



## NATIONAL MIGRANT AND SEASONAL HEAD START ASSOCIATION

*Voice for the children of migrant and seasonal farmworkers*

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June 27, 2011

Yvette Sanchez-Fuentes, Director  
Office of Head Start  
Administration for Children & Families  
Portal Building, 8<sup>th</sup> Floor  
1250 Maryland Avenue, SW  
Washington, DC 20024

Re: Staff Qualifications Under the Improving Head Start for School Readiness Act of 2007

Dear Ms. Sanchez-Fuentes:

In drafting regulations and regulatory guidance, the Improving Head Start for School Readiness Act of 2007 (“Improving Head Start Act”) provides the Office of Head Start (“OHS”) should “take into consideration . . . the unique challenges faced by individual programs, including those programs that are seasonal or short term and those programs that serve rural populations.”

As set forth more fully below, the unique challenges faced by the National Migrant and Seasonal Head Start Association’s (“NMSHSA”) membership of Head Start Agencies requires OHS to liberally approve Head Start Agencies’ applications – on an Agency-by-Agency basis -- for a three-year waiver of the Act’s requirement that each Head Start classroom have a teacher with, at a minimum, an associate’s degree by October 1, 2011.

The Improving Head Start Act establishes a laudable goal fully supported by NMSHSA. The Act establishes that by September 30, 2013, at least 50 percent of Head Start teachers nationwide will have a baccalaureate or advanced degree in early childhood education, or a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood education, with experience teaching preschool age children. Significantly, the Act provides that OHS “shall not impose any penalties or sanctions on any individual Head Start agency, program, or staff” not meeting the baccalaureate or advanced degree requirement.

On the path to attaining the baccalaureate or advanced degree requirement, the Act requires Head Start Agencies to have one teacher in each Head Start preschool classroom that, by October 1, 2011, has:

- An associate degree in early childhood education

- An associate degree in a related field and coursework equivalent to a major relating to early childhood education, with experience teaching preschool-age children; or
- A baccalaureate degree and has been admitted into the Teach For America program, passed a rigorous early childhood content exam, such as the Praxis II, participated in a Teach For America summer training institute that includes teaching preschool children, and is receiving ongoing professional development support from Teach For America’s professional staff.

Recognizing that individual Head Start Agencies may well have significant barriers to staffing each Head Start classroom with a preschool teacher who has, at a minimum, attained an associate degree, Congress provided that a Head Start agency could request a three-year waiver of the requirement. Unfortunately, Congress’s description of the three-year waiver process is anything but clear:

[T]he Secretary shall grant . . . as of October 1, 2011, a 3-year waiver of the requirements of paragraph 3(B) for a Head Start agency that can demonstrate that (i) the agency has attempted unsuccessfully to recruit an individual who has the qualifications described in clause (i) or (ii) of such paragraph, with respect to an individual who is enrolled in a program that grants a degree described in clause (i) or (ii) of such paragraph and will receive such degree in a reasonable time; and (ii) each Head Start classroom has a teacher who has, at a minimum: (I) a child development associate credential that is appropriate to the age of children being served in center-based programs; or (II) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential.

Federal executive departments have tremendous latitude to interpret vague legislative language in a way that makes sense in terms of implementing Congressional intent. See Griggs v. Duke Power Co., 401 U.S. 424 (1971) (“The administrative interpretation of the Act by the enforcement agency is entitled to great deference.”). Here, what is clear from the statutory language is that Congress desires agencies to staff Head Start classrooms with degreed Head Start teachers. But it is equally clear Congress desires Head Start agencies and Head Start teachers not be punished when they are unable to staff their classrooms with degreed teachers, so long as the agencies and their teachers make good faith efforts to obtain the required degrees, and that consideration be given to programs with unique challenges.

In light of this clear Congressional intent, yet vague statutory language regarding waivers<sup>1</sup>, it is our request that OHS use its executive authority to issue regulatory

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<sup>1</sup> While the waiver language is vague, the fact that Congress provided that the waiver be requested by the agency rather than the teacher, and allowed for a three-year waiver period as opposed to a waiver period tied to the duration of time necessary for the individual teacher to obtain the required degree, is clear evidence that Congress intended the waiver request to be on an Agency-by-Agency basis, and not on a Teacher-by-Teacher basis.

guidance that allows Head Start agencies to request a three-year waiver on an Agency-by-Agency basis, rather than on a Teacher-by-Teacher basis.<sup>2</sup> Such Agency-based waivers should require Head Start agencies to:

- Identify the barriers to hiring and retaining teachers with a minimum of an associate degree.
- Identify the strategies being implemented to recruit, hire and retain teachers with an associate degree and to overcome the barriers identified above.
- Identify the total number of Head Start preschool classrooms operated by the Head Start agency as of August 1, 2011 and the number of these classrooms that do not have at least one teacher with an associate degree.
- Provide an outline of the Professional Development Plan of the agency related to reaching this goal of one preschool teacher with an associate degree in each classroom.

OHS would then have until September 30, 2011 to issue three-year waivers to Head Start agencies who have sufficiently documented their need for such a waiver. Such a process would be simple, straight-forward and easy to administer.

While each Head Start agency would be required to make its own showing as to the appropriateness of a three-year waiver, NMSHSA already knows that the unique challenges faced by its programs operating on a short term basis in rural areas create many barriers to hiring and retaining degreed teachers, especially those who are bilingual and culturally competent.

- Rural areas lack access to community college classes in early childhood and those which lead to the associate degree in early childhood
- The available work force in the small towns where migrant families work does not include adequate bilingual, college-ready individuals to chose from.
- Offering employment for short periods of time, which is when most of the centers are open, does not lend itself to finding and retaining college graduates.
- The culturally competent teachers on many MHS staff are English language learners, who need more time to complete the required college courses in English and Math, with support from tutors. These are the former parents with dedication to the children and families who should not be lost to the programs.

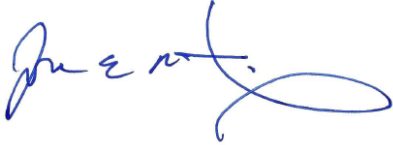
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<sup>2</sup> Inasmuch as the law designates agency waivers, there should be no instructions to review teachers on a case by case basis. This would take an extraordinary amount of time for HHS staff, and given the turnover rate in three year time period, an undue burden for no reason. Federal monitoring would be able to look at agencies progress as part of their scheduled reviews.

- All states have cut backs affecting their community college offerings which means classes staff need are offered less often, usually only once a year, which is slowing down the pace at which progress can be made.

Thank you for the opportunity to share this information with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jose E. Martinez". The signature is fluid and cursive, with a large loop at the end.

Jose E. Martinez, Board President  
National Migrant Seasonal Head Start Association

CC: Sandra Carton, Region XII Administrator  
MSHS Grantees  
NMSHSA Board of Directors  
Yasmina Vinci, NHSA Executive Director  
Cleo Rodriguez, Jr., NMSHSA Executive Director