The mission of the Office of Migrant Education is to provide excellent leadership, technical assistance, and financial support to improve the educational opportunities and academic success of migratory children, youth, agricultural workers, fishers, and their families.

Guidance for Migrant Education Program (MEP) Eligibility Under the Every Student Succeeds Act (ESSA)

Sarah Martinez
Patricia Meyertholen
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Objectives

• Understand the basic requirements for MEP eligibility under the ESSA

• Become familiar with the Department’s Non-Regulatory Guidance on Child Eligibility (Chapter II)

• Accurately apply these requirements, in accordance with the Department’s Guidance, using eligibility scenarios
References

Statute
Sections 1115(b) and (c), 1304(c)(2), and 1309 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015

Code of Federal Regulations
34 C.F.R. 200.81, 200.103, and 200.89(c)
National Certificate of Eligibility (COE) Instructions (OMB Control Number 1810-0662)

Guidance
Chapter II of the Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children
Transition to ESSA’s MEP Eligibility Requirements

• New statutory provisions under the ESSA for the MEP will take effect for Fiscal Year (FY) 2017 grants awarded to SEAs on July 1, 2017.

• All MEP-specific statutory provisions in Title I, Part C of the ESEA, as amended by the ESSA, including the program definitions affecting child eligibility, will also be effective on July 1, 2017.

• All SEAs must begin using the revised national Certificate of Eligibility (COE)* for all MEP eligibility determinations made on or after July 1, 2017.

*Provided it has by then been approved by the Office of Management and Budget (OMB)
SUMMARY OF CHANGES TO MEP ELIGIBILITY
(2) MIGRATORY AGRICULTURAL WORKER.— The term ‘migratory agricultural worker’ means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

(3) MIGRATORY CHILD.—The term ‘migratory child’ means a child or youth who made a qualifying move in the preceding 36 months—

(A) as a migratory agricultural worker or a migratory fisher; or

(B) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

(4) MIGRATORY FISHER.—The term ‘migratory fisher’ means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

(5) QUALIFYING MOVE.—The term ‘qualifying move’ means a move due to economic necessity—

(A) from one residence to another residence; and

(B) from one school district to another school district, except—

(i) in the case of a State that is comprised of a single school district, wherein a qualifying move is from one administrative area to another within such district; or

(ii) in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.
What Remains the Same

1. Children ages birth – age 21, who are entitled to a free public education through grade 12 in the State (or are not yet at a grade level at which the local educational agency (LEA) provides a free public education- e.g., preschool children)

2. Children who moved:
   a) As a migratory agricultural worker or migratory fisher, OR
   b) With or to join a parent/guardian or spouse who is a migratory agricultural worker or migratory fisher

3. Migratory children are eligible for the MEP for 36 months from their most recent qualifying arrival date (QAD)
“Qualifying Work”

We use the abbreviated term “qualifying work” to mean temporary or seasonal employment (or personal subsistence) in agriculture or fishing.

- “Temporary employment,” “seasonal employment,” and “personal subsistence”: program regulations definitions
- Employment in agriculture: program regulations definition of “agricultural work” + dairy work or the initial processing of raw agricultural products
- Employment in fishing = program regulations definition of “fishing work”
“Qualifying Move” and “Qualifying Arrival Date” (QAD)

“Qualifying Move”
- Due to economic necessity; and
- One residence to another; and
- From one school district to another school district, with specific exceptions:
  - For single-district States, must be from one administrative area to another
  - For districts of 15K+ square miles, must be a move of 20+ miles to a temporary residence

“Qualifying Arrival Date” (QAD)
- Date that begins a migratory child’s 36 months of eligibility
- The date that the child moves as a migratory agricultural worker/fisher or, (if the child is not the worker) the date that the child moves with, or to join, the worker.
- If the child and worker moved together, QAD = date they arrived in the district
- To join moves:
  - If the child moved before the worker, QAD = date that the worker arrived
  - If the child moved after the worker, QAD = date the child arrived
What has Changed

Definitions of “migratory agricultural worker” and “migratory fisher”:

1. It is no longer necessary to determine whether the worker moved “in order to obtain” qualifying work, or any employment
2. “Engaged” in qualifying work soon after the move instead of “obtained”
3. Modified criteria for individuals who did not engage in new qualifying work soon after their qualifying move
Who is a Migratory Agricultural Worker or Migratory Fisher?

1. Engaged in new qualifying work soon after a qualifying move.

2. If the individual does not meet the criteria above, he or she made a qualifying move and:
   a) Actively sought new qualifying work; AND
   b) Has a recent history of moves for qualifying work
Individuals Who Did **NOT** Engage in New Qualifying Work Soon After a Qualifying Move

**NCLB and 34 CFR 200.81(d)**

Must have moved in order to obtain qualifying work specifically **AND**:

1. Have a *prior* history of moves to obtain qualifying work; **OR**
2. There must be *other credible evidence* that the worker actively sought qualifying work soon after the move, but for reasons beyond the worker’s control, the work was not available

**ESSA**

Must have:

1. Actively sought qualifying work; **AND**
2. Have a *recent* history of moves for qualifying work
“Soon After,” “Actively Sought,” and “Recent History”

• “Soon After”:
  – Within 60 days after the qualifying move

• “Actively Sought”:
  – May occur before or after the qualifying move (e.g., applied for qualifying work at a particular agricultural or fishing job site, applied for such employment before moving, or moved reasonably believing that, based on newspaper ads or word of mouth, such work would be available after the move)
  – Should occur within 60 days of the qualifying move

• “Recent History of Moves for...”:
  – Moves that resulted in engagement in qualifying work
  – At least two moves;
  – Within 36 months of the recruiter’s interview
QUESTIONS?
ELIGIBILITY SCENARIOS
Scenario #1

On June 1, 2017, Jessica moves with her two children, ages 6 and 8, from Omaha, NE to Wichita, KS, to live with relatives after losing her job in Omaha. Jessica is hoping to find work similar to her last job in housekeeping, but finds that she can earn more money in a job at a poultry-processing facility. She only plans to stay for a few months to save money, and begins work deboning chicken at the poultry plant on July 15, 2017. Are Jessica’s children eligible for the MEP?
Scenario #2

Joaquin, a 17-year old out-of-school youth, had not moved since he was about 10 years old. Because he could not find employment in his hometown of Eureka, CA, he moved to Yakima, WA on July 1, 2017. Within a week of moving to Yakima, he applied for seasonal employment picking apples, but did not get the job. Is Joaquin eligible for the MEP?
Scenario #3

Paul, age 13, lived with his parents in Portland, ME. Unable to find work in Portland, Paul’s father moved on his own to Presque Isle on September 1, 2016, and engaged in seasonal employment harvesting potatoes (within one week of his move). Paul’s father returned to Portland on October 20, 2016. Shortly thereafter, Paul’s mother was able to find work in a restaurant in Bangor, ME. So, Paul and his parents moved from Portland to Bangor on November 1, 2016. The ME MEP identifies Paul on July 1, 2017. Is Paul eligible for the MEP?
Scenario #4

Diana, age 15, and her parents lived in Yukon, AK. Diana and her parents moved to Dillingham, AK on June 20, 2016. For as long as Diana can remember, the family has moved to Dillingham each summer, where her father worked a temporary job canning salmon. When they moved in June 2016, Diana’s father, Joe, went to the cannery where he had worked for the previous two summers and found that the cannery had closed. Is Diana eligible for the MEP?
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Thank You

Sarah Martinez
sarah.martinez@ed.gov
202-260-1334

Patricia Meyertholen
patricia.meyertholen@ed.gov
202-260-1394