

# ADVANCED MIGRANT EDUCATION PROGRAM (MEP) ELIGIBILITY

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# OBJECTIVES

- Review the requirements for determining and documenting MEP eligibility
- Work with colleagues to apply the eligibility requirements and guidance to fictional scenarios
- Discuss impact on identification and recruitment of eligible migratory children

# 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 CFR 200.81 and 200.103(a)

*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*

# MEP ELIGIBILITY CRITERIA

## ELIGIBILITY: THE BASICS

A child is eligible for the MEP (and thereby eligible to receive MEP services) if the child:

- Meets the definition of “migratory child”; and
- Has the basis for the State’s determination that the child is a “migratory child” properly recorded on the national Certificate of Eligibility (COE).

# MIGRATORY CHILD

- Is not older than 21 years of age; and
- Is entitled to a free public education (through grade 12) under State law, *or* is not yet at a grade level at which the local educational agency (LEA) provides a free public education; and
- Made a qualifying move in the preceding 36 months:
  - As a migratory agricultural worker or migratory fisher, *or*
  - With or to join a parent/guardian or spouse who is a migratory agricultural worker or migratory fisher

((see section 1115(c)(1)(A) of the ESEA (incorporated into the MEP by sections 1304(c)(2), 1115(b), and 1309(3)) and 34 CFR 200.103(a); and Chapter II, A1-A7 of *MEP Non-Regulatory Guidance (NRG)*)

# “QUALIFYING MOVE”

- Due to economic necessity; and
- From 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

(see section 1309(5) of the ESEA and Chapter II, D1-D15 of *MEP NRG*)

# “MIGRATORY AGRICULTURAL WORKER” OR “MIGRATORY FISHER”

- An individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new “qualifying work.”
- If the individual did not engage in new “qualifying work” soon after the move, the individual:
  - A. Actively sought “qualifying work” and
  - B. Has a recent history of moves for “qualifying work”

(see sections 1309(2) and (4) of the ESEA and Chapter II, C1-C2 of *MEP NRG*)

# “QUALIFYING WORK”

“Qualifying work” means temporary or seasonal employment (or personal subsistence) in agriculture or fishing.

(see 34 CFR 200.81(n), and Chapter II, C3 of *MEP NRG*)

# TEMPORARY, SEASONAL, AND PERSONAL SUBSISTENCE

- **Temporary employment:** Lasts for a limited period of time, usually a few months, but no longer than 12 months.
- **Seasonal employment:** Occurs only during a certain period of the year because of the cycles of nature and that, by its nature, may not be continuous or carried on throughout the year
- **Personal subsistence:** The worker and the worker's family, as a matter of economic necessity, consume, as a substantial portion of their food intake, the crops, dairy products, or livestock they produce or the fish they catch.

(see 34 CFR 200.81(p), (o), and (m), and Chapter II, G1 – G12 and F28 of MEP NRG)

# AGRICULTURE OR FISHING

- **Agricultural work:** The production or initial processing of raw agricultural products, such as crops, poultry, or livestock; dairy work; as well as the cultivation or harvesting of trees, that is performed for wages or personal subsistence.

(see 34 CFR 200.81(a), section 1309(2) of the ESEA, and Chapter II, F1 – F15, F20 – 22, F24 – F26 of *MEP NRG*)

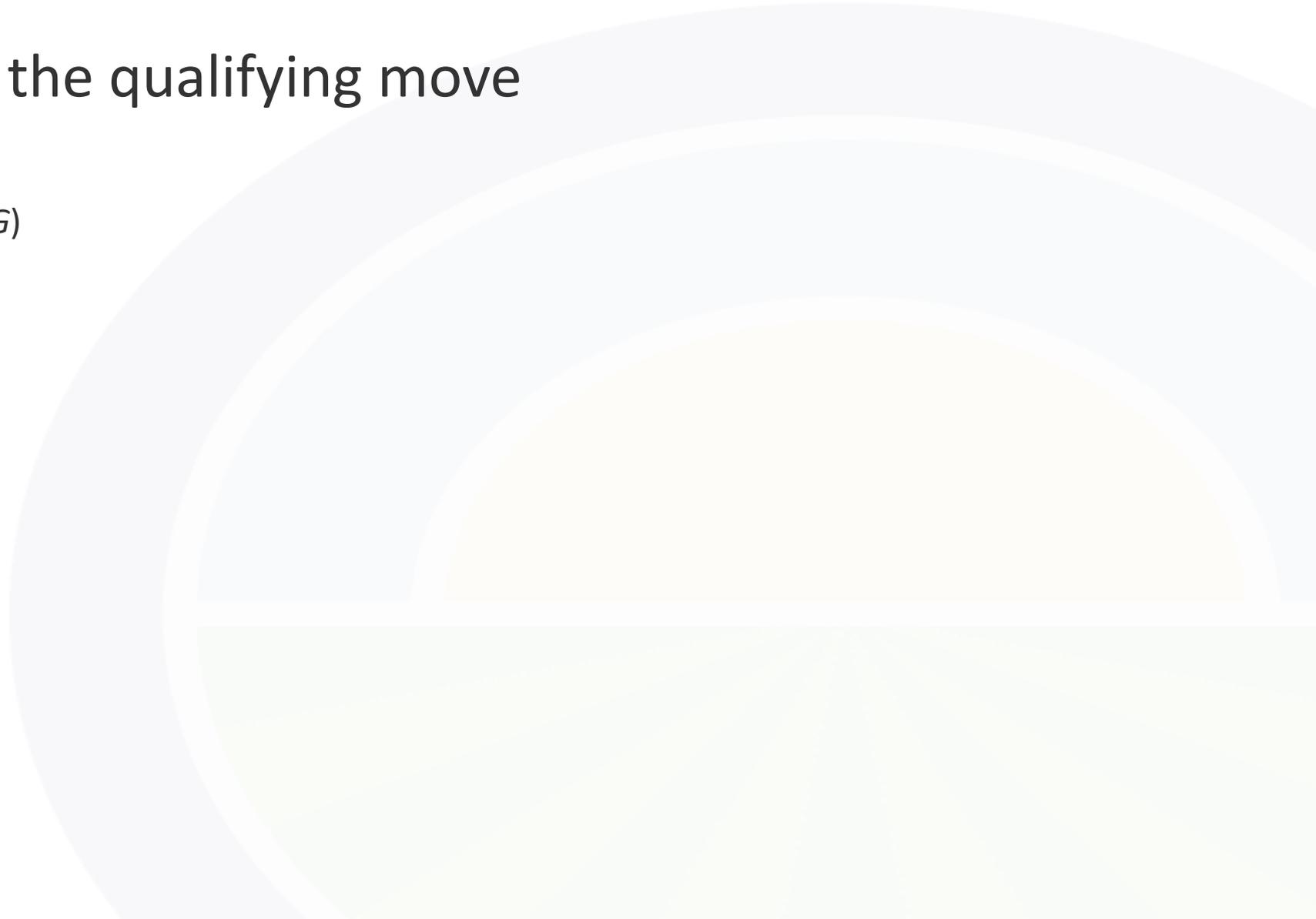
- **Fishing work:** The catching or initial processing of fish or shellfish; as well as the raising or harvesting of fish or shellfish at fish farms, that is performed for wages or personal subsistence.

(see 34 CFR 200.81(c) and Chapter II, F16 – F20, F23 – F25 of *MEP NRG*)

# “SOON AFTER THE MOVE”

Within 60 days after the qualifying move

(see Chapter II, C5 – C7 of *MEP NRG*)



# “RECENT HISTORY OF MOVES” FOR QUALIFYING WORK

- Moves that resulted in engagement in qualifying work
- At least two moves;
- Within 36 months of the recruiter’s interview

(see Chapter II, C13 – C18 of *MEP NRG*)

# “QUALIFYING ARRIVAL DATE” (QAD)

- The QAD is the date that the child’s eligibility for the MEP begins.
- Children are eligible for the MEP for 36 months from the QAD, unless their eligibility ends for another reason (e.g., over age 21, earn a high school diploma)
- When the child and worker do not move together (i.e., a “to join” move), the QAD is the date that both the child and worker completed the move.

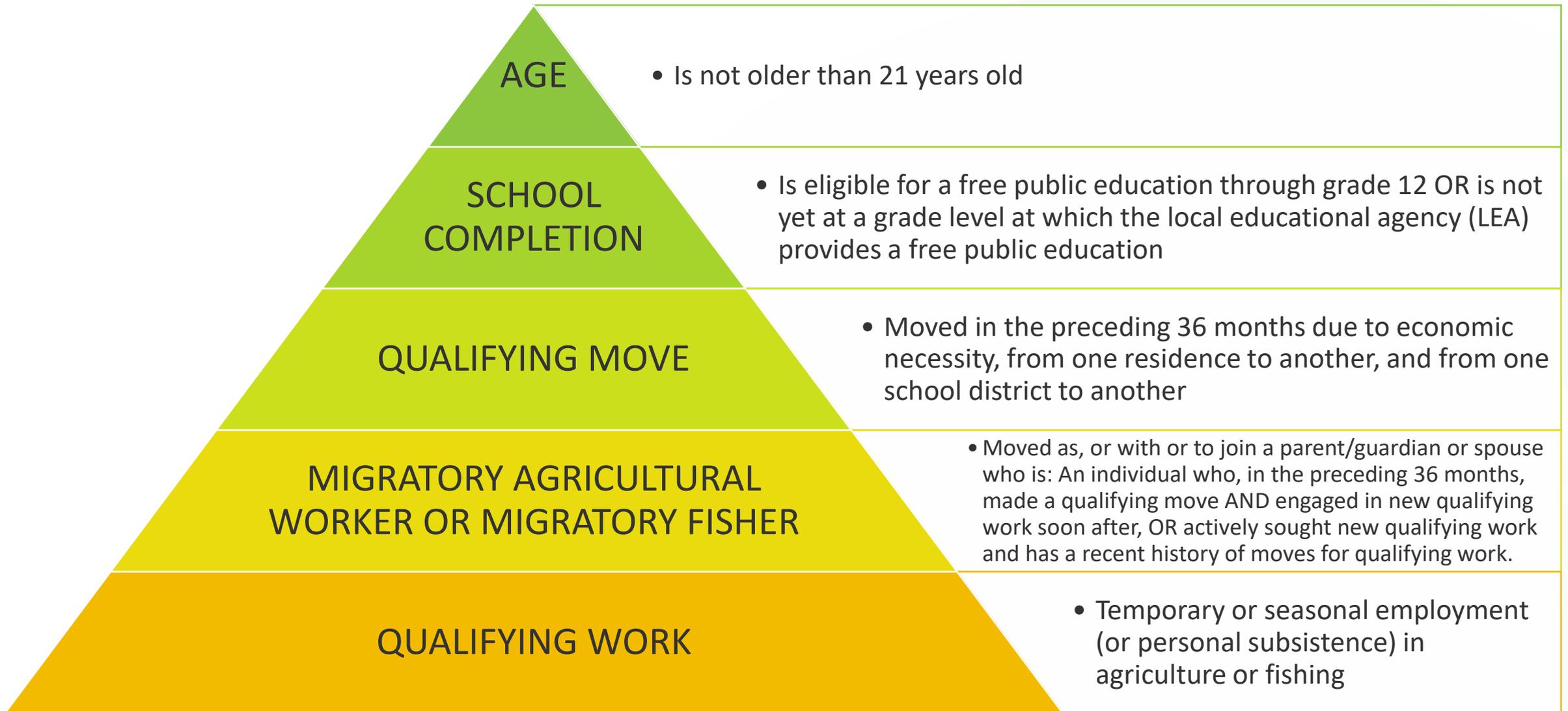
# CHILD'S MOVE WITH OR TO JOIN PARENT/GUARDIAN OR SPOUSE

The child's move with his or her parent/guardian or spouse *may* have been the same move (i.e., to the same location) that established the parent/guardian or spouse as a "migratory agricultural worker" or "migratory fisher."

However, this is not necessary— as long as the child made a qualifying move with a parent/guardian or spouse who meets the definition of a "migratory agricultural worker" or "migratory fisher."

In other words, the parent/guardian or spouse is an individual who, in the preceding 36 months, made a qualifying move and soon after, engaged in new qualifying work (or actively sought new qualifying work and has a recent history of moves for qualifying work).

# MIGRATORY CHILD: REVIEW THE FIVE KEY FACTORS



# KNOWLEDGE CHECK 1

*Which of the following criteria are required for a “qualifying move”? Circle all that apply.*

- a. From one residence to another*
- b. From one school district to another (with limited exceptions)*
- c. Change in school enrollment*
- d. Due to economic necessity*
- e. Followed by engagement in new qualifying work*

## KNOWLEDGE CHECK 2

*Assuming each activity is the worker's only task, which of the following is NOT considered agricultural work for purposes of the MEP?*

- a. Planting tulips for a commercial nursery*
- b. Transporting corn to a bourbon distillery*
- c. Spreading compost on fields before seeds are planted*
- d. Painting and repairing fences surrounding a cattle pasture*
- e. Deboning raw chicken in a poultry processing facility*

## KNOWLEDGE CHECK 3

*The worker moved on July 1, 2018 and engaged in qualifying work two weeks later, on July 15, 2018. The worker's child joined the worker on August 15, 2018 and enrolled in school on August 25, 2018. The MEP identified the child on September 10, 2018. What date does the child's eligibility for the MEP begin?*

- a. July 1: The date the worker moved*
- b. July 15: The date the worker engaged in qualifying work*
- c. August 15: The date the child moved*
- d. August 25: The date the child enrolled in school*
- e. September 10: The date the MEP identified the child*

# DOCUMENTING ELIGIBILITY

# CERTIFICATE OF ELIGIBILITY (COE)

- Must be completed based on the known facts at the time of the interview.
- The person who signs the COE as the interviewee must be the source of the information contained in the document and should verify any information provided by another source.
- The interviewer and at least one SEA-designated reviewer sign a statement certifying that they are *satisfied that these children are migratory children... and thus eligible as such for MEP services* [emphasis added].

# COE SECTION III: QUALIFYING MOVES AND WORK

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / City / State / Country to a residence in School district / City / State.
2. The child(ren) moved (complete both a. and b.):
  - a.  as the worker, OR  with the worker, OR  to join or precede the worker.
  - b. The worker, [First and Last Name of Worker], is  the child or the child's  parent/guardian  spouse.
    - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
3. The Qualifying Arrival Date was MM/DD/YY.
4. The worker moved due to economic necessity on MM/DD/YY, from a residence in School district / City / State / Country to a residence in School District/ City / State, and:
  - a.  engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
  - b.  actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
5. The qualifying work,\* describe agricultural or fishing work was (make a selection in both a. and b.):
  - a.  seasonal OR  temporary employment
  - b.  agricultural OR  fishing work

\*If applicable, check:  
 personal subsistence (provide comment)
6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
  - a.  worker's statement (provide comment), OR
  - b.  employer's statement (provide comment), OR
  - c.  State documentation for Employer.

# ELIGIBILITY DETERMINATIONS

- Eligibility determinations and COEs do not automatically transfer from State to State.
- Each State must have confidence in the accuracy of its eligibility determinations.
- If you are unsure or have questions about an eligibility determination, don't hesitate to ask!
- Follow your State's process for resolving eligibility questions.

# ELIGIBILITY SCENARIOS

# SCENARIO 1

Every July 1 since 2014, Francisco and his wife, Celina, moved from Virginia to North Carolina, where Francisco harvested tobacco for about five weeks before returning to Virginia in late August. Francisco and Celina did not move in July 2017 because their son, Mateo, was born in May. After hearing about higher paying jobs, the family moved to Kentucky on June 1, 2018. Francisco tried to find work at two local tobacco farms, but there were no jobs available. A MEP recruiter identified the family on June 20, 2018.

Is Mateo eligible for the Kentucky MEP?

# SCENARIO 1: RATIONALE

Mateo is eligible for the Kentucky MEP because he:

- ✓ Meets the definition of a “child” (under 22 years old and is not yet at a grade level at which the LEA provides a free public education);
- ✓ Made a “qualifying move” in the preceding 36 months (June 1, 2018);
- ✓ Made the qualifying move with his father who is a “migratory agricultural worker”

Mateo’s father is a “migratory agricultural worker” because he:

- ✓ Made a qualifying move in the preceding 36 months (June 1, 2018), actively sought qualifying work (seasonal employment harvesting tobacco), and has a recent history of moves for qualifying work (July 2016, July 2015).

# SCENARIO 1: COE

- 1. The child(ren) listed on this form moved due to economic necessity from a residence School district / City / VA / US to a residence in School district / City / KY.
- 2. The child(ren) moved (complete both a. and b.):
  - a.  as the worker, OR  with the worker, OR  to join or precede the worker.
  - b. The worker, Francisco [and Last Name of Worker], is  the child or the child's  parent/guardian  spouse.
    - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
- 3. The Qualifying Arrival Date was 06/01/18.
- 4. The worker moved due to economic necessity on 06/01/18, from a residence in School district / City / VA / US to a residence in School district / City / KY, and:
  - a.  engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
  - b.  actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
- 5. The qualifying work,\* harvesting tobacco was (make a selection in both a. and b.):
  - a.  seasonal OR  temporary employment
  - b.  agricultural OR  fishing work

\*If applicable, check:  
 personal subsistence (provide comment)
- 6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
  - a.  worker's statement (provide comment), OR
  - b.  employer's statement (provide comment), OR
  - c.  State documentation for Employer.

## **SCENARIO 2 [ADDING TO SCENARIO 1]**

On October 15, 2018, Francisco, Celina, and Mateo moved from Kentucky back to Virginia. Francisco applied for seasonal work in several nurseries. When a MEP recruiter identified the family on November 1, 2018, Francisco stated that he had not secured employment yet, but he expects to hear back from one of the nurseries in the next week.

Is Mateo eligible for the Virginia MEP?

## SCENARIO 2: RATIONALE

Mateo is eligible for the Virginia MEP because he:

- ✓ Meets the definition of a “child” (under 22 years old and is not yet at a grade level at which the LEA provides a free public education);
- ✓ Made a “qualifying move” in the preceding 36 months (October 15, 2018);
- ✓ Made the qualifying move with a parent who is a “migratory agricultural worker”

Mateo’s father is a “migratory agricultural worker” because he:

- ✓ Made a qualifying move in the preceding 36 months (July 1, 2016) and engaged in qualifying work (seasonal employment harvesting tobacco) soon after the move.

# SCENARIO 2: COE

- 1. The child(ren) listed on this form moved due to economic necessity from a residence School district / City / **KY** / **US** to a residence in School district / City / **VA**.
- 2. The child(ren) moved (complete both a. and b.):
  - a.  as the worker, OR  with the worker, OR  to join or precede the worker.
  - b. The worker, **Francisco** [and Last Name of Worker], is  the child or the child's  parent/guardian  spouse.
    - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
- 3. The Qualifying Arrival Date was **10/15/18**.
- 4. The worker moved due to economic necessity on **07/01/16**, from a residence in residence School district / City / **VA** / **US** to a residence in School district / City / **NC**, and:
  - a.  engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
  - b.  actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
- 5. The qualifying work,\* **harvesting tobacco** was (make a selection in both a. and b.):
  - a.  seasonal OR  temporary employment
  - b.  agricultural OR  fishing work

\*If applicable, check:  
 personal subsistence (provide comment)
- 6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
  - a.  worker's statement (provide comment), OR
  - b.  employer's statement (provide comment), OR
  - c.  State documentation for Employer.

## SCENARIO 3

After working as a dishwasher in a Napa, California restaurant for a little over a year, 19 year old Gloria (who dropped out of school in 10<sup>th</sup> grade) was offered a new job sorting grapes at the vineyard of a newly opened local winery. Her employment began on September 20, 2018 and ended just after the harvest on November 10, 2018. No longer able to afford to live in Napa, Gloria moved to Gilroy, California on January 20, 2019. A MEP recruiter identified Gloria on February 1, 2019.

Is Gloria eligible for the California MEP?

## SCENARIO 3: RATIONALE

Gloria is not eligible for the California MEP because although she:

✓ Meets the definition of a “child” (under 22 years old and eligible for a free public education through grade 12 in the State);

✓ Made a “qualifying move” in the preceding 36 months (January 20, 2019);

**X** She did NOT make the qualifying move as a “migratory agricultural worker” because she:

**X** Did not make a qualifying move in the preceding 36 months soon after which she engaged in new qualifying work (nor did she actively seek qualifying work and have a recent history of moves for qualifying work).

## SCENARIO 4

Joe, Amelia, and their 10 year old daughter, Lucy, moved from Texas to Indiana on July 30, 2016. Joe engaged in seasonal work canning tomatoes soon after the move. The work ended on September 10, 2016. On June 30, 2017, Joe moved by himself to Traverse City, Michigan to pick cherries. Because they could not afford to stay in Indiana while Joe was away, Amelia and Lucy moved back home to Texas on July 5, 2017. Joe joined his family in Texas on October 10, 2018. The Texas MEP identified the family on October 20, 2018.

Is Lucy eligible for the Texas MEP?

## SCENARIO 4: RATIONALE

Lucy is eligible for the Texas MEP because she:

- ✓ Meets the definition of a “child” (under 22 years old and eligible for a free public education through grade 12 in the State);
- ✓ Made a “qualifying move” in the preceding 36 months (July 30, 2016);
- ✓ Made the qualifying move with a parent who is a “migratory agricultural worker”

Lucy’s father is a “migratory agricultural worker” because he:

- ✓ Made a qualifying move in the preceding 36 months (July 30, 2016) and engaged in qualifying work (seasonal employment canning tomatoes) soon after the move.

# SCENARIO 4: COE

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / City / **TX** / **US** to a residence in School district / City / **IN**.
2. The child(ren) moved (complete both a. and b.):
  - a.  as the worker, OR  with the worker, OR  to join or precede the worker.
  - b. The worker, Joe [and Last Name of Worker], is  the child or the child's  parent/guardian  spouse.
    - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
3. The Qualifying Arrival Date was 07/30/16.
4. The worker moved due to economic necessity on 07/30/16, from a residence in School district / City / **TX** / **US** to a residence in School district / City / **IN**, and:
  - a.  engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
  - b.  actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
5. The qualifying work,\* canning tomatoes was (make a selection in both a. and b.):
  - a.  seasonal OR  temporary employment
  - b.  agricultural OR  fishing work

\*If applicable, check:  
 personal subsistence (provide comment)
6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
  - a.  worker's statement (provide comment), OR
  - b.  employer's statement (provide comment), OR
  - c.  State documentation for Employer.

## SCENARIO 5

On September 1, 2015, 13 year old Sam moved with his father from Florida to Louisiana to harvest oysters. Sam's father, Will, moved to Ohio on September 20, 2018 for a temporary job in a poultry processing facility, which he began on September 28, 2018. Sam went to visit his father in Ohio for his winter and spring breaks (December 14, 2018 and March 8, 2019). On May 1, 2019, Will moved back to Louisiana to join Sam. The Louisiana MEP identified the family on May 2, 2019.

Is Sam eligible for the Louisiana MEP?

# SCENARIO 5: RATIONALE

Sam is not eligible for the Louisiana MEP because although he:

- ✓ Meets the definition of a “child” (under 22 years old and eligible for a free public education through grade 12 in the State);
- X** He did not make a “qualifying move” in the preceding 36 months

## SCENARIO 6

In 2018, the Rey family moved twice for new employment within San Diego Unified School District in California. The family's children, Carlos and Mia, changed elementary schools with each move. After the first move in February 2018, their mother, Maria, worked in a tortilla factory inspecting, weighing and measuring raw corn. After the second move in August 2018, Maria worked sorting and bagging avocados.

The family's most recent move was from San Diego to Yuma, Arizona on January 25, 2019, in search of new employment. Maria sought seasonal employment with various agricultural employers (planting asparagus and beets), but was unable to find work. The family is identified by the Arizona MEP on March 1, 2019.

Are Carlos and Mia eligible for the Arizona MEP?

# SCENARIO 6: RATIONALE

Carlos and Mia are eligible for the Arizona MEP because they:

- ✓ Meet the definition of a “child” (under 22 years old and are eligible for a free public education through grade 12 in the State);
- ✓ Made a “qualifying move” in the preceding 36 months (January 25, 2019);
- ✓ Made the qualifying move with a parent who is a “migratory agricultural worker”

Carlos and Mia’s mother is a “migratory agricultural worker” because she:

- ✓ Made a qualifying move in the preceding 36 months (January 25, 2019), actively sought qualifying work (seasonal employment planting asparagus and beets), and has a recent history of moves for qualifying work (February and August 2018).

# SCENARIO 6: COE

- 1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / San Diego / CA / US to a residence in School district / Yuma / AZ.
- 2. The child(ren) moved (complete both a. and b.):
  - a.  as the worker, OR  with the worker, OR  to join or precede the worker.
  - b. The worker, Maria [and Last Name of Worker], is  the child or the child's  parent/guardian  spouse.
    - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
- 3. The Qualifying Arrival Date was 01/25/19.
- 4. The worker moved due to economic necessity on 01/25/19, from a residence in School district / San Diego / CA / US to a residence in School District/ Yuma / AZ, and:
  - a.  engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
  - b.  actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
- 5. The qualifying work,\* planting asparagus was (make a selection in both a. and b.):
  - a.  seasonal OR  temporary employment
  - b.  agricultural OR  fishing work

\*If applicable, check:  
 personal subsistence (provide comment)
- 6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
  - a.  worker's statement (provide comment), OR
  - b.  employer's statement (provide comment), OR
  - c.  State documentation for Employer.

REFLECT & SHARE

# IMPACT ON IDENTIFICATION AND RECRUITMENT (ID&R)

1. What are some ways that you have improved your ID&R efforts (as a recruiter, local program, district, and/or State) in the past few years?
2. Have the recent changes to eligibility requirements impacted your ID&R methods? If so, how?

# RESOURCES

Please visit our coordination website, [www.RESULTS.ed.gov](http://www.RESULTS.ed.gov), for additional information, including:

- ID&R Manual and Curriculum
- National COE Instructions
- MEP Non-Regulatory Guidance
- Policy Questions and Answers
- Presentations on MEP Eligibility and the National COE: 2019 New Directors Orientation (NDO), 2017 and 2018 Annual Directors Meetings (ADMs), 2017 National ID&R Forum, and 2017 webinars

Resources are also available from the Identification and Recruitment Rapid Response Consortium (IRRC) at:  
[www.idr-consortium.net](http://www.idr-consortium.net)

# THANK YOU

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