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.
OBJECTIVES

• Improve or refresh understanding of what makes a child eligible for the MEP and how to document eligibility determinations

• Apply understanding of MEP eligibility to hypothetical 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(a), and 200.89
  National Certificate of Eligibility (COE) Instructions (OMB Control Number 1810-0662)

• Guidance and Technical Assistance Materials
  o Chapter II of the Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children
  o New Directors Orientation Tutorial #2
  o MEP Policy Questions and Answers – search topic: “Child Eligibility”

see https://www.RESULTS.ed.gov
GETTING TO KNOW YOU

How many years of experience do you have working with MEP eligibility determinations?

A. Less than 1 year
B. 1 – 4 years
C. 5 – 10 years
D. 11- 20 years
E. More than 20 years
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).
DOCUMENTING ELIGIBILITY

• States and their local MEPs must use the national COE to document the eligibility determinations of migratory children.

• States may add State-specific information, within parameters of instructions.

• COEs must be completed based on the known facts at the time of the interview.

• COEs must be signed by the interviewee, the recruiter/interviewer, and at least one SEA-designated reviewer.

(see 34 C.F.R. § 200.89(c) and National Certificate of Eligibility (COE) Instructions (OMB Control Number 1810-0662))
FLEXIBILITY DURING COVID-19 PANDEMIC

• Recruitment interviews by phone, video conferencing, and other electronic methods

• May proceed without interviewee signature on the COE

  o This limited exception only applies to the interviewee signature. The recruiter/interviewer and SEA-designated reviewer must continue to sign and date the COE to certify the eligibility determination (electronic signatures continue to be acceptable).

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:
  o As a migratory agricultural worker or migratory fisher, or
  o 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)), 34 C.F.R. §§ 200.103(a) and 200.81(g), and Chapter II, A1-A7 of MEP Non-Regulatory Guidance (NRG)))
MIGRATORY CHILD: FIVE KEY FACTORS

- **AGE**: Is not older than 21 years old

- **SCHOOL COMPLETION**: Is eligible for a free public education through grade 12 OR is not yet at a grade level at which the local educational agency (LEA) provides a free public education

- **QUALIFYING MOVE**: Moved in the preceding 36 months due to economic necessity, from one residence to another, and from one school district to another

- **MIGRATORY AGRICULTURAL WORKER OR MIGRATORY FISHER**: Moved as, or with or to join a parent/guardian or spouse who is: An individual who, in the preceding 36 months, made a qualifying move AND engaged in new qualifying work soon after, OR actively sought new qualifying work and has a recent history of moves for qualifying work.

- **QUALIFYING WORK**: Temporary or seasonal employment (or personal subsistence) in agriculture or fishing
“QUALIFYING MOVE”

• Due to economic necessity; and

• From one residence to another; and

• From one school district to another school district, with specific exceptions:
  o For single-district States, must be from one administrative area to another
  o 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)
Raul made a qualifying move last month as a migratory agricultural worker. He is 20 years old and dropped out of high school in 10th grade. In the State where Raul currently resides, children are entitled to a free public education (through grade 12) through the age of 19. May the State consider Raul eligible for the MEP? (Yes/No)

No. The statute defines a “child” in two parts: a) not older than 21 years of age and b) entitled to a free public education (through grade 12) under State law or not yet at a grade level at which the LEA provides a free public education.

(see section 1115(c)(1)(A) of the ESEA (incorporated into the MEP by sections 1304(c)(2), 1115(b), and 1309(3)), 34 C.F.R. §§ 200.103(a) and 200.81(g), and Chapter II, A1-A7 of MEP NRG)
A MEP recruiter identified a young migratory worker, Liana, on May 1, 2021. Liana moved to the area from out of State in search of work on March 1, 2020. She found a seasonal job in a local nursery and began working on March 10, 2020. Liana turned 22 on April 25, 2021. **Should the recruiter complete a COE for Liana?** (Yes/No)

No. Although it appears that Liana may have been eligible for the MEP starting in March 2020, she no longer meets the definition of a “child” because she is over 21 years of age when the recruiter identifies her. Recruiters are instructed to make eligibility determinations based on the known facts at the time they are completing the COE.

(see section 1115(c)(1)(A) of the ESEA (incorporated into the MEP by sections 1304(c)(2), 1115(b), and 1309(3)), 34 C.F.R. §§ 200.103(a) and 200.81(g), Chapter II, A1-A7 of MEP NRG)
KNOWLEDGE CHECK 3

Which of the following is **not** a required component of a MEP qualifying move?

A. Economic necessity  
B. Educational interruption  
C. From one residence to another  
D. From one school district to another

(see section 1309(5) of the ESEA and Chapter II, D1-D15 of MEP NRG)
MIGRATORY AGRICULTURAL WORKERS AND MIGRATORY FISHERS

Mobility (qualifying move within 36 months)

Agriculture or Fishing

Seasonal or Temporary Employment (or Personal Subsistence)

Qualifying Work
“MIGRATORY AGRICULTURAL WORKER” OR “MIGRATORY FISHER”

An individual who made a qualifying move in the preceding 36 months and:

• Soon after doing so, engaged in new qualifying work.

OR

• Actively sought qualifying work and has a recent history of moves for qualifying work.

(see sections 1309(2) and (4) of the ESEA, 34 C.F.R. § 200.81(f) and (h), and Chapter II, C1-C18 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 C.F.R. § 200.81(p), (o), and (m), and Chapter II, G1 – G12 and F28 of MEP NRG)
AGRICULTURE OR FISHING

- **Agricultural work or employment** means the production or initial processing of raw agricultural products such as crops, trees, dairy products, poultry, or livestock. It consists of work performed for wages or personal subsistence.

  (see section 1309(2) of the ESEA, 34 C.F.R. § 200.81(a), and Chapter II, F1 – F15, F20 – 22, F24 – F26 of MEP NRG)

- **Fishing work or employment** means the catching or initial processing of fish or shellfish or the raising or harvesting of fish or shellfish at fish farms. It consists of work performed for wages or personal subsistence.

  (see section 1309(4) of the ESEA, 34 C.F.R. § 200.81(c), and Chapter II, F16 – F20, F23 – F25 of MEP NRG)
KNOWLEDGE CHECK 4

Which of the following activities, if part of the worker’s seasonal or temporary employment, is considered qualifying work for purposes of the MEP?

A. Planting tulips for a commercial nursery
B. Spreading compost on fields before tomato seeds are planted
C. Painting and repairing fences surrounding a cattle pasture
D. Deboning raw chicken in a poultry processing facility
E. All of the above

(see section 1309(2) of the ESEA, 34 C.F.R. § 200.81(a), and Chapter II, F1-F4, F6–F7 of MEP NRG)
KNOWLEDGE CHECK 5

If an individual performs a series of jobs for the same employer and each job only lasts a few months, but the individual is employed for two years total, this may be considered temporary employment for purposes of the MEP. TRUE or FALSE?

False. Workers who are hired to work for more than 12 months by the same employer, regardless of how many different jobs they perform, are not “engaged in new temporary or seasonal employment” as provided in the definitions of migratory agricultural worker and migratory fisher.

(see sections 1309(2) and (4) of the ESEA, 34 C.F.R. § 200.81(o) and (p), and Chapter II, G7 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 in that State for 36 months from the QAD, unless their eligibility ends for another reason (e.g., over age 21, earns 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.

• The QAD is not affected by subsequent non-qualifying moves or qualifying moves made with a parent/guardian or spouse who is no longer a migratory agricultural worker or migratory fisher.
Due to the COVID-19 pandemic, some currently eligible migratory children approaching the end of their MEP eligibility might not make another qualifying move. **May a State extend a child’s MEP eligibility beyond 36 months, due to the pandemic? (Yes/No)**

No. The 36-month period of eligibility is established by Federal law and may not be extended by States. However, States may continue to provide MEP services to formerly eligible migratory children:

- Until the end of the school term in which their eligibility ended;
- For one additional school year, if comparable services are not available through other programs.
- Through credit accrual programs until graduation, for those migratory students who were eligible for the MEP in secondary school.

(see sections 1309(2) and 1304(e) of the ESEA and Chapter V, A8 and A9 of MEP NRG)
CHILD’S MOVE WITH OR TO JOIN THE MIGRATORY AGRICULTURAL WORKER OR MIGRATORY FISHER

• A child’s qualifying move with his or her parent/guardian or spouse does not necessarily need to be to the same location where the parent/guardian or spouse engaged in qualifying work.

• For example, the parent/guardian or spouse may have, 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). This would establish the parent/guardian or spouse as a migratory agricultural worker or migratory fisher.

If the child then makes a qualifying move with or to join that parent/guardian or spouse within 36 months to another location, the child would be moving with a parent/guardian or spouse who is a migratory agricultural worker or migratory fisher.
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 ____________

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__________.
QUESTIONS?
ELIGIBILITY SCENARIOS
SCENARIO 1

On August 1, 2018 and August 1, 2019, Miguel made qualifying moves with his parents from Eureka, CA to Yakima, WA. Soon after each move, Miguel’s mother, Isabel, engaged in seasonal work harvesting apples. Because his mother was recovering from COVID-19 and too ill to travel or work, 18 year old Miguel made a qualifying move on his own from Eureka to Yakima on August 20, 2020. Miguel actively sought work at various apple orchards, but was unable to find employment. The Washington MEP identified Miguel on September 18, 2020. **Is Miguel eligible for the Washington MEP? Yes/No**

**YES.** Miguel made a qualifying move as a migratory agricultural worker. He actively sought qualifying work and has a recent history of moves for qualifying work. An individual actively seeking qualifying work for the first time is able to use a recent history of moves that were made with, or to join, a parent/guardian or spouse who was the migratory worker, and which resulted in qualifying work.
SCENARIO 1 COE

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district _______ / Eureka / California / Country ___ to a residence in ___ School district / Yakima / Washington. 

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, __________________________, 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 _______08/20/20_____.

4. The worker moved due to economic necessity on ___ 08/20/20 ___, from a residence in School district / Eureka / California / Country _______ to a residence in School District / Yakima / Washington, 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 apples___ 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

Gustavo moved from Yuma, AZ to Santa Maria, CA on April 10, 2021 with his wife, Sofia, and their children: 10 year-old Isabella, 11 year-old Edwin, and 15-year old Sasha. Gustavo began seasonal work picking strawberries one week later. Isabella and Edwin enrolled in the local elementary school, but Sasha remained enrolled in her Yuma high school, which is still 100% online. Are all of the children eligible for the California MEP? (Yes/No)

YES. All of the children made a qualifying move with a parent who is a migratory agricultural worker. Enrollment in the school district of residence is not a requirement for MEP eligibility. The California MEP should work with the family and schools involved to determine whether it makes sense to enroll Sasha in a local school, taking into consideration factors such as the duration of the family’s stay in California, State requirements, and the family’s preference.
SCENARIO 2 COE

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / Yuma / Arizona / Country ___ to a residence in ___ School district / Santa Maria / California ___.

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, ☒ Gustavo ____________________, 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 ___ 04/10/21 ___.

4. The worker moved due to economic necessity on ___ 04/10/21 ___, from a residence in School district / Yuma / Arizona / Country ___ to a residence in School District / Santa Maria / California , 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,* __________ picking strawberries __________ 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

On June 20, 2020, eight year-old Rania and her mother, Elisa, left their home in Texas for a temporary job in a poultry processing plant in Nebraska. During an overnight stay in Oklahoma, Elisa received word that the poultry plant had closed indefinitely due to an outbreak of COVID-19. Elisa and Rania returned home to Texas. **Is Rania eligible for the MEP?** (Yes/No)

No. There was no qualifying move, as the family did not change residence.
SCENARIO 4

Amelia and her parents moved from New York to Pennsylvania on September 10, 2019 because her father, Javier, had been unable to find work for several months. One week later, Javier began a seasonal job picking apples. When the apple harvest ended, Amelia’s mother, Jessica, was able to find steady work as a bookkeeper for the farm. When coronavirus cases began escalating, the family moved back to New York on March 16, 2020 to take care of Amelia’s grandparents. Due to lack of employment in New York, Javier moved to South Carolina to plant sweet potatoes on June 15, 2020. He returned to the family in New York on September 20, 2020.

What is Amelia’s QAD?

A. September 10, 2019
B. March 16, 2020
C. June 15, 2020
D. September 20, 2020
E. None- she is not eligible for the MEP
1. The child(ren) listed on this form moved due to economic necessity from a residence in __School district__/___City__/___New York___/___Country____ to a residence in __School district__/___City__/___Pennsylvania____.

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, ____________, 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 __09/10/19______.

4. The worker moved due to economic necessity on __09/10/19___, from a residence in __School district__/___City__/___New York___/___Country____ to a residence in __School District__/___City__/___Pennsylvania____, 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,* ____________picking apples________ 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!
THANK YOU

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