

October 6, 2026

Department of Health and Human Services
200 Independence Ave. SW, Washington, DC 20201

Administration for Children and Families
330 C Street, S.W., Washington, D.C. 20201

Submitted via regulations.gov in Docket No. ACF-2026-0595

Re: Comment in Opposition to Reducing Federal Burden for Head Start Programs (Docket No. ACF-2026-0595)

To Whom It May Concern:

The City of Chicago, City of Boston, City and County of San Francisco, and the undersigned coalition of local governments (“Local Governments”) submit this comment in opposition to the August 7, 2026, Administration for Children and Families (“ACF”) of the Health and Human Services (“HHS”) Notice of Proposed Rulemaking. *See* Reducing Federal Burden for Head Start Programs, 91 Fed. Reg. 51248 (proposed August 7, 2026) (ACF Docket No. ACF-2026-0595) (“Proposed Rule”). The undersigned coalition hereby requests that ACF rescind this Proposed Rule, as it is arbitrary and capricious and contrary to law.

I. Introduction

The Head Start program embodies America’s commitment to its most vulnerable children. Founded in 1965 as part of President Lyndon Johnson’s War on Poverty, Head Start was a novel idea: a whole-child approach focused on learning, nutrition, mental health, and family support could help put children living in poverty on a different life trajectory. And over the years, data has borne out this approach. A study commissioned by ACF itself found that Head Start programs far outperform other group child care programs—as well as parent care—and determined that “there are statistically significant differences between the Head Start group and the control group on every aspect of children’s preschool experiences.”¹ Local data bears this out, too: for example, San Francisco has shown through longitudinal data and annual kindergarten assessment reports that Head Start programs have increased students’ school readiness.

Given decades of evidence of the program’s benefits to both children and their communities, it’s little wonder that Head Start programs have been renewed with bipartisan

¹ Michael Puma et al., U.S. Dep’t of Health & Hum. Servs., Admin. for Child. & Fams., *Head Start Impact Study: Final Report* 3-16 (2010), https://acf.gov/sites/default/files/documents/opre/hs_impact_study_final.pdf; *see also* Martha J. Bailey et al., *Prep School for Poor Kids: The Long-Run Impacts of Head Start on Human Capital and Economic Self-Sufficiency*, 111 Am. Econ. Rev. 3963, 3963 (2021) (finding “that Head Start generated large increases in adult human capital and economic self-sufficiency” in long-run study of graduates who entered the program between 1965 and 1980).

support for over sixty years.² In communities across the country, from rural counties to the largest cities, Head Start programs are tailored to meet the needs of the families they serve. But all of them rely on a backbone of federal funding and accompanying rigorous standards that ensure that Head Start programs deliver successful services.

Incomprehensibly, this Proposed Rule would eliminate many of Head Start's defining requirements related to staffing, class size, teacher qualifications, disability services, bilingual education, and administrative processes. Where detailed national standards are the norm, the Proposed Rule would default to a hodgepodge of individual state licensing systems that often lack the same requirements that set Head Start apart. The Proposed Rule would also cap administrative expenses at a draconian and unworkable five percent.

ACF claims that these changes will free up resources to expand the number of Head Start slots available. But a reduction in per-pupil spending is exactly that: a funding cut that threatens to remove the federal funding foundation of Head Start programs. Through the Head Start Act ("HSA"), Congress expressed its will that Head Start programs meet clear requirements and provide specific services, all of which the Proposed Rule ignores. *See* 42 U.S.C. § 9801 *et seq.* The Proposed Rule breaches the promise made to the Nation's neediest children; in doing so, it is arbitrary, capricious, and contrary to law.

A. The Local Governments and Head Start

The Local Governments have decades of experience with Head Start and are uniquely situated to comment on the Proposed Rule's drastic consequences for the program. For example, Chicago has participated in Head Start since its inception as a summer-school pilot program in 1965; Head Start's architect Sargent Shriver drew on his experience as president of Chicago's Board of Education in helping to create the national program.³ San Francisco's first Head Start program launched in 1968, and the current Executive Director of San Francisco's Department of Early Childhood was herself a Head Start participant in 1971. Likewise, the City of Baltimore has participated in Head Start since its inaugural year in 1965; today it serves nearly 800 children.

The Local Governments support Head Start programs in a variety of ways. Some, like Nashville, are direct funding recipients and operate their own Head Start programs. Cities like Chicago receive Head Start grants and then pass the funds through to community-based delegate agencies that operate the Head Start programs. Other cities, like San Francisco and Boston, do not directly operate Head Start programs but supplement their funding to increase staff wages and provide additional counseling services. In cities like Baltimore, there are both city-run Head Start programs and privately-run Head Start programs. In cities like New York, the public school system relies on the continued existence of externally run Head Start programs, but the city itself does not administer the programs.

² After President Johnson started the program, it passed the billion-dollar appropriations mark under President Reagan, received additional funding and service requirements under President George W. Bush, and was expanded again under President Obama. U.S. Dep't of Health & Hum. Servs., Admin. for Child. & Fams., *Head Start History*, HeadStart.gov, <https://headstart.gov/about-us/article/head-start-history>.

³ Edward Zigler & Sally J. Styfco, *The Hidden History of Head Start* 27–28 (2010).

Head Start funding is a critical pillar of all of these Local Governments' early childhood services. In Chicago, for example, Head Start serves nearly 14,000 children and accounts for nearly one quarter of all public funding for childcare and early learning for children under age five.⁴ One in every four childcare seats in the city—in some neighborhoods, more than four in five—are tied to Head Start funding, serving more than a third of all Chicago children living in poverty.⁵ Even cities that do not administer or directly utilize Head Start funding would not be able to support or rely upon the programs in their jurisdictions without core federal funding; San Francisco estimates that even with local contributions, 70 percent of the funding for Head Start programs in the city come from federal funds.

II. The Proposed Rule is arbitrary and capricious and contrary to law

The Proposed Rule is arbitrary and capricious because it mandates changes that run counter to decades of empirical evidence, fail to account for major reliance interests of local governments and other grantees administering Head Start, and—in many cases—defy the plain text of the Head Start Act. The Administrative Procedure Act (“APA”) prohibits agency action that is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C). The APA also requires an agency to examine relevant data and articulate a satisfactory explanation for its action, including a “rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

An agency action is arbitrary and capricious if the agency has: (i) relied on factors that Congress did not intend it to consider; (ii) entirely failed to consider an important aspect of the problem; or (iii) offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. *See Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 43. An agency action is also arbitrary and capricious if it is based on an erroneous interpretation of the law. *See SEC v. Chenery Corp.*, 318 U.S. 80, 94 (1943) (“[A]n order may not stand if the agency has misconceived the law.”); *Prill v. N.L.R.B.*, 755 F.2d 941, 947 (2d Cir. 2026) (“An agency decision cannot be sustained... where it is based not on the agency’s own judgment but on an erroneous view of the law.”). Because the ACF has not only failed to consider the major reliance interests of local governments administering Head Start, but also proposed regulations in direct opposition to the plain text of the HSA and decades of empirical data, the Proposed Rule is arbitrary and capricious. ACF should withdraw it.

Since 2007, the HSA has explicitly required ACF to “take into consideration...developments concerning research-based practices” in early childhood care and education and “ensure that any . . . revisions in the standards will not result in the elimination of or any reduction in quality, scope, or types of . . . services.” 42 U.S.C. § 9836a(a)(2). The Proposed Rule violates these mandates, among others, many times over. Below, we highlight some of the Proposed Rule’s most problematic

⁴ Early Childhood Rsch. All. of Chi. et al., *Head Start Is Vital to Chicago’s Children, Families, and Communities* 1 (May 2025), https://cdn.prod.website-files.com/657b4156a00cf027929f4395/682cb89979f93558f83fda8c_Headstart%205.19.25.%201.pdf.

⁵ *Id.* at 1–2.

changes for local governments administering or supporting Head Start programs. These are by no means the only aspects of the Proposed Rule we take issue with; we offer them only as a sample of its many deficiencies.

A. Gutting Program Governance and Oversight

The Proposed Rule's changes to the administrative cost cap⁶ would impair the ability of Head Start programs to deliver critical educational services and force them to cut staff, reduce services, and serve fewer children. ACF's proposal to reduce the allowable administrative costs for Head Start programs from 15 percent to 5 percent is neither "reasonable" nor "reasonably explained," as the APA requires. *Ohio v. Env't Prot. Agency*, 603 U.S. 279, 292 (2024) (quoting *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021)).

Setting the administrative cost cap at 5 percent defies ACF's own findings. Currently, only 3.7 percent of Head Start grants operate at or below a 5 percent administrative-cost threshold, and over two-thirds of current grants operate above a 10 percent administrative-cost threshold. 91 Fed. Reg. 51248, 51298. By exceeding the 5 percent cap, grant recipients stand to lose critical funding necessary to operate Head Start programs. For example, administrative costs for Baltimore City Head Start have historically been between 13.5 and 14.5 percent of the total grant award. All Head Start programs in Chicago are currently operating above the proposed 5 percent administrative-cost cap, with administrative costs ranging from 7.8 to 9.3 percent for its Head Start programs.⁷ In total, over 96 percent of grants would not meet the new requirement, regardless of whether the grant is located in a metropolitan or rural area.⁸ ACF acknowledges that "relatively few grants currently operate at or below the proposed 5 percent cap."⁹

Moreover, the reduction of the administrative cost cap is not in accordance with the statute. *See* 5 U.S.C. § 706(2)(A). The Secretary of Health and Human Services ("Secretary") does not have statutory authority to reduce the allowable administrative costs to 5 percent. The HSA provides that "no financial assistance shall be extended . . . in which the Secretary determines that the costs . . . exceed 15 percent of the total costs." 42 U.S.C. § 9839(b). Congress clearly established a 15 percent cap on administrative costs for the Head Start program and did not give the Secretary discretion to lower the cap. Congress instead prescribed a distinct process for addressing excessive administrative expenses. If administrative costs fall below the 15 percent cap but are still deemed excessive, the Secretary can require the grant recipient "to take such steps . . . [to] eliminate such excessive administrative cost." *Id.* Lowering the administrative cost cap to 5 percent for all grants is contrary to the case-by-case determination required by the statute. The implementing regulations reflect the statutory requirement that "[c]osts to develop and administer

⁶ The language of the Proposed Rule states, under the heading "[l]imitations on administrative costs," that "[a]llowable costs to develop and administer a Head Start program cannot exceed 5 percent of the total approved program costs, which includes both Federal costs and non-Federal match." Reducing Federal Burden for Head Start Programs, 91 Fed. Reg. 51248, 51320 (proposed Aug. 7, 2026).

⁷ Further, Chicago's percentages are lower in part because the programs are currently understaffed, and will only increase at full staffing levels.

⁸ 91 Fed. Reg. at 51299.

⁹ *Id.* at 51298.

a program cannot be excessive or exceed 15 percent of the total approved program costs.” 45 C.F.R. § 1303.5(a)(1). Reducing the administrative cost cap also contradicts the Office of Management and Budget’s Uniform Guidance which establishes a baseline that grant recipients that do not have a negotiated indirect cost rate can “elect to charge a . . . rate of up to 15 percent.” 2 C.F.R. § 200.414(f). *Cf. Ass’n of Am. Univs. v. Dep’t of Def.*, 806 F. Supp. 3d 79, 97-98 (D. Mass. 2025) (holding the government’s rate cap policy contrary to Uniform Guidance’s regulations). Thus, the proposed reduction of allowable administrative costs from 15 percent to 5 percent is contrary to the requirements in Section 9839(b).

Head Start’s existing administrative costs are essential, not excessive.¹⁰ The proposed cuts will harm the very programs and services ACF alleges that it supports. Head Start is a federal-to-local program with no state or federal entity carrying the burden of administrative oversight. Programs require financial management, grants administration, human resources, information technology, audit support, and compliance monitoring. For instance, finance staff and auditors run payroll, conduct background checks, and provide financial oversight into the use of grant funding.¹¹ In cities such as Chicago, the proposed limit would hamstring their ability to distribute Head Start funding to effectively managed and fiscally responsible programs. In Nashville, the cap threatens their core functions – such a drastic cut would likely lead to reductions of essential program staff.

ACF concedes that administrative costs would not decrease based on changes in the Proposed Rule. The proposed revisions eliminate existing regulatory requirements, including those related to facilities, equipment and materials, background checks, safety training, hygiene practices, administrative safety procedures, and disaster preparedness.¹² Yet ACF admits that such administrative processes and regulatory requirements will continue both “as a practical necessity” to “support safe and effective operations” and because they “remain required by the Act or state licensing frameworks.”¹³ Coupled with significant changes in the Proposed Rule, local governments that administer or serve as pass-through entities for Head Start face an impossible task in paying for and evaluating future administrative costs. *See Ass’n of Am. Univs. v. Dep’t of Energy*, 789 F. Supp. 3d 118, 149–50 (D. Mass. 2025) (finding plaintiffs, faced with a 15 percent rate cap, “will immediately have to make the difficult choices . . . including whether and how to curtail research, freeze hiring, and lay off staff”).

¹⁰ Administrative costs support overall management and coordination of the organization rather than direct services to children and families. *See* Admin. for Child. & Fams., *Administrative Cost Limitations* (Dec. 6, 2024), <https://headstart.gov/fiscal-management/article/administrative-cost-limitations>; Admin. for Child. & Fams., *2026 Head Start Notice of Proposed Rulemaking (NPRM) Frequently Asked Questions* (Sept. 2026), <https://perma.cc/3LSY-ZU9W>. Examples include: (i) salaries and fringe benefits for administrative and executive personnel performing organization-wide management functions; (ii) organization-wide planning, budget, and management costs; (iii) accounting, auditing, human resources, and other central administrative functions; (iv) rent, maintenance, and operation of administrative space; (v) other allowable organization-wide administrative costs. Admin. for Child. & Fams., *2026 Head Start Notice of Proposed Rulemaking (NPRM) Frequently Asked Questions*.

¹¹ *See* First Five Years Fund, *Analysis: The Head Start NPRM* (Sept. 1, 2026), <https://www.ffyf.org/2026/09/01/the-head-start-nprm/>.

¹² 91 Fed. Reg. at 51312.

¹³ *Id.* at 51300.

In fact, the Proposed Rule is likely to actually *increase* administrative costs. The Proposed Rule acknowledges that 1,526 Head Start agencies will incur a transition cost estimated from “\$1.5 million to \$3.6 million” due to administrative adjustments.¹⁴ Programs will need to triage between different and equally critical administrative functions such as human resources, accounting, and information technology support.¹⁵ Because the Proposed Rule defers more extensively to state licensing and local policy frameworks, Head Start programs will incur more administrative costs to navigate fragmented regulatory requirements. What is more, the Proposed Rule’s other changes—including increasing allowable class sizes and eliminating breaks—will likely increase teacher turnover, which will in turn increase the administrative costs of recruiting and onboarding new staff.¹⁶ It is particularly unclear how the Proposed Rule’s 5 percent cap can reasonably be implemented given these concurrent changes.

B. English-Only Instruction Mandate

The Proposed Rule would mandate that Head Start instruction be in English only, despite the prominence and success of bilingual education in Head Start programs.¹⁷ This change is illogical, violates the applicable statutory mandates, and defies the overwhelming evidence supporting bilingual education. Many, if not all, of the undersigned jurisdictions operate or support Head Start programs that pride themselves on their robust bilingual instruction. In San Francisco, *half* of all children in Head Start programs receive bilingual instruction. Of Nashville’s seven Head Start centers, two are bilingual. Nashville has deeply invested in hiring staff who can speak languages such as Arabic and Somali and provided materials in multiple languages. In Boston, approximately 67 percent of children in Head Start identify as dual-language learners.¹⁸

This proposed prohibition violates statutory requirements that ACF may not “mandate, direct, or control, the selection of a curriculum, a program of instruction, or instructional materials, for a Head Start program,” 42 U.S.C. § 9852c(a), as well as Congress’s intention to create a “learning environment that supports children’s growth in language [and] literacy,” *id.* § 9831. Through the HSA, Congress plainly required “the use of culturally and linguistically appropriate education services,” including “to non-English speaking children and their families,” to serve children with low English proficiency who cannot “successfully achieve in a classroom in which the language of instruction is English.” 42 U.S.C. §§ 9836a(a)(1)(B)(x), (a)(2)(A), 9832(15).

¹⁴ *Id.* at 51316.

¹⁵ *Id.* at 51299. See Admin. for Child. & Fams., *supra* note 11.

¹⁶ See Tiffany S. Tan et al., Learning Pol’y Inst., *Teacher Turnover in the United States: Who Moves, Who Leaves, and Why* (Mar. 17, 2026), <https://learningpolicyinstitute.org/product/teacher-turnover-united-states-report> (noting that “stress” and “larger class sizes” contribute to higher rates of teacher turnover).

¹⁷ 91 Fed. Reg. at 51319.

¹⁸ Action for Bos. Cmty. Dev., *2025 Head Start Annual Report* 9, <https://bostonabcd.org/wp-content/uploads/2018/03/2024-2025-Annual-Report.pdf>.

The Proposed Rule also contradicts readily available research showing that bilingual instruction benefits both majority and minority speakers.¹⁹ According to a fact sheet published by HHS in conjunction with the Department of Education on the importance of bilingual education in early learning, “compared to their non-bilingual peers, bilingual people have an easier time: understanding math concepts and solving word problems; developing strong thinking skills; using logic; focusing, remembering, and making decisions; thinking about language; and learning other languages.”²⁰ The Proposed Rule would deprive children of these well-established cognitive benefits.

The proposed mandate would also create an unnecessary administrative burden for Local Governments. For example, Boston-area Head Start programs would have to reevaluate their curriculum and procedures to ensure compliance with these drastic changes. Boston Public Schools’ current guidance directs programs including Head Start to translate family handbooks and classroom materials if a classroom has over 25 percent of children who speak a non-English language. It also mandates certain curriculum materials to be translated into commonly spoken languages in the community. The Proposed Rule acknowledges that implementing these changes will cumulatively cost Head Start programs millions in replacing classroom materials and retraining staff, but shrugs off these costs in the name of “Secretarial and ACF priorities.”²¹ Rather than increase local control, the Proposed Rule seeks to replace local governments’ understanding of what works for their communities with a standardized rule that *prohibits* providing instruction in the languages children best understand.

C. Barriers to Eligibility and Access for Children Facing Housing Insecurity

ACF’s proposed changes to Head Start’s eligibility provisions fail to consider the harm the changes will cause, run counter to the statute, and create onerous barriers for families trying to access the program. In particular, removing the option to “self-attest” eligibility for families facing housing insecurity will shut out the very families who need Head Start most.²² The Proposed Rule will also increase administrative burdens for the Local Governments’ programs and is likely to lead to an increase in homelessness overall.

Removing the option to self-attest eligibility for Head Start will harm families that rank among the Local Governments’ most vulnerable residents. If Head Start-eligible families cannot procure other documentation, the current Performance Standards allow families to submit a “signed declaration” attesting to their lack of income or unhoused status. 45 C.F.R. § 1302.12(i)(1)(iv), (3)(ii). As the Proposed Rule acknowledges, roughly eight percent of Head

¹⁹ See, e.g., Xigrd Soto-Boykin et al., Child.’s Equity Project, Ariz. State Univ., *Federal Funding to Support the Learning and Success of Multilingual Students* (Sept. 2025), <https://cep.asu.edu/resources/ProtectingFederalFundingtoSupportEnglishLearners>.

²⁰ See Dep’t of Health & Hum. Servs., *Talk, Read and Sing Together Every Day! The Benefits of Being Bilingual—A Review for Teachers and Other Early Education Program Providers*, <https://www.ed.gov/media/document/bilingual-enpdf-99175.pdf>.

²¹ 91 Fed. Reg. at 51287, 51311.

²² See 91 Fed. Reg. at 51319.

Start children have elected this option in recent years.²³ Further, under the current Performance Standards, programs’ policies or procedures to confirm a child’s age cannot “create[] a barrier for the family to enroll the child.” 45 C.F.R. § 1302.12(h). Many of the Local Governments’ Head Start programs serve homeless children. In Baltimore, 38 children in the City’s Head Start Program are from families who self-attested as homeless. Moreover, the rate of homelessness experienced by Head Start families is dramatically higher for some Local Governments: in the Boston area, for example, 21 percent of families served by one major grantee experienced homelessness during the 2024-25 program year.²⁴

Increasing the barriers to Head Start will increase pressure on other government programs that support families experiencing homelessness, because those families will have to find other ways to connect with available resources for homeless families and children. Many Head Start programs have established longstanding partnerships with local shelters, which alleviates another pressure put on families experiencing homelessness. For example, in places like Nashville, the housing shelters, including the local women’s shelter, rely heavily on their deep connections with Nashville Head Start centers to help families emerge from homelessness. The ramifications of even a short bout of housing instability can have long-lasting ripple effects on a child’s ability to succeed and thrive in future years.²⁵ The Head Start program provides children with a stable, nurturing environment that can help counteract those effects.

The option to self-attest is particularly critical given research showing that families experiencing homelessness often struggle to maintain access to important documents.²⁶ For families fleeing domestic violence or moving from shelter to shelter, documents such as income statements or birth certificates have a higher chance of being lost or stolen in transition. Without a physical address, receiving mail can be extremely challenging. And the cost of purchasing new documentation or securing transport to obtain it can be equally prohibitive.²⁷ Without the option to self-attest, children experiencing homelessness who would otherwise be eligible for Head Start services will be excluded from the program on purely bureaucratic grounds.

The proposed changes to Head Start’s eligibility and access provisions are arbitrary and capricious. They reflect—at least for self-attestation—ACF’s preoccupation with rooting out “fraud, waste, and abuse” in Head Start,²⁸ but the agency’s own evidence belies its position. The Proposed Rule gestures at purported “misuse of limited Federal funds,”²⁹ but conspicuously acknowledges a lack of data on the frequency of false attestations or children enrolled without age documentation, and admits that *less than one percent* of files reviewed from fiscal year 2024 reflect

²³ 91 Fed. Reg. at 51307.

²⁴ Action for Bos. Cmty. Dev., *supra* note 18 at 7.

²⁵ See, e.g., J.J. Cutuli et al., *Adversity and Children Experiencing Family Homelessness: Implications for Health*, 23 J. Child. & Poverty 41 (2017).

²⁶ See, e.g., Chris Sanders et al., “You Need ID to Get ID”: A Scoping Review of Personal Identification as a Barrier to and Facilitator of the Social Determinants of Health in North America, 17 Int’l J. Env’t Rsch. & Pub. Health (2020).

²⁷ *Id.*

²⁸ 91 Fed. Reg. at 51307.

²⁹ *Id.* at 51262.

erroneous eligibility determinations.³⁰ In proposing to eliminate vital ways of helping children access Head Start based on negligible error and unquantified fraud, ACF “offer[s] an explanation for its decision that runs counter to the evidence before the agency.” *Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 43.

Rather than reduce waste and abuse, disallowing self-attestation will eliminate a key efficiency for the Local Governments’ Head Start programs. The Proposed Rule acknowledges that, under the HSA, children experiencing homelessness must be allowed to enroll in and attend Head Start programs “while required documents . . . are obtained within a reasonable timeframe.” 42 U.S.C. § 9835(m)(2).³¹ But helping families obtain this documentation can be highly labor-intensive for program staff, a problem compounded by the Proposed Rule’s concurrent restrictions on administrative costs.³² In the name of “restoring flexibility to local Head Start programs,” the Proposed Rule actually deprives them of an important tool to help families access their services.³³

Moreover, the Proposed Rule ignores significant evidence documenting the importance of self-attestation for families experiencing homelessness. The statute requires ACF, before making any changes to the Performance Standards, to “take into consideration . . . developments concerning research-based practices with respect to . . . homeless children.” 42 U.S.C. § 9836a(a)(2)(B). As set forth above, substantial research supports the self-attestation option and the current Performance Standards’ other eligibility provisions that benefit children experiencing homelessness. ACF’s proposal makes no mention of this “statutorily mandated factor,” and is thus “by definition” arbitrary and capricious. *See Pub. Citizen v. Fed. Motor Carrier Safety Admin.*, 374 F.3d 1209, 1216 (D.C. Cir. 2004).

The Proposed Rule also eliminates other key provisions that help vulnerable families access Head Start, including: specifications on how programs must identify and prioritize children experiencing homelessness for enrollment, 45 C.F.R. §§ 1302.13–14(a)(1); the authority to reserve enrollment slots for these children, *id.* § 1302.15(c); and the ability to adjust family income calculations to account for excessive housing costs for families just above the federal poverty line, *id.* § 1302.12(i)(1)(ii). This last change is particularly damaging for families struggling to balance childcare and housing costs in high cost-of-living areas: in San Francisco in 2025, for example, a household spending no more than 30 percent of its income on rent would need an income of \$150,000 a year to afford the median market rent for a two-bedroom unit. ACF does not meaningfully explain its rationale for eliminating these provisions beyond appealing to local “flexibility” and, in one case, asserting (without justification) that they “go beyond statutory authorization.”³⁴

³⁰ *Id.* at 51307–08.

³¹ *See* 91 Fed. Reg. at 51262–63.

³² *See* 91 Fed. Reg. at 51308 (acknowledging that “programs may have to support . . . families [experiencing homelessness] more closely through the enrollment process”).

³³ 91 Fed. Reg. at 51307.

³⁴ 91 Fed. Reg. at 51263–64. *But see* 42 U.S.C. § 9840(a)(1)(A) (authorizing the Secretary to “by regulation prescribe eligibility for the participation of persons in Head Start programs”).

Finally, the Proposed Rule’s changes to the self-attestation and other eligibility rules are contrary to law. The statute requires the Secretary to “establish policies and procedures to *remove* barriers” to program access for children experiencing homelessness. 42 U.S.C. § 9835(m) (emphasis added). That statutory language is clear: Congress directed the Secretary to flesh its general directive out through more specific rules for Head Start grantees. But the Proposed Rule’s sole nod to this mandate—that children experiencing homelessness “qualify for program eligibility and must be treated in accordance with the Head Start Act”—is little more than lip service.³⁵ The Proposed Rule’s introduction of new bureaucratic barriers, along with other changes to Head Start’s eligibility provisions, actively *increase*—rather than “remove”—“barriers” for children experiencing homelessness to access Head Start.

D. Removal of Minimum Quality and Safety Standards

The Proposed Rule takes an axe to Head Start’s longstanding minimum standards for educational quality and child safety in favor of deferring to state-by-state childcare licensing requirements. While ACF asserts that local jurisdictions and programs can easily reimplement Head Start’s higher standards, the Local Governments can attest otherwise. Removing these critical guarantees at the federal level would create widespread uncertainty and irregularity at the local level, leaving Head Start students to fall through the cracks.

To provide a non-exhaustive sample of the changes the Local Governments find objectionable, the Proposed Rule:

- Eliminates child-staff ratio and group-size requirements;³⁶
- Eliminates maximum home visitor and family service worker caseloads;³⁷
- Eliminates qualification requirements for many Head Start staff, including program directors, childcare providers, and home visitors;³⁸
- Eliminates the requirements that programs implement a coordinated coaching strategy for education staff and take steps to promote staff mental health and wellness;³⁹
- Eliminates the requirement that staff demonstrate familiarity with the ethnic backgrounds and heritages of families they serve;⁴⁰
- Eliminates per-child facility square footage and configuration requirements;⁴¹
- Eliminates specific requirements on preventing lead exposure in Head Start facilities;⁴² and

³⁵ 91 Fed. Reg. at 59319.

³⁶ See 91 Fed. Reg. at 51266.

³⁷ *Id.* at 51268, 51271, 51293.

³⁸ *Id.* at 51273.

³⁹ *Id.* at 51274, 51294–97.

⁴⁰ *Id.* at 51274.

⁴¹ *Id.* at 51268.

⁴² *Id.* at 51270.

- Eliminates transportation safety provisions, such as the requirement that children be accompanied by at least one bus monitor.⁴³

Both individually and collectively, these proposed changes yank the floor out from under Head Start children’s feet. Nationwide, no state licensing regime mandates quality standards that equal or exceed Head Start’s across the board.⁴⁴ That is because Head Start is—and always has been—different from other educational settings. Where state licensing focuses on the minimum requirements necessary to keep children safe, Head Start focuses on setting children up for lifelong success and well-being, as well as meeting the more intensive needs of the program’s statutorily mandated target populations: children below the federal poverty level, children experiencing homelessness, dual-language learners, and children with disabilities.

ACF’s blanket rescission of Head Start’s quality and safety standards is contrary to law. The statute not only permits but *requires* the Secretary to set “by regulation” federal performance standards that are “scientifically based and developmentally appropriate.” 42 U.S.C. § 9836a(a)(1). The Proposed Rule’s wholesale abdication of responsibility over program quality to state licensing regimes flies in the face of this statutory language. If Congress had intended the states to be Head Start’s primary regulators, it would have said so. And the statute is explicit that “any . . . revisions in the standards [*must*] not result in the elimination of or any reduction in quality, scope, or types of . . . services required to be provided under such standards as in effect on December 12, 2007.” § 9836a(a)(2)(C)(ii) (emphasis added). The Proposed Rule defies this mandate as well by inviting programs to loosen their standards below Head Start’s historical baseline.

The Proposed Rule ignores a vast body of evidence that has informed Head Start’s quality and safety standards for early childhood education. Under the Rule, the number of toddlers per staffer would more than double in nine states.⁴⁵ Only four states have child licensing ratio requirements equivalent to Head Start’s for 2-year-olds, and only three states match Head Start’s standards for 2.5-year-olds.⁴⁶ In Chicago, this would mean that Head Start programs would be subject to Illinois’s class-size and ratio licensing requirements, and class sizes for children between two and three years old could double without any change in the number of staff.⁴⁷ In New York City, the changes would result in both an increase in total class sizes and in the ratio of children to

⁴³ *Id.*

⁴⁴ Shantel Meek et al., Child.’s Equity Project, Ariz. State Univ., *Lowering the Bar: An Analysis of How Replacing Head Start Standards with State Child Care Licensing Weakens Early Learning Across the United States* 17 (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>.

⁴⁵ Morgan Healy & W. Steve Barnett, Nat’l Inst. for Early Educ. Rsch., *The Race to the Bottom: What Replacing Head Start Ratios Standards with State Child Care Minimums Will Mean for Children in Poverty* 1 (2026), https://nieer.org/sites/default/files/2026-08/what_replacing_head_start_ratios_standards_with_state_child_care_minimums_will_mean_for_children_in_poverty.pdf.

⁴⁶ *Id.*

⁴⁷ Compare 45 C.F.R. § 1302.21(b)(2) (requiring staff-to-child ratio of 1:4 and maximum group size of 8 or 9, depending on number of teachers, for children under age 2.5 in Early Head Start), with Ill. Admin. Code tit. 89, § 407.190(a) (requiring staff-to-child ratio of 1:8 and maximum group size of 16 for 2–3-year-olds).

staff for children between the ages of 1 and 3. Dropping to the state minimum ratios in Tennessee would mean that Nashville’s Head Start classrooms of 4- and 5-year-olds will shift from a 2:20 teacher-to-student ratio to a 2:23 ratio for teachers who are already very stretched by existing ratios. These changes in class sizes would have a detrimental impact on children in Head Start programs, particularly for higher-risk populations like those Head Start serves.⁴⁸

Head Start’s Performance Standards are recognized as benchmarks for program quality and have served as a beacon for program planning nationwide. For example, many of New York City Public Schools’ contracts for non-Head Start Programs incorporate Head Start’s Performance Standards as guideposts. Weakening these standards could have a ripple effect throughout the early childhood sector. Moreover, other Head Start requirements, like teacher coaching, have been linked to improved teacher practices and child outcomes.⁴⁹ Similarly, mental health supports for educators directly benefit student interactions and reduce teacher turnover, which in turn improves school readiness outcomes.⁵⁰ To be sure, keeping Head Start’s Performance Standards up to date with evolving research-based best practices is a worthy goal—indeed, one prescribed by federal law. *See* 42 U.S.C. § 9836a(a)(2)(A), (B)(iv). But rather than engage with this evidence, ACF proposes to discard the program’s standards altogether.

The Proposed Rule does so in the name of “local control,” claiming that Head Start grantees are free to reimplement Head Start’s former standards at their discretion.⁵¹ While some local governments and other grantees could reconstitute existing federal standards through a series of onerous local policies for their Head Start programs in some instances, many will not be capable of doing the same. State and local laws vary across the country, and not all local governments have the authority or the resources to fill this regulatory gap. Even for those localities with the power to do so, attempting to do so will impose administrative burdens on already-strapped programs and cause confusion for staff and families in reconciling inconsistent local- and state-level requirements, as well as create a regulatory patchwork that will frustrate attempts to measure program quality and impact nationwide. What is more, ACF’s proposals raise the concern that local grantees will face pressure to slacken quality standards in response to future funding cuts (or even flat funding). This concern is hardly academic given the current Administration’s past gestures towards defunding Head Start entirely⁵² and illegally withholding of millions of dollars in grant payments.⁵³ Nor does the Proposed Rule give any assurance that ACF will not penalize

⁴⁸ *See, e.g.,* Jessica Francis & William Barnett, *Relating Preschool Class Size to Classroom Quality and Student Achievement*, 49 *Early Childhood Rsch. Q.* 49 (2019); Am. Acad. Pediatrics et al., *Caring for Our Children: National Health and Safety Performance Standards Guidelines for Early Care and Education Programs* 3–6 (4th ed. 2019).

⁴⁹ *See, e.g.,* Rachel E. Schachter et al., *Early Childhood Coaching Effectiveness Across Key Content Areas: Exploring the Contributions of School, Teacher, and Child Characteristics*, 97 *Child Dev.* 881 (2026).

⁵⁰ *See, e.g.,* Anna J. Markowitz et al., *Linking Early Educator Wellbeing to Classroom Interactions and Teacher Turnover*, 67 *Early Childhood Rsch. Q.* 283 (2024); Anna J. Markowitz, *Within-Year Teacher Turnover in Head Start and Children’s School Readiness*, 10 *AERA Open* 1 (2024), <https://doi.org/10.1177/23328584241245094>.

⁵¹ 91 Fed. Reg. at 51248.

⁵² Jocelyn Gecker, *White House Proposes Eliminating Head Start Funding as Part of Sweeping Budget Cuts*, Associated Press (Apr. 17, 2025), <https://apnews.com/article/head-start-trump-funding-budget-cuts-education-204077e046329eb22c71445d57ba002b>.

⁵³ *Dep’t of Health & Hum Servs.—Application of Impoundment Control Act to Availability of Head Start Program Funds*, B-337202 (Comp. Gen. July 23, 2025), <https://www.gao.gov/assets/890/880226.pdf>; *see Wash. State Ass’n of*

programs that choose to maintain existing quality standards as less “efficient” in future funding decisions or audits.

ACF’s changes to the quality and safety standards are also arbitrary and capricious. The statute states that the Secretary, before “developing any modifications to [these] standards,” must “take into consideration” enumerated factors including “past experience with use of the standards,” “changes . . . in the circumstances and problems typically facing children and families served by Head Start agencies,” and “developments concerning research-based practices with respect to early childhood education and development.” 42 U.S.C. § 9836a(a)(2)(B). The Proposed Rule does not address or weigh these congressionally required factors or assess whether its changes would reduce program quality below the HSA’s 2007 baseline. And it utterly fails to grapple with decades of research on early childhood education, such as the examples provided above. If ACF discards Head Start’s quality and safety standards in order to “defer to State policies,”⁵⁴—a factor that appears nowhere in the statute—it will have “relied on factors which Congress has not intended it to consider” and “entirely failed to consider an important aspect of the problem” in violation of the APA. *Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 43.

E. Weakening Disability Protections

Children with disabilities are a critical priority for Head Start: the HSA requires all children to be served regardless of disability.⁵⁵ In San Francisco, 16 percent of Head Start participants are children with disabilities; the same is true for 14 percent of the participants in the city-run Head Start program in Baltimore. In Boston, 247 children participating in Head Start had an Individualized Education Program (“IEP”) or Individualized Family Service Plan (“IFSP”);⁵⁶ so too for 488 children served by the City of Chicago’s Head Start grants.

The Proposed Rule’s effects on children with disabilities will be drastic: it eliminates Part 1302 Subpart F in its entirety, including all specific Head Start requirements for serving children with disabilities. This proposal plainly violates Congress’ mandate that HHS “establish policies and procedures to . . . meet the needs of children with disabilities.” 42 U.S.C. § 9835(d). In addition to the elimination of specific requirements for serving students with disabilities, the Proposed Rule would disadvantage children with disabilities in other ways, including by increasing class sizes, decreasing staff qualifications, and changing service duration. Withdrawal of these supports not only translates to the loss of resources for children, but job loss for the many staff who provide these supports.

In absence of these proven requirements, the Proposed Rule would have local programs set their own requirements without any guidance or guardrails. This will undoubtedly lead to fewer

Head Start & Early Childhood Assistance & Educ. Program v. Kennedy, 820 F. Supp. 3d 1178, 1196–97 (W.D. Wash. 2026).

⁵⁴ 91 Fed. Reg. at 51248; *see id.* at 51266, 51287.

⁵⁵ 42 U.S.C. § 9849(c).

⁵⁶ Action for Bos. Cmty. Dev., *supra* note 18 at 7. An IEP or IFSP is a plan co-created by parents and teachers to support a student with a disability for accommodation and supports in the school setting, as required under the Individuals with Disabilities Education Act (IDEA).

children with disabilities receiving interventions at critical development stages. In fact, while the HSA requires programs to serve all children with disabilities, fewer than half of all children with disabilities in other childcare settings receive specialized support.⁵⁷ Without supplemental mental health and nutrition support for their students, teachers' jobs will be even more difficult. For example, Nashville's support staff – focused on mental health, vision, hearing, and speech – are all integrated throughout their centers, distinguishing their centers from a day care. Having staff members dedicated to these services means that teachers can address issues immediately and seamlessly – an efficiency that this Proposed Rule threatens to upend. The Proposed Rule would also rely on other existing civil rights laws for people with disabilities that do not contain the same protections as the HSA. For example, under the Americans with Disabilities Act, a private childcare provider is not required to serve a child with disabilities where it would “fundamentally alter” its program. *See* 42 U.S.C. § 12182(b)(2)(A)(ii).

Wholly eliminating Subpart F is also unworkable because Subpart F's affirmative requirements lack a clear counterpart in other existing anti-discrimination laws. For example, Subpart F currently requires Head Start programs to help families understand how a child's disability affects development, identify and access services and resources, obtain adaptive equipment, and advocate for their child's needs. 45 C.F.R. § 1302.62(a). Eliminating this provision of Subpart F violates the HSA's requirement that programs provide technical and other support to enable parents to obtain available public and private assistance. *See* 42 U.S.C. § 9837(b)(12). Subpart F also requires Head Start to help families navigate the Individuals with Disabilities Education Act (IDEA). 45 C.F.R. § 1302.62(b). The IDEA sets forth the right to free appropriate public education for children with disabilities. 20 U.S.C. § 1400 *et. seq.* Head Start programs must help parents understand referral, evaluation, and service timelines; participate in the eligibility and IEP and IFSP process; understand evaluation results and available services; and understand their ability to invite Head Start to participate in meetings. 45 C.F.R. § 1302.62(b). The IDEA establishes parents' underlying procedural rights, but does not itself require Head Start programs to help parents understand or exercise those rights. *See* 20 U.S.C. § 1415.

Removal of current restrictions on suspensions and expulsions is particularly concerning. *See* 45 C.F.R. § 1302.17 (requiring programs to “prohibit or severely limit the use of suspension due to a child's behavior” and barring programs from “expel[ling] or unenroll[ing] a child from Head Start because of a child's behavior”). When ACF adopted this policy in 2016, it aligned the Performance Standards with substantial research showing disparities in suspension and expulsion based on disability, gender, and racial and socioeconomic background.⁵⁸ The 2016 rule also observed that suspension and expulsion in a child's early years are “related to less educational achievement later and negative long-term outcomes.”⁵⁹ ACF now backtracks from that position, claiming state and local regulations now offer overlapping protections against early-childhood

⁵⁷ Xigrid Soto-Boykin et al., Child.'s Equity Project, Ariz. State Univ., *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* (Sept. 2026), <https://cep.asu.edu/resources/access-inclusion-children-disabilities-head-start>.

⁵⁸ Head Start Performance Standards, 81 Fed. Reg. 61294, 61316–17 & nn.49–52 (Sept. 6, 2016); *see* U.S. Gov't Accountability Off., GAO-18-258, *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities* (Mar. 2018), <https://www.gao.gov/assets/gao-18-258.pdf>.

⁵⁹ 81 Fed. Reg. at 61317.

discipline that render Head Start's superfluous.⁶⁰ But most states' policies do not match the current Performance Standards on suspension and expulsion, and piecing them back together at the local level would only introduce more administrative burden for programs and confusion for families.⁶¹ ACF fails to account for the reliance interests that grantees in these jurisdictions have in its settled position or adequately explain its change in course.⁶²

III. Conclusion

For the reasons stated, we urge ACF to rescind the Proposed Rule in its entirety.

Respectfully,

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⁶⁰ 91 Fed. Reg. at 51309.

⁶¹ See Shantel Meek et al., Child.'s Equity Project, Ariz. State Univ., *Harsh Punishment and Exclusionary Discipline in the Early Years: Data, Research, and a Policy Comparison Between Head Start and States* 14, 27 (Sept. 2026), <https://cep.asu.edu/resources/harsh-punishment-exclusionary-discipline-early-years>.

⁶² See *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016).

Appendix A: Additional Local Government Signatories

Allegheny County, Pennsylvania

The City of Baltimore, Maryland

The City of Columbus, Ohio

The City of Evanston, Illinois

The City of Los Angeles, California

The City of Minneapolis, Minnesota

The Metropolitan Government of Nashville & Davidson County, Tennessee

The City of New Haven, Connecticut

The City of New York, New York

The City of Seattle, Washington