



NATIONAL HEAD START ASSOCIATION

Overview of Final Rule  
August 22, 2024

# Supporting the Head Start Workforce & Consistent Quality Programming

Final Rule

# The Final Rule: How We Got Here

---

- The proposed rule (NPRM) was published in November 2023, with a public comment period of just 60 days.
- We rallied and used those 60 days to assess, reflect, and make strong recommendations for changes.
- And, we made ourselves heard with 1300+ comment letters, and joint sign-on letters, including one from 25,000 Head Start parents
- Our unified voice led to a **much improved final rule.**

# Your Input Mattered!

---

Your constructive feedback helped improve the final rule

- Many overly prescriptive rules proposed in NPRM were dropped or revised ... ***adult sized desks and chairs, 5 minute breaks***
- Notable changes to respond to concerns of smaller programs ... ***pay parity and pay floor exemptions***
- Increased program flexibility to implement new rules ... ***mental health multidisciplinary approach, staff wellness, lead abatement***
- Shift focus of over-reporting incidents ... ***focusing instead on serious incidents***

# Final Rule

---

- Published in [Federal Register](#) on August 21, 2024
- Compliance date for most of the requirements is October 21, 2024, unless otherwise noted.
- Subset of requirements where programs need more time to implement the regulatory changes are specified.

## Final Rule - Highlights

---

- Exemptions for small programs (fewer than 200 slots) for workforce compensation and benefit requirements
- Mental health multidisciplinary approach vs. Multidisciplinary Team
- Plan to prevent lead exposure vs. a one-size-fits-all testing mandate
- Program autonomy in managing staff conduct related a “non-serious” or not significant incident
- Emphasis on staff wellness policies and practices with flexibility how implemented

# Goals for Today

---

- Provide a high level overview of the Final Rule
- Lightning speed look at what was changed, revised, dropped or added as new
- Set the foundation for future workshops
- Collect your questions and comments to inform webinars and resources

# Workforce Supports

- **Staff Wages**
  - **Pay Parity**
  - **Pay Scale for All Staff**
  - **Minimum Pay Requirement**
  - **Wage Comparability Across HS Preschool and EHS**
- **Staff Benefits**
- **Staff Health and Wellness**
- **Training and Professional Development**
- **Employee Engagement**

# Workforce Compensation: Significant Changes in Final Rule

---

Final rule tries to balance needed quality improvements with the critical need to serve families in need of services by adding new flexibilities:

- Conditional waiver for programs < 200 slots (and interim service providers), but must show progress.
- Pay parity can be measured against 90% of a K-3 teacher's salary
- Programs in multiple school districts do not have to have multiple pay scales
- Possibility of waiver *if* average annual appropriations increase between 2024-2027 is less than 1.3%

*Relevant HSPPS Section(s): 1302.90 FR 67730-67739*



# Staff Wages and Benefits: Flexibility for Small Programs

---

- **Programs with 200 or fewer funded slots (or interim service providers) are exempt from most wage and benefit requirements.**
- Still must establish a salary scale that promotes competitive wages for all staff and make measurable progress in in staff wages, including disparities in wages between Head Start and public school preschool teachers.

# Staff Wages:

## Progress to Parity for Education Staff

---

### Additional Flexibilities

- Pay parity can be measured against 90% of a K-3 teacher's salary as an alternative to preschool teacher salaries
- Programs in multiple school districts do not have to have multiple pay scales, but can choose to do so

### Also Worth Noting

- Ed staff salaries can be adjusted for schedule or hours worked
- Wage standards apply to all education staff who are employees or whose salaries are funded by Head Start through a contract. (includes EHS-CC Partnership sites)

*Relevant HSPPS Section(s): 1302.90 FR 67730-67739*

# Minimum Pay and Wage Comparability

---

## Minimum Pay Requirement

- Programs must establish a salary floor/minimum pay sufficient to cover basic costs of living in the geographic area **for all staff**
- Calculated based on if the worker's hourly wage were paid according to a full-time, full year schedule

## Wage Comparability Across Head Start Preschool and EHS

- Pay structure must ensure wages are comparable across HS and EHS for staff with similar experience and qualifications

*Relevant HSPPS Section(s): 1302.90 FR 67730-67739*

# Staff Wages and Benefits: Limited Waiver if Low Appropriations

---

Secretary ***may establish a limited waiver in 2028*** for most wage and benefit requirements if appropriations increase by an average of less than 1.3% in preceding 4 years

- Not intended for programs that only need to reduce a few slots.
- Programs must meet certain quality benchmarks
- If granted a waiver, programs must still demonstrate progress towards pay parity

*Relevant HSPPS Section(s): 1302.90 FR 67730-67739*

# Staff Benefits

---

**Programs with 200 or fewer funded slots (and interim services providers) exempt from benefits requirements.**

- Full-time position is 30 hours or more per week
- Compliance date pushed back by 2 years, to August 1, 2028

# Staff Benefits: Employee Leave

---

- **Revised:** Programs must offer job-protected periods of leave to employees consistent with eligibility for and protections in the Family Medical Leave Act (FMLA), if applicable to their organization. ***(Paid family and medical leave and applicability to ALL programs was dropped)***
- **Revised-** Must offer full-time staff paid leave, does not differentiate between, vacation, sick or personal leave and can be combined. ***(Specific accrual rate requirement was dropped)***

Relevant HSPPS Section(s): 1302.90 FR 67739-67745

## Other Staff Benefits for Full Time Staff

---

- Program must provide or facilitate access to high quality and affordable health care
- Full-time employees must have access outpatient behavioral health visits annually with minimal or no out of pocket cost.  
**(Proposed 3 to 5 visit minimum was dropped)**

## Other Staff Benefits

---

- **For part time staff**, programs must, at a minimum, facilitate enrollment in a health insurance marketplace or Medicaid
- **For all staff**, programs must facilitate access to Public Service Loan Forgiveness plan, child care subsidies, and other relevant benefits.
- Programs may prioritize enrollment of staffs' children through selection criteria
- Programs must assess at least every 5 years if their benefit package is adequate for recruiting and retaining full-time staff.



# Staff Wellness

---

- Provide regular breaks of adequate length and frequency
- Comply with more stringent federal, state, and local laws or regulations, if applicable.
- Staff on break may be replaced by staff member who meets training and requirements for safety
- Cultivate program-wide culture of wellness

**Dropped:** 5 minute breaks, other specific break minimums, and adult size furniture mandates

# Training and Professional Development

---

Program must establish and implement a systemic approach to staff training and professional development that is integrated with employee engagement practices and includes at a minimum:

- An individual professional development plan, developed with employee input, for all full-time staff who provide direct services to children
- Annual mandated reporter training for all staff

# Training and Professional Development (continued)

---

- Annual training on positive strategies to understand and support children's social and emotional development and tools for preventing and managing challenging behavior
- Training for child and family services staff on best practices for implementing family engagement strategies

# Health and Mental Health Services

- **Multidisciplinary approach**
- **Mental health consultation**

# Health and Mental Health Services

---

- Multidisciplinary Team changed to multidisciplinary **approach**
- Mental health integrated into all aspects of Head Start programs, while focusing on a preventative and strengths-based approach
- Mental health as a part of child development and integrates mental health needs of children and adults that care for children
- Flexibilities in meeting monthly mental health consultation

# Health and Mental Health Services

---

- Collaboration with parents as partners in the health, mental health and well-being of their children
- “Mental health” is added to the requirement for advance parent permission for any procedures or services, as well as policies for health and mental health emergencies.
- Preventive and primary care includes mental health care
- Assessment of nutritional health includes developmental and mental health concerns

*Relevant HSPPS Section(s): Subpart D FR 67750-67754*

# Mental Health Multidisciplinary Approach

---

Programs must take a **multidisciplinary approach** to mental health and wellness to support a program-wide culture including:

- coordinating supports for adult mental health and well-being, including for families and program staff.
- coordinating supports for children mental health and well being in the learning environment to align with a strengths-based and inclusive approach, including children **in all program options**

*Relevant HSPPS Section(s): Subpart D FR 67750-67754*

# Mental Health Multidisciplinary Approach (continued)

---

- Ongoing mental health consultation services required, including an annual assessment of program's approach
- Child social and emotional screening with appropriate follow-up in partnership with parents
- Coordination and collaboration between mental health and other relevant program services
- Role of the HMHSAC to build community partnerships that facilitate access to mental health resources and services

*Relevant HSPPS Section(s): Subpart D FR 67750-67754*



# Mental Health Consultation (MHC)

---

- MHC must be available no less than once a month
- Program can hire a person working towards license and under the supervision of a licensed mental health professional
- Flexibility to include other licensed mental health professionals or behavioral support specialists and traditional practitioners, who are especially important in Tribal communities, with collaboration/coordination of MHC

*Relevant HSPPS Section(s): Subpart D FR 67750-67754*

# Mental Health Consultation (MHC) continued

---

- Can work with any staff (not just teachers) and families (as opposed to parents)
- Emphasizes role of mental health consultant when considering suspension or expulsion

*Relevant HSPPS Section(s): Subpart D FR 67750-67754*

# Child Health and Safety

- **Safety Practices**
- **Standards of Conduct**
- **Child Maltreatment**
- **Incident Reporting**

# Child Health and Safety

---

- Broadens who needs to adhere child health and safety requirements
- Ensures no child is left alone or unsupervised and volunteers can never be left alone with children
- Requires annual training on positive emotional and social support and mandated reporters
- **Codifies timeline for reporting incidents to OHS**
- **Streamlines Standard of Conduct and categories of child maltreatment and focuses on endangering health & safety**

*Relevant HSPPS Section(s): 1302.47; 1302.90; 1302.103 FR 67754-67758; 67816*

# Safety Practices

---

**Adds** Contractors and volunteers are required to follow safety requirements, just as staff and consultants were required to do. This only applies to contractors whose activities involve contact with children and families, and anyone who could have unsupervised access to children and families.

**Aligns** definition of child abuse and neglect with Child Abuse Prevention and Treatment Act (CAPTA)

**Reinforces** if discrepancies exist between state, local and tribal law, comply with most stringent

# Standards of Conduct: Mandated Reporters

---

- Contractors, consultants, and volunteers must follow safety practices and are considered mandated reporters
- **Clarifies** - However, programs have flexibility as to how to provide information or training on mandatory reporting for these groups.

# Child Maltreatment Categories

---

**Provides definitions** to facilitate clear and equitable understandings of the types or categories of child maltreatment

**(A) Corporal punishment or physically abusive behavior:** intentional use of physical force that results in, or has the potential to result in, physical injury.

- o Hitting, kicking, shaking, biting, pushing, restraining, force feeding, or dragging

**(B) Sexually abusive behavior:** any completed or attempted sexual act, sexual contact, or exploitation.

- o Behaviors such as inappropriate touching, inappropriate filming, or exposing a child to other sexual activities

# Child Maltreatment Categories (continued)

---

**(C) Emotionally harmful or abusive behavior:** behaviors that harm a child's self worth or emotional well-being that are clearly NOT permissible.

- Using seclusion, using or exposing a child to public or private humiliation, or name calling, shaming, intimidating, or threatening a child

**(D) Neglectful behavior:** the failure to meet a child's basic physical and emotional needs including access to food, education, medical care, appropriate supervision by an adequate caregiver, and safe physical and emotional environments

- Leaving a child unattended on a bus, withholding food as punishment or refusing to change soiled diapers as punishment



# Reporting Incidents

---

Report incidents immediately, but no longer than **seven days**

Report significant incidents involving a Head Start setting including;

1. Staff, contractors, or volunteers who participate in a setting that receives Head Start funding, regardless of the child's Head Start funding
2. A child who participates in a setting that receives Head Start funding

Requirement to report school closures **does not include** scheduled holidays, scheduled breaks, or short-term closures due to inclement weather.

*Relevant HSPPS Section(s): 1302.102 FR 67758-67759*

# Reporting Incidents

---

- Shifts focus to serious health and safety incidents and **reducing over-reporting of non-serious and non-harmful incidents**
- Programs should report maltreatment as well as serious harm or endangerment resulting from lack of preventative maintenance or lack of supervision
- Report other significant health and safety incidents involving **serious harm or injury**
- Report incidents involving parents as a volunteer or employee

# Reporting Incidents

---

## Autonomy in managing staff conduct for non-serious incidents:

- Incidents that **do not** rise to the level of significant injury, harm or endangerment, but may not be best practice, are the program's responsibility to address and do not require an incident report to ACF.
- May need to report an incident to the state that does not rise to the severity and significance described in the final rule but is not reportable to ACF

*Relevant HSPPS Section(s): 1302.102 FR 67758-67759*

# Other Changes

- **Community Assessment**
- **Modernizing HS's Engagement with Families**
- **Adjustment for Excessive Housing Costs for Eligibility Determination**
- **Tribal Eligibility and Selection Process**
- **Migrant and Seasonal Eligibility and Selection Process**

# Community Assessment

---

- The final rule seeks to revise the community assessment process to increase clarity, streamline, and simplify.
- Encourages programs to:
  - Use their own knowledge and existing data relevant to their community
  - Consider data beyond counts of eligible populations and resources
  - Collect data from enrolled and prospective families, to reflect lived experiences

*Relevant HSPPS Section(s): 1302.11 FR 67761-67763*

# Community Assessment

---

- Ensure transportation needs and resources are part of data collection
- Annual review
  - is not a comprehensive community assessment;
  - can be supported by annual self-assessment and funding application;
  - must examine changes to families experiencing homelessness; and
  - ensure data includes race, ethnicity, and children living in poverty.

# Modernizing Head Start's Engagement with Families

---

- Programs must give families the option to use modern technologies to encourage and assist them in applying for admission, and to streamline the admission and enrollment process.

# Modernizing Head Start's Engagement with Families

---

## Parent and Family Engagement in Education and Child Development Services

- Communication methods and modalities that are best to engage families of all abilities

## Family Engagement

- Must communicate with families in a format that is most accessible (e.g., family preference, those who speak other languages other than English, individuals with disabilities)

*Relevant HSPPS Section(s): 1302.11; 1302.13; 1302.15; 1302.34; 1302.50 FR 67760-67763*



# Adjustment for Housing Costs for Eligibility Determination

---

- If housing costs are in excess of 30% of gross income, programs may reduce gross income by the amount above the 30% threshold
- **Housing costs include** the total annual expenses on rent/mortgage, insurance, utilities, interest, and taxes on home.
- **New - Can use bills and expenses from one month to calculate average throughout the year.**

*Relevant HSPPS Section(s): 1302.12 FR 67763*

# Tribal Eligibility and Selection Process

---

- Tribal programs have the discretion to consider eligibility regardless of income.
- Tribal programs may use their selection criteria to prioritize children in families in which a child, family member, or member of the household is a member of an Indian tribe.

*Language consistent with the Further Consolidated Appropriations Act, 2024*

*Relevant HSPPS Section(s): 1302.12; 1302.14 FR 67763-67765*

# Migrant and Seasonal Eligibility and Selection Process

---

- To be eligible, “one family member is primarily engaged in agricultural employment”, even if they do not meet other income eligibility requirements
- M&S programs are no longer required to verify infant and toddler eligibility after two years, instead aligning the determination after three years to the traditional EHS requirement

*Consistent with the Further Consolidated Appropriations Act, 2024*

*Relevant HSPPS Section(s): 1302.12; 1302.14 FR 67763-67765*

# Other Changes

- **Transportation and Other Barriers to Enrollment and Attendance**
- **Serving Children with Disabilities**
- **Suspension**
- **Ratios in Center-Based EHS Programs**
- **Ratios in Family Child Care Settings**

# Transportation & Other Barriers to Enrollment and Attendance

---

- Use community assessment process to identify the population of eligible children and potential barriers to **enrollment and attendance**, including access to transportation for the highest need families.
- Examine barriers to **regular attendance**, such as access to reliable transportation, and where possible, provides or facilitates transportation, if needed.

*Relevant HSPPS Section(s): 1302.14; 1302.16 FR 67765-67766*

# Serving Children with Disabilities

---

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

# Suspension

---

- **Suspension regulation definition** - serious safety threat has not been reduced/eliminated by providing interventions/supports recommended by the MHC, and program needs more time to put appropriate services in place.
- Suspension - the **temporary removal** of a child from the learning setting (cease attendance for specific period of time, reduce days/time child may attend, removal from regular group setting for extended period of time, or requiring parent/designee pick up a child for reasons other than illness or injury)

# Suspension

---

- Requires programs to explore all possible steps and document all steps to facilitate the child's safe re-entry into the program
- Requires a multidisciplinary approach to continue to engage to support the child during a suspension, by providing additional program supports and services, including home visits, coordinating with child's individualized education program (IEP) or individualized family service plan (IFSP), and making appropriate referrals for IEP and IFSP



# Suspension

---

- Acknowledges the program may need time to put additional services in place in order to provide interventions and supports appropriate for the child and recommended by the mental health consultant
- If a program makes a determination that there is a more appropriate placement for the child, the program must directly facilitate the transition to a more appropriate setting that can immediately enroll the child

# Suspension

---

- Momentarily removing a child is not a suspension, nor is acting in accordance with a child's IEP or IFSP
- Temporary suspension may be used only as a last resort, where there is a serious safety threat to the child or others, and when the threat has not been reduced or eliminated. Emphasizes that the program must take active steps to attempt to reduce or eliminate the concern and must demonstrate that these steps have not worked.

# Ratios and Duration for EHS

---

- **Removed** - ACF **drops** the proposed rule that encourages **EHS center-based** programs to use a 1:3 ratio.
- **Same** - Programs are required to require 1,380 annual hours be provided for Early Head Start center-based services.
- **Removed** - The 46-week EHS center-based duration requirement has been **dropped**.

# Ratios in Family Child Care Settings

---

- Clarifies FCC provider maximum ratio for “Mixed Age with Preschoolers” of 1:6, with no more than two under 24 mos.
- Clarifies “Infants and Toddlers Only” maximum ratio of 1:4 with a maximum group size of four.
- **Eliminates reference to “assistant providers” and replaces with two providers**
- FCC providers may be in the process of achieving a FCC CDA or state equivalent in 18 months, upon hire.

# Other Changes

- **Preventing and Addressing Lead Exposure**
- **Family Service Worker Assignments**
- **Participating in QRIS**
- **Services to Enrolled Pregnant Women**
- **Facilities**
- **Federal Interest and Major Renovations**

# Preventing and Addressing Lead Exposure

---

- Requires programs develop a plan to prevent children from being exposed to lead in paint or water.
- In facilities where lead may exist, this includes testing and inspection at least every two years, with support from trained professionals.
- If lead hazards are present, programs must implement remediation and abatement actions.

*Relevant HSPPS Section(s): 1302.47 FR 67770-67772*

# Family Service Worker Assignments

---

Family Service Worker caseloads cannot exceed 40:1.

1. Caseloads may temporarily exceed this ratio during staff absence or attrition, or emergency response.
2. Limited waiver authority will be permitted, pending further guidance.

Replaces “family services” with “family partnership services”.

# Participation in QRIS

---

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

*Relevant HSPPS Section(s): 1302.53 FR 67773-67774*



# Services to Enrolled Pregnant Women

---

- Defines family compositions as identified by the enrolled pregnant women and not the program
- Supports pregnant women and their families to access mental health services and review specific topics
- Address pregnant women's needs for appropriate supports
  - social and emotional well-being
  - nurturing and responsive caregiving
  - Father, partner or other family member engagement

*Relevant HSPPS Section(s): 1302.81 FR 67813*

# Services to Enrolled Pregnant Women

---

- “Safe sleep” added to the list of topics discussed during the newborn visit
- Newborn visit must be *scheduled* (not necessarily conducted) within two weeks after birth
- Requires tracking and document services to pregnant women
- Reduce disparities in maternal outcomes
- Maternal health curriculum that is best for families (if one is used)

*Relevant HSPPS Section(s): 1302.80; 1302.82 FR 67774-67775*

# Facilities

---

- Makes changes to improve the 1303 facility application development and approval process by providing greater flexibility and certainty.
- For example, “cost” and “fair market” are removed as part of the description of valuation; appraisals can be done virtually; and **HHS must approve reasonable requests to use federal funds for the costs associated with preliminary eligibility and the costs to purchase, construct, and renovate a facility.**

*Relevant HSPPS Section(s): 1303.42; 1303.43; 1303.44; 1303.45 FR 67775-67776*

# Definition of Federal Interest and Major Renovations

---

- Provides technical fixes to improve understanding of what a major renovation includes
- Tweaks the definition of federal interest
- Raises the threshold to \$350,000 for major renovation, and future increases are aligned to future adjustments in the National Defense Authorization Act.
- Allows Tribes that jointly apply to use both CCDF and HS funds for major renovations to use the CCDF threshold if higher.

*Relevant HSPPS Section(s): 1305.2 FR 67777-67778*

# Definitions

# New Definitions

---

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

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

## New Definitions (cont'd)

---

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

# Definition of Income

---

Final rule clarifies and revises definition of income with the intent to provide a clear and final list of what is considered income.

**Revised-** Gross income includes wages, business income, unemployment compensation, pension or annuity payments, gifts that exceed the threshold for taxable income, and military income (excluding special pay for a member subject to hostile fire or imminent danger or any basic allowance for housing)

*Relevant HSPPS Section(s): 1305.2 FR 67776*



## Next Steps

---

Be on the lookout for this PPT and a Final Rule summary, coming to your inboxes.

NHSA is offering monthly Workshops for members focused on implementation.

- **Monthly Workshops – Members**
  - September 12, 2024 at 2:00 p.m. ET
  - October 10, 2024 at 2:00 p.m. ET
  - November 14, 2024 at 2:00 p.m. ET
  - December 12, 2024 at 2:00 p.m. ET

# Closing Thoughts

---

- Many have expressed their excitement and trepidation in implementing the new requirements.
- NHSA is committed to supporting your implementation efforts and seeking clarity and further guidance from OHS, as necessary.
- Our fight for increased funding will continue.
- Keep raising your questions and concerns - issues will surface that we haven't even thought about in these early days of this final rule.
- We have time to do this right! We believe OHS will not monitoring the new requirements during this program year.
- Maximize the flexibilities and autonomy this rule allows.