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PART III



**DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE**

Office of Human Development



HEAD START PROGRAM

**Identification and Reporting of Child
Abuse and Neglect; Policy Instruction**

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and Neglect; Policy Instruction**

The Proposed Policy Instruction on Identification and Reporting of Child Abuse and Neglect was published in the FEDERAL REGISTER on January 20, 1976, prescribing instructions on the identification and the reporting of child abuse and neglect for Head Start and delegate agencies.

Interested persons and organizations were invited to submit comments on or before March 26, 1976. Eight-two (82) comments were received from thirty-seven (37) individuals and organizations in regard to the Proposed Policy Instruction. Of thirty-seven (37) individuals and organizations, thirty-five (35) concurred with the proposed policy, accompanied by some recommendations and comments. The other two (2) opposed the proposed policy on the grounds that child abuse was rare and that reporting of child abuse or neglect cases could jeopardize the trust relationship between Head Start staff and parents. Comments and recommendations were generally thoughtful and helpful and they covered primarily the following:

A. The definition of child abuse and neglect should be separated and distinguished considering the definition of child abuse as a "willful" act, while neglect is often an outcome of environmental or educational circumstances.

B. "Suspected" child abuse should be recognized as justifiable for reporting.

C. Head Start has already been playing a significant role in preventing and alleviating the problems of child abuse and neglect, and the proposed policy does not fully recognize this fact.

D. There is a concern over personal protection from physical or mental harassment that could occur as a result of reporting.

E. The admission of already "eligible" children on the grounds of abuse or neglect does not serve the purpose that the admission of "ineligible" children on these grounds would.

F. Parents and communities need to be made aware of the seriousness of child abuse and neglect, educated on laws governing it, as well as informed about agencies that are available to them to help prevent child abuse and the services Head Start offers in this area.

G. There is a desire and need by the staff and parents for training and education about child abuse and neglect and the laws concerning this issue.

H. When the Head Start program is located within the jurisdiction of an American Indian tribe, the reporting in accordance with tribal code should be accepted on the same basis as reporting in accordance with State law.

It was suggested that the definition of child abuse and neglect be separated and distinguished considering the defini-

tion of child abuse as a "willful" act, while neglect is often an outcome of environmental or educational circumstances. The reason for distinguishing the definition of the two seems to be based on an assumption that abuse is a willful act, whereas neglect is not, and that parents or guardians who abuse children are more responsible for their acts than those who neglect children. Yet, neglecting a child can be just as harmful in many instances as abusing a child, in our opinion. This policy requires the Head Start agencies to comply with the State law in identifying and reporting child abuse and neglect. Since many State laws do not distinguish the definitions of the two, it would be confusing to some Head Start agencies. Office of Child Development (OCD) did not revise the policy based on this comment.

It has been a concern to OCD that the reporting of child abuse and neglect may strain the relationship between Head Start and parents. However, this distressing social problem of child abuse and neglect must be dealt with, and it is our hope that it can be done without damaging the trust relationship with parents. We recognize the potential public relations problems inherent in implementing this policy, but must keep in mind the threat which abuse and neglect imposes on children who become victims. If Head Start did not report a child abuse or neglect case to preserve a trust relationship with parents, the credibility and viability of Head Start may be jeopardized with other parents, staff members, and the public. This kind of problem can be minimized or prevented if Head Start agencies provide an orientation session for parents where the nature of the problem, available treatment and resources, and the position of Head Start, can be discussed, accompanied by the social service coordinator's working closely with the parents throughout the year. OCD made no revision based on this comment.

It was pointed out that the admission of already "eligible" children on the grounds of abuse or neglect does not serve the purpose that the admission of "ineligible" children on these grounds would. OCD appreciated this comment. However, if this policy did change the eligibility by allowing Head Start to accept otherwise ineligible children, Head Start would become a child abuse and neglect treatment agency. This raises a series of issues in terms of the local Head Start's resources and working relationship with the State-designated agency as well as legal questions under the Headstart-Follow Through Act. OCD made no revision based on this comment.

While we concur with the desirability of requiring reporting of "suspected" child abuse and neglect, the reporting laws of several States do not mandate or authorize the making of reports on the basis of evidence of abuse and neglect which arouses only a suspicion. In such States the reporting statute would not grant immunity from civil and criminal liability to a reporter who based his re-

port on suspicion. This policy, therefore, even though it requires reports by Head Start agencies and personnel in all cases reportable under State or local laws, whether mandatory or voluntary, does not impose a universal duty to report suspected child abuse and neglect. Thus, the phrase, "child abuse and neglect," as used herein, refers to both the definition of abuse and neglect under applicable State law, and the evidentiary standard required for reporters under applicable State law. OCD made no change based on this comment.

The following changes have been made on the Proposed Policy Instruction based on these comments:

A. "Applicable" is added immediately before "State", and "local" is added immediately after "State", where appropriate, to allow Indian tribes who do not follow the State laws to report in accordance with the tribal code.

B. The last paragraph of Section N-30-356-1-30, Policy—A. *General provisions*, was revised to recognize the role that Head Start has been playing in preventing child abuse and neglect.

C. *Training*, (2) under B. *Special provisions*, was strengthened to make communities aware of the seriousness of child abuse and neglect and to accommodate the needs and wants for training, by the Head Start staff members and parents, in child abuse and neglect.

This policy instruction is published pursuant to the requirements of section 517(d), Title V, Economic Opportunity Act of 1964, as amended by section 8(a) of the Headstart, Economic Opportunity, and Community Partnership Act of 1974.

The National Center on Child Abuse and Neglect has been established in the Office and Child Development to implement the Child Abuse Prevention and Treatment Act ("the Act"), Pub. L. 93-247. Although Head Start is not specially affected by the new child abuse and neglect Act, the establishment of the National Center has increased our awareness of the role that Head Start can and, in fact, has been playing in the effort to prevent and identify child abuse and neglect and find help for the child and his/her family. Thus, the establishment of the Center and increased Federal effort in child abuse and neglect prevention, identification, treatment, and reporting have prompted a careful reexamination of what Head Start has been doing about this most distressing problem and development of specific guidance to assist Head Start programs in dealing with it.

States set different requirements for pre-school and day care staff in reporting suspected child abuse and neglect cases. Twenty-nine (29) States mandate pre-school and day care staff to report suspected child abuse or neglect cases and twenty-five (25) States permit day care staff to report suspected child abuse or neglect cases. Therefore, Head Start agencies need policy guidance in dealing with suspected child abuse and neglect cases. This policy provides that guidance.

Effective date: This policy instruction shall be effective on January 26, 1977.

(Catalogue of Federal Domestic Assistance Programs No. 13,600 Child Development—Head Start.)

Dated: January 18, 1977.

JOHN H. MEIER,

Director,

Office of Child Development.

Approved: January 18, 1977.

STANLEY B. THOMAS, Jr.,
Assistant Secretary for
Human Development.

The Chapter N-30-356-1 in the Head Start Policy Manual reads as follows:

N-30-356-1-00 Purpose.

10 Scope.

20 Applicable law and policy.

30 Policy.

AUTHORITY: 80 Stat. 2304 (42 U.S.C. 2928h).

N-30-356-1-00 Purpose. This chapter sets forth the policy governing the prevention, identification, treatment, and reporting of child abuse and neglect in Head Start.

N-30-356-1-10 Scope. This policy applies to all Head Start and delegate agencies that operate or propose to operate a Full-Year or Summer Head Start program, or experimental or demonstration programs funded by Head Start. This issuance constitutes Head Start policy and noncompliance with this policy will result in appropriate action by the responsible HEW official.

N-30-356-1-20 Applicable law and policy. Section 511 of the Headstart-Follow Through Act, P.L. 93-644, requires Head Start agencies to provide comprehensive health, nutritional educational, social and other services to the children to attain their full potential. The prevention, identification, treatment, and reporting of child abuse and neglect is a part of the social services in Head Start. In order for a State to be eligible for grants under the Child Abuse Prevention and Treatment Act (hereinafter called "the Act"), P.L. 93-247, the State must have a child abuse and neglect reporting law which defines "child abuse and neglect" substantially as that term is defined in the regulations implementing the Act, 45 CFR 1340.1-2(b). That definition is as follows:

A. "(b) 'Child abuse and neglect' means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare.

"1. 'Harm or threatened harm to a child's health or welfare' can occur through: Nonaccidental physical or mental injury; sexual abuse, as defined by State law; or neglectful treatment or maltreatment, including the failure to provide adequate food, clothing, or shel-

ter. Provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian; however, such an exception shall not preclude a court from ordering that medical services be provided to the child, where his health requires it.

"2. 'Child' means a person under the age of eighteen.

"3. 'A person responsible for a child's health or welfare' includes the child's parent, guardian, or other person responsible for the child's health or welfare, whether in the same home as the child, a relative's home, a foster care home, or a residential institution."

In addition, among other things, the State would have to provide for the reporting of known or suspected instances of child abuse and neglect.

It is to be anticipated that States will attempt to comply with these requirements. However, a Head Start program, in dealing with and reporting child abuse and neglect, will be subject to and will act in accordance with the law of the State in which it operates whether or not that law meets the requirements of the Act. Thus, it is the intention of this policy in the interest of the protection of children to insure compliance with and, in some respects, to supplement State or local law, not to supersede it. Thus, the phrase "child abuse and neglect," as used herein, refers to both the definition of abuse and neglect under applicable State or local law, and the evidentiary standard required for reporters under applicable State or local law.

N-30-356-1-30 Policy—A. General provisions. 1. Head start agencies and delegate agencies must report child abuse and neglect in accordance with the provisions of applicable State or local law.

a. In those States and localities with laws which require such reporting by pre-school and day care staff, Head Start agencies and delegate agencies must report to the State or local agencies designated by the State under applicable State or local Child Abuse and Neglect reporting law.

b. In those States and localities in which such reporting by pre-school and day care staff is "permissive" under State or local law, Head Start agencies and delegate agencies must report child abuse and neglect if applicable State or local law provides immunity from civil and criminal liability for goodfaith voluntary reporting.

2. Head Start agencies and delegate agencies will preserve the confidentiality of all records pertaining to child abuse or neglect in accordance with applicable State or local law.

3. Consistent with this policy, Head Start programs will not undertake, on

their own, to treat cases of child abuse and neglect. Head Start programs will, on the other hand, cooperate fully with child protective service agencies in their communities and make every effort to retain in their programs children allegedly abused or neglected—recognizing that the child's participation in Head Start may be essential in assisting families with abuse or neglect problems.

4. With the approval of the policy council, Head Start programs may wish to make a special effort to include otherwise eligible children suffering from abuse or neglect, as referred by the child protective services agency.

However, it must be emphasized that Head Start is not nor is it to become a primary instrument for the treatment of child abuse and neglect. Nevertheless, Head Start has an important preventative role to play in respect to child abuse and neglect.

B. Special provisions—1. Staff responsibility. Directors of Head Start agencies and delegate agencies that have not already done so shall immediately designate a staff member who will have responsibility for:

a. Establishing and maintaining cooperative relationships with the agencies providing child protective services in the community, and with any other agency to which child abuse and neglect must be reported under State law, including regular formal and informal communication with staff at all levels of the agencies;

b. Informing parents and staff of what State and local laws require in cases of child abuse and neglect;

c. Knowing what community medical and social services are available for families with an abuse or neglect problem;

d. Reporting instances of child abuse and neglect among Head Start children reportable under State law on behalf of the Head Start program;

e. Discussing the report with the family if it appears desirable or necessary to do so;

f. Informing other staff regarding the process for identifying and reporting child abuse and neglect. (In a number of States it is a statutory requirement for professional child-care staff to report abuse and neglect. Each program should establish a procedure for identification and reporting.)

2. **Training.** Head Start agencies and delegate agencies shall provide orientation and training for staff on the identification and reporting of child abuse and neglect. They should provide an orientation for parents on the need to prevent abuse and neglect and provide protection for abused and neglected children. Such orientation ought to foster a helpful rather than a punitive attitude toward abusing or neglecting parents and other caretakers.

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