



Legislative Bulletin.....November 14, 2007

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Conference Report on H.R. 1429—Improving Head Start Act of 2007 (Head Start Reauthorization)

**Conference Report on H.R. 1429 — Improving Head Start Act of 2007
(Kildee, D-MI)**

Order of Business: The bill is scheduled for consideration on Wednesday, November 14, 2007. The rule for consideration of the conference report to accompany H.R. 1429 ([H.Res. 813](#)) waives all points of order against the conference report and against its consideration.

Note: In the 109th Congress, the House passed the School Readiness Act of 2005 ([H.R. 2123](#)), which would have reauthorized the Head Start program at \$35.7 billion over five years, by a vote of 231 to 184. However, the Senate did not take up this legislation, and the program has remained unauthorized, but funded through the annual appropriations process. H.R. 1429 passed the House on May 2, 2007 by a vote of 365 to 48.

Summary: H.R. 1429 would reauthorize the 1965 Head Start Act (last reauthorized in 1998 through 2003), which provides early childhood education programs for low-income children. There were numerous discrepancies between the House and Senate versions of the bill, many of which were addressed in the conference report. The following is a summary of the differences between the House and Senate bills that were resolved in the conference report. For more information on the underlying House bill, see [RSC materials](#) released earlier this year.

Funding Authorizations and Allocations. H.R. 1429 provides for the following funding authorizations and allocations: authorizes \$7.35 billion for FY 2008, \$7.65 billion in FY 2009 (4.1 percent increase), \$7.995 billion in FY 2010 (4.5 percent increase), and such sums for FY 2011 and FY 2012 for the Head Start program (this language is similar to the Senate version of the bill, and differs from the House version which authorized \$7.35 billion in FY 2008 and such sums for FY 2009 and beyond).

Employee Compensation. On November 11, 2007, Rep. Mike Castle (R-DE) offered a motion to instruct Head Start conferees to insist that language in the House bill which would have disallowed federal funds from being used to pay any Head Start employee in excess of the Executive Schedule Level II (an Assistant Secretary) of \$168,000. The Senate version of the bill would have allowed Head Start employees to make salaries over \$168,000. The conference agreement incorporates the House language, limiting the compensation of a Head Start employee to \$168,000. In addition, the language

defines compensation as salary, bonuses, vacation pay, and other paid leave benefits (compensation does not apply to medical or retirement benefits).

Formula for Head Start Grantees. The conference report includes a new formula to determine the assistance provided to Head Start grantees which was not included in either the House or Senate bill. Due to concerns that neither the House, nor the Senate formulas were feasible, a new formula was drafted and included in the conference report. The new formula contains three phases.

Phase 1: Hold harmless to all current grantees (i.e. every existing grantee will receive the same funding that they received last year); \$20 million for Health and Human Services (HHS) for research, development and evaluation; \$42 million for monitoring activities by HHS of Head State grantees; and 2.5 percent to 3 percent for training and technical assistance activities by HHS.

Phase 2 (if there are remaining funds): Cost of living adjustment to all existing grantees (typically 1 to 5 percent of current allotment); \$10 million set-aside to expand Indian Head State programs; and \$10 million set-aside to expand Migrant and Seasonal Head Start programs.

Phase 3 (if there are remaining funds): 40 percent for quality improvement activities; 45 percent for expansion of the Head Start program of which 50 percent would be provided for Head Start and 50 percent for Early Head Start; and 15 percent for states for activities administered by State Advisory Councils (see below).

Existing Grantees. The conference report requires that the Secretary establish an expert panel to create a system which determines how and which Head Start agencies should be renewed. The conference report requires that this panel consist of experts in early childhood program accreditation, research on early childhood development, governance and finance of non-profit organizations, delivery of services to populations serving young children and an employee from the Office of Head Start. The language concerning the re-designation of these existing grantees is similar to language in both the House and Senate versions of the bill.

Income Eligibility. The language which passed the House allowed children at 130 percent of the federal poverty limit (FPL) to be served by Head Start programs, capped at 20 percent of enrollment. Similarly, the Senate version raised the FPL to 130 percent, but did not include a cap. As a compromise, the conference report includes language which will allow Head Start to serve children at 130 percent of FPL, but includes an important requirement which states that all children under 100 percent poverty are served before opening up to higher FPL. In addition, the conference report limits the amount of participants that can be served at the increased level to 35 percent (a compromise from 20 percent).

Governing Body and Policy Council Compromise. When the House considered H.R. 1429, there were numerous concerns from Members regarding the appropriate use of the Head Start Policy Council (comprised of parents of Head Start students) and the Governing Body (made up of experts in fields applicable to the maintenance and operation of Head Start programs). As a way of addressing some of these concerns regarding who would wield what power over Head Start programs, the conference agreement requires the Head Start agencies to establish and maintain a formal structure of program governance for the oversight of Head Start operations. The conference report lays out the specific responsibilities of both the Governing Body and the Policy Council, as well as determines how both entities should interact with each other in order to effectively operate a Head Start agency.

According to the conference report, the Governing Body must adhere to the following guidelines:

- Must be comprised of at least one member with a background in fiscal management or accounting; at least one member with a background in early childhood education and development; at least one member must be a licensed attorney familiar with issues that may come up in the Governing Body;
- Additional members should reflect the community which is being served, and include parents of children who are currently or formerly enrolled in Head Start;
- Additional members should be selected for their background and expertise in education, business administration, and community affairs.

In addition, the Governing Body will have the following responsibilities:

- Legal and fiscal responsibility for administering and overseeing programs, including the safeguarding of federal funds;
- Adopt practices that assure active, independent and informed Head Start agencies;
- Fully participate in the development, planning, and evaluation of the Head Start programs;
- Ensuring compliance with federal laws and regulations and applicable state, tribal, and local laws and regulations;
- Responsible for selecting delegate agencies and the service areas of such agencies;
- Establishing procedures and criteria for recruitment, selection, and enrollment of children;
- Reviewing all applications for funding and amendments to applications for funding for programs;
- Establishing procedures and guidelines for accessing and collecting information;
- Reviewing and approving all major policies of the agency including the annual self-assessment and financial audit and the agency's progress in carrying out the programmatic and fiscal provisions in grant applications;
- Reviewing and approving personnel policies of Head Start agencies;
- Developing procedures for how members of the policy council are selected;
- Approving financial management, accounting, and reporting policies and compliance with laws and regulations related to financial statements;
- Approval of all major financial expenditures of the Head Start agency and the budget;
- Establishing, adopting and periodically updating written standards of conduct that establish standards and procedures for disclosing and resolving conflicts of interest, complaints, and investigations within the Head Start agency.

According to the conference report, the Policy Council must adhere to the following guidelines:

- Shall be elected by parents of children who are currently enrolled in the Head Start program of the Head Start agency;
- The policy council shall be composed of parents of children who are currently enrolled in the Head Start program;
- May include parents of children who were formerly enrolled in the Head Start program.

In addition, the Policy Council will have the following responsibilities;

- Approve and submit to the Governing Body decisions about the involvement of parents in program operations, program recruitment, selection, and enrollment priorities, applications for funding and amendments to applications, budget planning for program expenditures, bylaws for the operation of the Policy Council, personnel policies and decisions regarding employment of program staff;

- Development of procedures for how members of the Policy Council will be elected;
- Recommendations on the selection of delegate Head Start agencies;
- Development of a Policy Committee.

According to some Member's concerns, the Senate Head Start bill would have weakened the role of the parent Policy Councils in program governance to only "meaningful consultation and collaboration." Currently they have the ability to vote on important programmatic and personnel issues. The conference report preserves the vote of the parent Policy Councils on such significant program issues, and also ensures there is a viable impasse policy in case the policy councils disagree with the boards of directors.

Transportation Safety. The conference report maintains language which was included in the Senate bill which required background checks for anyone transporting children to Head Start centers. Separate provisions regarding transportation of Head Start children in the House and Senate bills were dropped, and replaced with this language.

Standards for Head Start Teachers. The conference agreement states that at least 50 percent of Head Start teachers programs must have a baccalaureate or advanced degree in early childhood education (or a related field) by September 30, 2013. In addition, the agreement requires that Head Start education coordinators, and those who serve as curriculum specialists, must have the ability to offer assistance to other teachers in the implementation and adaptation of curricula or have a baccalaureate or advanced degree in early childhood education and experience in teaching preschool-age children. The conference report requires that Head Start teaching assistants must have at least a child development associate credential, be enrolled in a program leading to an associate or baccalaureate degree, or be enrolled in a child development associate credential program. Additional language in the conference report would ensure that appropriate certification is required for any other professional in a Head Start classroom.

In addition, the conference report also requires that all Head Start teachers must have an associate degree or a baccalaureate degree, as opposed to just a child development associate credential or a state-awarded certificate for preschool teachers by October 1, 2011.

Standards for Early Head Start Teachers. The conference agreement requires that all teachers providing direct services to children and families participating in Early Head Start programs have a minimum of a child development associate credential and have been trained (or have equivalent course work) in early childhood development by September 30, 2010. The conference report also requires that all teachers must be trained (or have equivalent course work) in early childhood development with a focus on infant and toddler development by no later than September 30, 2012.

Faith-Based Hiring Concerns. The House version of H.R. 1429 codified a provision in previous law that allowed faith-based organizations to be Head Start providers. While the bill allowed faith-based organizations to be providers, it did not include hiring protections for the faith-based organizations. Representative Fortuno sought to add hiring protections to the Head Start Reauthorization by offering an amendment in Committee, but the amendment failed along a party line vote. Rep. Fortuno also submitted his amendment to Rules when H.R. 1429 was brought to the House floor for a vote, but the Rules Committee did not allow his amendment. During debate on H.R. 1429, the Republican Motion to Recommit offered would have allowed faith-based organizations that receive Head Start funding to be able to hire individuals based upon religious affiliation or belief. The MTR explicitly prohibited federal funds from being used for worship, instruction or proselytization. The MTR would have also

prohibited the federal government from requiring a faith-based organization to alter its form of internal governance or remove religious art, icons, scripture, or other symbols. While the House debated the issue of faith-based hiring protections, the Senate bill did not include language to allow faith-based organizations to be providers. This conference report codifies the provision which allows faith-based organizations to be providers, however, it **does not contain language that would provide hiring protections to such organizations.** Simply, this conference report would mean that faith-based organizations that run Head Start programs would have to hire any person who has the appropriate credentials, even if he or she does not agree with the faith or adhere to the mission of the employing organization.

Prohibition of Voter Registration Activities. The conference report prohibits the use of federal funds for voter registration activities at Head Start centers. In addition, the conference report contains a prohibition against Head Start teachers, employees and administrators from conducting voter registration activity on-site during hours of operation. The bill specifies that while they may participate in civic activities on their own time, the focus of Head Start employees during work hours should remain on improving the school readiness of Head Start children. According to the report, outside, nonpartisan organizations, are permitted under this section to use Head Start facilities non-intrusively to conduct voter registration.

Scientifically Valid Research Requirement. The conference report contains language, similar to the House bill, which requires that curriculum for early childhood education programs in Head Start classrooms be based on “principles of scientific research” and “scientifically valid research”.

Training and Technical Assistance. Both the House and Senate version of Head Start Reauthorization contained provisions requiring the Secretary to provide training and technical assistance activities to Head Start and Early Head Start programs, provisions which are maintained in the conference report. These activities would be funded through the first phase of the funding formula (see above), which allocates 2.5 percent to 3 percent for such activities. One of the key requirements of these training and technical assistance activities is to encourage successful methods of correcting program and management deficiencies at Head Start facilities, and programs assisting Head Start agencies in ensuring the readiness of children for school. In addition, the conference report establishes a state-based training and technical assistance system which will be tasked with meeting the needs of local Head Start grantees. Such state-based training and technical assistance systems will work to get local Head Start agencies meeting the program performance standards in the bill.

The conference report requires that similar training and technical assistance is provided to Early Head Start agencies as well. In addition, the conference agreement establishes a state-based training and technical assistance system for Early Head Start programs as well.

State Advisory Councils. Similar to language found in the Senate bill, the conference report creates a new grant program for state Governors to designate and/or establish a council whose purpose is to serve as the State Advisory Council on Early Childhood Education and Care. Funding for this program would come from the third phase of the funding formula (see above). This formula directs 15 percent of the funds in the third phase to such State Advisory Councils, not to exceed \$100 million. In order to maintain accountability, the State Advisory Councils must conduct statewide needs assessments to determine the quality and availability of early childhood education, among other things.

Centers for Excellence. Similar to language included in the Senate bill, the conference agreement creates a **new grant program** where successful and model Head Start agencies would be designated as

Centers for Excellence. As a Center for Excellence, the agency would be responsible for providing and disseminating best practices for achieving early academic success to other Head Start agencies in the State. Using the funds given to a Center for Excellence, they may:

- “provide Head Start services to additional eligible children;
- “further coordinate early childhood education and development programs and services and social services available in the community served by the center for at-risk children (birth through age eight, their families, and pregnant women);
- “provide professional development for Head Start teachers and staff, including joint training for Head Start teachers and staff, child care providers, public and private preschool and elementary school teachers, and other providers of early childhood education and development programs;
- “provide effective transitions between Head Start programs and elementary schools and to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services to improve the teachers’ ability to work effectively with low income, at-risk children and their families;
- “develop or maintain partnerships with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading partners to preschool children in Head Start programs;
- “carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.”

Items of Note:

Hiring for Faith-Based Head Start Agencies (not included in conference report)

Currently, faith-based organizations receiving Head Start grants (approximately five percent of all Head Start grantees), are required to forfeit their right to include religious preferences in the hiring process. According to Committee Report 109-136, an amendment was offered in Committee by Rep. Fortuno that would have allowed faith-based organizations that receive Head Start funding to be able to hire individuals based upon religious affiliation or belief. The amendment failed (19-26).

Had this amendment been adopted, the change in Head Start law would extend to local Head Start agencies the current federal exemption offered to religious organizations under Title VII of the Civil Rights Act, which allows those organizations to hire on a religious basis. In the Committee Report for H.R. 2123 (last year’s reauthorization bill), the Committee noted that several pieces of legislation, including the Welfare Reform Act of 1996 and the Community Service Block Grant Act of 1998 (both signed by President Clinton) extended the hiring exemption to faith-based groups receiving funds through these programs. The amendment would bring Head Start up-to-date with the other major social service programs governing legislation.

Parental Notification of all Head Start Medical Exams

According to the Committee Report for H.R. 2123 (the Head Start reauthorization passed by the 109th Congress), all Head Start grantees and agencies are required by the Head Start Program Performance Standards to “obtain linguistically and age appropriate screening procedures to identify concerns regarding a child’s developmental, sensory, behavioral, motor, language, social, cognitive, perceptual, and emotional skills within 45 days of the child’s entry into the program.” However, current federal law does not require parental consent for the “appropriate screening procedures” Head Start grantees must provide. One case in Oklahoma serves as an example for the need for Head Start parental

consent requirements. In 1998, 13 Head Start children ages three through five were subjected to intrusive genital exams conducted without parental permission. The conference report addresses this concern by requiring a Head Start agency to obtain prior, written consent from the parents before “administration of any nonemergency intrusive physical examination of a child.” Nonemergency procedure is defined in the conference report as a procedure that “is not immediately necessary to protect the health or safety of the child involved or the health or safety of another individual,” and any procedure which “requires incision or is otherwise invasive, or involves exposure of private body parts.”

Committee Action: H.R. 1429 was introduced on March 9, 2005, and referred to the Committee on Education and the Workforce, which considered it, held a mark up, and reported it to the House by a vote of 47-1, on March 23, 2007. On May 2, 2007, the House considered H.R. 1429 and passed it by a vote of 365 to 48. After the Senate passed the bill, with an amendment, the House appointed conferees on November 6, 2007.

Cost to Taxpayers: According to the text, the conference report authorizes \$7.35 billion in FY 2008, \$7.65 in FY 2009, \$7.995 in FY 2010, and such sums for FY 2011 and FY 2012 for the Head Start program. While no updated CBO estimate is available, previous CBO analysis estimates that authorizations included in the House version of H.R. 1429 would total \$38.21 billion over the 2008-2012 period, subject to appropriations.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates several new grant programs authorized under the Head Start program.

Earmark Compliance: According to the conference report, the “Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, this conference report contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.”

Constitutional Authority: The Education and the Workforce Committee, in House Report 109-136, cites Article I, Section 8, Clause 1 (general welfare).

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