

ACF Administration For Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
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INFORMATION MEMORANDUM

To: All Head Start and Early Head Start Grantees and Delegate Agencies

Subject: Federal Recognition of Same-Sex Spouses/Marriages

Purpose: To provide guidance for applying Department of Health and Human Services' (HHS) policy on the federal recognition of same-sex spouses/marriages to Head Start and Early Head Start programs.

Related References: United States v. Windsor
Defense of Marriage Act, Pub. L. 104-199.

Background: On June 26, 2013, the U.S. Supreme Court, in *United States v. Windsor*, struck down the prohibition on federal recognition of same-sex marriages. OHS is issuing this guidance to implement HHS' new policy consistent with the decision in *United States v. Windsor*.

INFORMATION

Policy Summary

This guidance is intended to implement a post-*Windsor* policy of treating same-sex marriages on the same terms as opposite-sex marriages to the greatest extent reasonably possible. Accordingly, for purposes of determining eligibility to participate in Head Start and Early Head Start programs, the income of same-sex spouses shall be considered part of a family's income and the same-sex spouse

shall be included in the number of people in a household. HHS recognizes marriages between individuals of the same sex who are lawfully married under the law of a state, territory, or foreign jurisdiction, as long as it would be recognized in at least one state, regardless of the state in which the couple resides.

Instruction Regarding Implications for Administering Head Start and Early Head Start Programs

The Head Start program promotes the school readiness of low-income children by enhancing their cognitive, social, and emotional development (Head Start Act § 636 [42 U.S.C. 9831]). Head Start regulations require at least 90 percent of children enrolled in each Head Start program to be from low-income families (45 CFR 1305.4(b)). The definition of "family" in the Head Start regulations includes all persons living in the same household who are supported by the income of the parent(s) or guardian(s) of the child enrolling or participating in the Head Start program and who are "related to the parent(s) or guardian(s) by blood, marriage, or adoption" (45 CFR 1305.2(e)). Consistent with the policy of maximizing the federal recognition of same-sex spouses/marriages, the term "family" as used to determine the eligibility of a child to participate in a Head Start or Early Head Start program shall include a same-sex spouse. HHS recognizes marriages between individuals of the same sex who are lawfully married under the law of a state, territory, or foreign jurisdiction, as long as it would be recognized by at least one state, regardless of the state in which the couple resides. Family support and parent engagement activities should be inclusive and supportive of single, coupled, and married LGBT parents.

Additional Information

For more information on the references in this Information Memorandum (IM), see the Supreme Court's decision in *United States v. Windsor*, available online at http://www.supremecourt.gov/opinions/12pdf/12-307_6j37.pdf and the DOMA legislation (Pub. L. 104-199) is available on the Government Printing Office (GPO) website at <http://www.gpo.gov/fdsys/pkg/PLAW-104publ199/html/PLAW-104publ199.htm>.

Please direct questions on this IM to your OHS Regional Office.

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