

## § 1304.60

are stored in a safe and sanitary manner; and

(xvii) Adequate provisions are made for children with disabilities to ensure their safety, comfort, and participation.

(b) *Head Start equipment, toys, materials, and furniture.* (1) Grantee and delegate agencies must provide and arrange sufficient equipment, toys, materials, and furniture to meet the needs and facilitate the participation of children and adults. Equipment, toys, materials, and furniture owned or operated by the grantee or delegate agency must be:

(i) Supportive of the specific educational objectives of the local program;

(ii) Supportive of the cultural and ethnic backgrounds of the children;

(iii) Age-appropriate, safe, and supportive of the abilities and developmental level of each child served, with adaptations, if necessary, for children with disabilities;

(iv) Accessible, attractive, and inviting to children;

(v) Designed to provide a variety of learning experiences and to encourage each child to experiment and explore;

(vi) Safe, durable, and kept in good condition; and

(vii) Stored in a safe and orderly fashion when not in use.

(2) Infant and toddler toys must be made of non-toxic materials and must be sanitized regularly.

(3) To reduce the risk of Sudden Infant Death Syndrome (SIDS), all sleeping arrangements for infants must use firm mattresses and avoid soft bedding materials such as comforters, pillows, fluffy blankets or stuffed toys.

### Subpart E—Implementation and Enforcement

#### § 1304.60 Deficiencies and quality improvement plans.

(a) Early Head Start and Head Start grantee and delegate agencies must comply with the requirements of this part in accordance with the effective date set forth in 45 CFR 1304.2.

(b) If the responsible HHS official, as a result of information obtained from a review of an Early Head Start or a Head Start grantee, determines that

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the grantee has one or more deficiencies, as defined in §1304.3(a)(6) of this part, and therefore also is in violation of the minimum requirements as defined in §1304.3(a)(14) of this part, he or she will notify the grantee promptly, in writing, of the finding, identifying the deficiencies to be corrected and, with respect to each identified deficiency, will inform the grantee that it must correct the deficiency either immediately or pursuant to a Quality Improvement Plan.

(c) An Early Head Start or Head Start grantee with one or more deficiencies to be corrected under a Quality Improvement Plan must submit to the responsible HHS official a Quality Improvement Plan specifying, for each identified deficiency, the actions that the grantee will take to correct the deficiency and the timeframe within which it will be corrected. In no case can the timeframes proposed in the Quality Improvement Plan exceed one year from the date that the grantee received official notification of the deficiencies to be corrected.

(d) Within 30 days of the receipt of the Quality Improvement Plan, the responsible HHS official will notify the Early Head Start or Head Start grantee, in writing, of the Plan's approval or specify the reasons why the Plan is disapproved.

(e) If the Quality Improvement Plan is disapproved, the Early Head Start or Head Start grantee must submit a revised Quality Improvement Plan, making the changes necessary to address the reasons that the initial Plan was disapproved.

(f) If an Early Head Start or Head Start grantee fails to correct a deficiency, either immediately, or within the timeframe specified in the approved Quality Improvement Plan, the responsible HHS official will issue a letter of termination or denial of refunding. Head Start grantees may appeal terminations and denials of refunding under 45 CFR part 1303, while Early Head Start grantees may appeal terminations and denials of refunding only under 45 CFR part 74 or part 92. A deficiency that is not timely corrected shall be a material failure of a grantee to comply with the terms and conditions of an award within the meaning

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of 45 CFR 74.61(a)(1), 45 CFR 74.62 and 45 CFR 92.43(a).

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970-0148 for paragraphs (b) and (c).)

[61 FR 57210, Nov. 5, 1996, as amended at 63 FR 2314, Jan. 15, 1998]

**§ 1304.61 Noncompliance.**

(a) If the responsible HHS official, as a result of information obtained from a review of an Early Head Start or Head Start grantee, determines that the grantee is not in compliance with Federal or State requirements (including, but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title) in ways that do not constitute a deficiency, he or she will notify the grantee promptly, in writing, of the finding, identifying the area or areas of noncompliance to be corrected and specifying the period in which they must corrected.

(b) Early Head Start or Head Start grantees which have received written notification of an area of noncompliance to be corrected must correct the area of noncompliance within the time period specified by the responsible HHS official. A grantee which is unable or unwilling to correct the specified areas of noncompliance within the prescribed time period will be judged to have a deficiency which must be corrected, either immediately or pursuant to a Quality Improvement Plan (see 45 CFR 1304.3(a)(6)(iii) and 45 CFR 1304.60).

**PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START**

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AUTHORITY: 42 U.S.C. 9801 *et seq.*

SOURCE: 57 FR 46725, Oct. 9, 1992, unless otherwise noted.

**§ 1305.1 Purpose and scope.**

This part prescribes requirements for determining community needs and recruitment areas. It contains requirements and procedures for the eligibility determination, recruitment, selection, enrollment and attendance of children in Head Start programs and explains the policy concerning the charging of fees by Head Start programs. These requirements are to be used in conjunction with the Head Start Program Performance Standards at 45 CFR part 1304, as applicable.

[57 FR 46725, Oct. 9, 1992, as amended at 61 FR 57226, Nov. 5, 1996]

**§ 1305.2 Definitions.**

(a) *Children with disabilities* means children with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities who, by reason thereof need special education and related services. The term "children with disabilities" for children aged 3 to 5, inclusive, may, at a State's discretion, include children experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, need special education and related services.

(b) *Enrollment* means the official acceptance of a family by a Head Start program and the completion of all procedures necessary for a child and family to begin receiving services.

(c) *Enrollment opportunities* mean vacancies that exist at the beginning of the enrollment year, or during the year because of children who leave the program, that must be filled for a program to achieve and maintain its funded enrollment.