
CHILD ELIGIBILITY

Q. Is turning chicken fat into oil considered qualifying agricultural work for purposes of the Migrant Education Program (MEP)? The worker puts the chicken fat into a machine that melts it, turning it into oil. He then sends the oil to be shipped elsewhere. The worker does not work directly with the chickens or extract the fat— his work begins with placing the fat into the machine.

Based on the information provided, the Office of Migrant Education (OME) would not consider this work to be “agricultural work or employment” for purposes of the MEP because it is beyond the initial processing stage. That is, the raw agricultural product has begun the process of transformation into something more refined (see MEP Non-Regulatory Guidance Chapter II, F20, 24 and 25).

FISCAL REQUIREMENTS

Q. A Migrant Education Program (MEP)-funded regional subgrantee would like to contract with a High School Equivalency Program (HEP) at a nearby State university, to provide summer services for MEP-eligible children. Is the MEP subgrantee required to follow procurement procedures, such as obtaining price or rate quotations from other sources?

The Office of Migrant Education (OME) appreciates the MEP and HEP’s efforts to collaborate to provide services to migratory children. If the regional MEP decides to enter into a contract with the university, the region must follow its own documented procurement procedures, which reflect State and local laws, and procurements must conform to applicable Federal law and the standards identified in the Uniform Guidance (2 CFR §200.317-200.326). If the amount awarded will be under the simplified acquisition threshold, small purchase procedures may be used. Such procedures do require the region to obtain price or rate quotations from an adequate number of qualified sources (2 CFR §200.320(b)). The region may wish to explore other available funding mechanisms to achieve its objective of summer programming, such as a subgrant or cooperative agreement, depending on State and local procedures for exercising those options. Again, if a contract is the method selected for the MEP’s agreement with the university, the region will need to follow Federal, State and local law for procurements.

Q. Several school districts have purchased Kindles and loaded them with e-books for migratory children to check out. Because only six Kindles can be linked to a single user account, districts would like to purchase additional Kindles for migratory children to keep indefinitely, at a cost of approximately \$129 per device. May Migrant Education Program

(MEP) funds be used to purchase Kindles (a specific brand of electronic book/e-book reader) for migratory children to keep indefinitely?

The Office of Migrant Education (OME) stands by its previously issued policy that MEP funds may not be used to purchase electronic devices for migratory children to keep indefinitely. In accordance with the cost principles that guide Title I, Part C grants to State educational agencies (SEAs), in order to be considered allowable, costs must be allocable or chargeable to the MEP, relative to the benefit received (see 2 Code of Federal Regulations (CFR) §200.405)). In addition, 2 CFR § 200.302 (b)(4) requires grantees and subgrantees to have financial management systems that maintain effective control and accountability for all funds, property, and other assets. This same provision requires grantees and subgrantees to adequately safeguard all such property and must assure that it is used solely for authorized purposes. Although the previously issued response did not specifically list Kindles as an example of electronic devices, the rationale is the same. We do not believe the purchase of Kindles for migratory children to keep indefinitely is an allowable use of MEP funds because the MEP would not be able to assure that the devices are used solely for authorized purposes, nor would the MEP be able to maintain effective control over the devices once the students' MEP eligibility ends.

If the goal is to expand access to electronic books for migratory children, we offer the following suggestions to add to the number of e-readers that may be loaned to migratory children in need of such devices:

1. Inquire as to Amazon's (company that owns Kindle) policy for allowing additional accounts and/or devices per user— particularly in school-based/educational settings.
2. Encourage districts to identify additional staff willing to create accounts.
3. Explore other brands of e-readers that are comparable in cost and allow more devices per account.

Q. Is the maintenance of effort (MOE) requirement in section 8521 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA), applicable to the Title I, Part C – Migrant Education Program (MEP)?

The MOE requirement does not apply to the MEP. The U.S. Department of Education recently issued a [final rule](#) effective July 1, 2019 making technical amendments to regulations to align with changes made to the ESEA by the ESSA. The regulations in 34 CFR §299.5(b) identify the programs to which the MOE requirement applies (copied below).:

(b) *Applicable programs.* This subpart is applicable to the following programs:

- (1) Part A of title I (Improving Basic Programs Operated by Local Educational Agencies).
- (2) Part D of title I (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk).

- (3) Part A of title II (Supporting Effective Instruction).
- (4) Part A, subpart 1 of title III (English Language Acquisition, Language Enhancement, and Academic Achievement), except for section 3112.
- (5) Part A of title IV (Student Support and Academic Enrichment Grants).
- (6) Part B of title IV (21st Century Community Learning Centers).
- (7) Part B, subpart 2 of title V (Rural and Low-Income School Program).
- (8) Part A, subpart 1 of title VI (Indian Education Formula Grants to Local Educational Agencies).