

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 opportunities to participate in activities that engage their Native language and culture.

In accordance with the Head Start regulations at 45 CFR §§[1302.14](#) and [1302.11\(b\)](#), AIAN 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. The 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. Programs do not need to update their selection criteria at this time. However, if a program opts to change its selection criteria in response to the new provision in Section 238, it must engage in consultation with and obtain approval from its governing body and policy council. The program can then begin using the updated criteria. Additionally, all programs must include their selection criteria in their annual refunding application.

Per Section 238, AIAN Head Start programs no longer have income requirements for eligibility. This means that AIAN programs do not need to collect income information from families for the purposes of eligibility. However, if an AIAN program decides to use income as part of its selection criteria to support making determinations regarding families most in need, it should collect family income information accordingly.

This new law is effective immediately. It applies this fiscal year and for all future years. 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.

Additional Details on Eligibility, Recruitment, Selection, Enrollment, Attendance (ERSEA) Requirements

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 the Further Consolidated Appropriations Act, 2024, and existing HSPPS eligibility requirements, AIAN programs should follow the new statutory provision in Section 238. For example, tribal programs are no longer required to verify eligibility based on income or maintain income eligibility records ([45 CFR §1302.12\(i\),\(k\)](#)).

While this new law changes income 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. Existing enrollment ([45 CFR §1302.15](#)) and attendance ([45 CFR §1302.16](#)) regulations also remain.

As emphasized in Section 238, a tribal program may, at its discretion, use selection criteria to give priority to children in families where a child, a family member, or a member of the same household is a member of an Indian tribe and would benefit from the Head Start program. 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.

Please note that guidance under ACF-IM-HS-23-02 American Indian and Alaska Native (AIAN) Eligibility Through Tribal TANF is no longer relevant. AIAN programs no longer must adhere to income eligibility requirements, inclusive of Head Start program eligibility due to receipt of public assistance.

Data and Reporting

The OHS [Program Information Report \(PIR\)](#) provides comprehensive data on the services provided and staff, children, and families served by Head Start and Early Head Start programs nationwide. All grant recipients and delegates are required to submit a PIR annually. The 2024–2025 PIR will be updated to reflect these changes to AIAN eligibility policy. OHS issued guidance to grant recipients on May 9 on how to submit the 2023–2024 PIR for those AIAN programs that deem families eligible per the new language in Section 238 during this program year.

Monitoring

The Head Start Act requires periodic federal review of all Head Start programs. Recipients with upcoming FY 2024 [monitoring reviews](#) will be monitored according to these changes to AIAN eligibility policy. FY 2025 monitoring protocols will reflect these changes.

Full Enrollment Initiative

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

Change in Scope Process

This new eligibility provision will not impact Change in Scope applications that have already been approved and implemented. If you have questions about a change in scope request, please reach out to your regional office.

Training and Technical Assistance (TTA) and Ongoing Support

With this new law, many resources and materials available to programs on the [Early Childhood Learning and Knowledge Center \(ECLKC\)](#) need to be updated. It will take time to align the website with the new provision.

OHS encourages recipients to continue to use the TTA system, inclusive of the [four National Centers](#) and the Region XI TTA network, for support. The OHS TTA system supports program staff in delivering quality services to children and families. The TTA system offers support at the

national, regional, and recipient levels. While each level has distinct and unique functions, they are designed to complement each other.

OHS anticipates that programs will have questions about these changes. We welcome your feedback and communication throughout the implementation process. Specific opportunities to provide feedback through the Tribal consultation process will be shared soon. Please send your questions about these changes to AIANHeadStart@acf.hhs.gov.

OHS is grateful for your partnership in implementing this important change so that more families in tribal communities are eligible for Head Start services. Thank you for the work you do on behalf of children and their families. I look forward to our continued partnership.

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