

The Honorable Ricardo S. Martinez

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

WASHINGTON STATE ASSOCIATION OF HEAD
START AND EARLY CHILDHOOD ASSISTANCE AND
EDUCATION PROGRAM, ILLINOIS HEAD START
ASSOCIATION, PENNSYLVANIA HEAD START
ASSOCIATION, WISCONSIN HEAD START
ASSOCIATION, FAMILY FORWARD OREGON, and
PARENT VOICES OAKLAND,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official capacity as
Secretary of Health and Human Services; U.S.
DEPARTMENT OF HEALTH AND HUMAN SERVICES;
ANDREW GRADISON, in his official capacity as Acting
Assistant Secretary of the Administration for Children and
Families; ADMINISTRATION FOR CHILDREN AND
FAMILIES; OFFICE OF HEAD START; and TALA
HOOBAN, in her official capacity as Acting Director of
the Office of Head Start,

Defendants.

Case No. 2:25-cv-00781-RSM

**DECLARATION OF KARA
McFALLS IN SUPPORT OF
PLAINTIFFS' MOTION
FOR A PRELIMINARY
INJUNCTION**

NOTE ON MOTION
CALENDAR:

JUNE 13, 2025

1 I, Kara McFalls, hereby declare and state:

- 2 1. The information in this declaration is true and correct to the best of my knowledge
3 and I am of majority age and competent to testify about the matters set forth
4 herein.

5 **Experience and Professional Background**

- 6 2. I am the Executive Director of the Pennsylvania Head Start Association
7 (“Pennsylvania HSA”). I have served in this role since 2023. I oversee all
8 operations of Pennsylvania HSA, including its funding and policy advocacy and
9 professional development for Head Start program members. This includes
10 offering training and professional development for the staff of member Head Start
11 programs, and supporting member programs in meeting their obligations under
12 the Head Start Act, Head Start Performance Standards, and related state laws and
13 regulations.

- 14 3. I joined Pennsylvania HSA in 2018 as the Associate Executive Director. I became
15 Executive Director in 2023 after serving as Interim Executive Director. Prior to
16 joining Pennsylvania HSA, I developed curricula and professional development
17 for early child learning from birth to age five, managed three Head Start agencies,
18 led a non-profit early childhood program, and taught in public school. I hold a
19 bachelor’s degree in Child Development and Family Dynamics with Teaching
20 Certification.

21 **Pennsylvania Head Start Association (Pennsylvania HSA).**

- 22 4. Pennsylvania HSA is a statewide, non-profit, non-partisan organization dedicated
23 to improving the future for children, families, and communities who are
24 economically challenged. As a responsive and collaborative organization, it
25 embraces diversity, promotes comprehensive services, and unifies the early
26 childhood community in Pennsylvania by offering professional development and
27 training for its member Head Start agencies, providing networking and

1 information-sharing opportunities, and advocating at the federal, state, and local
2 levels on behalf of its members.

3 5. Pennsylvania HSA is dedicated to:

- 4 a. Advocating for children and families to ensure every child reaches
5 their full potential.
- 6 b. Promoting diversity, inclusion, and equity in all aspects of its work,
7 creating a supportive and accessible environment for all stakeholders.
- 8 c. Unifying the early childhood community through collaborative efforts,
9 professional development, and information sharing.
- 10 d. Leading efforts to provide comprehensive services that address the
11 needs of vulnerable children and families across Pennsylvania.
- 12 e. Acting as a voice for the economically challenged, fostering policies
13 and practices that promote social and economic fairness.

14 6. Pennsylvania HSA's 60 member agencies serve over 32,300 children and 30,000
15 families.

16 7. Pennsylvania HSA members provide critical services to some of the most
17 vulnerable and underserved people in Pennsylvania, including children who are
18 diagnosed with disabilities, children who are in the foster care system, families
19 that are under family court supervision, families experiencing homelessness, and
20 immigrants. Most of the families served by members are well below the federal
21 poverty level. About 65% of the children and families served by members are
22 people of color. Around 25% of children served by Pennsylvania HSA members
23 speak a language other than English. Pennsylvania HSA members also serve a
24 significant number of children and families in the many rural parts of the state,
25 where access to quality childcare facilities is particularly scarce.

26 8. Pennsylvania HSA members provide critical services to some of the most
27 vulnerable and underserved people in Pennsylvania, including children who are

diagnosed with disabilities, children who are in the foster care system, families that are under family court supervision, families experiencing homelessness, and immigrants. Most of the families served by members are well below the federal poverty level. About 65% of the children and families served by members are people of color. Around 25% of children served by Pennsylvania HSA members speak a language other than English. Pennsylvania HSA members also serve a significant number of children and families in the many rural parts of the state, where access to quality childcare facilities is particularly scarce.

9. Pennsylvania HSA members utilize a two-generational approach to provide comprehensive services focused on setting up children and their families for success in and out of the classroom. These services include:

- a. Emergency and crisis intervention that provides immediate needs for food, clothing or shelter.
- b. Housing assistance, such as subsidies for utilities and home repairs.
- c. Asset building services, such as financial education and debt counseling.
- d. Mental health services, including counseling and therapy.
- e. Substance misuse prevention and treatment, including substance misuse therapy, counseling, and education.
- f. Assistance in enrolling into education and job training programs.
- g. Education on preventative medical and oral health and nutrition.
- h. Comprehensive child care, allowing parents to go to work.

10. Pennsylvania HSA was founded in 1993.

11. Pennsylvania HSA has two staff members, including myself.

12. Pennsylvania HSA is funded by membership dues and grants.

Executive Orders, Funding Freeze, and Funding Delays Cause Serious Disruptions to Pennsylvania HSA Member Operations

1 13. On January 20, 2025, I became aware of the Executive Orders that banned “DEI.”

2 I did not understand what these Orders meant for Head Start agencies, but I was
3 concerned since the Head Start Act mandates that inclusive services be provided
4 in a diverse range of communities to reach children and families most in need. I
5 had no way of knowing the intent and scope of the ban on “DEI” since “DEI,”
6 “diversity,” “equity,” and “inclusion” were not defined in the Orders and no
7 clarifying guidance was provided.

8 14. Pennsylvania HSA members also did not understand what these Orders meant for
9 Head Start. They reached out to their Program Specialists at the Region 3 Office,
10 which serves Pennsylvania, and received conflicting advice.

11 15. One Program Specialist told a Pennsylvania HSA member it was still okay to use
12 the word “inclusion” in its materials and grant applications. Another Program
13 Specialist told a Pennsylvania HSA member that “inclusion” needed to be
14 removed entirely. Other Program Specialists told members that any language
15 found in the Head Start performance standards could still be used by Head Start
16 agencies. Pennsylvania HSA members and I did not understand how that could be
17 allowed since the performance standards are rife with “DEI” related terms.

18 16. Because of the lack of clarity and guidance on the Executive Orders,
19 Pennsylvania HSA members did not know what they needed to do to properly
20 comply.

21 17. On January 27, 2025, the federal government froze federal grants and loan
22 disbursements. I was attending a conference for Head Start agency directors and
23 staff in Washington, D.C. when I learned of the funding freeze. There was
24 widespread shock and confusion among the attendees at the conference about
25 what the funding freeze meant for Head Start.

26 18. That same day, I received messages from two Pennsylvania Head Start members
27 that would not be able to make payroll for their staff due to the funding freeze. I

1 realized that the federal funding freeze would mean that members and Head Start
2 agencies across the country would be forced to close their doors, cease services to
3 children and families, and lay off staff.

4 19. I contacted representatives in one of my state's senator's office. They understood
5 the seriousness of Head Start agencies closing and began to raise this with their
6 contacts at the Department of Health and Human Services and the Office of
7 Budget Management (OMB).

8 20. On January 28, 2025, OMB released additional guidance that clarified that Head
9 Start agencies were not supposed to be included in the list of federal grants and
10 loans whose funds are frozen.

11 21. However, Pennsylvania HSA members still experienced delays in accessing funds
12 through the Payment Management System ("PMS"). Four members were
13 immediately impacted by these funding delays.

14 22. One of those members, a small rural Head Start agency serving a few hundred
15 children and one of the few child care and learning providers in that community,
16 had its funding delayed by two weeks. That member made arrangements for its
17 agency to close—it was a few hours away from sending layoff notifications and
18 program closure notices before funding was finally received.

19 23. At the beginning of February, Pennsylvania HSA members received calls from
20 cell phone numbers that were not identified as being from the Office of Head Start
21 ("OHS"), the Administration for Children and Families ("ACF") or the
22 Department of Health and Human Services ("HHS"). The callers claimed they
23 were "grant specialists" from ACF who were tasked with approving PMS draw
24 downs. These grants specialists said they needed the members to send an email to
25 an ACF email address explaining the purpose of the PMS draw down even though
26 justification had already been provided through the PMS system.

27 24. The grant specialists said that these emails needed to be sent so that the grants

1 could be approved by 4:00 p.m., and that they would not receive funding if they
2 did not comply. However, the grant specialists called the members at 3:00 p.m. to
3 tell them of this new funding requirement and imminent deadline. This threw the
4 members into a panic to verify the legitimacy of this requirement and attempt to
5 fulfill it on such a short timeline.

6 25. When one member was drafting the email to the ACF email address that it had
7 been directed to send, the member received another phone call from a different
8 person claiming to be a grant specialist who conveyed the same directive to send a
9 draw down justification to an unknown recipient with an ACF email address. This
10 person claimed to have no knowledge of the other caller who claimed to be a
11 grant specialist.

12 26. Pennsylvania HSA members are in fear that their funding can be unduly revoked
13 despite their best efforts to comply when there are new requirements rendered by
14 the Administration without reasonable notice.

15 **The March 14 DEI Letter Causes Additional Confusion and Disruption**

16 27. On March 14, 2025, OHS issued guidance that informed all Head Start agencies
17 that OHS “will not approve the use of federal funding for any training, technical
18 assistance, or other program expenditures that promote or take part in diversity,
19 equity, and inclusion (DEI) initiatives” (“March 14 DEI Letter”). The March 14
20 DEI Letter also instructs agencies to “carefully review their annual funding
21 applications, including the budget and budget justification narrative, TTA plans,
22 program goals, and any other supplemental materials to ensure they are in
23 accordance with this guidance.”

24 28. Like the EOs, the March 14 DEI Letter does not define “DEI,” “diversity,”
25 “equity,” or “inclusion.”

26 29. Pennsylvania HSA members tailor their agency programs through a wide range of
27 activities in order to fulfill the mandates of the Head Start Program and comply

1 with the requirements of the Head Start Act and related state regulations,
2 including:

- 3 a. Recruiting staff who speak the languages of the children and families
4 served;
- 5 b. Providing language learning courses for families;
- 6 c. Providing program materials in both English and the children's home
7 language;
- 8 d. Training staff to ensure they are able to be responsive and inclusive to
9 the language and culture of the people they serve;
- 10 e. Placing trained specialists in classrooms to assist both children and
11 agency staff with supporting children with disabilities
- 12 f. Forming relationships with local early intervention programs that refer
13 children with disabilities to member agencies that can provide care and
14 learning environments focused on their needs;
- 15 g. Forming relationships with community organizations that provide
16 shelter and homeless care, and connecting with children and families
17 in need through those organizations;
- 18 h. Providing transportation support for families to give them the
19 opportunity to commute to Head Start programs that fit their needs
20 even if they live in a different service area;
- 21 i. Organizing programs aimed at strengthening father and child bonds,
22 such as creating community gardening spaces where fathers and
23 children can plant crops and watch them grow;
- 24 j. Expanding those fatherhood programs to include father figures in
25 addition to biological fathers so that male program participation can be
26 increased in accordance with the Head Start Act.

27 30. Because the March 14 DEI Letter and Executive Orders are vague and unclear, I

1 do not know if some, all, or none of those things are now illegal. Pennsylvania
2 HSA members fear that they will suffer grant termination, agency discipline, or
3 retaliation from the Administration simply for doing their best to fulfill their
4 obligations as a Head Start agency.

5 31. Pennsylvania HSA member directors and I have regular meetings on Mondays.
6 Pennsylvania HSA members and I hoped to receive clarity and further guidance
7 from OHS after the March 14 DEI Letter was issued. However, no one was
8 able to provide advice or insight as to how we were supposed to implement the
9 March 14 DEI Letter while still fulfilling the purpose of our programs and our
10 legal obligations under the Head Start Act and other regulations. Everyone on the
11 call expressed wonderment.

12 32. Pennsylvania HSA members and I asked Program Specialists and other OHS
13 regional office staff for guidance, but received inconsistent advice that the OHS
14 staff admit is not 100% certain. Pennsylvania HSA members are doing their best
15 to follow all of their legal obligations. However, they have been put into an
16 impossible situation where they may not be able to comply with their obligations
17 under the Head Start Act and the March 14 DEI Letter at the same time.

18 33. Pennsylvania HSA members fear that the legal conflict created by the March 14
19 DEI Letter and Executive Orders will be used as pretext for finding agencies in
20 noncompliance through monitoring and audits so that agency funding can be
21 terminated and the Head Start program slowly dismantled.

22 34. Pennsylvania HSA members fear that they must pare back and generalize their
23 programming language because they have received no guidance on what the
24 consequences will be for being in the predicament of trying to fulfill both the new
25 guidance from the Administration and the Head Start Act requirements.

26 35. Members fear that they will be unfairly deemed to be in violation of the March 14
27 DEI Letter even though they may not be doing "DEI" because what may be

considered “DEI” is simply a core legal requirement of the Head Start program.

Confusion and Fear Around the April 16, 2025, Grants Policy Statement

36. On April 16, 2025, HHS amended its Grants Policy Statement to add a certification requirement stating that agencies that accept grant awards “are certifying...they do not and will not during the term of this financial assistance award, operate any programs that advance or promote DEI, DEIA, or discriminatory equity ideology in violation of Federal anti-discrimination laws.” My understanding is that all Pennsylvania HSA members who get a notice of award beginning on May 1, 2025, must complete this certification in order to receive their necessary Head Start funding.

37. My understanding is that Pennsylvania HSA members could have their grant funds clawed back if they are held to be in violation of this Certification after completing it. I also understand that they can even be held criminally and civilly liable under the False Claims Act if they are found to be in violation of this Certification.

Ongoing PMS Delays and Impediments Continue to Harm Pennsylvania HSA Members

38. In late March, Pennsylvania HSA members started to see a new drop-down menu in the PMS system that created additional requirements for drawing down PMS funds.

39. In early April, Pennsylvania HSA members started to receive emails from an unknown HSS email address defendthespend@hhs.gov that required them to submit additional justifications for routine PMS draw downs, stating that “payroll” was deemed an insufficient justification.

40. These new requirements created delays in funding for Pennsylvania HSA members that put them in danger of not meeting payroll for staff or other expenses that would severely impact their agency, or even result in its closure.

41. At least eight members experienced issues with the PMS system portal that

1 resulted in draw down delays that put their agencies in danger of not meeting
2 expenses. The reasons for these delays had never occurred before. For example,
3 one member could not proceed beyond error messages in the PMS system portal.
4 Other members could not change the draw down year from 2026, meaning that it
5 could not request to drawn down funds for the current fiscal year.

6 42. Pennsylvania HSA members were also informed in emails from HHS that they
7 should draw down funds early from PMS in order to ensure that they give
8 themselves more time to receive them. However, this directive directly conflicts
9 with federal funding regulations that require Head Start agencies to draw down
10 funds from PMS only on a basis of immediate need, and that they are prohibited
11 from banking those funds for more than three-days.

12 43. Members who were due to receive notice of award by May 1 only received notice
13 a few days before the deadline, or at least had assurance from OHS regional staff
14 that the notice of award would be coming. Without that advance notice, members
15 are put in fear that the award will not be provided and they cannot effectively run
16 their programs if they do not know they will be funded.

17 44. This also harms members who have unionized agency staff. These members must
18 abide by collective bargaining agreements between their agency and the unionized
19 staff. These agreements provided timelines for notice of termination or program
20 closure. Because of the unprecedented delays in PMS funding and lack of
21 information or guidance from HHS, members have been put into the position of
22 potentially violating these CBAs.

23 45. Pennsylvania HSA members are in fear that the ongoing disruptions and
24 inconsistent directives from HHS will result in agencies having to lay off staff,
25 close programs, cease services to children and families, or even face legal
26 penalties for violating federal funding laws because they follow the new
27 instructions from HHS.

Mass Layoffs and Regional Office Closures Create a Bottleneck of Resources and Support for Members

46. On April 1, 2025, HHS consolidated OHS regional offices and staff across the country. Another four Region 3 Office staff had been previously laid off in a previous round of reductions in force. This meant that the Regional office supporting Pennsylvania HSA members is now shorthanded by upwards of eight staff-members while trying to manage the additional workload of supporting the Head Start agencies from regions where the Regional Offices were closed. The consolidated Northeast Regional Office now supports states that were previously supported by Regions 1, 2, and 3, including Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont, New York, New Jersey and Pennsylvania.

47. This has caused delays and a lack of administrative support for Pennsylvania HSA members that has disrupted operations.

48. First, the Regional Office had to shuffle Program Specialist assignments to agencies. This cut off the working relationships between Program Specialists and Pennsylvania HSA members that were necessary to resolving issues in a timely manner and continuing the unimpeded functioning of member programs. Some Pennsylvania HSA members have had multiple Program Specialists re-assigned to their agency. Program Specialists in the Regional Office had regularly scheduled check-ins with member agencies. But, starting in February 2025, some members were told by the Regional Office to email written updates and questions to office representatives instead of having meetings.

49. Second, the lack of staff and resources for administrative support has resulted in Pennsylvania HSA members experiencing delays in getting necessary OHS approvals. For example, members have experienced delays in approval for change of scope requests, grant usage requests, and budget adjustment requests. These

delays have harmed members by putting them into the difficult position of not knowing if or when their requests will be approved, affecting the scheduling of operations, personnel decisions, and program planning.

50. Members have also been subjected to what is essentially a blackout of training and technical assistance (“TTA”). TTA providers serving Pennsylvania HSA members have cancelled most of their services since the imposition of the Executive Orders that affect Head Start.

A Pennsylvania HSA Member is Forced to Announce Layoffs Due to Funding Delays

51. One Pennsylvania HSA member was forced to announce layoffs on April 30, 2025, to go into effect on May 30, 2025, because of delay in receiving notice of their continuation grant. This agency serves children who have disabilities and has served around 400 children and their families. It provides center-based programming as well as home-visiting programming on which families rely upon for basic needs that are critical for their success.

52. Normally, this member would be able to speak directly with their Program Specialist who could then assist them with processing the continuation grant approval or give them information about if or when they could expect the notice of award. However, because of the ongoing disruptions and chaos with OHS operations, this member had no information about if or when they would receive funding. They were forced to announce layoffs because they had no idea if they would be able to fund their program, and had to give 30-days notice of termination in accordance with a collective bargaining agreement with staff. This member eventually received notice of the continuation grant on May 3, 2025, after making tremendous efforts to elevate this issue within HHS, making calls and traveling to Washington, D.C. to personally meet with their Congressional representatives, one of whom wrote a letter to the HHS Secretary.

53. This member is up for a competitive grant in July 1. If they do not receive notice

1 or information as to that grant in advance, they may need to make layoff
2 announcements again.

3 54. This member, and other Pennsylvania HSA members, fear that the ongoing
4 disruptions to Head Start operations will cause them to prematurely terminate
5 staff and programming, or eventually result in the closing of their agencies.

6 **Hiring and Retention of Staff and Enrollment is Being Negatively Impacted**

7 55. In late April, a Pennsylvania HSA member serving a small, rural community had a
8 teacher resign due to the uncertainty surrounding Head Start as a result of the
9 Administration's disruptions. This teacher resigned near the end of the school
10 year, which is rare for teachers to do since it leaves programs in a very difficult
11 position to fill a vacancy on a short timeline. It is also more difficult for members
12 to replace teachers and staff in rural communities because there are not as many
13 qualified applicants available. Because of this resignation based on the
14 uncertainty surrounding Head Start, this member has had to rely upon
15 substitutes who cannot provide full services and has had administrative
16 management staff fill-in. This both disrupts the quality and continuity of care and
17 learning for the children, and also detracts from the agency altogether when
18 management cannot perform their own job duties.

19 56. Other Pennsylvania HSA members are experiencing staff resignations due to the
20 ongoing disruptions of Head Start. Teachers and other providers are in fear that
21 their jobs are not secure. The DEIA Ban has also made member staff feel like they
22 are not allowed to do the important work of Head Start to benefit vulnerable
23 children and families, which is the whole reason many of them got into the field
24 in the first place.

25 57. Members also expect to have decreases in enrollment as parents are no longer
26 able to trust Head Start as a reliable child care and learning provider for their
27 children.

Members Experience Chilling Effects From the DEIA Ban

58. Some Pennsylvania HSA members report that the DEI Ban has chilled their speech and activities even in areas of their programming that are not funded by Head Start due to the DEIA Ban. For example, some members are no longer sending their staff to outside training and professional development opportunities that reference ideas, concepts, or topics that could be considered “DEI,” even when those opportunities would not be funded by Head Start grants. Some members have suspended travel to conferences and professional development.

59. Other Pennsylvania HSA members report that they will likely no longer present at or attend conferences that have topics, agendas, or speakers that could be considered “DEI.”

60. Pennsylvania HSA is reevaluating what type of training and professional development it can offer to members.

Head Start Agencies are in Fear of Retaliation

61. It is my understanding that agencies in other states are facing similar challenges to our member agencies with the DEIA Ban, the regional Head Start office closures, and the OHS staff layoffs. I have personal knowledge that multiple agencies in states other than those participating directly in this lawsuit have made significant programmatic changes in order to try to avoid violating the DEIA Ban, including changing or removing certain words from their websites and curricula and changing their recruitment and advertising of staff positions. I have personal knowledge of multiple agencies in states other than those participating directly in this lawsuit who have faced similar concerns with not being able to timely and predictably access funding and have had to consider whether to suspend or terminate programs as a result.

62. I also have personal knowledge that leadership of multiple other Head Start agencies and associations in states other than those participating directly in this

lawsuit decided not to participate primarily or in large part because of concerns that they would be retaliated against by Defendants for such participation. I understand that they were concerned that their programs would be targeted for enforcement of the DEIA Ban, and thereby denied funding; denied funding in another manner; and/or that the Executive Defendants would target other (non-Head Start) federally-funded services and programs in their states for investigation and/or de-funding in retaliation for their participation in this case.

Head Start is a Critical Focal Point of Community and Infrastructure in Pennsylvania

63. The disruptions to Head Start, if they are allowed to continue, will harm people throughout Pennsylvania. Head Start is a hub of economic infrastructure, creating a foundation not just for working families, but for entire communities. Pennsylvania HSA members provide employment, upkeep of community buildings, tenancy for commercial buildings, and mass consumption of goods and services in order to provide Head Start programming. Members are an economic engine for many communities in Pennsylvania, especially rural communities.

64. Head Start agencies are in inherently vulnerable positions because of the nature of federal funding regulations. Now, they are even more vulnerable. Members fear for the very existence of their agencies because of the new legally conflicting regulations, delays in PMS draw downs, delays in OHS approvals, and lack of support, technical and training assistance, and resources from OHS.

65. Ultimately, the negative effects of these disruptions fall most upon the people and communities Pennsylvania HSA serves—the children and families who are already in such vulnerable positions as the people most in need. If the administrative disruptions continue and members are unable to provide Head Start programming, whole communities will suffer. Families will be unable to work, prepare for children's success in school, or receive critical services, like meal support, inclusive education for children with disabilities, or dual-language care

1 and learning.

2 66. Pennsylvania HSA members need safeguards and continuity themselves, just like
3 the vulnerable people and communities they serve.

4
5 I declare under penalty of perjury under the laws of the United States and the State of
6 Washington that the foregoing is true and correct.

7
8 Executed this 14th day of May 2025.

9 /s/ Kara McFalls

10 Kara McFalls
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