

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

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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

- Understand the basic requirements for MEP eligibility under the ESEA, as amended by 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(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* (March 2017)



Transition to ESEA's New MEP Eligibility Requirements

- New statutory provisions under the ESEA, as amended by ESSA, for the MEP took 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, were effective on July 1, 2017.
- All SEAs were required to use the revised national Certificate of Eligibility (COE) for all MEP eligibility determinations made on or after July 1, 2017.



SUMMARY OF CHANGES TO MEP ELIGIBILITY



Changes to MEP Program Definitions – Section 1309 Slide 1

(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.

(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.



Changes to MEP Program Definitions – Section 1309 Slide 2

(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.

(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) *(see Code of Federal Regulations 34 CFR § 200.103(a))*

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*(see Chapter II, A1 of MEP NRG)*

3. Migratory children are eligible for the MEP for 36 months from their most recent qualifying arrival date (QAD) *(see Chapter II, E1 of MEP NRG)*



“Qualifying Work”

We use the abbreviated term “qualifying work” to mean temporary or seasonal employment (or personal subsistence) in agriculture or fishing. *(see Chapter II, C3 and F27 of MEP NRG)*

- “Temporary employment,” “seasonal employment,” and “personal subsistence”: program regulations definitions *(see Chapter II, G1 – G12 and F28 of MEP NRG)*
- Employment in agriculture: program regulations definition of “agricultural work” + *dairy work or the initial processing of raw agricultural products* *(see Chapter II, F1 – F15, F20 – 22, F24 – F27 of MEP NRG)*
- Employment in fishing = program regulations definition of “fishing work” *(see Chapter II, F16 – F19, F20, F23 – F26 of MEP NRG)*



“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*

(see Chapter II, D1 – D15 of MEP NRG)

“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

(see Chapter II, E1 – E4 of MEP NRG)



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 *(see Chapter II, C4 of MEP NRG)*
2. “Engaged” in qualifying work soon after the move instead of “obtained” *(see Chapter II, C1 and C2 of MEP NRG)*
3. Modified criteria for individuals who did not engage in new qualifying work soon after their qualifying move *(see Chapter II, C8 – C 18 of MEP NRG)*



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

(see Chapter II, C1 and C2 of MEP NRG)



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”**: *(see Chapter II, C5 – C7 of MEP NRG)*
 - Within 60 days after the qualifying move
- **“Actively Sought”**: *(see Chapter II, C10 - C12 of MEP NRG)*
 - 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); and
 - Should occur within 60 days of the qualifying move
- **“Recent History of Moves for...”**: *(see Chapter II, C13 – C18 of MEP NRG)*
 - Moves that resulted in engagement in qualifying work; and
 - At least two moves; and
 - Within 36 months of the recruiter’s interview



QUESTIONS?



ELIGIBILITY SCENARIOS



Scenario #1

Jose Rodriguez, his wife and 3 children ages 5, 11 and 13, move from Weslaco, Texas, to Galveston, Indiana, to work in the tomatoes. They arrived on April 13, 2017 and Jose begins work that week. The family then moves to Buckley, Michigan, on September 15, 2017, to work in the pumpkin fields. Jose engages in work the next day. The recruiter in Michigan finds the family on September 19, 2017. Are the children eligible for the MEP? How many qualifying moves did the children make? If the children do not move again, when will MEP eligibility end for the children?



Answers to Scenario #1

Migratory Agricultural Worker: Did parent/guardian/spouse or child (if the child is the worker) make a qualifying move (made due to economic necessity; and from one residence to another residence and from one school district to another school district) within the 36 months preceding the date of the interview and engage in new qualifying work soon after the move? **YES.**

Migratory Children:

- Are the children under age 22 and still entitled to a free public education (through grade 12) in the State? **YES.**
- Did the children move on their own 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”? **YES.**
- Was the children’s move a “qualifying move”- i.e., made due to economic necessity; and from one residence to another residence; and from one school district to another school district? **YES.**

Are the children eligible for the MEP? YES



Answers to Scenario #1

How many qualifying moves did the children make?

The children made two qualifying moves:

1. On April 13, 2017 – from Weslaco, Texas to Galveston, Indiana,
2. On September 15, 2017 – from Galveston, Indiana to Buckley, Michigan

If the children do not move again, when will MEP eligibility end for the children?

MEP eligibility will end on September 14, 2020.



Scenario #2

On August 24, 2016, a worker, his spouse and two children, ages 5 and 7, move from Cleveland, Ohio, to Biglerville, Pennsylvania, to engage in seasonal agricultural work picking peaches. The father begins work the next day and continues working until October 2016. After the work ends, the entire family moves on October 28, 2016, to Philadelphia, Pennsylvania, where the mother obtains work in a hotel. The recruiter finds the family in August 2017. Are the children eligible for the MEP? How many qualifying moves did the children make? If the children do not move again, when will MEP eligibility end for the children?



Answers to Scenario #2

Migratory Agricultural Worker: Did parent/guardian/spouse or child (if the child is the worker) make a qualifying move (made due to economic necessity; and from one residence to another residence and from one school district to another school district) within the 36 months preceding the date of the interview and engage in new qualifying work soon after the move? **YES.**

Migratory Children:

- Are the children under age 22 and still entitled to a free public education (through grade 12) in the State? **YES.**
- Did the children move on their own 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”? **YES.**
- Was the children’s move a “qualifying move”- i.e., made due to economic necessity; and from one residence to another residence; and from one school district to another district? **YES.**

Are the children eligible for the MEP? YES



Answers to Scenario #2

How many qualifying moves did the children make?

The children made two qualifying moves:

1. August 24, 2016 – from Cleveland, Ohio, to Biglerville, Pennsylvania
2. October 28, 2016 – from Biglerville, Pennsylvania to Philadelphia, Pennsylvania

If the children do not move again, when will MEP eligibility end for the children?

If the children do not move again, MEP eligibility will end on October 27, 2019.



Scenario #3

- Joaquin, a 17-year old out-of-school youth, last migrated with his parents in June of 2014, when the family moved from their hometown of Eureka, California, to Yakima, Washington, to pick blueberries. Because he could not find employment in his hometown of Eureka, California, he moved on his own to Yakima, Washington, on July 11, 2017. Within a week of moving to Yakima, he applied for seasonal employment picking blueberries, but did not get the job. The recruiter in Washington interviewed Joaquin on July 17, 2017. Is Joaquin eligible for the MEP?



Answers to Scenario #3

Migratory Agricultural Worker: Did parent/guardian/spouse or child (if the child is the worker) make a qualifying move (made due to economic necessity; and from one residence to another residence, and from one school district to another school district) within the 36 months preceding the date of the interview and engage in qualifying work soon after the move? **NO.**

If NO, did the worker actively seek new qualifying work, **AND** have a recent history of moves for qualifying work? **NO. Joaquin does not have a recent history of moves for qualifying work.**

Migratory Children:

- Are the children under age 22 and still entitled to a free public education (through grade 12) in the State? **YES**
- Did the children move on their own 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”? **NO**
- Was the children’s move a “qualifying move”- i.e., made due to economic necessity; and from one residence to another residence; and from one school district to another school district? **YES**

Is Joaquin eligible for the MEP? NO



Scenario #4

Pablo, a father of 4 school-aged children, moved on his own July 15, 2016 from his family's home in Pine Bluff, Arkansas to Bradenton, Florida in search of work picking oranges. Two weeks after his move he engages in the work and is there for 2 months. Once the harvest is over he moves back to Arkansas. Then on January 18, 2017, he moves again on his own to Eugene, Oregon to work with his brother at a local restaurant during the slow season. On September 1, 2017, his wife and 4 children join him in Oregon while Pablo continues his work in the restaurant. The recruiter interviews the family on September 12, 2017. Are the children eligible for the MEP? How many qualifying moves did the children make? If the children do not move again, when will MEP eligibility end for the children?



Answers to Scenario #4

Migratory Agricultural Worker: Did parent/guardian/spouse or child (if the child is the worker) make a qualifying move (made due to economic necessity; and from one residence to another residence and from one school district to another school district) within the 36 months preceding the date of the interview and engage in new qualifying work soon after the move? **YES.**

Migratory Children:

- Are the children under age 22 and still entitled to a free public education (through grade 12) in the State? **YES.**
- Did the children move on their own 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”? **YES.**
- Was the children’s move a “qualifying move”- i.e., made due to economic necessity; and from one residence to another residence; and from one school district to another district? **YES.**

Are the children eligible for the MEP? YES



Answers to Scenario #4

How many qualifying moves did the children make?

The children made one qualifying move:

1. September 1, 2017 – from Pine Bluff, Arkansas to Eugene, Oregon

If the children do not move again, when will MEP eligibility end for the children?

If the children do not move again, MEP eligibility will end on August 31, 2020.



Scenario #5

Pedro and María Lozano, have three children who are in elementary and middle school. The family resides most of the year in Edcouch, Texas, and considers Texas their home. They have a long history of migration; each year they travel to Fremont, Ohio for Pedro and Maria to work in the cucumber harvest and then to Florida to harvest tomatoes. This year, Pedro, María and their children left Edcouch and arrived in Fremont, on May 26, 2017, to begin work thinning and weeding cucumber fields. Both parents continued to work through the harvest season in late June/early July. When work with the cucumbers ended, Maria returned to Edcouch, Texas, on August 31, 2017, with the three children, while Pedro went by himself to harvest tomatoes in Florida. The recruiter interviews the mother on September 2, 2017. Are the children eligible for the MEP? How many qualifying moves did the children make? If the children do not move again, when will MEP eligibility end for the children?



Answers to Scenario #5

Migratory Agricultural Worker: Did parent/guardian/spouse or child (if the child is the worker) make a qualifying move (made due to economic necessity; and from one residence to another residence and from one school district to another school district) within the 36 months preceding the date of the interview and engage in new qualifying work soon after the move? **YES.**

Migratory Children:

- Are the children under age 22 and still entitled to a free public education (through grade 12) in the State? **YES.**
- Did the children move on their own 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”? **YES.**
- Was the children’s move a “qualifying move”- i.e., made due to economic necessity; and from one residence to another residence; and from one school district to another district? **YES.**

Are the children eligible for the MEP? YES



Answers to Scenario #5

How many qualifying moves did the children make?

The children made two qualifying moves:

1. May 26, 2017 – from Edcouch, Texas to Fremont, Ohio
2. August 31, 2017 – from Fremont, Ohio to Edcouch, Texas

If the children do not move again, when will MEP eligibility end for the children?

If the children do not move again, MEP eligibility will end on August 30, 2020.



Thank You

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Additional resources, including the MEP Non-Regulatory Guidance, are available on [RESULTS.ed.gov](https://results.ed.gov)

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