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# ERSEA FAQ

## Part I: Income Eligibility

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- Nicole, a Partner at Feldesman Tucker Leifer Fidell LLP, has been with the firm since 2008 and a practicing attorney since 2003.
- She is counsel to numerous federal grantee organizations across the country representing her clients in federal litigation as well as providing counsel on compliance and transactional matters.
- Her representative activities include reviewing and revising contracts, subrecipient agreements, procurement policies and procedures, and other grant-related documents to ensure compliance with programmatic requirements and other federal regulations. Nicole also advises clients on the federal requirements for grant related construction and renovation projects including issues related to filing notices of federal interest.
- Prior to joining the firm, Nicole worked as a legal services staff attorney, representing low-income clients in domestic violence matters, family law issues, public housing and landlord-tenant disputes, and consumer cases.

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- Please do not record today's training session.

# ERSEA FAQ SERIES

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Part I: Income Eligibility

Part II: The Other Paths to Eligibility

Part III: Recruitment, Selection, and Attendance

# LEARNING OBJECTIONS

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- Understand the Head Start income eligibility rules;
- Identify which terms need to be defined in your organization's internal policies and procedures;
- Know what types of documentation eligibility staff should collect and maintain to verify income eligibility; and
- Outline how to conduct internal monitoring to verify whether your program is in compliance with the Head Start income eligibility requirements

# TODAY'S AGENDA

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- I. Overview
- II. Defining family
- III. Defining income
- IV. Applying the definitions
- V. Verifying income
- VI. Over income considerations

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# I. Overview

# POLL

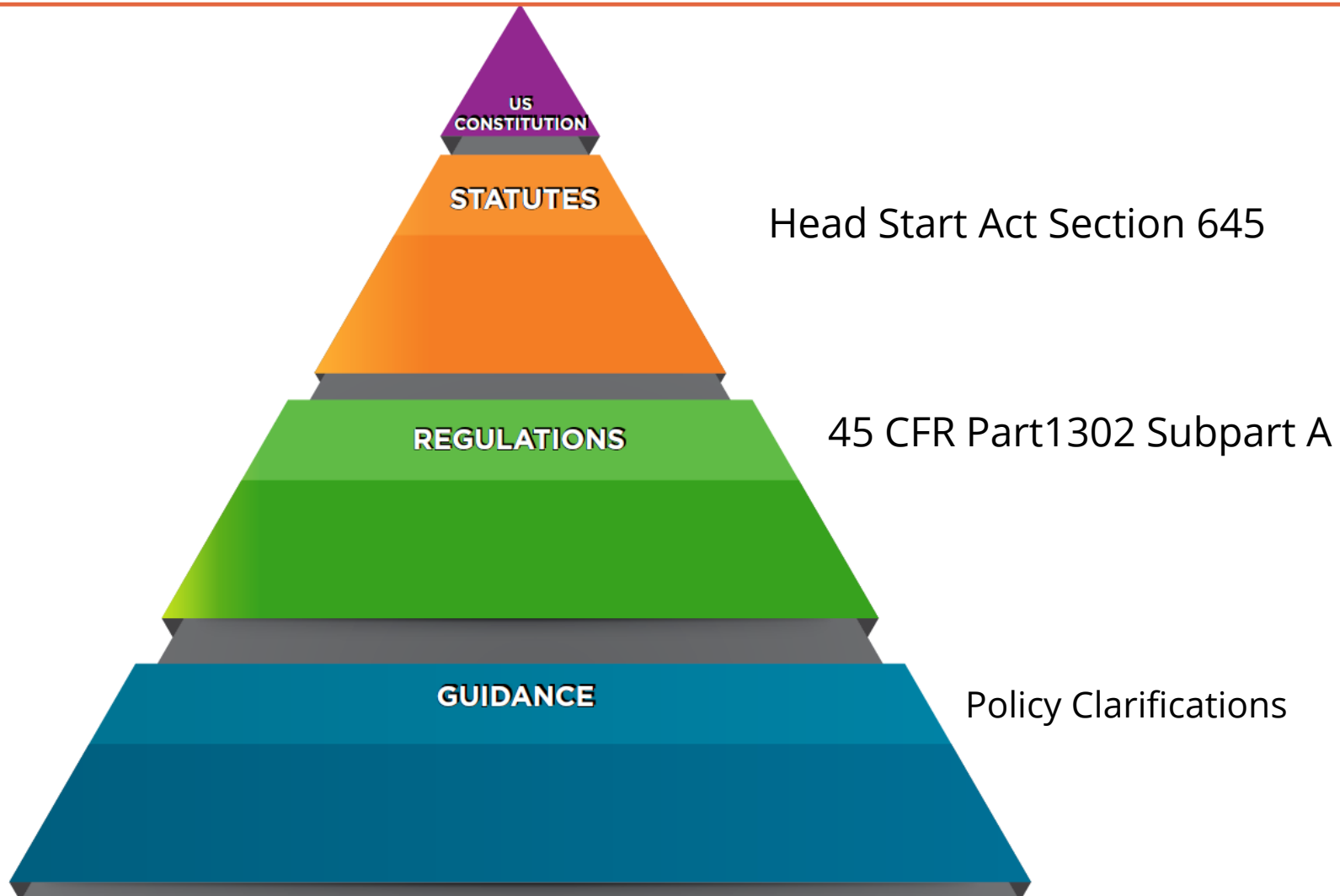
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**How do you pronounce ERSEA ?**

- A. er-see
- B. er-see-a
- C. er-sa



# WHERE DO THE RULES COME FROM?



# TWO COMPONENTS TO DETERMINE INCOME ELIGIBILITY

Step 1: Determine size of family



Step 2: Calculate household income



## II. Defining “Family”



# DEFINITION OF “FAMILY”

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*“Family* means all persons living in the same household who are supported by the child's parent(s)' or guardian(s)' income; and are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption; **or** are the child's authorized caregiver **or** legally responsible party.”

1305.2

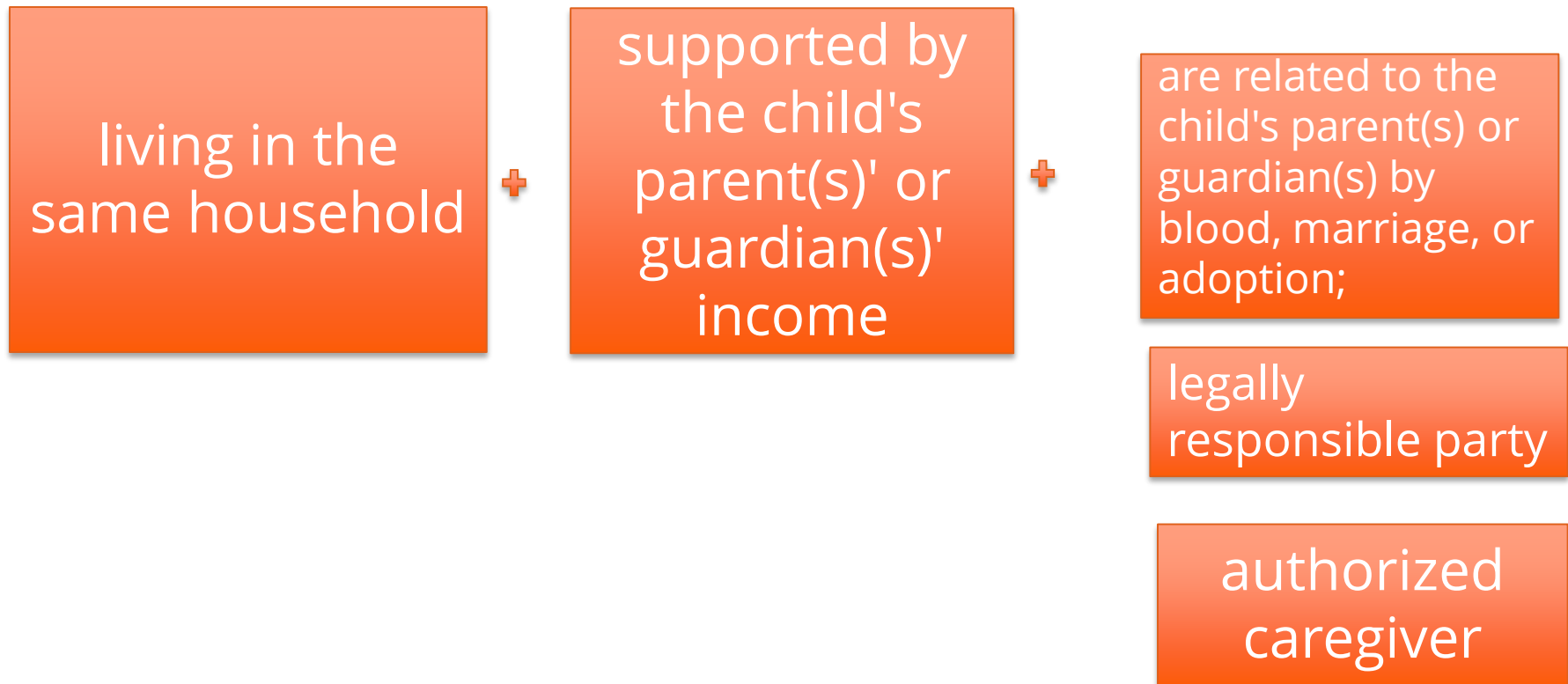
# THE KNOWN UNKNOWNNS

“There are known unknowns. That is to say, there are things that we know that we don’t know...”

- “Authorized caregiver”
- “legally responsible party”



# INTERPRETING THE DEFINITION OF FAMILY



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# III. Defining “Income”

# TOOLS FOR DETERMINING INCOME ELIGIBILITY

## Poverty Guidelines and Determining Eligibility for Participation in Head Start Programs

The HHS Poverty Guidelines are used to determine income eligibility for participation in Head Start and Early Head Start programs. Program staff may refer to these resources when working with families.

The HHS Poverty Guidelines and Section 645 of the Head Start Act are used to determine income eligibility for participation in Head Start and Early Head Start programs. Program staff may refer to these resources when working with families.

Children from birth to age five who are from families with incomes below the poverty guidelines are eligible for Head Start and Early Head Start services. Children from homeless families, and families receiving public assistance such as TANF or SSI are also eligible. Foster children are eligible regardless of their foster family's income. Program staff members may refer to this section of the Head Start Act to further understand eligibility for Head Start and Early Head Start. [Section 645 of the Head Start Act](#).

The poverty guidelines are adjusted for families of different sizes and may be used to determine financial eligibility for certain federal programs such as Head Start and Early Head Start services. The guidelines are issued each year in the Federal Register by the Department of Health and Human Services. A single set of guidelines applies to the 48 contiguous states and the District of Columbia. There are separate sets of poverty guidelines for Alaska and Hawaii. These guidelines may be used when determining a family's eligibility for Head Start and Early Head Start services. Select this link for the [HHS Poverty Guidelines](#).

**Topic:** [Eligibility \(ERSEA\)](#)

**Keywords:** [Poverty guidelines](#)

*Last Updated: February 27, 2018*

<https://eclkc.ohs.acf.hhs.gov/eligibility-ersea/article/poverty-guidelines-determining-eligibility-participation-head-start>



# THE POVERTY GUIDELINES

## 2018 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

### PERSONS IN FAMILY/HOUSEHOLD

### POVERTY GUIDELINE

For families/households with more than 8 persons, add \$4,320 for each additional person.

1	\$12,140
2	\$16,460
3	\$20,780
4	\$25,100
5	\$29,420
6	\$33,740
7	\$38,060
8	\$42,380

# DEFINITION OF INCOME

*"Income* means gross cash income and includes earned income, military income (including pay and allowances, except those described in [Section 645\(a\)\(3\)\(B\)](#) of the Act), veteran's benefits, Social Security benefits, unemployment compensation, and public assistance benefits. Additional examples of gross cash income are listed in the definition of "income" which appears in U.S. Bureau of the Census, Current Population Reports, Series P-60-185 (available at <https://www2.census.gov/prod2/popscan/p60-185.pdf>). "

1305.2

# MORE ON DEFINING INCOME

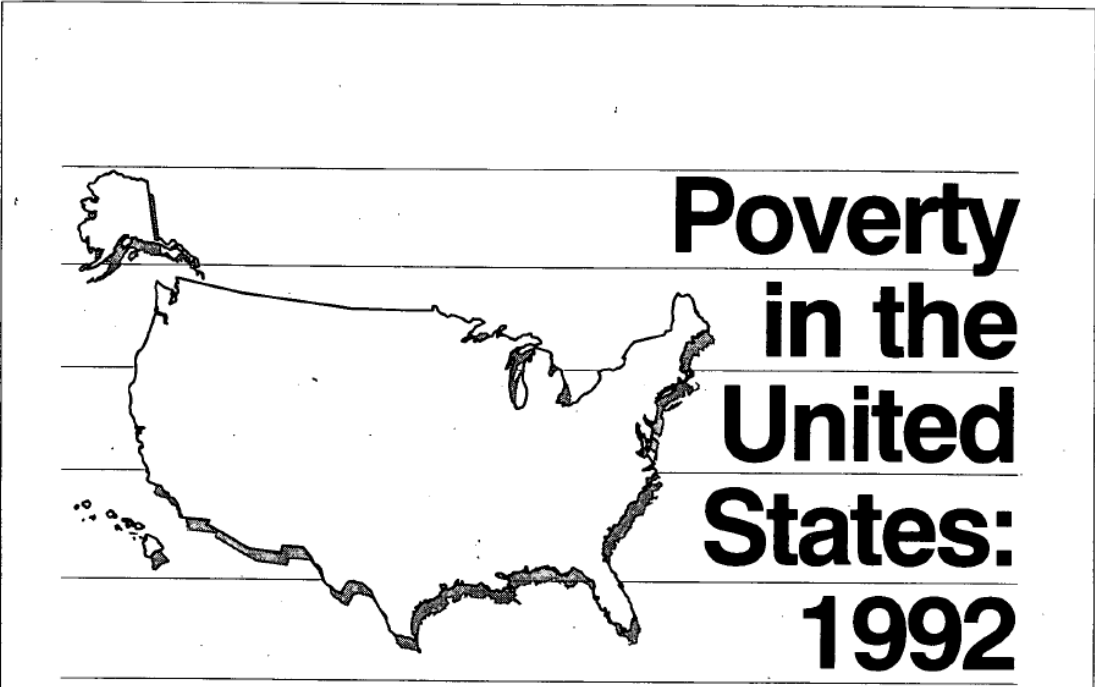
CENSUS



CURRENT POPULATION REPORTS

**Consumer Income**

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# WHAT COUNTS AS INCOME?

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1. Money wages or salary
2. Net income from nonfarm self-employment
3. Net income from farm self-employment
4. Social Security or railroad retirement
5. Supplemental Security Income
6. Public Assistance or Welfare payments
7. Interest
8. Dividends, income from estates or trusts, rental income or royalties
9. Veterans' payments or unemployment or government employee pensions
10. Private pensions or government employee pensions
11. Annuities, alimony or child support, regular contributions from persons not living in the household, and other periodic income

# WHAT DOESN'T COUNT AS INCOME?

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1. Money received from the sale of property such as stocks, bonds, a house or a car [some exceptions]
2. Withdrawals of bank deposits
3. Money borrowed
4. Tax refunds
5. Gifts
6. Lump-sum inheritances or insurance payments

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# IV. Applying the definitions

**When does someone count as family and what money counts as income?**

# TRICKY INCOME ISSUES

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- Student loans
- Education grants
- Public benefits
- Death benefits
- Military pay
- Child support

# COMPLICATED FAMILY MATTERS

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- Pregnant woman (EHS)
- Divorce/Separation
- Joint custody
- Stepparents
- Boyfriend/Girlfriend/Significant other/Etc.
- Grandparents and other extended family



# SEPARATED/DIVORCED PARENTS

Mother and father of Head Start applicant are separated and father lives in a separate home and the child stays primarily with the mother and his 12-year old half sister.

**How many household members for purposes of income eligibility?**

- living in the same household?
- supported by the child's parent(s)' or guardian(s)' income
- are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption
- or** are the child's authorized caregiver **or**
- legally responsible party."

# SEPARATED/DIVORCED PARENTS

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The Head Start child's father pays child support.

**How do we determine the family income?**

# JOINT CUSTODY

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Mother and father of Head Start applicant are divorced. The Head Start child spends half the time in the mother's home and the other half of the time in the father's home. Neither parent pays child support.

**How do we determine the family income?**

# STEPPARENTS

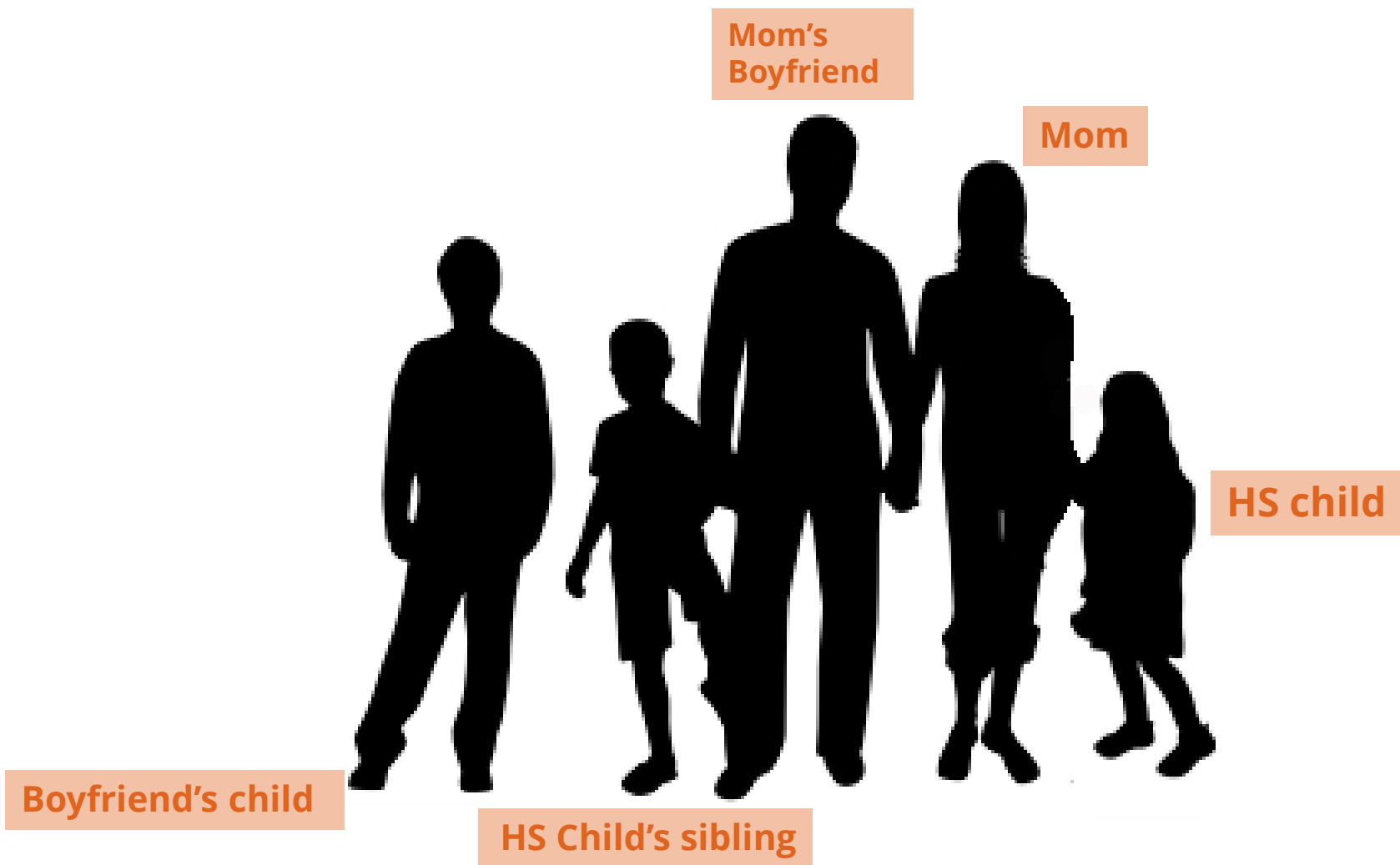
Mother and father of Head Start applicant are divorced. Father has remarried and has a new baby. Mother has also remarried.

The Head Start child spends half the time in the mother's home with his stepfather and half sister and the other half of the time in the father's home with his stepmother and half-brother.

**How many household members for purposes of income eligibility?**

- living in the same household?
- supported by the child's parent(s)' or guardian(s)' income
- are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption
- or** are the child's authorized caregiver **or**
- legally responsible party."

# BOYFRIENDS/GIRLFRIENDS/ SIGNIFICANT OTHERS



# POLL

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**How many household members for purposes of income eligibility?**

- A. Two
- B. Three
- C. Four
- D. Five

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## OHS – PC – I – 033

**If a woman is living with a boyfriend and he is not the father of her child who would be in Head Start but is the father of her youngest child, do you use his income when determining eligibility?**

No, only the income of the mother would be counted as the mother's boyfriend has no legal relationship with either the mother or the prospective Head Start child.

### **Requirement**

**45 CFR 1305.2(e)**

June 12, 2007

- But what about new(ish) rules: Is boyfriend an “authorized caregiver” or “legally responsible party”?

# GRANDPARENTS

The Head Start child lives with her paternal grandmother and two siblings. The child's mother has been deployed to Iraq.

**How many household members for purposes of income eligibility?**

**How do we determine the family income?**

- living in the same household?
- supported by the child's parent(s)' or guardian(s)' income
- are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption
- or** are the child's authorized caregiver **or**
- legally responsible party."



# SIBLINGS

The Head Start child lives with her mother, brother and half sister. No one has contact with the child's father.

**How many household members for purposes of income eligibility?**

- living in the same household?
- supported by the child's parent(s)' or guardian(s)' income
- are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption
- or** are the child's authorized caregiver **or**
- legally responsible party."

# POLL

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The father of the Head Start child's half sister is a professional athlete that pays child support.

**Do you count that income for purposes of income eligibility?**

- A. Yes
- B. No
- C. Yes, but only a portion of the income

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## OHS – PC – I – 011

### Are we supposed to count everyone that lives in the household and their income as family?

Only income earned by the Head Start child's parents or legal guardians should be included when determining a child's income eligibility. The income of other family members sharing the same residence is not to be included. The family size is to be determined by including all persons living in the household who are supported by the income of the child's parents or guardians and related to the parents or guardians by blood, marriage or adoption.

#### Requirement

**45 CFR 1305.2(e); 45 CFR 1305.4(c)**

April 23, 2007

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## OHS – PC – I – 072

### **If a Head Start sibling receives Social Security survivor benefits, does this need to be included as income in determining the family's income eligibility for Head Start?**

No. The only income that needs to be considered is the income of the child's parent(s) or legal guardian(s). Income earned by other family members is not included when determining family income.

#### **Requirement**

**45 CFR 1305.2(e)**

September 26, 2007

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# V. Verification of income

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## OHS – PC – I – 009

### When income is verified, does a copy of the proof of income need to be kept on file?

Programs are required to include, in every enrolled child's folder, a statement signed by a Head Start employee indicating what documentation was used to determine income eligibility and stating that the child is income eligible (or that the child is being enrolled as an "over-income" child). ~~Programs are not required to include the actual documentation used to determine eligibility.~~

#### Requirement

**45 CFR 1305.4(e)**

April 23, 2007

# VERIFYING INCOME ELIGIBILITY 1302.12 (i)(1)

- “To verify eligibility based on income, program staff must use **tax forms, pay stubs, or other proof of income** to determine the family income for the [relevant time period](#).
- (i) If the family **cannot provide tax forms, pay stubs, or other proof of income** for the relevant time period, program staff may **accept written statements from employers, including individuals who are self-employed**, for the relevant time period and use information provided to calculate total annual income with appropriate multipliers.”

# VERIFYING INCOME ELIGIBILITY 1302.12 (i)(1) (CONT.)

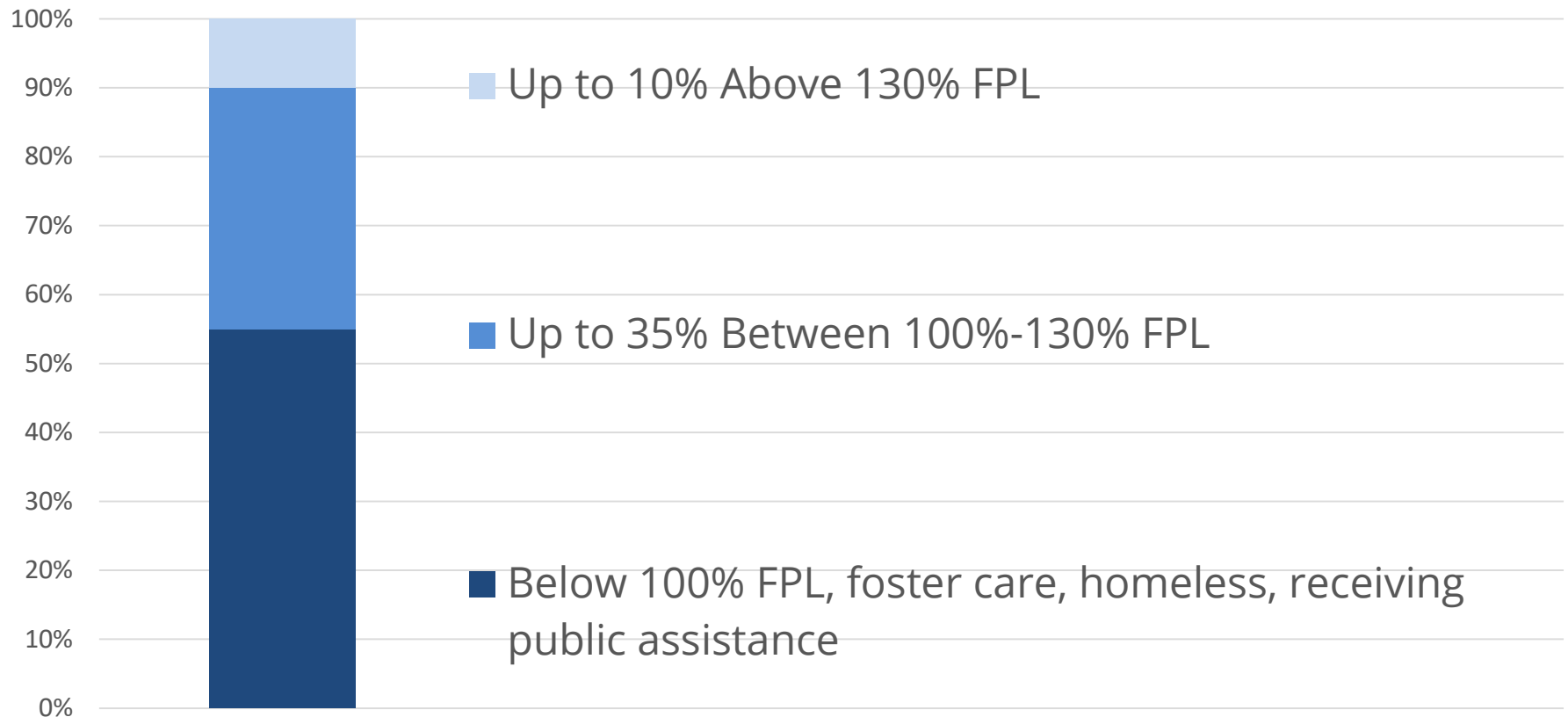
- “ (ii) If the family reports **no income** for the relevant time period, a program may accept the **family’s signed declaration** to that effect, if program staff describes efforts made to verify the family’s income, and explains how the family’s total income was calculated or seeks information from third parties about the family’s eligibility, if the family gives written consent. If a family gives consent to contact third parties, program staff must adhere to program safety and privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2) of this section.
- (iii) If the family can demonstrate a **significant change** in income for the relevant time period, program staff may consider current income circumstances.”



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# VI. Over income considerations

# WHAT HAPPENS IF A FAMILY IS OVER INCOME?



# ELIGIBILITY REQUIREMENTS 1302.12(c)(2)

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“If the family does not meet a criterion under paragraph (c)(1) of this section, a program may enroll a child who would benefit from services, provided that these participants only make up to **10 percent of a program’s** enrollment in accordance with paragraph (d) of this section.”

# ADDITIONAL ALLOWANCES FOR PROGRAMS

## 1302.12(d)(1)

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“A program may enroll an additional 35 percent of participants whose families do not meet a criterion described in paragraph (c) of this section and whose incomes are below 130 percent of the poverty line, if the program:

- (i) Establishes and implements outreach, and enrollment policies and procedures to ensure it is meeting the needs of eligible pregnant women, children, and children with disabilities, before serving pregnant women or children who do not meet the criteria in paragraph (c) of this section; and,
- (ii) Establishes criteria that ensure pregnant women and children eligible under the criteria listed in paragraph (c) of this section are served first.”

# ADDITIONAL ALLOWANCES FOR PROGRAMS 1302.12(d)(2)

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“If a program chooses to enroll participants who do not meet a criterion in paragraph (c) of this section, and whose family incomes are between 100 and 130 percent of the poverty line, it must be able to report to the Head Start regional program office...”

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# Income Eligibility Tips

# TIPS FOR INCOME ELIGIBILITY DETERMINATIONS

- Create and implement a written policy and procedure for income eligibility determination process
  - Don't forget to define important terms (e.g. authorized caregiver)
  - Consider including sample forms (e.g. W-2, custody order)
- Train on the policy and procedure on what to look for and what to ask and maintain a record of training in employee files
- Monitor compliance with the policy by conducting random spot checks of eligibility files
- Make ongoing corrections and improvements to policies and practices

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# QUESTIONS

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# OTHER UPCOMING TRAINING EVENTS

## Webinars

<b>Nov. 14<sup>th</sup> @ 1pm ET</b>	<b>ERSEA FAQ's: Part II – The Other Paths to Eligibility</b>
<b>Nov. 28<sup>th</sup> @ 1pm ET</b>	<b>ERSEA FAQ's: Part III – Recruitment, Selection, Enrollment, and Attendance</b>

## Workshops in Washington, DC

Oct. 24 <sup>th</sup> – 25 <sup>th</sup>	Human Resources Requirements	Washington, DC
Dec. 5 <sup>th</sup> – 6 <sup>th</sup>	How to Prepare for Monitoring in the New Era	Washington, DC

## Live Trainings

Nov. 7 <sup>th</sup> – 8 <sup>th</sup>	The A to Z's of Head Start	Orlando, FL
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For more information and to register:  
Email [learning@ftlf.com](mailto:learning@ftlf.com) or go to <https://learning.ftlf.com>