

Environmental Health & Safety

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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.

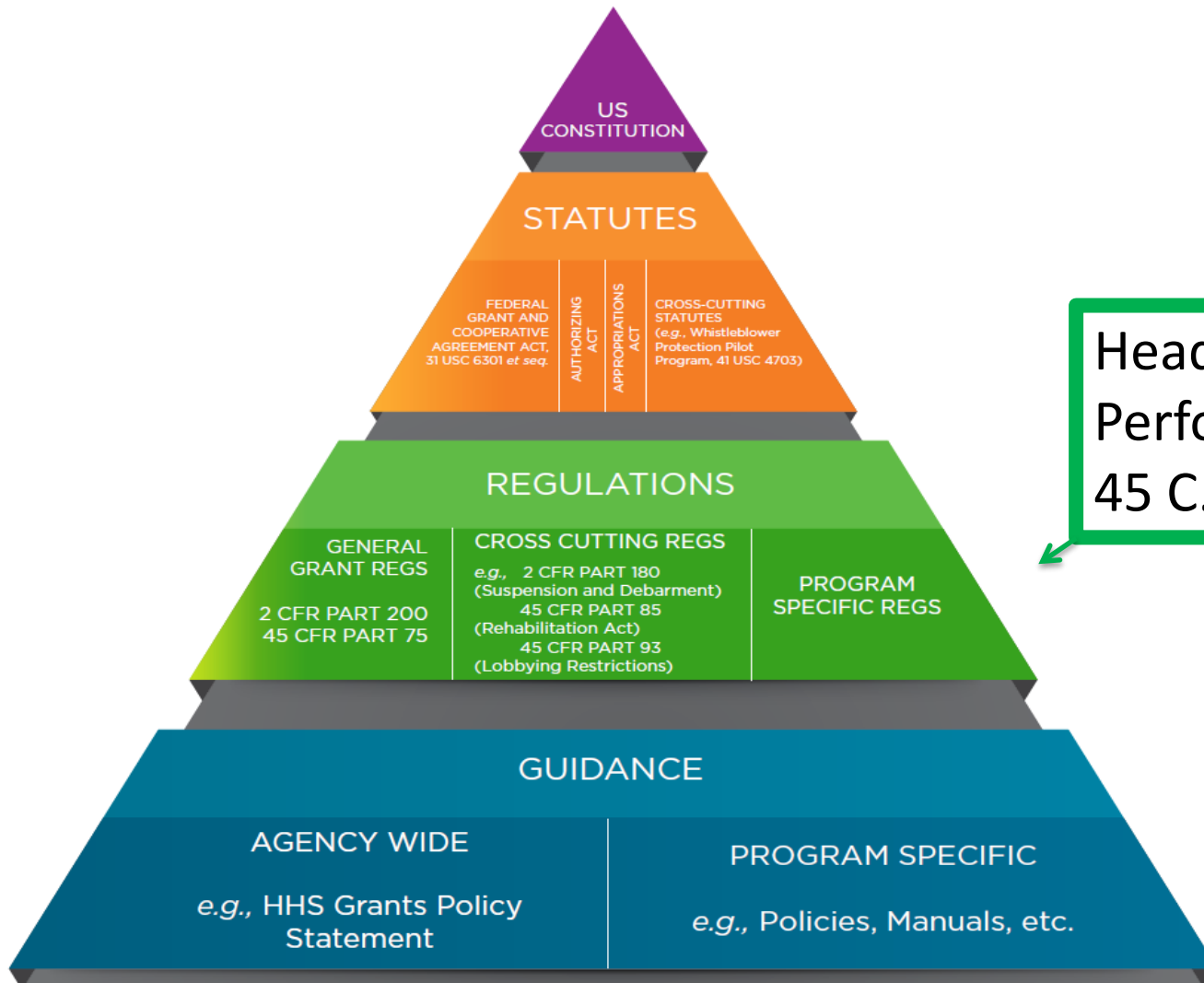
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AGENDA

- Staff background checks
- Safety training and practices
- Supervision and release of children to authorized adults
- Facilities
- Equipment and Materials
- Transportation
- Reporting of safety incidents
- How to avoid deficiencies and other negative findings

WHERE DO THE RULES COME FROM?



Head Start Program Performance Standards
45 C.F.R. 1301 *et seq.* 



HEALTH AND SAFETY REGULATIONS

Part 1302—Program Operations

Subpart D—Health Program Services

1302.47 Safety practices

HOW TO IMPLEMENT THE REQUIREMENTS

- Policies and Procedures
- Training: Training on the policy
- Reporting*: Violations of policy
- Re-training: Ongoing re-training & re-training in the event of violations
- Discipline: Enforcement of policy

1302.47 SAFETY PRACTICES

(a) A program must establish, train staff on, implement, and enforce a system of health and safety practices that ensure children are kept safe at all times. A program should consult *Caring for our Children Basics*, available at http://www.acf.hhs.gov/sites/default/files/e cd/caring_for_our_children_basics.pdf, for additional information to develop and implement adequate safety policies and practices described in this part.

CARING FOR OUR CHILDREN BASICS

Caring for Our Children Basics Health and Safety Foundations for Early Care and Education



1302.47 SAFETY PRACTICES

(b) A program must develop and implement a **system of management**, including ongoing **training, oversight, correction and continuous improvement** in accordance with §1302.102, that includes policies and practices to ensure all facilities, equipment and materials, background checks, safety training, safety and hygiene practices and administrative safety procedures are adequate to ensure child safety.

Background Checks

§1302.47(b)(3) BACKGROUND CHECKS

A system must ensure that:

“All staff have complete background checks in accordance with §1302.90(b).”

Staff: Paid adults who have responsibilities related to children and their families who are enrolled in programs.

BACKGROUND CHECKS

Before hiring:

- (1) conduct an interview;
- (2) verify the personal and employment references
- (3) Obtain either
 - (1) State or tribal criminal history records with fingerprints; or
 - (2) FBI criminal history records with fingerprints

Head Start Act §648A(g)

(4) Conduct a sex offender registry check

45 C.F.R. §1302.90(b)

BACKGROUND CHECKS

- **NEW**
- Within **90** days of date of hire:
- Obtain whichever criminal records check was not obtained prior to the date of hire
- Obtain child abuse and neglect state registry check, if available
- Review information found in each employment application and complete background check to assess the relevancy of any issues
- 45 C.F.R. §1302.90
- **Repeat Background Check process every 5 years.**

Safety Training

SAFETY TRAINING

STAFF WITH REGULAR CHILD CONTACT

- **initial orientation training within three months of hire**
 - ongoing training
 - (A) infectious diseases;
 - (B) safe sleeping practices;
 - (C) administration of medication
 - (D) emergencies due to food and allergic reactions;
 - (E) building and physical premises safety
 - (F) shaken baby syndrome, abusive head trauma;
 - (G) Emergency preparedness;
 - (H) Handling, storage and disposal of hazardous materials;
 - (I) Transportation;
 - (J) First aid and cardiopulmonary resuscitation; and,
 - (K) Recognition and reporting of child abuse and neglect
- 1302.47(b)(i)(4)

SAFETY TRAINING

STAFF WITHOUT REGULAR CHILD CONTACT

- **initial orientation training within three months of hire** ongoing training
 - in all state, local, tribal, federal and program-developed health and safety requirements applicable to their work; and
 - emergency and disaster preparedness procedures.

1302.47(b)(ii)

STANDARDS OF CONDUCT

§1302.90(c)

- (i) positive strategies;
- (ii) no maltreatment or endangering the health or safety of children, including that staff, consultants, contractors and volunteers may not
 - Use corporal punishment;
 - Use isolation to discipline a child;
 - Restrict movement or tape a child's mouth;
 - Use or withhold food as a punishment or reward;
 - Use toilet learning/training methods that punish, demean, or humiliate a child;
 - Abuse a child emotionally, physically or verbally;
 - Use physical activity or outdoor time as a punishment or reward;

STANDARDS OF CONDUCT

- (iii) Respect and promote the unique identity of each child and family and do not stereotype;
- (iv) Comply with program confidentiality policies concerning personally identifiable information about children, families, and other staff members in accordance with subpart C of part 1303 of this chapter and applicable federal, state, local, and tribal laws; and,
- (v) Ensure no child is left alone or unsupervised by staff, consultants, contractors, or volunteers while under their care.

STANDARDS OF CONDUCT

Personnel policies and procedures must include appropriate penalties for staff, consultants and volunteers who violate the standards of conduct. §1302.90(c)(2)

Practice makes perfect prepared

SAFETY PRACTICES












All staff and consultants follow appropriate practices to keep children safe during all activities, including, at a minimum:

- (i) child abuse and neglect;
- (ii) Safe sleep practices;
- (iii) Indoor and outdoor supervision;
- (iv) Only releasing children to an authorized adult, and;
- (v) All standards of conduct described in §1302.90(c).

INFECTIOUS DISEASE

- “Protection from contagious disease, including appropriate inclusion and exclusion policies for when a child is ill, and from an infectious disease outbreak, including appropriate notifications of any reportable illness”
- Excluding teachers
- immunization requirements

CDC RECOMMENDATIONS

 Birth	 1 month	 2 months	 4 months	 6 months	 12 months	 15 months	 18 months	 19-23 months	 2-3 years	 4-6 years	
HepB	HepB			HepB							
		RV	RV	RV							
		DTaP	DTaP	DTaP		DTaP				DTaP	
		Hib	Hib	Hib	Hib						
		PCV13	PCV13	PCV13	PCV13						
		IPV	IPV	IPV						IPV	
				Influenza(Yearly)*							
					MMR					MMR	
					Varicella					Varicella	
					HepA ₂						

<https://www.cdc.gov/vaccines/schedules/easy-to-read/child-easyread.html>

STATE VACCINATION REQUIREMENTS

SchoolVaxView School Vaccination Requirements and Exemptions

[CDC](#) > [SchoolVaxView Home](#)

Three reports are available. See definitions, methods, and disclaimer below.



State Vaccination Requirements	State Allowable Exemptions for Schools	State Web links
Grantee: <input type="text" value="All Grantees"/>	Grantee: <input type="text" value="All Grantees"/>	Grantee: <input type="text" value="All Grantees"/>
Grade: <input type="text" value="All Grades"/>		
Vaccine: <input type="text" value="All Vaccines"/>		
<input type="button" value="Get Results"/>	<input type="button" value="Get Results"/>	<input type="button" value="Get Results"/>
Report shows vaccine(s), number of doses, details, effective date, and any additional comments.	Report shows state(s), temporary or permanent medical exemptions, religious, and philosophical exemptions.	Report shows for each state(s) links to 1)state health dept., 2) state immunization, and 3) school requirements web site.

<https://www2a.cdc.gov/nip/schoolsurv/schImmRqmt.asp>

SAFE SLEEP PRACTICES

- Ensure children under 18 months use firm mattresses or cots
- For children under 12 months, soft bedding materials or toys must not be used.

AGE APPROPRIATE SLEEPING ARRANGEMENTS

- ▶ Does the program ensure that sleeping arrangements for infants (e.g., cribs, playpens, bassinets) are free of soft bedding materials (e.g., soft mattresses, pillows, stuffed animals, fluffy blankets, comforters)?
(Applies only to programs serving infants and toddlers.)

ADMINISTERING MEDICINE

- prescription or non-prescription medicine ordered by the prescribing health professional for a specific child with written permission of the parent/guardian.
- Storage
- Logs

MEDICATION MANAGEMENT

- ▶ Are any children currently receiving medications?
- ▶ Are over-the-counter medications in original containers, and does the program have written orders from a physician that include dosage and length of time to administer the medication?
- ▶ Are non-emergency medications stored under lock and key?

MEDICATION MANAGEMENT CONTINUED

- ▶ If children are currently receiving medication, compare labeling with information noted on the Medication Administration Log. Are all medications given as prescribed?
- ▶ Are prescribed medications in original containers with original prescription labels?
- ▶ Are all medications within their dates of expiration?

ALLERGIES

- Written care plans
- Parents/guardian notification
- Reporting when epinephrine has been administered
- Posting

SHAKEN BABY SYNDROME

- Identify shaken baby syndrome and abusive head trauma.
- Prevent shaken baby syndrome and abusive head trauma

FIRST AID

Maintain up-to-date first aid and emergency supplies in each location in which children are cared.

HYGIENE

- Appropriate toileting, hand washing and diapering
- Safe food preparation
- Exposure to blood and body fluids

Supervision and Release of children to authorized adults

SUPERVISION

Age	Child Care Centers Maximum Child: Provider Ratio
≤ 12 months	4:1
13-23 months	4:1
24-35 months	4:1-6:1
3-year-olds	9:1
4- to 5-year-olds	10:1

PRESCHOOL-AGE GROUP RATIO 3.2

- ▶ What is the predominant age of children in the class as determined at the start of the program year?
- ▶ How many staff members are assigned to this classroom or group?
- ▶ How many children are enrolled in the classroom according to the program's documentation?
- ▶ How many children are currently present in the classroom?

FCC GROUP RATIO 3.2

- ▶ What age group does the FCC Provider serve?
- ▶ How many children are currently present in the group?
- ▶ Is an assistant present?
- ▶ How many children under 2 years of age are present in the group?
- ▶ How many children under 18 months of age are currently present in the group?

INFANT/TODDLER GROUP RATIO 3.2

Applies only to programs serving infants and toddlers

- ▶ How many infants/toddlers are currently present in the group?
- ▶ How many staff members are currently present with the group?

MORE ON SUPERVISION

Standards of Conduct Requirement:

Ensure no child is left alone or unsupervised by staff, consultants, contractors, or volunteers while under their care.

RELEASING CHILDREN

- Adults authorized by parents or legal guardians whose identity is verified by photo identification
- Obtain information during enrollment and review
- Clarify custody orders

APPROPRIATE RELEASE 3.4

Interview—Head Start Director

- ▶ With the Head Start Director, review the program's documented policies and procedures regarding the release of children and the emergency contact list of authorized parents and guardians to whom children can be released.
 - How do teaching staff know which adults are authorized to pick up children?

APPROPRIATE RELEASE 3.4

- How do bus staff know which adults are authorized to pick up children when they leave the bus and where each child is to be dropped off?
- What process is in place to release children from center or FCC settings/ as they leave the bus?
- How is information to support the process kept up to date? Is the information easily accessible?

APPROPRIATE RELEASE 3.4

- ▶ In the past 12 months, has a child been released to an unauthorized adult or dropped off at the wrong location?
- ▶ When did the incident occur?
- ▶ Was the incident reported to the Regional Office?
- ▶ What was the result of the report to the Regional Office?

RISK-ASSESSMENT GUIDE INAPPROPRIATE RELEASE

Risk-Assessment Guide

Incident Details

- ▶ How was the child released? Select all that apply.
 - Child was dropped off at the wrong location.
 - Child was released to the wrong adult.
 - Child was left unattended.

RISK-ASSESSMENT GUIDE INAPPROPRIATE RELEASE

- ▶ Where was the child released inappropriately?
 - Bus stop
 - Home or alternate facility
 - Center or FCC
- ▶ How old was the child when the incident occurred?

RISK-ASSESSMENT GUIDE INAPPROPRIATE RELEASE

Cause

- ▶ Please describe what happened and why a child was released inappropriately.
- ▶ Typically, what should have happened? Please email the Review Field Lead (RFL) a copy of the program's Release Procedures.
- ▶ How do staff know their roles in ensuring children are released safely and to the correct person?

RISK-ASSESSMENT GUIDE INAPPROPRIATE RELEASE

- ▶ In what way, and how often, do you check in with staff to ensure they follow the program's Release Procedures?
- ▶ Based on the above information, select the option that best explains why a child was released inappropriately:
 - There was no system in place to ensure that children were released to an authorized adult.

RISK-ASSESSMENT GUIDE

INAPPROPRIATE RELEASE

- A system existed and was followed correctly, but a child was released inappropriately.
- A system existed, but staff did not follow the system.

Time

- ▶ Ask the program for specific documentation or evidence regarding the length of time the child was alone or with an unauthorized adult. Please describe the evidence submitted.

RISK-ASSESSMENT GUIDE INAPPROPRIATE RELEASE

- ▶ Based on the evidence submitted by the program, how long was the child left alone or with an unauthorized adult?
 - 1–5 minutes
 - 6–15 minutes
 - 16–29 minutes
 - 30 or more minutes
 - Time was unknown, or evidence was not provided by the program

RISK-ASSESSMENT GUIDE INAPPROPRIATE RELEASE

Effect

- ▶ Please indicate which of the following occurred. Select all that apply.
 - The child was seriously injured.
 - The child was exposed to harsh conditions (e.g., extreme weather conditions).
 - The child was found by someone other than Head Start staff.
 - The child was left alone.

Facilities, Equipment and Materials

FACILITIES

(1) *Facilities*. All facilities where children are served, including areas for learning, playing, sleeping, toileting, and eating are, at a minimum:

- (i) Meet licensing requirements in accordance with §§1302.21(d)(1) and 1302.23(d);
- (ii) Clean and free from pests;
- (iii) Free from pollutants, hazards and toxins that are accessible to children and could endanger children's safety;
- (iv) Designed to prevent child injury and free from hazards, including choking, strangulation, electrical, and drowning hazards, hazards posed by appliances and all other safety hazards;

FACILITIES (CONT.)

- (v) Well lit, including emergency lighting;
- (vi) Equipped with safety supplies that are readily accessible to staff, including, at a minimum, fully-equipped and up-to-date first aid kits and appropriate fire safety supplies;
- (vii) Free from firearms or other weapons that are accessible to children;
- (viii) Designed to separate toileting and diapering areas from areas for preparing food, cooking, eating, or children's activities; and,
- (ix) Kept safe through an ongoing system of preventative maintenance.

EQUIPMENT AND MATERIALS

Indoor and outdoor play equipment, cribs, cots, feeding chairs, strollers, and other equipment used in the care of enrolled children, and as applicable, other equipment and materials meet standards set by the **Consumer Product Safety Commission** (CPSC) or the **American Society for Testing and Materials, International** (ASTM). All equipment and materials must at a minimum:

- (i) Be clean and safe for children's use and are appropriately disinfected;
- (ii) Be accessible only to children for whom they are age appropriate;
- (iii) Be designed to ensure appropriate supervision of children at all times;
- (iv) Allow for the separation of infants and toddlers from preschoolers during play in center-based programs; and,
- (v) Be kept safe through an ongoing system of preventative maintenance.

Transportation

TRANSPORTATION REGULATIONS

Part 1303—Financial and Administrative Requirements

1303 Subpart F—Transportation

1303.70 Purpose.

1303.71 Vehicles.

1303.72 Vehicle operation.

1303.73 Trip routing.

1303.74 Safety procedures.

1303.75 Children with disabilities.

IMPORTANT DEFINITIONS

Part 1305—Definitions

– 1305.2 Terms

- *Allowable alternate vehicle*
- *Child restraint system*
- *Commercial Driver's License (CDL)*
- *Federal Motor Vehicle Safety Standards (FMVSS)*
- *Fixed route*
- *Transportation services*

DRIVER TRAINING

- (1) A program must ensure any person employed as a driver receives training prior to transporting any enrolled child and receives refresher training each year.

- (2) Training must include:
 - (i) Classroom instruction and **behind-the-wheel instruction** sufficient to enable the driver to operate the vehicle in a safe and efficient manner, to safely run a fixed route, to administer **basic first aid** in case of injury, and to **handle emergency situations**, including **vehicle evacuation**, operate any special equipment, such as wheelchair lifts, assistance devices or special occupant restraints, conduct routine maintenance and safety checks of the vehicle, and maintain accurate records as necessary; and,
 - (ii) Instruction on the topics listed in §1303.75 related to transportation services for **children with disabilities**.

- (3) A program must ensure the **annual evaluation** of each driver of a vehicle used to provide such services **includes an on-board observation** of road performance.

BUS MONITOR TRAINING

(e) Bus monitor training. A program must train each bus monitor before the monitor begins work, on

- child boarding and exiting procedures,
- how to use child restraint systems,
- completing any required paperwork,
- how to respond to emergencies and emergency evacuation procedures,
- how to use special equipment,
- child pick-up and release procedures,
- how to conduct and pre- and post-trip vehicle checks.
- Bus monitors are also subject to staff safety training requirements in §1302.47(b)(4) of this chapter including Cardio Pulmonary Resuscitation (CPR) and first aid.

What and When to Report?

REPORTING TO OHS

1302.102 (d)(1)(ii)

“Reports, *as appropriate*, to the responsible HHS official **immediately or as soon as practicable**, related to any **significant incidents** affecting the health and safety of program participants, circumstances affecting the financial viability of the program, breaches of personally identifiable information, or program involvement in legal proceedings, any matter for which notification or a report to state, tribal, or local authorities is required by applicable law, including at a minimum:

(A) Any reports regarding agency staff or volunteer compliance with federal, state, tribal, or local laws **addressing child abuse and neglect or laws governing sex offenders...**”

OTHER ISSUES TO REPORT TO OHS

- (B) Incidents that require classrooms or centers to be closed for any reason;
- (C) Legal proceedings by any party that are directly related to program operations; and,
- (D) All conditions required to be reported under §1304.12, including disqualification from the Child and Adult Care Food Program (CACFP) and license revocation.

RECENT REPORTING GUIDANCE

Ann Linehan, Acting Director of the Office of Head Start
January 3, 2018 Letter

“...some grantees may believe they are required to report all health and safety incidents, ***even when they are not significant incidents and do not harm or endanger children.*** Grantee characteristics like climate, locale – urban, rural, remote, shared facilities including playgrounds, level of security systems, just to name a few – vary greatly, and **it would be impossible for the Office of Head Start to issue a definitive list of what are considered non-reportable insignificant incidents.”**

RECENT REPORTING GUIDANCE CONTINUED

“To determine which incidents are reportable, grantees should work with management, governing bodies, Health Advisory Committees, mental health consultants, and local or state licensing agencies to **develop guidelines that differentiate between** staff, consultant or volunteer practices, and/or **behaviors that need improvement but do not harm or endanger** children, versus **reportable practices or behaviors that harm or endanger children.**”

RISK-ASSESSMENT GUIDE INAPPROPRIATE RELEASE

Reporting

- ▶ When did the program report this incident to the Regional Office?
 - The day the incident occurred
 - One to 3 business days after the incident occurred
 - More than 3 business days after the incident occurred
 - The program did not report to the Regional Office

RISK-ASSESSMENT GUIDE

INAPPROPRIATE RELEASE

- ▶ Did the program report this incident to the child's legal guardian?
- ▶ Did the program report this incident to the licensing agency?
- ▶ Is the program required to report to the licensing agency?

What is a Deficiency and how to avoid one?

ACTIVE SUPERVISION FAQ

2. At what point would lack of implementing an active supervision policy and procedures lead to either a noncompliance or deficiency?

Active supervision is a recommended practice for ensuring child safety. The Head Start Program Performance Standards require that facilities and practices meet health and safety standards and that children be supervised at all times. Any failure to meet those specific requirements could lead to a noncompliance or deficiency but much more seriously an injury to a child. *See p.3*

DEFICIENCIES

- (A) “a systemic or substantial material failure** of an agency in an area of performance that the Secretary determines involves—
- (i) a threat to the health, safety, or civil rights of children or staff;
 - (ii) a denial to parents of the exercise of their full roles and responsibilities related to program operations;
 - (iii) a failure to comply with standards related to early childhood development and health services, family and community partnerships, or program design and management;
 - (iv) the misuse of funds received under this subchapter;” →

DEFICIENCIES

- “(v) loss of legal status (as determined by the Secretary) or financial viability, loss of permits, debarment from receiving Federal grants or contracts, or the improper use of Federal funds; or
- (vi) failure to meet any other Federal or State requirements that the agency has shown an unwillingness or inability to correct, after notice from the Secretary, within the period specified;
- (B) systemic or material failure of the governing body of an agency to fully exercise its legal and fiduciary responsibilities; or**
- (C) An unresolved area of noncompliance.”**

QUESTIONS

UPCOMING TRAINING OPPORTUNITIES

Webinars

Sept. 19 th @ 3PM	Non-Federal Share Match Requirement for Head Start
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Live Trainings

July 18 th – 19 th	Head Start Leadership Workshop: How to Prepare for Monitoring in the New Era	Washington, DC
July 25 th – 26 th	Head Start Leadership Workshop: Fiscal Management	Washington, DC
Nov. 7 th – 8 th	Head Start Training (soon to come on LMS)	Orlando, FL

For more information and to register: Email learning@ftlf.com or go to learning.ftlf.com