



HEAD START ACT vs. REGULATIONS vs. NPRM

A Comparison for Policy Staff and Advocates - Discipline: Suspension & Expulsion

About this document

On August 7, 2026, the Administration for Children and Families (ACF) released a Notice of Proposed Rulemaking (NPRM), "Reducing Federal Burden for Head Start Programs" (RIN 0970-AD30). The NPRM would replace most of the current Head Start Program Performance Standards (45 CFR Part 1302) with a much shorter set of federal regulations, shifting many current requirements to state licensing law, program discretion, or no requirement at all.

This analysis was prepared to give policy staff, researchers, and advocates a detailed, side-by-side view of how specific Head Start policy areas are treated under three sources of authority: the Head Start Act (statute), the current Head Start Program Performance Standards (regulation), and the proposed NPRM. This document is written for readers who want to see how the underlying statutory, regulatory, and NPRM language itself compares.

Each topic section includes:

- **Overview:** a short summary of how the three sources relate to one another on this topic
- **Side-by-side comparison table:** four-column tables (Dimension | Head Start Act | Current Regulations | NPRM) on each source's treatment of a given aspect
- **NPRM verbatim text and rationale:** direct excerpts from the NPRM preamble explaining ACF's reasoning for the proposed change
- **Verbatim citations:** the full underlying statutory and regulatory text referenced in the comparison table

Table and citation language throughout is quoted directly from the Head Start Act, 45 CFR Part 1302, and the NPRM as published; it has not been paraphrased.

Discipline: Suspension & Expulsion

HEAD START ACT

VS.

HEAD START PROGRAM PERFORMANCE STANDARDS

VS.

PROPOSED RULE: “REDUCING FEDERAL BURDEN FOR HEAD START PROGRAMS” (Aug. 7, 2026)

A Three-Way Comparison of Behavioral Issues, Suspension, and Expulsion Provisions

Overview

This document compares how the Head Start Act, the current Head Start Program Performance Standards, and the August 7, 2026 NPRM (‘Reducing Federal Burden for Head Start Programs’) each treat children’s behavioral issues, suspension, and expulsion.

Central point: The Head Start Act contains no general discipline, suspension, or expulsion provision. The only statutory text touching behavioral issues is Sec. 645A(b)(6), which requires Early Head Start programs to screen and refer children with documented behavioral problems, including trauma-related behavior, but says nothing about suspension, expulsion, or about Head Start Preschool (ages 3-5). Every current substantive provision related to suspension and expulsion rests solely in regulation with no parallel provision in the Head Start statute.

Side-by-Side Comparison

Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.17)	NPRM (Aug. 7, 2026)
Coverage of the topic generally	No general discipline provision anywhere in the Act. Only a single narrow reference (Sec. 645A(b)(6)) applies, and only to Early Head Start.	§1302.17 is a dedicated, detailed provision governing suspension and expulsion for all Head Start and Early Head Start programs.	Proposes to rescind §1302.17 in its entirety.
Behavioral-problem screening/referral (EHS only)	Sec. 645A(b)(6): Early Head Start programs must ‘ensure that children with documented behavioral problems, including problems involving behavior related to prior or existing trauma,	Implemented in part through §1302.17(a)(4)(iii) and (b)(2)(i)-(ii), which require IDEA referral/consultation as part of the suspension and expulsion process.	The NPRM states this screening/referral requirement is still law ‘thus programs serving infants and toddlers must comply with this statutory requirement.’

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Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.17)	NPRM (Aug. 7, 2026)
	receive appropriate screening and referral.'		
Suspension standard	Not addressed.	§1302.17(a)(1): programs 'must prohibit or severely limit the use of suspension due to a child's behavior'; suspensions may only be temporary.	Rescinded. Programs would set their own suspension policy, subject only to state/local licensing or subsidy contract requirements where those exist.
'Last resort' / safety-threat test	Not addressed.	§1302.17(a)(2): a temporary suspension must be used 'only as a last resort in extraordinary circumstances where there is a serious safety threat' not otherwise reducible through mental-health-consultant-recommended interventions.	Rescinded. No federal safety-threat threshold would apply; programs and states set their own standard.
Pre-suspension procedural requirements	Not addressed.	§1302.17(a)(3): before suspending, a program must engage a mental health consultant, collaborate with parents, and use community resources (behavior coaches, psychologists, etc.) to confirm no other reasonable option exists.	Rescinded. Programs would set their own suspension policy, subject only to state/local licensing or subsidy contract requirements where those exist..
Re-entry / return-to-participation requirements	Not addressed.	§1302.17(a)(4): if suspension occurs, the program must help the child return to full participation 'as quickly as possible,' documenting steps taken, continued engagement with parents/consultant, additional supports including home visits, and	Rescinded. Programs would set their own suspension policy, subject only to state/local licensing or subsidy contract requirements where those exist.

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Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.17)	NPRM (Aug. 7, 2026)
		consideration of an IDEA referral or IFSP/IEP consultation.	
Expulsion standard	Not addressed.	§1302.17(b)(1): 'A program cannot expel or unenroll a child from Head Start because of a child's behavior' — a categorical prohibition, not a limitation.	Rescinded. No federal expulsion prohibition; programs determine their own disciplinary policies within state/local licensing requirements.
Persistent/serious behavioral-concern procedure	Not addressed for Head Start Preschool. (Sec. 645A(l)(6) reaches only EHS, and only screening/referral, not a persistent-behavior protocol.)	§1302.17(b)(2): programs must document all steps taken, engage a mental health consultant, consider Section 504 accommodations, consult parents/teacher, and pursue IFSP/IEP consultation or IDEA-eligibility collaboration as applicable.	Rescinded. No federal procedural requirement for persistent behavioral concerns.
Transition to a more appropriate placement	Not addressed.	§1302.17(b)(3): if, after all documented steps, continued enrollment presents a continued serious safety threat and the program is determined not to be the most appropriate placement, the program must work with relevant parties to 'directly facilitate the transition of the child to a more appropriate placement' — a structured off-ramp distinct from simple expulsion.	Rescinded. No federal transition-facilitation requirement.
Interaction with state child care licensing	Not addressed — the Act does not reference state licensing at all in this context.	Operates as an independent federal floor regardless of state licensing status.	Programs would be required to 'determine their own disciplinary policies within the context of state and local licensing requirements.' The NPRM acknowledges

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Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.17)	NPRM (Aug. 7, 2026)
			that roughly half of states have incorporated some suspension/expulsion protection into licensing, quality standards, or state law since 2016. Though not a requirement to ban suspension and expulsion, as part of their CCDF plans, States must describe their policies regarding the social-emotional behavioral health of young children, which may include...policies on expulsion of preschool-aged children, in early childhood programs ‘.

Verbatim Citations

Full statutory, regulatory, and NPRM text underlying the comparison above.

Statute — Head Start Act, Sec. 645A(b)(6) (Early Head Start Programs)

"(6) ensure that children with documented behavioral problems, including problems involving behavior related to prior or existing trauma, receive appropriate screening and referral;"

This is the only provision in the entire Head Start Act that addresses behavioral issues. It applies exclusively to Early Head Start (infants and toddlers, birth to age 3) and imposes only a screening-and-referral duty — it does not address suspension, expulsion, discipline generally, or Head Start Preschool (ages 3-5).

Statute — Head Start Act, Sec. 640(d)(2) (Early Intervening Services, related context)

"Such policies and procedures shall ensure the provision of early intervening services, such as educational and behavioral services and supports, to meet the needs of children with disabilities, prior to an eligibility determination under the Individuals with Disabilities Education Act."

This ties ‘behavioral’ supports to the IDEA-eligibility-determination framework rather than to a general behavioral-management or discipline standard.

Current Regulation — 45 CFR §1302.17(a)(1)-(4) (Limitations on Suspension)

"(1) A program must prohibit or severely limit the use of suspension due to a child's behavior. Such suspensions may only be temporary in nature. (2) A temporary suspension must be used only as a last resort in extraordinary circumstances where there is a serious safety threat that has not been reduced or eliminated by the provision of interventions and supports recommended by the mental health consultant and the program needs time to put additional appropriate services in place. (3) Before a program determines whether a temporary suspension is necessary, a program must engage with a mental health consultant, collaborate with the parents, and utilize appropriate community resources – such as behavior coaches, psychologists, other appropriate specialists, or other resources – as needed, to determine no other reasonable option is appropriate. (4) If a temporary suspension is deemed necessary, a program must help the child return to full participation in all program activities as quickly as possible while ensuring child safety. A program must explore all possible steps and document all steps taken to address the behavior(s) and supports needed to facilitate the child's safe reentry and continued participation in the program. Such steps must include, at a minimum: (i) Continuing to engage with the parents, mental health consultant, and other appropriate staff, and continuing to utilize appropriate community resources; (ii) Providing additional program supports and services, including home visits; and, (iii) Determining whether a referral to a local agency responsible for implementing IDEA (Individuals with Disabilities Education Act) is appropriate, or if the child has an individualized family service plan (IFSP) or individualized education program (IEP), consulting with the responsible agency to ensure the child receives the needed support services."

Current Regulation – 45 CFR §1302.17(b)(1)-(3) (Prohibition on Expulsion)

"(1) A program cannot expel or unenroll a child from Head Start because of a child's behavior. (2) When a child exhibits persistent and serious behavioral concerns, a program must explore all possible steps and document all steps taken to address such problems, and facilitate the child's safe participation in the program. Such steps must include, at a minimum, engaging a mental health consultant, considering the appropriateness of providing appropriate services and supports under section 504 of the Rehabilitation Act of 1973 to ensure that the child who satisfies the definition of disability in 29 U.S.C. §705(9)(b) of the Rehabilitation Act is not excluded from the program on the basis of disability, and consulting with the parents and the child's teacher, and: (i) If the child has an individualized family service plan (IFSP) or individualized education program (IEP), the program must consult with the agency responsible for the IFSP or IEP to ensure the child receives the needed support services; or, (ii) If the child does not have an IFSP or IEP, the program must collaborate, with parental consent, with the local agency responsible for implementing IDEA to determine the child's eligibility for services. (3) If, after a program has explored all possible steps and documented all steps taken as described in paragraph (b)(2) of this section, a program, in consultation with the parents, the child's teacher, the agency responsible for implementing IDEA (if applicable), and the mental health consultant, determines that the child's continued enrollment presents a continued serious safety threat to the child or other enrolled children and determines the program is not the most appropriate placement for the child, the program must work with such entities to directly facilitate the transition of the child to a more appropriate placement."

5. NPRM — Proposed Rescission of §1302.17

NPRM Preamble, 'Suspension and Expulsion' section

"This NPRM proposes to remove § 1302.17 of the current Performance Standards, which outlines the limitations on suspension and the prohibition on expulsion. The Act requires that Early Head Start programs ensure that children with documented behavioral problems, including problems related to prior or existing trauma, receive appropriate screening and referral (Sec. 645A(b)(6)), thus programs serving infants and toddlers must comply with this statutory requirement. The removal of these regulatory requirements would apply to both Head Start Preschool and Early Head Start programs and would allow them to determine their own disciplinary policies within the context of state and local licensing requirements."

NPRM Preamble, Rationale

"The rationale for ACF's proposed removal of these requirements is twofold. First, when ACF included these requirements limiting suspension and prohibiting expulsion in its 2016 final rule revising the Performance Standards, many state child care licensing regulations either did not address suspension and expulsion explicitly or addressed them only indirectly through discipline policies. The landscape has changed, and a growing number of states have incorporated suspension and expulsion requirements directly into licensing regulations, quality standards, or state law. Second, the proposed removal of these Federal requirements restores state and local authority in recognition that effective Head Start programs can and do operate under varying approaches based on state and local contexts. These proposed changes are not an endorsement of suspension and expulsion as approaches to address persistent and serious behavioral concerns; rather, the intent is to allow programs to determine their own discipline policies, within the context of state and local licensing requirements. Recipients are reminded that they will continue to be required to comply with all applicable state and local requirements that have a bearing on suspension and expulsion."

Closing Thoughts

While Congress has up to now not chosen to legislate on suspension and expulsion in Head Start programs, Congress has in other education statutes added provisions related to suspension and expulsion. Congress could add provisions on suspension and expulsion via legislative action (full reauthorization or piecemeal).

CCDBG: In 2014 seven years after the last reauthorization of Head Start, Congress wrote into the CCDBG statute two provisions related to suspension and expulsion—

- A requirement for states to describe their policies regarding the social-emotional behavioral health of young children, which may include...policies on expulsion of preschool-aged children, in early childhood programs.
- The addition as an allowable activity under the quality set-aside effective behavior management strategies and training, including positive behavior interventions and support models, that promote positive social and emotional development and reduce challenging behaviors, including reducing expulsions of preschool-aged children for such behaviors.

IDEA: Unlike the Head Start regulation's categorical "no expulsion" approach, IDEA takes a procedural, case-by-case approach — it doesn't prohibit suspension or expulsion outright, but layers specific rights and triggers around when and how discipline can occur. These provisions were added to IDEA in IDEA 1997 reauthorization and amended in IDEA 2004.

Elementary and Secondary Education Act: ESEA has no prohibition on suspension and expulsion of Title I children or any other children supported under ESEA. The only provision related to suspensions and expulsions was added in the 2015 reauthorization and includes a requirement for states and districts to publish an annual report card, available to parents, disaggregated by student subgroup (including students with disabilities and English learners), reporting rates of in-school suspensions, Out-of-school suspensions, and expulsions.

Public comment period

The NPRM's 60-day public comment period is open through October 6, 2026. Comments can be submitted through the Federal Register page for RIN 0970-AD30 at [regulations.gov](https://www.regulations.gov). Submitted comments are posted publicly and unedited, so commenters should avoid including personal or sensitive information.