

Responses to comments received for 1810-0662, Docket number ED-2023-SCC-0035 during the 60-day public comment period.

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## Response to Public Comments

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The Department of Education (ED) solicited comments on a proposed revision to *Migrant Education Program Regulations and Certificate of Eligibility*, an existing information collection, in a notice published in the **Federal Register** on February 23, 2023 (88 FR 11421). We describe and respond to these comments below. ED received a total of four public comment submissions. Of those, two submissions provided specific substantive comments to which we respond below. Comments from one party were duplicated, and comments from another party were unrelated to the information collection and therefore not addressed.

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### PUBLIC COMMENTS AND RESPONSES

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#### **1. National COE Family Data Section: Parent/Guardian Name**

##### **Comments:**

One commenter recommended that instructions to record the “legal” parent/guardian name(s) or record the name(s) as it “legally exists” on the National COE be removed and instead reference names as used by the individual for official forms and school documents. The commenter stated that documenting “legal” names is not always in alignment with common cultural practices experienced in the field and added the consideration that some parents/guardians may use valid but abbreviated versions of their full legal names.

##### **Response:**

The Department shares the commenter’s interest in ensuring that the National COE Instructions acknowledge possible cross-cultural differences, and recognizes that in other circumstances, it may be appropriate and acceptable for individuals to use abbreviated versions of their legal name. As a point of clarification, recruiters are not required to seek out legal documentation as evidence of parent/guardian name(s). Given that the COE is the official record used to document that a child qualifies for the Title I, Part C – Migrant Education Program (MEP), the name(s) of the parent/guardian provided by the interviewee must be their legal name. We expect that generally, a parent/guardian’s legal name is consistent with their name as it appears on other official forms and school records. Therefore, we do not agree that references to recording the “legal” parent/guardian name(s) or recording the name(s) as it “legally exists” on the National COE should be removed.

#### **2. National COE Child Data Section: Child Sex**

##### **Comments:**

One commenter asked that the child sex field on the National COE be updated to include

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additional values beyond “Male” and “Female” in an effort to foster language that supports diversity and inclusion for students.

**Response:**

The Department shares the commenter’s interest in promoting language that fosters diversity and inclusion for all migratory children. In the initial 60-day comment period, we had added the third option of “nonbinary” for the child’s sex. Upon further internal consideration, we have updated the third option to “Other,” and allow for no response.

**3. National COE Qualifying Moves and Work Section: Order of Items**

**Comments:**

One commenter asked that the order of items 1-6 in the Qualifying Moves and Work section on the National COE be changed to improve data accuracy and ease the process for recruiters conducting interviews. Specifically, the commenter suggested re-ordering items 4-6 to appear first in the Qualifying Moves and Work section, followed by items 1-3.

**Response:**

Although required data sections of the COE must be maintained in whole and unaltered (e.g., order, numbering, and wording of items within the Qualifying Moves and Work section must remain the same), recruiters have the flexibility to modify the order in which they ask questions needed to complete the COE. The current sequencing of items 1-6 in the Qualifying Moves and Work section begins with less intrusive questions to establish if the child has moved, followed by questions about the worker’s move and work. If the child has not moved, there is no reason to proceed further with the interview. Therefore, we do not agree with the suggested re-ordering of items 1-6; however, we will update the order so that item 3, which concerns the child’s Qualifying Arrival Date (QAD), appears last in the Qualifying Moves and Work section since the child’s QAD can only be determined once all relevant information has been gathered.

**4. National COE Qualifying Moves and Work Section: Recent History of Moves**

**Comments:**

One commenter recommended that the National COE instructions be updated to clarify the phrase “recent history of moves for qualifying work.”

**Response:**

We added language from the MEP Non-Regulatory Guidance to the COE instructions to clarify that an individual’s recent history of moves for qualifying work does not have to be from one school district to another, but must be from one residence to another due to economic necessity, and engagement in qualifying work that followed the recent history of moves does not have to occur “soon after” each move.

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## **5. *National COE Comments Section***

### **Comments:**

One commenter recommended the removal of three circumstances in which the Department recommends that the recruiter provide additional comments on the COE. The three circumstances are:

- The person who provided the information on the COE (interviewee) is not the worker.
- The mailing address is different from the child(ren)'s physical residence.
- The child(ren)'s legal parent/guardian(s) differ from the current parent/guardian(s) listed.

The commenter questioned the necessity of documenting this information in the Comments section, and how such information impacts the eligibility determination.

### **Response:**

On page 12 of the National COE Instructions, the Department recommends that the recruiter provide additional comments on the COE in the specific circumstances listed “and in any other circumstances in which a third party may question the eligibility determination.” The list of circumstances provided in the instructions is not comprehensive and recruiters are not required to provide additional comments on the COE for each of the circumstances listed. Given that the list of circumstances are recommendations, we do not agree with removing any of the circumstances from the COE instructions. However, we recognize that the instructions inadvertently implied that all the examples listed are circumstances in which a third party may question the eligibility determination. In fact, only some of the circumstances are likely to raise questions about the eligibility determination, while others—including the three examples cited by the commenter—are circumstances in which we believe an explanation or additional information would be beneficial for other reasons. Therefore, we have modified the instruction to make this distinction clearer.

## **6. *National COE Interviewee Signature Section***

### **Comments:**

One commenter stated that interviewees' signatures often do not include the name of the person who is signing and recommended modifying the National COE instructions to remove all references to “signing his or her name” and add text to explicitly indicate that “rúbrica” signatures are acceptable forms of legal signatures.

### **Response:**

We recognize that signatures vary for different individuals and that is why each State should have its own policies for determining what is considered a valid mark. We do not agree with the recommendation to remove all references to “signing his or her name” and add text to explicitly indicate that “rúbrica” signatures are acceptable forms of legal signatures. We continue to believe that it is important to attach a signature to the Interviewee statement attesting to the accuracy of the information provided, in whatever format is considered valid by the State. In

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considering the comment that interviewees' signatures often do not include the name of the person who is signing, and after reflecting upon Department staff experience reviewing COEs with signatures that do not clearly identify the name of the signee, we added fields to the National COE to capture the printed names of the interviewee, interviewer, and designated SEA reviewer. With the addition of printed names in the signature sections, the Department's recommendation that the recruiter provide additional comments on the COE if an interviewee uses a symbol such as an "X" or other valid mark as a signature, is no longer needed and has been removed from the list of circumstances in which we recommend additional information in the Comments section.

## ***7. MEP Implementation and Evaluation***

### **Comments:**

One commenter submitted the following recommendations:

- "Comprehensively collection information from all stakeholders involved including migrant students."
- "Implement the MEP according to state specific needs"
- "Evaluate the implementation of the MEP periodically using experiments such as RCTs, and continue to adjust the implementation plan as needed."

### **Response:**

The Department appreciates the commenter's interest in the implementation and evaluation of the MEP, and appreciates the recommendations provided. To clarify, the information collection requirements in this notice pertain to the requirements for State educational agencies (SEAs) to conduct a comprehensive needs assessment, service delivery plan, and evaluation of the MEP, and this information is not regularly collected by the Department. Each SEA has the discretion to determine the specific data sources and methodologies used in carrying out these requirements. Therefore, we do not believe these comments warrant a change or specific response from the Department.