

# New Head Start Eligibility for Children in Tribal Programs

*Office of Head Start*

**June 17, 2024**

*2:00 – 3:00pm ET*

ADMINISTRATION FOR  
**CHILDREN & FAMILIES**  
Office of Head Start



# Meet the Team: Office of Head Start



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# Today's Agenda

- ❑ Provide an overview of new eligibility provisions for AI/AN Head Start programs
- ❑ Discuss implications of new eligibility provisions on Head Start requirements and processes
- ❑ Share answers to questions about the new eligibility provisions
- ❑ Review next steps and opportunities for engagement



# New Eligibility Provisions for AI/AN Head Start Programs

- ❑ AI/AN programs have the discretion to consider eligibility for Head Start services regardless of income.
- ❑ AI/AN programs are still required to annually establish selection criteria to enroll children in their service area who would benefit most from Head Start services.

ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
	1. Log Number: ACF-OHS- PI-24-03	2. Issuance Date: 05/13/2024
3. Originating Office: Office of Head Start		
4. Key Words: Eligibility; AIAN; American Indian and Alaska Native; Consolidated Appropriations Act; Fiscal Year 2024		

#### PROGRAM INSTRUCTION

**TO:** All Head Start recipients, including Head Start, Early Head Start, Early Head Start-Child Care Partnerships, Collaboration Offices, and National Centers

**SUBJECT:** New Eligibility Provisions for American Indian and Alaska Native programs

#### INSTRUCTION:

On March 23, 2024, President Biden signed the [Further Consolidated Appropriations Act, 2024 \(Public Law 118-47\)](#), which provides fiscal year (FY) 2024 appropriations for several federal departments and agencies. This spending bill funds Head Start programs through the remainder of the fiscal year. The Office of Head Start (OHS) funding changes for FY 2024 are detailed in a separate Program Instruction (PI), [ACF-OHS-PI-24-02](#). This PI describes changes to eligibility criteria for Region XI, American Indian and Alaska Native (AIAN) Head Start recipients in Section 238 of the Further Consolidated Appropriations Act, 2024.

OHS regularly engages with tribes to understand the special circumstances of AIAN Head Start programs. Through regular consultation, tribal leaders and Tribal Head Start administrators have indicated that tribes should be able to exercise appropriate discretion in determining which children should be eligible and prioritized for Head Start services. Following this historic statutory change, OHS affirms that tribes — to the maximum extent possible — should determine which children in their communities would most benefit from Head Start services.

#### Implementation of the New Eligibility Provision

This provision specifies that in FY 2024, and every year after, AIAN programs have the discretion to consider eligibility for Head Start services regardless of income. This provision applies to programs operated by an Indian tribe as defined in the Head Start Act, 42 U.S.C. 9801, or designated by an Indian tribe to operate on its behalf. The new language applies to both tribal and non-tribal children in an AIAN program's service area. This law will increase the number of children in tribal communities who are eligible to participate in Head Start services, including

# New Eligibility Provisions for AI/AN Head Start Programs



- ❑ This law will increase the number of children in tribal communities who are eligible to participate in Head Start services, however, it does not increase the number of slots for AI/AN programs.
- ❑ This new law is effective immediately. However, no child who is currently served in a Tribal Head Start program should have their enrollment disrupted to accommodate new enrollees who may qualify based on this change.

# Selection Criteria



- ❑ AI/AN programs are still required to annually establish selection criteria to enroll children in their service area who would benefit most from Head Start services.
- ❑ Selection criteria must weigh the prioritization of participants based on needs identified in the community needs assessment.
- ❑ Selection criteria may, at the program's discretion, include prioritizing children in families where a child, a family member, or a member of the same household is a member of an Indian tribe.

# Selection Criteria (continued)



- ❑ Programs are not required to update their selection criteria.
- ❑ Programs that opt to change selection criteria must engage in consultation with and obtain approval from its governing body and policy council.
- ❑ Programs will continue to include their selection criteria in their annual funding application.
- ❑ AI/AN programs do not need to collect income information from families for the purposes of eligibility UNLESS they choose to use income as part of selection criteria.

# Eligibility, Recruitment, Selection, Enrollment, Attendance (ERSEA) Considerations

- ❑ AI/AN programs should follow the new statutory provision in Section 238, not the existing HSPPS eligibility requirements
- ❑ Programs must still adhere to age eligibility requirements
- ❑ Programs must develop and implement a recruitment process to actively inform all families within the recruitment area of the availability of program services
- ❑ Existing enrollment ([45 CFR §1302.15](#)) and attendance ([45 CFR §1302.16](#)) regulations also remain.





# Data and Reporting



- ❑ If programs exercise these new provisions for eligibility determinations during the 2023–2024 program year, they are encouraged to report families deemed eligible using categories A.13.e to the extent necessary in implementing the new law.
- ❑ 2024–2025 PIR will be updated to reflect these changes to AI/AN eligibility policy

# Monitoring

- ❑ Recipients with upcoming FY 2024 monitoring reviews will be monitored according to these changes to AI/AN eligibility policy.
- ❑ FY 2025 monitoring protocols will reflect these changes.



# Full Enrollment Initiative



- ❑ Additional guidance will be forthcoming from OHS for impacted recipients about how this new provision will impact the Full Enrollment Initiative (FEI). OHS plans to extend flexibility to AI/AN grant recipients in the FEI to allow time to implement this new law.

# Change in Scope



- ❑ This new eligibility provision will **not** impact Change in Scope applications that have already been approved and implemented.



# **Frequently Asked Questions About AI/AN Eligibility**

# Question & Answer

**Q1.** What are the eligibility requirements for children and families in AI/AN Head Start programs?



**A1.** Following the passage of the Further Consolidated Appropriations Act, 2024 (Public Law 118-47) on March 23, 2024, all families in an AI/AN Head Start program's service area with age-eligible children, or pregnant women, are eligible for Head Start services, regardless of income.




# Question & Answer

**Q2.** Do families need to live on the reservation to be eligible for AI/AN Head Start services?



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**A2.** No, families do not need to live on the reservation to be eligible for AI/AN Head Start services, however they must be within an AI/AN program's service area.



# Question & Answer

**Q3.** Does this new eligibility provision apply to non-AI/AN families that are located in an AI/AN program's service area?



**A3.** Yes, non-AI/AN families, inclusive of families who are not Tribal members, are eligible so long as they are in an AI/AN program's service area.





# Question & Answer

**Q4.** Do programs still need to collect income information from families?



**A4.** No, AI/AN programs are no longer required to collect or maintain income information from families for the purposes of eligibility. However, if an AI/AN program decides to use income as part of its selection criteria to support making determinations regarding families most in need, it should collect and maintain family income information accordingly.



# Question & Answer

**Q5.** How does this new provision impact the over-income eligibility allowance for Tribal programs?



**A5.** Historically, if a Tribal program served all eligible pregnant women and children in the service area who wished to be enrolled, the Tribal program was able to serve up to 49% of slots with families with income above the poverty line. Considering this new legislative change, all families in a Tribal Head Start program's service area with age-eligible children, or pregnant women, are now eligible for Head Start services, including those whose income is above the poverty level.

Due to this statutory change, the Head Start Program Performance Standards (HSPPS) on eligibility now reflect some outdated requirements, including 45 CFR 1302.12(e), which references the over-income allowance for Tribal programs. To update the HSPPS, OHS must engage in a rulemaking process. In the interim, where there is misalignment between Section 238 of the Further Consolidated Appropriations Act, 2024, and existing HSPPS eligibility requirements, AI/AN programs should follow the new statutory provision in Section 238. Should programs have any questions about whether an existing requirement in the HSPPS still applies, they should reach out to [AIANHeadStart@acf.hhs.gov](mailto:AIANHeadStart@acf.hhs.gov)



# Question & Answer

**Q6.** How will programs report children's eligibility in question #A13 in the 2023-2024 Program Information Report (PIR)?



**A6.** For the 2023-2024 program year, for question #A13, children enrolled in AI/AN programs after the passage of the new eligibility law passed on March 23 may be reported under A13 e “eligibility based on other type of need.” There is no limit on the number of children reported in this category on the PIR form.



# Question & Answer

**Q7.** How does this new provision impact categorical eligibility (families who receive public assistance, are experiencing homelessness, and children in foster care)?



**A7.** All families in an AI/AN Head Start program's service area with age-eligible children, or pregnant women, are now eligible for Head Start services; this includes families who receive public assistance, are experiencing homelessness, and have children in foster care. AI/AN programs are still required to annually establish selection criteria to enroll children in their service area who would benefit most from Head Start services, such as families in these circumstances, and to report data on these families as required in Section C of the PIR form.



# Question & Answer

**Q8.** Does this mean all families in an AI/AN program's service area are guaranteed placement in a Head Start program?



**A8.** No. Eligible applicants are not guaranteed enrollment in a program. In accordance with the Head Start regulations at 45 CFR §§1302.14 and 1302.11(b), AI/AN programs are still required to annually establish selection criteria to enroll children in their service area who would benefit most from Head Start services. These selection criteria must weigh the prioritization of participants based on needs identified in the community needs assessment.



# Question & Answer

## Q9. How will AI/AN programs verify eligibility?



**A9.** AI/AN programs are no longer required to verify eligibility based on income or maintain income eligibility records (45 CFR §1302.12(i),(k)). However, if an AI/AN program chooses to use income as a criteria for prioritizing children to enroll in Head Start, the program must have a method for documenting income.

Due to this statutory change, the Head Start Program Performance Standards (HSPPS) on eligibility now reflect some outdated requirements. To update the HSPPS, OHS must engage in a rulemaking process. In the interim, where there is misalignment between Section 238 of the Further Consolidated Appropriations Act, 2024, and existing HSPPS eligibility requirements, AI/AN programs should follow the new statutory provision in Section 238. Should programs have any questions about whether an existing requirement in the HSPPS still applies, they should reach out to [AIANHeadStart@acf.hhs.gov](mailto:AIANHeadStart@acf.hhs.gov)



# Question & Answer

**Q10.** Do AI/AN programs need to develop a revised eligibility verification form?



**A10.** No. Because AI/AN programs are no longer required to verify eligibility based on income or maintain income eligibility records (45 CFR §1302.12(i),(k)), they do not need to develop or use a revised eligibility verification form to collect income information. They do, however, still need to verify a child's age eligibility (45 CFR §1302.12(b)).



## Question & Answer

**Q11.** Are programs still required to follow other requirements for eligibility, recruitment, selection, enrollment, and attendance (ERSEA)?



**A11.** Yes, while this new law changes eligibility requirements, other HSPPS for eligibility, recruitment, selection, enrollment, and attendance remain. For example, programs must still adhere to age eligibility requirements (45 CFR §1302.12(b)). Per 45 CFR §1302.13, programs must develop and implement a recruitment process designed to actively inform all families within the recruitment area of the availability of program services, and to encourage and assist them in applying for admission. Per 45 CFR §§ 1302.14 and 1302.11(b), AI/AN programs are still required to annually establish selection criteria to enroll children in their service area who would benefit most from Head Start services. Existing enrollment (45 CFR §1302.15) and attendance regulations also remain. Should programs have any questions about whether an existing requirement in the HSPPS still applies, they should reach out to [AIANHeadStart@acf.hhs.gov](mailto:AIANHeadStart@acf.hhs.gov).





# Question & Answer

**Q12.** Per Section 238 in the Further Consolidated Appropriations Act, 2024 (Public Law 118-47) and ACF-OHS-PI-24-03, “Selection criteria may, at the program’s discretion, include prioritizing children in families where a child, a family member, or a member of the same household is a member of an Indian tribe.” What does this mean?



**A12.** Programs have the option to explicitly include the prioritization of children in families where a child, family or household member is a member of an Indian tribe as part of its selection criteria. Tribal membership enrollment criteria are outlined in tribal constitutions, articles of incorporation, or ordinances. The criteria vary from tribe to tribe, so uniform membership requirements do not exist. Tribes have the authority to define their tribal membership requirements and how they will use those requirements for Head Start selection criteria.

Because programs have always had the discretion to design their selection criteria, they have always had the option to prioritize children in families where a child, a family member, or a member of the same household is a member of an Indian tribe. The new provision emphasizes this option. Programs do not have to make changes to their selection criteria to include this language.



# Question & Answer

**Q13.** Following this new statute, are programs required to update their selection criteria?



**A13.** No, but they may choose to.



## Question & Answer

**Q14.** If a program chooses to update their selection criteria, do they need to get approval from their OHS Regional Office to make the change?



**A14.** No, it is not required for programs to get approval from their OHS Regional Office to make a change to their selection criteria. However, programs must engage in consultation with and obtain approval from its governing body and policy council. Once these approvals are obtained, the program can then begin using the updated criteria. Programs are encouraged to reach out to their assigned OHS Program Specialist to help support the process and answer any questions they might have. Additionally, all programs must include their selection criteria in their annual refunding application.



## Question & Answer

**Q15.** This new law is significantly increasing the number of children who are eligible in our community. Will we receive more funding to serve additional slots?



**A15.** No. There is no additional funding attached to this legislative change. OHS hopes that by expanding eligibility to more families, Tribes will have the flexibility, based on their community assessment, to better meet the unique needs of children and families in their service area.

Because programs must fill any vacancy within 30 calendar days (45 CFR 1302.15 (a)), programs are required to maintain an active waitlist (45 CFR 1302.14 (c)) to serve families as soon as possible if a slot(s) becomes available.



# Question & Answer

**Q16.** How will this new provision impact programs in the Full Enrollment Initiative (FEI)?



**A16.** Programs with four or more consecutive months of underenrollment in any Head Start and/or Early Head Start program will receive an Underenrollment Letter from the Regional Office, which starts the FEI process. While in the FEI, programs must develop, in collaboration with OHS, a 12-month plan for reducing and ultimately eliminating underenrollment.

To allow time to implement this new law, and in understanding that a program's enrollment status may be impacted by this change, OHS is extending flexibility to AI/AN recipients in the FEI.



# Question & Answer

**Q17.** Will this new provision impact Change in Scope (CiS) applications?




**A17.** This new eligibility provision will not impact Change in Scope applications that have already been approved and implemented. If you have questions about a CiS request that is currently pending, please reach out to your Regional Office.



# Question & Answer

**Q18.** How will this new provision impact Monitoring?



**A18.** Recipients with upcoming FY 2024 monitoring reviews will be monitored according to these changes to AI/AN eligibility policy. FY 2025 monitoring protocols will reflect these changes.

# Question & Answer

**Q19.** How long does this new income eligibility provision last?



**A19.** This new income eligibility provision applies this fiscal year and for all future years, as specified in the Further Consolidated Appropriations Act, 2024 (Public Law 118-47).





# Question & Answer

**Q20.** Does this new eligibility provision apply to non-Tribal Head Start programs who serve AI/AN families?



**A20.** No. This law is specific to AI/AN programs in Region XI – only programs designated by an Indian tribe to operate on its behalf. If there is an AI/AN family seeking to be served in a non-AI/AN Head Start program (in Regions I-X), they must adhere to 'standard' eligibility requirements for Head Start services, as outlined in 45 CFR 1302.12.





**Questions?**

# Engagement Opportunities



- ❑ Tribal Request for Information (RFI)
- ❑ 2024 ACF Early Childhood Tribal Consultation
- ❑ Email [AIANHeadStart@acf.hhs.gov](mailto:AIANHeadStart@acf.hhs.gov)



**SAVE THE DATE**

## **2024 ACF Early Childhood Tribal Consultation**

- ❑ Office of Early Childhood Development (ECD), Office of Child Care (OCC), and Office of Head Start (OHS)
- ❑ July 9-10, 2024
- ❑ We-Ko-Pa Casino Resort
- ❑ Fort McDowell, Arizona





**Thank you for joining us  
today!**

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**Email: [AIANHeadStart@acf.hhs.gov](mailto:AIANHeadStart@acf.hhs.gov)**

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