



October 6, 2026

Lizbeth Casco White, Director
Office of Head Start, Administration for Children & Families
Department of Health and Human Services
330 C. Street, S.W., Mailstop 4301
Washington, DC 20201

CC: Adam N. Jones, Deputy Chief of Staff, Immediate Office of the Assistant Secretary,
Administration for Children and Families, Department of Health and Human Services

RE: Reducing Federal Burden for Head Start Programs
Docket No. ACF-2026-0595
RIN No. 0970-AD30

Via regulations.gov and Deregulation@acf.hhs.gov

Dear Director Lizbeth Casco White and Deputy Chief of Staff Adam Jones:

The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") submits this comment in response to Office of Head Start's (OHS) [proposed rule](#) which would rescind and replace the Head Start Performance Standards (Performance Standards) at [45 CFR Chapter XIII](#), specifically rescinding Parts 1301 through 1305 and replacing them with a single, dramatically weaker Part 1301. **We strongly urge OHS to withdraw the proposed rule in its entirety.** Although the proposal is framed as an effort to reduce unnecessary federal requirements, it would do far more than relieve administrative burden. By eliminating or weakening core federal standards governing how Head Start programs educate, support, and respond to young children and families, the proposed rule would fundamentally diminish the program itself. In doing so, it risks undermining the comprehensive, individualized, culturally responsive, and inclusive model that has defined Head Start for more than six decades.

The Lawyers' Committee is a nonpartisan civil rights organization founded in 1963 by the nation's leading lawyers at the request of President John F. Kennedy to secure equal justice for all through the rule of law by targeting the inequities confronting Black communities and other communities of color. The Lawyers' Committee uses legal advocacy to achieve racial justice and to ensure that Black people and other people of color have the voice, opportunity, and power to make the promises of our democracy real. The Educational Opportunities Project at the Lawyers' Committee has been a national leader in protecting and defending inclusive education and diversity efforts in PK-12 schools, colleges and universities, including by representing

intervenor and amici students and presenting oral argument before the Supreme Court in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023).

Though we strongly urge the withdrawal of the rule in its entirety, three particularly troubling provisions of the proposed rule are discussed in this comment. First, the proposed rule would eliminate teacher-student ratios for Head Start, leading to significantly larger class sizes and decreased quality of learning. Second, the proposed elimination of federal guardrails governing suspension and expulsion and prohibitions on other harmful conduct in Head Start programs are especially alarming given the age of children served by Head Start programs, and the well-documented racial disparities in discipline. Lastly, the proposed English-only federal mandate for English to be the default and exclusive language of instruction would harm Head Start programs. And it would send an unequivocal message to multilingual families that the language they speak at home—and the cultural connections carried by that language—are unwelcome. OHS has offered no compelling reasons to support that these policy reversals are necessary, effective, or beneficial for the children and families they would affect. For these reasons, we urge the OHS to withdraw the proposed rule in its entirety and retain the federal standards that protect Head Start's distinctive mission, while investing in the resources, workforce, technical assistance, and other supports that enable programs to meet those standards effectively.

I. Head Start is a Historic Federal Commitment to Children and Families and Equal Opportunity

On May 18, 1965, standing in the Rose Garden at the White House, President Lyndon B. Johnson announced a new front on the war against poverty: Project Head Start:

“This means that nearly half the preschool children of poverty will get a head start on their future. These children will receive preschool training to prepare them for regular school ...medical and dental attention that they badly need, and parents will receive counseling on improving the home environment. [They] are inheritors of poverty's curse and not its creators. Unless we act these children will pass it on to the next generation, like a family birthmark.”¹

Head Start occupies a singular place in American public policy. Created in 1965 as a centerpiece of President Johnson's War on Poverty, the program emerged alongside major civil rights and anti-poverty legislation as the federal government confronted the interrelated problems of poverty, racial discrimination, and unequal access to education, housing, health care,

¹ Lyndon B. Johnson, Remarks on Project Head Start (May 18, 1965), in *The American Presidency Project* (Gerhard Peters & John T. Woolley eds.), <https://www.presidency.ucsb.edu/documents/remarks-project-head-start>.

employment, and economic opportunity. From its inception, Head Start was designed to provide comprehensive resources and services, addressing the educational, health, nutritional, social, emotional, and developmental needs of young children and their families, establishing a fundamental principle: the circumstances into which a child is born should not determine that child's opportunity to learn, develop, and thrive.

Its architects understood that poverty and racial inequality constrained children's opportunities long before they entered elementary school, and that addressing those inequities required more than just educational resources.² Head Start's anti-poverty mission was therefore embedded in a broader national effort to expand opportunity for communities that had been systematically denied it. That history carries particular significance for the Lawyers' Committee, similarly forged amid intense turmoil and violence and the promises of justice that marked America's Second Reconstruction. Six decades later, Head Start's founding commitment remains deeply relevant.

A. A Six-Decade National Investment

The durability and scale of the federal investment in Head Start reinforce the significance of that commitment. Head Start began as an eight-week summer program in 1965 and quickly expanded to a full year program the following year. In just five years, federal expenditures had reached \$326 million—approximately \$2.5 billion in today's dollars—and Head Start was operating in nearly half of U.S. counties.³ Congress has continued to fund and reauthorize Head Start across administrations, including during President Trump's first term when its budget increased by \$900 million dollars.⁴ For fiscal year 2026, Congress appropriated about \$12.3 billion dollars.

By any reasonable measure, Head Start represents one of the largest and longest-standing federal investments in early childhood opportunity in American history. The federal government has invested hundreds of billions of dollars in the program over six decades, reflecting a sustained national judgment that children experiencing poverty deserve a meaningful investment in their development and future.

² Arthur J. Reynolds, Child Development as Social Action: Reflections on Four Underrated Contributions of Edward Zigler to Science and Society. *Development and Psychopathology*, 33 Dev. & Psychopathology 466–482 (2021), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8903026/pdf/nihms-1633627.pdf>.

³ Martha J. Bailey, Shuqiao Sun & Brenden Timpe, *Prep School for Poor Kids: The Long-Run Impacts of Head Start on Human Capital and Economic Self-Sufficiency*, 111 Am. Econ. Rev. 3963–4001 (2021), <https://doi.org/10.1257/aer.20181801>.

⁴ Jason DeParle, *Cleaner Classrooms and Rising Scores: With Tighter Oversight, Head Start Shows Gains*, N.Y. Times (Feb. 4, 2019), <https://www.nytimes.com/2019/02/04/us/politics/head-start-preschool.html>.

Head Start has earned broad support among the American public. A recent national survey of more than 1,000 registered voters found that 79% supported Head Start, including 73% of Republicans and 86% of Democrats. 72% of voters also characterized federal funding for the program as a sound investment of taxpayer dollars. This support extends across communities and geography as well. The same survey found support for Head Start among 80% of urban voters, 80% of suburban voters, and 76% of rural voters.⁵

B. Head Start Continues to Serve Children and Families Facing Significant Barriers to Opportunity

There is no evidence to suggest that the need for Head Start – or for the comprehensive federal standards governing it – has dissipated.⁶ And those inequalities do not fall evenly across society.⁷ Each year, Head Start programs serve more than 700,000 children from birth through age five from every corner of the nation. Black and Hispanic/Latine children comprise a substantial share of Head Start enrollment – approximately 29% and 38%, respectively. Nearly 35% of enrolled children are dual language learners, and 15% are children with disabilities. And over fifty thousand families served experience homelessness and other forms of economic instability.⁸ These demographics tell an important story about the continuing need for Head Start. The children and families served by the program are navigating many of the same structural barriers to opportunity that animated its creation more than sixty years ago.

C. Head Start's Enduring Value Warrants Continued Investment and Support

Decades of research examining the program's impact demonstrate why Head Start warrants continued investment. Longitudinal studies have found that it improves children's school readiness in the short term and is associated with a host of positive benefits in the long term. For example, Black and Latine children appear to demonstrate the greatest short-term gains in math and language by the end of their first year in the program.⁹ Other scholars have found

⁵ First Five Years Fund, *Poll: Support for Head Start* (Apr. 29, 2025), <https://www.ffyf.org/2025/04/29/new-poll-support-for-head-start/>.

⁶ Annie E. Casey Found., *Measuring Access to Opportunity in the United States: A 10-Year Update* (Oct. 2025), <https://assets.aecf.org/m/resourcedoc/aecf-measuringaccessupdate-2025.pdf>.

⁷ Raj Chetty, Nathaniel Hendren, Maggie R. Jones & Sonya R. Porter, *Race and Economic Opportunity in the United States: An Intergenerational Perspective*, 135 Q.J. Econ. 711–783 (2020), https://opportunityinsights.org/wp-content/uploads/2018/04/race_paper.pdf.

⁸ Off. of Head Start., Admin. for Child. & Fams., U.S. Dep't of Health & Hum. Servs., *Head Start Program Facts: Fiscal Year 2024* (2025), <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>.

⁹ Pamela Joshi, Kimberly Geronimo & Dolores Acevedo-Garcia, *Head Start Since the War on Poverty: Taking on New Challenges to Address Persistent School Readiness Gaps*, 7 J. Applied Rsch. on Child. Informing Pol'y for Child. at Risk, art. 11 (2016), <http://digitalcommons.library.tmc.edu/childrenatrisk/vol7/iss1/11>.

that the program narrows school readiness gaps.¹⁰ Research has also identified associations between Head Start enrollment and better health outcomes, including better overall health,¹¹ lower rate of obesity,¹² and greater likelihood of having health insurance,¹³ compared with non-Head Start early childhood education programs. In addition, positive family and parenting outcomes have been noted in Head Start families, including associations with more positive parenting practices,¹⁴ parental educational attainment,¹⁵ and maternal well-being.¹⁶

In the long term, research has found that Head Start enrollment is associated with a decreased likelihood of grade retention¹⁷ and a higher likelihood of high school and college graduation.¹⁸ A study examining the intergenerational effects of Head Start on child and family outcomes identified several long-term benefits, including decreases in teen parenting and criminal engagement and increases in high school and college enrollment.¹⁹ To be sure, these findings should be understood alongside research showing more limited or fading short-term effects.²⁰ Nevertheless, it is clear that the long and short term gains from Head Start investments are contingent on implementation of a robust set of quality standards that OHS is seeking to

¹⁰ Marianne P. Bitler, Hilary W. Hoynes, & Thurston Domina, *Experimental Evidence on the Distributional Effects of Head Start*, Nat'l Bureau of Econ. Rsch., Working Paper No. 20434 (Aug. 2014), https://www.nber.org/system/files/working_papers/w20434/w20434.pdf.

¹¹ Matthew T. Alford, *Long-Term Benefits of Head Start: Evidence from the Panel Study of Income Dynamics*. (Ph.D. dissertation, Mississippi State Univ. 2009), <https://scholarsjunction.msstate.edu/td/2972>.

¹² Julie C. Lumeng et al., *Changes in Body Mass Index Associated with Head Start Participation*, 135 *Pediatrics* e449–56 (2015), <https://doi.org/10.1542/peds.2014-1725>.

¹³ Michael Puma et al., *Head Start Impact Study Final Report*, Admin. for Child. & Fams., Dep't of Health & Hum. Servs (Jan. 2010), <https://www.acf.hhs.gov/opre/report/head-start-impact-study-final-report-executive-summary>.

¹⁴ Diane W. Schanzenbach & Lauren Bauer, *The Long-Term Impact of the Head Start Program*, The Hamilton Project, Brookings Inst. (Aug. 19, 2016), <https://www.brookings.edu/research/the-long-term-impact-of-the-head-start-program/>.

¹⁵ Terri J. Sabol & P. Lindsay Chase-Lansdale, *The Influence of Low-Income Children's Participation in Head Start on Their Parents' Education and Employment*, 34 *J. Pol'y Analysis & Mgmt.* 136–61 (2015), <https://doi.org/10.1002/pam.21799>.

¹⁶ Frances L. Parker, Cesar S. Piotrkowski & Lisa Peay, *Head Start as a Social Support for Mothers: The Psychological Benefits of Involvement*, 57 *Am. J. Orthopsychiatry* 220–33 (1987), <https://doi.org/10.1111/j.1939-0025.1987.tb03532.x>.

¹⁷ Jens Ludwig & Douglas L. Miller, *Does Head Start Improve Children's Life Chances? Evidence from a Regression Discontinuity Design*, 122 *Q.J. Econ.* 159–208 (2008).

¹⁸ Martha J. Bailey, Shuqiao Sun & Brenden Timpe, *Prep School for Poor Kids: The Long-Run Impacts of Head Start on Human Capital and Economic Self-Sufficiency*, 111 *Am. Econ. Rev.*, 3963–4001 (2021), <https://doi.org/10.1257/aer.20181801>.

¹⁹ Andrew Barr & Chloe R. Gibbs, *Breaking the Cycle? Intergenerational Effects of an Antipoverty Program in Early Childhood*, 130 *J. Pol. Econ.* 3253 (2022), <https://doi.org/10.1086/720764>.

²⁰ Chloe Gibbs, Jens Ludwig, Douglas L. Miller & Na'ama Shenhav, *Short-run Fade-out in Head Start and Implications for Long-run Effectiveness*, Ctr. for Poverty Rsch., Univ. of Cal., Davis, Pol'y Brief, Vol. 4, No. 8 (Feb. 2016), <https://poverty.ucdavis.edu/policy-brief/short-run-fade-out-head-start-and-implications-long-run-effectiveness>.

eliminate in its proposal.²¹ The evidence provides a compelling reason for continued evaluation, improvement, and investment in Head Start—not for abandoning a pillar of the nation’s social safety net under the guise of reducing regulatory burden.

II. The Proposed Rule Would End Head Start as We Know it and Dismantle What Congress Created

A. Congress Created Head Start as a Comprehensive Federal Commitment

Head Start is the product of more than six decades of federal policymaking from its launch as an eight-week summer program in 1965 through subsequent statutory reauthorizations, each building upon the program's original foundation. Congress repeatedly revisited, refined, and reaffirmed its commitment to a comprehensive approach to school readiness and to the health, nutrition, developmental, educational, and needs of young children and their families.²² The current Head Start Act—and the Performance Standards promulgated under it—are the product of that legislative history.²³

Congress specified that those standards address health, parental involvement, nutrition, social services, school readiness, and developmentally appropriate education. For children with limited English proficiency, Congress expressly required standards that support both progress toward English acquisition and culturally and linguistically appropriate instructional services.²⁴

Congress also directed OHS to consider research-based practices concerning early childhood education, children with disabilities, homeless children, children in foster care, and family services, as well as changes in the characteristics of the population Head Start serves, including changes in children's country of origin and language background.²⁵ Critically, Congress instructed that revisions to the Performance Standards should not eliminate or reduce the quality, scope, or types of services required under the existing standards.²⁶ These Performance Standards are the federal mechanism through which Congress's broad statutory commitments become concrete requirements for Head Start programs and meaningful expectations for the children and families those programs serve.

²¹ Shantel Meek et al., *Lowering the Bar: An Analysis of How Replacing Head Start Standards with State Child Care Licensing Weakens Early Learning Across the United States*, Child. ’s Equity Project, Ariz. State Univ. (Aug. 2026), <https://cep.asu.edu/resources/An-Analysis-of-How-Replacing-Head-Start-Standards-with-State-Child-Care-Licensing-Weakens-Early-Learning-Across-the-United-States>.

²² 42 U.S.C. § 9831

²³ 42 U.S.C. § 9836a(a)(1)

²⁴ 42 U.S.C. § 9836a(a)(1)(A)–(B)

²⁵ 42 U.S.C. § 9836a(a)(2)

²⁶ 42 U.S.C. § 9836a(a)(2)(C)(ii)

B. The Proposed Rule Would Remove the Federal Floor That Makes Head Start a National Program

The proposed rule amounts to a sweeping rollback of the federal standards that have defined Head Start's quality and scope for decades.²⁷ Through the proposed rule, OHS proposes rescinding and replacing the Performance Standards in favor of a framework that would significantly reduce federal requirements, defer to state policies wherever possible, and "return substantial authority to Head Start agencies and parents." Though state licensing requirements may establish important health and safety protections, these standards often represent the bare minimum of what is required to operate a childcare program. Rarely do these requirements comprehensively address school readiness, child development, family engagement, culturally and linguistically responsive instruction, or individualized supports in ways that Congress built into Head Start.²⁸

As a result, OHS's proposed approach would weaken the federal floor that gives Head Start its national character, and lead to inconsistency in programs across regions and communities. The Performance Standards provide a common baseline of quality across that system.

C. The Proposed Rule Would Fundamentally Change the Experience of the Children Head Start Serves

The potential consequences of this shift are particularly significant because of whom Head Start serves. The proposal would give programs greater discretion over fundamental aspects of Head Start—including the policies used to respond to challenging behavior, and the conditions under which children receive care and education. Three provisions illustrate the stakes particularly clearly.

First, the elimination of federal requirements for teacher-student ratios would change the basic conditions under which all Head Start children learn and receive care, with the effects falling most directly on the students of color and other families who have historically depended on Head Start to overcome barriers to opportunity. Second, the elimination of federal suspension

²⁷ Aaron Loewenberg, *What's in the Trump Administration's New Head Start Rule?*, New Am. (Aug. 6, 2026), <https://www.newamerica.org/insights/whats-in-the-trump-administrations-new-head-start-rule/>.

²⁸ Shantel Meek et al., *Lowering the Bar: An Analysis of How Replacing Head Start Standards with State Child Care Licensing Weakens Early Learning Across the United States*, Child.'s Equity Project, Ariz. State Univ. (Aug. 2026), <https://cep.asu.edu/resources/An-Analysis-of-How-Replacing-Head-Start-Standards-with-State-Child-Care-Licensing-Weakens-Early-Learning-Across-the-United-States>.

and expulsion protections would affect children of color and children with disabilities who have historically experienced disproportionate rates of exclusionary discipline.²⁹ Lastly, the proposed English-only instruction requirement is a misguided, cruel, and unsupported attack on the large population of dual language learners who rely on Head Start. These provisions address different aspects of Head Start, but together they demonstrate the breadth of the proposed transformation. And because race, disability, language, poverty, and family circumstances often intersect in the lives of the children Head Start serves, the consequences of weakening these protections cannot be fully understood in isolation.³⁰

The following sections examine each of these proposed changes and their implications in greater detail. Taken together, they demonstrate why the proposed rule would move Head Start away from a nationally defined program with a meaningful federal floor and toward a more fragmented system in which fundamental aspects of children's experiences could vary according to state and local policy. That would end Head Start as we know it and virtually dismantle the program Congress created.

For these reasons, OHS should withdraw the proposed rule in its entirety and preserve the federal standards that translate Congress's commitment to Head Start and to the children and families it was created to serve.

III. Students of Color Bear the Largest Impact of the Rule's Proposed Elimination of Standards for Teacher-to Student Ratios

A. Eliminating the National Standard Would Expose Children to Lower-Quality Classroom Conditions

While "HHS continues to recognize the benefits associated with smaller group sizes and lower staff-child ratios," its proposed rule (proposed § 1301.05) would eliminate Head Start's federal staff-child ratio and group-size requirements and instead rely on applicable state and local licensing requirements. That change would make the quality of a child's Head Start classroom dependent on the requirements of the state in which that child lives.

OHS also acknowledges that Head Start's existing requirements are more stringent than state requirements across virtually the entire country. Indeed, third-party analysis of Head Start

²⁹ U.S. Gov't Accountability Off., *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities*, GAO-18-258 (Mar. 2018), <https://www.gao.gov/assets/gao-18-258.pdf>.

³⁰ Jackie Mader, *It Wouldn't be Head Start Anymore: Providers Blast Federal Proposal to Alter Preschool Program*, Hechinger Rep. (Aug. 8, 2026), <https://hechingerreport.org/it-wouldnt-be-head-start-anymore-providers-blast-federal-proposal-to-alter-preschool-program/>.

and state child-care licensing standards found that approximately 80% of children enrolled in Head Start and Early Head Start would experience worse adult-to-child ratios if federal Head Start standards were replaced with state licensing requirements.³¹

B. Staff-Child Ratios and Group Size Directly Shape the Quality of Children's Learning Experiences

Staff-child ratios and group size are important program characteristics of an early childhood classroom that help determine the conditions under which teaching and learning occur. Group size determines how many children may be taught together, while the staff-child ratio determines how many children each educator is responsible for. While a variety of factors impact the learning experiences of children, it is widely accepted that a low child-staff ratio is a core indicator of high program quality and best practice in early childhood education to ensure safety and care.³² A classroom with fewer children can provide more opportunities for individualized attention, while a lower child-to-staff ratio gives educators greater capacity to interact with children, supervise activities, respond to individual needs, and sustain meaningful teaching interactions.³³

This relationship has long been recognized by the Department of Health and Human Services (HHS) which disseminated guidance that identified smaller groups and lower child-staff ratios as conditions that enable teachers to spend more time with individual children and support children's development.³⁴ OHS acknowledges in the proposed rule that “the current ratio and group size requirements were adopted to promote child safety, support effective supervision and teacher-child interactions, and foster high-quality early learning environments.” Furthermore, studies have found that smaller classes produced more one-to-one teacher-child interactions and improvements in children's literacy.³⁵ When educators are responsible for more children, the

³¹ Shantel Meek et al., *Lowering the Bar: An Analysis of How Replacing Head Start Standards with State Child Care Licensing Weakens Early Learning Across the United States*, Child. 's Equity Project, Ariz. State Univ. (Aug. 2026), <https://cep.asu.edu/resources/An-Analysis-of-How-Replacing-Head-StartStandards-with-State-Child-Care-Licensing-Weakens-Early-Learning-Across-the-United-States>.

³² Am. Acad. of Pediatrics, Am. Pub. Health Ass'n & Nat'l Res. Ctr. for Health & Safety in Child Care & Early Educ. *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs* 4th ed. (2019), <https://www.npaihb.org/wp-content/uploads/2024/01/Care-For-Our-Children-4th-Ed.pdf>.

³³ Nat'l Rsch. Council, *Eager to Learn: Educating Our Preschoolers*, (Barbara T. Bowman, M. Suzanne Donovan & M. Susan Burns eds., Nat'l Acad. Press 2001), <https://www.nationalacademies.org/publications/9745>.

³⁴ Sharon M. McGroder, *Head Start: What Do We Know About What Works?*, Off. of the Assistant Sec'y for Plan. & Evaluation, U.S. Dep't of Health & Hum. Servs. (Mar. 29, 1990), <https://aspe.hhs.gov/reports/head-start-what-do-we-know-about-what-works-0>.

³⁵ Jessica Francis & W. Steven Barnett, *Relating Preschool Class Size to Classroom Quality and Student Achievement*, 49 Early Childhood Rsch. Q. 49–58 (2019), <https://doi.org/10.1016/j.ecresq.2019.05.002>.

amount of individualized attention available to each child decreases. Increasing ratios risks reducing the quality of children's educational experiences.

C. The Consequences Would Fall Disproportionately on Children of Color

More than three-quarters of children served by Head Start are children of color.³⁶ Decades of research and federal civil rights data have documented persistent racial disparities in access to educational opportunity, resources, and high-quality learning environments.³⁷ If the federal government eliminates the staffing and classroom standards governing Head Start, the resulting reduction in individualized attention will therefore fall disproportionately on children of color, who comprise the majority of the children served by the program. Moreover, Head Start specifically serves children of color who are also experiencing poverty and other barriers to opportunity, including children with disabilities, dual language learners, and children experiencing homelessness. Those children benefit from educators having the time and capacity to recognize their individual needs and respond appropriately.³⁸ It goes without saying that larger classroom sizes and higher child-to-staff ratios make that work more difficult.

Only a few studies have examined ratio and class size with respect to how their effects may differ for specific subgroups of children. But even without considering the demographic impact in Head Start specifically, research supports that the consequences of eliminating these stronger national standards would fall disproportionately on children of color. One study found that Hispanic children were more likely to attend early childhood education programs with larger class sizes.³⁹ Two large-scale studies in the early elementary grades found that smaller class sizes were more strongly associated with positive outcomes for Black children and children from low-income communities than for other groups.⁴⁰ Another study found that smaller class sizes were associated with growth in early math skills for Black children.⁴¹

³⁶ Off. of Head Start, Admin. for Child. and Fams., U.S. Dep't of Health & Hum. Servs., *Head Start Program Facts: Fiscal Year 2024* (2025), <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>.

³⁷ U.S. Gov't Accountability Off., *K-12 Education: Better Use of Information Could Help Agencies Identify Disparities and Address Racial Discrimination*, GAO-16-345 (2016), <https://www.gao.gov/products/gao-16-345>.

³⁸ Xigrid Soto-Boykin et al., *Access and Inclusion for Children with Disabilities in Head Start: A Review of the Research and a Policy Comparison Between Head Start Standards and States*, Child.'s Equity Project, Ariz. State Univ. (Sept. 2026), <https://cep.asu.edu/resources/access-inclusion-children-disabilities-head-start>.

³⁹ Rachel Valentino, *Will Public Pre-K Really Close Achievement Gaps? Gaps In Prekindergarten Quality Between Students And Across States*, 55 Am. Educ. Rsch. J. 79 (2018), <https://doi.org/10.3102/0002831217732000>.

⁴⁰ Nat'l Acads. of Scis., Eng'g, & Med., *Closing the Opportunity Gap for Young Children* (Nat'l Acads. Press. 2023), <https://doi.org/10.17226/26743>.

⁴¹ Margaret Burchinal et al., *Examining the Black-White Achievement Gap Among Low-Income Children Using the NICHD Study of Early Child Care and Youth Development*, 82 Child Dev., 1404–20 (2011), <https://doi.org/10.1111/j.1467-8624.2011.01620.x>.

IV. Eliminating Federal Guardrails and Prohibitions on Exclusionary Discipline and other Harmful Conduct Would Harm All Children and Put Children of Color at a Greater Risk of Discriminatory Harm

Dressed up thinly as an effort to “restore state and local authority,” the proposed rule aims to eliminate guardrails that keep students safe and within Head Start classrooms. By jettisoning section 1302.17 of the current Performance Standards, which limits use of suspensions and prohibits expulsion, the proposed rule endorses more discipline, more exclusion, and less support for our youngest students. And both the demographics of Head Start participants and data of persistent and continuing unjustified, discriminatory disparities in disciplinary outcomes for Black students and other students of color, virtually guarantee that students of color will suffer the worst outcomes of the proposed rule. Defying logic and any reasonable sense of care for children, the proposed rule goes even further, eliminating standards of conduct for staff, consultants, contractors, and volunteers in Head Start programs. Collectively, these standards of conduct have long required programs to protect children from corporal punishment, sexual abuse, emotionally harmful or abusive behavior including seclusion or humiliation, or neglect including withholding food as punishment.⁴²

ED and HHS have previously specifically recommended eliminating expulsion and suspension practices in early childhood settings, indicating that such practices have the potential to hinder social-emotional and behavioral development, and harmfully remove children from cognitively enriching early learning experiences that contribute to healthy development and academic success later in life.⁴³ Suspensions and expulsions, by definition, exclude a child from accessing their education. For Head Start students, this means exclusion from the education and services designed to support their school readiness by enhancing their cognitive, social, and emotional development in a learning environment that supports their growth. Exclusion removes children from learning time and relationships, which for a preschooler, may mean fewer opportunities to practice the very skills adults want them to develop: communication, emotional regulation, conflict resolution, and participation in a group.⁴⁴ Research indicates that suspension and expulsion are associated with negative educational and life outcomes, including lower educational achievement and depression.⁴⁵ Young students who are expelled or suspended are as

⁴² 45 CFR § 1302.90(c).

⁴³ U.S. Dep’t of Health & Hum. Servs. & U.S. Dep’t of Educ., *Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings* (2014), https://acf.gov/sites/default/files/documents/ecd/expulsion_suspension_final.pdf.

⁴⁴ Shantel Meek et al., *Harsh Punishment and Exclusionary Discipline in the Early Years: Data, Research, and a Policy Comparison Between Head Start and States*, Child. ’s Equity Project, Ariz. State Univ. (Sept. 2026), <https://cep.asu.edu/resources/harsh-punishment-exclusionary-discipline-early-years>.

⁴⁵ U.S. Dep’t of Health & Hum. Servs. & U.S. Dep’t of Educ., *Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings* (2014), <https://acf.gov/sites/default/files/documents/ecd/>

much as ten times more likely to drop out of high school, experience academic failure and grade retention, hold negative school attitudes, and face incarceration than those who are not.⁴⁶

While exclusionary discipline has a harmful impact on all children, significant data and federal civil rights enforcement experience demonstrate that at all ages, Black students and other students of color are subjected to unjustified and discriminatory discipline at alarmingly higher rates than white students. A 2023 National Academies of Sciences, Engineering, and Medicine consensus report found that harsh and exclusionary discipline practices start early and that they are disproportionately applied to Black children even though there is no evidence that Black children behave worse or differently than their peers.⁴⁷

Prior federal enforcement actions demonstrate how biased discipline policies disproportionately affect Black students and students of color. For more than a decade, ED's Office for Civil Rights (OCR) received complaints from members of school communities—including parents, students, and civil rights organizations—which frequently showed that students were disciplined unfairly, not because of the gravity of their individual conduct, but instead, on the basis of their race, color, or national origin. According to OCR's 2024 annual report (a report released each year with summaries of OCR's work), OCR received 384 complaints raising allegations of discriminatory discipline on the basis of race, color, or national origin.⁴⁸

In one August 2022 resolution, for example, OCR identified specific instances where Black students were treated more harshly than white students in ways that violated a school district's own policies and state law, including for purported dress code violations, tardiness,

[expulsion_suspension_final.pdf](#); James H. Lamont et al., *Out-of-School Suspension and Expulsion*, 131 *Pediatrics* e1000 (2013); Helene Petras et al., *Who is Most at Risk for School Removal? A Multilevel Discrete Time Survival Analysis of Individual- and Context-Level Influences*, 103 *J. of Educ. Psych.* 223 (2011); Am. Psych. Ass'n Zero Tolerance Task Force, *An Evidentiary Review and Recommendations* (2008); Shantel Meek et al., *Harsh Punishment and Exclusionary Discipline in the Early Years: Data, Research, and a Policy Comparison Between Head Start and States*, Child.'s Equity Project, Ariz. State Univ. (Sept. 2026), <https://cep.asu.edu/sites/g/files/litvpz916/files/2026-09/Harsh%20and%20Exclusionary%20Discipline%20%287%29.pdf>; K.C. Wolf & Aaron Kupchik, *The Long-Term Consequences of School Suspension and Expulsion on Depressive Symptoms*, *Advances in Life Course Rsch.* (2024), <https://doi.org/10.1016/j.alcr.2024.100631>.

⁴⁶ *Id.*

⁴⁷ Nat'l Acads. of Scis., Eng'g & Med., *Closing the Opportunity Gap for Young Children* (Nat'l Acads. Press 2023), <https://doi.org/10.17226/26743>; Shantel Meek et al., *Harsh Punishment and Exclusionary Discipline in the Early Years: Data, Research, and a Policy Comparison Between Head Start and States*, Child.'s Equity Project, Ariz. State Univ. (Sept. 2026), <https://cep.asu.edu/resources/harsh-punishment-exclusionary-discipline-early-years>.

⁴⁸ Off. for C.R., U.S. Dep't of Educ., *Office for Civil Rights Fiscal Year 2024 Annual Report* (2024), <https://www.ed.gov/media/document/ocr-report-president-and-secretary-of-education-2024-109012.pdf>.

truancy, and disruption.⁴⁹ In that investigation, OCR also identified a pattern of harsher treatment for Black students by school police officers, including law enforcement citations issued disproportionately to Black students based on minor behavior and subjective determinations—for example, one Black student received a citation to appear in juvenile court based on him attempting throw a ketchup packet into a garbage can and missing. In another example, in December 2017, OCR found a violation of federal civil rights law at a K-8 public school.⁵⁰ The school's dress code prohibiting “trendy hair styles” was selectively enforced against a Black student, who was forced to cut his hair, after being told “don’t come to School with your hair looking like that tomorrow,” and threatened with suspension. Though the school asserted that the determination was based on hair length, other students with longer hair, who were not Black, were not disciplined.

For more than a decade, Civil Rights Data Collection (CRDC) data collected by ED’s OCR has unequivocally shown that Black students and other students of color are disproportionately disciplined, and that this is a problem in all 50 states. For example, data from the 2013-2014 school years, indicates, among other things, that Black public preschool children were 3.6 times as likely to receive out of school suspensions as white children, and that Black Pk-12 students were 3.8 times as likely to receive out of school suspensions as white students.⁵¹ CRDC data from the 2017-2018 school years indicates that Black boys in Pk-12 schools made up 7.7% of enrollment, but 24.9% of out of school suspensions and 25.9% of expulsions.⁵² And that Black girls are more than 5 times more likely to be subjected to out of school suspension than white girls; 3 times more likely to be referred to law enforcement; 4 times more likely to be arrested in school than white girls, and receive almost half of the exclusionary discipline despite comprising only 15% of the population of public school enrollment.⁵³ More recent CRDC data, despite being heavily impacted by the COVID Pandemic, still demonstrates the ongoing harm to

⁴⁹ Off. for C.R., U.S. Dep’t of Educ., *Findings Letter to Victor Valley Union High School*, OCR Case No. 09-14-5003 (Aug. 16, 2022), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/investigations/more/09145003-a.pdf>.

⁵⁰ Off. for C.R., U.S. Dep’t of Educ., *Finding Letter to Paramount Academy*, OCR Case No. 08-13-1341 (Dec. 14, 2017), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/investigations/more/08171341-a.pdf>.

⁵¹ Off. for C.R., U.S. Dep’t of Educ., *Civil Rights Data Collection (CRDC): First Look, 2013-14* (2016), <https://civilrightsdata.ed.gov/assets/downloads/2013-14-first-look.pdf>.

⁵² Off. for C.R., U.S. Dep’t of Educ., *Exclusionary Discipline Practices in Public Schools, 2017-18* (June 2021), <https://civilrightsdata.ed.gov/assets/downloads/crdc-exclusionary-school-discipline.pdf>; Off. for C.R., U.S. Dep’t of Educ., *Suspensions and Expulsions in Public Schools* (Aug. 2022), https://civilrightsdata.ed.gov/assets/downloads/Suspensions_and_Expulsion_Part2.pdf; Off. for C.R., U.S. Dep’t of Educ., *Discipline Practices in Preschool* (July 2021), <https://civilrightsdata.ed.gov/assets/downloads/crdc-DOE-Discipline-Practices-in-Preschool-part1.pdf>.

⁵³ *Id.*; U.S. Gov’t Accountability Off., *K-12 Education: Nationally, Black Girls Receive More Frequent and More Severe Discipline in School than Other Girls: Report to Congressional Requesters*, GAO-24-106787 (Sept. 2024), <https://www.gao.gov/products/gao-24-106787>.

Black students, indicating, for example, that though Black boys represent 8% of total PK-12 student enrollment, Black boys account for 18% of students who received out-of-school suspension and 18% of students who were expelled. Even while many students were learning remotely due to the COVID Pandemic, Black boys were suspended out of school or expelled from school at rates more than double their enrollment. In totality, at alarming rates, Black students are being excluded and removed from the school environment entirely through suspension and arrest.

Eliminating the guardrails for exclusionary discipline exposes Head Start children to the national experience of pervasive and discriminatory, exclusionary discipline, and it does so at the age and circumstances when they are most in need of support. And removing certain forms of prohibited conduct, like corporal punishment, from the performance goals places Head Start children at risk of harm that extends beyond exclusionary discipline.

As many as seventeen states still permit corporal punishment in schools.⁵⁴ Corporal punishment can cause serious physical pain and injury and is associated with higher rates of mental health issues, including mood, anxiety, and other personality disorders; drug and alcohol use disorders; higher rates of aggression, antisocial behavior, lower cognitive ability relating to verbal capacity, brain development, and academic achievement.⁵⁵ And research indicates that

⁵⁴ Shantel Meek et al., *Harsh Punishment and Exclusionary Discipline in the Early Years: Data, Research, and a Policy Comparison Between Head Start and States*, Child.'s Equity Project, Ariz. State Univ. (Sept. 2026), <https://cep.asu.edu/resources/harsh-punishment-exclusionary-discipline-early-years>; L. Kern et al., *The Continuing Use of Corporal Punishment in Schools: A Review of State Laws* (unpublished manuscript, under review at Sch. Psych. Rev., 2026).

⁵⁵ U.S. Dep't of Educ., *Letter from Secretary Cardona Calling for an End to Corporal Punishment in Schools* (Mar. 24, 2023), <https://www.ed.gov/laws-and-policy/key-policy-letters/letter-secretary-cardona-calling-end-corporal-punishment-schools>; Off. for C.R., U.S. Dep't of Educ., *2017-18 State and National Estimations*, Civ. Rts. Data Collection, <https://ocrdata.ed.gov/estimations/2017-2018> (last visited July 6, 2022); see also Mark Keierleber, *Kids Keep Getting Hit at School, Even Where Corporal Punishment is Banned*, The 74 (May 19, 2021), <https://www.the74million.org/article/kids-keep-getting-hit-at-school-even-where-corporal-punishment-is-banned/>; Tracie O. Afifi et al., *Physical Punishment and Mental Disorders: Results from a Nationally Representative US Sample*, 130 *Pediatrics* 184-92 (2012), <https://doi.org/10.1542/peds.2011-2947>; Tracie O. Afifi et al., *Spanking and Adult Mental Health Impairment: The Case for the Designation of Spanking as an Adverse Childhood Experience*, 71 *Child Abuse & Neglect* 24-31 (Sept. 2017), <https://doi.org/10.1016/j.chiabu.2017.01.014>; Katherine J. Aucoin et al., *Corporal Punishment and Child Adjustment*, 27 *J. Applied Dev. Psych.* 527, 528-30 (2006), <https://doi.org/10.1016/j.appdev.2006.08.001>; Irwin A. Hyman & Donna C. Perone, *The Other Side of School Violence: Educator Policies and Practices That May Contribute to Student Misbehavior*, 36 *J. Sch. Psych.* 7 (1998); Michael J. MacKenzie, *Spanking and Child Development Across the First Decade of Life*, 132 *Pediatrics* e1118-e1125 (2013), <https://doi.org/10.1542/peds.2013-1227>; Elizabeth T. Gershoff, *Should Parents' Physical Punishment of Children be Considered a Source of Toxic Stress that Affects Brain Development?* 65 *Family Relations* 151-162 (2016), <https://doi.org/10.1111/fare.12177>; Corporal Punishment in Schools and Its Effect on Academic Success: Hearing Before the Subcomm. on Healthy Families & Communities of the H. Comm. on Educ. & Labor, 111th Cong. 1 (2010); Akemi Tomoda et al., *Reduced Prefrontal Cortical Gray Matter Volume in Young Adults Exposed to*

preschoolers subjected to corporal punishment measure lower on academic achievement and social competence, when compared to peers who have not received physical punishment as a means of discipline.⁵⁶ As with exclusionary discipline, the harmful impacts of corporal punishment fall much harder on Black students. In states that report instances of corporal punishment, Black boys are twice as likely as white boys to be subjected to corporal punishment, and Black girls are four times as likely as white girls to be subjected to corporal punishment.⁵⁷

Without the guardrails on exclusionary discipline and the conduct prohibitions on corporal punishment and other harmful conduct within the Performance Standards, Head Start children are left unprotected. While elimination of these specific Performance Standards clearly undermines the purpose of Head Start and the aims outlined within the Head Start Act, the Act itself does not include these specific provisions. So eliminating them within the Performance Standards eliminates them completely. The only rationale provided by OHS for this elimination is that it “restores state and local authority.” But this explanation does all families served by Head Start programs a tremendous disservice by making their children more vulnerable to harmful exclusionary discipline, corporal punishment, and other harmful conduct that data shows flows heavily and discriminatorily to Black students and other students of color. More than 70% of states do not have limitations on exclusionary discipline in early childcare systems which sufficiently align with the Performance Standards.⁵⁸

OHS has not provided a reasoned basis for the elimination of these standards or their consistency with the Act. The current Performance Standards that protect Head Start children from harmful exclusionary discipline and other harmful conduct should be maintained. Any modifications to the Performance Standards should focus on additional measures for the elimination of all discriminatory discipline experienced by Head Start children.

Harsh Corporal Punishment, 47 *Neuroimage Supp.* 2, T66, T68-70 (2009)
<https://doi.org/10.1016/j.neuroimage.2009.03.005>.

⁵⁶ U.S. Dep’t of Educ., *Letter from Secretary Cardona Calling for an End to Corporal Punishment in Schools* (Mar. 24, 2023), <https://www.ed.gov/laws-and-policy/key-policy-letters/letter-secretary-cardona-calling-end-corporal-punishment-schools>; Elizabeth Gershoff et al., *School Corporal Punishment and Its Association with Achievement and Adjustment*, 63 *J. Applied Dev. Psych.* 1-8 (2019), <https://doi.org/10.1016/j.appdev.2019.05.004>.

⁵⁷ U.S. Dep’t of Educ., *Letter from Secretary Cardona Calling for an End to Corporal Punishment in Schools* (Mar. 24, 2023), <https://www.ed.gov/laws-and-policy/key-policy-letters/letter-secretary-cardona-calling-end-corporal-punishment-schools>; U.S. Gov’t Accountability Off., *K-12 Education: Nationally, Black Girls Receive More Frequent and More Severe Discipline in School than Other Girls: Report to Congressional Requesters*, GAO-24-106787 (Sept. 2024), <https://www.gao.gov/assets/gao-24-106787.pdf>.

⁵⁸ Shantel Meek et al., *Harsh Punishment and Exclusionary Discipline in the Early Years: Data, Research, and a Policy Comparison Between Head Start and States*, Child.’s Equity Project, Ariz. State Univ. (Sept. 2026), <https://cep.asu.edu/resources/harsh-punishment-exclusionary-discipline-early-years>.

V. The English-Only Mandate is a Misguided, Cruel, and Unsupported Attack on Children and Families Head Start Was Created to Serve

A substantial portion of children in this country and those within Head Start specifically, are dual language learners. Nationally, roughly one-third of all children between the age of zero and five, or approximately 7.1 million children, have at least one parent who speaks a language other than English at home.⁵⁹ And for Head Start, approximately 35% of participants have a primary language other than English in their home.⁶⁰ According to OHS data, the enrollment of dual language learners in Head Start has grown by 12.5% between 2019 and 2023.⁶¹

Evidence is clear that Head Start children who are dual language learners benefit from consistent exposure to both their primary home language and English in their education settings.⁶² And when children have the opportunity to develop competence in two or more languages, they can show enhanced cognitive skills and improved academic outcomes in school.⁶³ Research shows that dual language education is also associated with children learning English faster and higher math, science, and literacy scores in middle childhood.⁶⁴ ED's Office of English Language Acquisition (OELA) has identified a myriad of benefits of multilingualism, including increased executive function, attentional control, task switching, empathy development, creativity, intellectual flexibility, and levels of abstract thought and reasoning.⁶⁵ And OHS has previously, explicitly stated that "[o]ver 35,000 Head Start staff speak two or more

⁵⁹ Migration Pol'y Inst., *Young Dual Language Learners in the United States and by State, 2019-2023*, <https://www.migrationpolicy.org/data-tool/young-dual-language-learners-united-states> (last visited Oct. 5, 2026).

⁶⁰ Off. of Head Start, Admin. for Child. & Fams., 2 U.S. Dep't of Health & Hum. Servs., *Head Start Program Facts: Fiscal Year 2024* (2025), <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>.

⁶¹ Off. of Head Start, Admin. for Child. & Fams., U.S. Dep't of Health & Hum. Servs., *Dual Language Learners in Head Start Programs* (Oct. 8, 2024), <https://headstart.gov/sites/default/files/pdf/no-search/dual-language-learners-in-hs-infographic.pdf>.

⁶² Nat'l Acads. of Scis., Eng'g & Med., *Promoting the Educational Success of Children and Youth Learning English: Promising Futures* (Nat'l Acads. Press 2017), <https://www.nationalacademies.org/read/24677/chapter/1#ii>.

⁶³ *Id.*
⁶⁴ Xigris Soto-Boykin et al., *Preserving Access and Opportunity in Head Start for Dual Language Learners: A Review of the Science, Legislative Mandates, and Regulatory Requirements*, Child. & Equity Project, Ariz. State Univ. (Aug. 2026), [https://cep.asu.edu/sites/g/files/litvpz916/files/2026-08/Preserving Access and Opportunity in Head Start for Children Dual Language Learners A Review of the Science%2C Legislative Mandates%2C and Regulatory Requirements %2811%29.pdf](https://cep.asu.edu/sites/g/files/litvpz916/files/2026-08/Preserving%20Access%20and%20Opportunity%20in%20Head%20Start%20for%20Dual%20Language%20Learners%20A%20Review%20of%20the%20Science%2C%20Legislative%20Mandates%2C%20and%20Regulatory%20Requirements%2011%29.pdf); Ellen J. Serafini, Nadine Rozell & Adam Winsler, *Academic and English Language Outcomes for DLLs as a Function of School Bilingual Education Model: The Role of Two-Way Immersion and Home Language Support*, 25 Int'l J. Bilingual Educ. & Bilingualism 552–570 (2022); Ilana M. Umansky & Sean F. Reardon, *Reclassification Patterns among Latino English Learner Students in Bilingual, Dual Immersion, and English Immersion Classrooms*, 51 Am. Educ. Rsch. J. 879–912 (2014); Jennifer L. Steele et al., *Effects of Dual Language Immersion Programs on Student Achievement: Evidence From Lottery Data* 54 Am. Educ. Rsch. J. 282S–306S (2017), <https://journals.sagepub.com/doi/abs/10.3102/0002831216634463>.

⁶⁵ Off. of Eng. Language Acquisition, U.S. Dep't of Educ., *Benefits of Multilingualism* (Aug. 5, 2020) <https://ncela.ed.gov/sites/default/files/legacy/files/announcements/20200805-NCELAInfographic-508.pdf>.

languages, resulting in an inclusive environment for [dual language learners] through effective communication in children's native languages, and further contributing to cognitive development, social integration, and academic success.”⁶⁶ As OHS has previously made clear, its current model “supports diverse and multilingual communities across Head Start programs.”⁶⁷

The congressionally stated purpose of Head Start, identified within the Head Start Act, is to promote the school readiness of low-income children by enhancing their cognitive, social, and emotional development in a learning environment that supports children’s growth in language, literacy, mathematics, science, social and emotional functioning, creative arts, physical skills, and approaches to learning.⁶⁸ The statutory language of the Head Start Act makes clear throughout that providing an effective education for dual language learners is a key focus. The Act states the Performance Standards should be scientifically based and developmentally appropriate to ensure that limited English proficient children progress toward acquisition of the English language while making meaningful progress in attaining knowledge, skills, abilities, social and emotional development, and development in mathematics, literacy, science, cognitive abilities, and creative arts.⁶⁹ The Act further states that when making any modifications to the Performance Standards, the Secretary *shall* take into consideration, among other things, changes in the characteristics of the population of children who are eligible to participate in Head Start programs, including country of origin and language background.⁷⁰

In line with the clear direction of the Act, the first Performance Standards established in 1975 provided that Head Start program staffing should support dual language learners. Among other things, the 1975 Performance Standards indicated that Head Start programs should have staff and program resources reflective of the racial and ethnic population of the children in the program, “[i]ncluding persons who speak the primary language of the children and are knowledgeable about their heritage; and, at a minimum, when a majority of the children speak a language other than English, at least one teacher or aide interacting regularly with the children must speak their language.”⁷¹

⁶⁶ Off. of Head Start, Admin. for Child. & Fams., U.S. Dep’t of Health & Hum. Servs., *Dual Language Learners in Head Start Programs* (Oct. 8, 2024), <https://headstart.gov/sites/default/files/pdf/no-search/dual-language-learners-in-hs-infographic.pdf>.

⁶⁷ *Id.*

⁶⁸ 42 U.S.C. § 9831.

⁶⁹ 42 U.S.C. § 9836a(a)(1)(B)(x).

⁷⁰ 42 U.S.C. § 9836a(a)(2)(B)(vii).

⁷¹ Off. of Child Dev., U.S. Dep’t of Health, Educ. & Welfare, *Head Start Program Performance Standards*, § 1304.2-2(b)(3)(2)(i), OCD Notice N-30-364-4 (July 1975), <https://files.eric.ed.gov/fulltext/ED122936.pdf>.

The current Performance Standards require, among other things, that programs implement research-based teaching practices that support home language development and English acquisition; build welcoming environments reflecting families' unique cultural, ethnic, and linguistic backgrounds; and ensure staff and program consultants or contractors are able to serve and effectively communicate, either directly or through interpretation and translation, with children who are dual language learners and with families with limited English proficiency.⁷² And they require that programs integrate parent and family engagement strategies into all systems and program services, including conducting family engagement services in the family's preferred language, or through an interpreter; and offer activities that support parent-child relationships and child development including language, dual language, literacy, and bi-literacy development as appropriate.⁷³ The Head Start Act and Performance Standards explicitly recognize families as essential partners in children's education. And they make clear that for multilingual families, language is central to that partnership.

The proposed rule would eliminate virtually all of the current Performance Standard sections requiring programs to support dual language learners and meaningfully engage with their families and replace them with a single provision requiring all programs to conduct all education to children in English. This not only removes program requirements to support children and families but goes further to require that programs do not sufficiently support their participants. OHS acknowledges that this will negatively impact 33.4% of non-tribal Headstart classrooms, especially those serving predominantly non-English-speaking communities like Migrant and Seasonal Head Start programs. And OHS acknowledges that this new requirement may result in significant additional costs, burdens, and operational challenges for one-third or more Head Start programs.

The proposed rule would add these costs and burdens to more than one-third of Head Start classrooms, while also abandoning the needs of more than one-third of Head Start participants, ignoring clear research, contravening the purpose of the Act, and eliminating consistent components of the Performance Standards. The approximately 35% of Head Start participants who have a primary language other than English in their home could be left without the ability to access Head Start curriculums and services fully or at all. As the U.S. Supreme Court explained in the landmark case *Lau v. Nichols*, "there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education."⁷⁴ The

⁷² 45 C.F.R. §§ 1302.31, 1302.50, 1302.90(d)(2).

⁷³ 45 C.F.R §§ 1302.50-51.

⁷⁴ *Lau v. Nichols*, 414 U.S. 563 (1974).

research and data is clear—Head Start’s consistent service of dual language learners advances the statutory purpose of Head Start—abandoning this harms the school readiness of children and eliminates clear opportunities to advance their cognitive, social, and emotional development.

The proposed rule would eliminate consistent components of Performance Standards that have existed for more than five decades to support dual language learners, severing the Performance Standards from the Act’s clear focus on effective education for dual language learners. And it would be a huge power shift away from families, making it difficult or impossible to realize the family partnership in the program that the Act and past Performance Standards have historically centered. Though the Act requires that the Performance Standards should be scientifically based and developmentally appropriate to ensure that limited English proficient children make meaningful progress in attaining knowledge, skills, abilities, social and emotional development, and development in mathematics, literacy, science, cognitive abilities, and creative arts, and that the Secretary take into consideration, country of origin and language background of Head Start participants, OHS has not taken the steps to do either with its proposed rule. Instead, OHS explains that the counterweight of the proposed rule’s harm to students, costs to programs, and departure from decades of understanding is that it “reflects Administration priorities.” That is cold comfort to the communities throughout the country who rely on Head Start. OHS has not provided a reasoned basis for its proposed rule nor explained its consistency with the Act. The current Performance Standards that support dual language learners should be maintained, the English-only federal mandate on local communities should be eliminated, and any modifications to the Performance Standards should focus on supporting students and families, not simply the administration’s priorities.

VI. Personal Testimonial of Michael Pillera, a Former Head Start Kid

The following discussion in this section is a first-person testimonial of Michael Pillera, the current Director of the Educational Opportunities Project at the Lawyers’ Committee for Civil Rights Under Law and a former and forever Head Start Kid.

I grew up in Michigan in a single-parent household, frequently below the poverty line. Despite working many different jobs, my mother did not have the financial ability to provide me with educational experiences, assistance, or resources before I started kindergarten. That same lack of resources and my mother’s busy work schedule also resulted in fairly minimal opportunities for social interaction with other children, particularly in any type of educational setting.

Fortunately, I had the distinct privilege of attending Head Start. Through Head Start, I experienced my first experiences in a classroom, first interactions with teachers, and first

friendships with classmates. This experience unquestionably taught me some of the most fundamental skills for school, including how to learn and how to work with others. My experience strengthened my social and emotional capacity, making me comfortable in a classroom and with my peers in kindergarten and the years after. And my experience in Head Start set me on a path to love school, learning, and the pursuit of knowledge.

My early experience in Head Start is the bedrock of all learning and education that has come after for me, through elementary, middle, and high school and through college and law school. The road through each was paved by my Head Start teachers and those who created and maintained a program that aimed to give me and so many other children a head start on our futures. As President Lyndon B. Johnson promised in the Rose Garden in 1965, though I was an inheritor of poverty's curse, I have not passed it on to my own children. The proposed rule attempts to fundamentally change the nature of a program so deeply consequential for my life and the lives of others by weakening its greatest strengths and eliminating its core protections which advance opportunity regardless of race or background and limit discrimination. Because we must continue to provide children who need it most a head start, I deeply urge OHS to withdraw the proposed rule in its entirety.

VII. Conclusion

Head Start represents a longstanding national commitment to ensuring that children facing barriers to opportunity have a meaningful chance to learn, develop, and thrive. The proposed rule would fundamentally weaken that commitment by dismantling the federal standards that make Head Start comprehensive, individualized, inclusive, and responsive to the children and families it serves.

The proposed elimination of teacher-student ratios, federal protections against exclusionary discipline and other harmful conduct, and longstanding requirements supporting dual language learners would have consequences far beyond their alleged purpose of reducing administrative burden. These changes would reduce the quality of children's classroom experiences, expose young children to greater risk of exclusion and harm, and strip away critical protections for communities of color, multilingual families, children with disabilities, and other communities that have historically faced barriers to educational opportunity.

We urge OHS to withdraw the proposed rule in its entirety, preserve the federal standards that protect the Head Start as Congress created it and as communities rely on, and instead focus on providing more resources, technical assistance, workforce investment, and other supports—not by lowering the standards that protect children and families.



If you have any questions or need additional information, please contact Michael Pillera, Director of the Educational Opportunities Project, at mpillera@lawyerscommittee.org, or Ernest Bihm, Senior Associate, Policy & Advocacy, Educational Opportunities Project, at ebihm@lawyerscommittee.org

Respectfully submitted,

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