

# AMENDMENTS TO THE HEAD START ACT, 42 U.S.C. § 9840, TO IMPROVE ENROLLMENT OF NATIVE AMERICAN CHILDREN

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## Introduction

This paper is to provide background on the proposal to amend the Head Start Act to give Indian Tribes the flexibility to establish the criteria for participation in American Indian/Alaska Native (AI/AN) Head Start programs, respecting tribal sovereignty while providing for greater local control. The National Indian Head Start Directors Association (NIHSDA) has met with HHS leadership and HHS is very supportive of this proposal. The Administration for Children and Families is also ready to implement these proposed changes. This proposal is budget neutral.

## **Problem: Overly Restrictive and Outdated Federal Low-Income Criteria Prevent Many AI/AN Children from Participating in Head Start**

The Head Start Act requirement that Indian Head Start programs enroll children whose families meet low-income criteria is dated and does not reflect the actual economic circumstances in Native communities, where a large percentage of the population is only just over-income. 42 U.S.C. § 9840(d)(1).

The Head Start Act allows some flexibility for Indian tribes that operate Head Start programs. Currently AI/AN programs could fill up to 49% of their slots with over-income children as long as the remaining 51% are income-eligible and all low-income children in the service area are served. This is problematic in many AI/AN programs because low-income non-AIAN children are filling slots in AI/AN programs.

In nearly a third (27%) of AI/AN HS/EHS programs, less than 75% of the children served are AI/AN (and in 8% of programs it's less than 50%). Further, 18% of AI/AN programs have fully exhausted their eligibility flexibility, and in over a third (37%) of these programs, less than 75% of the children served are AI/AN.

Indian Head Start programs are increasingly finding that their programs are not fully serving their Native communities in the manner Congress originally intended. Currently, 85,000 AI/AN children are not being served by Indian Head Start programs. AI/AN children are excluded from Indian Head Start programs because Tribes and local businesses are paying wages that put some Indian families just above the low-income limits, despite the broader impacts of long-term poverty that prevails within their communities. Incredibly, this has led some parents to divorce just so their children can access Indian Head Start. Several Tribes have made the difficult decision to terminate their Head Start programs because, as the conditions of their communities improved, their children were pushed out as over-income, even though many families were only just barely over income. (Rincon Band of Luiseño Indians (CA), Upper Skagit Indian Tribe (WA), Southern Ute Indian Tribe (CO), Osage Nation (OK)).

Indian Head Start programs play a unique role in Native communities, because they are often the center for the preservation and revitalization of Native languages and cultures. Indian Head Start programs serve as a critical link between tribal children and elders, and foster community learning.

American Indian/Alaska Native children in particular need access to Head Start. Like other groups served under the Head Start Act, AI/AN children suffer high rates of adverse childhood experiences such as abuse, household substance abuse, household mental illness, parental separation and divorce, and incarceration of household members. AI/AN children are also statistically more likely to have school attendance issues, academic failure, and exhibit behavioral problems.

Indian Head Start programs help AI/AN children reclaim their native identities, drive personal investment in their communities, provide safe spaces to heal from current and inherited trauma, and comprise the foundation of a successful future K-12 education. It is critically important that Indian Head Start programs reach as many AI/AN children as possible.

## **Legislative Proposal**

For the last few years, Tribal Leaders and advocates have been hard at work gathering support in Congress for a legislative change to the Head Start Act to improve Tribal autonomy over eligibility in Indian Head Start programs. The proposal has the support of Tribes, the Administration, the National Indian Head Start Directors Association, and the National Indian Education Association, NIEA Resolution 2023-01 (Nov. 16, 2023). In mid-July the House Appropriations Subcommittee included in its Fiscal Year 2024 bill a provision to address eligibility issues that NIHSDA has been supporting on the Hill:

*That notwithstanding the income eligibility requirements of subsection (a) and paragraphs (1) and (2) of subsection (d) of section 645 of the Head Start Act, and of the income eligibility criteria and allowances prescribed in regulations under such Act, an Indian tribe that operates a Head Start program may, at its discretion, establish selection criteria, including criteria to prioritize children in families for which a child, a family member, or a member of the same household, is a member of an Indian tribe, to enroll children who would benefit from the Head Start program.*

The Senate Appropriations Committee included similar language in its Fiscal Year 2024 bill:

*In this and all fiscal years hereafter, notwithstanding the income eligibility requirements of subsections (a) and paragraphs (1) and (2) of subsection (d) of section 645 of the Head Start Act and income eligibility criteria and allowances prescribed in regulations, an Indian tribe that operates a Head Start program may, at its discretion, establish selection criteria, including criteria to prioritize children in families for which a child, a family member, or a member of the same household, is a member of an Indian tribe, to enroll children who would benefit from the Head Start program.*

The language in the House bill will be limited to one fiscal year—2024. However, the underlined language in the Senate bill could make this a “no-year” provision if we are successful in getting the language signed into law. In other words, a “no-year” eligibility fix would apply for 2024 and all years going forward.

## **Request**

We ask that you please support this proposed legislative fix and do whatever you can to ensure that this proposed amendment not only makes it into the final Labor-HHS Appropriations bill for 2024, but to also ensure that this becomes a permanent fix rather than a one-year band-aid. This legislative proposal is important for Tribes and our Head Start programs and already has bipartisan support in both chambers of Congress. Please make sure it remains a priority over the next few weeks. This change cannot wait for reauthorization of the Head Start Act.

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