



**The Council of Parent Attorneys and Advocates, Inc.**  
***Protecting Rights. Creating Opportunities. Changing Lives.***

September 28, 2026

Adam N. Jones  
Deputy Chief of Staff, Office of the Assistant Secretary  
Administration for Children and Families  
U.S. Department of Health and Human Services  
Washington, DC 202-417-0115

RE: ACF-2026-0595, RIN 0970-AD30 - *submitted via regulations.gov*

As a leading authority on special education and a preeminent voice for our nation's children with disabilities and their families, the Council of Parent Attorneys and Advocates (COPAA) is writing to urge the U.S. Department of Health and Human Services (HHS) *to withdraw the proposed changes to the Head Start Performance Standards*. The Notice of Proposed Rulemaking (NPRM) recently issued with the noted intent to “significantly reduce the federal burden for Head Start Programs” is a grievous misjudgment by the Administration. In fact, if promulgated as proposed, the NPRM will stand in direct conflict with certain requirements of federal law and place an unfair and disproportionate burden on families of children with disabilities who will be under pressure to ensure requirements under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and other federal laws are carried out by Head Start programs, placing preschool age children with disabilities at great risk of being subjected to harsh exclusionary discipline practices (e.g., suspension and expulsion) as well as outright discrimination by programs who may now reject their enrollment due to the elimination of key policy requirements that protect them.

According to HHS data, approximately 121,000 children (15 percent) served by Head Start qualify for special education services and support under IDEA. There are also children eligible for auxiliary aids and other accommodations under Section 504.<sup>1</sup> Data shows children living in poverty were more likely to have a disability (6.5%) than children living above the poverty threshold (3.8%). The difference in the prevalence of disability between children below and above the poverty threshold is noteworthy.<sup>2</sup> As COPAA and partners told HHS in 2023, “Children with disabilities are more likely to live in poverty (or conversely, poor children are more likely to have a disability) and children with disabilities and their families can struggle to both afford high quality childcare and to access it. We also know that families are often faced with too few or no options for childcare especially for children ages 0-3 who have a disability and also to find childcare solutions for siblings.”<sup>3</sup>

To support the educational progress and opportunity of these and future generations of children with disabilities, COPAA has consistently commented when HHS has proposed changes to Head Start<sup>4</sup> and other federally supported education programs to ensure that all children with disabilities, without regard to race, income, or zip code are correctly identified and provided a free, appropriate public education (FAPE) -through an Individualized Family Service Plan (IFSP), an Individualized Education Program (IEP), or Section 504 Plan (504)- in the Least Restrictive Environment (LRE), are not

---

<sup>1</sup> See: Head Start Program Facts, (2024) at: <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>, and 29 U.S.C. 794

<sup>2</sup> U.S. Census data at: <https://www.census.gov/library/stories/2021/03/united-states-childhood-disability-rate-up-in-2019-from-2008.html>

<sup>3</sup> See: Consortium for Constituents with Disabilities (CCD) Letter to HHS, August 38, 2023, as quoted in Letter to Hutchison, (2024), <https://c-c-d.org/fichiers/CCD-Head-Start-NPRM.pdf>

<sup>4</sup> See: COPAA Letter to Hutchison, 2024, and Letter to Rathgeb, 2015.

subjected to inappropriate exclusionary discipline, are supported by informed parents or guardians, and have their civil and educational rights upheld.

To that end, we reject the current NPRM and urge HHS to withdraw the proposal because it eliminates key federal requirements essential to ensuring educational access and opportunity for children with disabilities and their families, including and specifically due to the following:

**1. Removes all specific and noted requirements related to IDEA and Section 504 (§ 1301.10).**

HHS has removed all of the specific provisions in Section 1302 Subpart F which include specific duties for programs regarding children already identified with disabilities and those who may be suspected of having a disability. The NPRM also removes the existing protection that *no child may be turned away because a program believes it cannot serve a child with a disability or chronic health condition*. While HHS notes that “federal and state laws and regulations [still] apply,” as HHS knows, these laws do not reproduce all of current Part 1302, Subpart F’s specific duties for Head Start programs and the children enrolled in them. The removal of these requirements in the regulations will incentivize bad actors to serve fewer children and create a burdensome and arbitrary process that places parents of children suspected of having or those with disabilities at a great disadvantage. Parents will be required to advocate with a program for everything from Child Find, FAPE, LRE, timeline adherence, IFSP/IEP/504 development and implementation and more- placing children at great risk of never receiving the IDEA and Section 504 supports and services to which they may be entitled. Additionally, it is irresponsible of HHS to issue the NPRM with a note indicating that the Head Start Act “requires the Secretary to provide procedures for referrals and services for children with disabilities” yet remain silent on what these policies might be. This passive application of key federal laws sends a direct message to states and programs that the federal government is no longer interested in protecting and supporting vulnerable preschoolers who are suspected, or who are identified as having a disability.

HHS assumes that removing Subpart F incurs minimal cost because core disability mandates remain covered under other regulations. Additionally, despite HHS’ acknowledgement of the removal of additional services for children with disabilities and their parents, it does not meaningfully quantify the likely effects and overlooks critical secondary expenses: administrative time spent navigating fragmented legal rules, delayed disability identification, interrupted services, increased family burden, and reduced access to inclusive settings. Unaddressed developmental needs also shift downstream costs onto local school districts through heightened medical and special education demands later in a child’s life.

Rather than relying on external laws or voluntary local compliance, in the case HHS moves forward and does not withdraw this harmful NPRM, COPAA calls upon HHS to rigorously evaluate these cumulative and disability-specific financial impacts. Specifically, we recommend that HHS analyze the impact of the removal of Subpart F on children with disabilities and their families due to the following:

- Delayed identification and referral;
- Lost instructional and related-service time;
- Increased exclusion and placement disruption;
- Additional costs to families for transportation;
- Administrative costs transferred to LEAs and Part C systems;
- Reduced access for children with significant support needs;\
- Racial, disability, language, and geographic disparities; and
- The costs of due process, complaints, and civil-rights enforcement after preventive Head Start Performance Standards disappear.

To further reflect on the impacts of the NPRM on children with disabilities and their families, a COPAA parent offered this perspective:

As a parent of twins — one with Down syndrome and one who is neurotypical — I know firsthand what is at stake. In Ohio, no private preschool would accept my son with Down syndrome, and none employed certified early-childhood teachers. The only door open to both of my children was Head Start. What we found there was not charity — it was *excellence*: a fully inclusive classroom led by a certified early-childhood interventionist and supported by two paraprofessionals, where children with disabilities, nondisabled peers, and children experiencing income inequality learned together and thrived. Ohio didn't arrive at this by accident. Strong state guidance -aligned with federal requirements- enforcing the Least Restrictive Environment mandate in preschool pushed districts to do what federal law already requires: provide high-quality, inclusive early education for children with disabilities. That melding of Head Start Performance Standard requirements with state and federal law transformed access and outcomes. This is exactly why weakening federal protections in Head Start is dangerous. My family's story proves what is possible when inclusion, strong parental rights, and high quality teachers are required — and what children lose when it is not.

2. **Removes timely screening, assessment, and referral to IDEA agencies (§1302.33).** The NPRM removes, in entirety, the requirements that all Head Start children receive a developmental screening and that the screening happens within 45 days of enrollment, which ensures children's developmental needs and possible disabilities are identified early. It also proposes removal of detailed procedures for follow-up after screening, referral, ongoing assessment, and individualization. While the underlying requirements of IDEA and Section 504 still apply, the removal of the timeline in Head Start programs creates a huge loophole that will lead to delay in both identification and implementation of an IFSP/IEP/504 Plan for eligible children.
3. **Eliminates requirements to protect children from harsh discipline including suspension and expulsion (§1302.17(b)(2)).** The proposal removes all requirements that place strong limits on suspension, including the required set of steps that Head Start programs must follow before excluding a child including mental health consultation, and would also prohibit expulsion except in the “rare case it must actively help transition the child to somewhere appropriate, not just remove them.” HHS has a responsibility to clarify, in regulations, that early childhood programs must comply with all of the legal requirements governing the discipline of a child related to their disability, including the implementation of reasonable modifications to policies, practices, or procedures that will ensure that they are not suspended or expelled because of disability-related behaviors. The only permitted exception are those cases in which a program can demonstrate that making such modifications would result in a fundamental alteration in the nature of a service, program, or activity (See: 34 C.F.R. §§ 104.4, 104.38; 28 C.F.R. § 35.130(b)(1), (7)).

Also, HHS is repudiating longstanding data, evidence, and best practices- that any use of exclusionary discipline, including suspension, expulsion and/or the use of aversive practices such as seclusion and restraint are extremely harmful to children. As noted by HHS in 2024, “...Suspension and expulsion practices have long-lasting negative impacts for young children and their families, including on children's later school attendance, academics, and family stress. Additionally, research has well documented that disproportionalities exist in suspending or expelling students who are young boys of color, children with disabilities, and children who are dual language learners.” COPAA is adamantly opposed to the removal of these important provisions that protect, support, and strengthen access to early childhood education for preschoolers with disabilities.

**4. Removes parents as required partners in Head Start programs (§1301.4) and eliminates access to vital support services that parents of children with disabilities need (§1302.62).**

The NPRM removes requirements that are vital to ensuring parents of children with disabilities engage in and understand their child's preschool education. New §1301.01 makes parent committees *optional rather than mandatory* which completely undermines family engagement and weakens administrative accountability. When parent committees become discretionary, families face uncertainty regarding how their rights will be executed and are left with little stake in the educational process, risking a system where committees either function as mere rubber stamps or are omitted entirely by local educational agencies (LEAs). Although underlying legal obligations may technically remain intact, eliminating these structural requirements strips parents of a predictable, formal avenue for oversight and collaboration, ultimately eroding trust and diminishing family influence over local decision-making. Additionally, stripping the Policy Council of its dispute resolution process severely weakens the parent-majority body's authority, leaving families without a formal seat at the table during governance conflicts. This change—compounded by ending stipends for low-income parents and eliminating basic requirements like open-door policies, home visits, and parent-teacher conferences—represents an unsupportable retreat from family partnership. The dispute resolution process is not merely administrative oversight; it is the cornerstone of parent empowerment in Head Start. Reinstating it is essential to ensure parents retain meaningful power and their standing in decisions impacting their children's education.

The elimination of §1302.62 means parents are now without the affirmative federal requirements for Head Start programs to provide targeted, disability-specific services to them and their children. Harmful eliminations include the mandate to help families understand their child's diagnosis, build self-advocacy skills, secure assistive technology (AT) and/or adaptive equipment, navigate insurance and service networks, understand complex IDEA timelines, participate actively in IFSP/IEP development, interpret evaluation results, and exercise their right to include Head Start staff in special education meetings. While general provisions in the Head Start Act encourage family involvement and resource coordination, and IDEA outlines formal parental rights, neither law places an affirmative duty on Head Start programs to continue to actively guide families through the special education process. Eliminating §1302.62 strips away these crucial scaffolding supports, causing direct harm to parents as they will be left without structured guidance to understand technical evaluation data, medical diagnoses, or complex procedural rights under IDEA. This means their children are at risk of receiving incomplete or inappropriate IFSP/IEPs that fail to reflect their full developmental needs and keeps parents from having any assistance to bridge communications with their local school district in preparation for transition to Kindergarten. Parents are also deprived of access to assistance in determining who pays for services, AT/adaptive equipment and how to access the training and support needed to ensure training on the use of AT or other equipment is secured. Combined, this unequivocally increases stress and places an undue burden on families during their child's critical early development.

**5. Removes essential requirements that impact teaching, learning, program quality rating, and highly trained staff that will negatively affect preschool children with disabilities.**

Removal of Teacher-Child Ratios and Class Size Standards (§1302.21/§1301.05)

The proposed elimination of federal teacher-child ratios and class size limits in favor of state child care licensing minimums fundamentally undermines the statutory mandate of Head Start to provide high-quality, inclusive early childhood education. State licensing rules represent baseline safety floors rather than developmental standards. Indiscriminately deferring to state standards, even for programs exempt from state licensure—will increase teacher workloads by

an estimated 16% to 32% per classroom. For children with disabilities, low ratios and small group sizes are not merely quality indicators; they are essential structural interventions. Inclusion in general education environments relies on an educator's capacity to deliver differentiated instruction, implement individualized accommodations, and execute IFSP/IEP/504 Plans. Expanding class sizes and worsening ratios directly compromises classroom safety, reduces access to positive staff-child interactions, and prevents educators from providing the individualized behavioral and learning supports required for children with complex developmental needs.

#### Elimination of Quality Teaching and Learning Standards (§1302.91)

Rescinding mandatory requirements for teacher training, and continuous professional coaching severely compromises instructional efficacy. Early childhood inclusion requires specialized pedagogical strategies, functional behavior assessments, and routine progress monitoring. Removing these systemic quality controls creates a severe gap in educator capability, resulting in higher rates of unaddressed developmental delays, increased behavioral exclusions, and a failure to deliver the high-stakes early intervention that helps improve transition to Kindergarten ready to learn on grade level with peers.

#### Elimination of Quality Rating and Improvement System (QRIS) Participation (§ 1302.53)

Stripping the mandate for direct participation in state QRIS removes a key mechanism of public accountability and cross-system alignment. While voluntary collaboration remains optioned, severing required QRIS integration eliminates transparent, standardized data collection regarding program quality. This lack of transparency and comparability across programs prevents parents of children with disabilities from evaluating program capacity, while simultaneously denying policymakers, researchers, and advocates the comparative data necessary to ensure federal funds are upholding equitable service delivery.

#### Prohibition on Postsecondary Education Mandates or Incentives (§ 1301.12(c))

The proposed prohibition barring programs from requiring or incentivizing postsecondary credentials—unless "demonstrably necessary" represents an unprecedented federal preemption of local and state operational flexibility. Early childhood special education relies heavily on evidence-based practices that require specialized coursework in child development, screening tools, and adaptive strategies. Restricting a program's ability to incentivize or mandate post-secondary education ensures that early childhood educators remain under-equipped to implement the intervention strategies that children with disabilities need to successfully participate in inclusive settings.

6. **Eliminates bi-lingual language instruction for non-English speaking children (§ 1302.31(b)(2) including for children with disabilities §1302.63.** HHS proposes to eliminate explicit federal mandates that govern how Head Start programs assess, support, and serve children with disabilities who are dual language learners. This removes requirements to provide culturally and linguistically appropriate screenings, deliver specialized services in a child's home language, and ensure non-English-speaking parents receive accessible information throughout the IEP/IFSP process. This harms children with disabilities and their families because dual language learners with disabilities require specialized, dual-focused support to succeed. Despite the new regulations clarifying that all other federal laws continue to apply, the removal of provisions that distinctly support dual language learners when there is lack of knowledge of all other laws, including IDEA and Section 504 requirements, places children with disabilities at high risk of diagnostic error; experiencing a loss of first language support as they acquire language skills; and, disenfranchising their families. Additionally, when programs fail to provide specialized disability services in a child's first language this will undermine both cultural continuity and therapeutic progress. Finally, removing language

access requirements erects structural language barriers for non-English speaking parents, leaving them unable to comprehend evaluation results, navigate complex legal timelines, or consent to IFSP/IEP/504 plans.

- 7. Removes accessible and inclusive transportation (§1303.75).** The NPRM strips requirements for Head Start programs to maintain adapted vehicles for children with disabilities, transport disabled children in integrated settings with their peers, and adhere explicitly to IEP/IFSP transportation mandates. This change is unacceptable. Relying on general Head Start Act collaboration rules and IDEA mandates is insufficient because neither law requires Head Start agencies to own accessible vehicles, guarantee integrated transportation, or ensure the safety monitoring of children. By removing this requirement, HHS effectively creates a major structural barrier to access due to the following: 1) Increased Isolation: Segregating or failing to provide accessible transit deprives children with disabilities of equal access to inclusive Head Start environments; 2) Shifted Burden on Families: Families without access to specialized personal vehicles will be left to solve complex transit challenges independently, risking chronic absenteeism or loss of placement; 3) Erosion of Individualized Supports: Removing explicit cross-references to IFSP/IEP transportation requirements weakens program accountability, making it far harder for parents to enforce their child's legal rights to specialized accommodations during daily commutes; and, 4) Safety: Without a requirement for a bus monitor, children with disabilities who are nonverbal or medically fragile are at great risk during transportation.

Due to these major factors, COPAA again urges HHS to withdraw the NPRM. In the case you move forward, COPAA cautions that the changes will create barriers to high quality, inclusive preschool options for children with disabilities and their families and also weakens the shared public infrastructure through which Head Start programs, school districts, Part C agencies, and families identify children with disabilities, develop inclusive placements, coordinate services, and support successful transitions into kindergarten. We appreciate the opportunity to comment.

Sincerely,



Denise Marshall  
Executive Director

COPAA is an unparalleled peer-to-peer network that enables parents, family members, attorneys, special education advocates, and related professionals to engage in protecting the legal and civil rights of students with disabilities and their families. As the nation's leading authority on special education law, we support parents and mentor those who defend students' educational rights. Our members are also a proud part of the disability community. We provide knowledge exchange, research, training, mentoring, community building; elevate all voices to ensure equitable access to an education; help parents participate as meaningful partners in their child's education, and ensure the laws are implemented; provide legal opinions that open doors for students and shape laws; and, we influence policies that support children and their families.

**LEARN MORE – COPAA.ORG**