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Assistant Secretary Alex J. Adams
Office of Head Start
Administration for Children and Families
U.S. Department of Health and Human Services
330 C Street SW, Suite 4416C
Washington, DC 20201

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

Dear Assistant Secretary Alex J. Adams:

I. Introduction and Interest of Commenter

The Wisconsin Institute for Law & Liberty ("WILL") respectfully submits this comment in support of the Department of Health and Human Services' ("HHS") and the Administration for Children and Families' ("ACF") proposed rule, Reducing Federal Burden for Head Start Programs (the "Proposed Rule"). The Proposed Rule would rescind the current, overly burdensome Head Start Program Performance Standards and defer authority to states and local programs where possible. Significantly, the Proposed Rule would, among other things, permit states to determine child-to-staff ratios for Head Start programs within their borders, eliminate the federal limits on suspension and prohibition on expulsion, cap administrative overhead costs at 5%, and remove unnecessary staff credentialing requirements within the federal program.[1] These changes share a simple goal: to expand access to the program and reverse a recent trend of prioritizing expanded regulations over serving more children.[2]

WILL is a nonprofit law and policy center headquartered in Milwaukee, Wisconsin, working to advance the principles of federalism, responsibly cut unnecessary regulations, and further policies that let Wisconsin families flourish. WILL has a longstanding commitment to researching and advocating for childcare policies that let providers grow their businesses, thereby expanding access to affordable childcare across the state of Wisconsin. Through its research, WILL has found that the key barrier to childcare access and affordability is overregulation, and Head Start is one example of this problem. Therefore, WILL strongly supports HHS's Proposed Rule which would cut more than 100 pages of federal requirements, and ultimately allow the Head Start program to serve more families in need.

[1] Reducing Federal Burden for Head Start Programs, 91 Fed. Reg. 51,248 (proposed Aug. 7, 2026) (to be codified at 45 C.F.R. pt. 1301).

[2] Alex J. Adams, *A Better Path Forward for Head Start*, THE HILL (Sept. 29, 2026, 1:00 PM) https://thehill.com/opinion/education/6116358-head-start-access-decline/

II. Childcare in Wisconsin

In the last few years, childcare costs have risen across the country, and Wisconsin is no exception. While affordability of childcare is undoubtedly a nationwide concern, Wisconsin families face rising childcare costs at a level that is not matched in neighboring states. According to Wisconsin's Department of Children and Families, the annual cost for infant care in Wisconsin is $17,400, which accounts for 22% of the median household income[3]. There is a reason for the disparity in childcare costs—overregulation.

In fact, in terms of childcare, Wisconsin is one of the most heavily regulated states in the nation. According to the Archbridge Institute's 2026 Childcare Regulations Index—which ranks states across the dimensions of maximum group size, child-to-staff ratio requirements, required annual number of training hours, and minimum education requirements—Wisconsin ranks 43rd out of 50 states for childcare freedom.[4] This places Wisconsin in the most heavily regulated group nationally and puts Wisconsin in last place in the Midwest.

While Wisconsin has regulated the childcare industry at a higher rate than most states in the country, many have advocated that such regulations would lead to improved quality of care. After all, the reasonable goal of childcare regulation is improved quality of care metrics and increased safety outcomes. However, a 2025 WILL study examined the issue closely and found that no such payoffs exist.[5] On the contrary, when compared to the neighboring state of Iowa, which ranks 7th nationally on the childcare freedom index, Wisconsin reported roughly six times as many total quality complaints despite having only about twice the population.[6] In return for the overregulation, Wisconsin has higher costs and fewer childcare providers in the market.

Unfortunately, the same story exists at the federal level within the Head Start program. As HHS recently acknowledged in its own report,[7] since the Head Start Program Performance Standards were rewritten a decade ago to include stricter federal requirements that promised to improve quality of care, available slots have fallen by 29 percent. Even worse, not only did access to the program decline, but quality scores also plateaued.[8] It is time for the federal government and Wisconsin lawmakers to recognize that overregulating the childcare industry with restrictive child-to-staff ratios,

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[3] Wis. Dep't of Child. & Fams., *Affordability*, https://dcf.wisconsin.gov/childcare/efforts/affordability.

[4] Anna Claire Flowers et al., *State Childcare Regulations Index 2026*, Archbridge Institute (Feb. 3, 2026), https://www.archbridgeinstitute.org/state-childcare-regulations-index/

[5] *Reforming Childcare in Wisconsin: Reducing Regulatory Burdens to Expand Access*, WILL (May 2025), https://will-law.org/wp-content/uploads/2026/08/WIChildcareStudy-web-1.pdf

[6] *Id*. at 16.

[7] Off. of the Ass't Sec'y for Plan. & Evaluation, U.S. Dep't of Health & Hum. Servs., *HHS' Historical Approach to Head Start Regulation Following the 2007 Statutory Reauthorization has increased Costs, and Reduced Access, without Substantial Quality Gains* 1 (Aug. 25, 2026), https://aspe.hhs.gov/sites/default/files/documents/b0d3392889f0e9750f6f66e7f0fab380/OHS%20Historical%20Approach%20to%20Regulation_Final.pdf.

[8] *Id.*

burdensome licensure requirements, and small group sizes results in fewer childcare slots and higher prices for families.

Here in Wisconsin, WILL has proposed that permanently raising child-to-staff ratios is the most important policy change to address childcare affordability and accessibility. Fortunately, Wisconsin has implemented a pilot program to temporarily raise ratios—a policy that should be permanently codified. Accordingly, WILL is pleased that HHS proposes to eliminate its restrictive child-to-staff ratios within the Head Start program. This change would open the program's doors to more children across the country, reversing an ill-advised trend that, for years, prioritized serving fewer children in exchange for improvements in quality that never materialized. In recent years, Wisconsin and Head Start alike have regulated children and families out of childcare opportunities. Therefore, HHS's Proposed Rule to cut hundreds of pages of regulations is a long-overdue course correction.

III. The Proposed Rule Advances Federalism by Allowing States to Determine Child-to-Staff Ratios and Group Sizes

First, WILL strongly supports HHS's proposal to eliminate the current federally mandated child-to-staff ratios for local Head Start agencies and give authority to the states to govern group size and child-to-staff ratios. Currently, Head Start's child-to-staff ratios and group size limits are more restrictive than nearly every state in the country.[9]

In practice, this means that non-Head Start childcare providers can serve more children per staff member than a Head Start provider operating just down the road. For example, in Wisconsin, the Department of Children and Families permits a staff-to-child ratio of 1 staff member per 8 children ages 2 ½ to 3, with a maximum group size of 16 children.[10] By contrast, for classes serving children under 36 months old, Head Start currently requires a ratio of 1 staff member per 4 children, with group sizes capped at 8 children.[11] That means Wisconsin regulations allow childcare providers to serve twice as many children in a single classroom for this age group as current Head Start requirements permit. These more restrictive federal requirements can significantly limit the number of children a Head Start provider can serve with a given number of classroom spaces, effectively eliminating seats for eligible children and families. That deficit matters in Wisconsin where Head Start currently serves approximately 16,000 children,[12] while many other children and families who are financially eligible for the program lack access to available seats.

[9] 91 Fed. Reg. at 51,266.
[10] Wis. Admin. Code DCF § 251.055 (2026).
[11] 45 C.F.R. § 1302.21 (2025).
[12] Wis. Dep't of Child. & Fams, *Explore Opportunities to Partner with Head Start and Early Head Start in Wisconsin*, https://dcf.wisconsin.gov/childcare/providers/resource-guide/head-start.

If this Proposed Rule is finalized, local Head Start providers in Wisconsin could take advantage of increased child-to-staff ratios and group sizes that align more closely with those permitted for other Wisconsin childcare providers. This would give providers greater flexibility to expand classroom capacity and potentially serve more eligible children and families.

Further, the Proposed Rule merely allows states to set maximum group sizes and child-to-staff ratios for Head Start providers; it does not require states or providers to adopt higher ratios or larger group sizes. Importantly, if a local Head Start program does not wish to increase its ratios or group sizes, it would not have to.[13] Therefore, this preempts any concerns that individual Head Start providers will be forced to provide care at staffing levels they are uncomfortable with. Rather, the Proposed Rule will allow states to respond to the unique challenges within their communities and unlock additional childcare seats for families, while individual providers are free to decide how to respond to those state-level changes. Quite simply, this change in regulation would allow greater flexibility in childcare decision-making—placing more decisions in the hands of states and providers while giving families more childcare options to choose from.

IV. The Proposed Rule Eliminates Federal Limits on Suspension and Prohibition of Expulsion, Allowing States and Providers to Set Their Own Discipline Policies

Second, WILL supports the Proposed Rule's changes to suspension and expulsion policies within the Head Start program. Under the current Head Start Program Performance Standards, which were comprehensively rewritten by the Obama Administration in 2016, a program "cannot expel or unenroll a child from Head Start because of a child's behavior," and may use temporary suspension "only as a last resort in extraordinary circumstances where there is a serious safety threat."[14] Further, the 2016 Rule required programs to adopt standards of conduct ensuring staff "implement positive strategies" to address behavioral health and challenging behaviors, rather than using traditional discipline methods.[15]

This is unsurprising given the context of the time. As explained in a 2018 WILL report,[16] the Obama Administration also increased federal involvement in discipline policy across the country for K-12 schools by sending a 'Dear Colleague' letter threatening to investigate public schools that did not take appropriate action to reduce suspensions and punishments. In place of traditional discipline, the Department of Education and the Department of Justice worked in concert to push forward a system of Positive Behavioral Intervention and Support (PBIS) and so-called restorative justice

[13] 91 Fed. Reg. 51,248.
[14] 45 C.F.R. § 1302.17(a)(2), (b)(1) (2025).
[15] 45 C.F.R. § 1302.90(c)(1)(i) (2025).
[16] Will Flanders, *Collateral Damage: The Impact of Department of Education Policies on Wisconsin Schools*, WILL (Jan. 2018), https://will-law.org/wp-content/uploads/2018/01/pbis-final.pdf.

approaches, which required schools to consider race in discipline decisions. However, while school suspensions severely declined, school safety concerns rose.[17] Ultimately, that policy has come to a slow end, but it illustrates why the federal government should stay out of local school discipline issues.

However, until now, the Obama-era federal suspension limitations and expulsion prohibition have remained in place within the Head Start program. To be sure, children in Head Start and Early Head Start are younger than K-12 age students, and that difference will affect how suspension and expulsion should be handled. But just like K-12 schools, these decisions within Head Start should be made at the state and local levels. Moreover, the Head Start Act already addresses the needs of children with behavioral problems. Specifically, the Act requires programs to "ensure that children with documented behavioral problems, including problems involving behavior related to prior or existing trauma, receive appropriate screening and referral."[18] Rather than operating under a federal ban on all expulsions and nearly all suspensions, Head Start programs should be empowered to make their own discipline policies, while ensuring children's behavioral needs are still being addressed.

Therefore, WILL strongly supports HHS's proposal to rescind the federal requirements that ban expulsion and limit suspension and allow individual Head Start programs to determine their own disciplinary policies in compliance with state and local laws.

V. The Proposed Rule Caps Funding for Administrative Overhead Costs Thereby Directing Funding Toward Additional Head Start Slots

Third, WILL supports the Proposed Rule's general goal of cutting administrative overhead expenses and directing those funds toward opening more childcare slots for children. Specifically, if finalized, the Proposed Rule would cap the amount of money Head Start and Early Head Start programs can spend on administrative overhead at 5% of the total approved program cost, down from the current 15%.[19] HHS estimates that if this change were implemented, approximately $754.3 million annually could be redirected from administrative costs toward direct services for children.[20] Given that in the last decade federal spending per childcare slot has risen steeply while total slots available have fallen, it is time to take a closer look at where the federal dollars are actually going.[21]

To be sure, administrative bloat is not just a problem in Head Start, as WILL has also witnessed this occur in K-12 education in Wisconsin. According to a 2020 WILL

[17] *WILL Study Finds Unintended Consequences of Obama Era Suspension Policies*, WILL (Oct. 11, 2017), https://will-law.org/suspension-policies-obama/.

[18] 42 U.S.C. § 9840a(b)(6).

[19] 91 Fed. Reg. at 51,320.

[20] 91 Fed. Reg. at 51,298–99.

[21] Adams, *supra* note 2.

analysis, only 53% of spending in schools was classified as "Instruction", while "Administration" was the next largest category at 23%.[22] A 2023 follow-up analysis showed that the fastest growing employment positions within schools were not teachers—in fact, teachers were not within the top five.[23] This Wisconsin example shows that administrative costs have ballooned in many facets of education. Though Wisconsin has yet to confront its own problem head-on, HHS is taking a step in the right direction by reining in administrative spending so that taxpayer dollars can stretch farther and reach children within the four walls of a Head Start classroom.

VI. The Proposed Rule Removes Unnecessary Staff Credentialing Requirements

Finally, WILL supports HHS and ACF's shift away from credential and postsecondary education requirements that are not necessary for the job, in favor of hiring based on demonstrated skill. HHS proposes to do this in two ways. First, Head Start programs would be precluded from requiring postsecondary education credits, hours, or credentials unless they can demonstrate that the only way to attain a certain skill is through a particular postsecondary education pathway.[24] Even where that narrow exception applies, programs would have to provide explicit alternatives for applicants to demonstrate required skills like relevant work experience, rather than relying solely on postsecondary education credentials. Second, the Proposed Rule would return Head Start staff qualifications to what Congress authorized in the Head Start Act, removing all other staff qualifications that are not explicitly in the statutory language of the Act.[25]

As the Proposed Rule recognizes, the available research does not support the proposition that imposing specific degree requirements on Head Start staff leads to better child outcomes.[26] Relatedly, WILL has also taken a close look at this concept within the context of K-12 education in Wisconsin, where, on average, 39.4% of teachers have a master's degree and are compensated a higher salary for attaining such a degree.[27] However, WILL's analysis found that students of teachers with master's degrees do not have higher proficiency rates in math or English language arts.[28] This is consistent with research from around the country which generally finds master's degrees have little relationship to student outcomes. Therefore, WILL is pleased to see HHS reduce burdensome credentialing requirements that have little to no relationship to student outcomes.

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[22] Will Flanders, *Defunding Classrooms: Investigating the Rise of Bureaucracy in K-12 Schools* 4 (WILL 2023), https://will-law.org/wp-content/uploads/2023/08/2023-06-29-Administrative-Bloat-LOW-RES.pdf.

[23] *Id.* at 15.

[24] 91 Fed. Reg. at 51,273.

[25] *Id.*

[26] *Id.*

[27] Flanders, *Defunding Classrooms*, *supra* note 22, at 12.

[28] *Id.*

Moreover, within the context of private sector childcare, the evidence is quite clear that increasing education requirements for childcare staff leads to a reduction in childcare availability.[29] After all, instead of leading to a higher quality of care, education requirements tend to raise the barriers to entering the childcare workforce. Here too, some states have led the way by decreasing educational requirements, hours of work experience, and credentialing requirements for staff, with the goal of expanding the pool of childcare providers.[30] Wisconsin still has a long way to go to match other Midwestern states with less burdensome licensure requirements. However, a recent positive change in Wisconsin lowers the minimum age for assistant childcare teachers, provided that the staff member completes one of three training options within six months of starting.[31]

Head Start is on the right track by reverting to only those qualifications required in the statute and eliminating all other burdensome requirements. If the federal government and more states take this approach, childcare has the potential to be more accessible and more affordable across the country.

VII. Conclusion

WILL supports the Proposed Rule and strongly urges HHS and ACF to finalize it. The Proposed Rule advances the purpose of the Head Start Act, which is to maximize childcare access to low-income families and promote school readiness. Rather than pushing federal mandates that have led to declining enrollment in the Head Start program, states and local programs should be permitted to set their own child-to-staff ratios, establish their own discipline policies, and remove unnecessary credentialing requirements, while directing more federal funding into the classroom.

WILL appreciates the opportunity to submit this comment and is available for further dialogue on these matters.

Respectfully submitted,

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[29] *Analysis: Who Is Serious About Solving Wisconsin's Childcare Crisis*, WILL (Aug. 19, 2026), https://will-law.org/analysis-who-is-serious-about-solving-wisconsins-childcare-crisis/.

[30] *Id.*

[31] *Id.*