



## Making Program Improvements to Head Start

### *Public Input in the Head Start Rulemaking Process*

Legislation is only the first step in creating a new program or modifying an existing one. Once legislation passes, government agencies begin the rulemaking process of translating general mandates into concrete practices. Every year, agencies are required to publish a regulatory plan and agenda to notify the public of any future rulemaking, among other updates.

Agencies often do background research and collect information before issuing a proposed rule. Agencies then must publish a “Notice of Proposed Rulemaking” in the *Federal Register* as a formal call for public input on the rule. Any individual or group may respond to the Notice by submitting suggestions or concerns pertaining to the proposed rule. Usually this comment period lasts 30 to 90 days, although it may vary. Other avenues to influence the proposed rule include public hearings or public meetings, although these are not required.

Once the public has submitted comments and suggestions, the agency will decide whether to incorporate or disregard the recommendations. If major changes are made to the rule, the agency may publish a supplemental proposed rule for the public to review. If the changes are minor, the agency may publish a final rule to be put into effect.<sup>1</sup>

Head Start rulemaking follows the general process outlined above. The development of Designation Renewal System (DRS) regulations presents a particularly clear case in which the public influenced the final product. The DRS is a process by which Head Start agencies are reviewed and assessed according to seven performance criteria. Agencies that do not satisfy the criteria are no longer guaranteed continued funding. Instead, they must compete with other agencies to obtain their next five years of funding, a process known as recompetition.

In September 2011, the Administration for Children and Families (ACF) issued a proposed rule outlining this process and the criteria to be used. The proposed rule required that of all Head Start grantees reviewed in the same year, a minimum of 25% must be identified as ‘underperforming’ and be required to re compete for continued funding. If the review process could not identify least 25% as underperforming using the basic criteria, then additional criteria would be used to identify further grantees for recompetition.<sup>2</sup>

This 25% minimum elicited concerns among many respondents to the proposed rule, including:

- Lack of justification for the 25% minimum
- Possibility that decisions surrounding recompetition would be driven by a need to meet the quota rather than true consideration of program quality
- Lack of transparency surrounding the specific quality standards that a program should aim to meet

In response to the concerns raised by the notice-and-comment process, ACF replaced the 25% minimum with a more nuanced classroom quality condition, as follows:

- In addition to programs that score below a minimum threshold for classroom quality,

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quality of life and diversity data on families



programs with classroom quality scores in the bottom 10% of all evaluated programs will be required to recompete for funding.

- However, in response to concerns that high-quality programs would be required to recompete, ACF specifies that in the unlikely event that a program scores an 'excellent' in classroom quality, but still falls in the bottom 10%, the program will not be required to recompete.

These changes were implemented in the final rule, and can be found in the [current DRS regulations](#).<sup>3</sup>

#### Sources & notes:

<sup>1</sup> Office of the Federal Register. (2011). *A guide to the rulemaking process*. Retrieved from [https://www.federalregister.gov/uploads/2011/01/the\\_rulemaking\\_process.pdf](https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf) ; About the Federal Register. (n.d.). Retrieved from <http://www.archives.gov/federal-register/the-federal-register/about.html>.

<sup>2</sup> Proposed rule: Head Start program. 75 Fed. Reg. (183), 57704 (Sept 22, 2010) (to be codified at 45 CFR Pt 1307).

<sup>3</sup> Final rule: Head Start program. 76 Fed. Reg. (217), 70010 (Nov 9, 2011) (to be codified at 45 CFR Pt 1307).