

# Head Start and Labor Unions

## ACYF-IM-HS-00-11

**NOTICE:** This Issuance is currently under review by the Office of Head Start.

In recent years, several national labor unions have increased their efforts to organize the workforce in local Head Start and child care programs. This Information Memorandum reiterates to grantees and delegate agencies the message in an earlier issuance, ACYF-IM-HS-97-14, which stated that "Funds appropriated to carry out this subchapter shall not be used to assist, promote or deter union organizing," (found in Section 644(e) of the Act). It also provides updated information based on recent program experience and questions those programs have confronted in the past several years.

U.S. DEPARTMENT  
OF HEALTH AND HUMAN SERVICES  
Administration for Children and Families

ACYF  
Administration on Children, Youth and Families

1. Log No. ACYF-IM-HS-00-11
2. Issuance Date: 03/27/00
3. Originating Office: Head Start Bureau
4. Key Words: Labor Unions

**INFORMATION MEMORANDUM** [[See Attachment at the bottom](#)]

**TO:** Head Start Grantees and Delegate Agencies, Early Head Start Grantees

**SUBJECT:** Head Start and Labor Unions

**BACKGROUND:** In recent years, several national labor unions have increased their efforts to organize the workforce in local Head Start and child care programs. In November 1997, the Administration for Children and Families (ACF) issued an Information Memorandum (ACYF-IM-HS-97-14) about union organizing in Head Start programs and use of Head Start funds. The relevant portion of the Act, Section 644(e), states that "Funds appropriated to carry out this subchapter shall not be used to assist, promote or deter union organizing." This Information Memorandum reiterates the earlier issuance and provides updated information based on experience and questions that have arisen in the past several years.

**INFORMATION:**

## **The National Labor Relations Act**

When a Head Start agency learns that a union is attempting to organize its workers, it is important that the agency learn about and adhere to the laws that govern union organizing. The National Labor Relations Act (NLRA) defines the rights and obligations of employers, employees and labor unions throughout the nation as they deal with issues related to organizing employees and the operating of unions. The majority of agencies that run Head Start programs - private, non-profit or for-profit organizations are covered by the NLRA and have the same rights and responsibilities in interacting with unions as other employers. These programs should be familiar with the requirements of the NLRA when dealing with union issues. The NLRA does not apply to State and local governments, including Indian Tribes.

Specific information about provisions of the NLRA is available from the National Labor Relations Board (NLRB), 1099 14<sup>th</sup> Street, Washington, D.C. 20570-0001, or from its Internet web site at <http://www.nlrb.gov>. The site includes the text of the NLRA, NLRB regulations, the text of *A Guide to Basic Law and Procedures under the National Labor Relations Act*, frequently asked questions and a listing of the NLRB's field offices to which specific questions should be addressed. A list of these offices is also attached.

The NLRB web site provides examples of employer conduct which violate the NLRA, such as:

- Threatening employees with loss of jobs or benefits if they join a union or engage in protected concerted activity.
- Questioning employees about their union sympathies or activities in circumstances that tend to interfere with, restrain or coerce employees in the exercise of their rights under the Act.
- Promising benefits to employees to discourage their union support.

The web site also contains examples of union activities which violate the NLRA, such as threats to employees that they will lose their jobs unless they support union activities or refusing to process a grievance because an employee has criticized union officers.

Because the legal issues related to union organizing and operation can be complex, it may be advisable for Head Start programs to obtain legal advice about their obligations and rights.

## **The Head Start Act**

In addition to complying with the NLRA, if covered, all Head Start grantees must comply with specific requirements of the Head Start Act, general Departmental rules and implementing regulations and applicable Office of Management and Budget (OMB) Circulars. In particular, section 644(e) of the Head Start Act pertains to the limitations on Head Start grantees regarding union efforts to organize employees. As the Head Start Act states. Federal Head Start grant funds must not be used to "assist, promote or deter union organizing." This restriction only applies to the use of Federal Head Start funds. If a grantee uses non-Head Start funds and resources for these purposes, such expenditures must be carefully documented and costs must be allocated in such away as to ensure that there is no misuse of Federal funds.

The Head Start Act thus prohibits the use of Federal Head Start funds for activities such as:

- Preparing and mailing materials intended to assist, promote or deter union organizing;
- Hiring or consulting legal counsel or consultants to advise the agency about how to assist, promote or deter union organizing;
- Holding meetings during regular duty hours whose purpose is to influence Head Start staff regarding union efforts to organize employees;
- Managers of Head Start programs planning or conducting activities during their work hours to assist, promote or deter union organizing; and
- Encouraging Policy Councils, Committees or other community or parent groups to assist, promote or deter union organizing.

The activities noted above are examples of prohibited activities and the list is not intended to be exhaustive. The prohibition against the use of grant funds should be carried out in a reasonable way. For example, Head Start facilities might be used after work hours to hold meetings about union organizing, which employees could attend on their own time, if there were no extra costs. While clearly distinct costs, such as extra hours for a janitor to keep the building open and clean up, must not be paid from Head Start funds, it would be permissible to pay incidental expenses such as the costs of utilities.

Also, there are some activities that, while related to union organizing, may be allowable expenses because they are not intended to "assist, promote or deter." For example, while Head Start funds must not be used to pay for advice from a lawyer about how to assist, promote or deter union organizing, managers would not be prohibited from using Head Start funds to obtain legal counsel about their rights and responsibilities under the NLRA or other applicable laws related to union organizing. Local governmental grantees and Indian Tribes may use Head Start funds for legal advice regarding State or other jurisdictions' requirements regarding union organizing, but like other grantees are prohibited from using Head Start funds to "assist, promote or deter" organizing.

It should be noted that the prohibition in the Head Start Act against the use of grant funds relates to the organizing and establishment of unions within the workplace. Once a union becomes established within a Head Start program, the grantee may incur normal and reasonable expenses related to managing a unionized program. Examples of such expenses would include negotiating labor agreements with established unions and allowing employees and managers time to resolve grievances during work hours.

### **The Role of ACF**

ACF plays an important but limited role in this area. ACF's most direct responsibility is to ensure that Head Start funds are not used in any way that violates Section 644(e) of the Head Start Act. If ACF determines that Federal Head Start funds have been misused, it has a range of options available for responding to the situation, including disallowing the questioned costs and, if the situation were to remain uncorrected, determining that a deficiency exists that must be corrected.

Head Start grantees are required to adhere to all applicable laws. The requirement includes compliance with the NLRA, which the NLRB is responsible for enforcing, for those grantees subject to the statute.

ACF is neutral on the question of whether or not Head Start programs should become unionized. This is entirely a local decision and grantee agencies and employees may take positions for or against the establishment of a union, as they see fit. When unions are established their relationship with grantee agencies is also a local matter and it is not appropriate for ACF to become involved in activities such as arbitrating disputes between unions and Head Start grantees.

**FOR FURTHER INFORMATION:** Please contact your ACF Regional Office or the appropriate [local office of the NLRB](#) if you have questions or wish to discuss specific situations your program faces.

/S/Douglas Klafehn  
(for) Helen H. Taylor  
Associate Commissioner  
Head Start Bureau

**Attachment:**

[\[Attachment\] Head Start and Labor Unions](#)

Head Start and Labor Unions. ACYF-IM-HS-00-11. HHS/ACF/ACYF/HSB. 2000. English.