

**EXISTING (Previously Approved) MEP REGULATIONS**  
**34 CFR 200**

Subpart C--Migrant Education Program

Sec.200.81 Program definitions.

200.82 Use of program funds for unique program function costs.

200.83 Responsibilities of SEAs to implement projects through a comprehensive needs assessment and a comprehensive State plan for service delivery.

200.84 Responsibilities of SEAs for evaluating the effectiveness of the MEP.

200.85 Responsibilities of SEAs and operating agencies for improving services to migratory children.

200.86 Use of MEP funds in schoolwide projects.

200.87 Responsibilities for participation of children in private schools.

200.88 Exclusion of supplemental State and local funds from supplement, not supplant and comparability determinations.

200.89 [Reserved]

Subpart C--Migrant Education Program

Sec. 200.81 Program definitions.

The following definitions apply to programs and projects operated under subpart C of this part:

(a) Agricultural activity means--

(1) Any activity directly related to the production or processing of crops, dairy products, poultry or livestock for initial commercial sale or personal subsistence;

(2) Any activity directly related to the cultivation or harvesting of trees; or

(3) Any activity directly related to fish farms.

(b) Fishing activity means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or personal subsistence.

(c) Migratory agricultural worker means a person who, in the preceding 36 months, has moved from one school district to another, or from one administrative area to another within a State that is comprised of a single school district, in order to obtain temporary or seasonal employment in agricultural activities (including dairy work) as a principal means of livelihood.

(d) Migratory child means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, guardian

in order to obtain, temporary or seasonal employment in agricultural or fishing work--

(1) Has moved from one school district to another;

(2) In a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(3) Resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(e) Migratory fisher means a person who, in the preceding 36 months, has moved from one school district to another, or from one administrative area to another within a State that is comprised of a single school district, in order to obtain temporary or seasonal employment in fishing activities as a principal means of livelihood. This definition also includes a person who, in the preceding 36 months, resided in a school district of more than 15,000 square miles, and moved a distance of 20 miles or more to a temporary residence to engage in a fishing activity as a principal means of livelihood.

(f) Principal means of livelihood means that temporary or seasonal agricultural or fishing activity plays an important part in providing a living for the worker and his or her family.

(Authority: 20 U.S.C. 6391-6399, 6571)

Sec. 200.82 Use of program funds for unique program function costs.

An SEA may use the funds available from its State Migrant Education Program (MEP) to carry out other administrative activities, beyond those allowable under Sec. 200.101, that are unique to the MEP, including those that are the same or similar to administrative activities performed by LEAs in the State under subpart A of this part. These activities include but are not limited to--

- (a) Statewide identification and recruitment of eligible migratory children;
- (b) Interstate and intrastate coordination of the State MEP and its local projects with other relevant programs and local projects in the State and in other States;
- (c) Procedures for providing for educational continuity for migratory children through the timely transfer of educational and health records, beyond that required generally by State and local agencies;
- (d) Collecting and using information for accurate distribution of subgrant funds;
- (e) Development of a statewide needs assessment and a comprehensive State plan for MEP service delivery;
- (f) Supervision of instructional and support staff;
- (g) Establishment and implementation of a State parent advisory council; and
- (h) Conducting an evaluation of the effectiveness of the State MEP.

(Authority: 20 U.S.C. 6392, 6571)

Sec. 200.83 Responsibilities of SEAs to implement projects through a comprehensive needs assessment and a comprehensive State plan for service delivery.

(a) An SEA that receives a grant of MEP funds must develop and update a written comprehensive State plan (based on a current statewide needs assessment) that, at a minimum, has the following components:

- (1) Performance targets. The plan must specify--
  - (i) Performance targets that the State has adopted for all children in reading and mathematics achievement, high school graduation, and the number of school dropouts, as well as the State's performance targets, if any, for school readiness; and

- (ii) Any other performance targets that the State has identified for migratory children.
- (2) Needs assessment. The plan must include an identification and assessment of--
  - (i) The unique educational needs of migratory children that result from the children's migratory lifestyle; and
  - (ii) Other needs of migratory students that must be met in order for migratory children to participate effectively in school.
- (3) Service delivery. The plan must describe the strategies that the SEA will pursue on a statewide basis to achieve the performance targets in paragraph (a)(1) of this section by addressing--
  - (i) The unique educational needs of migratory children consistent with paragraph (a)(2)(i) of this section; and
  - (ii) Other needs of migratory children consistent with paragraph (a)(2)(ii) of this section.
- (4) Evaluation. The plan must describe how the State will evaluate the effectiveness of its program.
  - (b) The SEA must develop its comprehensive State plan in consultation with the State parent advisory council or, for SEAs not operating programs for one school year in duration, in consultation with the parents of migratory children. This consultation must be in a format and language that the parents understand.
  - (c) Each SEA receiving MEP funds must ensure that its local operating agencies comply with the comprehensive State plan.

(Approved by the Office of Management and Budget under control number 1810-0659)

(Authority: 20 U.S.C. 6396)

Sec. 200.84 Responsibilities of SEAs for evaluating the effectiveness of the MEP.

Each SEA must determine the effectiveness of its program through a written evaluation that measures the implementation and results achieved by the program against the State's performance targets in Sec. 200.83(a)(1), particularly for those students who have priority for service as defined in section 1304(d) of the ESEA.

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(Authority: 20 U.S.C. 6394)

Sec. 200.85 Responsibilities of SEAs and operating agencies for improving services to migratory children.

While the specific school improvement requirements of section 1116 of the ESEA do not apply to the MEP, SEAs and local operating agencies receiving MEP funds must use the results of the evaluation carried out under Sec. 200.84 to improve the services provided to migratory children.

(Authority: 20 U.S.C. 6394)

Sec. 200.86 Use of MEP funds in schoolwide projects.

Funds available under part C of Title I of the ESEA may be used in a schoolwide program subject to the requirements of Sec. 200.28(c)(3)(i).

(Authority: 20 U.S.C. 6396)

Sec. 200.87 Responsibilities for participation of children in private schools.

An SEA and its operating agencies must conduct programs and projects under subpart C of this part in a manner consistent with the basic requirements of section 9501 of the ESEA.

(Authority: 20 U.S.C. 6394)

Sec. 200.88 Exclusion of supplemental State and local funds from supplement, not supplant and comparability determinations.

(a) For purposes of determining compliance with the comparability requirement in section 1120A(c) and the supplement, not supplant requirement in section 1120A(b) of the ESEA, a grantee or subgrantee under part C of Title I may exclude supplemental State and local funds expended in any school attendance area or school for carrying out special programs that meet the intent and purposes of part C of Title I.

(b) Before funds for a State and local program may be excluded for purposes of these requirements, the SEA must make an advance written determination that the program meets the intent and purposes of part C of Title I.

(c) A program meets the intent and purposes of part C of Title I if it meets the following requirements:

(1) The program is specifically designed to meet the unique educational needs of migratory children, as defined in section 1309 of the ESEA.

(2) The program is based on performance targets related to educational achievement that are similar to those used in programs funded under part C of Title I of the ESEA, and is evaluated in a manner consistent with those program targets.

(3) The grantee or subgrantee keeps, and provides access to, records that ensure the correctness and verification of these requirements.

(4) The grantee monitors program performance to ensure that these requirements are met.

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(Authority 20 U.S.C. 6321(d))

Sec. 200.89 [Reserved]