



HEAD START ACT vs. REGULATIONS vs. NPRM

A Comparison for Policy Staff and Advocates - Limited English Proficient Children & Language of Instruction

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 of 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.

Limited English Proficient Children & Language of Instruction

HEAD START ACT

VS.

HEAD START PROGRAM PERFORMANCE STANDARDS (45 CFR §1302.31)

VS.

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

A Three-Way Comparison of Limited English Proficient Children and Language of Instruction Provisions

Overview

This document compares how the Head Start Act, the Head Start Program Performance Standards, and the August 7, 2026 NPRM each treat each treat limited English proficient (LEP) children and the language of instruction.

Central Points: The statute establishes a definitional and structural framework — of who is limited English proficient and what agencies must plan for instructionally to help children progress towards English language acquisition. A specific operational pedagogy is not stipulated in the statute. The Head Start Performance standards, on the other hand, require a ‘dual language learner’ (DLL) instructional framework. In federal education law, the tension between limited English proficiency and bilingualism/dual language learner has persisted for decades. Both the No Child Left Behind Act (enacted in 2002) and the last reauthorization of Head Start (enacted in 2007) utilize the limited English/English acquisition framework. In 2015 when NCLB was reauthorized as the Every Student Succeeds Act, Congress swapped the term from limited English proficient to English language learner but did not move to a bilingual/dual language pedagogical framework as the Head Start Performance Standards did in 2016.

The NPRM's analysis reveals an unresolved tension between the statute's silence on a particular pedagogical framework and the Administration's push for English only. The NPRM explicitly acknowledges the Act requires LEP children to show progress 'while making meaningful progress' on other developmental domains 'including through culturally and linguistically appropriate instructional services' (Sec. 641A(a)(1)(B)(x)) — but the NPRM doesn't reconcile how English-only classroom instruction satisfies a statutory standard that specifically contemplates linguistically appropriate services.

The Tribal exception creates an asymmetry. Indian Head Start agencies retain the right to use tribal languages for the furtherance of tribal heritage, but no comparable exception is proposed for non-Tribal programs even though the statute's LEP protections (Sec. 637(22), Sec. 641(2)(K), Sec. 642A(a)(7)-(10)) apply to all LEP children regardless of language background.

Side-by-Side Comparison

HEAD START ACT VS. REGULATIONS VS. NPRM

Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.31 et al.)	NPRM (Aug. 7, 2026), proposed §1301.04(a)
Core Definition	Sec. 637(22) The statute defines lack of English proficiency as a deficit to remediate — LEP children have ‘difficulties’ that may ‘deny’ them classroom success or social participation. The terms ‘dual language’ and ‘bilingual’ never appear in the statute. Statute consistently frames English language acquisition as a goal of the program. Sec. 641A(1)(b)(x), requires the Secretary to modify, as necessary, standards for LEP children that must include progress toward the acquisition of the English language while also making meaningful progress in the broader domains (language, literacy, math, etc.), including progress through the use of culturally and linguistically appropriate instructional services.	§1302.31(b)(2): explicitly reframes this — ‘a program must recognize bilingualism and biliteracy as strengths’ and implement research-based practices supporting both languages, not just English acquisition.	NPRM would shift regulations from current regulations which require programs to support bilingualism, including both English and the home language for children who are dual language learners to a primacy on English acquisition and learning arguing that English opens doors economically for families and helps individuals better engage with their communities.
Language of instruction	Not addressed — the Act doesn't mandate a language of instruction or particular pedagogy.	§1302.31(b)(2): ‘a program must recognize bilingualism and biliteracy as strengths’ and support both home-language and English development. §1302.31(b)(2)(i): for an infant/toddler DLL, teaching practices must focus on developing the home language (when a	Reverses the current regulatory standard — programs would be required to conduct all education in English (proposed §1301.04(a)). Further, § 1301.04(a)(1) specifies that if a child's native language is not English, and the child does not speak English, a program must prioritize teaching English to the child. Under

HEAD START ACT VS. REGULATIONS VS. NPRM

Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.31 et al.)	NPRM (Aug. 7, 2026), proposed §1301.04(a)
		teacher has appropriate language competency) plus exposure to English – a concrete instructional mandate with no statutory counterpart. §1302.31(b)(2)(ii): for a preschool-age DLL, practices must focus on both English acquisition and continued home-language development – again, a specific pedagogical model absent from the statute. §1302.31(b)(2)(iii): if staff don't speak the home language of all children in the learning environment, include steps to support the development of the home language for dual language learners.	the proposed regulations in § 1301.17(d), an Indian Head Start agency will not be subject to § 1301.04(a) so long as the language being spoken relates to the furtherance of tribal heritage.
Application content – agency planning for LEP children	Sec. 641(d)(2)(K): applications must include a plan to meet LEP children's needs, including identification procedures, trained personnel, and services to help children progress toward English acquisition while making meaningful progress on other outcomes.	Implemented operationally through the child outcomes/curriculum framework (§1302.31–.32) rather than restated as an application-content requirement.	Statutory provision stands.
Performance standards / child outcomes	Sec. 641A(a)(1)(B)(x): LEP children must show progress toward English acquisition while making meaningful progress on the other Child Outcomes Framework domains, 'including	§1302.31(a): center-based/family child care programs must promote growth aligned with the Head Start Early Learning Outcomes Framework 'including for children with disabilities'	Statutory provision stands.

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Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.31 et al.)	NPRM (Aug. 7, 2026), proposed §1301.04(a)
	progress made through the use of culturally and linguistically appropriate instructional services.'	– DLL-specific alignment is carried by 1302.31(b)(2) provisions.	
Assessment accommodations	Sec. 641A(b)(2)(A),(D),(F): assessments must provide appropriate accommodations for LEP children,	§1302.33(c): four-tier bilingual assessment cascade (qualified bilingual staff → interpreter → English-only with supplemental home-language observation).	Regulation removed. Statutory provision stands. The NPRM proposes to rescind §1302.33 entirely as 'duplicative' of the statute; the NPRM states programs 'will continue to be required' to meet the statutory assessment-accommodation standard.
Parent outreach and communication & Identification of LEP children	Sec. 642(b)(11): agencies must provide LEP parents outreach/information 'in an understandable and uniform format' and, to the extent practicable, 'in a language the parents can understand'. Sec. 642(f)(10): agencies must inform parents of LEP children about the instructional services used to help children make progress towards acquiring the knowledge and skills described in section 641A(a)(1)(B) and acquisition of the English language'.	§1302.101(b)(2): family/community-engagement management-system requirement, §1302.101(b)(2), requiring 'the full and effective participation of children who are dual language learners and their families,' including bilingual staff, oral language assistance, interpretation, or translation of materials.	Regulation removed. Statutory provisions stand. NPRM states these statutory requirement related to outreach to parents 'will continue to be required' – the NPRM's own text (citing Sec. 642(b)(11) and 642(f)(10)).
Workforce training / technical assistance for LEP-serving staff	Sec. 637(24)(v): professional development definition includes acquiring skills to provide instruction and language support to LEP children.	Embedded in general teaching-practices standard, §1302.31(b)(2).	Statutory provision stands.

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Dimension	Head Start Act (Statute)	Current Regs (45 CFR §1302.31 et al.)	NPRM (Aug. 7, 2026), proposed §1301.04(a)
	Sec. 648(b)(2)(A): Secretary must fund training for personnel serving LEP children. Sec. 648(g)(3)(A)(ii): HSI grants must build linguistic skills/expertise for staff.		
Monitoring/review teams	Sec. 641A(c)(1)(A)(i)(II): triennial review teams must include, to the maximum extent practicable, individuals knowledgeable about the 'diverse (including linguistic and cultural) needs' of LEP children.	No direct regulatory counterpart identified — implemented through Part 1304 monitoring provisions rather than Part 1302.	Statutory provision stands.

NPRM: Verbatim Text and Administration's Analysis

Proposed §1301.04(a) — Language of Instruction

NPRM Preamble, 'Language' section

"The proposed regulation regarding language in § 1301.04(a) will require programs to conduct all education to children in English. Further, § 1301.04(a)(1) specifies that if a child's native language is not English, and the child does not speak English, a program must prioritize teaching English to the child. Under the proposed regulations in § 1301.17(d), an Indian Head Start agency will not be subject to § 1301.04(a) so long as the language being spoken relates to the furtherance of tribal heritage."

NPRM Preamble, rationale

"If finalized, these proposed changes would represent a shift from current Head Start regulations which require programs to support bilingualism, including both English and the home language for children who are dual language learners (see current § 1302.31(b)(2)) as the current requirements are at odds with E.O. 14224, Designating English as the Official Language of the United States. As discussed in the E.O.,

learning English opens doors economically for families and helps individuals better engage with their communities. The changes proposed in this NPRM help achieve these goals as a key part of a young child's education."

NPRM Preamble, statutory-compliance framing

"The Act includes several requirements aimed at supporting children and families with limited English proficiency (LEP), a term defined in the Act under Sec. 637 which includes children whose native language is not English or who come from an environment where another language affects English proficiency, and whose English difficulties may deny them success in an English-instruction classroom or full participation in society. Under Sec. 641A(a)(1)(B)(x), the Act requires the Secretary to modify, as necessary, standards for LEP children that must include progress toward the acquisition of the English language while also making meaningful progress in the broader domains (language, literacy, math, etc.). The Act requires programs to ensure that assessments are valid, reliable, and appropriately administered for LEP children, with necessary accommodations (Sec. 641A(b)(2)), provide outreach and information to parents of LEP children in a language they can understand, to the extent practicable, and establish procedures to identify LEP children and inform parents about instructional services, including English acquisition (Sec. 642(11) and Sec. 642(f)(10)), and build workforce capacity through training and technical assistance. In addition, the Act requires all recipients to establish goals and measurable objectives for educational services (Sec. 642(f)(9))."

NPRM Preamble, summary statement

"In summary, if these proposed regulations are finalized, programs would be required to conduct all education to children in English (except for Tribal programs, so long as the language being spoken relates to the furtherance of Tribal heritage). However, Head Start programs will continue to be required to continue to comply with all language requirements, for LEP children and their parents, as detailed in the Act. In addition to alignment with E.O. 14224, these proposed changes would minimize non-essential multilingual services and redirect resources toward English-language education and assimilation."

Verbatim Citations

Full statutory and regulatory text underlying the comparison above, organized by dimension.

1. Core Definition

Statute — Sec. 637(22)

"The term 'limited English proficient', used with respect to a child, means a child— (A)(i) who was not born in the United States or whose native language is a language other than English; (ii)(I) who is a Native American (as defined in section 8101 of the Elementary and Secondary Education Act of 1965), an Alaska Native, or a native resident of an outlying area (as defined in such section 8101); and (II) who comes from an environment where a language other than English has had a significant impact on the child's level of English language proficiency; or (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than

English is dominant; and (B) whose difficulties in speaking or understanding the English language may be sufficient to deny such child— (i) the ability to successfully achieve in a classroom in which the language of instruction is English; or (ii) the opportunity to participate fully in society."

Regulation --45 CFR §1305(2):

The regulations use 'dual language learner (DLL)' throughout Part 1302 rather than restating the statutory 'limited English proficient' definition.

"Dual language learner means a child who is acquiring two or more languages at the same time, or a child who is learning a second language while continuing to develop their first language. The term "dual language learner" may encompass or overlap substantially with other terms frequently used, such as bilingual, English language learner (ELL), Limited English Proficient (LEP), English learner, and children who speak a Language Other Than English (LOTE)."

2. Language-of-Instruction Practices

Regulation — 45 CFR §1302.31(b)(2)

"For dual language learners, a program must recognize bilingualism and biliteracy as strengths and implement research-based teaching practices that support their development. These practices must: (i) For an infant or toddler dual language learner, include teaching practices that focus on the development of the home language, when there is a teacher with appropriate language competency, and experiences that expose the child to English; (ii) For a preschool age dual language learner, include teaching practices that focus on both English language acquisition and the continued development of the home language; or, (iii) If staff do not speak the home language of all children in the learning environment, include steps to support the development of the home language for dual language learners such as having culturally and linguistically appropriate materials available and other evidence-based strategies. Programs must work to identify volunteers who speak children's home language/s who could be trained to work in the classroom to support children's continued development of the home language."

3. Application Content — Agency Planning for LEP Children

Statute — Sec. 641(d)(2)(K)

"the plan of such applicant to meet the needs of limited English proficient children and their families, including procedures to identify such children, plans to provide trained personnel, and plans to provide services to assist the children in making progress toward the acquisition of the English language, while making meaningful progress in attaining the knowledge, skills, abilities, and development described in section 641A(a)(1)(B);"

4. Performance Standards / Child Outcomes

Statute — Sec. 641A(a)(1)(B)(x)

"(x) in the case of limited English proficient children, progress toward acquisition of the English language while making meaningful progress in attaining the knowledge, skills, abilities, and development described in clauses (i) through (ix), including progress made through the use of culturally and linguistically appropriate instructional services;"

5. Assessment Accommodations

Statute — Sec. 649A(b)(2)(A), (D), (F)

Measures must "(A)be developmentally, linguistically, and culturally appropriate for the population served;...(D) be valid and reliable in the language in which they are administered;...(F) provide for appropriate accommodations for children with disabilities and children who are limited English proficient"

Regulation — 45 CFR§1302.33(c)

"(1) Screenings and assessments must be valid and reliable for the population and purpose for which they will be used, including by being conducted by qualified and trained personnel, and being age, developmentally, culturally and linguistically appropriate, and appropriate for children with disabilities, as needed. (2) If a program serves a child who speaks a language other than English, a program must use qualified bilingual staff, contractor, or consultant to: (i) Assess language skills in English and in the child's home language, to assess both the child's progress in the home language and in English language acquisition; (ii) Conduct screenings and assessments for domains other than language skills in the language or languages that best capture the child's development and skills in the specific domain; and, (iii) Ensure those conducting the screening or assessment know and understand the child's language and culture and have sufficient skill level in the child's home language to accurately administer the screening or assessment and to record and understand the child's responses, interactions, and communications. (3) If a program serves a child who speaks a language other than English and qualified bilingual staff, contractors, or consultants are not able to conduct screenings and assessments, a program must use an interpreter in conjunction with a qualified staff person to conduct screenings and assessments as described in paragraphs (2)(i) through (iii) of this section. (4) If a program serves a child who speaks a language other than English and can demonstrate that there is not a qualified bilingual staff person or interpreter, then screenings and assessments may be conducted in English. In such a case, a program must also gather and use other information, including structured observations over time and information gathered in a child's home language from the family, for use in evaluating the child's development and progress."

6. Parent Outreach/Communication & Identification of LEP Children

Statute — Sec. 642(b)(11)

"Provide to parents of limited English proficient children outreach and information, in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand."

Statute — Sec. 642(f)(10)

"develop procedures for identifying children who are limited English proficient, and informing the parents of such children about the instructional services used to help children make progress towards acquiring the knowledge and skills described in section 641A(a)(1)(B) and acquisition of the English language.

Regulation — 45 CFR §1302.101(b)(2)

"[A program must design and implement program-wide coordinated approaches that ensure:] The full and effective participation of children who are dual language learners and their families, by (i) Utilizing information from the program's community assessment about the languages spoken throughout the program service area to anticipate child and family needs; (ii) Identifying community resources and establishing ongoing collaborative relationships and partnerships with community organizations consistent with the requirements in §1302.53(a); and, (iii) Systematically and comprehensively addressing child and family needs by facilitating meaningful access to program services, including, at a minimum, curriculum, instruction, staffing, supervision, and family partnerships with bilingual staff, oral language assistance and interpretation, or translation of essential program materials, as appropriate."

7. Staff Qualifications

Statute — Sec. 637(24)(v)

"(v) acquiring the knowledge and skills to provide instruction and appropriate language and support services to increase the English language skills of limited English proficient children, as appropriate; or"

Statute — Sec. 648(b)(2)(A)

"[The Secretary shall support training for personnel] (A) providing services to limited English proficient children and their families (including services to promote the acquisition of the English language);"

Statute — Sec. 648(g)(3)(A)(ii)

"(ii) in the case of Hispanic-serving institutions, programs to help Head Start Agency staff members develop skills and expertise needed to teach in programs serving large numbers of Hispanic children, including programs to develop the linguistic skills and expertise needed to teach in programs serving a large number of children with limited English proficiency; and"

8. Monitoring / Review Teams

Statute — Sec. 641A(c)(1)(A)(i)(II)

"[reviews must be conducted by review teams that] include individuals who are knowledgeable about Head Start programs and, to the maximum extent practicable, individuals who are knowledgeable about— ...(II) the diverse (including linguistic and cultural) needs of eligible children (including children with disabilities, homeless children, children in foster care, and limited English proficient children) and their families;"

Regulation Coaches — 45 CFR §1302.91(f)

"Coaches. A program must ensure coaches providing the services described in §1302.92(c) have a minimum of a baccalaureate degree in early childhood education or a related field."

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.