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September 20, 2016

The Honorable Lamar Alexander
Chairman
The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable John Kline
Chairman
The Honorable Robert C. "Bobby" Scott
Ranking Member
Committee on Education and the Workforce
House of Representatives

Subject: *Department of Health and Human Services, Administration for Children and Families:
Head Start Performance Standards*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services, Administration for Children and Families (ACF) entitled "Head Start Performance Standards" (RIN: 0970-AC63). We received the rule on September 2, 2016. It was published in the *Federal Register* as a final rule on September 6, 2016. 81 Fed. Reg. 61,294.

The final rule amends the Head Start Program Performance Standards. This rule has four sections:

- (1) *Program Governance*, which outlines the requirements imposed on Governing Bodies and Policy Councils to ensure well-governed Head Start programs;
- (2) *Program Operations*, which outlines all of the operational requirements for serving children and families, from the universe of eligible children and the services they must be provided in education, health, and family and community engagement, to the way programs must use data to improve the services they provide;
- (3) *Financial and Administrative Requirements*, which lays out the requirements Head Start programs must adhere to; and
- (4) *Federal Administrative Procedures*, which governs the procedures the responsible official takes to determine the results of competition for all grantees, any actions against a grantee, whether a grantee needs to compete for renewed funding, and other transparency-related procedures.

The rule also reorganizes specific sections with the intention of making Head Start requirements easier to understand. It eliminates redundancy and groups together related requirements. ACF characterized the rule as significantly reducing the number of regulatory requirements without compromising quality and giving programs greater flexibility to determine how best to achieve their goals and administer a high-quality Head Start program without reducing expectations for children and families. ACF anticipates these changes will help move Head Start away from a compliance-oriented culture to an outcomes-focused one.

Enclosed is our assessment of ACF's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that ACF complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Agnes Thomas
Regulations Coordinator
Department of Health and Human Services

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
ADMINISTRATION FOR CHILDREN AND FAMILIES
ENTITLED
“HEAD START PERFORMANCE STANDARDS”
(RIN: 0970-AC63)

(i) Cost-benefit analysis

The Administration for Children and Families (ACF) discussed the costs and benefits of this final rule. In total, ACF estimates the 10-year present value of the costs associated with the new requirements in this final rule to be \$7,358 million when discounted at 3 percent, and \$5,886 million when discounted at 7 percent before accounting for the \$294 million in funding for fiscal year 2016 to expand duration (duration expansion funding). ACF estimates the annualized costs of new requirements in this final rule to be \$838 million when discounted at 3 percent, and \$783 million when discounted at 7 percent before accounting for the duration expansion funding. ACF estimates the 10-year present value to be \$5,632 million when discounted at 3 percent, and \$4,502 million when discounted at 7 percent, when taking into account duration expansion funding. ACF estimates the annualized costs of new requirements in this final rule will be \$641 million when discounted at 3 percent and \$599 million when discounted at 7 percent, when taking into account duration expansion funding.

ACF expects this final rule to improve the quality of Head Start, improve child outcomes, and increase the return on taxpayer dollars. ACF expects this rule will improve teaching practices, through implementation of content-rich curriculum, effective use of assessment data, and strong professional development in order to ensure every child in Head Start receives high quality early learning experiences that will build the skills they need to succeed in school and beyond. ACF stated that this rule, if fully funded, would result in a significant increase in the quality of Head Start and the associated benefits of Head Start participation for all children. ACF cited research on the potential for early education programs to produce large returns on investment to society through benefits associated with short and long term effects on children's math, reading and behavior skills; reduced grade retention, teen pregnancy, need for special education services, crime, and delinquency; and increased lifetime earnings. According to ACF, this research, coupled with research indicating the importance of adequate duration in early learning programs, suggest that extending program duration and increasing program quality will result in additional benefits for any child enrolled in a Head Start program that does not already meet or exceed the bar set for program quality in this rule. ACF notes that the relative size of these additional benefits will likely vary from program to program and it is not possible for this analysis to quantify the precise benefit. ACF also noted the possibility of additional benefits associated with additional teacher jobs, higher staff salaries, and increased support for parental work. Finally, in ACF's view, this rule increases clarity of Head Start requirements which should lead to greater compliance, which should result in improved child safety and stronger child and family outcomes. However, ACF found it was not possible to quantify these benefits.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

ACF determined that this final rule will not result in a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

ACF determined that this final rule does not impose unfunded mandates on state, local, and tribal governments, or on the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On June 19, 2015, ACF published a proposed rule. 80 Fed. Reg. 35,430. On August 12, 2015, ACF extended the original comment period by 30 days. 80 Fed. Reg. 48,282. ACF received approximately 1,000 public comments on the final rule. Commenters included Head Start parents, staff, and management; national, regional, and state Head Start associations; researchers; early childhood, health, and parent organizations; policy think tanks; philanthropic foundations; Members of Congress; and other interested parties. ACF responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

ACF determined that this final rule contains information collection requirements under the Act. The information collection requirement entitled Head Start Grants Administration imposes an estimated total burden on families of 329,641 hours and is assigned Office of Management and Budget (OMB) Control Number 0970-0423. The information collection requirement entitled Head Start Performance Standards (OMB Control Number 0970-0148) imposes an estimated total burden of 665,302 hours on children and 24,530 hours on staff. The final rule also lists certain information collection requirements that will no longer be required under this rule.

Statutory authorization for the rule

ACF promulgated this final rule the authority of sections 640, 641A, 642, 644, 645, 645A, 646, 648A, and 649 of the Head Start Act, as amended by the Improving Head Start for School Readiness Act of 2007. 42 U.S.C. §§ 9835, 9836a, 9837, 9839, 9840, 9840a, 9841, 9843a, 9844.

Executive Order No. 12,866 (Regulatory Planning and Review)

ACF determined that this final rule is a significant regulatory action under the Order as the cost of the rule exceeds \$100 million.

Executive Order No. 13,132 (Federalism)

ACF determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement under the Order.