

**Before the
Administration for Children and Families
Washington, DC**

**Proposed Rule, *Reducing Federal
Burden for Head Start Programs***

**91 Fed. Reg. 51248
(Uniform Guidance)**

Docket No. ACF-2026-0595

Comments of UnidosUS

Elizabeth Zamudio
Fernando Laguarda
Amalia Chamorro
Hannah Valdiviejas Cohn
UnidosUS
Raul Yzaguirre Building
1126 Sixteenth Street NW
Washington, DC 20036

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UnidosUS respectfully submits these comments on the Administration for Children and Families’ (ACF) Notice of Proposed Rulemaking, *Reducing Federal Burden for Head Start Programs*, published at 91 Fed. Reg. 51248 (Aug. 7, 2026). UnidosUS is the nation’s largest Latino civil rights and advocacy organization. Through a nationwide Affiliate Network of approximately 300 community-based organizations, UnidosUS and its Affiliates deliver services in health, education, workforce development, housing, and civic engagement. In the early childhood education sector, UnidosUS seeks to increase affordable, high-quality, and culturally responsive opportunities for Latino children that prepare them to enter kindergarten ready to learn. That goal is directly implicated by a federal rule governing the language in which Head Start children are taught. The UnidosUS Affiliate Network includes over 90 organizations across the nation that operate Head Start and Early Head Start centers.

The NPRM would rescind the Head Start Program Performance Standards in Parts 1301 through 1305 of Title 45 and replace them with a single streamlined Part 1301. These comments focus on proposed 45 C.F.R. § 1301.04(a), which would require Head Start programs to “conduct all education to children in English” and, where a child’s native language is not English and the

child does not yet speak English, to “prioritize teaching English to the child.” Proposed § 1301.04(a) is a major reversal of current Head Start policy,¹ which require programs to support English acquisition alongside continued development of a child’s home language. 45 C.F.R. § 1302.31(b)(2). Specifically, UnidosUS requests that ACF withdraw proposed § 1301.04(a) and retain linguistically responsive Head Start standards that promote English acquisition alongside home-language development. The English-only provision is particularly consequential for Latino, immigrant, and multilingual communities. As discussed below, it also interacts with several other deregulatory provisions in the NPRM, including the removal of staffing requirements for dual language learners, detailed screening and assessment standards, family-engagement standards, and federal staff-to-child ratios, in ways that compound its effects on multilingual children.

I. The Proposed English-Only Mandate Would Harm Multilingual Children and the Communities Head Start Serves

The proposed English-only mandate would have substantial damaging consequences for the children and families Head Start serves. This section first describes the disproportionate impact on Latino, immigrant, and multilingual communities, then examines how the proposal could weaken family trust and participation, and finally explains how the mandate’s effects would be magnified by other proposed reductions in staffing, assessment, family-engagement, and program-quality protections for multilingual learners.

A. The English-Only Requirement Would Disproportionately Affect Latino, Immigrant, and Multilingual Communities

¹ The NPRM itself acknowledges that the proposal “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,” and that the changes “would minimize non-essential multilingual services and redirect resources toward English-language education and assimilation.” 91 Fed. Reg. at 51265–66.

The proposed language mandate would have broad and foreseeable effects because multilingual learners are a central part of Head Start. According to Office of Head Start data for the 2023–2024 program year, 38 percent of Head Start participants identified as Hispanic or Latino, approximately 35 percent of enrolled children were dual language learners, and 63 percent of dual language learners lived in families that primarily spoke Spanish at home.² At the same time, 31 percent of Head Start child development staff were proficient in a language other than English.³ The NPRM would therefore disproportionately affect U.S.-born children, as ACF’s FACES research has reported that the large majority of dual language learners entering Head Start were born in the United States, demonstrating that multilingualism in Head Start is not a peripheral concern but a defining characteristic of the program’s core population.⁴

ACF’s own Regulatory Impact Analysis confirms the scale of the proposal.⁵ The agency estimates that 33.4 percent of non-Tribal Head Start service locations with available language-related data, representing 18,767 classrooms, family child care homes, and group socialization sites, could be affected by the English-only requirement. 91 Fed. Reg. at 51287. Applied to cumulative enrollment of roughly 806,000 children and pregnant women during the 2023–2024 program year, these figures suggest that well over a quarter million dual language learners, including approximately 178,000 children from Spanish-speaking homes, could experience the effects of the proposed change directly.⁶

² <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>

³ <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>

⁴ <https://files.eric.ed.gov/fulltext/ED583639.pdf>

⁵ <https://www.govinfo.gov/content/pkg/FR-2026-08-07/pdf/2026-16134.pdf>

⁶ <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>

The burden would fall most heavily on the communities Head Start was designed to serve. ACF itself recognizes that the proposal may have disproportionate impacts in “predominantly non-English-speaking communities, such as Puerto Rico and certain communities in Migrant and Seasonal Head Start programs.” 91 Fed. Reg. at 51311. In fiscal year 2024, Puerto Rico was funded for 16,051 Head Start Preschool slots and 5,293 Early Head Start slots, while Migrant and Seasonal Head Start programs were funded to serve 24,460 children nationwide. Office of Head Start, *Head Start Program Facts: Fiscal Year 2024*. In Puerto Rico, where Spanish is the primary language of children, families, educators, and the broader community, programs would be required to conduct all education in English. Migrant and Seasonal Head Start programs likewise serve large numbers of children whose families primarily speak Spanish and who already face significant economic, geographic, and educational barriers. The NPRM does not explain how prohibiting home-language educational practices in these settings would be consistent with the law or advance school readiness or improve outcomes for the children served. The proposal is therefore far more than a modest administrative revision. In communities with large concentrations of multilingual learners, it would fundamentally alter the model through which Head Start has long served children and families.

B. The English-Only Mandate Could Erode Family Trust and Participation

The proposal conflicts with Head Start’s family-partnership model and could be especially harmful in immigrant communities where trusted, linguistically responsive institutions are critical to family participation. Language connects young children with parents, grandparents, caregivers, culture, and community. For a Spanish-speaking family, a program that welcomes and uses the family’s language signals that the family is a partner in the child’s education — the premise on

which the Head Start Act’s parent-involvement provisions, and the NPRM’s own emphasis on parents as children’s “primary teachers and nurturers,” rest.

The NPRM creates an evident tension: programs would remain required to communicate with limited English proficient parents in a language they understand, while potentially being prohibited from using that same language in their child’s educational environment. A parent told in Spanish that her child’s classroom may no longer use Spanish will reasonably ask whether the program still welcomes her family. The foreseeable result is a chilling effect on immigrant families’ willingness to enroll, attend, communicate concerns, or participate in family-engagement activities. ACF’s own analysis acknowledges that reduced language capacity “may negatively affect communication with non-English speaking families and weaken family engagement.” 91 Fed. Reg. at 51314.

The consequences of failing to serve dual language learners from immigrant families are serious and long-lasting — including for the large majority of these children who are United States citizens. Children who arrive at kindergarten less ready fall behind in early reading and mathematics, are more likely to be retained or misidentified for special education, and have lower prospects for high school completion, postsecondary education, and economic mobility. Head Start exists to prevent precisely those outcomes.

C. The English-Only Provision Compounds Other Proposed Reductions in Protections for Multilingual Learners

The harms of § 1301.04(a) cannot be evaluated in isolation. *Ohio v. EPA*, 603 U.S. 279, 292–93 (2024) (agency must respond to cumulative-effect objections). The same proposal would weaken several other standards that support multilingual children:

- **Removal of specific staffing requirements for dual language learners** (current § 1302.90(d)(2)), discussed in Section IV(C), *infra*.

- **Removal of detailed screening and assessment regulations** (current § 1302.33), including the requirement to assess dual language learners in the language or languages that best capture their skills, discussed in Section IV(B), *infra*.
- **Reduction of detailed family-engagement standards** (current Part 1302, Subpart E), including the requirement to conduct family engagement services in the family’s preferred language to the extent possible.
- **Replacement of federal Head Start staff-to-child ratios and group-size limits** (current §§ 1302.21 and 1302.23) with state licensing minimums.
- **Broader rescission of more than 1,400 regulatory provisions**, many of which supply the operational detail that made the language supports enforceable.

Replacing the Performance Standards with state licensing minimums would create substantial geographic variation in the quality of Head Start services. Analyses by the National Institute for Early Education Research (NIEER) and the Center for Education Policy Analysis show that state licensing ratios are considerably weaker than Head Start’s current standards in many states.⁷ Southern and Southwestern states with large Latino populations are among them. NIEER’s analysis indicates that in several states — including Texas, Florida, Georgia, Louisiana, Mississippi, Arkansas, Kentucky, North Carolina, and Nevada — the number of toddlers permitted per adult could more than double if programs relied on state licensing minimums.⁸

The connection to multilingual learners is direct. Larger groups combined with English-only instruction would reduce the individualized, language-rich, one-on-one interactions that multilingual young children need most. A toddler who does not yet understand the classroom language depends on an adult who can read her cues, follow her attention, and respond, the kind of interaction that becomes scarcer as ratios loosen. This approach would also run counter to the

⁷ <https://nieer.org/research-library/race-bottom-what-replacing-head-start-ratios-standards-state-child-care-minimums>

⁸ <https://nieer.org/research-library/race-bottom-what-replacing-head-start-ratios-standards-state-child-care-minimums>

preferences of Latino families themselves: the 2026 National Latino Family Report found that 73 percent of Latino parents of children age five and younger wanted their children to be able to read and write in both English and Spanish, compared with 25 percent who preferred English only⁹.

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II. The Proposed Mandate Is Inconsistent With the Head Start Act

The proposed English-only mandate cannot be reconciled with the Head Start Act. This section first examines the Act’s requirement that children with limited English proficiency make progress both in English acquisition and across broader developmental domains through culturally and linguistically appropriate services. It then explains that Congress separately prohibited revisions to Head Start standards that reduce the quality, scope, or types of educational services available to children, raising serious questions about whether eliminating bilingual and home-language instructional practices is permissible under the Act.

A. The English-Only Requirements Cannot be Reconciled with Section 641A’s Dual-Progress Framework

The Head Start Act does not treat English acquisition as the sole developmental objective for children with limited English proficiency. The statute requires progress in English while also requiring meaningful progress across broader developmental domains. ACF should explain how an English-only instructional mandate is consistent with that statutory framework. Section

⁹ <https://nationalsurvey.ap-od.org/2026-report/>

641A(a)(1)(B)(x) of the Act, 42 U.S.C. § 9836a(a)(1)(B)(x), directs the Secretary to establish education performance standards ensuring that children, at a minimum, develop and demonstrate:

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.

Clauses (i) through (ix) encompass language, literacy, mathematics, science, cognitive abilities, approaches to learning, social and emotional development, creative arts, and physical development. Congress thus required standards that secure progress toward English and meaningful progress across every other school-readiness domain.

The NPRM acknowledges this statutory requirement, stating that under Section 641A(a)(1)(B)(x) standards for limited English proficient children “must include progress toward the acquisition of the English language while also making meaningful progress in the broader domains (language, literacy, math, etc.).” 91 Fed. Reg. at 51265. The NPRM’s summary, however, does not address the statute’s closing clause, which expressly contemplates “progress made through the use of culturally and linguistically appropriate instructional services.”¹⁰

The Act separately requires that assessment measures be “developmentally, linguistically, and culturally appropriate for the population served,” be “valid and reliable in the language in which they are administered,” and “provide for appropriate accommodations for children with disabilities and children who are limited English proficient.” 42 U.S.C. § 9836a(b)(2)(A), (D), (F). The NPRM confirms that these requirements will continue to apply. 91 Fed. Reg. at 51265. The Act also preserves language-access obligations toward parents. Section 642(f)(10) requires programs to develop procedures for identifying children who are limited English proficient and

¹⁰ <https://www.govinfo.gov/content/pkg/FR-2026-08-07/pdf/2026-16134.pdf>

informing their parents about the instructional services used to help those children make progress, and the Act elsewhere requires that information be provided to parents, to the extent practicable, in a language they understand. The NPRM states that 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.” 91 Fed. Reg. at 51265.

Congress expressly required progress in English and meaningful progress across other developmental domains. ACF’s position that prohibiting non-English education advances that statutory obligation is not entitled to deference. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412–13 (2024) (courts exercise independent judgment on statutory meaning). Nor does the NPRM explain how a program can deliver “culturally and linguistically appropriate instructional services” while prohibited from using any language but English; it identifies no evidence that prohibiting home-language instruction helps limited English proficient children make meaningful progress in language, literacy, mathematics, social-emotional development, or the other statutory domains; and it does not address how programs will accurately measure progress in those domains for a child whose ability to demonstrate what they know is constrained by emerging English. Absent those explanations, ACF cannot show that § 1301.04(a) implements, rather than departs from, the standard Congress prescribed. *Accord Judulang v. Holder*, 565 U.S. 42, 55 (2011) (agency action must be tied to the purposes of the statute).

B. The Mandate Appears to Reduce Educational Services Protected by Congress

The NPRM also raises a separate and substantial question under Section 641A(a)(2)(C)(ii) of the Head Start Act, 42 U.S.C. § 9836a(a)(2)(C)(ii), which limits the Secretary’s authority when revising program performance standards. Congress directed the Secretary to ensure that revisions to the standards:

will not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on December 12, 2007.

The standards in effect on December 12, 2007 required programs to provide an “environment of acceptance that supports and respects gender, culture, language, ethnicity and family composition.” 45 C.F.R. § 1304.21(a)(1)(iii) (2007). They further required that “[w]hen a majority of children speak the same language, at least one classroom staff member or home visitor interacting regularly with the children must speak their language.” 45 C.F.R. § 1304.52(g)(2) (2007). The current Performance Standards build on those same principles.¹¹

The proposed rule eliminates those requirements and replaces them with an affirmative prohibition on non-English education. In doing so, ACF proposes to remove an entire category of educational services that Head Start programs have long been required to provide. The NPRM never addresses the statutory limitation on reducing the “quality, scope, or types” of educational services required under the 2007 standards. Yet an English-only mandate plainly reduces the types of educational services available to dual language learners by prohibiting instructional approaches that the 2007 standards required and protected. ACF must explain how eliminating bilingual and home-language instructional practices is consistent with Congress’s express instruction that revisions not reduce the quality, scope, or types of services available to children.

III. The NPRM Does Not Offer a Reasoned Basis for the Proposed Change

The NPRM fails to provide a reasoned justification for the English-only mandate. This section first shows that the proposal relies on Executive Order 14224 in a manner inconsistent with the Order’s own text. It then explains that the NPRM does not adequately address the substantial body of research, including prior ACF findings, supporting home-language

¹¹ <https://www.ecfr.gov/current/title-45/subtitle-B/chapter-XIII/subchapter-B/part-1302>

development and bilingual instruction for young children. Finally, it highlights the inconsistency between the NPRM's stated preference for state and local flexibility and its decision to impose a nationwide restriction on how Head Start programs serve multilingual children and families.

A. Reliance on Executive Order 14224 is Inconsistent with the Order's Text

The NPRM principally justifies the English-only mandate by asserting that the current standards “are at odds with E.O. 14224, *Designating English as the Official Language of the United States*.” 91 Fed. Reg. at 51265. But the NPRM does not grapple with critical language in the Executive Order itself, which expressly provides that “nothing in this order... requires or directs any change in the services provided by any agency” and that “[a]gency heads are not required to amend, remove, or otherwise stop production of documents, products, or other services prepared or offered in languages other than English,” and that the order “shall be implemented consistent with applicable law.” Exec. Order No. 14224, §§ 3(b), 4(b), 90 Fed. Reg. 11363 (Mar. 6, 2025). *See Chamber of Commerce v. Reich*, 74 F.3d 1322, 1332–33 (D.C. Cir. 1996) (executive order cannot authorize agency action contrary to statute).

Meanwhile, the NPRM rests on the premise that the Executive Order requires, or at least strongly supports, an English-only instructional mandate. But the plain language of the Order says the opposite. The Order controls *federal government operations and communications*; it expressly does not authorize changes to educational services delivered by Head Start grantees, and it expressly disclaims any requirement to eliminate multilingual services. The NPRM therefore rests on a rationale that the Executive Order rejects. Meanwhile, ACF cites the Order as the principal justification for the proposal while omitting the portions that preserve agency discretion and require compliance with existing law — including the Head Start Act provisions discussed in Section II, *supra*. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585–87 (1952)

(presidential authority at its weakest in the absence of any statutory basis). Because the agency’s stated rationale is inconsistent with the text of the authority on which it relies, the proposal raises a serious arbitrary-and-capricious concern under the Administrative Procedure Act. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (the agency must make a “rational connection between the facts found and the choice made”).

B. The NPRM Does Not Adequately Address the Research Supporting Home-Language Development

The language supports in the current Performance Standards reflect developmental research, evidence-based practice, and longstanding Head Start policy and practice.¹² Teaching English and supporting a child’s home language are complementary goals. The National Academies of Sciences, Engineering, and Medicine’s consensus report, *Promoting the Educational Success of Children and Youth Learning English: Promising Futures* (2017), reviewed the research base on young dual language learners and concluded that continued development of the home language does not impede, and can support, acquisition of English, and that early childhood programs serving dual language learners should build on children’s home languages.¹³ Other authoritative sources, including ACF’s own Office of Planning, Research, and Evaluation studies and the joint HHS/Department of Education policy statement on supporting dual language learners, reach consistent conclusions.¹⁴ ACF must acknowledge how the proposed rule departs from these prior findings and practices. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009) (a more detailed justification is required when new policy rests on

¹² <https://headstart.gov/culture-language/article/home-language-support>

¹³ <https://www.nationalacademies.org/read/24677/chapter/7>

¹⁴ <https://files.eric.ed.gov/fulltext/ED566723.pdf>

factual findings contradicting prior ones). *Accord Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016) (unexplained inconsistency with prior policy is arbitrary).

Indeed, research from Stanford’s Center for Education Policy Analysis has found that bilingual and dual-language instructional programs can produce stronger long-term English proficiency and academic outcomes than English-only approaches, findings that are consistent with the language-development principles reflected in the current Head Start Program Performance Standards.¹⁵ That finding underscores that the standards ACF proposes to rescind were not arbitrary regulatory accretion; they codified what the evidence supports. Longtime reliance on that research must be adequately considered by the agency before an abrupt reversal is mandated. *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–33 (2020) (agency rules must consider reliance interests). The research also explains why an instructional-language mandate is a poor fit for early childhood. Young children learn language through play, routines, meals, caregiving interactions, storytelling, songs, and relationships — not solely during discrete academic lessons.¹⁶ For infants and toddlers in particular, language develops in the context of responsive relationships with trusted adults.¹⁷ When the language of those relationships at home is Spanish, home-language use in the program reinforces the concepts, vocabulary, and narrative skills that parents are building at home, and dual language instruction in the classroom in turn strengthens what families do at home.¹⁸ The two settings complement each other.

¹⁵ <https://eric.ed.gov/?id=ED580372>

¹⁶ <https://headstart.gov/curriculum/article/importance-play-early-childhood>

¹⁷ <https://headstart.gov/curriculum/foundations-school-readiness-fostering-developmental-competence-earliest-years/curriculum-delivered-through-relationships>

¹⁸ <https://headstart.gov/culture-language/article/home-language-support>

Home-language use in Head Start supports comprehension, conceptual development, social-emotional security, classroom participation, and — critically — acquisition of English itself. A child who understands the concept being taught in Spanish has a foundation on which to attach English labels; a child who is taught only in a language she does not yet understand has neither the concept nor the label.

C. The NPRM’s Federalism Rationale is Internally Inconsistent

The NPRM argues for greater state and local discretion on the ground that “state and local entities are best positioned to design and administer services responsive to their populations.” 91 Fed. Reg. at 51249. Yet the English-only provision does the opposite: it imposes a new national restriction on local language practices and removes program flexibility to determine how best to communicate with and teach multilingual children. ACF should explain why local discretion is desirable throughout much of the NPRM but inappropriate when programs determine how to serve linguistically diverse children and families. Many grantees operate in states and localities that have adopted bilingual or dual-language early childhood policies, fund dual-language initiatives, or have invested in bilingual curricula and workforce development. The NPRM does not acknowledge those investments or explain how a federal English-only mandate is consistent with the cooperative-federalism principles it invokes elsewhere. *Gen. Chem. Corp. v. United States*, 817 F.2d 844, 846 (D.C. Cir. 1987) (internally inconsistent agency action is arbitrary).

IV. The Proposal Creates Significant Implementation and Administrative Problems

The proposed English-only mandate is not reasonably implementable in the Head Start context. This section first highlights the ambiguity created by the NPRM’s failure to define what constitutes “education” in an early childhood setting. It then examines the resulting challenges for screening, assessment, and disability identification of multilingual children. The section next

describes the proposal’s likely disruption of the bilingual workforce on which many programs and families rely, and finally reviews ACF’s own analysis, which predicts substantial costs, operational burdens, workforce disruption, and other consequences that the agency has not fully evaluated.

A. “All Education” is Undefined and Unworkable in an Early Childhood Setting

Proposed § 1301.04(a) requires that a program “conduct all education to children in English,” but neither the regulatory text nor the preamble defines “education.” In a program serving children from birth through age five, that omission creates substantial ambiguity and a real risk that staff will avoid home-language use even when it is developmentally appropriate or necessary.

Consider the following ordinary interactions in a Head Start or Early Head Start setting, each of which is educational in the broad sense that the Performance Standards have always used, and none of which the NPRM addresses:

- Comforting a distressed infant or toddler.
- Explaining a safety instruction to a child who does not yet understand English.
- Meals, toileting, rest, and transitions — including meal times that proposed § 1301.04(b) itself requires programs to use as “learning opportunities” that “foster communication and conversations.”
- Conflict resolution and behavioral guidance.
- Free play and child-directed conversation.
- Songs, books, signage, and classroom materials.
- Supporting children with disabilities.
- Home-based Early Head Start services, in which the home visitor works with the parent as the child’s primary teacher.
- Parent-child learning activities.

- Communicating with a newly enrolled child who understands little or no English.

Absent clear definitions, programs will reasonably conclude that any use of a child's home language could be cited as a deficiency in federal monitoring. The predictable result is a chilling effect in which educators avoid multilingual communication altogether.

The NPRM does not define “education,” does not identify which interactions may occur in a child's home language, and does not state whether bilingual books, songs, classroom displays, digital tools, and educational materials are prohibited — even though its own cost analysis assumes programs will replace “classroom materials that have words, such as educational toys and books.” 91 Fed. Reg. at 51287. A rule that leaves regulated parties unable to determine whether ordinary caregiving and teaching conduct is a compliance violation fails to give fair notice and lacks the reasoned standard the Administrative Procedure Act requires.¹⁹ ACF must, at a minimum, define the term and expressly identify the interactions and materials the rule does not reach; otherwise the chilling effect described above is not a risk but a certainty.

B. The Proposal Creates Serious Assessment and Screening Concerns

The English-only requirement must be considered together with the Head Start Act's assessment-validity requirements and the NPRM's proposed removal of the detailed screening and assessment regulations in current § 1302.33. English proficiency and developmental competence are not interchangeable constructs. A three-year-old who has been in the United States for six months may have age-appropriate vocabulary, reasoning, and social-emotional skills in Spanish while producing almost no English. An English-only assessment environment makes it more difficult to distinguish emerging English proficiency from developmental delay.

¹⁹ https://www.supremecourt.gov/opinions/18pdf/18-15_9p6b.pdf

Conversely, genuine developmental needs may be overlooked if educators cannot appropriately evaluate what a child understands and can communicate in the child’s strongest language.

These concerns connect directly to Section 641A(b)(2), which continues to require that measures be linguistically appropriate, valid and reliable in the language in which they are administered, and accompanied by appropriate accommodations for limited English proficient children. There is an evident tension between maintaining statutory assessment validity and restricting educators’ use of children’s home languages. The NPRM does not address it.

The NPRM also does not state whether screening, observation, assessment, and progress monitoring are “education” under § 1301.04(a); does not state whether bilingual staff may use a child’s home language to determine what the child knows and can do; does not explain how programs will distinguish English-language acquisition from developmental disability or delay; and proposes no mechanism to monitor over- or under-identification of multilingual children for disability services. Each of these omissions bears directly on a continuing statutory requirement, and ACF must resolve them on the record before any language mandate can be finalized.

C. The Proposal Threatens the Stability of the Bilingual Workforce

The NPRM treats multilingual workforce capacity as readily disposable at precisely the moment bilingual educators are indispensable to serving Head Start children and the broader early childhood sector is confronting acute recruitment and retention pressures. Reasoned decision-making requires agencies to consider regulatory costs, including significant harms. *Michigan v. EPA*, 576 U.S. 743, 752–53 (2015). The need for such consideration is especially pronounced here. The Office of Head Start reports a 15 percent staff turnover rate in 2023–2024 and persistent enrollment shortfalls attributable to staffing shortages.²⁰ At the same time, 31 percent of Head

²⁰ <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>

Start child-development staff are proficient in a language other than English.²¹ ACF itself identifies 34,464 teachers and assistant teachers in classrooms potentially affected by the proposed English-only requirement. 91 Fed. Reg. at 51287. ACF’s own analysis assumes approximately \$1,000 per educator for retraining and roughly \$5,000 to recruit and onboard a replacement, adopting a blended estimate of \$3,000 per affected teacher because “some affected teachers would require retraining while others may need to be replaced.” *Id.* Under scenarios in which 25, 50, or 75 percent of teaching positions in affected classrooms incur these costs, ACF projects staffing-related expenditures of approximately \$25.8 million, \$51.7 million, and \$77.5 million, respectively. *Id.* at 51288. Yet despite acknowledging these substantial transition costs, the NPRM largely assumes away the broader consequences of disrupting a workforce whose bilingual skills are among Head Start’s most valuable and increasingly scarce assets.

ACF thus anticipates that a significant number of bilingual educators in the most affected classrooms will either leave their positions or be replaced. Indeed, the agency expressly states that it applies “higher adjustment assumptions to this policy change relative to other policy changes in this proposed rule, as we expect some programs may need to make significant changes to classroom staffing to comply.” *Id.* at 51287. The agency’s own analysis therefore acknowledges that the proposed English-only mandate is likely to disrupt the existing workforce rather than merely alter instructional practices. The costs of that disruption extend well beyond recruitment and retraining expenses. Research from the Center for the Study of Child Care Employment at the University of California, Berkeley underscores the unique value of Head Start’s bilingual, community-rooted workforce.²² These educators often come from the same communities as the

²¹ <https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2024>

²² <https://cscce.berkeley.edu/blog/head-starts-false-choice>

families they serve, many are former Head Start parents themselves, and they frequently function as the primary bridge between programs and families.²³ Displacing or discouraging these educators risks weakening precisely the relationships of trust, communication, and cultural connection that have long been central to Head Start’s effectiveness.

The workforce harm is compounded by the NPRM’s simultaneous removal of the current regulatory staffing support for dual language learners at § 1302.90(d)(2), which requires that when a majority of children in a class or home-based program speak the same language, at least one class staff member or home visitor speak that language. The NPRM characterizes this as among the “prescriptive regulations not mandated by statute.” 91 Fed. Reg. at 51273. Removing the staffing support while imposing English-only instruction sends bilingual educators an unmistakable message that their skills are no longer valued, at the very moment programs can least afford to lose them.

D. ACF’s Own Analysis Anticipates Significant Costs and Operational Burdens

A provision presented as part of a rule to reduce burden would itself create substantial transition costs, and ACF acknowledges that its estimates omit additional burdens. ACF’s Regulatory Impact Analysis²⁴ estimates the following one-time costs attributable to § 1301.04(a):

- 18,767 potentially affected classrooms and service settings.
- \$2,500 in material replacement costs per affected classroom, comprising \$2,000 to replace “frequently used curricula and related teaching materials” and \$500 for “classroom materials that have words, such as educational toys and books.” 91 Fed. Reg. at 51287.

²³ <https://www.headstart.gov/school-readiness/article/parent-family-community-engagement-pfce-framework>

²⁴ <https://www.govinfo.gov/content/pkg/FR-2026-08-07/pdf/2026-16134.pdf>

- Approximately \$46.9 million in one-time curriculum and materials replacement costs.
- Approximately \$72.8 million to \$124.5 million in combined one-time transition costs, with a primary estimate of approximately \$98.6 million, when staffing costs are added.

Those figures substantially understate the burdens ACF itself acknowledges. Most notably, ACF separately estimates approximately \$139 million in “per-employee welfare harm of employment disruption,” with a range of approximately \$69 million to \$208 million, on the assumption that “roughly one-third of affected teachers experience employment disruption, rather than retraining.” 91 Fed. Reg. at 51288. That figure appears nowhere in the NPRM’s headline cost estimates.

ACF further concedes that its estimates are incomplete, stating that “English-only instruction may result in additional costs or burden not described here for programs serving dual language learners or operating in predominantly non-English-speaking communities.” 91 Fed. Reg. at 51288. The agency also expressly recognizes adverse consequences elsewhere in its analysis: that the proposal “may also involve tradeoffs related to access to services,” 91 Fed. Reg. at 51311; that the burden will be concentrated in communities serving high proportions of dual language learners, *id.*; that eliminating the dual language learner staffing requirement means “reduced language capacity may negatively affect communication with non-English speaking families and weaken family engagement,” *id.* at 51314; and that “[t]echnology-based translation tools may help mitigate some of these impacts,” *id.* — a suggestion that itself illustrates the practical difficulty of implementing the proposal in settings serving infants, toddlers, and preschoolers.

These admissions cannot be reconciled with ACF’s conclusion that the requirement is an appropriate and efficient means of improving Head Start services, or with its statement under the Regulatory Flexibility Act that it “does not expect this requirement to result in a significant

economic impact for most entities.” 91 Fed. Reg. at 51285. ACF’s own analysis shows that the proposal would burden educators, weaken communication with families, disrupt existing service models, and create implementation challenges the agency cannot fully quantify. Costs likely not fully captured include:

- Staff turnover and vacancies beyond the blended retraining/recruitment assumption.
- Lost investment in bilingual curricula and professional development already purchased and delivered.
- Staff time reviewing and replacing materials, signage, and classroom environments.
- Replacement of bilingual assessment instruments and digital resources.
- Family communication and engagement costs as bilingual staff capacity declines.
- Program disruption and the administrative burden of preparing, submitting, and tracking waiver requests under proposed § 1301.18.
- Possible enrollment or attendance effects associated with reduced family trust.

In short, the proposal raises a series of practical and administrative concerns that the NPRM does not adequately address. ACF has not explained how programs will implement the mandate, maintain valid assessments, preserve workforce capacity, or manage the substantial costs and operational disruptions the agency itself anticipates. Absent those explanations, the proposal cannot be said to rest on a reasoned assessment of its real-world consequences

CONCLUSION

UnidosUS urges ACF to withdraw proposed § 1301.04(a), retain the linguistically responsive standards it would replace, and preserve the related staffing, assessment, family-engagement, and ratio protections identified above. In the alternative, if ACF proceeds with a

final rule, UnidosUS respectfully requests that ACF respond to each of the comments set forth above and address each of the issues identified on the record.

Respectfully submitted,

A handwritten signature in cursive script that reads "Elizabeth Zamudio".

Elizabeth Zamudio
Fernando Laguarda
Amalia Chamorro
Hannah Valdiviejas Cohn

UnidosUS
Raul Yzaguirre Building
1126 Sixteenth Street NW
Washington, DC 20036

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