

## Head Start Proposes Changes to DRS Recompetition Rules

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In a [Notice of Proposed Rulemaking](#) published on August 13, 2019, the Office of Head Start (OHS) proposes to change two of the seven conditions—the CLASS condition and the audit-based fiscal condition — that trigger recompetition under the Designation Renewal System (DRS) for Head Start grantees. OHS also seeks comment (though does not propose a change at this time) on the condition that a single deficiency automatically puts a grantee in recompetition.

OHS invites the public to submit comments on the proposed DRS rule via Regulations.gov at [https://www.regulations.gov/document?D=ACF\\_FRDOC\\_0001-0089](https://www.regulations.gov/document?D=ACF_FRDOC_0001-0089). Comments are due by 11:59 p.m. EDT on September 27, 2019.

### Conditions for Recompetition

DRS, which was established pursuant to the 2007 reauthorization of the Head Start Act, 42 U.S.C. 9801 *et seq.*, requires grantees to compete for continued funding if they meet one or more of the following seven conditions in §§ 1304.11(a)-(g) of the Head Start Program Performance Standards (HSPPS):

- a. one deficiency as identified in a monitoring conducted by OHS;
- b. failure to establish, use, and analyze children’s progress on agency established School Readiness goals;
- c. scores below minimum thresholds in any of the three domains of the CLASS or in the lowest 10 percent in any CLASS domain out of the grantees monitored in a given year unless the grantee’s score is equal to or above the standard of excellence for that domain;
- d. revocation of a license to operate a center or program;
- e. suspension from the program;
- f. debarment from receiving federal or state funds or disqualified from the Child and Adult Care Food Program; or
- g. an audit finding of at risk for failing to continue as a “going concern.”

### CLASS Condition (§ 1304.11(c))

Under the current rule, a grantee must compete for continued funding if either: (1) its CLASS scores fall below the following minimum quality thresholds for each of the three CLASS domains (2 for Instructional Support, 3 for Classroom Organization, and 4 for Emotional Support); or (2) its average scores across classrooms fall in the lowest 10 percent on any of the three CLASS domains for grantees observed in that year (unless the grantee scores a 6 or above in all three domains).

The proposed rule eliminates the lowest 10 percent criterion for recompetition due to CLASS scores. At the same time, it also increases the required minimum scores for each of the three CLASS domains — to 2.5 for Instructional Support, 5 for Classroom Organization, and 5 for Emotional Support. OHS reasons that raising the thresholds above the current minimums would strengthen the quality of teacher-child interactions in Head Start classrooms.

OHS's rationale for removing the lowest 10 percent is threefold. First, it found that of the grantees forced to recompute because of this requirement, many were relatively high performing in Emotional Support and Classroom Organization, while other grantees that had Instructional Support scores that were below the mid-range of quality were not required to recompute. Second, grantees have expressed concern that they don't have a clear standard of accountability or expectation of quality, as they have no way of knowing whether they fall in the lowest 10 percent until all grantees have been reviewed. Finally, OHS acknowledged that the current rule is difficult to implement, as OHS has to conclude all monitoring reviews before it can identify and inform grantees that fall below the 10 percent threshold, leading to significant uncertainty and stress for grantees during the waiting period.

### Fiscal Condition (§ 1304.11(c))

Under the current rule, the fiscal condition requires recompetition only if an audit indicates that the grantee is at risk of ceasing to be a going concern (i.e., is at risk of liquidation) in the near future. OHS proposes to add another criterion to this fiscal condition that requires a grantee to recompute if it has any audit findings associated with Head Start funds in two or more annual audit reports within the first three fiscal years of its five-year grant cycle. The proposed rule thus broadens the scope of Head Start-related audit findings that OHS may consider in the DRS process.

OHS believes that in focusing only on the grantee's financial viability, it is missing broader indicators of fiscal risk, short of a potential liquidation. OHS noted that multiple grantees who have been terminated or relinquished their Head Start grants in recent years due to their inability to correct fiscal problems had underlying, unaddressed challenges in their fiscal processes, systems, and management. Because a grant termination or relinquishment results in such significant service disruptions to children and families, OHS wants to recompute grantees before their fiscal challenges escalate into emergencies. Further, OHS believes this approach allows the existing grantee and other applicants the opportunity to demonstrate that they are the best qualified organization, both fiscally and programmatically, to operate the Head Start program.

Recognizing that Head Start grantees receive different sources of federal and state funding and are subject to an annual single audit, OHS emphasizes that it would only consider audit findings in Head Start grants for purposes of DRS.

### Single Deficiency Trigger for Recompetition (§ 1304.11(a))

While OHS is not proposing a change to the single deficiency condition in this NPRM, it specifically seeks comment on whether to consider a change to the single deficiency trigger. In particular, grantees have expressed concerns that this trigger is too stringent and forces high-performing programs to compete due to isolated issues. OHS seeks input on whether the condition should be modified to two or more deficiencies rather than a single deficiency.

### Technical Changes

OHS also proposes a number of technical changes to Part 1304, Subpart B of the HSPPS — the section on DRS — to remove outdated provisions in light of the comprehensive revision of the HSPPS in 2016. These changes are being proposed now because the DRS section of the HSPPS was not open for amendment during the last NPRM process.

### Effective Date of Final Rule

OHS proposes to have the final rule, when it is issued, take effect in the fiscal year immediately following the publication of the final rule, but not less than 30 days after the publication date in the Federal Register. OHS also seeks comment on this proposed effective date.