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period.

Minor renovation means improvements to facilities, which do not meet the definition of major renovation.

Modular unit means a portable prefabricated structure made at another location and moved to a site for use by a Head Start grantee to carry out a Head Start program, regardless of the manner or extent to which the modular unit is attached to underlying real property.

National Driver Register means the National Highway Traffic Safety Administration's automated system for assisting state driver license officials in obtaining information regarding the driving records of individuals who have been denied licenses for cause; had their licenses denied for cause, had their licenses canceled, revoked, or suspended for cause, or have been convicted of certain serious driving offenses.

Parent means a Head Start child's mother or father, other family member who is a primary caregiver, foster parent or authorized caregiver, guardian or the person with whom the child has been placed for purposes of adoption pending a final adoption decree.

Participant means a pregnant woman or child who is enrolled in and receives services from a Head Start, an Early Head Start, a Migrant or Seasonal Head Start, or an American Indian and Alaska Native Head Start program.

Personally identifiable information (PII) means any information that could identify a specific individual, including but not limited to a child's name, name of a child's family member, street address of the child, social security number, or other information that is linked or linkable to the child.

Program means a Head Start, Early Head Start, migrant, seasonal, or tribal program, funded under the Act and carried out by an agency, or delegate agency, to provide ongoing comprehensive child development services.

Program costs mean costs incurred in accordance with an approved Head Start budget which directly relate to the provision of program component services, including services to children with disabilities, as set forth and described in the Head Start Program Performance Standards (45 CFR part 1304).

Purchase means to buy an existing facility, including outright purchase, down payment or through payments made in satisfaction of a mortgage or other loan agreement, whether principal, interest or an allocated portion principal and/or interest. The use of grant funds to make a payment under a capital lease agreement, as defined in the cost principles, is a purchase subject to these provisions. Purchase also refers to an approved use of Head Start funds to continue paying the cost of purchasing facilities or refinance an existing loan or mortgage beginning in 1987.

Real property means land, including land improvements, buildings, structures and all appurtenances thereto, excluding movable machinery and equipment.

Recruitment area means that geographic locality within which a Head Start program seeks to enroll Head Start children and families. The recruitment area can be the same as the service area or it can be a smaller area or areas within the service area.

Note: References are located in the Appendix, starting at page 117.

Relevant time period means:

(1) The 12 months preceding the month in which the application is submitted; or

(2) During the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.

Repair means maintenance that is necessary to keep a Head Start facility in working condition. Repairs do not add significant value to the property or extend its useful life.

Responsible HHS official means the official of the Department of Health and Human Services who has authority to make grants under the Act.

School readiness goals mean the expectations of children's status and progress across domains of language and literacy development, cognition and general knowledge, approaches to learning, physical well-being and motor development, and social and emotional development that will improve their readiness for kindergarten.

School bus means a motor vehicle designed for carrying 11 or more persons (including the driver) and which complies with the Federal Motor Vehicle Safety Standards applicable to school buses.

Service area means the geographic area identified in an approved grant application within which a grantee may provide Head Start services.

Staff means paid adults who have responsibilities related to children and their families who are enrolled in programs.

State is defined in the same manner as presented in the Head Start Act, 42 U.S.C. 9801[68].

Termination of a grant or delegate agency agreement means permanent withdrawal of the grantee's or delegate agency's authority to obligate previously awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or delegate agency. Termination does not include:

(1) Withdrawal of funds awarded on the basis of the grantee's or delegate agency's underestimate of the unobligated balance in a prior period;

(2) Refusal by the funding agency to extend a grant or award additional funds (such as refusal to make a competing or noncompeting continuation renewal, extension or supplemental award);

(3) Withdrawal of the unobligated balance as of the expiration of a grant; and

(4) Annulment, i.e., voiding of a grant upon determination that the award was obtained fraudulently or was otherwise illegal or invalid from its inception.

Total approved costs mean the sum of all costs of the Head Start program approved for a given budget period by the Administration for Children and Families, as indicated on the Financial Assistance Award. Total approved costs consist of the federal share plus any approved non-federal match, including non-federal match above the statutory minimum.

Transition period means the three-year time period after December 9, 2011, on the Designation Renewal System during which ACF will convert all of the current continuous Head Start and Early Head Start grants into five-year grants after reviewing each grantee to determine if it meets any of the conditions under §1304.12 of this chapter that require recompetition or if the grantee will receive its first five-year grant non-competitively.

Transportation services means the planned transporting of children to and from sites where an agency provides services funded under the Head Start Act. Transportation services can involve the pick-up and discharge of children at regularly scheduled times and pre-arranged sites, including trips between children's homes and program settings. The term includes services provided directly by the Head Start and Early Head Start grantee or delegate agency and services which such agencies arrange to be provided by another organization or an individual. Incidental trips, such as transporting a sick child home before the end of the day, or such as might be required to transport small groups of children to and from necessary services, are not included under the term.

Verify or any variance of the word means to check or determine the correctness or truth by investigation or by reference.

Note: References are located in the Appendix, starting at page 117.

Appendix: Statutory References and Web Resources

1. Section 642(c)(1)(B) of the Act:

(1) GOVERNING BODY-

(B) COMPOSITION- The governing body shall be composed as follows:

(i) Not less than 1 member shall have a background and expertise in fiscal management or accounting.

(ii) Not less than 1 member shall have a background and expertise in early childhood education and development.

(iii) Not less than 1 member shall be a licensed attorney familiar with issues that come before the governing body.

(iv) Additional members shall—

(I) reflect the community to be served and include parents of children who are currently, or were formerly, enrolled in Head Start programs; and

(II) are selected for their expertise in education, business administration, or community affairs.

(v) Exceptions shall be made to the requirements of clauses (i) through

(iv) for members of a governing body when those members oversee a public entity and are selected to their positions with the public entity by public election or political appointment.

(vi) If a person described in clause (i), (ii), or (iii) is not available to serve as a member of the governing body, the governing body shall use a consultant, or an other individual with relevant expertise, with the qualifications described in that clause, who shall work directly with the governing body.

2. Section 642(c)(1)(D) of the Act:

(1) GOVERNING BODY-

(D) EXCEPTION- If an individual holds a position as a result of public election or political appointment, and such position carries with it a concurrent appointment to serve as a member of a Head Start agency governing body, and such individual has any conflict of interest described in clause (ii) or (iii) of subparagraph (C)—

(i) such individual shall not be prohibited from serving on such body and the Head Start agency shall report such conflict to the Secretary; and

(ii) if the position held as a result of public election or political appointment provides compensation, such individual shall not be prohibited from receiving such compensation.

Note: This document consists of excerpts from Public Law 110-134 "Improving Head Start for School Readiness Act of 2007," and other statutes. Readers may wish to consult the statutes in full for additional information. Web links and statutory language were excerpted at the time of compilation on September 15, 2016, but may change over time.

3. Section 642(c)(1)(C) of the Act:

(1) GOVERNING BODY-

(C) CONFLICT OF INTEREST- Members of the governing body shall—

(i) not have a financial conflict of interest with the Head Start agency (including any delegate agency);

(ii) not receive compensation for serving on the governing body or for providing services to the Head Start agency;

(iii) not be employed, nor shall members of their immediate family be employed, by the Head Start agency (including any delegate agency); and

(iv) operate as an entity independent of staff employed by the Head Start agency.

4. Section 642(c)(1)(E) of the Act:

(1) GOVERNING BODY-

(E) RESPONSIBILITIES- The governing body shall—

(i) have legal and fiscal responsibility for administering and overseeing programs under this subchapter, including the safeguarding of Federal funds;

(ii) adopt practices that assure active, independent, and informed governance of the Head Start agency, including practices consistent with subsection (d)(1), and fully participate in the development, planning, and evaluation of the Head Start programs involved;

(iii) be responsible for ensuring compliance with Federal laws (including regulations) and applicable State, tribal, and local laws (including regulations); and

(iv) be responsible for other activities, including--

(I) selecting delegate agencies and the service areas for such agencies;

(II) establishing procedures and criteria for recruitment, selection, and enrollment of children;

(III) reviewing all applications for funding and amendments to applications for funding for programs under this subchapter;

(IV) establishing procedures and guidelines for accessing and collecting information described in subsection (d)(2);

(V) reviewing and approving all major policies of the agency, including--

(aa) the annual self-assessment and financial audit;

(bb) such agency's progress in carrying out the programmatic and fiscal provisions in such agency's grant application, including implementation of corrective actions; and

(cc) personnel policies of such agencies regarding the hiring, evaluation, termination, and compensation of agency employees;

(VI) developing procedures for how members of the policy council are selected, consistent with paragraph (2)(B);

(VII) approving financial management, accounting, and reporting policies, and compliance with laws and regulations related to financial statements, including the--

(aa) approval of all major financial expenditures of the agency;

(bb) annual approval of the operating budget of the agency;

(cc) selection (except when a financial auditor is assigned by the State under State law or is assigned under local law) of independent financial auditors who shall report all critical accounting policies and practices to the governing body; and

(dd) monitoring of the agency's actions to correct any audit findings and of other action necessary to comply with applicable laws (including regulations) governing financial statement and accounting practices;

(VIII) reviewing results from monitoring conducted under section 641A(c), including appropriate followup activities;

(IX) approving personnel policies and procedures, including policies and procedures regarding the hiring, evaluation, compensation, and termination of the Executive Director, Head Start Director, Director of Human Resources, Chief Fiscal Officer, and any other person in an equivalent position with the agency;

(X) establishing, adopting, and periodically updating written standards of conduct that establish standards and formal procedures for disclosing, addressing, and resolving--

(aa) any conflict of interest, and any appearance of a conflict of interest, by members of the governing body, officers and employees of the Head Start agency, and consultants and agents who provide services or furnish goods to the Head Start agency; and

(bb) complaints, including investigations, when appropriate; and

(XI) to the extent practicable and appropriate, at the discretion of the governing body, establishing advisory committees to oversee key responsibilities related to program governance and improvement of the Head Start program involved.

5. Section 642(d)(2) of the Act:

(d) Program Governance Administration-

(2) CONDUCT OF RESPONSIBILITIES- Each Head Start agency shall ensure the sharing of accurate and regular information for use by the governing body and the policy council, about program planning, policies, and Head Start agency operations, including—

(A) monthly financial statements, including credit card expenditures;

(B) monthly program information summaries;

(C) program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency;

(D) monthly reports of meals and snacks provided through programs of the Department of Agriculture;

(E) the financial audit;

(F) the annual self-assessment, including any findings related to such assessment;

(G) the communitywide strategic planning and needs assessment of the Head Start agency, including any applicable updates;

(H) communication and guidance from the Secretary; and

(I) the program information reports.

6. Section 642(c)(2)(B) of the Act:

(2) POLICY COUNCIL-

(B) COMPOSITION AND SELECTION-

(i) The policy council shall be elected by the parents of children who are currently enrolled in the Head Start program of the Head Start agency.

(ii) The policy council shall be composed of—

(I) parents of children who are currently enrolled in the Head Start program of the Head Start agency (including any delegate agency), who shall constitute a majority of the members of the policy council; and

(II) members at large of the community served by the Head Start agency (including any delegate agency), who may include parents of children who were formerly enrolled in the Head Start program of the agency.

7. Section 642(c)(3) of the Act:

(3) POLICY COMMITTEES- Each delegate agency shall create a policy committee, which shall—

(A) be elected and composed of members, consistent with paragraph (2)(B) (with respect to delegate agencies);

(B) follow procedures to prohibit conflict of interest, consistent with clauses (i) and (ii) of paragraph (2)(C) (with respect to delegate agencies); and

(C) be responsible for approval and submission of decisions about activities as they relate to the delegate agency, consistent with paragraph (2)(D) (with respect to delegate agencies).

8. Section 642(c)(2)(C) of the Act:

(2) POLICY COUNCIL-

(C) CONFLICT OF INTEREST- Members of the policy council shall-

(i) not have a conflict of interest with the Head Start agency (including any delegate agency); and

(ii) not receive compensation for serving on the policy council or for providing services to the Head Start agency.

9. Section 642(c)(3)(B) of the Act:

(3) POLICY COMMITTEES- Each delegate agency shall create a policy committee, which shall—

(B) follow procedures to prohibit conflict of interest, consistent with clauses (i) and (ii) of paragraph (2)(C) (with respect to delegate agencies);

10. Section 642(c)(2)(D) of the Act:

(2) POLICY COUNCIL-

(D) RESPONSIBILITIES- The policy council shall approve and submit to the governing body decisions about each of the following activities:

(i) Activities to support the active involvement of parents in supporting program operations, including policies to ensure that the Head Start agency is responsive to community and parent needs.

(ii) Program recruitment, selection, and enrollment priorities.

(iii) Applications for funding and amendments to applications for funding for programs under this subchapter, prior to submission of applications described in this clause.

(iv) Budget planning for program expenditures, including policies for reimbursement and participation in policy council activities.

(v) Bylaws for the operation of the policy council.

(vi) Program personnel policies and decisions regarding the employment of program staff, consistent with paragraph (1)(E)(iv)(IX), including standards of conduct for program staff, contractors, and volunteers and criteria for the employment and dismissal of program staff.

(vii) Developing procedures for how members of the policy council of the Head Start agency will be elected.

(viii) Recommendations on the selection of delegate agencies and the service areas for such agencies.

11. McKinney-Vento Local Education Agency Liaisons (42 U.S.C. 11432 (6)(A)):

(6) LOCAL EDUCATIONAL AGENCY LIAISON

(A) Duties - Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that—

(i) homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;

(ii) homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency;

(iii) homeless families, children, and youths receive educational services for which such families, children, and youths are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency,

and referrals to health care services, dental services, mental health services, and other appropriate services;

(iv) the parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

(v) public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services under this chapter, such as schools, family shelters, and soup kitchens;

(vi) enrollment disputes are mediated in accordance with paragraph (3)(E); and

(vii) the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).

12. Section 645(a)(2) of the Act:

(2) Whenever a Head Start program is operated in a community with a population of 1,000 or less individuals and--

(A) there is no other preschool program in the community;

(B) the community is located in a medically underserved area, as designated by the Secretary pursuant to section 330(b)(3) of the Public Health Service Act [42 U.S.C. §254c(b)(3)] and is located in a health professional shortage area, as designated by the Secretary pursuant to section 332(a)(1) of such Act [42 U.S.C. §254e(a)(1)];

(C) the community is in a location which, by reason of remoteness, does not permit reasonable access to the types of services described in clauses (A) and (B); and

(D) not less than 50 percent of the families to be served in the community are eligible under the eligibility criteria established by the Secretary under paragraph (1); the Head Start program in such locality shall establish the criteria for eligibility, except that no child residing in such community whose family is eligible under such eligibility criteria shall, by virtue of such project's eligibility criteria, be denied an opportunity to participate in such program. During the period beginning on the date of the enactment of the Human Services Reauthorization Act and ending on October 1, 1994, and unless specifically authorized in any statute of the United States enacted after such date of enactment, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.

13. Sec. 645A of the Act refers to EARLY HEAD START PROGRAMS.

14. 29 U.S.C. 705(9)(b) of the Rehabilitation Act:

(9) DISABILITY - The term "disability" means—

(B) for purposes of sections 701, 711, and 712 of this title, and subchapters II, IV, V, and VII, the meaning given it in section 12102 of title 42.

Section 12102 of Title 42:

(1) DISABILITY - The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment (as described in paragraph (3).

(2) MAJOR LIFE ACTIVITIES

(A) In general - For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B)Major bodily functions - For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) REGARDED AS HAVING SUCH AN IMPAIRMENT - For purposes of paragraph (1)(C):

(A) An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY - The definition of "disability" in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.

(B) The term "substantially limits" shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

(E) (i)The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(II) use of assistive technology;

(III) reasonable accommodations or auxiliary aids or services; or

(IV) learned behavioral or adaptive neurological modifications.

(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(iii) As used in this subparagraph—

(I) the term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

(II) the term "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(iii) As used in this subparagraph—

(I) the term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

(II) the term "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

15. Section 645(a)(5) of the Act:

(5)(A) Upon written request and pursuant to the requirements of this paragraph, a Head Start agency may use funds that were awarded under this subchapter to serve children age 3 to compulsory school age, in order to serve infants and toddlers if the agency submits an application to the Secretary containing, as specified in rules issued by the Secretary, all of the following information:

(i) The amount of such funds that are proposed to be used in accordance with section 645A(b).

(ii) A communitywide strategic planning and needs assessment demonstrating how the use of such funds would best meet the needs of the community.

(iii) A description of how the needs of pregnant women, and of infants and toddlers, will be addressed in accordance with section 645A(b), and with regulations prescribed by the Secretary pursuant to section 641A in areas including the agency's approach to child development and provision of health services, approach to family and community partnerships, and approach to program design and management.

(iv) A description of how the needs of eligible children will be met in the community.

(v) Assurances that the agency will participate in technical assistance activities (including

planning, start-up site visits, and national training activities) in the same manner as recipients of grants under section 645A.

(vi) Evidence that the agency meets the same eligibility criteria as recipients of grants under section 645A.

(B) An application that satisfies the requirements specified in subparagraph (A) shall be approved by the Secretary unless the Secretary finds that—

(i) the agency lacks adequate capacity and capability to carry out an effective Early Head Start program; or

(ii) the information provided under subparagraph (A) is inadequate.

(C) In approving such applications, the Secretary shall take into account the costs of serving persons under section 645A.

(D) Any Head Start agency with an application approved under subparagraph (B) shall be considered to be an Early Head Start agency and shall be subject to the same rules, regulations, and conditions as apply to recipients of grants under section 645A, with respect to activities carried out under this paragraph.

16. Section 645(d)(3) of the Act:

(3) Notwithstanding any other provision of this Act, an Indian tribe or tribes that operates both an Early Head Start program under section 645A and a Head Start program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian tribe or tribes during a year shall not serve as the basis for the Secretary to reduce a base grant (as defined in section 640(a)(7)) for either program in succeeding years.

17. Section 640(k)(1) of the Act:

(k)(1) The Secretary shall allow center-based Head Start programs the flexibility to satisfy the total number of hours of service required by the regulations in effect on the date of enactment of the Human Services Amendments of 1994, to be provided to children in Head Start programs so long as such agencies do not--

(A) provide less than 3 hours of service per day;

(B) reduce the number of days of service per week; or

(C) reduce the number of days of service per year.

18. Section 504 of the Rehabilitation Act of 1973:

https://www.dol.gov/oasam/regs/statutes/sec504.htm

Americans with Disabilities Act:

https://www.ada.gov/2010ADAstandards_index.htm

19. Individuals with Disabilities Education Act (IDEA)

Part C (ages birth – 2 years old) http://idea.ed.gov/part-c/statutes

Part B (ages 3-21) http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C

For more resources visit http://idea.ed.gov

20. Child and Adult Care Food Program: Meal Pattern Revisions (7 CFR 210, 215, 220 and 226):

https://www.federalregister.gov/articles/2016/04/25/2016-09412/child-and-adult-care-food-program-meal-pattern-revisions-related-to-the-healthy-hunger-free-kids-act

21. IDEA and FERPA Confidentiality provisions – a crosswalk by the Department of Education:

https://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf

22. Section 642(e)(5) of the Act:

(e) Collaboration and Coordination- To be so designated, a Head Start agency shall collaborate and coordinate with public and private entities, to the maximum extent practicable, to improve the availability and quality of services to Head Start children and families, including carrying out the following activities:

(5) Enter into a memorandum of understanding, not later than 1 year after the date of enactment of the Improving Head Start for School Readiness Act of 2007, with the appropriate local entity responsible for managing publicly funded preschool programs in the service area of the Head Start agency, that shall—

(A)(i) provide for a review of each of the activities described in clause (ii); and (ii) include plans to coordinate, as appropriate, activities regarding—

(I) educational activities, curricular objectives, and instruction;

(II) public information dissemination and access to programs for families contacting the Head Start program or any of the preschool programs;

(III) selection priorities for eligible children to be served by programs;

(IV) service areas;

(V) staff training, including opportunities for joint staff training on topics such as academic content standards, instructional methods, curricula, and social and emotional development;

(VI) program technical assistance;

(VII) provision of additional services to meet the needs of working parents, as applicable;

(VIII) communications and parent outreach for smooth transitions to kindergarten as required in paragraphs (3) and (6) of section 642A(a);

(IX) provision and use of facilities, transportation, and other program elements; and

(X) other elements mutually agreed to by the parties to such memorandum;

(B) be submitted to the Secretary and the State Director of Head Start Collaboration not later than 30 days after the parties enter into such memorandum, except that—

(i) where there is an absence of publicly funded preschool programs in the service area of a Head Start agency, this paragraph shall not apply; or

(ii) where the appropriate local entity responsible for managing the publicly funded preschool programs is unable or unwilling to enter into such a memorandum, this paragraph shall not apply and the Head Start agency shall inform the Secretary and the State Director of Head Start Collaboration of such inability or unwillingness; and

(C) be revised periodically and renewed biennially by the parties to such memorandum, in alignment with the beginning of the school year.

23. Section 642(b)(13) of the Act:

(b) Family and Community Involvement; Family Services- To be so designated, a Head Start agency shall, at a minimum:

(13) Promote the continued involvement of the parents (including foster parents, grandparents, and kinship caregivers, as appropriate) of children that participate in Head Start programs in the education of their children upon transition of their children to school, by working with the local educational agency—

(A) to provide training to the parents—

(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

(ii) to enable the parents—

(I) to understand and work with schools in order to communicate with teachers and other school personnel;

(II) to support the schoolwork of their children; and

(III) to participate as appropriate in decisions relating to the education of their children; and

(B) to take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

24. The Child Care and Development Block Grant Act, criminal background checks (42 U.S.C. 9858f (c)(1)(D) and (h)(1))

(c) PROHIBITIONS

(1) CHILD CARE STAFF MEMBERS - A child care staff member shall be ineligible for employment by a child care provider that is receiving assistance under this subchapter if such individual—

(D) has been convicted of a felony consisting of—

(i) murder, as described in section 1111 of title 18;

(ii) child abuse or neglect;

(iii) a crime against children, including child pornography;

(iv) spousal abuse;

(v) a crime involving rape or sexual assault;

(vi) kidnapping;

(vii) arson;

(viii) physical assault or battery; or

(ix) subject to subsection (e)(4), a drug-related offense committed during the preceding 5 years

(h)(1) DISQUALIFICATION FOR OTHER CRIMES - Nothing in this section shall be construed to prevent a State from disqualifying individuals as child care staff members based on their conviction for crimes not specifically listed in this section that bear upon the fitness of an individual to provide care for and have responsibility for the safety and well-being of children.

25. Section 648A(a)(2)(B)(i) of the Act:

(2) DEGREE REQUIREMENTS-

(B) ADDITIONAL STAFF- The Secretary shall ensure that, not later than September 30, 2013, all—

(i) Head Start education coordinators, including those that serve as curriculum specialists, nationwide in center-based programs—

(I) have the capacity to offer assistance to other teachers in the implementation and adaptation of curricula to the group and individual needs of children in a Head Start classroom; and

(II) have—

(aa) a baccalaureate or advanced degree in early childhood education; or

(bb) a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children;

26. Section 645A(h) of the Act:

(h) Center-Based Staff- The Secretary shall—

(1) ensure that, not later than September 30, 2010, all teachers providing direct services to children and families participating in Early Head Start programs located in Early Head Start centers, have a minimum of a child development associate credential, and have been trained (or have equivalent coursework) in early childhood development; and

(2) establish staff qualification goals to ensure that not later than September 30, 2012, all such teachers have been trained (or have equivalent coursework) in early childhood development with a focus on infant and toddler development.

27. Section 648A(a)(3)(B) of the Act:

(3) ALTERNATIVE CREDENTIALING AND DEGREE REQUIREMENTS- The Secretary shall ensure that, for center-based programs, each Head Start classroom that does not have a teacher who meets the qualifications described in clause (i) or (ii) of paragraph (2)(A) is assigned one teacher who has the following during the period specified:

(B) As of October 1, 2011—

(i) an associate degree in early childhood education;

(ii) an associate degree in a related field and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; or

(iii) a baccalaureate degree and has been admitted into the Teach For America program, passed a rigorous early childhood content exam, such as the Praxis II, participated in a Teach For America summer training institute that includes teaching preschool children, and is receiving ongoing professional development and support from Teach For America's professional staff.

28. Section 648A(a)(2)(B)(ii) of the Act:

(2) DEGREE REQUIREMENTS-

(B) ADDITIONAL STAFF- The Secretary shall ensure that, not later than September 30, 2013, all—

(ii) Head Start teaching assistants nationwide in center based programs have—

(I) at least a child development associate credential;

(II) enrolled in a program leading to an associate or baccalaureate degree; or

(III) enrolled in a child development associate credential program to be completed within 2 years.

29. Section 648A(a)(5) of the Act:

(5) TEACHER IN-SERVICE REQUIREMENT- Each Head Start teacher shall attend not less than 15 clock hours of professional development per year. Such professional development shall be high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom, and regularly evaluated by the program for effectiveness.

30. Section 644(a)(2) of the Act:

(2) Each Head Start agency shall make available to the public a report published at least once in each fiscal year that discloses the following information from the most recently concluded fiscal year, except that reporting such information shall not reveal personally identifiable information about an individual child or parent:

(A) The total amount of public and private funds received and the amount from each source.

(B) An explanation of budgetary expenditures and proposed budget for the fiscal year.

(C) The total number of children and families served, the average monthly enrollment (as a percentage of funded enrollment), and the percentage of eligible children served.

(D) The results of the most recent review by the Secretary and the financial audit.

(E) The percentage of enrolled children that received medical and dental exams.

(F) Information about parent involvement activities.

(G) The agency's efforts to prepare children for kindergarten.

(H) Any other information required by the Secretary.

31. Section 641A(e)(2) of the Act:

(e) Corrective Action for Head Start Agencies-

(2) QUALITY IMPROVEMENT PLAN-

(A) AGENCY AND PROGRAM RESPONSIBILITIES- To retain a designation as a Head Start agency under this subchapter, or in the case of a Head Start program to continue to receive funds from such agency, a Head Start agency that is the subject of a determination described in paragraph (1), or a Head Start program that is determined to have a deficiency under subsection (d)(2) (excluding an agency required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)) shall—

(i) develop in a timely manner, a quality improvement plan that shall be subject to the approval of the Secretary, or in the case of a program, the sponsoring agency, and that shall specify—

(I) the deficiencies to be corrected;

(II) the actions to be taken to correct such deficiencies; and (III) the timetable for accomplishment of the corrective actions specified; and

(ii) correct each deficiency identified, not later than the date for correction of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency or Head Start program that is determined to have a deficiency received notice of the determination and of the specific deficiency to be corrected).

(B) SECRETARIAL RESPONSIBILITY- Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

(C) AGENCY RESPONSIBILITY- Not later than 30 days after receiving from a Head Start program a proposed quality improvement plan pursuant to subparagraph (A), the Head Start agency involved shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

32. Section 640(b) of the Act:

(b) Financial assistance extended under this subchapter for a Head Start program shall not exceed 80 percent of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines that such action is required in furtherance of the purposes of this subchapter. For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved--

(1) the lack of resources available in the community that may prevent the Head Start agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

(5) the impact on the community that would result if the Head Start agency ceased to carry out such program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 percent of the approved costs of programs or activities assisted under this subchapter.

33. Section 644(e) of the Act:

(e) Funds appropriated to carry out this subchapter shall not be used to assist, promote, or deter union organizing.

34. Section 644(g)(3) of the Act:

(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the "Davis-Bacon Act").

35. Section 653 of the Act: COMPARABILITY OF WAGES

(a) Comparability of Wages- The Secretary shall take such action as may be necessary to assure that persons employed in carrying out programs financed under this subchapter shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher; or (2) less than the minimum wage rate prescribed in section 6(a)(1) of the Fair Labor Standards Act of 1938. The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.

(b) Limitation- (1) IN GENERAL- Notwithstanding any other provision of law, no Federal funds may be used to pay any part of the compensation of an individual employed by a Head Start agency, if such compensation, including non-Federal funds, exceeds an amount equal to the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(2) COMPENSATION- In this subsection, the term `compensation'—

(A) includes salary, bonuses, periodic payments, severance pay, the value of any vacation time, the value of a compensatory or paid leave benefit not excluded by subparagraph (B), and the fair market value of any employee perquisite or benefit not excluded by subparagraph (B); and

(B) excludes any Head Start agency expenditure for a health, medical, life insurance, disability, retirement, or any other employee welfare or pension benefit.

36. Section 654 of the Act: NONDISCRIMINATION PROVISIONS

(a) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from par-

ticipation in, denied the benefit of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter.

(c) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract relating to the financial assistance specifically provides that no person with responsibilities in the operation of the program, project, or activity will discriminate against any individual because of a handicapping condition in violation of section 504 of the Rehabilitation Act of 1973.

37. Section 655 of the Act: LIMITATION WITH RESPECT TO CERTAIN UNLAWFUL ACTIVITIES

No individual employed or assigned by or in any Head Start agency or other agency assisted under this subchapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this subchapter by such Head Start agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

38. Section 656 of the Act: POLITICAL ACTIVITIES

(a) State or Local Agency- For purposes of Chapter 15 of title 5, United States Code, any agency which assumes responsibility for planning, developing, and coordinating Head Start programs and receives assistance under this subchapter shall be deemed to be a State or local agency. For purposes of clauses (1) and (2) of section 1502(a) of such title, any agency receiving assistance under this subchapter shall be deemed to be a State or local agency.

(b) Restrictions-

(1) IN GENERAL- A program assisted under this subchapter, and any individual employed by, or assigned to or in, a program assisted under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

(A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; or

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election.

(2) REGISTRATION- No funds appropriated under this subchapter may be used to conduct voter registration activities. Nothing in this subchapter prohibits the availability of Head Start facilities during hours of operation for the use of any nonpartisan organization to increase the number of eligible citizens who register to vote in elections for Federal office.

(3) RULES AND REGULATIONS- The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which may include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

39. Section 657A of the Act: PARENTAL CONSENT REQUIREMENT FOR NONEMERGENCY INTRUSIVE PHYSICAL EXAMINATIONS.

(a) Definition- The term `nonemergency intrusive physical examination' means, with respect to a child, a physical examination that--

(1) is not immediately necessary to protect the health or safety of the child involved or the health or safety of another individual; and

(2) requires incision or is otherwise invasive, or involves exposure of private body parts.

(b) Requirement- A Head Start agency shall obtain written parental consent before administration of any nonemergency intrusive physical examination of a child in connection with participation in a program under this subchapter.

(c) Rule of Construction- Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected or known child abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.

40. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR HHS AWARDS (45 CFR part 75)

http://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75

41. Child Abuse Prevention and Treatment Act (42 USC 5101):

The term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;

42. Section 637(3) of the Act:

The term "delegate agency" means a public, private nonprofit (including a community based organization, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or for profit organization or agency to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

43. Section 641A(d) of the Act:

(d) Evaluations and Corrective Action for Delegate Agencies-

(1) PROCEDURES- Each Head Start agency shall establish, subject to paragraph (4), procedures relating to its delegate agencies, including—

(A) procedures for evaluating delegate agencies;

(B) procedures for defunding delegate agencies; and

(C) procedures for a delegate agency to appeal a defunding decision.

(2) EVALUATION- Each Head Start agency—

(A) shall evaluate its delegate agencies using the procedures established under this subsection; and

(B) shall inform the delegate agencies of the deficiencies identified through the evaluation that are required to be corrected.

(3) REMEDIES TO ENSURE CORRECTIVE ACTIONS- In the event that the Head Start agency identifies a deficiency for a delegate agency through the evaluation, the Head Start agency shall take action, which may include—

(A) initiating procedures to terminate the designation of the agency unless the agency corrects the deficiency;

(B) conducting monthly monitoring visits to such delegate agency until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency; and

(C) releasing funds to such delegate agency—

(i) only as reimbursements except that, upon receiving a request from the delegate agency accompanied by assurances satisfactory to the Head Start agency that the funds will be appropriately safeguarded, the Head Start agency shall provide to the delegate agency a working capital advance in an amount sufficient to cover the estimated expenses involved during an agreed upon disbursing cycle; and

(ii) only if there is continuity of services.

(4) TERMINATION- The Head Start agency may not terminate a delegate agency's contract or reduce a delegate agency's service area without showing cause or demonstrating the cost-effectiveness of such a decision.

(5) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to limit the powers, duties, or functions of the Secretary with respect to Head Start agencies or delegate agencies that receive financial assistance under this subchapter.

44. Section 644(c), (f), and (g) of the Act:

(c) The Secretary shall prescribe rules or regulations to supplement subsections (a) and (f) of this section, which shall be binding on all agencies carrying on Head Start program activities with financial assistance under this subchapter. The Secretary may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. Policies and procedures shall be established to ensure that indirect costs attributable to the common or joint use of facilities and services by programs assisted under this subchapter and other programs shall be fairly allocated among the various programs which utilize such facilities and services.

(f)(1) The Secretary shall establish uniform procedures for Head Start agencies to request approval to purchase facilities, or to request approval of the purchase (after December 31, 1986) of facilities, to be used to carry out Head Start programs. The Secretary shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will

be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of such facilities.

(2) Financial assistance provided under this subchapter may not be used by a Head Start agency to purchase a facility (including paying the cost of amortizing the principal, and paying interest on, loans) to be used to carry out a Head Start program unless the Secretary approves a request that is submitted by such agency and contains—

(A) a description of the efforts by the agency to coordinate or collaborate with other providers in the community to seek assistance, including financial assistance, prior to the use of funds under this section;

(B) a description of the site of the facility proposed to be purchased or that was previously purchased;

(C) the plans and specifications of such facility;

(D) information demonstrating that--

(i) the proposed purchase will result, or the previous purchase has resulted, in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out such program; or

(ii) the lack of alternative facilities will prevent, or would have prevented, the operation of such program;

(E) in the case of a request regarding a previously purchased facility, information demonstrating that the facility will be used principally as a Head Start center, or a direct support facility for a Head Start program; and

(F) such other information and assurances as the Secretary may require.

(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility.

(g)(1) Upon a determination by the Secretary that suitable facilities (including public school facilities) are not otherwise available to Indian tribes, rural communities, and other low-income communities to carry out Head Start programs, that the lack of suitable facilities will inhibit the operation of such programs, and that construction of such facilities is more cost effective than purchase of available facilities or renovation, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance under this subchapter to make payments for capital expenditures related to facilities that will be used to carry out such programs. The Secretary shall establish uniform procedures for Head Start agencies to request approval for such payments, and shall promote, to the extent practicable, the collocation of Head Start programs with other programs serving low-income children and families.

(2) Such payments may be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as expenditures for--

(A) construction of facilities that are not in existence on the date of the determination;

(B) major renovation of facilities in existence on such date; and

(C) purchase of vehicles used for programs conducted at the Head Start facilities.

(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the "Davis-Bacon Act").

45. The Flood Disaster Protection Act of 1973:

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=4999a47429a7654bed5c-c9532b0aa93f&rgn=div5&view=text&node=12:7.0.2.3.32&idno=12

National Historic Preservation Act of 1966:

http://www.achp.gov/nhpa.pdf

46. Section 641(A)(c)(1) and (2) of the Act:

(c) Monitoring of Local Agencies and Programs-

(1) IN GENERAL - To determine whether Head Start agencies meet standards described in subsection (a)(1) established under this subchapter with respect to program, administrative, financial management, and other requirements, and in order to help the programs identify areas for improvement and areas of strength as part of their ongoing self-assessment process, the Secretary shall conduct the following reviews of Head Start agencies, including the Head Start programs operated by such agencies:

(A) A full review, including the use of a risk-based assessment approach, of each such agency at least once during each 3-year period.

(B) A review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

(C) Follow up reviews, including—

(i) return visits to Head Start agencies with 1 or more findings of deficiencies, not later than 6 months after the Secretary provides notification of such findings, or not later than 12 months after such notification if the Secretary determines that additional time is necessary for an agency to address such a deficiency prior to the review; and

(ii) a review of Head Start agencies with significant areas of noncompliance.

(D) Other reviews, including unannounced site inspections of Head Start centers, as appropriate.

(2) CONDUCT OF REVIEWS- The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

(A) are conducted by review teams that—

(i) include individuals who are knowledgeable about Head Start programs and, to the maximum extent practicable, individuals who are knowledgeable about—

(I) other early childhood education and development programs, personnel management, financial accountability, and systems development and monitoring; and

(II) the diverse (including linguistic and cultural) needs of eligible children (including children with disabilities, homeless children, children in foster care, and limited English proficient children) and their families;

(ii) include, to the maximum extent practicable, current or former

employees of the Department of Health and Human Services who are knowledgeable about Head Start programs; and

(iii) shall receive periodic training to ensure quality and consistency across reviews;

(B) include as part of the reviews, a review and assessment of program strengths and areas in need of improvement;

(C) include as part of the reviews, a review and assessment of whether programs have adequately addressed population and community needs (including those of limited English proficient children and children of migrant or seasonal farmworker families);

(D) include as part of the reviews, an assessment of the extent to which the programs address the communitywide strategic planning and needs assessment described in section 640(g)(1)(C);

(E) include information on the innovative and effective efforts of the Head Start agencies to collaborate with the entities providing early childhood and development services or programs in the community and any barriers to such collaboration that the agencies encounter;

(F) include as part of the reviews, a valid and reliable research-based observational instrument, implemented by qualified individuals with demonstrated reliability, that assesses classroom quality, including assessing multiple dimensions of teacher-child interactions that are linked to positive child development and later achievement;

(G) are conducted in a manner that evaluates program performance, quality, and overall operations with consistency and objectivity, are based on a transparent and reliable system of review, and are conducted in a manner that includes periodic interrater reliability checks, to ensure quality and consistency, across and within regions, of the reviews and of noncompliance and deficiency determinations;

(H) in the case of reviews of Early Head Start agencies and programs, are conducted by a review team that includes individuals who are knowledgeable about the development of infants and toddlers;

(I) include as part of the reviews a protocol for fiscal management that shall be used to assess compliance with program requirements for—

(i) using Federal funds appropriately;

(ii) using Federal funds specifically to purchase property (consistent with section 644(f)) and to compensate personnel;

(iii) securing and using qualified financial officer support; and

(iv) reporting financial information and implementing appropriate internal controls to safeguard Federal funds;

(J) include as part of the reviews of the programs, a review and assessment of whether the programs are in conformity with the eligibility requirements under section 645(a)(1), including regulations promulgated under such section and whether the programs have met the requirements for the outreach and enrollment policies procedures, and selection criteria, in such section, for the participation of children in programs assisted under this subchapter;

(K) include as part of the reviews, a review and assessment of whether agencies have adequately addressed the needs of children with disabilities, including whether the agencies involved have met the 10 percent minimum enrollment requirement specified in section 640(d) and whether the agencies have made sufficient efforts to collaborate with State and local agencies providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.); and

(L) include as part of the reviews, a review and assessment of child outcomes and performance as they relate to agency-determined school readiness goals described in subsection (g)(2), consistent with subsection (b)(5).

47. Section 637(2) of the Act:

(2) The term "deficiency" means—

(A) a systemic or substantial material failure of an agency in an area of performance that the Secretary determines involves—

(i) a threat to the health, safety, or civil rights of children or staff;

(ii) a denial to parents of the exercise of their full roles and responsibilities related to program operations;

(iii) a failure to comply with standards related to early childhood development and health services, family and community partnerships, or program design and management;

(iv) the misuse of funds received under this subchapter;

(v) loss of legal status (as determined by the Secretary) or financial viability, loss of permits, debarment from receiving Federal grants or contracts, or the improper use of Federal funds; or

(vi) failure to meet any other Federal or State requirement that the agency has shown an unwillingness or inability to correct, after notice from the Secretary, within the period specified;

(B) systemic or material failure of the governing body of an agency to fully exercise its legal and fiduciary responsibilities; or

(C) an unresolved area of noncompliance.

48. Section 641A(e)(1)(B) of the Act:

(e) Corrective Action for Head Start Agencies-

(1) DETERMINATION- If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to this subchapter fails to meet the standards described in subsection (a)(1) or fails to address the communitywide strategic planning and needs assessment, the Secretary shall—

(B) with respect to each identified deficiency, require the agency—

(i) to correct the deficiency immediately, if the Secretary finds that the deficiency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

(ii) to correct the deficiency not later than 90 days after the identification of the deficiency if the Secretary finds, in the discretion of the Secretary, that such a 90-day period is reasonable, in light of the nature and magnitude of the deficiency; or

(iii) in the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan;

49. Section 641A(e)(1)(B)(i) of the Act:

(e) Corrective Action for Head Start Agencies-

(1) DETERMINATION- If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to this subchapter fails to meet the standards described in subsection (a)(1) or fails to address the communitywide strategic planning and needs assessment, the Secretary shall—

(B) with respect to each identified deficiency, require the agency—

(i) to correct the deficiency immediately, if the Secretary finds that the deficiency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

50. Section 641A(e)(2)(A) of the Act:

(e) Corrective Action for Head Start Agencies-

(2) QUALITY IMPROVEMENT PLAN-

(A) AGENCY AND PROGRAM RESPONSIBILITIES- To retain a designation as a Head Start agency under this subchapter, or in the case of a Head Start program to continue to receive funds from such agency, a Head Start agency that is the subject of a determination described in paragraph (1), or a Head Start program that is determined to have a deficiency under subsection (d)(2) (excluding an agency required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)) shall—

(i) develop in a timely manner, a quality improvement plan that shall be subject to the approval of the Secretary, or in the case of a program, the sponsoring agency, and that shall specify—

(I) the deficiencies to be corrected;

(II) the actions to be taken to correct such deficiencies; and (III) the timetable for accomplishment of the corrective actions specified; and

(ii) correct each deficiency identified, not later than the date for correction of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency or Head Start program that is determined to have a deficiency received notice of the determination and of the specific deficiency to be corrected).

51. Section 646(a)(5)(B) of the Act:

(a) The Secretary shall prescribe --

(5) procedures to assure that the Secretary may suspend financial assistance to a recipient under this subchapter—

(B) in the case of a recipient under this subchapter that has multiple and recurring deficiencies for 180 days or more and has not made substantial and significant progress toward meeting the goals of the grantee's quality improvement plan or eliminating all deficiencies identified by the Secretary, during the hearing of an appeal described in paragraph (3), for any amount of time;

52. PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD (45 CFR part 16)

https://www.law.cornell.edu/cfr/text/45/part-16

53. Section 641A(a)(1) of the Act:

(a) Standards-

(1) CONTENT OF STANDARDS- The Secretary shall modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs under this subchapter, including--

(A) performance standards with respect to services required to be provided, including health, parental involvement, nutritional, and social services, transition activities described in section 642A, and other services;

(B) scientifically based and developmentally appropriate education performance standards related to school readiness that are based on the Head Start Child Outcomes Framework to ensure that the children participating in the program, at a minimum, develop and demonstrate--

(i) language knowledge and skills, including oral language and listening comprehension;

(ii) literacy knowledge and skills, including phonological awareness, print awareness and skills, and alphabetic knowledge;

(iii) mathematics knowledge and skills;

(iv) science knowledge and skills;

(v) cognitive abilities related to academic achievement and child development;

(vi) approaches to learning related to child development and early learning;

(vii) social and emotional development related to early learning, school success, and social problem solving;

(viii) abilities in creative arts;

(ix) physical development; and

(x) in the case of limited English proficient children, progress toward acquisition of the English language while making meaningful progress in attaining the knowledge, skills, abilities, and development described in clauses (i) through (ix), including progress made through the use of culturally and linguistically appropriate instructional services;

(C) administrative and financial management standards;

(D) standards relating to the condition and location of facilities (including indoor air quality assessment standards, where appropriate) for such agencies, and programs, including regulations that require that the facilities used by Head Start agencies (including Early Head Start agencies and any delegate agencies) for regularly scheduled center based and combination program option classroom activities--

(i) shall meet or exceed State and local requirements concerning licensing for such facilities; and

(ii) shall be accessible by State and local authorities for purposes of monitoring and ensuring compliance, unless State or local laws prohibit such access; and

(E) such other standards as the Secretary finds to be appropriate.

54. Section 641A(c)(1)(A), (C), and (D) of the Act:

(c) Monitoring of Local Agencies and Programs-

(1) IN GENERAL- To determine whether Head Start agencies meet standards described in subsection (a)(1) established under this subchapter with respect to program, administrative, financial management, and other requirements, and in order to help the programs identify areas for improvement and areas of strength as part of their ongoing self-assessment process, the Secretary shall conduct the following reviews of Head Start agencies, including the Head Start programs operated by such agencies:

(A) A full review, including the use of a risk-based assessment approach, of each such agency at least once during each 3-year period.

(C) Follow up reviews, including—

(i) return visits to Head Start agencies with 1 or more findings of deficiencies, not later than 6 months after the Secretary provides notification of such findings, or not later than 12 months after such notification if the Secretary determines that additional time is necessary for an agency to address such a deficiency prior to the review; and

(ii) a review of Head Start agencies with significant areas of noncompliance.

(D) Other reviews, including unannounced site inspections of Head Start centers, as appropriate.

55. Section 641A(g)(2) of the Act:

(g) Self-Assessments-

(2) GOALS, REPORTS, AND IMPROVEMENT PLANS-

(A) GOALS- An agency conducting a self-assessment shall establish agency-determined program goals for improving the school readiness of children participating in a program under this subchapter, including school readiness goals that are aligned with the Head Start Child Outcomes Framework, State early learning standards as appropriate, and requirements and expectations of the schools the children will be attending.

(B) IMPROVEMENT PLAN- The agency shall develop, and submit to the Secretary a report containing, an improvement plan approved by the governing body of the agency to strengthen any areas identified in the self-assessment as weaknesses or in need of improvement.

56. 2 CFR 180: OMB GUIDELINES TO AGENCIES ON GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

180.135 May a Federal agency grant an exception to let an excluded person participate in a covered transaction?

(a) A Federal agency head or designee may grant an exception permitting an excluded person to participate in a particular covered transaction. If the agency head or designee grants an exception, the exception must be in writing and state the reason(s) for deviating from the government wide policy in Executive Order 12549.

(b) An exception granted by one Federal agency for an excluded person does not extend to the covered transactions of another Federal agency.

57. Section 647 of the Act: RECORDS AND AUDITS

(a) Each recipient of financial assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount

of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this subchapter.

(c) Each recipient of financial assistance under this subchapter shall—

(1) maintain, and annually submit to the Secretary, a complete accounting of the recipient's administrative expenses (including a detailed statement identifying the amount of financial assistance provided under this subchapter used to pay expenses for salaries and compensation and the amount (if any) of other funds used to pay such expenses);

(2) not later than 30 days after the date of completion of an audit conducted in the manner and to the extent provided in chapter 75 of title 31, United States Code (commonly known as the Single Audit Act of 1984'), submit to the Secretary a copy of the audit management letter and of any audit findings as they relate to the Head Start program; and

(3) provide such additional documentation as the Secretary may require.

58. Section 641(d)(2) of the Act:

(2) CONSIDERATIONS FOR DESIGNATION.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

(A) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

(B) the plan of such applicant to provide comprehensive health, educational, nutritional, social, and other services needed to aid participating children in attaining their full potential, and to prepare children to succeed in school;

(C) the plan of such applicant to attract and retain qualified staff capable of delivering, including implementing, a high-quality and comprehensive program, including the ability to carry out a research based curriculum aligned with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

(D) the ability of such applicant to maintain child-to-teacher ratios and family service worker caseloads that reflect best practices and are tied to high-quality service delivery;

(E) the capacity of such applicant to serve eligible children with—

(i) curricula that are based on scientifically valid research, that are developmentally appropriate, and that promote the school readiness of children participating in the program involved; and

(ii) teaching practices that are based, as appropriate, on scientifically valid research, that are developmentally appropriate, and that promote the school readiness of children participating in the program involved;

(F) the plan of such applicant to meet standards described in section 641A(a)(1), with particular attention to the standards described in subparagraphs (A) and (B) of such section;

(G) the proposed budget of the applicant and plan of such applicant to maintain strong fiscal controls and cost effective fiscal management;

(H) the plan of such applicant to coordinate and collaborate with other public or private entities providing early childhood education and development programs and services for young children in the community involved, including—

(i) programs implementing grant agreements under the Early Reading First and Even Start programs under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

(ii) other preschool programs under title I of that Act (20 U.S.C. 6301 et seq.);

(iii) programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(iv) State pre kindergarten programs;

(v) child care programs;

(vi) the educational programs that the children in the Head Start program involved will enter at the age of compulsory school attendance; and

(vii) local entities, such as a public or school library, for—

(I) conducting reading readiness programs;

(II) developing innovative programs to excite children about the world of books, including providing fresh books in the Head Start classroom;

(III) assisting in literacy training for Head Start teachers; or

(IV) supporting parents and other caregivers in literacy efforts;

(I) the plan of such applicant to coordinate the Head Start program that the applicant proposes to carry out, with public and private entities that are willing to commit resources to assist the Head Start program in meeting its program needs;

(J) the plan of such applicant—

(i) to facilitate the involvement of parents (including grandparents and kinship caregivers, as appropriate) of children participating in the proposed Head Start program, in activities (at home and, if practicable, at the location of the Head Start program) designed to help such parents become full partners in the education of their children;

(ii) to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level, including transportation assistance, as appropriate;

(iii) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), public and school libraries, and entities carrying out family support programs) to such parents—

(I) family literacy services; and

(II) parenting skills training;

(iv) to offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome;

(v) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

(I) training in basic child development (including cognitive, social, and emotional development);

(II) assistance in developing literacy and communication skills;

(III) opportunities to share experiences with other parents (including parent-mentor relationships);

(IV) regular in-home visitation;

(V) health services, including information on maternal depression; or

(VI) any other activity designed to help such parents become full partners in the education of their children;

(vi) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents (including foster parents, grandparents, and kinship caregivers, where applicable), in a manner and language that such parents can understand, to the extent practicable, about the benefits of parent involvement and about the activities described in this subparagraph in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities); and

(vii) to extend outreach to fathers (including father figures), in appropriate cases, in order to strengthen the role of those fathers in families, in the education of young children, and in the Head Start program, by working directly with the fathers through activities such as—

(I) in appropriate cases, including the fathers in home visits and providing opportunities for direct father child interactions; and

(II) targeting increased male participation in the conduct of the program;

(K) the plan of such applicant to meet the needs of limited English proficient children and their families, including procedures to identify such children, plans to provide trained personnel, and plans to provide services to assist the children in making progress toward the acquisition of the English language, while making meaningful progress in attaining the knowledge, skills, abilities, and development described in section 641A(a)(1)(B);

(L) the plan of such applicant to meet the diverse needs of the population served;

(M) the plan of such applicant who chooses to assist younger siblings of children who will participate in the Head Start program to obtain health services from other sources;

(N) the plan of such applicant to meet the needs of children with disabilities, including procedures to identify such children, procedures for referral of such children for evaluation to State or local agencies providing services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), and plans for collaboration with those State or local agencies;

(O) the plan of such applicant to meet the needs of homeless children, including transportation needs, and the needs of children in foster care; and

(P) other factors related to the requirements of this subchapter.

59. Section 646(e)(1)(A) of the Act:

(e)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe;

60. Section 648A(d) of the Act:

(d) HEAD START FELLOWSHIPS.--

(1) AUTHORITY.--The Secretary may establish a program of fellowships, to be known as Head Start Fellowships', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as Head Start Fellows', who are staff in local Head Start programs or other individuals working in the field of child development and family services.

(2) PURPOSE.--The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

(3) ASSIGNMENTS OF FELLOWS.--

(A) PLACEMENT SITES.--Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))--

(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

(ii) in local Head Start agencies and programs;

(iii) in institutions of higher education;

(iv) in public or private entities and organizations concerned with services to children and families; and

(v) in other appropriate settings.

(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.--A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.--Head Start Fellowship positions may not be located in any agency (including a center) whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

(4) SELECTION OF FELLOWS.--Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

(5) DURATION.--Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

(6) AUTHORIZED EXPENDITURES.--From amounts made available under section 640(a)(2)(E), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

(7) STATUS OF FELLOWS.--Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

(8) REGULATIONS.--The Secretary shall promulgate regulations to carry out this subsection.

61. Case plan as presented in 42 U.S.C. 675(1)

(1) The term "case plan" means a written document which includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 672(a)(1) [1] of this title.

(B) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(C) The health and education records of the child, including the most recent information available regarding—

(i) the names and addresses of the child's health and educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) a record of the child's immunizations;

(v) the child's known medical problems;

(vi) the child's medications; and

(vii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) Where appropriate, for a child age 16 or over, a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 673(d) of this title, a description of—

(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(ii) the reasons for any separation of siblings during placement;

(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and

(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

(G) A plan for ensuring the educational stability of the child while in foster care, including—

(i) assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)

(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 7801 of title 20) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

62. Commercial driver's license standards; requirements and penalties (49 CFR part 383)

https://www.fmcsa.dot.gov/regulations/title49/part/383

63. Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2))

(2) The term "homeless children and youths"—

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); and

(B) includes—

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C) [1] of this title);

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

64. Section 645(a)(3)(B) of the Act:

(B) The following amounts of pay and allowance of a member of the uniformed services shall not be considered to be income for purposes of determining the eligibility of a dependent of such member for programs funded under this subchapter:

(i) The amount of any special pay payable under section 310 of title 37, United States Code, relating to duty subject to hostile fire or imminent danger.

(ii) The amount of basic allowance payable under section 403 of such title, including any such amount that is provided on behalf of the member for housing that is acquired or constructed under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code, or any other related provision of law.

65. Section 637(12) of the Act:

The term "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

66. Individuals with Disabilities Education Act, Sec. 300.320

Definition of individualized education program. (IEP)

(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with Sec. Sec. 300.320 through 300.324, and that must include--

(1) A statement of the child's present levels of academic achievement and functional performance, including--

(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(2)(i) A statement of measurable annual goals, including academic and functional goals designed to--

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability;

(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(3) A description of--

(i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and

(ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child--

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;

(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and

(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why--

(A) The child cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the child; and

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include--

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

(c) Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under Sec. 300.520.

(d) Construction. Nothing in this section shall be construed to require--

(1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or

(2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

67. Individuals with Disabilities Education Act, Sec. 636

Definition of an Individualized Family Service Plan (IFSP)

(a) Assessment and Program Development.--A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive--

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the infant or toddler.

(b) Periodic Review.--The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) Promptness After Assessment.--The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

(d) Content of Plan.--The individualized family service plan shall be in writing and contain--

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

(3) a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary;

(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

(e) Parental Consent.--The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

68. Section 637(25) of the Act:

The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. The term includes the Republic of Palau for fiscal years 2008 and 2009, and (if the legislation described in section 640(a)(2)(B)(v) has not been enacted by September 30, 2009) for fiscal years 2010 through 2012.

Compliance Table of Effective Dates

Performance Standard	Compliance Date
Early Head Start center-based service duration (unless granted a waiver under §1302.24) **§1302.21(c)(1):** By August 1, 2018, a program must provide 1,380 annual hours of planned class operations for all enrolled children. A program that is designed to meet the needs of young parents enrolled in public school settings may meet the service duration requirements in §1302.21(c)(1)(i) if it operates a center-based program schedule during the school year aligned with its local education agency requirements and provides regular home-based services during the summer break.	**August 1, 2018**
Head Start center-based service duration: **50 percent at 1,020 annual hours** (unless granted a waiver under §1302.24) **§1302.21(c)(2)(iii) and (v):** By August 1, 2019, a program must provide 1,020 annual hours of planned class operations over the course of at least eight months per year for at least 50 percent of its Head Start center-based funded enrollment. A Head Start program providing fewer than 1,020 annual hours of planned class operations or fewer than eight months of service is considered to meet the requirements described in paragraphs §1302.21(c)(2)(iii) and (iv) if its program schedule aligns with the annual hours required by its local education agency for grade one and such alignment is necessary to support partnerships for service delivery.	**August 1, 2019**

Head Start center-based service duration: 100 percent at 1,020 annual hours (unless granted a waiver under §1302.24) **§1302.21(c)(2)(iv):** By August 1, 2021, a program must provide 1,020 annual hours of planned class operations over the course of at least eight months per year for all of its Head Start center-based funded enrollment.	**August 1, 2021**
Early Head Start home-based service duration (unless granted a waiver under §1302.24) **§1302.22(c)(1):** By August 1, 2017, an Early Head Start home-based program must provide one home visit per week per family that lasts at least an hour and a half and provide a minimum of 46 visits per year; and, provide, at a minimum, 22 group socialization activities distributed over the course of the program year.	**August 1, 2017**
Curricula for center-based and family child care programs **§1302.32(a)(1)(ii) and (iii):** Implement curricula that are aligned with the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* and, as appropriate, state early learning and development standards; and are sufficiently content-rich to promote measurable progress toward development and learning outlined in the Framework; and, have an organized developmental scope and sequence that include plans and materials for learning experiences based on developmental progressions and how children learn. **§1302.32(a)(2):** A program must support staff to effectively implement curricula and at a minimum monitor curriculum implementation and fidelity, and provide support, feedback, and supervision for continuous improvement of its implementation through the system of training and professional development.	**August 1, 2017**

§1302.32(b): A program that chooses to make significant adaptations to a curriculum or a curriculum enhancement described in §1302.32(a)(1) to better meet the needs of one or more specific populations must use an external early childhood education curriculum or content area expert to develop such significant adaptations. A program must assess whether the adaptation adequately facilitates progress toward meeting school readiness goals, consistent with the process described in §1302.102(b) and (c).	
Assessment **§1302.33(b)(1) through (3):** A program must conduct standardized and structured assessments, which may be observation-based or direct, for each child that provide ongoing information to evaluate the child's developmental level and progress in outcomes aligned to the goals described in the *Head Start Early Learning Outcomes Framework: Ages Birth to Five*. Such assessments must result in usable information for teachers, home visitors, and parents and be conducted with sufficient frequency to allow for individualization within the program year. A program must regularly use information from §1302.33(b)(1) along with informal teacher observations and additional information from family and staff, as relevant, to determine a child's strengths and needs, inform and adjust strategies to better support individualized learning and improve teaching practices in center-based and family child care settings, and improve home visit strategies in home-based models. If warranted from the information gathered from §1302.33(b)(1) and (2) and with direct guidance from a mental health or child development professional and a parent's consent, a program must refer the child to the local agency responsible for implementing IDEA for a formal evaluation to assess a child's eligibility for services under IDEA. **§1302.33(c)(2) and (3):** If a program serves a child who speaks a language other than English a program must use qualified bilingual staff, contractor, or consultant to: - Assess language skills in English and in the child's home language, to assess both the child's progress in the home language and in English language acquisition;	**August 1, 2017**

☐ Conduct screenings and assessments for domains other than language skills in the language or languages that best capture the child's development and skills in the specific domain; and, ☐ Ensure those conducting the screening or assessment know and understand the child's language and culture and have sufficient skill level in the child's home language to accurately administer the screening or assessment and to record and understand the child's responses, interactions, and communications. If a program serves a child who speaks a language other than English and qualified bilingual staff, contractors, or consultants are not able conduct screenings and assessments, a program must use an interpreter in conjunction with a qualified staff person to conduct screenings and assessments as described in §1302.33(c)(2)(i) through (iii).	
Curriculum for home-based programs **§1302.35(d)(1) through (3):** *A program that operates the home-based option* must: ☐ Ensure home-visiting and group socializations implement a developmentally appropriate research-based early childhood home-based curriculum that: ☐ Promotes the parent's role as the child's teacher through experiences focused on the parent-child relationship and, as appropriate, the family's traditions, culture, values, and beliefs; ☐ Aligns with the *Head Start Early Learning Outcomes Framework: Ages Birth to Five* and, as appropriate, state early learning standards, and, is sufficiently content-rich within the Framework to promote measurable progress toward goals outlined in the Framework; and, ☐ Has an organized developmental scope and sequence that includes plans and materials for learning experiences based on developmental progressions and how children learn. ☐ Support staff in the effective implementation of the curriculum and at a minimum monitor curriculum implementation and fidelity, and provide support, feedback, and supervision for continuous improvement of its implementation through the system of training and professional development.	**August 1, 2017**

☐ If a program chooses to make significant adaptations to a curriculum or curriculum enhancement to better meet the needs of one or more specific populations, a program must partner with early childhood education curriculum or content experts; and, assess whether the adaptation adequately facilitates progress toward meeting school readiness goals consistent with the process described in §1302.102(b) and (c).	
Quality Rating and Improvement Systems (QRIS) and Data Systems **§1302.53(b)(2):** A program, with the exception of American Indian and Alaska Native programs, must participate in its state or local Quality Rating and Improvement System (QRIS) if: ☐ Its state or local QRIS accepts Head Start monitoring data to document quality indicators included in the state's tiered system; ☐ Participation would not impact a program's ability to comply with the Head Start Program Performance Standards; and, ☐ The program has not provided the Office of Head Start with a compelling reason not to comply with this requirement. **§1302.53(b)(3): Data systems.** A program, with the exception of American Indian and Alaska Native programs unless they would like to and to the extent practicable, should integrate and share relevant data with state education data systems, to the extent practicable, if the program can receive similar support and benefits as other participating early childhood programs.	**August 1, 2017**
Complete background check procedures **§1302.90(b)(2):** A program has 90 days after an employee is hired to complete the background check process by obtaining whichever check listed in §1302.90(b)(1) was not obtained prior to the date of hire; and, child abuse and neglect state registry check, if available.	**August 1, 2017**

§1302.90(b)(4): A program must ensure a newly hired employee, consultant, or contractor does not have unsupervised access to children until the complete background check process described in §1302.90(b)(1) through (3) is complete. **§1302.90(b)(5):** A program must conduct the complete background check for each employee, consultant, or contractor at least once every five years which must include each of the four checks listed in §1302.90(b)(1) and (2), and review and make employment decisions based on the information as described in §1302.90(b)(3), unless the program can demonstrate to the responsible HHS official that it has a more stringent system in place that will ensure child safety.	
Child Development Specialist staff qualification **§1302.91(e)(4)(ii):** By August 1, 2018, a child development specialist, as required for family child care in §1302.23(e), must have, at a minimum, a baccalaureate degree in child development, early childhood education, or a related field.	**August 1, 2018**
Home visitor staff qualifications **§1302.91(e)(6)(i):** A program must ensure home visitors providing home-based education services have a minimum of a home-based CDA credential or comparable credential, or equivalent coursework as part of an associate's or bachelor's degree.	**August 1, 2018**
Coordinated coaching strategy and coaching staff qualifications **§1302.92(c):** A program must ensure coaches meet staff qualifications in §1302.91(f) and must implement a research-based, coordinated coaching strategy for education staff as described in §1302.92(c).	**August 1, 2017**

Management of program data **§1302.101(b)(4):** At the beginning of each program year, and on an ongoing basis throughout the year, a program must design and implement program-wide coordinated approaches that ensure the management of program data to effectively support the availability, usability, integrity, and security of data. A program must establish procedures on data management, and have them approved by the governing body and policy council, in areas such as quality of data and effective use and sharing of data, while protecting the privacy of child records in accordance with subpart C of part 1303 and applicable federal, state, local, and tribal laws.	**August 1, 2017**