

HEAD START: AN OUTLINE OF ADMINISTRATIVE AND JUDICIAL DECISIONS

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INTRODUCTION

Despite its straightforward goals, the Head Start program, when viewed nationally, is startlingly diverse and complex. The rules that a Head Start grantee must follow derive from a multitude of sources, including the Head Start Act, two different parts of the Code of Federal Regulations (CFR), the Office of Management and Budget (OMB) circulars, Administration for Children and Families (ACF) publications, decisions issued by federal and state courts, the National Labor Relations Board (NLRB), and most notably, the Department of Health and Human Services' Departmental Appeals Board (DAB), not to mention state and local laws applicable to daycare and preschool programs. The sheer volume of Head Start-related administrative and judicial opinions makes it difficult to use them as a guide for running Head Start programs or a legal precedent in resolving disputes. Decisions that cover subjects as vast and as diverse as employment law, bankruptcy, and children with disabilities involve Head Start programs as litigants. This outline is designed to bring order and ease of reference to that case law by separating out the common law unique to Head Start and presenting it in one organized, inclusive structure.

The Head Start program, though, cannot and does not exist in a vacuum. Head Start touches and is touched by a body of case law that could not ever be fully covered in one comprehensive guide. Rather than attempting to cover each of these peripheral areas, this outline highlights the unique issues that have arisen in applying a particular body of law to Head Start programs. The reader will find that this outline has one entire section dedicated to employment law, for example. Similarly, there are references to the bankruptcy code, the tax code, and the common law of torts and contracts.

Therefore, this outline is not a restatement of all the laws or regulations that apply to a Head Start program. In order to keep this document manageable and maximize its ease of use, special effort has been made not to rewrite the directives in the regulations, though where the DAB has clarified the meaning of regulatory language or a court has upheld the validity of a particular regulation, this has been included. Likewise, this outline is not a complete statement of every fact in the cases it references. Instead, it is a guide for Head Start grantees and their attorneys to the issues that have been litigated in administrative and judicial fora and the resulting holdings that are generally relevant to all Head Start grantees. Readers should keep in mind, however, that the decisions included in this outline may not necessarily be the last word. Most of the DAB decisions, for example, have not been appealed to a court, and a particular court decision is only binding on the the regions of the country over which it has jurisdiction.

What's more, "Head Start law" is as dynamic as it is diverse. The regulations promulgated by the Department of Health and Human Services (HHS) frequently change. In order to make this guide as practical and user-friendly as possible, great pains have been taken to update citations and ensure that the referenced holdings are still valid. To that end, the outline's footnotes contain a substantial amount of information on previous versions of the Head Start regulations and point out subsequent changes to the law or regulations that might impact the weight of a holding. The full text of the Departmental Appeals Board cases cited herein can found at www.hhs.gov/dab; most court decisions are available at www.findlaw.com.

The 2005 edition builds on the previous editions by presenting information gleaned from a number of new sources: five additional federal cases, four additional decisions from the DAB, five state court cases.

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