

Congress of the United States

Washington, DC 20515

January 19, 2024

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

RE: RIN number ACF-0970–AD01

Dear Secretary Becerra:

We are writing in regard to the U.S. Department of Health and Human Services' (Department) proposed regulation to support and stabilize the Head Start workforce and make other necessary improvements to the Head Start program (proposed rule). Since its inception in 1965, Head Start has provided critical early childhood education and comprehensive services to approximately 39 million low-income young children and their families in communities across the nation.¹ The federal Head Start program serves as a model for high-quality early childhood education.

In FY2022, the Head Start program was funded to serve more than 833,000 young children, families, and pregnant women in a variety of settings.² Head Start reaches a diverse group of children and families and prioritizes serving families with the greatest need. In FY2022, 38 percent of children enrolled in Head Start identified as Hispanic or Latino, and 28 percent were Black or African-American.³ One third of children enrolled in Head Start in FY2022 were dual language learners, thirteen percent were identified as children with disabilities, and six percent were children experiencing homelessness.

Research shows that children who attend Head Start are more likely to be ready for kindergarten, more likely to graduate from high school and attend college, and less likely to repeat a grade or have adverse health outcomes.⁴ Head Start programs also ensure children receive age-appropriate health care, dental care, immunizations, and health insurance, and they provide referrals to other critical services for parents, such as job training, adult education, nutrition services, and housing support.

Head Start programs are essential parts of communities across the country, yet programs are finding it increasingly difficult to operate under current conditions. A recent survey found that a majority of programs are struggling with under-enrollment fueled by a severe staff shortage.⁵ According to the proposed rule, Head Start is funded in FY2023 to serve 755,074 children, but the program currently has about 650,000 children enrolled, largely because programs do not have enough staff. The majority of workers in the early care and education system are women, and often women of color, who are undertaking the essential work to support early

¹ *Head Start Program Facts: Fiscal Year 2022*, Head Start | ECLKC, <https://eclkc.ohs.acf.hhs.gov/data-ongoing-monitoring/article/head-start-program-facts-fiscal-year-2022> (last visited Jan. 12, 2024).

² *Id.*

³ *Id.*

⁴ *Facts and Impacts*, Nat'l. Head Start Assoc., <https://nhsa.org/resource/facts-and-impacts/> (last visited Jan. 12, 2024); Elena Malofeeva, et al., *Findings from the Michigan School Readiness Program 6 to 8 Follow Up Study*, High/Scope Edu. Res. Found. (Oct. 2007), https://highscope.org/wp-content/uploads/2018/03/MSRP_six-eight-follow-up-2007.pdf.

⁵ *An Update on Head Start's Ongoing Workforce Crisis*, Nat'l. Head Start Assoc., <https://nhsa.org/wp-content/uploads/2023/11/2023.10-Workforce-Brief.pdf> (last visited Jan. 12, 2024).

childhood development and success, yet they are among the lowest paid individuals in the country.⁶ Turnover amongst Head Start educators is at its highest point in over two decades and, when adjusting for inflation, salaries for Head Start preschool teachers have decreased by 2 percent since 2010 despite increasing teacher qualification standards.⁷ Compared to preschool educators, Head Start preschool teachers are often underpaid. In 2022, an average salary for a Head Start preschool teacher was \$39,096, whereas preschool teachers in a school setting were earning an average of \$53,200.⁸ High levels of staff turnover and low compensation for educators can undermine Head Start’s ability to offer consistent, high-quality services for children.

We can no longer stand by as dedicated and qualified early childhood educators leave Head Start programs due to unacceptably low wages, while families struggle to find quality, affordable child care and early education options. As we continue to fight for additional investments in Head Start to strengthen the program, we strongly encourage the Department to carefully consider any challenges to implementing these proposed changes absent of additional funding. While additional appropriations for the Head Start program are necessary to support increased wages and other provisions included in the proposed rule, the proposed rule highlights that steps should be taken in the meantime to increase compensation to prevent the loss of qualified and dedicated Head Start staff.

As we continue to work to strengthen our nation's early childhood education system, we applaud the Department for taking decisive action to stabilize and set a path for providing livable wages for the Head Start workforce. It is imperative that we ensure that Head Start programs are better equipped to fulfill their mission in the future.

1. Pay parity for education staff and benefits for all full-time staff

Low wages and high staff turnover are undermining the Head Start Act’s fundamental purpose of “promot[ing] the school readiness of low-income children”⁹. Qualified and well-supported early educators and staff are critical for children’s early learning and development, particularly when strong, stable relationships between young children and educators are maintained.¹⁰ Despite recent increases in the share of Head Start teachers with bachelor’s degrees, compensation has not kept pace with inflation or with rising wages in other industries.¹¹ As a result, qualified Head Start staff often leave for higher paid positions with better benefits in public schools or leave the early childhood field entirely. Stabilizing the workforce is necessary to ensure the Head Start program can continue to fulfill its mission and promote strong outcomes for children and families.

The proposed compensation and benefits changes underscore the need for increased investments in Head Start, such as those that we have consistently advocated for through the annual appropriations process as well as other legislative proposals.¹² In the absence of additional funding, we recognize that some programs will likely have to make difficult decisions to reduce needed enrollment slots to fulfill these new requirements. As the rule is

⁶ Caitlin McLean, et al., *Early Childhood Workforce Index – 2020*, U.C. Berkeley Ctr. Study Child Care Emp. (2021), <https://csce.berkeley.edu/workforce-index-2020/wp-content/uploads/sites/3/2021/02/Early-Childhood-Workforce-Index-2020.pdf>.

⁷ *Head Start Program Annual Fact Sheets 2010-2022*, Head Start|ECLKC (last visited Jan. 12, 2024).

⁸ Supporting the Head Start Workforce and Consistent Quality Programming, 88 Fed. Reg. 80818, (Nov. 20, 2023) (codified at 45 C.F.R. pt. 1301-05).

⁹ 42 U.S.C. 9831 (2011).

¹⁰ Margaret Burchinal, et al., *Quality Thresholds, Features, and Dosage in Early Care and Education: Secondary Data Analyses of Child Outcomes*, Monogr. Soc. Res. Child Dev. (2016), https://bpb-us-e2.wpmucdn.com/faculty.sites.uci.edu/dist/7/112/files/2011/03/MSRCD_ECE-Quality-Thresholds-Features-Dosage-final.pdf.

¹¹ 88 Fed. Reg. 80818, 80821 (Nov. 20, 2023) (codified at 45 C.F.R. pt. 1301-05).

¹² Inflation Reduction Act of 2022, H.R. 5376, 117th Cong. (Aug. 16, 2022).

Senator Casey Early Care and Education Appropriations Letter Fiscal Year 2024, FFYF (Apr. 13, 2023).
Child Care for Working Families Act, S. 1354, 118th Cong. (as introduced by Senate, Apr. 27, 2023).

finalized, we urge the Department to thoughtfully consider resources, as well as the concerns raised by advocates and any implementation challenges that may arise for programs, including challenges specific to American Indian and Alaska Native and Migrant and Seasonal Head Start programs.

We support the Department's proposals in § 1302.90(e)(2), § 1302.90(e)(1), and § 1302.90(e)(3) to require that programs make progress towards pay parity for Head Start education staff with public preschool teachers, implement pay structures for all staff, and ensure staff wages and salaries cover basic needs. We also applaud the wage comparability requirement in § 1302.90(e)(4) to ensure that staff who have similar qualifications and experience are compensated fairly, regardless of the age of children they serve. These changes are necessary to recruit and retain well-qualified educators and staff and to adapt to the needs of the workforce, which is essential to carrying out the comprehensive services that are the cornerstone of Head Start's success.

We support § 1302.90(f) to require programs to provide or facilitate access, as appropriate, to high-quality, affordable health insurance; paid sick and family leave; short-term behavioral health services; Public Service Loan Forgiveness; child care subsidies for eligible staff; and additional benefits. Strengthening benefits packages will likely improve staff well-being and recruitment and retention of staff.

The Head Start workforce is largely comprised of women and people of color, who often experience barriers to saving for a secure retirement.¹³ Additionally, the majority of K-12 school teachers are offered some type of retirement or pension plan.¹⁴ Therefore, we believe it is important to provide opportunities for Head Start staff to build retirement savings and support the inclusion of retirement benefits for Head Start staff.

2. Strengthen mental health supports for staff, children, and families

We applaud the steps the proposed rule takes in § 1302.93 and § 1302.45 to support the wellness of staff, children, and families. Promoting staff health and wellness is necessary to reduce stress and burnout, improve the quality of interactions between teachers and children, and improve staff recruitment and retention. These proposed changes align with Head Start programs' mission to promote children's development through early learning, health, and family well-being.

3. Limiting expulsions and suspensions of children

We support the proposed provisions in § 1302.17 to strengthen mental health consultation in order to prevent and severely limit the use of suspensions and expulsions in Head Start programs. Research has found that boys of color, children with disabilities, and children who are English language learners are disproportionately more likely to experience suspensions in preschool.¹⁵ These disciplinary practices have negative consequences on children and families' mental health, children's future school attendance, academics, and family stress.¹⁶ We believe that § 1302.17(a)(iii) provides important requirements for programs to coordinate with a child's individual family service plan or individual education plan, if appropriate, when facilitating the child's safe reentry and continued participation in the program after a temporary suspension. These provisions provide essential clarifications for limiting expulsions and suspensions to better support children's social and emotional development in line with the Head Start Act.

¹³ Caitlin McLean, et al., *Early Childhood Workforce Index – 2020*, U.C. Berkeley Ctr. Study Child Care Emp. (2021), <https://cscce.berkeley.edu/workforce-index-2020/wp-content/uploads/sites/3/2021/02/Early-Childhood-Workforce-Index-2020.pdf>.

¹⁴ 88 Fed. Reg. 80818, 80836 (Nov. 20, 2023) (codified at 45 C.F.R. pt. 1301-05).

¹⁵ Michelle Horowitz, *Early Childhood Suspension and Expulsion*, Ctr. Enhancing Early Learning Outcome (Aug. 2015), http://ceelo.org/wp-content/uploads/2015/08/ceelo_annotated_bib_expulsion_2015_08_final_web.pdf

¹⁶ Walter S. Gilliam, *Prekindergartners Left Behind: Expulsion Rates in State Prekindergarten Systems*, Found. Child Dev't (May 4, 2005).

4. Clarify income definition and account for excessive housing costs

As wages increase to respond to rising costs of living, many families earning low wages have seen their incomes rise above the federal poverty level (FPL) eligibility threshold but still struggle to make ends meet and afford the high costs of necessities like housing, food, utilities, and child care. We support the updates to the definition of income in § 1305.2 and the adjustments for excessive housing expenses in § 1302.12(i)(1) to reduce some eligibility barriers related to variations in cost of living and ensure children and families who would benefit from Head Start’s services can access the program.

We also support the updated definition of “income”, including the clear exclusion of refundable tax credits and forms of public assistance from the definition. With a growing number of states creating and expanding refundable tax credits, such as Earned Income Tax Credits and Child Tax Credits, and implementing periodic payments, we encourage the Department to consider clarifying that the new income definition would also exclude state-level credits, regardless of the frequency of their payments, to guarantee that families who would benefit the most from these tax credits maintain their eligibility for Head Start.¹⁷

5. Reducing eligibility barriers for Migrant and Seasonal Head Start programs

Migrant and Seasonal Head Start programs are uniquely positioned to support the children of families who are employed in local agricultural work by promoting school readiness while being responsive to the ethnic, cultural, and linguistic heritage of farmworker families; offering services that align with the full working day; and operating year-round to accommodate harvest seasons. However, the agricultural workforce is facing increasing challenges, such as low wages, unpredictable weather, and physical demands that make employment in this sector less stable and have created more barriers to enrolling farmworker families in the Migrant or Seasonal Head Start programs (MSHS).

We support the proposed changes in § 1302.12(f) to be more reflective of shifts in the agricultural workforce and enable more children of farmworkers to receive critical services through MSHS. Additionally, we appreciate the addition of § 1302.12(j)(5) to promote continuity of services for families served by MSHS that aligns with the duration of Early Head Start programs.

6. Addressing transportation challenges for program enrollment and access

A lack of accessible, affordable, and reliable transportation poses a major barrier to enrolling and consistently attending Head Start programs for low-income families, particularly for families experiencing homelessness and for families in rural and Tribal communities. We appreciate the provisions in § 1302.14 and § 1302.16 to require programs to examine transportation challenges as they relate to enrollment and regular attendance barriers.

7. Additional considerations

Head Start and Early Head Start programs must prioritize children experiencing homelessness for enrollment and can reserve a portion of their funded capacity for children experiencing homelessness.¹⁸ Therefore, we encourage the Department to consider any unintended consequences related to changes proposed in § 1302.11(b)(4) that may result in underestimating the number of children experiencing homelessness and reducing the number of slots reserved for these children.

¹⁷ Samantha Waxman and Iris Hinh, *States Can Enact or Expand Child Tax Credits and Earned Income Tax Credits to Build Equitable, Inclusive Communities and Economies*, CBPP (May 3, 2023), <https://www.cbpp.org/research/state-budget-and-tax/states-can-enact-or-expand-child-tax-credits-and-earned-income-tax>.

¹⁸

Further, we appreciate the proposed rule includes “restraining” as an example under § 1302.90(c)(1)(ii)(A) and urge the Department to consider clarifying the use of seclusion to better strengthen the protections for all children, including children with disabilities, from physically and emotionally painful treatment from staff. We urge the Department to consider using the term “seclusion” rather than “isolation” as one of the examples of prohibited emotionally harmful or abusive behaviors in paragraph (C). To us, seclusion is defined as the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, except that such term does not include a time out.¹⁹ It is unacceptable to subject children to seclusion. Children with disabilities and children of color disproportionately experience restraint, seclusion, and other adverse discipline practices in educational settings. We believe using consistent terminology is important to not only the field but for the safety of children.

Conclusion

While we support the policy changes proposed in this rule and believe they will strengthen the Head Start program, we ask that the Department to take as many steps as possible to ensure the implementation of these policy changes does not disrupt Head Start services for any children and families currently served through the program. Particularly, we encourage the Department to meaningfully consult with Tribal governments and to also engage with Migrant and Seasonal Head Start programs and small and rural grantees before finalizing the proposed rule. We continue to call for additional investments in Head Start, but short of that, we urge the Department to thoughtfully implement this proposal to ensure that the final rule yields the full benefit for children, families, and Head Start staff.

We also ask the Department to work with Head Start programs and to provide rigorous training and technical assistance to support the successful implementation of any finalized changes, such as revisions to pay scales or pay structure, providing benefits, and adjusting for excessive housing costs.

Sincerely,



Bernard Sanders
United States Senator



Robert C. "Bobby" Scott
Member of Congress
Ranking Member, Committee on
Education and the Workforce



Elizabeth Warren
United States Senator

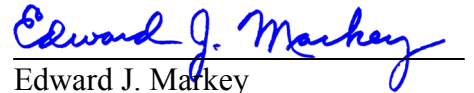


Eleanor Holmes Norton
Member of Congress

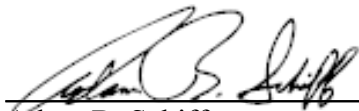
¹⁹ Keeping All Students Safe Act, S. 1750, 118th Cong. (as introduced by Senate, May 18, 2023).



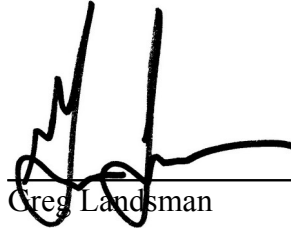
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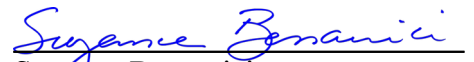
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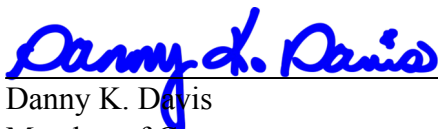
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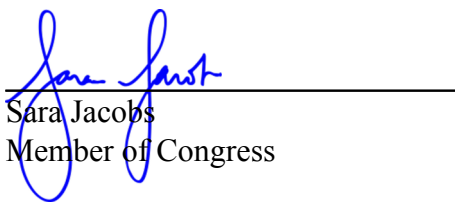
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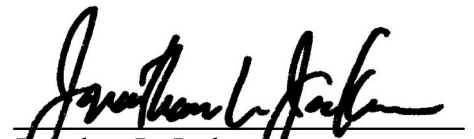
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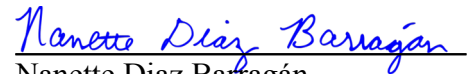
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Mazie K. Hirono
United States Senator



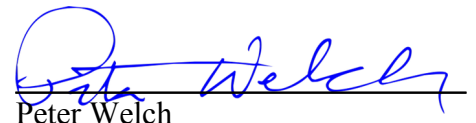
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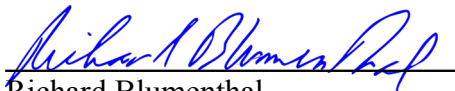
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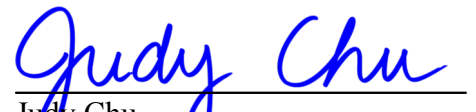
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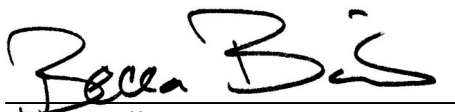
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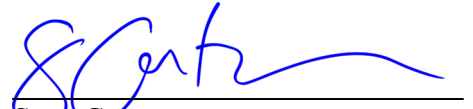
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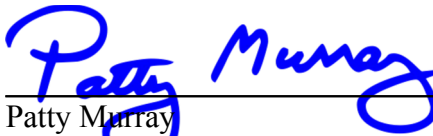
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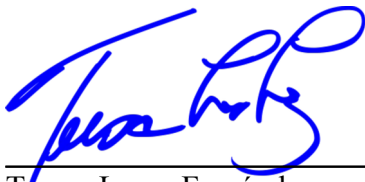
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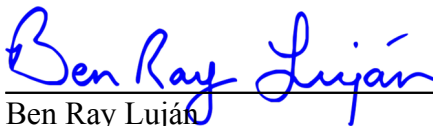
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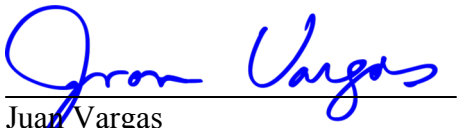
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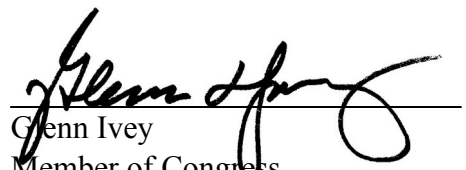
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Jack Reed
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Juan Vargas
Member of Congress



Glenn Ivey
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