



IDAHO MIGRANT EDUCATION PROGRAM IDENTIFICATION & RECRUITMENT MANUAL 2011



PROVIDING POLICIES AND PROCEDURES FOR THE IDENTIFICATION AND RECRUITMENT
OF MIGRANT CHILDREN AND MIGRANT EDUCATION PROGRAM REQUIREMENTS.



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Chapter 1

Introduction

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It is estimated by the United States Department of Labor that approximately 1.3 million U.S. citizens migrate between states, earning their living by working in the agricultural industry. This number does not include the thousands who move from other countries to work in the U.S. and those who work in the fishing industry. Our nation depends on agriculture and fishing, and on the many workers who plant, cultivate, and harvest the country's fruits and vegetables, and process livestock, poultry, fish, and dairy products.



As migrant families traverse from one state to another, their children move as well. Children are often withdrawn from school and enrolled in another which interrupts their education. Poor English language skills coupled with inadequate nutrition, poor housing, and poverty, lead to low overall achievement and disappointment among migrant children, causing many to drop out of school.

In 1966, Congress established the Title I Part C Migrant Education Program (MEP). Subsequently, the state of Idaho began serving the children of migratory families. The many local schools have produced successful programs that have not only helped migrant children in Idaho, but also thousands of children living in other states as well. Presently, the MEP works closely with other state migrant programs in an effort to increase the number of migrant students graduating from high school and leading successful lives.

To qualify for the Migrant Education Program (MEP), a child is considered "migrant" if the parent or guardian is a migratory worker in the agricultural, dairy, lumber, or fishing industries and whose family has moved during the past three years. A "qualifying" move can range from moving across school district boundaries or from one state to another for the purpose of finding temporary or seasonal employment. A young adult may also qualify if he or she has moved on his or her own for the same reasons. The eligibility period is three years from the date of the last move. Eligibility is established through an interview conducted by a Migrant Education recruiter who visits both home and/or employment locations. The law states that migrant education services are a priority for those students whose education has been interrupted during the current school year and who are failing, or are most at risk of failing to meet state content and performance standards.

As part of the effort to effectively identify and serve youth and the children of migratory workers, the state of Idaho has developed this manual. Its purpose is to assist program personnel in the proper and timely identification and recruitment (I&R) of eligible migrant children. With this in mind, personnel will have the opportunity to learn and strengthen I&R practices and quality control systems, use up to date and best practices for identifying and recruiting children of migratory family, including out-of-school youth (OSY), and understand and use federal program law, rules and regulations, and state and federal policy guidance.

Authority for the Migrant Education Program

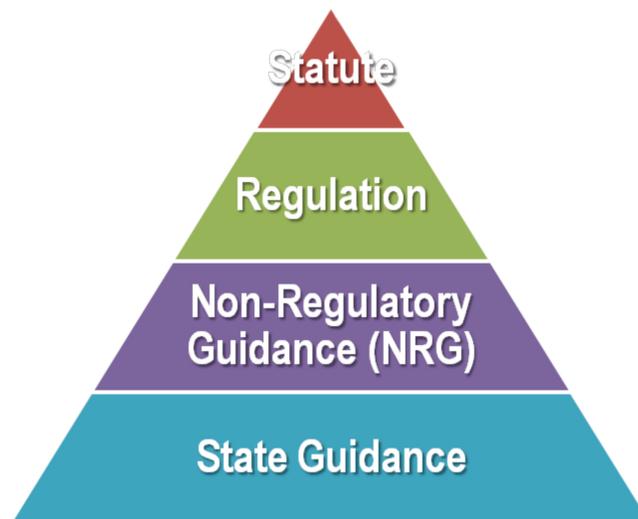
In the Title I Part C Migrant Education Program (MEP), identification and recruitment (I&R) must be conducted in compliance with all applicable federal laws, rules, and regulations. There are several



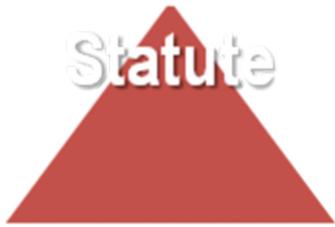
documents that lay out the eligibility requirements of the MEP. Three of the main sources listed below, the law or statute, the regulations, and state requirements, contain the basic eligibility definitions that recruiters are required to use to determine if a child or youth is eligible for the MEP. In Idaho, there are district rules that also provide direction for the MEP. Also, there are a number of other helpful tools developed to help recruiters determine a child's eligibility for the MEP. These will be illustrated and explained later in the manual. The pyramid below helps explain how the laws, rules, and interpretations affect the Idaho MEP. The top of the pyramid is the most general description of the MEP I&R law, but also the highest level of authority. More details are added as one moves down the pyramid. Rules and interpretations in any given level of the pyramid can be stricter than the level above it, but not more lenient.

Migrant Education Program Federal Statutes, Regulations, and Guidance

- *The Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act (NCLB) of 2001: The No Child Left Behind Act was signed into law on January 8, 2002.*
- *Family Education Rights and Privacy Act (FERPA): FERPA is a federal law that protects the privacy of student education records (20 U.S.C. § 1232g; 34 CFR Part 99).*
- *Code of Federal Regulations: As required by the NCLB statute, the U.S. Department of Education issues a set of regulations implementing the programs under Title I of the Elementary and Secondary Education Act of 1965, as amended.*
- *Non-Regulatory Guidance for Title I, Part C, Education of Migratory Children is designed to help State Educational Agencies (SEAs) and Local Operating Agencies (LEAs) to develop and implement supplemental educational and support.*



The Idaho Migrant Education Program



Statute:

A law passed by the United States Congress (both the U.S. House of Representatives and U.S. Senate) and signed by the President of the United States. It is a source of law and it is considered a primary authority. For the Migrant Education Program, it is the Elementary and Secondary Act of 1965, Title I, Part C.

Federal Statutes

The Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act (NCLB) of 2001: The No Child Left Behind Act was signed into law on January 8, 2002, and contains the major statutory provisions that apply to the Migrant Education Program under Part C. Part C of NCLB can be viewed on the U.S. Department of Education (USED) web site at: www.ed.gov/policy/elsec/leg/esea02/pg8.html

Family Education Rights and Privacy Act (FERPA): FERPA is a federal law that protects the privacy of student education records (20 U.S.C. § 1232g; 34 CFR Part 99). The law applies to all schools that receive funds under a program of the U.S. Department of Education. This law can be viewed on the U.S. Department of Education web site at: www.ed.gov/policy/gen/guid/fpco/ferpa/index.html



Regulation:

A rule issued and formally adopted by an agency of the federal government. Used to assist in the implementation of statutes and of the federal program. Often, regulations are used to help interpret the meaning of the statute. Regulations are binding and have the force of law. For Migrant Education, it is the Federal Register issued in July 2008 by the U.S. Education Department.

Federal Regulations

As required by the NCLB statute, the U.S. Department of Education issues a set of regulations implementing the programs under Title I of the Elementary and Secondary Education Act of 1965, as amended. On August 28, 2008, new federal regulations became effective. The information provided in this version of the I&R Manual has been updated to reflect the new regulations. The regulations can be viewed on the U.S. Department of Education web site at: www.ed.gov/legislation/FedRegister/finrule/2002-4/120202a.html

Non-Regulatory Guidance (NRG)

Non-Regulatory Guidance (NRG):

A guidance memorandum or manual issued by a federal administrative agency, such as the U.S. ED, which provides interpretation of the federal statute or regulation. While not binding law, an NRG demonstrates the agency's view of the law and its interpretation. If a grantee follows an adopted NRG in implementing a program, an auditor or federal monitor would be hard pressed to disagree with the grantee's action. A grantee is able to deviate from an NRG, but it must be prepared to defend the reasons for not following the NRG and show how its approach is consistent with law and regulation. For MEP, it is the Child Eligibility under Title I, Part C of the Elementary and Secondary Education Act of 1965, Revised August 2010.

State Guidance

State Guidance:

Manual or other written documents where the state describes the NRGs it has adopted and the details of how they will be implemented in that particular state. It also addresses deviations from the NRGs, if any. For MEP, it is the I&R Manual 2011, and the Instructions for Completing the COE issued by Idaho MEP.

The Idaho Migrant Education Program

The State of Idaho Migrant Education Program (MEP) is part of a federally funded national program that provides supplemental educational and support services to migrant children. Congress established the Migrant Education Program in 1966 to meet the special needs of these children whose lives were being affected by mobility and educational disruption.

In Idaho, the Migrant Education Program is operated by the Idaho State Department of Education (ISDE). The ISDE is responsible for meeting all of the statutory and regulatory requirements of the program. The state provides Migrant Education funding to local educational agencies (LEAs) that are ultimately responsible for identifying and recruiting migrant families and youth and providing program services. The focus of the state is to provide overall leadership and direction for the state as a whole, and to ensure that local programs comply with all applicable laws and other requirements.

“States have the authority to provide their own interpretation of Migrant Education Program eligibility requirements as long as state interpretations are reasonable and comport with the laws and regulations.”

OME I&R Draft Manual

Identification and Recruitment

The process of identification and recruitment is a critical part and requirement of the program for educating migrant children; therefore, the program is justified in committing a significant portion of its resources to this task.

“Identification” means determining the location and presence of migrant children, achieved by actively looking for and finding migrant children and youth.

“Recruitment” refers to making contact with migrant families and youth, explaining the MEP, securing the necessary information to determine the child’s eligibility for program services, and recording the basis of the child’s eligibility on a Certificate of Eligibility (COE). Upon successful recruitment of a migrant family, eligible children may be enrolled in the program.

The majority of migrant children would not fully benefit from the educational and health services to which they are entitled and, in some cases, would not attend school at all if the Migrant Education program did not identify and recruit them into the program. This is particularly true of the most mobile migrant children who are the most difficult to locate.



Identification & Recruitment

Identification: *Actively looking for and finding migrant children and youth*

Recruitment: *Making contact with the family or youth and obtaining the necessary information to document the child’s eligibility and enroll the child in the MEP*

Identification and Recruitment (continued)

Recruiters should not request immigration information because it may discourage individuals from seeking the services they need and for which they qualify. Also it is not legal to ask for this information. A social security number or other proof of residency/citizenship is not required for program eligibility.

Identification and recruitment of migrant children is a state responsibility. Anyone performing this function is representing the Idaho State Department of Education. Only fully trained and authorized personnel are permitted to conduct this task.

The generic title for personnel who recruit migrant students in the Idaho MEP is “family liaison/recruiter.” Whenever this term is used, it refers to anyone who has been authorized to identify and recruit migrant students, regardless of the official or colloquial title by which he or she operates, and regardless of any other job duties he or she may be required to perform.

To the extent possible, the LEA should track the departure as well as the arrival of migrant families and youth in their area. This practice is useful because: 1) it helps Idaho MEP plan the program by determining an accurate number of eligible migrant children in the state; 2) it allows the LEA to notify the receiving site in advance that the migrant child is en route; and 3) it allows the LEA to identify possible Priority for Service (PFS) students. [Section 1304(d) of the statute gives priority for services to migrant children who are failing, or most at risk of failing, to meet the state’s academic content and achievement standards and whose education has been interrupted during the regular school year.]

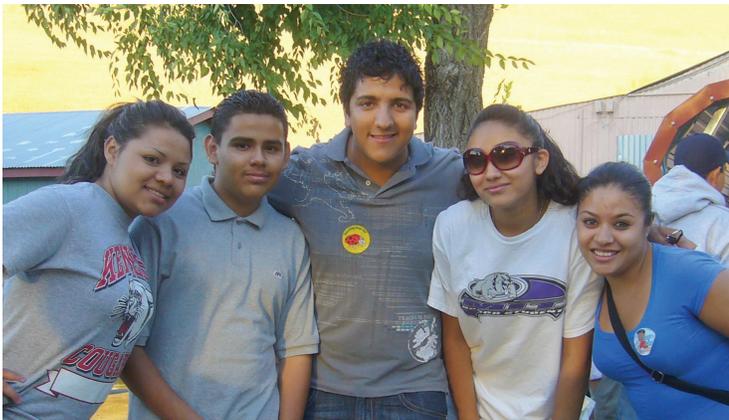
The state of Idaho is responsible for the proper and timely identification and recruitment of all eligible migrant children, including securing pertinent information to document the basis of a child’s eligibility. Recruiters obtain data by interviewing the parent or guardian of the child, or the child in cases where the child moves on his or her own. The Idaho MEP is responsible for implementing procedures to ensure the accuracy of eligibility information.

As defined in the Migrant Education Program regulations, a migrant child is younger than 22 and has not graduated from high school or does not hold a high school equivalency certification (this means that the child is entitled to a free public education or is of an age below compulsory school attendance). In Idaho, school attendance is compulsory until age 16. Young adults who have graduated from high school, or have obtained a GED, are not eligible to be counted or served by the Migrant Education Program.



Priority for Services (PFS)

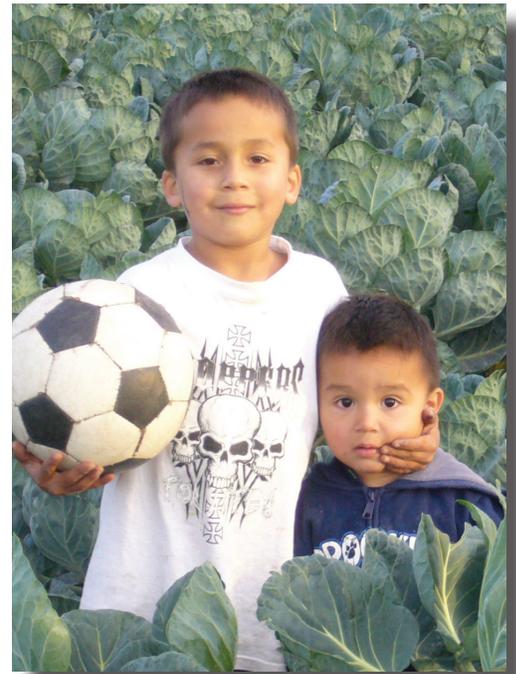
Section 1304(d) of the statute gives priority for services to migrant children who are failing, or most at risk of failing, to meet the state’s academic content and achievement standards and whose education has been interrupted during the regular school year.



Why We Recruit the Migrant Child

The Migrant Education Program helps meet the academic and support needs of an important but sometimes an invisible sector of our community – migrant children. Finding and enrolling eligible migrant children is a cornerstone of the MEP and its importance cannot be overemphasized. Identification and recruitment are critical activities for the following reasons:

- The children who are most in need of program services are often the most difficult to find and recruit as many of these youth travel on their own.
- Many migrant children would not receive the full benefit of school, and in some cases would not attend school at all, if they weren't identified and recruited into the program. This is particularly true of the most mobile migrant children who may be more difficult to identify than those who have settled in a community.
- Children cannot receive MEP services without a COE that includes documentation of their eligibility.



Migrant children are like most other children and young adults across the United States. In one respect; however, they present unique challenges. They and their families are constantly moving. This mobility creates extraordinary problems for children, parents, educators, and the educational system. Constant mobility can negatively impact students' educational opportunities and academic success. Extraordinary problems require extraordinary solutions, and one of the extraordinary solutions has been the Migrant Education Program that includes support and opportunities not found in any other federal educational program.

Effective identification and recruitment is a challenge for the MEP. Proper and timely I&R of migrant children is necessary, and for this and other reasons, extensive training on how to find and recruit migrant children is essential for all recruiters and those persons responsible for this important task.

Chapter 2

The Recruiter

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The Role of the Recruiter

Recruiters may also be titled home-school liaisons, community liaisons, outreach worker, migrant family service advocates, migrant service aides, and the like. Because of this responsibility, the recruiter is often the first point of contact between the MEP and the migrant family or youth. With identification and recruitment being such an important part of the program, the recruiter plays a vital role. It is the recruiter who actually identifies potential migrant families and youth and determines program eligibility. However, the responsibilities of the recruiter are broader than they might first appear.

The recruiter might be assigned by the district to work in a single school or several school districts. The recruiter may be an employee of the county office of education, yet work closely with local schools. He or she may also be a school district employee.

Every job has its challenges and rewards, and recruiting migrant students is no different. Recruiters must be prepared to work long hours, as the job sometimes requires working evenings and weekends to search for families and youth. When looking for families and youth, recruiters may have to drive on dirt roads in remote rural areas, or visit neighborhoods in large cities. However, the rewards can more than make up for the challenges as recruiters have the opportunity to get to know migrant families and youth on a personal basis in their own homes.

Because of this personal involvement with the families and youth, recruiters are in a position to help with many of their personal needs. Sometimes parents will ask for advice, or perhaps just need someone to talk to. Recruiters are able to help in find these families and youth the resources that they need. Recruiting can be challenging, but also satisfying as recruiters are in a unique position to see how migrant children benefit as a direct result of their work.

Responsibilities of the Recruiter

A recruiter's primary responsibilities are to:

- Locate potentially MEP-eligible children and self-eligible youth where they live and work;
- Interviewing migrant families and making preliminary child eligibility determinations
- Gather and analyze information concerning the child(ren)'s eligibility from parents, guardians and self-eligible youth in a personal interview;
- Clarify such information with additional sources when necessary;
- Accurately and completely document on a Certificate of Eligibility (COE) information that establishes eligibility; and
- Collect data that is required to enroll eligible children in the Idaho Migrant Student Information Database - the database that enables students' health and educational records to be transferred among school districts and participating states; and
- Participate in all necessary Idaho MEP quality control efforts
- Maintain auditable records; records should be current, complete and correct
- Developing a personal safety and emergency plan
- Communicating and interacting with different groups
- Establishing a recruitment network
- Following ethical standards, including maintaining confidentiality

"The recruiter's primary job is to find and enroll eligible migrant children. Locating migrant children can be hard work, and the recruiter must become skilled at performing range of duties and adapting to situations to be successful."

In order to achieve these responsibilities, a recruiter must:

- Attend annual identification and recruitment certification training as well as other periodic training sessions/opportunities as they occur;
- Maintain auditable and current records relating to identification and recruitment; and
- Serve as a link between schools, parents/guardians, growers, and community agencies.
- Dedicate and document the appropriate amount of time when reporting time and effort records.

A good recruiter is:

- *A self-starter*
- *Persistent*
- *Patient*
- *Confident*
- *Passionate*
- *Down to earth*
- *Empathetic*
- *Respectful*

Managing Essential Recruitment Tasks

Many times the recruiter's job is full of several activities. To maximize productivity, the recruiter should work with an immediate supervisor and their I&R coordinator. Several states have put together a distribution of activities that shows the time needed for each of these responsibilities. In Idaho, the time and task allocations will vary from one district to another depending on program size and management.

Active Identification and Recruitment – 60%

- Actively identify and recruit all eligible migrant children residing in the service area (e.g., school, district, county) from birth through 21 years of age. This includes surveying the areas and establishing communication networks, and developing working relationships with other community agencies, personnel, employers, and social services. It is essential to recruit out-of-school (OSY) students into educational programs and provide them with useful information.
- Complete, distribute, and maintain the COE according to state and federal guidelines for each eligible migrant child immediately upon their arrival in the service area (regardless of whether students are in school).
- Share information about eligibility of migrant children and youth with other districts, preschool programs, community service programs, and other programs where appropriate.

Home/School Liaison – 20%

- Provide assistance as a liaison between the home and school.
- Promote activities between students, parents, educators, and communities.
- Encourage parents to be part of a Parent Advisory Council (PAC).
- Inform migrant parents and students about school services and programs available to them. This includes instructional programs, alternative educational programs, health referrals, etc.

Social Services – 10%

- Network with other agencies that provide services to migrant students to ensure a coordinated service delivery system.
- Refer migrant families and youth to appropriate health, social, or legal services to meet the needs of migrant students for successful participation in school.

Documenting Time, Activities, Services – 9%

- Prepare documentation, such as service logs, reflecting major activities performed by the recruiter.
- Assist with keeping up-to-date migrant student lists and other records to disseminate to appropriate staff.

Other Identification and Recruitment Activities – 1%

The Recruiter and Safety

As always, the recruiter should be aware of the surroundings and his or her personal safety. The recruiter should identify potential unsafe conditions that could arise driving down a country road after dark, entering a dangerous part of town, driving into a camp where dogs may be guarding a farmhouse or ranch, or entering a camp full of males. These are all possible situations that may occur while identifying and recruiting migrant families and youth. The recruiter should consider developing a safety plan. Planning, preparation, awareness, and common sense can be the recruiter's best defense. "If a situation doesn't feel right, the recruiter should rethink the visit and return another time."

Communication with Parents

Communicating with parents is extremely important. To be successful in communicating with families and youth, the recruiter must keep in mind that each family must be approached individually and on a personal basis. The success of the recruiter depends on how well he or she is able to establish credibility with the families and youth, including knowing their language and culture.

The following are additional suggestions for helping the recruiter communicate with parents:

- **Dress for success:** How the recruiter appears to the families and youth is important. Families and youth expect to see a representative of the school dressed appropriately.
- **Gain their confidence and trust:** The recruiter should find ways of building families' and youths' trust and confidence and establish a friendly and supportive relationship with them.
- **Listen:** The recruiter should establish rapport by listening. The recruiter will learn about families and youth and then can offer other services.
- **Have frequent contacts:** The recruiter should have ongoing contact with families and youth. This is important for at least three reasons— it helps the recruiter know if the family is still in the area, if the family has made another qualifying move, and if the family needs program services.
- **Gender:** Recruiters need to be sensitive to gender issues and where possible, team with recruiters of the opposite sex in conducting home interviews and in accomplishing their other duties.

Time Management

Scheduling visits to several sites that are located in the same geographic area on the same day can save time and travel expenses. Some basic things the recruiter should consider when setting a schedule include the following:

Weekly/daily considerations:

- *The best days/hours to work (nights, weekends);*
- *The best times to visit migrant families and youth, schools, and employers;*
- *Which employers, farms, or growers to visit in the current week;*
- *When to promote the program with community agencies;*
- *When to be in the office to complete paperwork and follow up on leads; and*
- *How the work schedule can be changed when needed.*

Monthly considerations:

- *When to submit daily recruiter logs and other paperwork to the supervisor;*
- *Attending monthly recruiter meetings; and*
- *Whether all schools, growers, employers, and farms have been contacted for the current month.*

Annual considerations:

- *The high recruitment seasons;*
- *Activities during low recruitment seasons;*
- *When and how often training is conducted;*
- *When should professional development be scheduled; and*
- *When to take vacations.*

Ethnicity and culture: Recruiters should be aware of the families' and youth's ethnicity and cultural preferences and behave accordingly.

- **Language:** Being able to speak the home language of the family gives the recruiter a great advantage.
- **Teach parents to work with the educational system:** The recruiter should encourage parents to be active participants in their children's education.
- **Parent Advisory Councils (PAC) and school activities:** The recruiter should always encourage parents to be involved in their local PAC and school activities.
- **Prepare for the unexpected:** The recruiter must have a flexible attitude regarding schedules and other aspects of the job. They must be able to change direction on a moment's notice. In addition, the recruiter should be ready to handle unforeseen situations that may require various kinds of family support.

"Dogs have chased me on recruitment visits, so now, I always check to be sure that they are chained. If they aren't chained, I stay in my car and call for someone to come out and get the dog before I get out of the car."

–Recruiter

Communicating with School Personnel

Communicating with school personnel is equally as important. Recruiters must feel comfortable moving about the school system to be effective. Below are strategies that can help a recruiter communicate effectively with school personnel:

- **Organization:** having a clear understanding of the organizational structure of the school system helps the recruiter assist migrant families and youth in communicating with the school.
- **Teachers:** as a good ambassador, the recruiter takes every opportunity to develop good working relationships with teachers.
- **Other Personnel:** there are other school personnel with whom the recruiter must have a working relationship, such as school secretaries, speech therapists, psychologists, special education directors, etc.



Lessons Learned: Recruiter Roles & Responsibilities

Every recruiter has stories about things that went wrong or that could have been done differently in carrying out his or her roles and responsibilities. These “lessons learned” may help the new recruiter avoid pitfalls that experienced recruiters have faced.

Know about the local MEP: The recruiter must know more than just recruitment. As stated earlier, the recruiter is often the face of the MEP to families and youth, schools, and the local community. A recruiter is also a champion for the MEP. A migrant family will often ask the recruiter questions about MEP services that the school and other programs offer, such as: Does the MEP offer a pre-school program? Is there a summer school? Are dropouts eligible for the MEP? What programs are available to help my son/daughter graduate? The recruiter should learn about the MEP and other school and community programs that migrant children, families and youth are eligible to receive.

Determine work priorities: The recruiter often has many roles, or “wears many hats.” If the recruiter is expected to recruit and do other work for the MEP, the recruiter should find out what work the supervisor considers the highest priority, and allocate time accordingly. For example, the recruiter, with guidance from the supervisor, may need to decide which of the following activities would be most productive: attending a job fair to recruit, staying in the school’s main office to meet new families and youth that may be eligible for the MEP, knocking on doors to canvass for new families and youth, or translating at the MEP after-school program. The recruiter will need to assess which of these activities provide the greatest benefit to the MEP when setting priorities.

Give the MEP its due: If a recruiter gets paid by more than one funding source, the recruiter should ask an immediate supervisor how much of his or her time is paid from MEP funds and how many hours per week should be spent on I&R activities. The recruiter should then devote that amount of time to MEP work. If the school insists that the recruiter spend MEP-funded time on non-MEP work, the recruiter should contact a supervisor. Similarly, a recruiter who works full-time for the MEP should guard his or her time to make sure all work activities benefit the MEP.

Ask questions: There are many people who work in the MEP who are willing to help the recruiter do the job right. If the recruiter has a question or does not understand how something should be done, the recruiter should ask someone who is knowledgeable and write down the answer. In this way, the recruiter will become increasingly knowledgeable over time.

Make ethical decisions: The recruiter will meet families and youth who have great needs. The recruiter may believe that those children need and deserve help, even if they do not qualify for the MEP. On the other hand, the recruiter may meet youth and families whose children clearly qualify for the MEP, but may not find them as “deserving.” Because of these feelings, the recruiter may experience internal conflict about making correct eligibility decisions. Each recruiter brings a set of personal beliefs and biases to the job. The recruiter will need to put these personal feelings aside in order to make objective decisions based on the MEP eligibility criteria.

Don’t get overwhelmed by migrant families’ and youth’s needs: The recruiter should exercise caution in assisting needy families and youth with non-school-related needs. The recruiter should use good judgment and tact in deciding when and how long to help a family. For example, a migrant family who has recently arrived from another country is often more dependent on the recruiter’s guidance, assistance, and support than a family who has spent more time in the U.S. The bilingual recruiter may be the only one who can make a school appointment for a family, help the family resolve an unpaid medical bill, or direct the family to other services in the community. However, there is a fine line between providing support to a family and hindering the family’s ability to become self-reliant. The recruiter should learn when it is appropriate to help a family and when to refer them to other local services.

Recruiting Tips

- *Starting Early – Recruiting early before the school year begins is important.*
- *Student Handbook – It is a good idea to become familiar with the school policies for attendance, discipline, graduation, and grading periods.*
- *Welcome Wagon Approach – A packet of information for newly-arrived families and youth is useful, including emergency phone numbers, directories of social service agencies, schools, churches, business, etc.*
- *Take School Officials on Home Visits – Federal project directors, principals, and other school personnel may be invited on occasion in order to understand the role of the recruiter/liaison and may help break down barriers.*
- *Visit With an Experienced recruiter – A new recruiter may wish to ask an experienced recruiter in the area if he/she could accompany him/her on some visits.*
- *Recruit at School Registration – Set up a table at schools that have a pre-registration before school starts, and have parents pass by your station to be screened for eligibility.*
- *Name Tag – The recruiter should wear a name tag when going on home visits.*
- *Business Cards – Have business cards printed with recruiter's name, title, address, and phone number.*
- *Call-Back Form/Door Knob Messages – These signs are good to use when you are not able to locate a family.*

Adapted from Oregon Migrant Education Identification and Recruitment Manual, "Recruiting Tips"

Remember as a recruiter, you are not alone: Being a recruiter can sometimes seem like a lonely job. However, I&R is a team effort. It is important for the recruiter to understand that identifying, recruiting, and determining the eligibility of migrant children are the mutual responsibilities of the recruiter and the I&R team. When the recruiter has questions or needs help, there are other people who work in the MEP at the local, state and federal levels who can assist. For example, local program staff might be able to provide leads on children who might be eligible for the MEP, a recruitment supervisor might help in planning recruitment strategies, or state staff may be able to assist in resolving eligibility questions.

It takes time for a recruiter to understand their role. From the initial training, developing an action and safety plan, building a network, to learning the extent of good interviewing skills. However, all of this is important as the recruiter learns his/her job, and makes accurate eligibility determinations.

Conducting the Interview

Once a student who might qualify for the program is located, the recruiter must formally determine eligibility. This is done by conducting an interview with the student's parent or guardian, or if the student is moving on his or her own, with the youth. When the recruiter has determined that a child qualifies for the program, he or she must then document the child's eligibility on the Certificate of Eligibility. The COE becomes the legal document that justifies the services that the student receives in the program.

The recruiter, not the parent, guardian, or person being interviewed, makes the eligibility determination and then completes the COE. The recruiter functions as an agent for the state and certifies, by his or her signature, that the child qualifies for the program based on information obtained in the eligibility interview.

The interview must be conducted according to guidelines and procedures in this manual, by completing the COE, and by attending training sessions that are provided to keep recruiting and interviewing skills up-to-date. Later in this manual, an explanation will be provided of the steps the recruiter must take to properly document eligibility.

Before the recruiter concludes the interview, he or she must explain the Migrant Program to the person interviewed. This should be done completely and thoroughly, and must include the types of program services their children may be eligible to receive; parent and student rights regarding the records; and how to locate additional resources. The recruiter should explain that migrant staff will assess their children to determine what educational and health needs the program may be able to provide. The recruiter must also inform the parent or guardian that they have the right not to participate in the program. In addition, the recruiter must inform the parent, guardian, or person interviewed (e.g. young adult) that they

may have another visitor who may do a re-interview as part of the quality control process of the LEA.

Before knocking at the door, recruiters should prepare what they are going to say to the parents. They must introduce themselves as representatives from the school, district or county, and ask if they may discuss a program for which their children might be eligible. The recruiter's approach should be friendly, polite, slightly informal, and above all, professional. The recruiter's manner must inspire confidence in the parent.

In some cases it is proper for the recruiter to chat informally and get acquainted before conducting the interview. In other situations it is better to get right to the purpose of the visit and then get acquainted as the recruiter proceeds. Whichever approach is taken, the recruiter should leave the house having:

- Become acquainted with the family and vice versa
- Explained the Migrant Education Program
- Established a level of trust and confidence
- Determined the eligibility of the children
- Completed a COE for the children, if eligible

The U.S. Department of Education, Office of Migrant Education, through the Migrant Education Resource Center (MERC), gathered tips from actual recruiters that a new recruiter might consider before, during, and after the interview with parents and out-of-school youth. Always remember that the interview process consists of three sets of activities: those that are done to prepare for the interview; those that are done during the interview itself; and those that are done after the interview. The complete lists of the recruiter tips are available in the National I&R Curriculum developed by the Migrant Education Resource Center (MERC).





Before the Interview: “Preparing for the Migrant Family”

Tip #1 Determine Work Priorities

If the recruiter is expected to recruit and do other work for the MEP, the recruiter should find out what work the supervisor considers the highest priority, and allocate time accordingly. The recruiter will need to assess which of these activities provides the greatest benefit to the MEP when setting priorities.

Tip #2 Know About the Migrant Education Program (MEP)

A migrant family will often ask the recruiter questions about the MEP services that the school and other programs offer, such as: Does the MEP offer a pre-school program or a summer school program? Are dropouts eligible for the MEP? The recruiter should learn about the MEP and other school and community programs.

Tip #3 Be Aware of Federal, State and Local Requirements

The recruiter should be knowledgeable about Federal, State and local requirements. Some States and LOAs may have their own requirements for the recruiter that goes beyond the federal requirements.



During the Interview: “Conducting the Home Visit”

Tip #1 Personal Safety

Always be aware of your surroundings when making home visits. If you are unsure of the area you will be visiting, request that someone else accompany you. Calling ahead to the family you will be visiting will assure you that someone will be home. If the area is unsafe, have a family member you will be visiting meet you at the car and escort you back when you finish your visit. Carry a cell phone, whistle, or other personal safety items that you think will assist you in your protection. When in doubt about any given situation, go with your instincts.

Tip #2 Go with an Experienced Recruiter

If you are a new recruiter, find a good, experienced recruiter and ask if you can tag along when he or she makes home visits. After a few visits, ask if you could try a door approach or a parent interview. You’ll learn far more seeing it done and doing it than you will just talking about it. You might try this even if you’re not a new recruiter. We can all learn new things.

Tip #3 Double-Check Gender of Child

Be careful when taking down the name of a child to make sure that you have the gender right. Some names, such as Guadalupe or Matilde, can be either a boy or a girl. Others, such as Francis, Frances, and Marion, Marian, though spelled differently, are pronounced the same. Don’t assume anything.



After the Interview: “Follow-up Activities at the Office

Tip #1 Recruit at School Registration

At schools that have a pre-registration before school starts, set up a table and have all parents pass by your station to be screened for eligibility. One or two quick questions will quickly eliminate most parents. Those who seem to qualify can be interviewed, and if they do qualify, signed up on the spot. This is a lot more efficient than driving all over the county. Other migrant personnel could be trained to help in other schools if they pre-register on the same day. You can follow up with a home visit to difficult or questionable cases.

Tip #2 Make Ethical Decisions

The recruiter will meet families who have great needs. The recruiter may believe that those children need and deserve help, even if they do not qualify for the MEP. The recruiter will need to put these personal feelings aside in order to make objective decisions based on the MEP eligibility criteria.

Tip #3 Don’t Get Overwhelmed by Migrant Families’ Needs

The recruiter should exercise caution in assisting needy families with non-school-related needs. The recruiter should use good judgment and tact in deciding when and how long to help a family. However, there is a fine line between providing support to a family and hindering the family’s ability to become self-reliant. The recruiter should learn when it is appropriate to help a family and when to refer them to other local services.

Recruiters may choose to use the telephone to make appointments for an interview, pre-screen, or to make general notes, but the eligibility interview itself may not be conducted over the telephone. It must be conducted face-to-face. Once an interview has been conducted, it is permissible to telephone the family for additional information or for clarification of facts.

An eligibility interview should be conducted at a time and place that is convenient for the parent, guardian, or young adult. Certain times and locations, however, are more desirable than others. Recruiters should avoid situations that might inconvenience or embarrass the parent. Also, recruiters must not put themselves in unsafe situations.

Recruiters are encouraged to conduct interviews at times that several families and youth are together, such as when they come to school to register their children, or when the labor camps open. This enables them to use their time efficiently.

Most commonly, interviews are conducted in the family's home. This is the place where the parent or guardian most often has time for the interview. An important advantage of the recruiter going to the home for the interview is that he or she sends a message to the parent that the school respects and values the position of the parent. Going into the home also allows the recruiter to become personally acquainted with the family and its situation, and to establish a personal relationship with family members.

The most common things recruiters should be aware of:

- **Making assumptions:** Recruiters should ask all of the questions necessary to establish eligibility and not make assumptions about the answers. Some common assumptions that may lead recruiters to make errors are:
- All workers in a certain place (e.g., a labor camp) automatically qualify.
- The children in the family moved with the parents. (The parents might have left the children with a relative.)
- All of the children in the family made the same move. (They might have moved at different times.)
- Migrants belong (or don't belong) to a certain ethnic group. (All ethnic groups are represented in the migrant stream.)
- **Leading questions:** Leading questions often cause people to give answers they think the recruiter wants to hear. An example of a leading question might be, "When you moved to Nampa did you come to pick strawberries?" Instead, the recruiter should ask "Why did the family move to Nampa?" Use the five W's – Who, What, When, Where, and Why, to probe for additional information or clarification. Asking leading questions can put words in the mouth of the person being interviewed and should be avoided.
- **Be objective:** Recruiters cannot afford the luxury of wanting a family to qualify for the program. If this is allowed, recruiters may make exceptions for a family that does not qualify.

The Role of the Recruiter

The recruiter may encounter families and youth who are living far below the poverty level and who have great needs. Regardless of the level of poverty the recruiter finds in a home or shelter, the recruiter cannot confuse empathy for the family with the duties of the job. The recruiter should be careful not to perceive herself or himself as having the "power" to decide which children are eligible to receive services and which ones will not. Furthermore, the recruiter cannot use the MEP as a way to "level the playing field" by making a questionable eligibility determination to help a particularly deserving family "once in a while." While it might feel good to be able to help a deserving family, the role of the MEP recruiter is to identify and recruit eligible migrant children, not needy children.

OME I&R Draft Manual, Department of Education, Office of Migrant Education, Draft Identification and Recruitment Manual, October 2007

- Use examples: The term “agriculture” means many things to many people. Use examples of the activities that qualify, such as cutting lettuce, pruning grapevines, picking strawberries, sorting tomatoes, packing peaches, etc. Be specific.
- Last qualifying move from . . . to . . . Any qualifying move in the last three years from anywhere to any point in the United States can qualify a child for MEP services (if all other requirements are met). Recruiters must not make the mistake of investigating only the most recent move to the area. They should start with the most recent move and work backwards, one move at a time.

Occasionally, some of the families and youth that the recruiter interviews do not qualify for the program and it is the responsibility of the recruiter to inform them of this. As stated above, it might feel good to help a family, but the role of the MEP recruiter is to identify and recruit eligible migrant children. Also, some families and youth may provide information that they think the recruiter wants to hear or that will help them qualify for program services. These situations can be very difficult. However, if the recruiter follows some simple guidelines it will make the job of interviewing and documenting eligibility more comfortable.

The recruiter should never make any commitments to the family until he or she has established that the children qualify for the program. Even then, the recruiter must be careful about making promises regarding program services. Children may qualify for services, but whether or not they receive them is influenced by many factors. It is recommended and appropriate to provide the family with general information regarding the MEP, but the recruiter should avoid going into detail regarding the kinds of educational, health, and support services available. Also, the recruiter should avoid describing the eligibility requirements ahead of time. Providing too much information at the very beginning of the interview, (i.e., the kinds of work that qualify, the fact that the work must be of economic necessity, etc.) may confuse the person being interviewed and the recruiter may not get the accurate information needed. Recruiters should follow the questioning pattern of the COE and only ask open-ended and non-leading questions. Throughout the entire interview, it is best to use a combination of open- and close-ended questions, probing questions, and in the end, confirming information. It is also recommended that recruiters take notes while conducting the interview. This will help complete the COE. It is important not to make notes part of the official documentation. Notes are for the recruiter’s use only. Remember, if the recruiter is not sure that the family qualifies, he or she does not have to make an eligibility determination at the end of the interview. In this situation, some steps to follow are:

- Document every detail of each move and record all information thoroughly.
- Explain to the family that the recruiter will have to consult with his/her supervisor regarding some of the points of eligibility. Assure the family that they will get back to them as soon as possible with a decision.
- Carefully review the data provided by the family – look for conflicts such as a child being born in Yuma, Arizona during the time that the parent said they were in Idaho, or all the children being born in the same place but at different times of the year, etc.
- Discuss the matter with the regional I&R Coordinator and/or director and examine all of the information given. Explain why the recruiter is unsure of the family’s eligibility.
- Determine with the supervisor whether the family qualifies.
- Let the family know of the eligibility decision. If the family does not qualify, the recruiter must inform them in person or with a letter stating that the matter was discussed with the supervisor, and together they determined that the family does not qualify.

Before the eligibility interview is concluded, basic information about the program must be explained to the parent, guardian, young adult, or other family member. This must be done before the person being interviewed signs the COE. There are at least seven things that must be discussed or reviewed:

1. Information on the COE must be accurate and complete. Explain that the Certificate of Eligibility is a legal document that justifies that money be requested from the federal government.
2. Review the information recorded on the COE with the person being interviewed.
3. Explain that the Migrant Student Information System (MSIS) is a password protected web site where some of the child's MEP information is displayed for the MEP staff and school personnel.
4. Explain that they have the right to see and have a copy of these records.
5. Explain that by signing the COE the parent, guardian, self-qualifier, or spouse is granting permission for the child to participate in the program.
6. Describe what the goals and purpose of the program are and that the Migrant Education Program is a national program that can provide supplemental services to the child in most states in the nation. Explain the types of services that are available including any support services the district offers. Not only is it advisable to bring brochures or information about the MEP, but also information about other school programs that may be able to provide other education services if the family does not qualify for MEP services. Providing information about participating agencies such as medical, childcare centers, housing, clothing, food, legal, and other related programs may be of assistance to the migrant family or youth.
7. Before signing the COE, explain to the parent, guardian, self-qualifier, or spouse, that Federal regulations require the State to conduct re-interviews on an annual basis with selected families. Therefore, it is possible that a district or state representative could contact them in the future to verify the information they have provided on the COE is correct.

When documenting eligibility, it is essential that the recruiter understand all sections of the COE and participate in the required training sessions. All parts of the COE must be addressed in order for the COE to be processed.

Section III of the COE is designed to elicit all the facts regarding eligibility and does so in a logical and consistent manner. The structured format helps focus the interview and ensures that the elements associated with eligibility are covered in a uniform and systematic way. Section III of the COE also ensures that recruiters throughout the state are conducting interviews using the same approach.

If it is determined that the child is eligible for the Migrant Program after completing Section III of the COE, the rest of the COE needs to be completed. The ISDE requires all local educational agencies to maintain this documentation to ensure Idaho is serving only children who meet the definition of "migratory child" in Section 1309(2) of the statute and Section 200.81 of federal regulations. The length of time that an SEA must keep a COE depends on whether the child makes

subsequent qualifying moves, which will increase the amount of time. For example, a certificate of eligibility that indicates that a child made a qualifying move in October 2000 means that the child will remain eligible, without another qualifying move, until October 2003. A child eligible in October 2003 would be included in the Category 1 child count for the period September 1, 2003 – August 31, 2004 and would generate FY 2005 funding for the State. FY 2005 funds may be used, with carryover, until September 30, 2007. The SEA does not need to submit the final expenditure report for these



funds to the Department until as late as December 31, 2007. *The three year record retention period begins in December 2007 when the SEA submits the final expenditure report and runs until December 31, 2010. Therefore, the SEA would have to keep this particular certificate of eligibility until December 31, 2010.*

Once Section III of the COE is completed, if it is determined that there is no eligibility, the rest of the COE will not be completed.

Copies of the Certificate of Eligibility in English and Spanish, and instructions are both found later in the manual. Chapter 4 of the manual contains detailed information regarding completion of the COE.

The State of Idaho requires that the COE contain the signatures of the person being interviewed for a number of reasons. Signatures do the following:

- Indicates to the best knowledge of the parent, guardian, self, or spouse, the correctness of the information recorded. While this is not legally binding on the person interviewed, it does provide a measure of assurance that the information provided is accurate and correct.
- Gives permission for the child or young adult to participate in Migrant Program activities.
- Attests that the Family Education Rights and Privacy Act (FERPA) has been explained to the parent, guardian, self-qualifier, or spouse; that he or she is aware that the child's records will be posted on the MSIS; and that he or she knows they may request a copy of these records.
- Gives permission for the Migrant Education Program to access the child's school records.
- Explains that access to these student records assists the MEP in improving the student's academic assessment, planning program services, and transferring student records.

It must be understood that the signature of the person interviewed does not shift the responsibility for correctly identifying the child as migratory. By law this is a function of the state, and all recruiters and other identification and recruitment personnel are acting as agents of the state when they recruit children and young adults.

When the recruiter signs the COE, he or she is certifying that as an agent of the state, the information on the COE is correct and accurate to the best of his or her knowledge. The signature certifies that the children whose names appear on the COE are, in fact, migratory children. The signature of the recruiter is legally binding, as is the signature of the person who reviews the COE.

The only acceptable signatures in Section V COE are those of the parent, guardian, self-qualifier (if traveling on his or her own), or qualifier's eligible spouse. Under circumstances where eligibility is based on a spouse's status as a migrant worker, recruiters need only be satisfied that a spousal relationship exists. It is not necessary to request marriage certificates, or other legal document.

The parent, guardian, self-qualifier, or spouse should sign Section V using the actual date when the signature was obtained.



Recruitment Strategies and Activities

Finding Families/Youth

Finding all of the migrant families and youth is a difficult job, yet that is the responsibility of the recruiter. Recruiting families and youth at the school site and in the community by building a network helps recruiters find migrant children effectively and efficiently. Many people in the school system and community are willing to help identify potential migrant children. If the recruiter can identify these people and establish a network of “eyes” and “ears,” this greatly increases the recruiter’s ability to locate children. Therefore, it is necessary for the recruiter to consistently use a range of school-based recruitment, employer-based recruitment, and community-based recruitment strategies.

The first task in establishing a recruiting network is to become familiar with the assigned territory. A recruiter must know four main things:

- General knowledge of the geography
- Where schools are located
- Which crops or fishing cycles are likely to attract migrant labor including when the seasons start and end
- Where migrant families and youth stay and the areas where migrant housing is available

Connecting with school board members and administrators and convincing them that recruiting all migrant students is important, allows for greater support at the school sites. The administration can help the recruiter access existing school records, such as enrollment lists, registration cards, and new student transfer lists. School secretaries are also important members of the recruiting network; they can follow-up with calls to the recruiter each time a potential migrant student enrolls.

Migrant Education staff members can be among the most knowledgeable about the eligibility requirements and can connect with the recruiter when a possible migrant child is located. Classroom teachers also can provide the recruiter with much the same kind of help as Migrant Education staff. Bus drivers are also key, as they know where migrant children might live; they just don’t always know that they are migrant children. Other potential leads include:

- Employers in the area who hire migrant workers can be a valuable source of help in finding migrant children.
- Housing: Knowing where migrant families and youth live, or where they will live when they come, can help immeasurably when it comes time to recruit them. Recruiters should seek families and youth in:
 - a. Non-traditional housing (i.e., old farmhouses

School-Based Recruitment

While most schools and community agencies are willing to support children receiving direct services from the Migrant Education Program, an occasional thoughtful gesture or act of kindness can increase the assistance provided to you and to our migrant children.

Tips for recruiting in school:

- *Introduce yourself at the local schools in the area.*
 - a. *The best sources at a school may be the principal, school secretary, school nurse, ESL teacher, teacher assistants, and bus drivers (bus drivers know if there are more children living in the area).*
 - b. *Hand out business cards with your name, title, address, and phone number.*
 - c. *If school personnel refer families and youth who may be eligible, immediately follow up on referrals.*
 - d. *Work with school and MEP projects to schedule time to screen potentially eligible families and youth.*
- *Send home a questionnaire in the appropriate languages.*
- *Put up posters at school.*
- *Attend parent meetings.*
- *Establish a relationship with the personnel of the school.*
- *Schedule meetings with educators to review program services.*
- *Visit schools frequently to look for new students.*

Community-Based Recruitment

Recruiters will need to build a relationship with social agencies and the community in order to provide better support to families and youth.

Tips about how to work with the community and agencies:

- *Contact health departments for available services that will benefit families and youth. Review program services and ask personnel to refer families and youth who may be eligible for services.*
- *Go to non-profits to find donations of food, clothing, etc.*
- *Post flyers throughout the community. Flyers can be posted at sites where families and youth frequent (churches, grocery stores, laundry facilities, libraries, etc.).*
- *Leave flyers and brochures with the agencies you are in contact with.*
- *Inform key community members (priests, social workers, staff members of employment offices, health clinic staff, etc.) to be on the lookout for new migrant families and youth in your area.*
- *Leave your business cards at their agencies.*
- *Attend agencies' meetings and offer a brief explanation about what the program provides for migrant students.*
- *Be friendly. Remember: "When you close a door, you could be closing a door for our migrant families and youth."*

- b. Mobile homes
- c. Low income housing complexes
- d. Inexpensive older apartments or motels
- e. Even canyons in rural areas, and parking lots in urban areas

Recruiters can rely on many sources of help within the community and should identify service-oriented local community-based organizations and non-profit groups as resources. These organizations are generally receptive to providing information that can help families and youth. Some of the more common types of agencies are:

- Health clinics
- Child care centers
- Government agencies
- Churches
- Service clubs
- Farm worker unions
- Rural legal aid
- Migrant councils

Aside from these groups and agencies, key individuals, such as migrant families and community leaders, can be important strands in the recruiting network.

Migrant families and youth buy groceries and gasoline, and enjoy entertainment just like anyone else. The recruiter must find the places they patronize and solicit the cooperation of the proprietor. Some of the more common businesses are:

- Laundromats
- Grocery stores
- Service stations
- Record shops and video rental stores
- Movie theaters that cater to the language spoken by the families and youth

Each Migrant Program is required to have a district and state PAC to advise it and to ensure the involvement of parents. Because of recruiters' relationship with the parents and their knowledge of the migrant community and of their language and culture, they play a key role in the PAC's operation. To work effectively with the PAC, the recruiter has to stay in close contact with parents. This makes it easy for them to inquire about any families and youth that have recently moved.

If recruiters have the opportunity to attend regional, state, or national conferences, they should look for recruiters from areas where they know children in their district travel to and from. It's a good idea to make personal connections and if appropriate, become acquainted through exchanging addresses and phone numbers. This type of personal acquaintance allows recruiters to contact each other quickly when they have information to pass along.

Following Up on Leads

Recruiters must quickly follow-up on leads. Getting to the family immediately upon their arrival makes it easier to find them at home because they may not have started work yet. Any delay risks losing the lead, as well as losing the source of the lead. Always get back to the person who gave you the contact information promptly to let him or her know the results of your visit. If the family has a phone, the recruiter should call and ask a few basic screening questions using Part III of the COE. This helps to determine if the family might qualify before going to visit. If the telephone screening reveals that the family may qualify, the recruiter should schedule an appointment as quickly as possible and set out to conduct the interview.

If the family doesn't have a telephone, recruiters must immediately go to the home to conduct an interview. One of the biggest problems recruiters will encounter when calling families and youth is that they are hard to reach. Recruiters can do several things to find families and youth at home:

- Use what you know: If recruiters know where the parents are working, they can often predict their working hours. If recruiters don't know where parents are working, recruiters should go to the home during the hours the family or youth is most likely to be there.

Employer-Based Recruitment

Recruiters need to be on the lookout for new nurseries, farms, ranches, canneries, fisheries, and other qualifying industries in their own districts. Recruiters will need to introduce themselves and the program to employers of these places in order to be more visible. The goal is to develop a good rapport with employers.

Tips for how to approach an employer:

- Approach employers at their least busy time.
- Be respectful, clear, friendly, and appreciative when you speak with them.
- Be concise when you are explaining the program's benefit. Allow time for the farmer/grower to become comfortable with you.
- Leave some brochures about the program.
- Leave flyers and ask for them to be posted in the lunch room.
- Leave your business card with the secretary.
- Ask about what time is the best for you to talk with employees about the program (lunch time is usually best for recruiters and employers).
- Always keep in touch with employers by sending flyers about upcoming events in your community.
- Don't forget to revisit farms and businesses to check for new employees. Re-introduce yourself if there are new employees.
- Enlist the help of agri-business employers and crew chiefs to allow you to recruit at the workplace during a time with limited work interruption.
- Remember: "La perseverancia nos ayudara a encontrar más familias."

- Ask the children: If the family or youth has children in school, recruiters, if it's appropriate, can ask them when their parents might be home before they make the home visit.
- Ask the neighbors: If the family or youth is not home on the first visit, recruiters should check with the neighbors:
- Ask what time the family or youth usually arrives home.
- Ask the neighbors if they know of any other families or youth that work in agriculture, fishing, or the dairy industry.
- Leave a card or note on the family's door introducing yourself and explaining the purpose of the visit.
- Leave your phone number and request a call back.
- Try again: Based on what the recruiter learned from the first visit, he or she should try making contact again soon. Choose a different time that might yield a better chance of finding the family or youth at home. For example, the recruiter could try reaching the family or youth:
- On weekends
- Early in the morning
- At noon
- Later in the evening
- When the kids are getting home from school
- Shortly after working hours
- Keep trying: Be persistent. If one time of day does not produce results, try another. Recruiter's follow up until they make contact with the parents. If they know where the parents work, try contacting them there. Be sure to clear this with the employer first.



Canvassing

In certain circumstances, it is appropriate to go door-to-door looking for families and youth that qualify. This approach is best done as a team with at least one other recruiter and is most effective in large apartment complexes.

If possible, the recruiter and/or the regional Identification and Recruitment (I&R) Coordinator should notify the apartment manager of the recruitment effort and obtain permission to be on the premises. The recruiter should rehearse ahead of time how she or he will explain the purpose of the visit to the families or youth. Recruiters need to be prepared with all of the paperwork (e.g. COEs) and any other forms necessary to enroll the children.

More Searching Strategies

Searching strategies involve driving around in areas where recruiters are likely to find potential migrant families and youth. A little of this activity applied at the right time can be productive but, without good planning, it can waste a lot of time and gasoline!

- Crops: Recruiters should acquaint themselves with the crops and their seasons in their area. When it is about time for a certain activity to start, such as thinning beets or picking oranges, major fields or orchards in the area should be visited regularly. When workers are spotted, recruiters can stop and find out if they have already been identified for the program or they can arrange for a home visit.

- **Employers:** Being aware of businesses and employers that hire agricultural labor and making contact with them is also a successful strategy. Recruiters must be sensitive to the workplace and should get permission from the employer before talking to the employees.
- **Housing:** Housing areas where migrant families and youth tend to live should be monitored periodically.

When activity is seen that signals that migrant families or youth are moving in, recruiters should begin recruiting. Signs to look for are:

- Cars with out-of-state license plates
- Children who are not in school
- A sudden change in the number of cars and people
- **Businesses:** Whenever recruiters find themselves around businesses that migrant families and youth patronize, they should be prepared with proper I&R handouts and materials. Included are businesses such as grocery stores, laundromats, social service agencies, clinics, restaurants, etc. Many families and youth are identified at these locations by alert recruiters.

Summer vs. Regular School Term

Recruiting for summer school can be different from recruiting for the regular year term. One major difference is that recruiters are much more pressed for time during the summer program, which lasts just a few weeks. Families and youth come and go almost before anyone knows it. Recruiters should look ahead as they approach the end of one school cycle and the start of the other.

Preschool Coordination

Preschool age migrant children are not as easy to locate as migrant students attending school. Extra effort must be made to find them in the community. Some of the following recruitment strategies are recommended:

- Check on families and youth that have school-age migrant children already enrolled in school
- Contact child care providers and preschool/child care programs
- Be present at Kindergarten Round-Ups and Enrollment Days
- Set up enrollment tables at stores where migrant families and youth shop
- Solicit door-to-door where migrant families and youth live (e.g., camps, mobile home parks, hotels)
- Coordinate with health clinics and other organizations that serve migrant families and youth
- Ask other migrant families and youth

To better serve these families and youth and their preschool-age children the recruiter should have information to share regarding community and school resources.

Recruiting Out-of-School Youth (OSY)

Out-of-school youth (up to age 22) who do not attend school are another group of migrant students that are difficult to identify and recruit. Some migrant students drop out-of-school as young as 14. Migrant out-of-school youth can be characterized by the following:

- Dropped out of a U.S. school (usually by 9th, 10th, or 11th grades)
- Dropped out of a school in another country (at any grade level)
- Have not attended school in the United States or another country

In addition, many out-of-school youth will be limited or non-English speaking.

The following strategies for identifying out-of-school youth are recommended:

- Check with school districts/schools for students who were enrolled but no longer attend
- Check with elementary schools for outgoing 8th graders who did not enroll in high school the following year
- Contact possible employers (e.g. agricultural, fast food, day labor)
- Go door-to-door in camps, hotels, apartments
- Talk to other young adults or migrant families
- Set up booths/tables at flea markets, fairs, or community celebrations
- Set up enrollment tables at places where migrant young adults shop

Once OSYs are identified, it is important to win their trust. The first contact with them is very important. These youth will decide (based on recruiter's attitude and approach) if they want to enroll in the program. It is recommended that the recruiter be prepared with information about what resources are available in the community (i.e., adult education classes, English learner programs, or health and social services). Also, if the school district has items that help the youth meet his or her immediate needs (i.e., English/Spanish Dictionary, toothbrush, tooth paste, soap, shampoo, first aid kit, etc.,) it can go a long way toward establishing a positive and supportive relationship.

After enrolling the out-of-school youth in the program, it is important to refer them to the appropriate migrant personnel for assessment and program services. The ultimate goal for these students is to complete their education.

Identification and Recruitment Strategies for OSY

- *Persistence; go to each individual's door*
- *Work in Teams*
- *Enlist the leader's help. Most OSY travel in groups and have leaders*
- *On the re-interviews ask if new OSY have arrived*
- *Have knowledge of legal issues in your state*
- *Carry applications for services needed by OSY*
- *Post flyers at locations frequented by OSY*
- *Use migrant families to help find OSY*
- *Encourage migrant counselors and registrars to provide possible leads*
- *Visit food banks, shelters and clothing donation centers*
- *Dress according to the type of work that you will be doing*
- *Participate in secondary-age youth-related professional development opportunities*

- Bruce Wright, South Carolina MEP

Chapter 3

Determining and Establishing Eligibility

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Determining and Establishing Eligibility

In the Migrant Education Program, determining and establishing eligibility is one of the most important functions. As students enroll in the program, they are provided with the educational assistance and support they will need to maintain or excel academically. Recruiters have the opportunity to connect migrant children to these educational services by making proper eligibility determinations. This section of the I&R Manual will address eligibility issues that can be troublesome for the recruiter and those making eligibility determinations in the MEP. The reader also is encouraged to refer to Chapter 4, Instructions for Completing the COE, for more information and answers to frequently asked questions about how to complete the document.

Children are eligible to receive MEP services if they meet the definition of a migratory child and if the basis for their eligibility is properly recorded on the COE. The

term “migratory child” is defined in federal statute Section 1309(2) of Title I, Part C of the No Child Left Behind Act of 2001, and in the Code of Federal Regulations (CFR), Section 200.81(e). Determining whether a child meets this definition is often difficult and depends on a recruiter’s assessment of information presented by a parent or guardian.

A child retains MEP eligibility for the remainder of the 36 month period after the COE is signed or until he or she: (1) extends the eligibility period by making another qualifying move; or (2) terminates eligibility by graduating, getting a GED, or turning 22.

Child Eligibility

Children are eligible to receive MEP services if they meet the definition of “migratory child” and if the basis for their eligibility is properly recorded on a certificate of eligibility (COE). It is essential that recruiters understand the program requirements, especially the differences between a Statute, Regulation, and Guidance.

Statute

Elementary and Secondary Education Act (ESEA) of 1965, Title I, Part C, Sections 1115(b) (1)(A) and 1309(2)

Regulation

Code of Federal Regulations, 34 CFR 200.81 as published in the Federal Register on July 29, 2008

Guidance

Non-Regulatory Guidance, Chapter II Child Eligibility

State Guidance

Statute
Section 1309(2) Defines a “migratory child”
Section 1115(b) (1) (A) Defines “eligible children”



Regulations
Section 200.81(a) – (k)
Defines several key eligibility terms such as “migratory agricultural worker,” “migratory fisher,” “migratory child”, “in order to obtain,” “move,” “temporary employment,” “seasonal employment,” and “personal subsistence”

The primary function of identification and recruitment is to find children and young adults and to determine whether they qualify to receive program services. There is great concern that all eligible migrant children in the state be identified and recruited. There is equally great concern that no ineligible children generate funding for which Idaho is not entitled.

To ensure this, recruiters must conduct eligibility interviews that reveal accurately whether a student qualifies for the program. To be capable of conducting such an interview, recruiters must be highly skilled interviewers and must thoroughly understand the program requirements.

This section lists the basic facts and requirements that recruiters must know and outlines the steps that they must take to conduct successful eligibility interviews. It also explains those instances where additional documentation is needed and provides answers to frequently asked questions.



Migratory Child

According to sections 1115(b)(1)(A) (incorporated into the MEP program by virtue of sections 1304(c)(2)) and 1309(2) of the statute and §§ 200.81(e) and 200.103(a) of the regulations, a child is a “migratory child” and is eligible for MEP services if all of the following conditions are met:

1. The child is not older than 21 years of age; and
2. The child is entitled to a free public education (through grade 12) under state law or is below the age of compulsory school attendance; and
3. The child is a migratory agricultural worker or a migratory fisher, or the child has a parent, spouse, or guardian who is a migratory agricultural worker or a migratory fisher; and
4. The child moved within the preceding 36 months in order to seek or obtain qualifying work, or to accompany or join the migratory agricultural worker or migratory fisher identified in paragraph 3, above, in order to seek or obtain qualifying work; and
5. With regard to the move identified in paragraph 4, above, the child:
 - a. Has moved from one school district to another; or
 - b. In a state that is comprised of a single school district, has moved from one administrative area to another within such district; or
 - c. 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 or to accompany or join a parent, spouse, or guardian who engages in a fishing activity. (This provision currently applies only to Alaska.)



Subject Area: Migrant Child/Migrant Families/Youth (Q & A)

A-1. Are the migratory children of undocumented workers or undocumented self qualifying youth eligible for the Migrant Education Program?

Yes. All children or self qualifying youth who meet the eligibility criteria are eligible for the Migrant Education Program, regardless of their condition of citizenship or that of their parents. (See Appendix: NRG C3)

A-2. Are homeless young adults and children eligible for the Migrant Education Program if they, or their parents, have moved to the local area seeking qualifying work?

Yes. Children and youth are not required to have a home or mailing address to be eligible. However, recruiters should do what they can to determine and record how to locate the child in the future. Ask if there is a post office box/general delivery address. Find out if are they staying at a shelter, or if they have regular contact with relatives or friends. If they are employed, find out where they work. If they are living in a car or camping outdoors, get as much information as possible. Enter this description in the current address field of the COE.

A-3. If a migrant family makes a qualifying move and then a child is born, does the child qualify for Migrant Education Program services?

No. The child, although of migratory parents, is not eligible for Migrant Education Program services, since he or she has not made a qualifying move. The child cannot be added to the COE at a later date. The family would need to make another qualifying move after the child's birth in order for the child to qualify.

A-4. A family makes a qualifying move, and later adopts or becomes a guardian of a child who did not make the move with the family. Does this new child in the family qualify?

No. Like the unborn child who did not move with the family, a child who comes to be part of the family at a later date cannot qualify. However, if the family moves again, this new family member may qualify.

A-5. Is a recruiter advised to complete a COE for a child who is two years old or younger, even if the child had no older eligible siblings?

Yes. Children two years old and younger are not eligible for funding purposes, but they are eligible for services, such as preschool and health services. In addition, it increases the likelihood that the children will not be missed when they turn three.

A-6. A recruiter encounters a child who appears to qualify for the program, but either does not reside or does not attend school in the recruiter's district. Should the recruiter complete a COE?

No. Instead, the recruiter should refer these children to the district that has responsibility to serve the child.

A-7. If a recruiter encounters a family that has siblings who attend schools in different districts, should the children be entered on the same or different COEs?

Same COE. If a migrant student is living within one school district's boundaries but attends school in a neighboring school district, their correct grade and school from the district they are attending should be listed on the same COE. A copy of the COE should be sent/faxed to the district the student is attending if they are not the district that initially recruited the family. The district the student is attending is responsible for meeting the unique educational needs of that particular student. However, open communication and collaboration between both districts is highly recommended to assure that all support needs are being met.

A-8. If two siblings have different last names, can they be entered on the same COE?

It depends. If all the information in COE Section III (Qualifying Move and Work) and Section I (Family Data) is identical, the siblings can be on the same COE. However, if they have different last names, it is likely that they have different legal parents (often different fathers). If they do have different parents, the children must be on separate COEs. An exception: If the different legal parents' names are omitted from the COE at the request of the interviewee, the siblings having different last names can all be entered on the same COE.

Out-of-school Youth and Self-qualifiers

For the purposes of the MEP, the term "out-of-school youth" (OSY) means youth up through age 21 who are entitled to a free public education in the state and who meet the definition of "migratory child," but who are not currently enrolled in a K-12 school. This could include:

- Youth who are enrolled outside of a K-12 school (such as Community College, vocational school, etc.) and do not have a high school diploma or GED
- Youth who are "here-to-work" only
- Students who have dropped out of school and are not in the K-12 system

It would not include children in preschool. Out-of-school youth who meet the definition of a "migratory child" as well as all other MEP eligibility criteria are eligible for the MEP. As migrant workers, they can self qualify for the program. They may also qualify if they move with their migratory parents. (See Appendix: NRG A5)

Emancipated youth are children under the age of majority who are no longer under the control of a parent or guardian and who are solely responsible for their own welfare. Emancipated youth can qualify on their own whether they are attending school or out-of-school youth as long as they meet all criteria. (See Appendix: NRG A6, A7)

Youth who graduated from high school in their native country (not the U.S.) such as those who received a Bachillerato for completing preparatoria in Mexico are eligible for the MEP in Idaho if they have not received a high school diploma or GED in the U.S.A.

A-9. Can OSYs who are "here to work" (usually from another country) qualify for the Migrant Education Program, even if they express no desire to attend school?

Yes. As long as other requirements are met, they are eligible and can be served.

A-10. Can a 17 year old OSY who moves with and supports his mother be a self-qualifying worker even though he lives with his mother?

Yes. Emancipation, or living independently from parents, is not a condition of eligibility. If all other eligibility conditions apply, the OSY can qualify.

A-11. Can a high school student who lives with his parents self qualify if he moves on his own during the summer break to take qualifying employment to help support the family?

Possibly. It isn't necessary to be an OSY to self qualify. For such a student to qualify, all the conditions of eligibility must be met in a very clear manner. Because this is a unique situation and could be questioned by an outside reviewer, Idaho requires that the work must be obtained, not merely sought. Economic necessity must be clearly demonstrated. The money the student earns is not just used to buy nicer clothes and luxuries for himself, but is needed by the family to help cover living expenses such as rent, utility bills, groceries, gas, etc. A change of residence must also be demonstrated, and the cost of relocating must not exceed the income earned.

A-12. If a recruiter encounters a 22 year old, who was 21 when he or she made the qualifying move, should a COE be completed?

No. It is not a good practice to ask a person to sign up for a program that provides no benefits to him. Recruiters are advised to avoid this practice.

Parents and Guardians

The qualifying worker is the person who moved to seek or obtain agricultural or fishing employment. Besides the self-qualifiers described above, the qualifying worker may be the legal parent, current parent, guardian or spouse. (See Appendix: NRG B1)

For MEP purposes, legal parents, guardians and current parents are defined as follows:

- A legal parent is an adult who has legal responsibility for the child(ren) either by birth or adoption.
- A guardian is a person, not a parent, who assumes responsibility for the child(ren)'s welfare; a responsible adult (e.g., foster parent, stepparent, grandparent, aunt, uncle, older sibling, cousin, other relative, friend, etc.) who stands *in loco parentis* at the time of the qualifying move. *In loco parentis* is Latin for "in the place of a parent" or "instead of a parent." This person may not always have the full responsibility of parenthood, but does accept a major responsibility for at least the financial welfare of the child(ren), even if on temporary basis. A biological or legal relationship is not necessary. A crew leader would not be considered a guardian for a minor on the crew because they are not assuming responsibility for the child's welfare. (See Appendix: NRG B2, B3, B4)
- A current parent is a person who is responsible for the child. He or she is can be either a legal parent or a guardian, as defined above.

A-13. If a parent/guardian makes a qualifying move, but the child does not move with, to join or precede the worker, do the children qualify?

No. If the parent(s) or guardian(s) moved but the children did not move, the children do not qualify.

A-14. Suppose children live with their parents (or other guardians) and another adult friend or relative. Can the children qualify based on the move made to do agricultural work by the non-guardian member of the household?

No. The new regulations no longer consider a non-guardian member of the household an eligible worker. Merely contributing to the support of the household does not constitute guardianship.

A-15. Can a sibling or other family member be considered a guardian if one or both parents are in the home?

Yes. However, this would generally happen only if the parent(s) are seriously ill, injured, disabled or otherwise unable to work

A-16. A mother with two children (28 year old daughter and five-year-old son) with no prior history moved to Idaho where the mother and daughter sought – any type of employment. Soon after their arrival, the mother was unable to work because she was diagnosed with cancer and required immediate and continuing treatment. However, the 28 year old daughter did find work de-leafing grapes soon after the move. The daughter has been working to support the family. Can the child's older sister be considered the guardian and the qualifying worker?

Yes. Since the daughter was also seeking work to support the family at the time of the move, and found qualifying work. Subsequently, she can be considered the qualifying worker, having taken responsibility for the child's financial welfare.

A-17. A child made a qualifying move with his parents to city A. The parents stayed in city A, while the child went to live in city B with a non-migrant family friend who is acting as the child's guardian. Does the child qualify, and who should sign the COE?

Yes. The child qualifies based on his move to city A with his parents, not the move to city B to live with the family friend. In this situation, the family friend is considered the current parent or guardian and should sign the COE. The current parent(s) or guardian(s) do not need to be themselves migrant.

For the rare case where the child is a youth who moved on his own to city B for non-qualifying reasons, the youth cannot sign the COE. If this situation ever occurs, contact ISDE for instructions.

A-18. If a child, who normally lives with his parents, moves during the summer with another adult who seeks agriculture work, can the child qualify?

Yes. Assuming there are no other circumstances that conflict with an eligibility ruling. MEP eligibility would be based on the migrant adult's status as a temporary guardian just during the summer.

A-19. If the interviewee refuses to sign the first signature line authorizing the child to participate in the Migrant Education Program, can the child be counted as eligible?

No. This signature is required for eligibility as well as program participation. This has long been a Idaho requirement, and it is now required by the national COE as well.

A-20. If the interviewee refuses to sign the signature line authorizing the release and transfer of the child's school and health records (FERPA), can the child be counted as eligible?

Yes.

Spouses

For purposes of the MEP, a spouse is anyone who is living in a spousal relationship, as husband and wife. A certificate or other proof of marriage is not required to demonstrate that a qualifying worker and the eligible spouse are legally married. (By extension, same sex domestic partners can qualify as spouses.) However, a spouse should never be considered a guardian of his or her spouse. The spouse's own legal parents would be entered in Section I, and the worker's (spouse's) name would not be entered as the current parent/guardian. (See Appendix: NRG B6)

A-21. Can a young adult (under 22) who is a migratory agricultural worker, qualify himself, his spouse, and his three-year-old child?

Yes. The self-qualifying worker, the spouse, and the child are all eligible. However, they must all be on different COEs. On the worker's COE, the worker's legal parents should be identified, but dashes should be entered in the current parent section. The same applies to the spouse's COE, but her legal parents would be different from the worker's. Also the worker and the spouse would have different information in Section III, items 2a and 2b. For the worker in 2a, the box "on own as worker" would be checked. For the spouse, the boxes "with the worker" or "to join or precede the worker" and "spouse" would be checked in 2a and 2b respectively. Their child's COE would list the young adult and his spouse as the legal and current parents, and Section III, items 2a and 2b would be "with the worker" or "to join or precede the worker" and "parent" respectively.

B. The Qualifying Move

The definition of “qualifying move” involves several elements. A qualifying move:

1. Is across school district boundaries; and
2. Is a change from one residence to another residence; and
3. Is made due to economic necessity; and
4. Is made in order to obtain qualifying work; and
5. Occurred in the preceding 36 months. (See Appendix: NRG D1)

Moves Across School District Boundaries

Although determining if a move crosses school district boundaries seems straight-forward, often it is not. If a family who has children of both elementary and high school age, moves across an elementary school district boundary but the move does not cross high school district boundaries, only the elementary school age children made a qualifying move. District boundaries for preschool age children would be determined by the elementary district they would attend if in school, and district boundaries for out-of-school youth would be determined by the high school district they would attend if in school.

Since the introduction of charter schools and districts, the concept of school district boundaries can be confusing. Schools can be chartered to operate in the entire state, thus creating overlapping school district boundaries. Therefore, when considering school district boundaries, charter school boundaries must be ignored and only traditional district boundaries should be considered.

B-1. A family moves from a residence in school district A to a new residence in school district B, but the children continue to attend school in district A. Does this meet the condition for move across school district boundaries?

Yes. This is a move across school district boundaries, because a move is defined as a change of residence, not a change in the district where the child attends school. This means that if a child changes the school district where he attends, but the family does not change residence, there is no move across school district boundaries.

Changes in Residence

The US Office of Migrant Education interprets a change of residence to mean leaving the place where one currently lives and going to a new place to live, not just to visit. For example, a person who goes to a new place to seek or obtain work, or because the person cannot afford to stay in his or her current location, is leaving the place where he or she currently lives and is going to a new place to live and thus, has “Changed from one residence to another residence.” A residence under these circumstances is a place where one lives and not just visits. A car, boat, vehicle, tent, trailer, etc., may serve as a residence. Economic necessity will be defined in the next subsection. (See Appendix: NRG D2, D3, D4)

Residence is not established when the travel is only for the purpose of visiting relatives or friends, vacationing, attending a family event (such as a wedding or funeral) or arranging personal business matters (such as immigration papers or settling an estate) because the person did not go to the new place to live, but rather to visit. Further, if the worker is returning from such a trip, the return trip to a home base is not considered a change in residence. The worker is simply returning home even if the worker intends to seek or obtain qualifying work upon his or her return.

For MEP purposes, the underlying factor that separates a move from a visit is that the travel occurs at least in part by economic necessity.

The recruiter must consider what steps were taken both at the place the family leaves and the place they go to. Indicators that might show that residency stopped in the first location would include:

- Moving out /vacating the premises
- Stopping utilities and telephone
- Stop paying rent
- Can't move back to the same place
- Filing a change of address
- Closing the local post office box
- Packing and taking all or most clothing and household items
- Selling or disposing of excess household items in preparation to move
- Arranging for someone else to pay the rent while they are away
- Arranging for someone to oversee the house/yard/pets during the interim
- Renting their home to someone else during the interim
- Telling friends or service providers they are moving
- Withdrawing the children from school

Not all of the above are necessary, but evidence of some of this should be noted.

At the second location, indications that the family intends to make the new location home might include:

- Looking for a job
- Starting a job
- Earning income at the new location
- Moving in with relatives
- Finding a new place to live
- Purchasing household items for the new residence
- Starting utilities and telephone
- Enrolling the children in school
- Seeking services only available to residents
- Receiving mail at this address
- Obtaining a post office box in the new location
- Changing the address on their drivers license
- Telling others that they live here now
- Describing the place as their present home

Facts to consider:

- *Does the family have a pattern of moving for this kind of work?*
- *Has the family ever made a qualifying move in the past?*

What is the definition of a "residence"?

For the purposes of the MEP, the Department (OME) considers a "residence" to be a place where one lives and not just visits. In certain circumstances, boats, vehicles, tents, trailers, etc., may serve as a residence.

U.S. Department of Education. 2003. No Child Left Behind. Title I, Part C, Education of Migratory Children: Child Eligibility Guidance.

Because a migrant family's residence is by definition temporary, many of these indications of moving may be lacking. However, at least some evidence from the "moved-out" or "moved-in" criteria must be present to consider the travel to be a change of residence rather than a vacation.

B-2. Can the recruiter consider it a change of residence if a family leaves its home base to do agricultural work on a series of consecutive weekends?

No. Idaho does not consider this work pattern to constitute a change of residence no matter how many weekends they travel.

B-3. Can a recruiter consider it a change of residence when a family leaves its home base to live with or care for a sick relative for several months, and then returns to the home base to seek qualifying work?

Yes. A person who goes to a new place to help sick or elderly family members on an extended basis is living with those family members, and thus might meet the MEP's change of residence requirement if the person makes a return move to obtain qualifying work.

Moves of Economic Necessity

This means that a worker moved either because he or she could not afford to stay in the current location in order to earn a living. In general, OME believes that if the move is related to work, including a move to seek or obtain work, a move because of the loss of work, or a move because of the unavailability of work, the worker has moved due to economic necessity. (See Appendix: NRG D5, D6, D7)

Economic necessity has always been inherent in the concept of moving to look for or obtain qualifying employment. It is a term that Idaho created more than 15 years ago. In the past, we have applied the idea of moving for economic necessity particularly to moves to and from Mexico. The federal definition now requires that any move to seek or obtain qualifying employment must be for economic necessity. As in the past, vacations, visits, and travel for personal reasons do not apply. Neither would a move for cheaper housing or travel to receive lower cost services (e.g., medical/dental) be considered economic necessity.

Economic necessity is used as criteria for making a move or as it relates to personal subsistence. In order for a move to be qualifying, it must benefit the family financially. In the case of personal subsistence, the move must allow the family to use the crops they grow or fish they catch as a substantial part (50% or more) of their food intake for survival.

Economic necessity means that the family depends on the wages they are paid for work or what they grow/ harvest and consume in order to survive and pay necessary living expenses. All qualifying moves of migrant families must be related in some way to economic necessity (earning wages to benefit the family financially). In contrast, moves where the only purpose is to be closer to family, to receive cheaper medical services, get better housing, etc., are not qualifying moves.

The only evidence necessary to demonstrate economic necessity is that the family moved to seek or obtain employment for wages or, in rare cases, personal subsistence. However, occasionally, it may be necessary to provide additional documentation when economic necessity is questionable; for example when one parent is engaged in qualifying work and the other is not, or a worker does non-qualifying work for part of the year.

Changes in residence for economic reasons often involve moves to Mexico where they can live more cheaply than if they were to stay at their home base. The move to Mexico can never be qualifying; however, a move from Mexico back to the family's home base may be qualifying if the family returned for qualifying employment.

B-4. How does a recruiter determine that a move to Mexico was made in order for the family to live less expensively?

Certain factors help establish that the move to Mexico was a necessary part of a migratory lifestyle. To justify the move, there should be little or no work available to sustain the family through the slack work period. The recruiter must ask careful questions to be certain that the family would be financially better off by making the move to Mexico than by not making it. The cost of the travel must be balanced against the cost of remaining in the community.

B-5. Are there prescribed questions that must be asked to determine that the family moved to Mexico to live more cheaply?

No. It is a delicate matter to probe into a family's income and budget. Recruiters are encouraged to avoid pointed questions; however, during the course of the interview, it may be possible to discover if the move allowed the family to live less expensively while there. For example, if they moved out of their home when they left, it's possible they saved money by not paying rent. On the other hand, it may be more costly to give up a residence and have to pay moving in costs "up front" for a new place to rent. Over all, the economic benefit is derived either by reducing housing, food, or transportation costs, or by having the ability to earn income at the new location.

The three possible outcomes to be documented in Section III Item 4 of the COE are:

- *4a – Sought qualifying work, and obtained qualifying work, OR*
- *4b – Sought any work, and obtained qualifying work soon after the move, OR*
- *4c – Sought qualifying work specifically, but did not obtain the work.*

Moving to Seek/Obtain Work (Section III, item 4 of the COE)

The regulations allow any number of reasons for why a worker and his/her family moved – at least one reason must be that he/she was looking for work. It no longer has to be the primary reason for the move. (See Appendix: NRG D8, D9)

When a worker moves to seek qualifying employment specifically and finds it, this will be described as a 4a move in this document.

This change in the regulations also means that recruiters may identify and enroll families who move into the area looking for any unspecified type of employment and soon after end up working in seasonal or temporary agriculture or fishing, which will be described as a 4b move. (See Appendix: NRG D10)

The regulations also state that if a family moves into the area looking specifically for agricultural or fishing work but did not find qualifying employment (i.e., they found no employment or they found non-qualifying employment), the family may qualify only if the worker has a history of moving to seek qualifying work or can provide credible evidence that he or she sought such work. This outcome will be described as a 4c move.

Note that the regulations make it clear that if workers moved looking for specific non-qualifying employment (i.e., construction, hotel/service, auto mechanic, landscaping, etc.) the move will not qualify, even if they end up doing qualifying work. (See Appendix: NRG D11)

Under §200.81(g) of the regulations, "move" or "moved" means "a change from one residence to another residence that occurs due to "economic necessity."

B-6. If a recruiter finds a worker engaged in qualifying work, must the recruiter ask why he or she moved?

Yes. The fact that a worker moved and is engaged in qualifying work does not automatically establish that the worker moved "in order to obtain" that work. Consistent with the federal regulations, the recruiter must determine whether one of the purposes of the worker's move was to obtain qualifying work or any employment, (so 4a or 4b can be correctly checked) or conversely that the purpose was specifically to obtain non-qualifying work (which would rule out eligibility). (See Appendix: NRG D12, D13)

B-7. Suppose a recruiter asks a mother packing lettuce about why she moved here. She replies, “I came to live with my brother.” Could this be a qualifying move?

It depends. The recruiter cannot determine if it is a qualifying move unless he or she has more information. The recruiter must ask appropriate follow up questions to determine if, along with coming to live with her brother, another purpose of the move was to seek or obtain qualifying work. An appropriate question might be: “Is that the only reason you came here?” If after further conversation, the mother explains that she came because her brother said there were lettuce packing jobs, so she came to apply, then it would be a qualifying move if the other conditions of qualifying moves are also satisfied. The parent might also say something like, “I needed a job so I came to find whatever was available here where my brother lives.” If this answer was given, yet another follow-up question is needed to determine if the work started within 60 days after the move.

B-8. Suppose a recruiter asks a parent picking cherries if he moved to seek work in agriculture, and he replies, “No, I tried to get a job in construction because the pay is better.” Is this a qualifying move?

It depends. Follow up questions are required, such as: “Was construction the only type of work you considered looking for?” If the worker states that he was looking specifically for construction work, and only construction work, the move would not qualify, even though the worker is currently performing qualifying work picking cherries. However, if the worker indicates that he was looking for construction work or other type of work, this reason would be qualifying as long as he obtained the job picking cherries.

B-9. A parent obtains qualifying work in a nearby school district and commutes each day to work. Sometime later, the family moves across school district boundaries to live closer to the job. Does this move qualify?

No. This move does not qualify because the purpose is to move closer to a job already obtained. Even if the move is made for economic necessity, to save on commuting costs, it doesn’t qualify. Economic necessity without the element of moving to seek or obtain work is not sufficient to establish a qualifying move.

B10. Is a recruiter required to request proof that the worker engaged in qualifying work?

No. Normally it is not necessary for the recruiter to request that the worker provide proof that qualifying work was found. However, occasionally a recruiter may have reason to believe that a worker misrepresented the facts or misled the recruiter during the interview. If so, it is appropriate to request proof that the worker really did seek and obtain qualifying employment. The evidence that qualifying work was performed could include check stubs, payroll vouchers, a statement from the employer, or other written evidence that indicates the nature of the work.

Moves to seek qualifying work and qualifying work was found (4a)

By far the most frequently occurring outcome is that qualifying work was sought and found. These types of moves are indicated by checking box 4a in Section 1 of the COE.

Moves to seek any type of work (4b)

Based on the latest Federal Regulations, it is possible to qualify a worker who moved to seek any type of employment as long as the worker finds qualifying work soon after the move. The 2010 Non-Regulatory Guidance indicates that “soon after” would be within 30 days. However, due to a poor economy, a recent multi-year drought, frequent delays in the start of the agricultural season throughout our state, and other conditions specific to Idaho, ISDE has determined “soon after” to be within 60 days. These types of moves are indicated by checking box 4b in Section I of the COE. (See Appendix: NRG D22)

Since recruiters must always determine the purpose of the move, they must listen carefully to the response in order to determine if the person specifically sought qualifying work (4a) or sought any type of work (4b), or sought non-qualifying work specifically (not eligible). Here are some scenarios to help clarify the difference between these possibilities.

B-11. A recruiter meets someone irrigating an apple orchard and learns that he moved here so the children could attend school in this district. When asked if he was also looking for work here, the person said: “Yes, of course, I have to support my family.” When the recruiter asked: “What type of work did you look for?” he said “I was just looking for anything that paid at least minimum wage.” Was this person seeking any type of work?

Yes. This person said he was looking for any type of work that paid a minimum wage. Note that even though the person was found doing the qualifying work, the recruiter correctly inquired into the purpose of the move. Had the recruiter not asked, box 4a may have been chosen incorrectly. The correct check mark is box 4b.

B-12. A person says he was looking for any type of work he could find, but would only do agriculture work as a last resort because it is so hard. Was this person seeking any type of work?

Yes. Even though this person would prefer to do something other than qualifying work, he clearly stated that he was seeking any type of work. The correct check mark is box 4b.

B-13. A person says “I came here to either harvest tomatoes or do landscaping, whichever I found first.” Was this person seeking any type of work?

Yes. This person was seeking either qualifying work (harvesting tomatoes) or non-qualifying work (landscaping), indicating that he was open to any type of work. The correct check mark is box 4b.

B-14. A worker says he was looking for any type of work, and mentioned that he was looking for work harvesting lettuce, broccoli, celery, or cauliflower. Was this man seeking any type of work?

Not necessarily. Even though the examples he gave were all for qualifying employment, the recruiter should follow up with a remark such as: “It sounds like you are specifically interested in working in agriculture.” If the man agrees, then he was not seeking any work at all, but specifically agricultural work. In this situation, the correct check mark is box 4a because the worker was looking specifically for qualifying work.

B-15. A person says he was looking for a job planting any crops. Was this person seeking any type of work?

No: This person was seeking specifically qualifying work. He merely failed to identify the specific crop. The correct response on the COE is 4a.

B-16. A person said he was looking for any type of work in the construction industry such as carpentry, drywall, concrete work, or roofing. A recruiter could ask a follow up question such as: “Is construction the only type of work you considered?” If the person said “yes”, was he seeking any work as defined by MEP?

No. Even though he said he was seeking any job, the types of work he sought indicates that he was seeking only non-qualifying employment specifically, not any job at all. Even if he was found doing agricultural work, it is not a qualifying move when he asserts that the only work he sought was construction or non qualifying work. In this case, a COE cannot be completed.

Moves to find qualifying work, and qualifying work was not found (4c)

Children can be eligible for the Migrant Education Program based on the worker's "intent" to find qualifying employment. The word intent is used to mean that the worker sought qualifying work specifically, but did not find it. These types of moves are indicated by checking box 4c in Section I of the COE. When qualifying on intent, where qualifying work was sought but not found, the worker must have a history of moving to gain such employment or must be able to provide credible evidence for why the work was not obtained. (See Appendix: NRG D14)

A history of migration is defined as at least one prior move in or to the United States where agricultural work was sought and performed. Prior history may not extend for more than six years before the interview date. For example, if the last move a worker made to obtain agricultural or fishing work was in June 2003 (at least 7 years ago), the move would not count. If qualifying based on a prior history, the recruiter must complete Section III, 4c, and provide a comment in Section IV. (See Appendix: NRG D16, D17)

In the absence of prior history, the new regulations also allow a worker to qualify if he or she can provide "credible evidence" that the work sought was not available due to various factors which could include, weather conditions, surplus of workers, crop failure, business closure, etc.

The federal 2010 Non-Regulatory Guidance provides examples of credible evidence such as:

- Information obtained from conversations with an employer, crew chief, employment agency, or credible third party that indicates that the worker sought the qualifying work;
- Written information from the employer, such as a copy of an employment application or a list of recent applicants;
- Information in the public domain (e.g. newspaper) that confirms a flood or crop failure in the area (See Appendix: NRG D18)

Credible evidence may also include verbal statements offered during the interview. However, if a verbal statement is used as credible evidence, all four of the following elements must be included in the interview with the worker:

- Place where work was sought (and phone number if available)
- Who the worker spoke with
- The date they spoke with this person
- What was said

After considering all of the available information, if the recruiter is satisfied that the worker actively sought qualifying work soon after the move and that the work was unavailable due to reasons beyond the worker's control, the recruiter may deem the worker eligible for MEP services. (See Appendix: NRG D19)

Recruiters need to thoroughly document the circumstances of families who move "in order to obtain" qualifying employment and who do not find qualifying work in Section IV Comments of the COE. Also, document if workers have a prior history of work. Those with no prior history but who can provide credible evidence for why qualifying work was not obtained, recruiters must document in Comments section.

Facts to consider:

- *Does the family have a history of moving in order to perform qualifying work?*
- *Was the type of work being sought performed in the area?*
- *Was the work being sought performed at this time of year?*
- *Does the worker have credible evidence (e.g., flood, crop failure, positions already filled) that prevented the worker from obtaining employment?*

B-17. A worker moved to find any type of employment, but did not find qualifying work within 60 days. However, he has a lengthy history of moving and finding qualifying work. Can this worker qualify on intent?

No. A worker can only qualify on intent if he moved specifically to find qualifying - employment and not any employment, regardless of prior history. (See Appendix: NRG D15)

B-18. A worker states that he came to find qualifying work, but has no credible evidence that he actually sought qualifying work. His only prior history is a move to harvest potatoes in Fruitland, ID, which he didn't get because of a freeze. Can the worker qualify on intent?

No. He must have prior history or credible evidence. Prior history must be a history of seeking and *obtaining* qualifying work.

B-19. A worker states that he came to find qualifying work, but has no credible evidence that he actually sought qualifying work. His prior history is multiple moves in Mexico to hoe corn and plant beans. Can the worker qualify on intent?

No. Again, he must have prior history or credible evidence. Prior history must be qualifying work sought and obtained in the U.S..

B-20. Must the worker have a documented move (one where a COE was completed) before we can consider the worker to have a prior history?

No. There is no requirement for a COE documenting the prior move of the worker. However, the recruiter must be satisfied that the qualifying worker did have at least one prior move in the United States where agricultural work was sought and performed within the six year time period prior to the interview.

Annual Moves to Engage in Same Work

Annual migrations to work for the same farmer, perform the same tasks, and live in the same temporary residence year after year are considered moves to obtain qualifying work because the work is not permanent employment. This may be true even if the farmer guarantees the worker employment each year and reserves the same temporary residence for the worker.

There may be times however, when a move during these periods does qualify. For example, if a permanently employed construction worker moves during the winter to obtain qualifying employment to augment the income he receives during the peak construction period, this worker might qualify. In this situation, the recruiter must take special care to fully document Section IV (Comments) of the COE. If the recruiter believes that the travel during a vacation, holiday, or school break was a qualifying move, he or she must provide comments in Section IV explaining the circumstances of the move.



Facts to consider:

- *How long was the family and child or young adult away?*
- *Why did the family leave the district?*
- *Did the family establish a residence at the new location? What indicators are there of this?*
- *Was work obtained at the new location? If no work was obtained, what evidence do you have the family was living more inexpensively at the new location?*
- *Did the family disconnect utilities, forward mail, etc. when leaving the district?*
- *Did the family connect utilities, receive mail, etc. at the new location?*
- *Was the time away over the weekend or such a short time (less than a week) as to be credible?*
- *Why did the family return to the district?*
- *Did the child or young adult return to the same residence (no change in address) when the family returned?*

B-21. A parent reports that his family went to Mexico to harvest corn. Does that mean that the travel to Mexico was a move?

Not necessarily. The recruiter must establish that there was a change of residence due to economic necessity. That is, the recruiter must be certain that harvesting corn was not just part of a visit to relatives in which the worker helped on the family farm. All previous instructions on change of residence and economic necessity apply to the situation. The recruiter must document the facts that confirm a change of residence due to economic necessity in Section IV.

B-22. Parents work at their home base for several months during the year, and every summer move to another city to work in qualifying employment. While the parents are gone, the children stay with relatives so they can continue school. During the children's summer break they travel to join their parents. If the parents are moving as part of a migrant lifestyle, and the children only travel during the summer break, did the children move to join the parents and therefore make a qualifying move?

It depends. For the children only, this is travel during a vacation, and likely of short duration. Special questioning and documentation are needed for all (family) travel during school breaks to determine if the travel was a move or just a vacation. When the children and the parents travel at different times, it must be determined that the children actually made a move rather than traveled for vacation or visit. The less time the children are with their parents, the less likely it is that they meet the MEP definition of a change of residence.

For cases like this, the NRG does not provide specific criteria for determining if children making the round trip separately meet the MEP requirement for a move. However, some conditions to consider are: If the children traveled with just a suitcase of clothes and travel necessities to be with their parents, it is probably a vacation and the children would not qualify. But if the children took all or most of their belongings from their home base to their parent's home (e.g., clothing, toiletries, bed linen, books, CD's, toys, bikes, pets, bedroom decorations, small appliances and furniture), then a move is likely to have occurred and the children would qualify.

B-23. If a family makes a round trip move to seek qualifying employment elsewhere at a time when there are plenty of jobs available where they live, can the move away be considered a move for economic necessity?

Yes. However, there must be a good reason for not taking a job in the local area, in order for the move to be for economic necessity. Reasons could include:

- The worker is not qualified or physically capable of performing the work available,
- The pay is lower than a job elsewhere,
- A long commute may make the local job unaffordable,
- Transportation or childcare was not available locally,
- The worker could not work during available hours (e.g. night shift),
- The housing was cheaper elsewhere,

Therefore, a family can leave their residence to move and qualify elsewhere when there is work available in the local area.

Round Trip Travel of Short Duration – 30 days or less

The move from and back to the worker's home base must be sufficiently long to establish that a move, in fact, occurred. Moves where the family lives elsewhere for 30 days or less are considered moves of short duration. (See Appendix: NRG D23)

The recruiter must document all the facts concerning these moves in Section IV of the COE. One of the first things a recruiter must know in order to determine whether or not a move of short duration has occurred is the number of days the worker/child was away from the district.

OME believes that moves of short duration could be questioned by independent reviewers. The recruiter must be able to show that the move was really a change of residence for economic necessity to seek qualifying work.

B-24. A family moved from Post Falls, ID to Spokane, WA looking for long term work in construction. The father worked two days and he couldn't find more jobs in construction. The family moved back to Post Falls one week later. The father sought and found work picking raspberries in Post Falls. Is the move back to Post Falls a qualifying move?

Yes. Meeting the conditions of a qualifying move hinges on establishing that there was a change of residence for economic necessity. Since both moves were to look for work, economic necessity is established. "Looking for long term work" shows the intention to change residence and should be part of Section IV documentation, but any other indicators of a residential change must also be recorded in Section IV of the COE.

Moves of Short Distance

One of the requirements for a qualifying move is that it must be from one school district to another. This can become problematic if the move is of such a short distance that it could be questioned as migratory. Idaho has determined that any move that is a distance of 20 miles or less is considered a “move of short distance” and documentation must be provided in Section IV of the COE clarifying why this move was qualified.

The recruiter must keep in mind that the move must be one of economic necessity and to seek or obtain work. He or she must be able to explain how a move of less than 20 miles was economically necessary. An independent reviewer might ask why the worker couldn't have traveled to and from the job each day. (See Appendix: NRG D14)

Examples of appropriate answers might be:

- The reduction in time and expense needed to get to and from work was enough to make the job economically feasible
- The worker was able to car pool and save on oil and gas expenses
- The move enabled access to public transportation to and from work

A worker who travels back and forth to a job site to do qualifying work is considered a “commuter.” This kind of travel, although work related, does not involve a change in residency and, therefore, would not qualify, even if the worker takes the child. Also, a worker who hauls crops to another city does not make a qualifying move even if he stays over night before returning home. (See Appendix: NRG D25)

B-25. Can a qualifying move be made within the city's limits? If so, what types of explanation is needed to convince a reviewer that it was necessary for the family to move to secure the employment?

Yes. Cross-town and other short distance moves (20 miles or less) may qualify only if the relocation was to enable the worker to seek or obtain employment in a qualifying activity and the move was across school district boundaries. Because short distance moves are inherently suspicious, ample questioning and justification is needed. The recruiter must be sure the worker had to move to get the job he or she was seeking. Also the recruiter should establish that the move was economically necessary and not exclusively for better or cheaper housing, to reside in a better school district, or other non-qualifying reasons. Since a person can easily commute 20 miles to work, the subject of transportation should be explored. Establish that by moving, transportation to work became possible or resulted in a significant savings in time and/or money.

It is helpful when calculating the distance between two residences, to use a computer software program such as MapQuest or a global positioning device (GPS).

Moves To Join or Precede the Qualifying Worker

The child does not need to move simultaneously with the parent or qualifying worker to be eligible for MEP. The child's move may precede or follow the worker's move within a 12 month period.

If the child's move precedes the worker's move, the eligibility date is the date that the worker arrives. The reason for this is that a move does not qualify until the worker arrives in the school district and begins to seek qualifying work. Therefore, it is only at this point that the child meets the definition of "migratory child." On the other hand, if the child's move follows the worker's move, the eligibility date is the date the child arrives. The reason for this is that the child does not establish eligibility as a migrant child until he or she physically arrives in the receiving school district. (See Appendix: NRG E1, E2, E3)

Idaho's policy is that a child's move must precede or follow within 12 months of the worker's move. After one year, it is difficult to establish a credible relationship between the child's and worker's moves. For all moves where the child precedes the worker or follows the worker to the new residence, information must be provided in Section II of the COE that describes why they moved at different times. In rare cases the time span may exceed 12 months, but these cases must be discussed with Idaho MEP and approved individually. (See Appendix: NRG E4)

B-26. The parents moved to Wilder to perform qualifying work, and 6 months later they brought their child from Mexico to join them. However, by the time the child arrived, the parents had changed jobs and were doing non-qualifying work. Is this a qualifying move?

Yes. Since the child joined the parents within 12 months of the parents' qualifying move, the child qualifies. This applies regardless of the parents' current type of employment when the child joined them. Note that "to join" moves always require comments.

B-27. A father moved to Idaho and migrated throughout the state performing qualifying work. His most recent qualifying move was from Payette to Idaho Falls. After 2 months in Idaho Falls, his wife and child joined him in Idaho Falls directly from Guadalajara, Mexico. Is this a qualifying move for the children?

Yes. Note that Section III, item 1 of the COE must show the place the child moved from (Guadalajara), not the place the worker moved from (Payette). As a "to join" move special attention is also needed in items 2 and 3 of the Section III. Also Section IV Comments are required to explain the "to join" move. Additionally, since the child arrived in Idaho Falls from Guadalajara, and the worker moved to Idaho Falls from Payette, this is Example 8 (listed in the COE instructions) that requires the worker's "from-city" to be named in Section III.

Qualifying Moves that Occurred in a Different District or State

Any qualifying move that occurred in the preceding 36 months may be considered as a move to enter on the COE. The most recent qualifying move is generally preferred. However if the most recent move does not qualify the family, recruiters should inquire about other moves in the past 36 months, including those in other districts or states.

Sometimes the recruiter, who has made an appointment with a family in advance, has the benefit of preparing for the COE interview by checking online to see if the family has been in the program before. Knowing the prior history of where the family has been and what it has done can be an excellent starting point for discussing earlier qualifying moves into other districts or states. However, the recruiters must, without actually leading the interviewee, confirm information gleaned from these outside sources, and decide independently if they should complete a new COE based on a move to another district or state within the past 36 months.

Even without the benefit of MSIS or MSIX, recruiters should always think about the possibility of qualifying the student based on a move within the past 36 months to a location outside their own district. Though it may not be necessary, it is perfectly appropriate for recruiters to contact and share information with other districts and states to help determine a child's eligibility.

When qualifying a family on a previous move to another district or state, the qualifying arrival date and the moved-to-city must be the time and place where the qualifying work was sought or obtained. Thus, the moved-to-city would be different from the current city. The QAD would be different from the residency date which is the date the child arrived in the current city.

B-28. A migrant family who was living in Yakima, Washington made a qualifying move on June 18, 2010, to Hood River, Oregon to pick cherries. On September 4, 2010 the family traveled to Meridian, Idaho to obtain work in construction. Which is the qualifying move? What is the QAD, the residency date, the moved-from city, the moved-to-city and the current city?

Since the move to Meridian was not a qualifying move, the move to Hood River is the one to record as the qualifying move on the COE. The QAD is the date they arrived to do the qualifying work in Oregon, June 18, 2010. The residency date is the date they arrived in the current school district in Meridian, September 4, 2010. The moved-from city is the city they left to make the qualifying move, Yakima. The moved-to-city is the city they arrived in for the qualifying move, Hood River. The current city is where they live now, Meridian, ID. Note that the residency date and the QAD are not the same, and the moved-to city and the current city are not the same.

B-29. A migrant family who lived in Preston, ID moved to Emmett on June 7, 2010 to seek work picking cherries. The mother returned to Preston August 14, 2010 so the children could start school and she did not seek qualifying work but instead resumed working at a hotel. At the time of the interview, the father was still in Emmett finishing the blackberry harvest. Which is the qualifying move? What is the QAD, the residency date, the moved-from city, the moved-to-city and the current city?

The qualifying move is the move to Emmett. The QAD is the date they arrived in Emmett, June 7, 2010. The residency date is the date they arrived in the current school district in Preston, August 14, 2010. The move-from-city is the city they left to make the qualifying move, Preston. The moved-to-city is the city they arrived in for the qualifying move, Emmett. The current city is where they live now, Preston. The residency date and the QAD are not the same, and the moved-to city and the current city are not the same.

International Moves

A move from any other country, including a country that does not border the U.S. (non-contiguous), may qualify as long as one of the purposes for the worker's move was to seek temporary or seasonal employment in a qualifying occupation. Other reasons for making the move, even permanent relocation, do not disqualify workers. (See Appendix: NRG D31)

A move from the United States to another country is never (and never has been) a qualifying move, even if qualifying work is sought. However, a worker's move back to the U.S. from another country could be a qualifying move. (See Appendix: NRG D32)

B-30. Is any documentation required when a worker arrives from a non-contiguous country such as the Philippines?

No. No special documentation is needed in Section IV. This is no longer an exceptional condition.

Selecting the best move to establish eligibility

Sometimes a family mentions several moves that they have made in the past three years, and the recruiter is challenged to decide which move to enter on the COE. It can be helpful to draw a diagram of the recent history of moves so the recruiter can clearly examine:

- The dates of each move (when)
- Reasons for each move (why)
- Places they moved from and to (where)
- The type of work they sought or obtained in each place (what)
- The worker's relationship to the child at the time of arrival (who)

The first step is to disregard any moves that are not qualifying based on the when, why, where, what, and who above. The next step, assuming all moves are equally strong, is to select the most recent move of the remaining possibilities.

However, if for any reason the recruiter thinks that the most recent move is not as strong or credible as a prior move, they should select and document the strongest or most credible move. The decision to select a prior move instead of the most recent one can sometimes be a balancing act. Many factors weigh into the decision.

- Why is there something shaky, unclear, or potentially questionable about the most recent move? How serious are these concerns?
- How much earlier was the prior move? If you chose to take the prior "sure thing" move, how much eligibility into the future do you sacrifice?
- If you chose to take the prior "sure thing" move, is that preferred because it is quicker (less documentation)? Is that alone a valid reason for the selection?
- Is it better (stronger) to select a "4a" move where the worker was hired for qualifying employment over a "4c" move where the work was never found?

May a worker's move to the United States from another country qualify for the MEP?

Yes. A worker's move from another country to the U.S. may qualify if one of the purposes for the move was to seek or obtain qualifying work. For example, orchard growers in the Northeast hire contract workers from Guatemala to pick crops for a short period of time. Assuming all other eligibility criteria are met, the children of these workers would qualify because one of the purposes of the move to the U.S. was to obtain qualifying work. The workers are not disqualified if they have other reasons for moving to the U.S., even permanent relocation, so long as one of the purposes of the move is to obtain qualifying work and the other conditions are met.

MEP Guidance

- Whichever move you choose, is it the one the family is most likely to remember in the event of a re-interview? How much should you explain to the interviewee about why you might not be choosing the latest move?

Ultimately, these factors must be weighed on a case- by- case basis. As a general guideline: If the most recent move either doesn't qualify, or the recruiter feels uncertain or uncomfortable about the most recent move, the recruiter should start stepping back move by move and select the move that represents the best balance between recent and strongest.

Here are some scenarios to consider in determining which move a recruiter might select:

B-31. A youth moved from Twin Falls to Nampa to seek any type of work and found a job harvesting potatoes one month later. Then he heard about a restaurant job in Boise. He moved there, and got the job. After being injured on the job, he moved to Glens Ferry seeking any kind of work he could find but never did find employment. Which is the best (or only) move that would qualify this youth?

The most recent move (to Glens Ferry) would not qualify because he was not seeking qualifying work specifically, and he did not get work. The move (to Boise) would not qualify because he was seeking a non-qualifying job specifically. But the move (to Nampa) was qualifying because the youth moved to find any type of work, and found qualifying work soon after (within 60 days) he arrived in Nampa.

B-32. A mother, who lives in Weiser, ID, and the father, who lives in Homedale, ID, have joint custody. The child lives with his mother during the regular term, and with his father in the summer. In June the child moved to Homedale to live with his father. Later in June, the father and child moved to Ontario, OR, to hoe onions. The child then moved back to Weiser in August.

Neither the move to Homedale nor the move back to Weiser to join a parent qualify because only the child moved, and the move did not involve anyone seeking work. Only the move with the father to Ontario appears qualifying.

B-33. A father and his child moved to Burley 2 months ago seeking a job harvesting sugar beets and the father got a job irrigating grain. Last month, the father and child moved to Mountain Home seeking any job that was better paying. On the day they arrived in Mountain Home, the father was in a car accident, and will be unable to work for an unknown period of time. Which is the best (or only) move to report on the COE?

The most recent move to Mountain Home is probably not qualifying because the father was not seeking qualifying work specifically. For this to be a qualifying move, he must seek and obtain qualifying work soon after the move, and because of his injury, this is not likely. Therefore, the move to Burley appears strong, and would be the best choice.

B-34. A family moved from Jerome, ID, to Caldwell to milk cows during the summer. They returned to Jerome, their home base, but were unable to find work of any kind. Mom and children stayed in Jerome but the father went by himself to Meridian to get a temporary job cleaning dairy cow barns. Which move, if any, should the recruiter select?

The move to Meridian is definitely not qualifying because the children didn't move with the worker. The move to Jerome may be a 4c (intent) move, but an auditor might question the true intent to find qualifying work since the family was essentially returning to their home base to start school and may have been looking for any type of work rather than qualifying work. The move to Caldwell, therefore, may be the strongest move in this case. It also may be the one the family is most likely to remember if questioned by an independent reviewer. No more than 3 months of eligibility are sacrificed by choosing the earlier move.

B-35. A mother left Parma when she was laid off her potato shed position. She moved with her child to pick apples in Hood River, OR. She couldn't find affordable housing there, so she quit her job after only a week and moved back to Parma looking for any kind of employment she could find. The potato picking season was late so she worked at a child care center for almost 2 months before she started picking potatoes in Parma. Which move, if any, should the recruiter select?

At first glance the most recent move may be a problem because of the intervening job at the child center. But since she found qualifying work within the allowable 60 days, the move to Parma may be strong enough. A worker does not necessarily forfeit MEP eligibility by taking a non-qualifying job for a limited period of time. For either move, it is necessary to give enough information to establish that a change of residence for such a short duration round trip. (See Appendix 1: NRG D20)

C. The Qualifying Work

What is Qualifying Work?

Under 200.81(i) of the regulations, “qualifying work” means temporary employment or seasonal employment in agricultural work or fishing work. (See Appendix: NRG F1)

Agricultural Work or Fishing Work

CFR 200.81(a) defines agricultural work as:

1. The production or initial processing of crops, dairy products, poultry, or livestock: as well as cultivation or harvesting of trees, that is—
2. Performed for wages or personal subsistence. (See Appendix: NRG G1)

CFR 200.81(b) defines fishing work as:

1. The catching or initial processing of fish or shellfish; as well as the raising
2. or harvesting of fish or shellfish at fish farms that is—
3. performed for wages or personal subsistence. (See Appendix: NRG G16)

The qualifying work must be sought or performed in the United States, or its territories or possessions. In the remote likelihood that fishing is performed on the high seas, the fishing boat must be launched from the United States.

Facts to consider:

- *Is this activity the only one being performed in this employment?*
- *If not, when performed with other activities, could the activity be considered full-time employment?*
- *Is this work directly related to agriculture or fishing employment (see definitions above)?*
- *Did the family move to seek or obtain temporary or seasonal employment?*
- *Is the worker guaranteed year-round work?*

C-1. May a worker who performs both qualifying and non-qualifying work still be eligible for the MEP?

Yes. A worker is only required to meet the definition of a migratory agricultural worker or migratory fisher as defined in the regulations. The fact that the worker performs non-qualifying work in addition to qualifying work has no bearing on his or her eligibility for the MEP. This means that worker at a cannery or dehydrating facility who is hired on a temporary or seasonal basis and works with the product both in a raw state and after initial processing begins can be eligible for the MEP. Initial processing will be described later. (See Appendix: NRG G27)

C-2. What is required if the agricultural or fishing activity or product is unfamiliar?

The recruiter must enter comments in Section IV when the activity or the product is of such a nature that it is not obviously qualifying work. It must be made clear to reviewers (and auditors) who are not familiar with the work, so they can understand why the work would qualify. Sometimes it is helpful to identify the location (e.g., field, packing shed, nursery, forest, farm, etc.) where the work is performed so that the nature of the work is clear.

Production in Agricultural Work and Fishing Work

Agricultural production includes the growing and harvesting of crops, plants, or vines and the keeping, grazing, or feeding of livestock or producing livestock products for sale. For crops, the term also includes, among other things, the production of bulbs, flower seeds, vegetable seeds, and specialty operations such as sod farms, mushroom cellars, and cranberry bogs. It also includes planting, cultivating and harvesting of forest products. For livestock, it includes among other things, the production of milk from cows or goats, eggs from poultry, and honey from bees. Production in the fish industry includes raising and feeding fish on a fish farm. (See Appendix: NRG G2)

Production can be performed in a variety of settings including but not limited to:

- Farms, fields or ranches
- Vineyards or orchards
- Nurseries or greenhouses
- Forests or plantations
- Dairies or hatcheries
- Stockyards or feedlots
- Cellars (mushroom) or bogs (cranberry)
- Fish farms



Initial Processing in Agricultural Work and Fishing Work

The term “initial processing” is work that (1) is beyond the production stage of agricultural work and, (2) precedes the transformation of the raw product into something more refined. It means working with a raw agricultural or fishing product. Initial processing ends once the transformation of the raw product into something more refined begins. OME states that work up to, but not including, the start of the transformation process is qualifying work. This means that once cooking, baking, curing, dehydrating, fermenting, marinating, or mixing of ingredients with the raw product is initiated, the work is not qualifying. (See Appendix: NRG G20, G24)

Both qualifying and non-qualifying work often occur in a place where crops are processed. Processing can occur in places such as:

- Packing and sorting sheds
- Drying sheds
- Canneries
- Processing plants
- Packing plants
- Wineries
- In the field (e.g. drying raisins)
- Dairies
- Poultry and egg farms
- Slaughterhouses

Below are examples of the transformation of the raw product:

<i>RAW PRODUCT</i>	→	<i>TRANSFORMED INTO A REFINED PRODUCT</i>
<i>Tomatoes</i>	→	<i>tomato sauce (cooked and mixed with other ingredients)</i>
<i>Grapes</i>	→	<i>wine (fermented and mixed with other ingredients)</i>
<i>Milk</i>	→	<i>cheese (fermented and mixed with other ingredients)</i>
<i>Chilies</i>	→	<i>salsa (mixed with other ingredients)</i>
<i>Beef</i>	→	<i>jerky (mixed with other ingredients)</i>

Agricultural Crops

A crop is a plant that is harvested for use by people or livestock. Plants used by animals other than livestock are not defined as crops. Crops are not limited to products that are eaten, and include ornamental and forest products such as flowers, shrubs, trees, and grass (sod) as well. (See Appendix: NRG G3)

Production of crops includes preparation for growing, planting, care during the growing process, and harvesting of the plants. Some examples of crop production activities include, but are not limited to: (See Appendix: NRG G4, G5)

Preparation and planting:

- Preparing land to plant – e.g. tomatoes, onions, cotton, celery, sweet potatoes
- Preparing greenhouse beds – e.g. flowers, shrubs
- Clearing – e.g. brush in orchard, fields in preparation for planting
- Plowing, disking, tilling – e.g. lettuce fields, cotton fields
- Planting or seeding – e.g. oranges, rice, artichokes, corn, tomatoes, trees

Growing:

- Transplanting – e.g. strawberry plants, roses, cauliflower
- Grafting – fruit trees, ornamental trees, roses
- Cultivating or hoeing – e.g. cotton, beans, onions, roses, carnations, orchids
- Pruning – e.g. grapes, apple trees, hops, kiwi vines
- Thinning – e.g. peaches, lettuce, strawberries
- Irrigating – e.g. strawberry fields, apple orchard, sod (at a sod farm)
- Staking or tying – e.g. vines, trees
- De-leafing or de-budding – e.g. grapevines, beets
- Wrapping - e.g. grapevines
- Weeding – e.g. lettuce, tomatoes, celery, onions, sweet potatoes
- Fertilizing – e.g. peanuts, apples, oranges, cotton, lettuce
- Spraying or applying herbicides and pesticides



Harvesting

- Cutting – e.g. sunflowers, garlic, gladiolus, broccoli
- Picking – e.g. strawberries, chilies, mushrooms
- Making/assembling boxes for packing produce – e.g. lettuce, melons, strawberries
- Shaking, raking or sweeping – e.g. almonds, pistachios
- Loading – e.g. hay, alfalfa, carrots, almonds
- Harvesting – e.g. squash, herbs, olives, almonds
- Hauling – e.g. broccoli from fields, peaches from orchard
- Picking up or rolling – e.g. raisins
- Gathering - e.g. decorative greens or ferns

Initial processing of crops includes working with the raw product before the transformation by cooking, fermenting or mixing any other ingredients occurs. Some other ingredients that could be added include but are not limited to sugar, salt, other crops (e.g., combining chilies and tomatoes to make salsa), and preservatives of any kind. (See Appendix: NRG G22)

Initial processing of crops includes but is not limited to:

- Cleaning – e.g. garlic, onions
- Washing – e.g. salad greens
- Weighing – e.g. broccoli, potatoes
- Cutting up – e.g. plums, pears
- Grading – e.g. tomatoes, peaches
- Sizing – e.g. potatoes, lemons, apples
- Shelling – e.g. walnuts, almonds
- Sorting – e.g. peaches, tomatoes, walnuts, garlic, apricots
- Peeling – e.g. apples
- Crushing – e.g. grapes
- Freezing – e.g. corn, peas
- Drying – e.g. pintos, lentils, rice, raisins
- Packing – e.g. lettuce, salad greens, peaches
- Juicing – e.g. oranges, grapefruit, apples
- Bagging, wrapping, enclosing the raw product in a container (applies to raw and frozen crops)

Work That May Be Part of Year-Round Employment

- *In the case of a worker who performs different types of work, both qualifying and non-qualifying, MEP eligibility may be based on such work as long as the qualifying work is a regular part of the worker's responsibilities.*
- *A person engaged in non-qualifying work, who performs qualifying work on as needed basis, may qualify for the program if all other conditions of eligibility are met.*
- *The Recruiter must take special care in documenting all the facts surrounding the qualifying work, because the worker typically is involved in a non-qualifying occupation.*

The following are examples of crop production or processing activities that do not qualify (See Appendix: NRG G25) because:

1) The activity is not directly related to growing and harvesting:

- Assembling irrigation equipment to be rented or sold to farmers
- Repairing farm equipment
- Catering food for workers at a field or orchard
- Providing water and food to farm workers as an employee of the farmer
- Child care for farm workers
- Supervising farm workers
- Tally clerk or other bookkeeping or administrative work
- Making boxes in a factory to be eventually used for produce
- Landscaping
- Managing or supervising a farm or processing plant
- Accounting, bookkeeping or clerical services
- Selling produce for a farmer

2) The activity is no longer working with the raw product:

- Baking, curing, fermenting, breadmaking, marinating
- Mixing ingredients
- Packing dried fruit (ingredients have been added)
- Sealing cooked fruit or vegetables in cans
- Bottling (ingredients have been added) or labeling wine
- Placing labels on cans, bottles or boxes of a refined product
- Making bouquets or arranging flowers at a distribution center
- Transporting produce from packing sheds or processing plants to distribution centers
- Working at a bakery or restaurant.

3) The activity is not working with a crop:

- Preparing soil in a soil making factory
- Raising worms for chicken feed or fishing
- Harvesting larvae for organic soil



C-3. Are workers engaged in professions such as crop dusters, herbicide and pesticide technicians, lab technicians testing for sugar levels in produce, farm equipment mechanics, doing qualifying work?

It depends. While the described work is related to the production and harvesting of crops, these are generally professional positions in which the person is not a seasonal or temporary worker. If a person is hired strictly as a seasonal or temporary employee to do this work that contributes directly to the preparation, planting, growing or harvesting of crops, the work may qualify.

C-4. Is work as a maintenance and irrigation laborer in a lettuce field qualifying?

It depends. If the job as an irrigator is part of the temporary work force hired by the farmer it can qualify. However, if the work is more related to year-round equipment maintenance and irrigation for an independent contractor, the activity would not qualify.

C-5. Is growing alfalfa to feed cattle considered qualifying work?

Yes. Crops that are grown for use by either people or livestock are included as agricultural work. Livestock does not include racehorses, household pets, etc.

C-6. Does work in a wholesale nursery caring for ornamental trees and flowers constitute qualifying work?

Yes. Agricultural products are not limited to products that are eaten by people or livestock. Producing ornamental products for harvest or sale is qualifying work as long as it is not permanent employment. There are large scale commercial growers that sell their products to retail stores such as Home Depot. Therefore, work at large commercial growers that own wholesale nurseries can be qualifying, but caring for the plants at the Home Depot nursery would not qualify because Home Depot does not produce the trees and flowers.

C-7. Does placing or removing bee hives in an almond orchard so that the bees will pollinate the trees constitute a qualifying activity?

Yes. Assuming this is a temporary or seasonal job.

C-8. Is drying of grains and legumes, including rice, beans, or field corn considered qualifying work?

Yes. Grains and legumes are dry when harvested. Working with them at a drying facility is the initial processing that allows the product to be stored and/or packaged. They are generally treated with nothing but air, and no additives or cooking is involved.

C-9. Is drying raw fruits (other than raisins) or vegetables considered qualifying work?

No. Most fruit is dehydrated using sugar and preservatives. A possible exception may be that some organic processors dry fruit without the addition of any preservatives or other ingredients.

C-10. How can a recruiter or interviewee know if the drying of fruit, vegetables, grains and legumes involve mixing of other ingredients with the product to preserve it?

The best way to know is for recruiters to learn in advance about the way the crop is processed by the various facilities or processing companies in their area. Then they will know that a person drying or packaging fruit at a large processor is known to mix other ingredients with the fruit, would not qualify. The workers would only qualify if they worked with the raw product (e.g., dicing, pitting or cutting up the fruit) that has not been treated.

C-11. If a worker is involved with cleaning, sorting, and grading tomatoes, and the tomatoes go on to become tomato sauce, does this mean the work does not qualify?

It depends. In this situation, the worker is involved in all phases of tomato processing, including cleaning, sorting, and grading the raw product, which is a qualifying activity. However, if a worker is involved in only the end stage of processing (i.e., cooking, adding other ingredients, canning the sauce) the work is not qualifying.

Trees

Production of agricultural products extends to the forest industry. Production of trees, including cultivating and harvesting trees, is qualifying work. However, processing of trees does not qualify. Cultivation as applied to trees means “the work that promotes the cultivation of trees.” Harvesting means “the act of gathering or taking of the trees. (See Appendix: NRG G9, G11).

Cultivating and harvesting include but are not limited to (See Appendix: NRG G10):

- Soil preparation
- Sorting seedlings
- Planting seedlings
- Transplanting
- Staking
- Watering
- Fertilizing
- Marking
- Removing diseased or undesirable trees
- Applying insecticides
- Shearing tips and limbs
- Tending
- Pruning or trimming trees
- Topping
- Felling
- Skidding
- Thinning
- Planting reforestation tree seedlings
- Christmas tree planting
- Tending
- Cutting
- Bundling
- Loading for transport

The processing of trees and lumber products is not included in the statute as qualifying work. Therefore, the following activities are not considered qualifying work because they occur after the cultivation and harvesting of trees (See Appendix: NRG G13, 14, and 15):

- Clearing trees in preparation for construction
- Trimming trees around electric power lines
- Pruning trees in public parks (landscaping)
- Cutting logs for firewood,
- Hauling or transporting trees

C-13. What activities are eligible in the Christmas tree industry?

Planting, weeding, tilling the soil, feeding, grooming/shaping, and cutting are qualifying activities. Once the trees are ready to be hauled from a harvesting site to a sales yard, there is no longer a sufficiently direct involvement in cultivation or harvesting of trees. Hauling or selling Christmas trees would not qualify as an agricultural activity.

C-14. Does work (clearing brush, planting pine trees, etc.) that will eventually be for firewood qualify?

Yes. Cultivation or harvesting of trees is qualifying work. Trees qualify as a crop. The exact use (e.g., eating the product vs. burning the product) does not enter into the criteria. Cutting the trees into logs is not qualifying, however.

Dairy, Poultry and Livestock

In general, livestock is any domestic animal produced or kept primarily for breeding or slaughter purposes, including, but not limited to, beef and dairy cattle, hogs, sheep, poultry, horses and bees. Some animals are referred to as specialty or alternative livestock such as deer, elk, and bison. They are considered livestock as long as they are raised for breeding or slaughter purposes. For purposes of the MEP, livestock does not include animals that are raised for sport, recreation, research, or pets. (See Appendix: NRG G6, G8).

The production of livestock involves raising and taking care of animals. Such activities include: (See Appendix: NRG G7)

- Herding
- Handling
- Feeding
- Milking
- Watering
- Caring for
- Branding
- Tagging
- Cleaning
- Breeding
- Inoculating or vaccinating
- Gathering eggs
- Loading livestock for transport
- Assisting in the raising of livestock
- Harvesting honey from bees

When documenting activities related to production, the recruiter should be as specific as possible in describing the work.

Initial processing work in the poultry and livestock industries include, but are not limited to (See Appendix: NRG G21):

- Stunning
- Slaughtering
- Skinning
- Plucking
- Eviscerating
- Splitting carcasses
- Hanging
- Cutting
- Trimming
- De-boning
- Enclosing the raw product in a container

It can occur in packing plants, on ranches, farms, or dairies.

Some examples of work that are not considered production or processing of livestock and are not qualifying are:

- Raising race horses or polo ponies
- Raising fighting cocks
- Raising pigs as pets
- Raising guide dogs for the blind
- Raising crickets for pet consumption
- Raising rabbits for research
- Raising larvae to enhance organic soil
- Marinating or baking raw meat or poultry
- Mixing raw pork with curing ingredients or curing raw pork
- Adding culture to milk to make cheese
- Making or installing milking stations
- Hunting or capturing wild mammals, reptiles or birds for sport or sale to pet stores

C-15. Is bee-keeping qualifying work?

Yes. Workers who are hired on a temporary or seasonal basis may qualify. Bees are similar to poultry and dairy cows, etc. in that they produce a product: honey. Also, bees are crucial to the pollination process for orchards and flowers. Beekeeping, or apiculture, is the maintenance of honey bee colonies (commonly in hives) by humans. A beekeeper, or apiarist, maintains bees in order to collect honey, beeswax, and to pollinate crops. Recruiters must provide a description of the specific phase of the beekeeping work, particularly if the activity is unfamiliar.

Fishing Activities and Fish Farms

Fishing work is the catching or initial processing of fish or shellfish as well as the raising or harvesting of fish or shellfish at fish farms. (See Appendix 1: NRG G16)

Only fishing that is performed for wages or personal subsistence is a qualifying activity. Fishing for recreation or sport is excluded. (See Appendix 1: NRG G19)

Some examples of production activities in wild fishing are:

- Catching fish
- Trapping crab or shrimp
- Harvesting clams

In addition to fishing for wild fish or seafood, fish farming entails artificially cultivating, rather than catching fish. A fish farm is a tract of water, such as a pond, a floating net pen, a tank, or a raceway reserved for the raising or harvesting of fish or shellfish. (See Appendix 1: NRG G17)

Some examples of production activities in fish farm are:

- Hatching fish eggs
- Feeding and raising fish
- Caring for cages and tanks
- Cleaning tanks
- Grading and sorting fish
- Removing dead or dying fish
- Collecting and loading fish
- Seeding oyster beds
- Constructing nets, long-lines and cages (See Appendix: NRG G18)

Only fishing that is performed for wages or personal subsistence is a qualifying activity. Fishing for recreation or sport is excluded. (See Appendix: NRG G16, G19)

Some examples of non-farming fishing activities are:

- Catching fish
- Trapping crab or shrimp
- Harvesting clams

Initial processing work in the fishing and fish farming industry can occur at sea, on a fish or shellfish farm, or in packing or processing facilities. It includes, but is not limited to:

- Gutting
- Cleaning
- Scaling
- Cutting and filleting
- Dressing
- Shelling or shucking
- Packing raw fish in ice
- Freezing
- Enclosing the raw product in a container (See Appendix 1: NRG G23)

Some examples of activities related to production or processing in the fishing industry that are not qualifying activities are:

- Making fish nets to sell to fishermen (not part of the catching of fish)
- Hauling fish from freezer to wholesaler (after initial processing)
- Maintaining mechanical equipment (not part of the fish farming)

Hauling an Agricultural or Fishing Product

Hauling a product on a farm, ranch, or other facility is an integral part of production or initial processing and is therefore, agricultural work. However, transporting a product to market, wholesaler, or processing plant is not considered to be production or initial processing. “Shipping and trucking” is work that is often carried out by a third-party retailer, wholesaler, or contractor paid to transport various products. Therefore, the service these companies or contractors provide is “shipping” or “trucking” and not production or initial processing. (See Appendix: NRG G26)

C-16. What are the conditions to consider when deciding whether to qualify a person who drives a truck to transport crops or livestock?

The person who is driving a truck containing produce must be seasonally or temporarily employed. He cannot be a permanent employee of the trucking company. Moving the crop must be an integral part of the harvest. For example, the tomato truck driver, in driving the truck through the tomato field, is participating in the loading of the just harvested tomatoes, so it is qualifying work.

C-17. Does transporting freshly harvested crops from the field to a storage or processing shed on the farm constitute qualifying work?

Yes. It is clearly an integral part of the harvesting process. A tractor or fork lift driver moving oranges or peaches in bins to the edge of the orchard is also doing work integral to the harvest, and the work is qualifying. However, if the crop is taken from the field to a point of commercial sale (processing plant), it is necessary to document how transporting is integral to the harvest.

C-18. Does driving one’s own truck (not a commercial truck) to haul lettuce or any other crop qualify?

It depends. Only if it is an integral part of the harvest, being hired directly by the farmer to transport lettuce (or other crops) from the field to the food processor as part of the seasonal work force constitutes a qualifying activity.

C-19. Does hauling processed tomatoes to a wholesale processor qualify? For example, suppose someone hauls 100 gallon drums of cooked tomatoes from the plant that processed the raw fruit to another wholesale processor that makes salsa from the tomatoes.

No. This work is not related to the production or initial processing of raw product

Seasonal Employment in Agricultural and Fishing Work

Seasonal employment is work that is dependent on natural cycles.

It occurs only during a certain period of the year because of seasonal cycles and therefore, may not be continuous or carried on throughout the year. Planting, cultivating, pruning, harvesting, and related food processing are seasonal activities in agriculture. Planting and harvesting clams and oysters, fishing during seasonal runs of fish, and related food processing are seasonal activities

in commercial fishing. Seasonal activity is generated by crop cycles, such as planting, cultivation (specifically pruning, thinning, weeding, fertilizing, irrigating, etc.), and harvesting (specifically picking, cutting, gathering, loading, etc.) A season may not last more than 12 months. (See Appendix: NRG H1, H2, H3, H4)

Sometimes workers take positions that are part of a series of seasonal jobs. For example a worker is hired to work to mend fences in the winter, plant alfalfa in the spring, bail hay in the summer, and plow fields in the fall. All of these jobs taken alone are qualifying work. However, if the worker was hired as a ranch hand for more than one year, none of the individual jobs can be considered qualifying work. The recruiter must determine that the worker was hired as a seasonal or temporary worker not a permanent ranch hand.

Occurs only during a certain part of the year because of the cycles of nature

May not be continuous or carried on throughout the year

C-20. Is fishing and processing seafood caught in the wild seasonal work?

Fishing is usually seasonal work. Governmentally imposed fishing seasons are usually based on the cycles of nature, such as the season when salmon are returning to spawn. If there is no governmentally designated season for the particular fish being caught, fishing may be temporary. Regions and recruiters should learn in advance if these activities occur according to the cycles of nature.

C-21. If fish farming seasonal work?

No. Fish farms are usually maintained year-round, and harvesting is not typically dependant on the cycles of nature.

C-22. Is nursery work seasonal?

This could vary from area to area. The district must investigate and determine whether the local work tends to be seasonal based on the cycles of nature. If the work is not seasonal, only workers hired temporarily, rather than permanently, can qualify.

C-23. Is work in the dairy, poultry and livestock industry seasonal?

Work in these industries is usually year-round and not dependent on the cycles of nature. Therefore, it can be temporary or permanent work. If temporary is marked on the COE, it must be clear why the work is not permanent and why there is no expectation of continued employment.

Temporary Employment in Agricultural or Fishing Work

Temporary employment is employment in agriculture or fishing that lasts for a limited period of time, usually a few months, but no longer than 12 months. It is different from seasonal work in that it is not dependent on the cycles of nature. Thus, work based on seasonal holidays (e.g. eggs at Easter, roses on Valentines day, turkeys at Thanksgiving) is considered temporary work, not seasonal work. While most agricultural work with field crops is seasonal, most agricultural work with forestry, livestock, and indoor crops is temporary because the work can be preformed regardless of the season. Temporary employment is limited in time by the activity in which the person is seeking work. Thus it is different from permanent work in that the duration of the job does not provide constant, year-round employment. The time limit is determined by the activity itself. When the activity is completed, there is no expectation of continued employment. (See Appendix: NRG H5, H15)

The following activities are usually temporary rather than seasonal. They are qualifying activities if they are not a specific job that is part of permanent employment:

- Preparing or clearing the land
- Harvesting an area of trees
- Picking mushrooms
- Milking cows
- Feeding livestock
- Felling trees
- Some nursery work: planting, cultivating, transplanting
- Cleaning livestock barns and feedlots or fish tanks at a fish farm
- Gathering eggs
- Making/maintaining pens or fences
- Cleaning turkey pens
- Processing and packing poultry, beef, and other meat

Employment by the same employer from year to year that is interrupted with periods of layoff (where the employment is actually terminated) is not considered permanent.

Section 200.81(k) of the regulations identifies three ways which an SEA recruiter may determine that employment is temporary:

- a. Worker Statement - The worker indicates that he or she does not intend to remain in that employment indefinitely (i.e., the worker's employment will not last longer than 12 months);
- b. Employer Statement - The employer indicates that the worker was hired for a limited time frame, not to exceed 12 months;
- c. State Determination - The SEA has determined on some other reasonable basis that the employment will not last longer than 12 months.

Employer's Statement	Worker's Statement	SEA Documentation
<ul style="list-style-type: none"> E.g., the employer hires the worker for October, November and December to prepare for the holiday season 	<ul style="list-style-type: none"> E.g., the worker states that he plans to leave the job after a period of four months. 	<ul style="list-style-type: none"> The SEA has determined that, despite the apparent permanency of work at a particular work site, none of the workers remained employed for 12 months.

As noted in the regulations, either the worker or the employer (including the prospective employer) can determine that the work is temporary.

A worker's statement is based on the worker's decision to take a job temporarily. An example of a worker's statement might be: "I plan to work until my baby is born in 6 months." The box in Section III Item 6a would be checked, and comments in Section IV would be provided such as "Worker plans to work for 6 months until birth of baby".

Since recruiters rarely talk directly to the employers, most employer's statements come from the worker who just repeats what the employer said. An example of a statement from an employer who operates a dairy might be given to the recruiter by the interviewee as: "the dairy farmer stated that he will hire me only when his regular milker is on vacation during the month of July." The box in Section III Item 6b would be checked, and comments in Section IV would be provided such as "Employer offered job 7/1-7/31 during regular worker's vacation." Note: In Idaho, the employer's name is not required in the documentation. (See Appendix: NRG H8)

The recruiter must always provide documentation that supports his or her determination that employment is temporary, generally by including the time period or duration for the employment whenever the box "Temporary" is checked in Section III, 5a of the COE. Sometimes the recruiter may also need to explain why the work is not seasonal, or why there is no expectation of continued employment.

C-24. If the worker states that the employer told him the job was temporary, is this the worker's statement or the employer's statement?

This is considered the employers statement. The employer's statement is usually reported by the interviewee, and rarely reported to the recruiter directly.

C-25. Is agricultural or fishing work that is available year-round qualifying work?

Sometimes migrant workers take jobs that appear to be constant and available year-round, but perhaps because of the nature of the work, workers typically do not stay long at these jobs. In these cases, the recruiter may qualify the work if either the worker or the employer determined that the work was temporary. (See Appendix: NRG 12).

C-26. If a temporary employee does both qualifying (e.g., packing lettuce) and non-qualifying work (e.g., janitorial), can the qualifying work be considered the qualifying activity on the COE?

It depends. Under the regulations, the recruiter must inquire as to the intention of the worker when he moved. If he was looking for any type of employment, and got a job in a facility where he spends part of the time packing lettuce during peak lettuce season, and part of the time as a janitor, this would be qualifying. However, if the worker sought only work as a janitor, even though he spends part of his time working in a qualifying activity (packing lettuce), he cannot qualify.

Self Employment and/or Personal Subsistence

In some cases, workers may consider themselves to be “self-employed,” such as those who glean leftover crops from the fields or fishers who own their own boats. The money they earn from sale of the product is considered to be equivalent to “wages.” In addition, gleaners that consume the food they gather as a substantial portion of their food intake would be considered activities they performed for personal subsistence. (See Appendix: NRG G29)

Personal subsistence means that 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 that they produce or the fish they catch. In Idaho, 50 percent of the family’s subsistence must come from this activity. (See Appendix: NRG G28)

Although extremely rare in Idaho, work performed as personal subsistence and/or self employment activities could be considered qualifying work if they meet the statutory conditions for qualifying work.

Facts to consider:

- *What percentage of the family’s subsistence comes from this activity?*
- *What other activities provide this family with subsistence?*

C-27. Can a child qualify under the definition of “personal subsistence” if his or her family grows its own food, consumes it, and sells small quantities of its produce to the public?

Yes. The family’s direct personal consumption is personal subsistence, and the incidental sale of the agricultural product is equivalent to wages. However, to qualify, the recruiter must clearly demonstrate that the family made a change of residence for economic necessity and meet all other conditions for eligibility.

D. Exceptional Conditions

Required Comments and Documenting Exceptional Conditions

COE Section IV. Comments

Section IV of the COE allows the recruiter to provide additional information or details that clarify the reasons for the recruiter's eligibility determination. In compliance with the federal Non-Regulatory Guidance, a recruiter must provide additional documentation for Section III, items 2bi, 4c, 5, 6a, and 6b of the COE. Additionally, Office of Migrant Education (OME) and Idaho State Department of Education (ISDE) require that other comments be provided that will help an independent reviewer understand the recruiter's rationale for the eligibility determination in situations where it may not be clear. When making comments, the recruiter must identify the item number to be addressed (e.g., 2bi, 5, 4c, 6a, 6b).

When entering comments in Section IV, the recruiter should think about what the district ID&R coordinator (who serves as the designated SEA-designated reviewer) needs to know in order to sign off on the COE. A reviewer or independent auditor should be able to examine a COE and readily understand how the child(ren) qualify.

Writing good comments can be challenging, and recruiters are strongly advised to seek additional guidance from their district or district ID&R coordinators whenever in doubt. Comments on the COE should be brief and concise. Lengthy or inappropriate comments may raise more questions than they answer. Good comments should not repeat what is already on the COE. They should add value and clarification.

While it is impossible to provide specific examples for every possible situation, the following examples show poor comments, and explain why they are not sufficient and how they can be improved. An example of a better comment is then provided.

Examples of Required Comments for Section III, 2bi, 4c, 5, 6a, and 6b

Section III, item 2bi: The child(ren) joined or preceded the worker. Record the reason why the child(ren) and the worker moved separately.

Brief scenario – *The family consists of the father, mother, and two school-aged children. They lived in San Pedro, Mexico. In April 2010, the father moved to Nampa, ID in advance of the mother and children and obtained qualifying employment. By August 2010, he had rented an apartment and saved enough money to pay to have the rest of the family join him in Nampa.*

Child(ren) joined worker

- **Poor comment:** "Father started working in Nampa and children came to join." This comment does not provide any more information than what can already be found on the COE. We know the father is the qualifying worker (item 2b), and we also know the date he moved and when the children joined him (item 2bi). What we do not know is why the children moved later. Further, the comment does not reference item 2bi.
- **Better comment:** "2bi: Mother and children could not afford to move until the father had secured housing and earned enough money to pay for their travel expenses."

Brief scenario – *The family consists of the mother, father, and two school-aged children. They lived in Rupert, ID. In August 2010, the mother and children moved in advance of the father to Emmett, ID to secure housing and enroll the children in school. The father arrived in October 2010 and obtained qualifying work.*

Child(ren) preceded worker

- Poor comment: “Children moved before their father who moved in October.”

Again, this comment does not provide any more information than what can already be found on the COE. We know the children moved before the father, and we know when the father arrived (item 2bi). What we do not know is why the children moved before the father. Also the comment does not reference item 2bi.

- Better comment: “2bi: Children and mother moved to secure housing and enroll children in school which begins 9/7.”

Section III, item 5: the child(ren) qualified on the basis of “personal subsistence.

According to the NRG, “personal subsistence” means that 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.

Brief scenario – *The family consists of a father, mother, and two school-aged children. They own a small farm in New Plymouth, ID where they grow vegetables and have some cattle. A substantial portion (50%) of their food intake is raised on the farm. They also have a farm stand where they sell some of the vegetables they grow. During the off season, they are unable to grow their crops. They need income so they move to the family ranch in San Felipe, Mexico where the father is paid for his work there. Once spring arrives, the family moves back to New Plymouth where they again take up work on their small farm.*

(It must be noted that qualifying based on personal subsistence is rare and recruiters are advised to work with their regional ID&R coordinator to ensure that eligibility criteria are met.)

- Poor comment: “They own the farm but they still migrate.”

This comment captures one element of eligibility (mobility), but it does not address personal subsistence. Recruiters must ensure and document that the family consumes a “substantial portion” of the food they grow. Also, they must document that a move of economic necessity occurred. Since the family could not work and support themselves during the off season, they were forced to move to Mexico and earn income there. The move back to New Plymouth would be the comment does not reference item 5.

- Better comment: “5: Family grows vegetables and raises cattle on its own farm. Their beef and vegetables are 50% of their diet. During off season, they supplement their income by moving to Mexico to brand cattle. The move back is to resume work on their farm.”

Section III, items 6a or 6b: The employment is temporary based on the worker's statement or employer's statement. In particular record the information from the worker's or employer's statement regarding the duration of the work (in days, weeks, or months) or the beginning and ending dates of the job. The comment should be of sufficient length to adequately document how the recruiter came to the eligibility decision.

Remember recruiters must select:

- 6A when the **worker chose** to take the job for less than 1 year.
- 6B when the **employer offered** the job for less than 1 year.

Temporary work is defined as work that is done for a limited or specific period of time. *Employers* may hire temporary workers during peak periods to do otherwise year-round work. (Examples: packaging eggs at Easter, slaughtering turkeys at Thanksgiving.) It is also possible for a worker to determine the time period for work. For example, a worker plans to take a temporary (qualifying) job until he or she can find permanent work, or they may elect to work for a temporary period of time for health or other personal reasons. Comments must establish the time frame for the job (with the beginning and ending dates, or the approximate duration of the work), and explain why it is temporary and not permanent or seasonal.

6a. Worker statement

Brief scenario – *The family consists of a father, mother, and two school-aged children.*

The father's construction work in Lewiston, ID is limited during the winter. So the family moved to Nampa, ID in late November to supplement their income by milking cows for about 3 months until work resumes in Lewiston.

- Poor comment: "Moved for economic necessity."
Although the box 6a was checked, the comment does not show that the worker chose to take this work (milking cows) as temporary employment. And further, no time frame is provided. The reference to "6a" must be included.
- Better comment: "6a: The worker took the job at the milking cows temporarily beginning 12/1/2010 to supplement income. Expects to go back to construction in Lewiston within 3 months."

6b. Employer statement

Brief scenario – *The family consists of a father, mother, and two school-aged children. The family moved to Homedale, ID where the father found work gathering and packing eggs from May 17, 2010 to August 31, 2010. The father was hired on a temporary basis to fill in for one of the regular workers who needed time off for personal reasons.*

- Poor comment: "The father works temporary gathering and packing eggs."
Two important things to remember when documenting temporary work: 1) the time frame for the work; and 2) what about the work makes it temporary? The information in the comment above is already provided in items 5 and 5a of the COE. Since gathering and packing eggs could be viewed as a permanent job, the comment must explain why this is a temporary job and must provide a time frame. Again, the item reference "6b" is needed.
- Better comment: "6b: Hired to fill in for a regular worker who was given time off. The work lasted from 05/17/10 to 08/31/10."

Documenting Exceptional Conditions

The OME and ISDE have identified the following Exceptional Conditions for which additional documentation in Section IV is needed.

1. The information on the COE needs additional explanation to be clearly understood by an independent outside reviewer.
2. The basis for the eligibility determination is not obvious and needs additional explanation. For example, the work is unusual enough that an independent reviewer is unlikely to understand that it is qualifying work (e.g., catching chickens).
3. The work could be part of a “series of activities” that, when viewed together, could constitute year-round employment rather than seasonal or temporary (e.g., mending fences on a dairy farm and bailing hay could be two parts of year-round ranching with the same employer).
4. The work could be viewed by an independent reviewer as year-round employment (e.g., collecting eggs or milking cows).
5. A “move” is of such short distance that one could question whether any migration has occurred (i.e., moves that are across school district boundaries, but are less than 20 miles).
6. A parent or guardian uses a symbol such as an “X” or other valid mark as a signature.
7. Where the worker moves well before the qualifying work is reasonably expected to be available (moves in advance of season).
8. If the child(ren) and worker moved from different previous residences, the worker’s previous City/State/Country of residence (also school district for intra-city moves) must be entered in “Comments.”

Please note that item 6 on the COE and Exceptional Conditions 3 and 4 are closely related. Recruiters may encounter a situation where documentation is needed for both item 6 and Exceptional Condition 3 or 4. One carefully worded comment may be sufficient for both conditions.

The following examples are provided to help recruiters understand how to write better comments on the COE that will clearly support findings of eligibility.

Exceptional Condition 1. The information on the COE needs additional explanation to be clearly understood by an independent outside reviewer.

Sometimes the facts listed on the COE may cause confusion. A COE where the latest move is not the qualifying move is one such situation. It may not be immediately clear why the city in Section III, item 1 the “moved-to city” is different from the current city, or perhaps why the crop is inappropriate for the local area. Short comments such as “housing move” or the comment shown below are helpful to explain any apparent discrepancies. A non-qualifying latest move is merely one example of a set of facts on the COE that could confuse an independent reviewer.

Brief scenario – A recruiter meets a mother with two children in Malta, ID and learns they made a qualifying move from Rupert, ID to Hood River, OR to pick apples. When that season was over, the mother returned to Rupert to work delivering newspapers. The hours were difficult, and she learned of a better paying job as a store clerk near Malta and she moved the family there.

- Poor comment: “Moved to get better job.”

The qualifying work was found on the move to Oregon, and the most recent move was from Rupert to Malta, but this is not explained. An outside reviewer could wonder why in Section III, item 1 the “moved-to city” is Hood River, and not understand that there was an intervening move to Rupert.

- Better comment: “Latest move from Rupert to Malta was for non-qualifying work.”

Exceptional Condition 2. The basis for the eligibility determination is not obvious and needs additional explanation.

If the work is unusual enough or eligibility might not be certified if the work is misunderstood, a comment must be made to explain that what the worker did was directly related to the production or processing of crops or livestock. For example, the work “checking sugar level of onions” should be accompanied by a comment because a reviewer might not be familiar with that activity. Comments must explain the type of work.

Brief scenario – A worker is hired to help with the walnut harvest. His job is to operate the mechanized equipment that shakes walnuts free of the trees. The recruiter enters “shaking walnut trees” in Section I, item 5.

- Poor comment: “Harvests walnuts.”

This comment provides no clarifying information. The question is what does it mean to harvest walnuts? The recruiter should explain what this means so an outside reviewer can understand how the work qualifies. The word “harvest” is generally considered too vague.

- Better comment: “Operates equipment that makes walnuts fall off the trees.”

Exceptional Condition 3. The work could be part of a “series of activities” that, when viewed together, could constitute year-round employment rather than seasonal or temporary.

If the work is part of a series of activities that viewed together would constitute year-round employment, it must be shown that the work is not permanent, but perhaps interrupted by periods of unemployment, or at the least not a guaranteed permanent job. A typical example is “ranch hand,” where work is a mix of temporary and seasonal work as well as a mix of qualifying and non-qualifying work such as: mending fences, repairing irrigation ditches, tending cattle, cutting hay, and burning weeds. A description of the ranch hand activity and the time frame must be given in Section IV.

Brief scenario – A family moved and the father found qualifying work on a ranch. He was hired on a temporary basis to cut hay. He was subsequently contacted by the lead ranch foreman whenever short-term work needs to be done. Typically, the work lasts no more than 30 to 60 days, and then the work is terminated. The ranch raises race horses as well as cattle.

(The example below assumes that the recruiter has entered the first job, cutting hay, as the qualifying activity.)

- Poor comment: “Manuel works cutting hay, cleaning horse stalls, and mending fences on a cattle ranch.”

This comment could lead a reviewer to believe that Manuel had ongoing or year-round work on the cattle ranch. The recruiter needs to explain why each of these activities constituted temporary employment. Also, cleaning race horse stalls would not be qualifying work because race horses are not livestock, and should not be included. The comment does not show that it is referencing an exceptional condition.

- Better comment: “Manuel was hired as “on call” cattle ranch hand. Hired to cut hay from 6/1 to 6/14 and 8/4 to 8/18; mends fences intermittently as needed and is on call to tend cattle and irrigate.”

Exceptional Condition 4. The work could be viewed by an independent reviewer as year-round employment.

This condition is very much like exceptional condition number 3. Only in this situation the worker does not perform a series of jobs, but is generally hired on a temporary basis to perform one job. Often workers could be hired permanently to work in that setting. Typically, the recruiter must explain why the worker was not hired permanently.

Brief scenario – A family moved and the father obtained temporary work in a nursery - cutting lilies for the Easter holiday.

- Poor comment: “Pedro worked temporarily cutting lilies.”

We already know that Pedro is hired temporarily to work at the nursery cutting lilies from The information in Section III, items 5 and 6b on the COE. A typical comment for 6b might be: “Pedro was hired by the nursery for three months during the Easter holiday season.”

Below is an example of where one carefully worded comment for 6b can suffice for both 6b and Exceptional Condition 4. The comment in this example should be labeled 6b, and no additional comment is needed for Exceptional Condition 4.

- Better comment: “Pedro was hired by the nursery for three months during the Easter holiday season.”

Exceptional Condition 5. A “move” is of such short distance that one could question whether any migration has occurred (i.e., moves that are across school district boundaries, but are less than 20 miles).

If the worker moved fewer than 20 miles to seek qualifying work, the reason for the short distance move must be explained in Comments. In general, all intra-city moves fall under Exceptional Condition 5. Sometimes these short distance moves are made for multiple reasons such as to find better housing or enroll the children in a better school district. As with all moves, when multiple reasons are given, seeking or obtaining new qualifying employment must be one of the reasons for the move. Recruiters should note that moves solely for cheaper housing or the ability to receive lower cost services (e.g., medical/dental) are not considered moves of economic necessity.

Brief scenario – A mother moves with her children 12 miles across town to live in the same apartment complex as her sister. Her sister has given her the use of her car so she can look for qualifying employment.

- Poor comment: “Worker needed to be closer to her sister so she could look for work.”
This comment needs more information. How does moving closer to her sister help her find work? If the move was only for 12 miles, an auditor or independent reviewer might ask why she just could not look for work in her community.
- Better comment: “Move enabled the worker to use sister’s car to look for qualifying work.”

Exceptional Condition 6. A parent or guardian uses a symbol such as an “X” or other valid mark as a signature.

There are a number of reasons why a parent would sign with a symbol that range from illiteracy to having an injured hand.

Brief scenario – Juana Trejo signed with an “X” in Section V.

- Poor comment: “Mrs. Trejo was the interviewee.”
This comment does not explain that the interviewee was unable to sign.
- Better comment: “Mrs. Trejo is unable to write.”
(Note: In addition to writing this comment in Section IV of the COE, the recruiter must print Mrs. Trejo’s name and relationship to the children in Section V.)

Exceptional Condition 7. Where the worker moves well before the qualifying work is reasonably expected to be available (moves in advance of season).

If the family moves well before the qualifying work is reasonably expected to be available, the recruiter must explain why the family deliberately arrived early. Assuming that the recruiter is convinced that the family moved to seek qualifying work due to economic necessity, acceptable reasons for arriving in advance of employment could include: needing to apply for a job early to guarantee employment, getting children started in school, and finding housing. Unacceptable reasons include: arriving in advance of the season so a spouse could begin or resume non-qualifying work, returning to obtain unemployment benefits, and moving specifically to seek non-qualifying work.

Brief scenario – A family moves to Parma, ID so that the mother can obtain work topping onions in the local area. Topping onions begins in August, but the family arrives in late June so the mother can submit her job application to secure her position when the grower begins hiring.

- Poor comment: “Mother came to work to top onions.”
Section III already describes that the worker is seeking work topping onions. But why did the family move so much in advance of the season?”
- Better comment: “Employer requires job applications to be submitted in person at least two months in advance of employment.”

Exceptional Condition 8. If the child(ren) and worker moved from different previous residences, the worker’s previous City/State/Country of residence (also school district for intra-citymoves) must be entered in “Comments.”

Occasionally, family members who were previously living separately in different cities, move to the same city to live together and for a parent to seek qualifying work. When this happens, the recruiter must enter the city the children moved from in the “moved-from city” field. It is also important to know where the worker parent moved from, because the qualifying parent must also cross school district boundaries. (Note: This would always be a “to join” move, even if all family members arrived in the “to-city” on the same day.)

Brief scenario – The father, who has been working in Pocatello, ID moved to obtain a qualifying job in Idaho Falls, ID. The mother and children who had been living in Mexico, received immigration papers, and they moved directly from Mexicali, Mexico to Idaho Falls to live with the father.

- Poor comment: “Father used to live in Pocatello.”
Since the “from-city” in item 1 is Mexicali, the comment does not clearly explain that the father’s most recent qualifying move was from Pocatello rather than Mexico.
- Better comment: “The father moved from Pocatello, ID.”

Chapter 4

Certificate of Eligibility Instructions

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Instructions for Completing the Idaho Certificate of Eligibility 2011

Purpose and Background

The State Education Agency (SEA) is required to document every migrant child's eligibility for the Migrant Education Program (MEP) on a Certificate of Eligibility (COE) according to criteria determined by the U.S. Department of Education (ED). The COE is a legal document and serves as the official record of Idaho's eligibility determination for each individual migrant child. In this document, the term child includes any child or young adult from birth through age 21. In addition to the data elements required by the Office of Migrant Education (OME), the state of Idaho has the responsibility of collecting student identification and enrollment information that generates funding for the state and districts, and establishes who the MEP can serve. Also, the SEA must collect and report ethnicity, race, health, permission for student record transfer, and other important information to various state and federal agencies.

The Idaho COE2011 has six sections. Section III is key in the identification and recruitment of migrant children. By completing Section III, recruiters may readily determine whether or not the child qualifies for the Migrant Education Program. This section guides recruiters to provide supportive information in Section IV when needed to substantiate the eligibility determination without having to write extensive, and often confusing, explanations. It is expected that the current COE format along with increased and continued training and support, will increase the accuracy of eligibility determinations in the state. If these instructions are unclear or seem to conflict with other explanations, recruiters are urged to seek clarification from Regional Coordinators.

Idaho's COE Instructions and Definitions (updated July 2011)

- COEs must only be completed by trained and authorized MEP personnel.
- All data elements and sections of the COE must be completed.
- **ALWAYS** double check spelling, especially spelling of names and locations.
- Information on COEs should be legible and in all **CAPITAL LETTERS**.
- Use **ONLY blue** ink.
- Do not use correction fluid.
- Make corrections on COEs by drawing a single line through the incorrect entry. (i.e., **migrant**)
- Corrections should be dated, initialed by the person making the correction, and the source of new or corrected information noted in the comment section of page 2.

Complete a **new** COE when:

- A child makes a new qualifying move.
- A child is identified as migrant for the first time.
- The child's residence changes from one school district to another school district, even though it may not be a qualifying move and even though the child may not have changed schools.

Do **NOT** complete a **new** COE when:

- A child changes residence within the same school district.
- A child leaves the district for vacation or personal reasons and returns to the original district.
- A child begins attending a different school in the same district with no change in residence.

- Conducting annual verification where there was no residential change to a different school district.

Complete a **separate** COE when:

- Different legal fathers or different legal mothers must be recorded in Section 1: Family Data.
- A child has a different qualifying arrival date (QAD) or different eligibility criteria than the rest of the children in the family (e.g., some children arrived before or after the rest of the family, or an older sibling (OSY) moved on his or her own as the worker.
- The number of children exceeds five.

A **separate** COE is **not** required when:

- Children have different surnames but same or unnamed legal parents.
- Children have different residency dates but exactly the same qualifying information in Section III: Qualifying Move and Work (e.g., a family leaves the district together to make a qualifying move, and family members make separate non-qualifying moves back to the district.)
- Children attend or otherwise belong to different school districts.
- Children have different schools, enrollment dates, enrollment types or grades.

Section I - Family Data

Male/Parent Guardian	Name of the male (if any) currently responsible for the child(ren)
Female/Parent Guardian	Name of the female (if any) currently responsible for the child(ren)
Current Address	Physical address, including complete name of street or road where the child(ren) currently resides
City	Name of the city or town where the child(ren) currently resides
State	Postal abbreviation used by the U.S. Postal Service for the State where the child(ren) currently resides
Zip	Five or nine-digit zip code where the child(ren) currently resides
Telephone	Telephone number, including area code, of the family. If none, write a dash (-) or "N/A"

Section II - Child Data

Last name 1	The legal last name of each eligible child in the family. If the child has a multiple or hyphenated last name (e.g. Ramírez-García), record the first part of the name (i.e., Ramírez). (This should be the exact name the school has the student enrolled as. Be sure to clarify with the school office.)
Last name 2	If the child has a multiple or hyphenated last name (e.g., Ramírez-García), record the second part of name (i.e., García). If the child does not have a multiple or hyphenated name, write a dash (-) or "N/A." (This should be the exact name the school has the student enrolled as. Be sure to clarify with the school office.)
Suffix	Where applicable, record the child's generation in the family (e.g., Jr., Sr., III, 3rd) Otherwise, write a dash (-) or "N/A."
First name	Legal first name of each eligible child in the family. Do not record nicknames or shortened names. (This should be the exact name the school has the student enrolled as. Be sure to clarify with the school office.)
Middle name	Legal middle name of each eligible child in the family. Do not record nicknames or shortened names. If the child does not have a middle name, write a dash (-) or "N/A." (This should be the exact name the school has the student enrolled as. Be sure to clarify with the school office.)
Sex	The child's sex: "M" for male or "F" for female.
Grade level	The current grade level(s) for the child.
School	The current school the child is enrolled in.
Birth Date	The month, day, and year the child was born. Use the two-digit number that refers to the month and day, and the last two digits of the year. For example, September 20, 2003 would be written 09/20/03.
Birth Place	City, State of birth place of child
Multiple Birth Flag (MB)	"Y" for yes if the child is a twin, triplet, etc. Write a dash (-) or "N/A" if not applicable.

Birth Date Verification	The last two numbers that correspond to the evidence used to confirm each child's birth date.
Code (Code)	(see the codes and corresponding evidence)
Residency Date	If the "Residency Date" is different from the QAD , record the date (MM/DD/YY) that the child(ren) entered the present school district. Use the two-digit number that refers to the month and day, and the last two digits of the year. For example, September 20, 2003 would be written 09/20/03.
Ethnicity/Race	Enter Corresponding Code Letter on COE: (AN/AI) Alaskan Native/ American Indian, (AS) Asian, (BL/AA) Black or African American, (NH/PI) Native Hawaiian or Pacific Islander, (W) White, (H/L) Hispanic/ Latino.

Birth Date Verification Codes

A birth certificate is the best evidence of the child's birth date, if available. If a birth certificate is not available, the interviewer may use another document to confirm the child's birth date, including any of those listed below.

- 1003 – Baptismal or church certificate;
- 1004 – Birth certificate;
- 1005 – Entry in family Bible;
- 1006 – Hospital certificate;
- 1007 – Parent's affidavit;
- 1008 – Passport;
- 1009 – Physician's certificate;
- 1010 – Previously verified school records;
- 1011 – State-issued ID;
- 1012 – Driver's license;
- 1013 – Immigration document;
- 2382 – Life insurance policy; or
- 9999 – Other.

Section III - Qualifying Move & Work

1. “moved from a residence in” Last place of residency before the child(ren) and the parent, spouse, or guardian moved due to economic necessity in order to obtain qualifying work.

“to a residence in” The place of residency where the child(ren) and the parent, spouse, or guardian moved due to economic necessity in order to obtain qualifying work.
2. “on own as worker” The child himself or herself moved in order to obtain qualifying work. Only complete worker’s name in 2b.

“with the worker” The child(ren) moved with a parent, spouse or guardian in order for the worker to obtain qualifying work.

“to join or precede the worker” The child(ren) moved either before or after the date the parent, spouse, or guardian moved in order to obtain qualifying work. If this box is marked, also complete “i” under 2b.

“the worker” The first and last name of the individual who sought or obtained the qualifying work.

“the worker moved on...” The date the worker moved in order to obtain qualifying work.

“the child(ren) moved on...” The date the child(ren) moved in order for the parent, spouse, or guardian to obtain qualifying work. **Provide brief and concise explanatory comments in comment section under 2(b)(i).**
3. Qualifying Arrival Date The QAD (the date that both the child and worker completed the move) using the two-digit numbers that refer to the month and day, and the last two digits of the year. For example, May 20, 2008 would be written as 05/20/08.
4. (a) qualifying work... The child, parent, spouse, or guardian moved due to economic necessity in order to obtain temporary or seasonal employment in agricultural or fishing work, and obtained that work.

(b) any work, ... The child, parent, spouse, or guardian moved due to economic necessity in order to obtain any work, and soon after the move obtained temporary or seasonal employment in agricultural or fishing work.

(c) qualifying work specifically..”The child, parent, spouse, or guardian moved due to economic necessity to obtain temporary or seasonal employment in agricultural or fishing work, but did not obtain that work. If this box is marked, also mark box i, box ii, or both. **Provide brief and concise explanatory comments in comment section under 4(c)**

(i) prior history Indicates the worker has a prior history of moving to obtain temporary or seasonal employment in agricultural or fishing work.

(ii) credible evidence Indicates that there is other credible evidence that demonstrates that the worker actively sought qualifying agricultural or fishing work soon after the move, but the work was not available for reasons beyond the worker’s control.

5. Qualifying work Describe agricultural or fishing work. The recruiter should use an action verb and a noun in the description. Describe the worker’s action (e.g., picking) and the crop, livestock, or seafood (e.g., strawberries).

(a) seasonal The 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.

temporary The employment lasts for a limited period of time, usually a few months, but not longer than 12 months. **Provide brief and concise explanatory comments in comment section under 5.**

(b) agricultural The work involves the production or initial processing of crops, dairy products, poultry, or livestock, as well as the cultivation or harvesting of trees. The work may be performed either for wages or personal subsistence.

fishing The work involves the catching or initial processing of fish or shellfish or the raising or harvesting of fish or shellfish at fish farms. The may be performed either for wages or personal subsistence.

*COMPLETE #6 IF “TEMPORARY” IS CHECKED IN 5a
work determined to be temporary employment based on:*

6. (a) worker’s statement The work was determined to be temporary employment based on a statement by the worker or the worker’s family if the worker is unavailable. **Provide brief and concise explanatory comments in comment section under 6(a)**

(b) employer's statement

The work was determined to be temporary employment based on a statement by the employer or documentation obtained from the employer. **Provide brief and concise explanatory comments in comment section under 6(b). Attach supporting documentation if available.**

Section IV - Comments Section

The "comments section" of the COE allows the recruiter to provide additional information or details that clarify the reasons for the recruiter's eligibility determination. The recruiter should write brief and concise comments so an independent party who has no prior knowledge of the eligibility determination can understand the recruiter's reasoning for determining that the child(ren) is eligible. Remember that lengthy or inappropriate comments may raise more questions than they answer. Good comments should not repeat what is already on the COE. They should add value and clarification. **At a minimum, the recruiter must provide comments that clearly explain items 2bi, 4c, 5, 6a, and 6b of the Qualifying Move and Work Section, if applicable.**

Section V - Parent/Guardian/Spouse/Worker Signature

I understand... The person who signs the COE verifies the statement and information specific to migrant eligibility is true. (must check)

The Family Education Rights... The person who signs the COE verifies FERPA has been explained and authorizes the State MEP to transfer records to CAMP/HEP, etc. (voluntary)

Signature... The person who signs the COE must be the source of the information contained in the document and should verify any information provided by another source. If the parent is unable to sign his or her name, the parent must mark an "X" in the signature section and the recruiter must print the parent's name and relationship to the child in the "Additional Comments" section. If a parent refuses to sign his/her name, the recruiter must document the parent's refusal in the "Additional Comments" section and print the parent's name and relationships to the child.

Section VI - Eligibility Certification Section

The recruiter signs and dates the COE on the day the interview is conducted.

The Regional Coordinator will serve as the SEA-designated reviewer. The Regional Coordinator must check each completed COE to ensure that the written documentation is sufficient and that, based on the recorded data, the child(ren) may be enrolled in the MEP. The Regional Coordinator must sign and date the COE on the day it was reviewed.

State Abbreviations: USA, MEX, CAN

Alabama	AL	New Mexico	NM	Aguascalientes	AG	American Samoa	AS
Alaska	AK	New York	NY	Baja California Norte	BN	Fed States of Micronesia	FM
Arizona	AZ	North Carolina	NC	Baja California Sur	BS	Guam	GU
Arkansas	AR	North Dakota	ND	Campeche	CM	Marshall Islands	MH
California	CA	Ohio	OH	Coahuila	CU	N. Mariana Islands	MP
Colorado	CO	Oklahoma	OK	Colima	CL	Palau	PW
Connecticut	CT	Oregon	OR	Chiapas	CS	Puerto Rico	PR
Delaware	DE	Pennsylvania	PA	Chihuahua	CH	U.S. Virgin Islands	VI
District of Columbia	DC	Rhode Island	RI	Distrito Federal	DF		
Florida	FL	South Carolina	SC	Durango	DG		
Georgia	GA	South Dakota	SD	Guanajuato	GT		
Hawaii	HI	Tennessee	TN	Guerrero	GR		
Idaho	ID	Texas	TX	Hidalgo	HG		
Illinois	IL	Utah	UT	Jalisco	JA		
Indiana	IN	Vermont	VT	México (State)	MX		
Iowa	IA	Virginia	VA	Michoacán	MC		
Kansas	KS	Washington	WA	Morelos	MR		
Kentucky	KY	West Virginia	WV	Nayarit	NA		
Louisiana	LA	Wisconsin	WI	Nuevo León	NL		
Maine	ME	Wyoming	WY	Oaxaca	OA		
Maryland	MD	Alberta	AB	Puebla	PU		
Massachusetts	MA	British Columbia	BC	Querétaro	QE		
Michigan	MI	Manitoba	MB	Quintana Roos	QI		
Minnesota	MN	New Brunswick	NB	San Luis Potosí	SL		
Mississippi	MS	Newfoundland	NF	Sinaloa	SI		
Missouri	MO	Northwest Territories	NT	Sonora	SO		
Montana	MT	Nova Scotia	NS	Tabasco	TB		
Nebraska	NE	Ontario	ON	Tamaulipas	TM		
Nevada	NV	Prince Edward Island	PE	Tlaxcala	TL		
New Hampshire	NH	Quebec	DG	Veracruz	VE		
New Jersey	NJ	Saskatchewan	SK	Yucatán	YU		
		Yukon Territory	YT	Zacatecas	ZA		

Chapter 5

Quality Control Systems

IDAHO MIGRANT EDUCATION PROGRAM QUALITY CONTROL POLICIES & PROCEDURES

June 2010



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CODE OF FEDERAL REGULATIONS

34 CFR Part 200

Improving the Academic Achievement of the Disadvantaged; Migrant Education Program

34 CFR § 200.81 - 200.89

MIGRATORY CHILD

means a child:

1. Who is a migratory agricultural worker or a migratory fisher; or
2. Who, in the preceding 36 months, in order to accompany or join a parent, spouse, or guardian who is a migratory agricultural worker or a migratory fisher:
 - i. Has moved from one school district to another;
 - ii. In a State that is comprised of a single school district, has moved from one administrative area to another within such district; or
 - iii. As the child of a migratory fisher, 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.

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 employment or seasonal employment in agricultural work, including dairy work.

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 employment or seasonal employment in fishing work. 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, as defined in paragraph (g), a distance of 20 miles or more to a temporary residence in order to obtain temporary employment or seasonal employment in fishing work.

IN ORDER TO OBTAIN, WHEN USED TO DESCRIBE WHY A WORKER MOVED

means that one of the purposes of the move is to seek or obtain qualifying work.

1. If a worker states that a purpose of the move was to seek any type of employment, i.e., the worker moved with no specific intent to find work in a particular job, the worker is deemed to have moved with a purpose of obtaining qualifying work if the worker obtains qualifying work soon after the move.
2. Notwithstanding the introductory text of this paragraph, a worker who did not obtain qualifying work soon after a move may be considered to have moved in order to obtain qualifying work only if the worker states that at least one purpose of the move was specifically to seek the qualifying work, and:
 - i. The worker is found to have a prior history of moves to obtain qualifying work; or
 - ii. There is 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.

MOVE OR MOVED

means a change from one residence to another residence that occurs due to economic necessity.

SEASONAL EMPLOYMENT

means employment that 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.

TEMPORARY EMPLOYMENT

means employment that lasts for a limited period of time, usually a few months, but no longer than 12 months. It typically includes employment where the employer states that the worker was hired for a limited time frame; the worker states that the worker does not intend to remain in that employment indefinitely; or the SEA has determined on some other reasonable basis that the employment is temporary. The definition includes employment that is constant and available year-round only if, within 18 months after the effective date of this regulation and at least once every three years thereafter, the SEA documents that, given the nature of the work, of those workers whose children were previously determined to be eligible based on the State's prior determination of the temporary nature of such employment (or the children themselves if they are the workers), virtually no workers remained employed by the same employer more than 12 months.

AGRICULTURAL WORK

means the production or initial processing of crops, dairy products, poultry, or livestock, as well as the cultivation or harvesting of trees. It consists of work performed for wages or personal subsistence.

FISHING WORK

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.

PERSONAL SUBSISTENCE

means that 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.

QUALIFYING WORK

means temporary employment or seasonal employment in agricultural work or fishing work.

BASIC MIGRANT CHILD ELIGIBILITY FACTORS

AGE

- The child is younger than age 22. ESEA § 1115(b)(1)(A); 34 CFR § 200.103(a).

SCHOOL COMPLETION

- The child is eligible for a free public education under State law. ESEA § 1115(b)(1)(A); 34 CFR § 200.103(a).

MOVE

- The child moved on his or her own as a migratory agricultural worker/migratory fisher OR the child moved with or to join a parent, spouse, or guardian who is a migratory agricultural worker/migratory fisher. ESEA § 1309(2); 34 CFR § 200.81(d), (e), and (f).
- The move was from one school district to another. ESEA § 1309(2); 34 CFR § 200.81(e).
- The move was a change from one residence to another residence. ESEA § 1309(2); 34 CFR § 200.81(g).
- The move was due to economic necessity. ESEA § 1309(2); 34 CFR § 200.81(g).
- The move occurred within the past 36 months. ESEA § 1309(2); 34 CFR § 200.81(d), (e), and (f).

PURPOSE FOR THE MOVE

- One purpose of the worker's move was to seek or obtain qualifying work. ESEA § 1309(2); 34 CFR § 200.81(c), (g), and (i).

QUALIFYING WORK

- The worker sought or obtained temporary or seasonal employment in agricultural or fishing work. ESEA § 1309(2); 34 CFR § 200.81(a), (b), (j), and (k).

Note: Important child eligibility terms such as "agricultural work," "fishing work," "in order to obtain," "migratory child," "move or moved," "seasonal employment," and "temporary employment," are defined in 34 CFR § 200.81, which you may access at <http://www.ed.gov/legislation/FedRegister/finrule/2008-3/072908a.html> and <http://www.gpoaccess.gov/nara/index.html>.

Reference List

Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, Pub. L. 107-110, 20 U.S.C. §§ 6301 *et seq.*

34 Code of Federal Regulations (CFR) §§ 200.81-200.89; 73 Fed. Reg. 44102 (July 29, 2008).

GUIDANCE

Child Eligibility under Title I, Part C of the Elementary and Secondary Education Act of 1965



REVISED
August 2010

U.S. Department of Education
Office of Elementary and Secondary Education

Purpose of the Guidance

The purpose of this guidance is to provide information about child eligibility for the Title I, Part C Migrant Education Program. This guidance provides ED's interpretation of various statutory provisions and does not impose any requirements beyond those included in the Elementary and Secondary Education Act of 1965, as amended, ED's Migrant Education Program regulations in 34 CFR part 200, and other applicable laws and regulations. In addition, it does not create or confer any rights for or on any person.

This updated guidance replaces the chapter (Chapter II) on child eligibility that was part of the guidance ED issued on October 23, 2003. If you are interested in commenting on this guidance document, please send your comment to OESEGuidanceDocument@ed.gov.

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II. CHILD ELIGIBILITY

Children are eligible to receive MEP services if (1) they meet the definition of “migratory child” and “eligible children” in the statute and regulations that apply to the MEP (or met them previously and qualify for continuation of services under section 1304(e)), and if (2) the basis for their being a “migratory child” is properly recorded on a certificate of eligibility (COE). The term “migratory child” is defined in section 1309(2) of the statute and § 200.81(e) of the MEP regulations. The term “eligible children” is defined in section 1115(b)(1)(A) of the statute and the term “children” is defined in § 200.103(a) of the Title I regulations. Determining whether a child meets these definitions requires careful consideration and depends on a recruiter's assessment of information presented by a parent, spouse, or guardian responsible for the child, or by the child if the child is the migratory worker who is eligible for MEP services in his or her own right.

This chapter discusses issues of child eligibility and how SEAs may make these important determinations.

STATUTORY REQUIREMENTS:

Sections 1115(b)(1)(A) and 1309 of Title I, Part C

REGULATORY REQUIREMENTS:

34 CFR 200.81, 200.103

A. Migratory Child

A1. What is the definition of “migratory child”?

According to sections 1115(b)(1)(A) (incorporated into the MEP program by virtue of sections 1304(c)(2)) and 1309(2) of the statute and §§ 200.81(e) and 200.103(a) of the regulations, a child is a “migratory child” and is eligible for MEP services if all of the following conditions are met:

1. The child is not older than 21 years of age; *and*
2. The child is entitled to a free public education (through grade 12) under State law or is below the age of compulsory school attendance; *and*
3. The child is a migratory agricultural worker or a migratory fisher, or the child has a parent, spouse, or guardian who is a migratory agricultural worker or a migratory fisher; *and*
4. The child moved within the preceding 36 months in order to seek or obtain qualifying work, or to accompany or join the migratory agricultural worker or migratory fisher identified in paragraph 3, above, in order to seek or obtain qualifying work; *and*

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5. With regard to the move identified in paragraph 4, above, the child:
 - a. Has moved from one school district to another; *or*
 - b. In a State that is comprised of a single school district, has moved from one administrative area to another within such district; *or*
 - c. 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 or to accompany or join a parent, spouse, or guardian who engages in a fishing activity. (This provision currently applies only to Alaska.)

Note that the terms “migratory agricultural worker,” “migratory fisher,” “move or moved,” “in order to obtain,” and “qualifying work” are defined in § 200.81 of the regulations and discussed in sections C through H of this chapter.

A2. Is there a difference between a child who is eligible to receive MEP services and one who is counted for State funding purposes?

Yes. Any child, birth through age 21, who meets the statutory definition of “migratory child” (or who is eligible for continuation of services under section 1304(e)) is eligible to receive MEP services. However, as provided in section 1303(a)(1)(A) of the statute, only migratory children ages 3 through 21 may be counted for State funding purposes.

A3. Is a child eligible for MEP services after finishing high school?

Generally, no. Under section 1309(2), a migratory child is a “child” who meets the specific eligibility requirements for the MEP. While the MEP statute does not further define who is a “child,” section 1304(c)(2) incorporates by reference the requirement to carry out MEP projects consistent with the basic objectives of section 1115(b), which defines eligible children to include:

- (i) children not older than age 21 who are entitled to a free public education through grade 12, and
- (ii) children who are not yet at a grade level at which the local educational agency provides a free public education.

See also 34 CFR § 200.103(a).

Given paragraph (i), once a migrant child has received a high school diploma or its equivalent, the individual is generally no longer entitled under State law to a free public education through grade 12 and, therefore, is not eligible as a “child” to receive MEP services.

However, in some circumstances, it might be possible that a child who finished high school may be eligible for MEP services because, under State law, he or she may still be

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entitled to a free public education through grade 12. For example, a child who received a certificate of completion or attendance but failed the State high school exit exam *might* be allowed to re-enroll in high school under State law. If so, as long as the child is not yet 22 years of age, the child remains eligible for MEP services. An SEA should consult with its own legal counsel to determine whether children who have received a certificate of completion or attendance rather than a diploma or equivalency certificate are still eligible for a free public education through grade 12 in its State.

A4. Is a child who graduated from high school in his or her native country eligible for the MEP?

It depends on State law. If the child is considered under State law to be eligible to receive a free public education through grade 12 and otherwise meets the definition of “migratory child,” the child is eligible for the MEP.

A5. What is the definition of “out-of-school youth?” Are such youth eligible for MEP services?

For the purposes of the MEP, the Department considers the term “out-of-school youth” to mean youth up through age 21 who are entitled to a free public education in the State and who meet the definition of “migratory child,” but who are not currently enrolled in a K-12 school. This could include students who have dropped out of school, youth who are working on a general education development credential (GED) outside of a K-12 school, and youth who are “here-to-work” only. It would not include children in preschool. Out-of-school youth who meet the definition of a “migratory child” as well as all other MEP eligibility criteria are eligible for the MEP.

A6. What is the definition of “emancipated youth”?

The Department considers emancipated youth to be children under the age of majority (in accordance with State law) who are no longer under the control of a parent or guardian and who are solely responsible for their own welfare. In order to be eligible for the MEP these youth may not be older than 21 years of age.

A7. Are emancipated youth eligible for MEP services?

Yes. Emancipated youth are eligible for the MEP so long as they meet the definition of a “migratory child” and all other MEP eligibility criteria. Out-of-school youth may or may not be “emancipated youth.” See A5 of this section.

B. Guardians and Spouses

B1. May MEP eligibility be based on a guardian’s status as a migratory worker?

Yes. Section 200.81(e) of the regulations specifically includes a child’s move to accompany or join a guardian who is a migratory agricultural worker or a migratory fisher as a basis for a child’s eligibility.

B2. Who is a “guardian” for MEP purposes?

The Department considers a guardian to be any person who stands in the place of the child’s parent (“*in loco parentis*”), whether by voluntarily accepting responsibility for the child’s welfare or by a court order.

B3. Is a legal document necessary to establish guardianship?

No. As long as the guardian stands in the place of the child’s parent and accepts responsibility for the child’s welfare, a legal document establishing the guardianship is not necessary.

B4. May a sibling act as a guardian to other siblings?

Yes. If a working sibling acknowledges responsibility for the child’s welfare and stands in the place of the child’s parent, the child may be eligible based on the working sibling’s qualifying employment and qualifying move.

B5. Must a recruiter see a marriage certificate or other legal document in order to establish a spousal relationship when MEP eligibility is based on a spouse’s status as a migratory worker?

No.

C. Migratory Workers

C1. Who is a “migratory agricultural worker”?

According to § 200.81(d) of the regulations, a “migratory agricultural worker” is a person who, in the preceding 36 months, has moved from one school district to another, or, in a State that is comprised of a single school district, from one administrative area to another, in order to obtain temporary employment or seasonal employment in agricultural work (including dairy work). Note, the regulations also define the terms “move,” “in order to obtain,” “temporary employment,” “seasonal employment,” and “agricultural work.” These terms are discussed later in this chapter.

C2. Who is a “migratory fisher”?

According to § 200.81(f) of the regulations, a “migratory fisher” is a person who, in the preceding 36 months, has moved from one school district to another, or, in a State that is comprised of a single school district, from one administrative area to another, in order to obtain temporary employment or seasonal employment in fishing work. The 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 in order to obtain temporary employment or seasonal employment in fishing work. Note, the regulations also define the terms “move,” “in order to obtain,” “temporary employment,” “seasonal employment,” and “fishing work.” These terms are discussed later in this chapter.

C3. Does an individual’s visa status as an H-2A temporary agricultural worker have any impact on whether he or she may be considered a migratory child, migratory agricultural worker, or a migratory fisher?

No. The only criteria for being considered a migratory child, migratory agricultural worker, or migratory fisher are those established in § 200.81(d), (e), or (f) of the regulations.

D. Qualifying Move

D1. What is a “qualifying” move?

A qualifying move:

1. is across school district boundaries*; *and*
2. is a change from one residence to another residence; *and*
3. is made due to economic necessity; *and*
4. is made in order to obtain qualifying work; *and*
5. occurred in the preceding 36 months.

Note that the terms “move,” “in order to obtain,” and “qualifying work” are defined in § 200.81 of the regulations and discussed in sections D through H of this chapter.

*In a State that is comprised of a single school district, a move qualifies if it is from one administrative area to another within such a district. In addition, in a school district of more than 15,000 square miles, a move qualifies if it is over a distance of 20 miles or more to a temporary residence to engage in, or to accompany or join a parent, spouse, or guardian who engages in, a fishing activity.

D2. What is the definition of “move” or “moved”?

Under § 200.81(g) of the regulations, “move” or “moved” means “a change from one residence to another residence that occurs due to economic necessity.”

Change of Residence and Economic Necessity

D3. What is the definition of a “residence”?

For the purposes of the MEP, the Department considers a “residence” to be a place where one lives and not just visits. In certain circumstances, boats, vehicles, tents, trailers, etc., may serve as a residence.

D4. What does it mean to “change from one residence to another residence”?

The Department considers this to mean leaving the place where one currently lives and going to a new place to live, and not just to visit. For example, the Department believes that, generally, a person who goes to a new place to seek or obtain work, or because the person cannot afford to stay in his or her current location, is leaving the place where he or she currently lives and is going to a new place to live--and thus, has “changed from one residence to another residence” (or “changed residence”). Similarly, the Department believes that a person who goes to a new place to help sick or elderly family members on an extended basis is living with those family members, and thus might meet the MEP’s change of residence requirement if the person makes a return move to obtain qualifying work.

Thus, a person who leaves, on a short-term basis, the place where he or she lives to, for example, (1) visit family or friends, (2) attend a wedding or other event, (3) take a vacation, (4) have an educational or recreational experience, or (5) take care of a legal matter, would not have “changed residence” because the person did not go to the new place to live, but rather to visit. Similarly, this person would not have “changed residence” upon returning home from one of these visits. Note that, in these examples, the person also has not “moved” within the meaning of § 200.81(g) of the regulations since the move was not made “due to economic necessity.” See also D5 of this chapter.

The Department strongly recommends that the recruiter document on the COE his or her reason(s) for concluding that a person “changed residence” if it appears that an independent reviewer might question that a change of residence occurred.

D5. What does it mean to move “due to economic necessity”?

The Department considers this to mean that the worker moved either because he or she could not afford to stay in the current location, or went to a new location in order to earn a living. In general, the Department believes that if the worker’s move is related to work, e.g., a move to seek or obtain work, a move because of the loss of work, or a move because of the unavailability of work, the worker moved “due to economic necessity.”

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However, with respect to a move that is of such short duration (*e.g.*, less than a week) that an independent reviewer might question whether the move was really “due to economic necessity,” the Department strongly recommends that each SEA establish a statewide written policy for determining and documenting whether and why these moves do and do not qualify for the MEP.

The Department also recommends that recruiters provide a comment on the COE if there appears to be any other reason that an independent reviewer would question whether a worker changed residence “due to economic necessity.”

D6. If a worker and his or her children go on vacation and the worker engages in qualifying work during the vacation, would the children qualify for the MEP?

In general, as noted in D4 of this chapter, vacations (*e.g.*, visits to family and friends, trips for entertainment purposes, etc.) do not constitute a change of residence, much less a change of residence due to economic necessity. In these cases, the family is not moving because it cannot afford to stay and live in the current location or because it needs to go to a new location to make a living. Therefore, even if the worker engages in qualifying work, a move for vacation purposes is not a qualifying move. The Department recognizes that there might be cultural differences in how people describe the reason for their relocation and, therefore, recommends that the recruiter question the worker carefully to determine what is meant when the worker asserts that his or her family is going on or returning from a vacation during which family members worked.

D7. Is determining whether a worker changed residence due to economic necessity sufficient for determining that the worker made a qualifying move?

No. In order for a move to qualify under the MEP, all of the conditions in D1 of this chapter must be met.

“In order to obtain”

D8. What is the definition of the phrase “in order to obtain”?

Under § 200.81(c) of the regulations, the phrase “in order to obtain,” when used to describe why a worker moved, means that one of the purposes of the move is *to seek or obtain* qualifying work. This does not have to be the only purpose, or even the principal purpose of the move, but it must be one of the purposes of the move.

D9. May a worker who asserts more than one purpose for moving be considered to have moved “in order to obtain” qualifying work?

Yes. A worker who asserts more than one purpose for moving, for example, to be closer to other family members or to find a better school for the children, may be considered to have moved “in order to obtain” qualifying work if the recruiter determines that one of

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the purposes of the move was also to seek or obtain qualifying work. As explained in D10 of this chapter, the phrase “in order to obtain” includes determining that the worker moved to find any kind of employment, provided that the worker obtained qualifying work soon after the move.

D10. May a worker, who states that he or she moved in order to obtain (or seek) any employment and who obtained qualifying work “soon after the move,” be considered to have moved “in order to obtain” qualifying work?

Under certain circumstances, yes. The Department recognizes that workers may not always express a clear intent to move and obtain qualifying work. According to § 200.81(c)(1) of the regulations, in those situations where a worker’s intent is not clearly expressed, an SEA may infer that individuals who express a general intent to have moved, for example, “for work,” “to obtain work,” “to obtain any type of employment,” or to “take any job,” may be deemed to have moved with a purpose of obtaining qualifying work if he or she obtained qualifying work soon after the move. See D22 of this chapter regarding “soon after the move.”

D11. May a worker who asserts that he or she moved specifically to find only non-qualifying work be considered to have moved “in order to obtain” such work if the worker obtains qualifying work soon after the move?

No. Section 1309(2) of the statute requires migratory agricultural workers and fishers, to move “in order to obtain” temporary or seasonal employment in agricultural or fishing work, that is, “in order to obtain” qualifying work. The phrase “in order to obtain” in this provision brings in the worker’s purpose or intent. See, in this regard, the July 29, 2008 notice of final MEP regulations at 73 FR 44102, 44105.

The Department considers the phrase “in order to obtain” to include workers who (a) moved to obtain qualifying work and obtained that work, and (b) moved with no specific type of work in mind and obtained qualifying work soon after the move. (*Id.*, at 44106.) Therefore, if the worker who moved to obtain any work obtains qualifying work soon after the move, it is presumed that one of the purposes of the move was to seek or obtain qualifying work.

However, if the worker asserts that he or she moved with only non-qualifying work (*e.g.*, construction work) in mind, given the definition of a migratory child in section 1309(2) of the ESEA and § 200.81(c) of the Title I regulations, one may not presume that one of the purposes of the worker’s move was to obtain qualifying work – even if the worker obtained qualifying work soon after the move.

D12. Must a recruiter ask a worker why he or she moved if the worker is engaged in qualifying work?

Yes. The fact that a worker moved and is engaged in qualifying work does not automatically establish that the worker moved “in order to obtain” that work. Consistent

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with the MEP regulations, the recruiter must determine whether one of the purposes of the worker's move was to obtain qualifying work or any employment, or conversely that the purpose was specifically to obtain non-qualifying work.

D13. How can a recruiter determine if one of the purposes of the worker's move was to obtain qualifying work if the recruiter finds the worker is engaged in qualifying work?

Even though a worker is engaged in qualifying work, the recruiter needs to ask the worker why he or she moved. In many cases, the response will clearly indicate that one purpose of the move was to obtain qualifying work or any employment. If this is not clear from the worker's response, the recruiter should ask whether the worker would have moved if he or she knew that no work was available. If the answer is "no," then the recruiter can presume that obtaining qualifying work was one purpose of the move.

If the worker indicates that he or she was looking for a specific type of work, which would be considered non-qualifying work, *e.g.*, construction, for purposes of the MEP, the recruiter may follow up by asking whether the worker would have moved to the area to take any kind of work, in other words qualifying or non-qualifying work, if construction work was not available. If the answer is "yes," and the worker obtained qualifying work, then the recruiter can presume that obtaining qualifying work was one purpose of the move. However, if the worker continues to express that his or her specific intent was to obtain only non-qualifying work, the recruiter cannot find this worker eligible for the MEP based on this move, regardless of whether the worker is engaged in qualifying work.

D14. May a worker who did not obtain qualifying work soon after the move, be considered to have moved "in order to obtain" qualifying work?

Under certain circumstances, yes. A worker who did not obtain qualifying work "soon after a move" may *only* be considered to have moved "in order to obtain" qualifying work if (1) the worker states that one purpose of the move was specifically to obtain qualifying work, AND

(2) The worker has a prior history of moving to obtain qualifying work;

OR

(3) There is 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.

See § 200.81(c)(2) and D22 of this chapter regarding the phrase, "soon after the move."

D15. If a worker states that he or she moved to obtain *any* employment and the worker has a prior history of moves to obtain qualifying work, may this worker be considered to have moved “in order to obtain qualifying work” if the worker did not obtain qualifying work soon after the move?

No. The worker must have moved *specifically* for qualifying work, and not *any* employment, regardless of whether the worker has a prior history of moves to obtain qualifying work, or there is other credible evidence that the worker sought qualifying work. See § 200.89(c)(1) of the regulations.

D16. How may a recruiter determine whether a worker has a prior history of moving to obtain qualifying work?

The Department believes that the recruiter should ask the worker whether he or she has ever moved for temporary or seasonal employment in agricultural or fishing work, *i.e.*, qualifying work. The recruiter may also search the State’s MEP database or the Migrant Student Information Exchange (MSIX) system (a web-based system that allows States to share education and health information on migrant children who travel from State to State) to see if the worker’s child, or the child, if the child is the worker, was identified as eligible for the MEP in another part of the State or in another State.

After considering the available information, if the recruiter is satisfied that (1) one of the purposes of the worker’s move was specifically to obtain qualifying work and (2) the worker has a prior history of moves to obtain qualifying work, the recruiter may deem the worker’s children eligible for MEP services. The recruiter should document the basis for the decision in the comment section of the COE and, if available, attach the evidence he or she relied on for the decision.

D17. How far back may a recruiter look in considering “prior history of moves to obtain qualifying work”?

The Department does not believe that a worker’s “prior history of moves to obtain qualifying work” had to have occurred within a certain time period before the most recent move, so long as the worker states that one of the purposes of his or her move was *specifically* to obtain qualifying work and not just any work, as explained in D14 and D15 of this chapter.

D18. What are examples of “other credible evidence” that a recruiter might rely on to determine that the worker actively sought qualifying work soon after a move but the work was unavailable for reasons beyond the worker’s control?

Other credible evidence that a recruiter might consider includes:

- Information obtained from conversations with an employer, crew chief, employment agency, or credible third party that indicates that the worker sought the qualifying work;

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- Written information from the employer, such as a copy of an employment application or a list of recent applicants;
- Information in the public domain (*e.g.*, newspaper) that confirms a flood or crop failure in the area.

After considering all of the available information, if the recruiter is satisfied that the worker *actively* sought qualifying work *soon after the move* and that the work was unavailable due to reasons beyond the worker's control, the recruiter may deem the worker eligible for MEP services. The recruiter should document the basis for the decision in the comment section of the COE, and if available, attach the evidence he or she relied on for the decision.

D19. As discussed in criteria (1) and (3) of D14, may a worker's or family member's statement about the purpose of the move serve as both (1) the statement that the worker moved specifically to obtain qualifying work and (2) the necessary "other credible evidence" that the worker actively sought the work soon after the move?

No. The Department considers the term "other credible evidence" to refer to additional information that supports the worker's or family member's statement that the worker moved in order to obtain qualifying work. Therefore, this information would need to be obtained in addition to the information about the purpose of the move provided by the worker or his or her family.

D20. What happens if a worker, who moved to obtain qualifying work or any kind of job, first takes a non-qualifying job and only afterwards obtains qualifying work?

A worker does not necessarily forfeit MEP eligibility by taking a non-qualifying job for a limited period of time, so long as the worker moved in order to obtain qualifying work or any kind of job, and then obtains qualifying work that is still "soon after the move". See D22 of this chapter.

D21. If a worker and his or her child move weeks before qualifying work is available (*e.g.*, three weeks prior to the tomato harvest) in order to secure housing, and at the time of the interview the worker does not yet have qualifying work, may the worker be considered to have moved "in order to obtain" qualifying work?

Yes. The regulatory definition of "in order to obtain" does not expressly address this situation. However, the Department believes that the recruiter may find this move to have been made "in order to obtain" the work so long as the recruiter determines that one purpose of the move was to seek or obtain qualifying work, and not just any employment – which presumably would be the case in this situation. In this situation, the recruiter should check box 4a of the COE (the section on Qualifying Move & Work), which states that "the worker moved due to economic necessity in order to obtain qualifying work and

obtained qualifying work.” The recruiter should document in the COE Comments section that (1) the worker moved in advance to secure housing, (2) one purpose of the move was to secure the qualifying employment, and (3) the date that the worker is or was expected to start work. The children would be considered eligible upon the SEA’s approval of the COE.

In this type of situation, consistent with § 200.81(c)(1) of the regulations, the recruiter must follow up with the worker to verify that the worker obtained qualifying work “soon after the move (see D22 of this section).” If the recruiter discovers that the worker did not obtain qualifying work “soon after the move,” the recruiter must then determine, consistent with § 200.81(c)(2) of the regulations, that the worker has either a prior history of moves to obtain qualifying work or some other credible evidence that the worker actively sought qualifying work. The COE must be updated accordingly. If the recruiter cannot document a prior history or other credible evidence, this worker’s children are not eligible for the MEP and must be removed from the rolls of eligible children.

“Soon After the Move”

D22. How much time may separate the date of the worker’s move and the date the worker obtains qualifying work to permit an SEA to reasonably conclude that the worker obtained qualifying work “soon after the move”?

Because one of the purposes of the worker’s move must be to seek or obtain qualifying work, the Department established the “soon after the move” test in the belief that the time between when the worker moves and when he or she obtains qualifying work must be small enough to reasonably presume that one of the purposes of the move was to obtain qualifying work. We think that in these circumstances, a worker generally should obtain qualifying work within 30 days of the move. However, we recognize that this period of time may vary depending on local conditions in agricultural or fishing operations or personal circumstance, which may cause the worker to delay obtaining qualifying work for a limited period of time beyond 30 days. If the recruiter believes that such circumstances exist and that he or she can still reasonably conclude that the worker obtained qualifying work “soon after the move,” the Department recommends that the recruiter document in the comment section of the COE the factors that led him or her to this conclusion.

Duration and Distance

D23. Is there a minimum duration for a qualifying move?

Although the statute and regulations are silent on the duration of a qualifying move, a migratory worker must stay in a new place long enough to show that the worker “moved,” *i.e.*, changed residence due to economic necessity, and that one of the purposes of the move was to seek or obtain qualifying work, or any kind of work so long as the worker obtained qualifying work soon after the move. Recruiters should carefully examine and evaluate relevant factors, such as whether the worker obtained, or could

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have obtained, a place to live that would allow the worker and the migratory child to remain in the new location long enough for the worker to engage in qualifying work or whether the move to work was a one-time act or a series of short moves to work in order to augment the family's income. If the worker sought but did not obtain qualifying work soon after the move (or at all), the recruiter should determine whether the worker meets the requirements for moving "in order to obtain" qualifying work, as described in D14-D21 of this chapter. With respect to moves of such short duration (*e.g.*, less than a week) that an independent reviewer might question whether the move was "due to economic necessity," the Department strongly recommends that the SEA establish a written policy for determining and documenting when and why these moves qualify for the MEP.

D24. Is there a minimum distance requirement for a qualifying move?

No. The only requirement is that the move be across school district boundaries. In a State that is comprised of a single school district (*e.g.*, Hawaii), the move must be across the established boundaries of intra-district administrative areas. In a State where school districts are more than 15,000 square miles (*e.g.*, Alaska), the move must be either across established school district boundaries or, a distance of 20 miles or more to a temporary residence to engage in temporary or seasonal fishing work. See § 200.81(d), (e), and (f) of the regulations.

D25. Has a worker who travels back and forth between a residence and an agricultural or fishing job within the same day made a qualifying move?

No. Such a worker is a "day-haul" worker whose travel is a non-qualifying commute, not a qualifying migration involving a change of residence.

Moves by Boat

D26. Are there special issues that affect only the moves of migratory fishers who travel by boat?

No. These workers' moves must be across school district boundaries (*i.e.*, from one school district to another), whether the moves are by water or by land. As with any other MEP eligibility determination, the SEA must maintain documentation of school district boundaries as they extend into the water. In addition, all other eligibility criteria must be met.

D27. Has a fisher who travels by boat and docks in a new school district made a qualifying move?

It depends. A fisher who travels by boat to a new school district, or travels 20 miles or more in Alaska, must stay in the new place long enough to show that the worker "moved," *i.e.*, changed residence due to economic necessity, and that one of the purposes of the move was to seek or obtain qualifying work (or any kind of work, so long as the worker obtained qualified work soon after the move). See D23 of this chapter regarding

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moves of short duration. The Department recommends that recruiters obtain sufficient information about this type of trip to document in the COE that the move meets these requirements.

Stopover Sites

D28. What are stopover sites?

Stopover sites are rest centers where migrant families who are in transit stop for a night or two before moving on to another locale.

D29. May SEAs serve eligible migrant families who stay at a stopover site?

Yes.

D30. May SEAs count the eligible migrant children they serve at stopover sites for funding purposes?

It depends. An SEA may count eligible migrant children who have already established residency in the State prior to staying at the stopover site. (See D3 of this section for an explanation of the term “residence” as it pertains to the MEP.) However, an SEA may not count migrant children who have stopped at the stopover site but have not established residency in the State – the move was not made to obtain qualifying work at the stopover site. Moreover, simply stopping in the State for a rest period does not establish residency. In these cases, the SEA must wait for the migrant family to complete the qualifying move and establish residency in the State before it may count the children.

International Moves

D31. May a worker’s move to the United States from another country qualify for the MEP?

Yes. A worker’s move from another country to the U.S. may qualify if one of the purposes for the move was to seek or obtain qualifying work. For example, orchard growers in the Northeast hire contract workers from Guatemala to pick crops for a short period of time. Assuming all other eligibility criteria are met, the children of these workers would qualify because one of the purposes of the move to the U.S. was to obtain qualifying work. The workers are not disqualified if they have other reasons for moving to the U.S., even permanent relocation, so long as one of the purposes of the move is to obtain qualifying work and the other conditions are met.

D32. Is a move from the United States to another country a qualifying move?

No. The MEP was established to benefit families who perform qualifying work in the United States. Therefore, the Department does not view the MEP statute as authorizing moves to another country to engage in temporary or seasonal employment in agricultural

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or fishing work to be considered qualifying moves. However, if a worker's move to another country is a "change of residence," the worker's move back to a school district in the U.S. might be a qualifying move.

D33. If a worker and his or her children make a non-qualifying move to the U.S. from another country, may the children be considered eligible for the MEP based on a subsequent qualifying move?

Yes.

E. Qualifying Arrival Date (QAD) and Move "to Join" Issues

E1. When does a child's eligibility for MEP services begin?

A child may be identified as a "migratory child" when the child and the worker complete the qualifying move. This is often referred to as the qualifying arrival date, or QAD, for purposes of the COE. However, a child is only eligible for MEP services once the SEA has determined that the child meets all eligibility criteria outlined in A1 of this chapter.

E2. Must a child move at the same time as the worker to be eligible for the MEP?

No; however, both the worker and child must make the move. Section 1309(2) of the ESEA provides that if the child is not the qualifying worker, the child must move to "accompany" the worker who moved in order to obtain or seek qualifying work. The regulations expand the term "accompany" to include a child who moves separately to "join" a parent, spouse, or guardian. That is, under the definition of "migratory child" in § 200.81(e) of the regulations, a child who is not a migratory agricultural worker or migratory fisher qualifies if the child accompanies or "joins" a parent, spouse, or guardian who is a migratory agricultural worker or migratory fisher who moves in order to obtain qualifying work. The Department considers this provision to mean that the child's move may either precede or follow the worker's move. For example, the child may move before the worker in order to start the school year on time, or the worker may move before the child in order to secure housing. In either case, the fact that the child and his or her parent, spouse, or guardian do not move at the same time does not nullify the child's eligibility for the MEP.

E3. What is the QAD when a child moves before or after the worker?

In situations where the child and worker do not move at the same time, the Department considers the QAD to be the day that the child and worker complete the move to be together. That is, if the child's move precedes the worker's move, the QAD is the date that the worker arrived. If the child's move follows the worker's move, the QAD is the date the child arrived.

E4. How much time may separate the worker’s move from a child’s move “to join” a worker?

The time limit depends on the circumstances. The Department believes that, as a best and safe practice, the child’s move should generally occur within no more than 12 months of the worker’s move to obtain qualifying work, and that after one year it is difficult to link the child’s move to the worker’s move to obtain qualifying work. Nonetheless, there may be unusual circumstances that prevent a child from moving within 12 months of the worker’s move. In these cases, the Department recommends that an SEA document in the comment section of the COE the basis for determining that the child moved to “accompany” a worker after such a prolonged period of time between the two moves.

F. Qualifying Work

F1. What is “qualifying work”?

Under § 200.81(i) of the regulations, “qualifying work” means temporary employment or seasonal employment in agricultural work or fishing work.

G. Agricultural Work or Fishing Work

Agricultural Work

G1. What is the definition of “agricultural work” for purposes of the MEP?

“Agricultural work” is:

1. the production or initial processing of crops, dairy products, poultry, or livestock; as well as

the cultivation or harvesting of trees,

that is—
2. performed for wages or personal subsistence.

See § 200.81(a).

G2. What does “production” mean?

The Department considers agricultural production to mean work on farms, ranches, dairies, orchards, nurseries, and greenhouses engaged in the growing and harvesting of crops, plants, or vines and the keeping, grazing, or feeding of livestock or livestock products for sale. The term also includes, among other things, the production of bulbs, flower seeds, vegetable seeds, and specialty operations such as sod farms, mushroom cellars, and cranberry bogs.

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G3. What is a crop?

The Department considers a crop to be a plant that is harvested for use by people or by livestock.

G4. What are examples of agricultural work related to the production of crops?

The production of crops involves work such as preparing land or greenhouse beds, planting, seeding, watering, fertilizing, staking, pruning, thinning, weeding, transplanting, applying pesticides, harvesting, picking, and gathering.

G5. Is work such as gathering decorative greens considered agricultural work?

Yes. The Department considers the term “plants” to include decorative greens or ferns grown for the purpose of floral arrangements, wreaths, etc. Therefore, the collection of these plants can be considered agricultural work. For the purposes of the MEP, the collection of these greens for recreation or personal use would not be considered agricultural work.

G6. What is livestock?

The term “livestock” refers to any animal produced or kept primarily for breeding or slaughter purposes, including, but not limited to, beef and dairy cattle, hogs, sheep, goats, and horses. For purposes of the MEP, livestock does not include animals that are raised for sport, recreation, research, service, or pets. The Department does not consider the term “livestock” to include animals hunted or captured in the wild.

G7. What are examples of agricultural work related to the production of livestock?

The Department considers the production of livestock to involve raising and taking care of animals described in the previous question. Such work includes, but is not limited to: herding; handling; feeding; watering; milking; caring for; branding; tagging, and assisting in the raising of livestock.

G8. Are animals such as deer, elk, and bison raised on farms considered “livestock”?

Yes, so long as these animals, sometimes referred to as specialty or alternative livestock, are raised for breeding or slaughter purposes and not for sport or recreation.

Cultivation or Harvesting of Trees

G9. What does “cultivation” mean in the context of trees?

In the context of trees, “cultivation” refers to work that promotes the growth of trees.

G10. What are examples of work that can be considered the cultivation of trees?

For the purposes of the MEP, examples of work that can be considered the cultivation of trees include, but are not limited to: soil preparation; plowing or fertilizing land; sorting seedlings; planting seedlings; transplanting; staking; watering; removing diseased or undesirable trees; applying insecticides; shearing tops and limbs; and tending, pruning, or trimming trees.

G11. What does “harvesting” mean in the context of trees?

For the purposes of the MEP, “harvesting” refers to the act of gathering or taking of the trees.

G12. What are examples of work that can be considered the harvesting of trees?

The Department considers the harvesting of trees to include work such as topping, felling, and skidding.

G13. What types of work are not considered part of the cultivation or harvesting of trees?”

The Department believes that the following activities are *not* part of the cultivation or harvesting of trees: clearing trees in preparation for construction; trimming trees around electric power lines; and cutting logs for firewood.

G14. Does transporting trees from a harvesting site to a processor (sawmill) qualify as agricultural work?

No. Transporting trees is not agricultural work for purposes of the MEP because it occurs after the cultivation and harvesting of trees.

G15. Is processing trees considered agricultural work?

No. According to § 200.81(a) of the regulations, only the cultivation or harvesting of trees is considered agricultural work. Processing trees occurs after the cultivation and harvesting.

Fishing Work

G16. What is the definition of “fishing work” for purposes of the MEP?

“Fishing work” is:

1. 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--

2. performed for wages or personal subsistence.

See § 200.81(b).

G17. What is a “fish farm”?

For purposes of the MEP, the Department considers a fish farm to be a tract of water, such as a pond, a floating net pen, a tank, or a raceway reserved for the raising or harvesting of fish or shellfish. Large fish farms sometimes cultivate fish in the sea, relatively close to shore. The fish are artificially cultivated, rather than caught, as they would be in “fishing.” Fish species raised on fish farms include, but are not limited to, catfish, salmon, cod, carp, eels, oysters, and clams.

G18. What are examples of work on a fish farm that would qualify as fishing work?

For the purposes of the MEP, examples of work on a fish farm that would qualify as “fishing work” include, but are not limited to, raising, feeding, grading, collecting, and sorting of fish, removing dead or dying fish from tanks or pens, and constructing nets, long-lines, and cages.

G19. Is the act of catching fish or shellfish for recreational or sport purposes “fishing work”?

No. These activities are not performed for wages or personal subsistence.

Initial Processing

G20. What does “initial processing” mean?

The Department considers “initial processing” to be work that (1) is beyond the production stage of agricultural work and (2) precedes the transformation of the raw product into something more refined. It means working with a raw agricultural or fishing product.

G21. What are examples of “initial processing” work in the poultry and livestock industries?

For the purposes of the MEP, examples of “initial processing” work in the poultry and livestock industries include, but are not limited to: stunning; slaughtering; skinning; eviscerating; splitting carcasses; hanging; cutting; trimming; deboning; and enclosing the raw product in a container.

G22. What are examples of “initial processing” work in the crop industry?

For the purposes of the MEP, examples of “initial processing” work in the crop industry include, but are not limited to: cleaning; weighing; cutting; grading; peeling; sorting; freezing, and enclosing the raw product in a container.

G23. What are examples of “initial processing” work in the fishing industry?

For the purposes of the MEP, examples of “initial processing” work in the fishing industry include, but are not limited to: scaling; cutting; dressing; and enclosing the raw product in a container.

G24. When does “initial processing” end?

The Department considers a product no longer to be in the stage of “initial processing” once the transformation of the raw product into something more refined begins. The Department believes that work up to, but not including, the start of the transformation process is agricultural or fishing work for purposes of the MEP. However, work such as placing raw chicken breasts into the oven for cooking, adding starter cultures to milk to make cheese, or applying necessary ingredients to a raw pork belly to begin the curing process is the beginning of the transformation process and therefore is not agricultural or fishing work for purposes of the MEP.

G25. What work is not considered production or initial processing?

Work such as cooking; baking; curing; fermenting; dehydrating; breading; marinating; and mixing of ingredients involves transforming a raw product into a more refined product. Therefore, the Department does not consider this work to be production or initial processing. In addition, the Department does not consider the following work to be production or processing: placing labels on boxes of refined products; selling an agricultural or fishing product; landscaping; managing a farm or processing plant; providing accounting, bookkeeping, or clerical services; providing babysitting or childcare services for farmworkers; or working at a bakery or restaurant. With regard to work such as repairing or maintaining equipment used for production or processing, or cleaning or sterilizing farm machinery or processing equipment, the Department does not consider individuals whose *profession* is to do this work, or who were hired solely to perform this work, to be performing agricultural work.

G26. Is hauling a product on a farm, ranch or other facility considered agricultural work?

Yes. The Department considers hauling a product on a farm, ranch, or other facility an integral part of production or initial processing and therefore, is agricultural work. However, it does not consider transporting a product to a market, wholesaler, or processing plant to be production or initial processing. “Shipping and trucking” is work that is often carried out by a third-party retailer, wholesaler, or contractor paid to

transport various products. Therefore, the service these companies or contractors provide is “shipping” or “trucking” and not production or initial processing.

G27. May a worker who performs both qualifying and non-qualifying work still be eligible for the MEP?

Yes. A worker is only required to meet the definition of a migratory agricultural worker or migratory fisher as defined in § 200.81(d) and (f) of the regulations. The fact that the worker performs non-qualifying work in addition to qualifying work has no bearing on his or her eligibility for the MEP.

Wages and Personal Subsistence

G28. What does “personal subsistence” mean?

As used in the definitions of agricultural work and fishing work in § 200.81(a) and (b) of the regulations, and as defined in § 200.81(h) of the regulations, “personal subsistence” means that 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.

G29. May a worker who is “self-employed” qualify as a migratory agricultural worker or migratory fisher?

Yes, in some circumstances. In general, the Department considers migratory agricultural workers and fishers to be either employed for wages or performing work for personal subsistence. However, while some workers, such as those who glean leftover crops from fields or fishers who own their own boats, might consider themselves “self employed,” for purposes of MEP eligibility the Department considers the provisions regarding personal subsistence to mean that the money such workers earn from the sale of the product is equivalent to “wages” (and to the extent that gleaners consume the food they gather as a substantial portion of their food intake, “performed for personal subsistence”).

H. Temporary and Seasonal Employment

H1. What is seasonal employment?

According to § 200.81(j) of the regulations, seasonal employment is employment that 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.

H2. How does the phrase “cycles of nature” pertain to seasonal employment?

For purposes of the MEP, the phrase “cycles of nature” is used to describe the basis for why certain types of employment in agricultural or fishing work only occur during certain, limited periods in the year. The length of “seasonal” employment is based on the

distinct period of time associated with the cultivation and harvesting cycles of the agricultural or fishing work, and is not employment that is continuous or carried on throughout the year.

H3. How long may seasonal employment last?

The definition of seasonal employment in § 200.81(j) of the regulations states that it is employment that occurs only during a certain period of the year and may not be continuous or carried on throughout the year. Therefore, like temporary employment, seasonal employment may not last longer than 12 months.

H4. How may an SEA determine that a worker’s job is “seasonal employment”?

A worker’s employment is seasonal if:

1. it occurs during a certain period of the year; and
2. it is not continuous or carried on throughout the year

H5. What is temporary employment?

According to § 200.81(k) of the regulations, temporary employment means “employment that lasts for a limited period of time, usually a few months, but no longer than 12 months.”

H6. How may an SEA determine that a worker’s job is “temporary employment”?

Section 200.81(k) of the regulations identifies three ways in which an SEA may determine that employment is temporary:

- a. Employer Statement - The employer states that the worker was hired for a limited time frame, not to exceed 12 months;
- b. Worker Statement - The worker states that he or she does not intend to remain in that employment indefinitely (*i.e.*, the worker’s employment will not last longer than 12 months);
- c. State Determination - The SEA has determined on some other reasonable basis that the employment will not last longer than 12 months.

H7. Is a worker who was hired to perform a series of different jobs, which together lead to the worker being employed by the same employer for more than 12 months, employed on a temporary or seasonal basis?

No. 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 employed on a temporary or seasonal basis as defined in 200.81(j) and (k) of the MEP regulations.

H8. What is an example of a statement from an employer that indicates that the employment is temporary?

An example of a statement from an employer who harvests ferns for the floral industry might be: “employer _____ (name) stated that she will hire the worker only for the months of February through May to accommodate the increase in floral gifting around Valentine’s Day, Easter, and Mother’s Day.” In this example, the employer stated that she is hiring the worker for a short period of time that will not exceed 12 months.

H9. What is an example of a statement from a worker that indicates that the employment is temporary?

An example of a worker’s statement might be: “the worker stated that he plans to leave the job after seven months in order to return to his home with his family.” Similar to the employer’s statement, the worker’s statement indicates that he will only remain in the job for a short period of time that will not exceed 12 months.

H10. When would an SEA rely on its own determination that a worker’s employment is temporary?

In general, the Department believes that a determination about the temporary nature of a worker’s employment is best obtained through a recruiter’s interview with the worker or employer. However, § 200.81(k) of the regulations authorizes an SEA to make its own determination that employment is temporary so long as the SEA has some other reasonable basis for determining that the employment will not last more than 12 months.

For employment that appears constant and available year round, § 200.81(k) of the regulations permits an SEA to conclude that the employment is “temporary” for purposes of the MEP only if it determines and documents that, given the nature of the work, of those agricultural and fishing workers whose children the SEA determined to be eligible using some other reasonable basis, virtually none remained employed by the same employer more than 12 months. For more information about how to determine and document that virtually no workers remained employed by the same employer for more than 12 months, please see section I of this chapter.

H11. What are examples of “other reasonable bas[e]s” that an SEA might consider when determining that employment will not last longer than 12 months?

Examples of information that an SEA might consider include:

1. A recent survey of workers (e.g., an attrition rate study—see I8 through I19 of this chapter), by worksite, whom the SEA previously determined to be employed temporarily.
2. A recent survey of workers (e.g., an attrition rate study—see I8 through I19 of this chapter) from another State that documents the temporary nature of employment at a similar worksite.
3. A relevant and timely literature review that supports the temporary nature of employment at a similar worksite(s) and that can be considered for the worksite in question.

The SEA should maintain appropriate documentation to support the basis for its determination. In the case of examples 2 and 3 above, this documentation should include the basis for finding that the worksite in the State is similar to those discussed in another State’s documentation or in the literature review.

As mentioned in H10, an SEA that relies on some other reasonable basis to determine the temporary nature of employment that appears constant and available year round must later confirm its conclusion by documenting that virtually none of the agricultural or fishing workers whose children were determined to be eligible, based on its determination of temporary employment, were still employed by the same employer for more than 12 months. See Section I of this chapter for more information.

H12. What are examples of information that would not be considered “reasonable” for purposes of determining that employment will not last more than 12 months?

The Department does not consider information such as the following to be reasonable for purposes of determining that employment will not last more than 12 months:

1. Anecdotal information about a worksite or industry, for example, the working conditions are such that a worker is unlikely to remain employed for more than 12 months.
2. Newspaper ads announcing a job opening on a farm or at a worksite. The fact that an employer plans to hire new workers by announcing job openings is not necessarily a signal that employment at a worksite is to be temporary. Specificity about the nature of the jobs to be filled, *e.g.*, whether the work is agricultural or fishing and the employment is temporary or seasonal, would be needed.

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3. After February 28, 2010, “industrial surveys” as described in the Department’s 2003 Non-Regulatory Guidance or other studies of turnover within job categories. See I7 of this chapter.

The Department does not believe that this type of information is sufficiently reliable for determining whether a worker’s employment is likely to last less than 12 months.

H13. Must the SEA stop serving children whose parent or guardian remains employed by the same employer after 12 months even though the worker was originally employed on a temporary basis?

In general, an SEA may continue serving these children and keep them on its rolls for the duration of their 36-month eligibility period. MEP eligibility is determined at the time of the interview and is based on the worker’s (or employer’s) stated intention at the time of the move, or on the SEA’s evidence of an “other reasonable basis” for determining the work may be considered to be temporary.

The Department would expect a situation in which the worker continues to be employed after 12 months to be a rare occurrence and not the norm for workers who are recruited on this basis. However, if a significant number or percentage of workers recruited on this basis remains employed at a particular worksite beyond 12 months, either in the same job or in another job at the same worksite, the Department believes the SEA should examine the reasons why workers are remaining employed. In some cases, the reasons may be justifiable. For example, if the economy took a turn for the worse, employees who intended to leave their employment much earlier did not do so because other jobs were not available. On the other hand, the recruiter might have made an incorrect eligibility determination because he or she did not understand the MEP definition of temporary employment. There even could be reasons to suspect fraud. In both of these latter situations, children’s eligibility should be terminated immediately if the SEA determines that the original eligibility determinations were erroneous.

Thus, the reasons workers remain employed for more than 12 months will determine whether and what action the SEA needs to take.

H14. If a worker planned to work at an agricultural or fishing worksite permanently, can the worker be recruited for the MEP if the recruiter finds out later that the worker did not remain employed more than 12 months?

In general, no. A worker who moved to seek permanent employment did not move “in order to obtain temporary or seasonal employment in agricultural or fishing work” as required by the statute.

However, if the SEA has determined and documented that employment at the worksite, despite appearing to be constant and available year-round, is temporary in accordance

with 200.81(k) of the regulations, the worker can be considered eligible for the MEP (assuming that all other eligibility criteria are met). See Section I of this chapter.

H15. Should jobs that occur only at certain times of the year because of a holiday or event be considered as temporary employment or seasonal employment?

Jobs that occur only at certain times of the year because of a holiday or event (*e.g.*, Thanksgiving, Christmas, etc.) should be considered temporary employment because the time of year that the work is performed is not dependent on the cycles of nature, but rather the holiday or event.

I. Employment That Appears Constant and Available Year-Round

I1. Is an SEA always required to determine whether employment that appears constant and available year-round may be considered temporary?

No. An SEA is required to determine whether employment that is constant and available year-round may be considered temporary only if it intends to qualify the children of workers employed in these types of jobs.

I2. May SEAs consider employment that appears to be constant and available year-round to be temporary employment?

Yes. The Department recognizes that some agricultural and fishing jobs, for example certain jobs at processing plants or dairy farms, may appear to be constant and available year-round, but, perhaps because of the nature of the work, workers typically do not stay long at these jobs. In cases of employment that appears to be constant and available year-round, recruiters can base their determination that the employment is temporary on:

1. the worker's or the employer's statement that even though the work appears to be constant and available year-round, he or she intends to remain no longer than 12 months, or
2. the SEA's determination that even though the work appears to be constant and available year-round, the SEA has determined and documented, in accordance with § 200.81(k) of the regulations, that the employment is temporary.

I3. How does an SEA determine and document that certain employment that appears to be constant and available year-round is temporary employment for purposes of the MEP?

Consistent with § 200.81(k) of the regulations, an SEA determines the temporary nature of employment that appears to be constant and available year-round by:

- Step 1: establishing its basis for reasonably concluding that particular employment that appears to be constant and available year-round can

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be considered temporary. (See H11 and H12 of this chapter regarding “reasonable bases” for determining temporary employment.)

AND

Step 2: later confirming the basis of this conclusion by documenting that virtually none of the migratory agricultural or fishing workers whose children were determined to be eligible, based on the SEA’s determination of the temporary nature of such employment, remained employed by the same employer for more than 12 months. One way an SEA might confirm the basis of its subsequent conclusion is through an “attrition rate study.” See I1 – I7, which apply to the requirements for documenting the temporary nature of work that appears to be constant and available year-round, and I8 – I21, which address attrition rate studies.

I4. May an SEA continue to rely on the documentation it used consistent with prior regulations and prior non-regulatory guidance to determine the temporary nature of employment that appears constant and available year round?

No. For a limited time, the July 29, 2008, regulations allowed the SEA to rely on documentation consistent with prior regulations and prior guidance (*e.g.*, “industrial surveys) when determining the temporary nature of employment that appears constant and available year round. However, this allowance ended on February 28, 2010 (*i.e.*, 18 months from the effective date of the July 2008 regulations). To continue to find whether agricultural and fishing workers employed in what appears to be constant and year-round employment are, in fact, engaged in temporary employment, § 200.81(k) requires that by February 28, 2010, the SEA establish and implement procedures for determining which *employers*, whose agricultural and fishing workers it previously determined were employed temporarily, meet the definition of temporary employment established in the July 29, 2008 regulations.

In other words, the SEA must have determined by February 28, 2010, which employers, who offer employment that the SEA previously considered to be temporary based on its prior documentation, met the “virtually no workers remained employed by the same employer for more than 12 months” threshold. For employers (or their worksites – see I10 of this chapter) for which the SEA has made this determination, the SEA may continue to qualify the children of workers employed in agricultural or fishing work at these worksites on the basis of its new documentation. But, for employers (or their worksites) that did not meet the “virtually no workers remained employed...” threshold, the SEA must stop recruiting the children of agricultural and fishing workers at these worksites on the basis of the SEA’s prior documentation that work that appears constant and available year-round is temporary. The SEA also must terminate eligibility of any children who were determined to be eligible on or after February 28, 2010, on the basis of

the SEA's prior determination that work that appears constant and available year-round is temporary. See also I20 of this chapter.

I5. What is the purpose of determining that “virtually no workers remained employed by the same employer more than 12 months”?

The purpose is to determine which employers, whose workers' employment appears to be constant and available year-round, may be considered to offer “temporary employment” for purposes of MEP eligibility. This determination only affects whether an SEA may continue, going forward, to consider employment for a particular employer to be temporary based on the *SEA's documentation* (i.e., employment may still be determined temporary based on the worker's or employer's statement that the employment will not last longer than 12 months). See reference to SEA documentation in § 200.81(k) of the regulations.

I6. How often must an SEA test the reasonableness of its temporary determinations for work that appears to be constant and available year-round?

Determinations made on the basis of criteria in the July 29, 2008, regulations must be made at least once every three years. See § 200.81(k). (By February 28, 2010, each SEA must have tested the reasonableness of determinations made according to the 2003 MEP Non-Regulatory Guidance or some other reasonable process that was used prior to the issuance of the July 29, 2008 regulations.)

I7. After February 28, 2010, may an SEA continue to rely on (1) “industrial surveys” as discussed in the 2003 MEP Non-Regulatory Guidance, or (2) some other process that measures employee turnover that SEAs adopted prior to the issuance of the July 2008 regulations, as reasonable documentation of the temporary nature of employment that appears to be constant and available year-round?

No. See § 200.81(k) of the regulations.

The 2003 MEP Non-Regulatory Guidance permitted an SEA to consider certain jobs temporary based on the turnover rate of workers within particular job categories. However, surveys that measure the turnover rate of workers in and out of a particular job do not account for situations in which workers continue to remain employed by the same employer in a succession of jobs. These types of surveys do not measure the temporary nature of a worker's employment, but rather only the turnover within a particular job category. Thus, these types of surveys are not valid measures of “temporary employment” as defined in § 200.81(k) of the regulations. Instead, the SEA should consider conducting an “attrition rate study” to document the temporary nature of employment that appears to be constant and available year-round.

Attrition Rate Study

18. What is an attrition rate study?

An attrition rate study is one way that an SEA can confirm its basis for reasonably concluding, despite the appearance that employment at a worksite is constant and available year-round, that virtually no migratory agricultural or fishing workers remained employed by the same employer for more than 12 months. For those worksites where the results of the attrition rate study reveal that virtually no migratory agricultural or fishing workers remained employed for more than 12 months, the SEA can continue to conclude that workers who perform agricultural or fishing work at those worksites are employed temporarily. (See Step 2 of I3 of this section.)

In this kind of study, an “attrition rate” means the percent of all migratory agricultural or fishing workers at a particular worksite (1) who were previously identified as eligible for the MEP, and (2) whose employment appears to be constant and available year-round, but who do not remain employed at that worksite more than 12 months.

19. What attrition rate would permit an SEA to conclude that “virtually no workers remained employed by that employer more than 12 months”?

The Department has adopted a presumption that an attrition rate of at least 90% for any given worksite satisfies the requirement that virtually none of the migratory agricultural or fishing workers hired remained employed at that worksite for more than 12 months – and, therefore, the employment may be considered temporary.

For worksites of five or fewer migratory workers who perform agricultural or fishing work that appears to be constant and available year-round (e.g., small dairy farms), calculating an attrition rate of 90% is impossible. Therefore, the Department considers the termination of employment for four out of five workers to be equivalent to “virtually no workers remained employed by the same employer more than 12 months.” Similarly, the Department considers worksites with three out of four workers, and two out of three workers, leaving within 12 months or less to be equivalent to “virtually no workers remained employed by the same employer more than 12 months.”

I10. If an SEA is documenting the temporary nature of employment that appears to be constant and available year-round, does it make its temporary determination by employer or by worksite?

An SEA that wants to document the temporary nature of employment that appears to be constant and available year-round is only required to make this determination by employer. Specifically, § 200.81(k) requires an SEA, for employment that appears to be constant and available year-round, to document that virtually no agricultural or fishing workers, whose children the SEA previously identified as eligible for the MEP, “remained employed by the same employer more than 12 months” (emphasis added).

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However, in cases where the employer has several worksites, the Department recommends that the SEA consider going further, and conduct its study by each of the employer's worksites. Conducting an attrition rate study by worksite allows an SEA to continue qualifying the children of agricultural or fishing workers who are employed at worksites that have a 90% or higher attrition rate even though the attrition rate for the employer (which combines all of the worksites) might be less than 90%. In this situation, if the SEA only conducted its attrition rate by employer, it would no longer be able to qualify the children of agricultural or fishing workers employed by this employer, because the employer's overall attrition rate is not 90% or higher.

Note, given the possible benefit of conducting an attrition rate study by employer's worksite, the remainder of the discussion about attrition rate studies uses this perspective.

I11. How would an SEA conduct an attrition rate study?

The Department suggests following these steps:

1. Generate a list of migratory agricultural and fishing workers whose children are currently qualified as eligible under temporary employment.
2. Separate COEs for these workers into two categories: Category A – determinations of temporary employment based on the worker's or employer's statement that the job was temporary or the worker would not remain employed longer than 12 months; and Category B – determinations of temporary employment based on employment that appeared constant and available year-round, but which the SEA determined to be temporary. Note, COEs classified as Category A should not be factored into the attrition rate study or calculation since the purpose of the study is to confirm whether the SEA's determination is correct. COEs classified as Category B will represent the pool of workers whose employment appears constant and available year round but that the SEA has determined to be temporary.
3. Further separate the COEs for Category B by worksite if this has not been done already.
4. Contact each of these workers (or the workers' employer) to determine or verify:
 - a. whether the worker is still employed at the same worksite listed on the COE;
 - b. when the worker started working at that worksite;
 - c. when the worker stopped working at the worksite (if the worker has stopped working at the worksite); and
 - d. whether the worker's employment was terminated and resumed at any time during the 12 months.
5. Use the information from the results of the interviews to determine which of the Category B workers were employed at the same worksite for 12 months or less.

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6. Calculate the percent of agricultural and fishing workers by worksite that the SEA can verify as being employed at that worksite for 12 months or less. See I12, immediately below, for information about calculating the attrition rate.

I12. How can an SEA calculate an attrition rate?

Attrition rates can be calculated as follows:

- (1) Determine the total number of agricultural and fishing workers at each worksite whose children were qualified as eligible according to the SEA's determination of temporary employment for employment that appears to be constant and available year-round; *i.e.*, steps 1 through 3 in I11, immediately above. Consider this number to be "Y".
- (2) Determine the number of agricultural and fishing workers by worksite identified in Step 1 who were employed for 12 months or less; *i.e.*, step 4 and 5 in I11, immediately above. Consider this number to be "X".
- (3) Divide "X" by "Y" and multiply this number ("Z") by 100 to give you the attrition rate for each worksite in a percentage.

Attrition Rate formula:

$$X / Y = Z \quad \longrightarrow \quad Z \times 100 = \text{Attrition rate (\%)}$$

The following example demonstrates how the formula works:

Worksite USA

(X) Total number of agricultural workers from worksite USA that were employed for 12 months or less

32

(Y) Total number of agricultural workers at worksite USA whose children are qualified as eligible according to the SEA's prior determination of temporary employment that appears to be constant and available year-round

120

Calculation:

$$X / Y = Z \quad \longrightarrow \quad Z \times 100 = \text{Attrition Rate (\%)}$$

$$32 / 120 = 0.266 \quad \longrightarrow \quad 0.266 \times 100 = 27\% \text{ (round to the nearest tenth)}$$

In this example, only 27% of agricultural workers at worksite USA were no longer employed after 12 months (i.e., 73% of workers were employed longer than 12 months). Despite the fact that workers at worksite USA were previously determined to be eligible for the MEP, agricultural or fishing work at worksite USA can no longer be considered temporary employment. This is because the SEA could not determine that “virtually no workers remained employed by [worksite USA] more than 12 months,” as required by § 200.81(k) of the regulations. Therefore, the SEA must stop recruiting workers at worksite USA based on the SEA’s own determination of temporary employment. Workers at the site may still be determined to be migratory workers if the determination of temporary employment is based on the worker’s or employer’s statement. See I21 of this chapter.

I13. How would an SEA select the workers for its attrition rate study?

An SEA may use any approach that is reasonable to select workers for participation in its attrition rate study.¹ Below are two suggested approaches. In both examples, the SEA should only include in its sample migratory agricultural workers and fishers whose children (or the children themselves if they were the workers) were previously determined to be eligible based on the SEA’s prior determination that the worker’s constant and available year-round employment was actually temporary. In other words, these samples would not include the children of workers whose employment was determined to be temporary based on the worker’s statement or the employer’s statement.

1. This approach relies on workers whose children were identified as eligible for the MEP during a specified 12-month time period. Depending on the 12-month time period that the SEA selects, this option will allow the SEA to determine the temporary nature of employment at a particular worksite as quickly as the SEA can conduct the interviews with the workers and analyze the data. To select workers² using this approach, the SEA should generate a list of workers whose children were identified as eligible for the MEP during a specified 12-month time period (e.g., between September 1, 2008, and August 31, 2009). The SEA should select a time period that is sufficiently recent to ensure the most accurate data. However, to complete the attrition rate study as quickly as possible, it might want to ensure that at least 12 months have passed from the date the last child in the study was determined eligible. For example, if the last child in a September 1, 2008 through August 31, 2009 12-month list was determined eligible on August 31, 2009, the worker has until August 31, 2010, to leave his or her job before the SEA can determine whether

¹ This guidance does not address requirements for statistically valid samples. SEAs should consult their own statistical experts if they choose to sample rather than interview the entire population.

² Again, as used in these two approaches, the term “workers” should include only migratory agricultural workers and fishers whose children (or the children themselves if they are the workers) were previously determined to be eligible based on the State’s prior determination that the workers’ employment was temporary.

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the worker was employed at the same worksite for longer than 12 months. Thus, the overall timeframe for the attrition rate study would end on August 31, 2010. (That is, the period of analysis for this sampling approach will be no longer than 24 months.)

2. This approach selects workers whose children were identified as eligible for the MEP at a specific date in time. Depending on the date that the SEA chooses, it might have to wait as long as 12 months to complete its attrition rate study. To select workers using this approach, the SEA should generate a list of all workers whose children were eligible for the MEP at a specific date in time, for example, September 1, 2009. (Note: given a child's 36-month period of eligibility, children with qualifying arrival dates as early as September 2, 2006, will be included on this list.) When using this approach, the SEA should select a specific date in time that is sufficiently recent to ensure the most accurate data, but it should keep in mind that, depending on the date chosen, the SEA may have to wait as many as 12 months for the results of its attrition rate study. For example, if the SEA generates a list of children who were eligible on September 1, 2009, the sample could include children whose qualifying arrival date was as recent as August 31, 2009, and whose parent began his or her employment on that same date. In this situation, the worker has until August 31, 2010, to leave his or her job before the SEA can determine whether the worker was employed at the same worksite for longer than 12 months.

These are just two approaches an SEA can use to select its workers to test whether employment that appears constant and available year-round can reasonably be considered temporary employment. The approach an SEA uses will depend on the amount of time the SEA has to complete its attrition rate study and what data the SEA has about such employment: *e.g.*, the number of years the SEA has been collecting needed data, and the specific data the SEA has been collecting.

I14. Is an attrition rate study the only vehicle SEAs may use to determine and document the temporary nature of work that appears to be constant and available year-round?

No. An attrition rate study is one way an SEA might determine and document that of those agricultural and fishing workers whose children were previously determined to be eligible based on the SEA's prior determination of the temporary nature of such employment (or the children themselves if they are the workers), virtually no workers remained employed by the same employer more than 12 months. Any SEA that adopts an alternate process should ensure that its process adequately determines that "virtually no workers remained employed...more than 12 months" and should document its basis for reasonably making this conclusion.

I15. Should an SEA include in its attrition rate study workers whose temporary employment determination was based on the worker’s statement or the employer’s statement?

No. As we noted in step 2 of I11 of this chapter, the SEA should not include in its attrition rate study workers whose temporary employment determination was based on the worker’s statement or the employer’s statement. The purpose of the study is to determine whether employment that appears to be constant and year round is, in fact, temporary. In these cases, either the worker or the employer has already determined that the employment will not last longer than 12 months.

I16. Should an SEA include in its attrition rate study workers who sought, but did not obtain, temporary employment in agricultural or fishing work?

No. In this situation, the worker never obtained the employment, therefore, the SEA cannot determine the length of time the worker was employed.

However, if the SEA knows that a specific worker obtained qualifying work after his or her children were recruited in to the MEP, the SEA should include the worker in the study and subsequently determine the length of time he or she was employed.

I17. What should an SEA do if, when conducting its attrition rate study, it cannot locate a worker whom it previously determined was employed temporarily based on its own determination?

In situations where the SEA cannot locate a worker whom it previously determined was employed temporarily based on the SEA’s determination, the SEA should contact the employer for information about the worker’s length of employment. The SEA should only presume that the worker was not employed more than 12 months if the SEA can document that (1) the worker is no longer employed by the employer listed on the COE and (2) the worker was not employed by that employer for more than 12 months.

If the SEA is unable to verify a worker’s length of employment by asking the employer, then the SEA may follow up with the children’s school district to see if the worker’s children are still enrolled and, if so, to obtain the worker’s most up-to-date contact information. The SEA could also check its State database or MSIX to determine if either of these resources has current information on the worker. If the SEA obtains more current contact information, it should again try to speak with the worker to determine that (1) the worker is no longer employed by the employer listed on the COE, and (2) the worker was not employed by that employer for more than 12 months. The Department strongly recommends that the SEA establish a process for recruiters to follow when verifying whether a worker is no longer employed at a worksite.

If the SEA can document that (1) the worker is no longer employed by the employer listed on the COE and (2) the worker was not employed by that employer for more than

12 months, it should include the worker in both the X and Y variables described in question I12 of this section. If the SEA cannot confidently document both of these criteria, then it should not include the worker in either variable.

I18. When calculating attrition rates, how should an SEA take into account a migratory agricultural or fishing worker who changed jobs but is still employed at the same worksite?

The fact that a worker changed jobs is irrelevant. A worker who changes jobs at a worksite should be included, in an attrition rate study, in the same manner as all other workers—by considering whether he or she remained employed at the worksite for 12 months or less.

I19. What should an SEA do if it determines that employment at a particular worksite does not meet the “virtually no workers remained employed...more than 12 months” threshold? Must the SEA stop serving, and remove from its rolls, those children whom it recruited in good faith?

If the SEA determines that employment at a worksite does not meet this threshold, it must stop recruiting the children of workers at these worksites on the basis of the SEA’s own documentation that the employment at the worksite is temporary, because it has found otherwise. However, the SEA may continue to qualify the children of workers at these worksites if the determination of temporary employment is based on the worker’s or the employer’s statement that the work is to be temporary and the worker will not remain employed longer than 12 months, the child would still be eligible for the MEP (assuming all other eligibility criteria are met).

Children who were recruited by the SEA (1) on a reasonable basis (i.e., in good faith) that the employment that appeared constant and year-round could be considered temporary (see H11 of this chapter and the corresponding references), and (2) before the SEA completed its attrition rate study, remain eligible for the duration of their 36-month eligibility period starting with their last qualifying move.

I20. Once the SEA has determined which worksites meet the “virtually no workers remained employed by the same employer more than 12 months” threshold, can it find all children of agricultural or fishing workers at those sites to be eligible for the MEP?

Yes, provided that the children meet all other MEP eligibility requirements. The purpose of determining which worksites meet the “virtually no workers remained employed...more than 12 months” threshold is to permit anyone who works in agricultural or fishing work at these worksites to be considered employed on a temporary basis, regardless of any employer or worker statement that the work is intended to be permanent, and thus to permit their children to be considered migrant so long as all other MEP eligibility criteria are met.

I21. If an SEA has determined that employment at a particular worksite is not “temporary employment” (based on the SEA’s documentation), but the worker indicates that he or she intended to remain employed at that site less than 12 months, can the SEA qualify the child so long as all other eligibility criteria are met?

Yes. As we noted in I19 of this chapter, an SEA may rely on a worker’s statement to determine that employment is temporary even if the SEA’s documentation demonstrates that the constant and available year-round employment is not “temporary”. In this case, it is the worker’s statement about his or her intention that makes the employment temporary.

J. Other Changes to MEP Eligibility

J1. Does the migratory worker’s temporary or seasonal agricultural or fishing employment have to be a “principal means of livelihood”?

No. The MEP regulations published on July 29, 2008, removed the prior requirement that one’s agricultural or fishing work needs to be a principal means of livelihood.

J2. Does the fact that a worker and child moved to relocate permanently affect the child’s eligibility for the MEP?

No. The July 29, 2008 regulations define “move” or “moved” as it pertains to the MEP as a change from one residence to another residence that occurs due to economic necessity. Under this definition, the fact that a worker moved to permanently relocate does not matter so long as (1) another purpose of the worker’s move was to obtain either qualifying work or any employment (not to include a move specifically for non-qualifying work), (2) the worker obtained qualifying work soon after the move, and (3) all other conditions of a qualifying move were met.

J3. Must the SEA consider whether an “initial commercial sale” has occurred in order to determine if the agricultural or fishing work can be considered qualifying?

No. The new regulations also removed the phrase “initial commercial sale” from the definition of agricultural work and fishing work. SEAs are no longer required to determine whether an “initial commercial sale” has occurred in order to determine if the work can be considered agricultural work or fishing work for purposes of the MEP.

K. Documenting Eligibility

K1. What responsibility does an SEA have to document eligibility determinations?

An SEA must document eligibility determinations in order to comply with § 76.731 of EDGAR, which provides that “[a] State and a subgrantee shall keep records to show its compliance with program requirements.” As the MEP statute and regulations provide that only eligible migrant children (*i.e.*, those who meet the definitions contained in section 1309(2) of the MEP statute and § 200.81 of the MEP regulations) may be counted for and served by the MEP, each SEA must maintain documentation to confirm the eligibility of each child whom the SEA considers to be eligible for the program. In this regard, § 200.89(c) of the regulations requires an SEA and its local operating agencies to use the Certificate of Eligibility (COE) form established by the Secretary to document the State’s determination of the eligibility of migratory children. (For more information about ID&R quality control requirements, see Chapter III titled Identification, Recruitment, and Quality Control.)

K2. What does the COE established by the Secretary require?

The COE established by the Secretary (the “national COE”) consists of required data elements and required data sections necessary for documenting a child’s eligibility for the MEP. A third part, for State-requested or required information, is optional. Each State’s COE may look different, but every State’s COE must include all of the required data elements and the required data sections contained in the national COE.

K3. What are the required data *elements* of the national COE?

The required data elements of the national COE are organized as Family Data and Child Data. The Family Data are as follows: Male Parent/Guardian Last Name, Male Parent/Guardian First Name, Female Parent/Guardian Last Name, Female Parent/Guardian First Name, Current Address, City, State, Zip Code, and Telephone. The Child Data are as follows: Last Name 1, Last Name 2, Suffix, First Name, Middle Name, Sex, Birth Date, Multiple Birth Flag (or MB), Birth Date Verification Code (or Code), and Residency Date.

K4. What are the required data *sections* for the national COE?

The required data sections mandated by the national COE are as follows: Qualifying Move & Work Section, Comment Section, Parent/Guardian/Worker/Spouse Signature Section, and Eligibility Certification Section. The content of these sections must remain unaltered, with limited exceptions. Certain formatting changes are allowable.

K5. May an SEA include its own State-requested or State-required information on the national COE?

Yes. As mentioned in K2 of this chapter, an SEA may include State-requested or State-required information on the national COE, within certain parameters. An SEA may only include its own information to the extent space is available on the single page in which the required data elements and the required data sections are included. However, an SEA may include its own information on additional pages that are to be attached to the single eligibility page. And, in general, an SEA may not collect any State-required or State-requested information inside any of the required data sections on the national COE. The Department has made limited exceptions to this last standard. For more information about exceptions for State-requested or State-required information, please see the national COE instructions at <http://www2.ed.gov/programs/mep/legislation.html>.

K6. Where can an SEA find more information about the national COE requirements?

Detailed information about the national COE, including how to complete a COE and specifics about how a State may design its COE to be in compliance with the July 2008 regulatory requirements, is available on the Department's website at <http://www2.ed.gov/programs/mep/legislation.html> or by calling the Department's Office of Migrant Education at (202) 260-1164.

K7. Must each SEA maintain a COE on all children eligible for the MEP?

Yes. Every child who the SEA determines is eligible for the MEP must have the basis for his or her eligibility recorded on the national COE. Children within the same family may be recorded on one COE so long as all of the children have the same eligibility information.

K8. When should a recruiter complete a new COE?

In order to ensure that children remain eligible to be counted and served by the MEP as long as is appropriate, recruiters should complete a new COE every time a child makes a new qualifying move.

K9. Must the parent or guardian sign the national COE?

Except for a few limited exceptions, yes. (See the instructions for completing the national COE at <http://www2.ed.gov/programs/mep/legislation.html> for more information about these exceptions.) By signing the national COE, the parent or guardian confirms that the information he or she provided is accurate and identifies who provided the information so that the SEA can verify information contained on the COE at a later date, if necessary.

K10. Must the recruiter sign the national COE?

Yes. The recruiter's signature on the national COE certifies that: (1) the children are eligible for the MEP, and (2) the information upon which the recruiter based the eligibility determination is correct to the best of his or her knowledge. Moreover, under § 200.89(c) and (d), the Department requires this signature on the national COE as an element of a reasonable system of quality control.

K11. Must someone else review the information on the national COE?

Yes. As part of a sound system of quality control, § 200.89(d)(4) of the MEP regulations (as revised on July 29, 2008) requires that the system of quality control that an SEA establishes must include “[a]n examination by qualified individuals at the SEA or local operating agency level of each COE to verify that the written documentation is sufficient and that, based on the recorded data, the child is eligible for MEP services.” Therefore, the SEA may designate someone at the State, regional, or local level to assume this responsibility. This person must sign and date the national COE to indicate that this level of review has occurred. (For more information about ID&R quality control requirements, see 34 CFR 200.89.)

K12. May an SEA base its determination of a child’s eligibility on a qualifying move that occurred in another State within the past 36 months?

Yes. It is possible that a child and his or her family will make a qualifying move, for example, to State A and then make a subsequent non-qualifying move to State B. So long as State B identifies the child within 36 months of the qualifying move, it may enroll the child in the MEP on the basis of the qualifying move to State A for the remainder of the 36 months. In doing so, State B makes its own independent determination that the child is eligible based on the earlier qualifying move as well as completes its own State’s COE. SEAs are encouraged to coordinate with the State in which the qualifying move occurred to confirm the qualifying information.

K13. May a recruiter accept automatically another State’s COE as evidence of a child’s eligibility for the MEP?

No. Each State is responsible for making its own eligibility determination for the children it enrolls in the MEP. However, the Department encourages States to share information and to utilize each other’s information to assist in making eligibility determinations.

Sample Interview Script

Section 1: Lay the Groundwork for the Interview

Section 2: Transition to the Interview

Section 3: Gather Information on Child Eligibility

Factor 1 – Age of Child(ren)

Factor 2 – School Completion

Factor 3 – Move Across School District Boundaries

Factor 4 – Date of Move

Factor 5 – Reason for the Move

Factor 6 – Qualifying Work:

- Agriculture or fishing work or
- Temporary or seasonal employment

Section 4: Transition to the Confirmation Process

Section 5: Confirm Responses for Child(ren), Confirm Responses for Out-of-School Youth

Section 6: Close the Interview

Sample Interview Script

Section 1: Lay the Groundwork for the Interview

Excerpt from U.S. Department of Education 2007, pages 183–92.

Introduce Yourself	Hello, my name is _____. I work with the Migrant Education Program. ¹ It is a program that is provided through the school that could help you or your children with their education. If I can speak to you for a few minutes about your family and your work, some members of your family might be eligible for services. Even if you are not eligible, I know of some other helpful programs that I can tell you about.
Build Rapport	<i>[Look for connections that you can make with the family. For example, did your children go to the same school that the children attend? Finding something positive to say about the parent or child may also help to put the family at ease.]</i>
No Children	If you don't have any children, I might be able to tell you about some programs that could help you with your education.
Credentials	Here is my identification (or business card). It shows that I work for the Migrant Education Program.
Not in Sales	I am not selling anything. In fact I have some things I would like to give you for free. Here is a brochure about the Migrant Education Program and <i>[give the family other free promotional items like the school's student handbook]</i> .
Privacy	The information you share with me is private, and will be used for educational purposes only. I don't share information with other agencies or government departments unless I have your permission to do so.
Better Time	Is this a good time to talk? I can talk with you at another time if that would be more convenient.

¹ Some programs avoid using the word "migrant" because they are concerned that families may confuse it with the word "migra," which refers to the immigration service in Spanish.

Sample Interview Script

Section 2: Transition to the Interview

Explain the Interview	The Migrant Education Program helps families that have done short-term or seasonal fieldwork, meat processing, nursery work, or even fishing. I need to ask some questions about you and your family to find out if this program can help you. For example, I'll ask about your ages, the work you've done, and where you have lived and gone to school. We will talk about those things for a little while and then I will summarize what you have told me.
Repeat Questions	Just to be sure that I understood what you told me, I might repeat questions, or ask for the same information in a different way.
Probes	If you don't remember something, I will try to help you by asking other questions.
Documents	If you have documents that have information about your family, you can use them to help you answer my questions.
Time to Recall	If you don't know the answers to some of my questions, I can always call you or come by later to finish up our conversation.
Personal Information	I apologize if some of the questions I'll ask seem very personal. I don't mean to offend you, but I need this information to see if this program can help you.

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 1: Age of Eligible Children – The child is younger than 22 years of age.

	Yes	No	Notes
<p>1. Do you have any children?²</p> <p>a. Are you a parent?</p> <p>b. Do you have any stepchildren?</p>			
<p>2. Are there any children living with you in your house who are younger than 22?</p> <p>a. Are you a guardian for any children?</p> <p>b. Do you help provide for (support) any children?</p> <p>c. Do you help provide for (support) any younger brothers or sisters?</p> <p>d. Do you help provide for (support) any other family members (e.g., nieces or nephews)?</p>			
<p>3. What are their names and ages?</p> <p>a. Are any of your children younger than 22?</p> <p>b. How old was each child on his or her last birthday?</p>			<i>List their names and dates of birth on the COE form.</i>
<p>4. Are you younger than 22?</p> <p>a. How old are you?</p> <p>b. When were you born?</p> <p>c. How old were you on your last birthday?</p>			
<p>5. Are you married?</p> <p>a. Do you live with a partner (mate, companion, spouse)?</p> <p>b. Does your spouse live in this area?</p> <p>c. Is your spouse younger than 22?</p> <p>d. How old was your spouse on his/her last birthday?</p>			

² Throughout this document, “your children” refers to any child(ren) the interviewee has reported having responsibility for (e.g., providing support).

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 2: School Completion³ - The child is eligible for a free public education (e.g., the child is not a high school graduate and does not hold a high school equivalency certificate).

	Yes	No	Notes
<p>6. <i>[If the family has older children or young adults]</i> Have any of the older children graduated from high school?</p> <p>a. Have any of the children completed <i>preparatoria</i> (or the equivalent) in their/your home country? <i>[Preparatoria is the term used for high school in the Spanish language.]</i></p> <p>b. Have any of the children obtained a general equivalency degree (GED)?</p> <p>c. Did they take a test and receive a certificate that said they passed high school?</p>			
<p>7. Have you graduated from high school?</p> <p>a. Did you complete <i>preparatoria</i> (or the equivalent) in your home country?</p> <p>b. Did you get a GED?</p>			
<p>8. Did your spouse graduate from high school?</p> <p>a. Did he/she complete <i>preparatoria</i> (or the equivalent) in your home country?</p> <p>b. Did he/she get a GED?</p>			

³ The recruiter should learn which children are still entitled to a free public education in his or her State. For example, in most States children are no longer entitled to a free public education once they have reached a specific age. Furthermore, what constitutes “school completion” may vary from State to State since each State sets its own requirements for high school diplomas, General Educational Development tests (GED) and “Certificates of Completion.” Under State law in some States, having been awarded a GED, a certificate of completion, a certificate of course completion, or a certificate by any other name does not terminate a person’s right to pursue a high school diploma. In other States, the opposite would be true.

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 3: Move Across School District Boundaries – The children moved from one school district to another.

	Yes	No	Notes
<p>9. Have you ever moved?</p> <p>a. How long has your family been living in <i>[name of current home town]</i>?</p> <p>b. Have you always lived here (community, house, apartment)?</p> <p>c. Did you ever travel (live, go) anywhere else?</p> <p>d. Where have you traveled in the last three years?</p> <p>e. Where have you gone (been) recently?</p> <p>f. Have your children ever gone to a different school?</p>			
<p>10. Where did you move from? Where did you move to?</p> <p>a. Did your children go to a different school after you moved?</p> <p>b. Did your children have to change schools because you moved?</p>			
<p>11. Who moved with you?</p> <p>a. Did your spouse move?</p> <p>b. Did all of your children move?</p> <p>c. Did the children move with you?</p> <p>d. Which of your children did not move?</p> <p>e. Will/Did any of your children join you here later?</p> <p>f. Have you ever moved after your children moved?</p> <p>g. How long after you moved did <i>[name of family member]</i> join you?</p> <p>h. When will your children join you?</p>			<p><i>A separate COE would need to be completed for any child who had a different qualifying arrival date.</i></p>

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 4: Date of Move – The children moved within the past 36 months.

	Yes	No	Notes
<p>12. When did you last move?</p> <p>a. When was the last time (most recent) that you moved to look for work in agriculture or fishing?</p> <p>b. When did you arrive here? (date or approximate date; month & year)</p> <p>c. Did you move within the past three years?</p> <p>d. If you can't remember the date when you moved, do you remember:</p> <p>a) If it was warm or cold when you moved?</p> <p>b) What grade your child was in?</p> <p>c) Whether there was a holiday or family event that occurred around the time you moved?</p> <p>d) If it was before or after <i>[insert a major historical event, like September 11th]</i>?</p>			

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 5: Reason for the Move – The worker moved in order to seek or obtain qualifying work.

	Yes	No	Notes
13. Why did you move here? a. What are some of the reasons you moved? b. What would you say is the most important reason you moved? c. What kind of work were you trying to find? d. How did you know this kind of work was available? e. Would you have moved if this work was not available? f. Did you know this work was available before you moved? g. How did you know the work was available?			
14. If you moved to find work, are you doing this type of work now? a. Did <i>[name of family member]</i> find the kind of work he/she was lo			

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 5: Reason for the Move – The worker moved in order to seek or obtain qualifying work.

	Yes	No	Notes
15. If the answer to question 14 is “no,” ask the following: a. What did you do to look for work? b. Did you fill out an application for employment? c. Where did you apply? d. Why were you not able to find the work? e. Can you tell me the names of employers that you contacted? f. Whom did you talk to? g. When did you apply for this work? h. Did someone take you there? What is the person’s name? i. Before you moved here, were you employed? j. What kind of work did you do before you moved here? k. Where did you work before you moved? What kind of work did you do? l. Before you moved here, was anyone else who was part of your household employed? m. What kind of work did they do? n. Did they have to work to help pay for food, clothing, and housing? o. Have you done this type of work before? p. Where and when? q. Where do you work now? What kind of work do you do there?			

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 6: Qualifying Work – The worker sought or obtained temporary or seasonal employment in agricultural or fishing work.

Factor 6(a): Agricultural or Fishing Work

	Yes	No	Notes
16. What kind of work do you do? a. Where do you work? b. What do you do there each day? If you didn't find the work you wanted, what kind of work were you looking for?			

Factor 6(b): Temporary or Seasonal Work

	Yes	No	Notes
17. When you moved here originally, did you plan to stay permanently? a. How long do you plan to do this work? b. Were you hired for a certain amount of time? c. When does this job end? d. When this work ends, will you do other work for your current employer? e. Do you always do the same thing at work? f. How long did you do this work?			

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Factor 6: Qualifying Work – The worker sought or obtained temporary or seasonal employment in agricultural or fishing work.

Factor 6(b): Temporary or Seasonal Work

	Yes	No	Notes
<p>18. Do you ever take time off from your work and travel to another place?</p> <p>a. Do you go back to your home country?</p> <p>b. Why do you go? (e.g., visit family, wedding, festival, save on expenses, maintain property in home country, work in home country)</p> <p>c. Could you have continued to work or did your job end?</p> <p>d. Were you still employed while you were gone?</p> <p>e. Were you paid for your vacation time?</p> <p>f. Were you laid off when you left?</p> <p>g. Did you have to reapply for your job when you came back?</p> <p>h. Did you think the same company would hire you again?</p> <p>i. How long have you worked for the same employer?</p> <p>j. How long are you gone when you leave?</p> <p>k. How long have you lived in this community?</p> <p>l. Do you own a home?</p> <p>m. Do you return to the same home?</p> <p>n. Do you sublet your home (apartment) while you are gone?</p> <p>o. Do you go back to your home country because it's cheaper to live there?</p> <p>p. How many miles do you travel when you move?</p> <p>q. How often do you take a break from your job? (e.g., every year?)</p> <p>r. Do your children miss school while you are gone? If so, how much do they miss?</p>			

Sample Interview Script

Section 3: Gather Information on Child Eligibility

Additional Questions Regarding Economic Necessity Of Family – Optional

	Yes	No	Notes
19. Are you employed anywhere else?			
20. Do other people in your family have other work? a. What work do they do? b. Do they have to work to help pay for food, clothing, and housing? c. Is the income that other family members earn enough to support your family?			
21. Does your family have other sources of income? (e.g., government payments)			
22. How many dependents are in your household? a. What work do they do? b. Do they have to work to help pay for food, clothing, and housing? c. Is the income that other family members earn enough to support your family?			
23. Do you need your current work to pay for food, clothing, and housing? a. Would you be able to support your family without the <i>[agricultural/fishing]</i> work?			

Complete COE Form

	Yes	No	Notes
24. Now I want to fill out the remaining information on the Certificate of Eligibility Form for the Migrant Education Program.			

Sample Interview Script

Section 4: Transition to the Confirmation Process

Wrap Up

You've been very helpful. I'm going to follow up with my office so they can decide if you and your family are eligible for the program. After all this discussion, do you have anything else to add, or any questions for me?

Introduce Summary

Now I am going to summarize some of the information you told me. Please listen carefully and see if I understood the information that you provided. If I didn't understand something you said, PLEASE let me know and I will change it.

Sample Interview Script

Section 5a: Confirm Responses — For Children

Let me read this to you carefully. It sounds very formal, but I need to make sure I understood everything you told me.

Names and Ages	Your child(ren) <i>[first and last name of children]</i> , _____ _____, age(s) _____ (respectively),	
School Completion	have not graduated from high school or obtained a GED, and	
Move	<p>moved from a residence in _____ <i>[school district/city/State/country]</i> to a residence in _____ <i>[school district/city/State/country]</i> on _____ <i>[month, day, year]</i> <input type="checkbox"/> with or <input type="checkbox"/> to join or precede <i>[name of worker]</i> _____,</p> <p>The Qualifying Arrival Date (QAD) was _____ <i>[month, day, year]</i>.</p>	
Worker	The worker in your family is the child(ren)'s <input type="checkbox"/> parent , or <input type="checkbox"/> guardian , or <input type="checkbox"/> spouse , or <i>(other)</i> _____ <i>[identify relationship to child]</i> .	
Reason for the Move	<p>The worker moved due to economic necessity in order to obtain:</p> <p><input type="checkbox"/> qualifying work, and obtained qualifying work, OR</p> <p><input type="checkbox"/> any work, and obtained qualifying work, OR</p> <p><input type="checkbox"/> qualifying work specifically, but did not obtain the work. If the worker did not obtain the qualifying work:</p> <p><input type="checkbox"/> The worker has a prior history of moves to obtain qualifying work <i>(comment needed)</i>, OR</p> <p><input type="checkbox"/> There is 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 <i>(comment needed)</i>.</p>	
Qualifying Work - Temporary or Seasonal Employment	<p>The qualifying work sought or obtained was in <input type="checkbox"/> temporary or <input type="checkbox"/> seasonal employment. The work was determined to be temporary employment based on:</p> <p><input type="checkbox"/> worker's statement <i>(comment needed)</i>, OR</p> <p><input type="checkbox"/> employer's statement <i>(comment needed)</i>, OR</p> <p><input type="checkbox"/> verification of State documentation for _____ <i>[employer]</i>.</p>	
Agriculture or Fishing Work	Doing* _____ <i>[describe agricultural or fishing work]</i> , <input type="checkbox"/> agricultural or <input type="checkbox"/> fishing work .	
Self-Employed Personal Subsistence	<p>*If applicable check (provide comment):</p> <p><input type="checkbox"/> personal subsistence <input type="checkbox"/> self-employed</p>	Comments:

Sample Interview Script

Section 5b: Confirm Responses — For Out-of-School Youth

Names and Ages	You, _____ [first and last name of worker], are _____ [age], and	
School Completion	have not graduated from high school or obtained a GED, and	
Move	<p>moved from a residence in _____ [school district/city/State/country] to a residence in _____ [school district/city/State/country] on _____ [month, day, year] on own as a worker.</p> <p>The Qualifying Arrival Date (QAD) was _____ [month, day, year].</p>	
Reason for the Move	<p>The move was due to economic necessity in order to obtain:</p> <p><input type="checkbox"/> qualifying work, and obtained qualifying work, OR</p> <p><input type="checkbox"/> any work, and obtained qualifying work, OR</p> <p><input type="checkbox"/> qualifying work specifically, but did not obtain the work. If the worker did not obtain the qualifying work:</p> <p><input type="checkbox"/> The worker has a prior history of moves to obtain qualifying work (comment needed), OR</p> <p><input type="checkbox"/> There is 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 (comment needed).</p>	
Qualifying Work - Temporary or Seasonal Employment	<p>The qualifying work sought or obtained was in <input type="checkbox"/> temporary or <input type="checkbox"/> seasonal employment. The work was determined to be temporary employment based on:</p> <p><input type="checkbox"/> worker's statement (comment needed), OR</p> <p><input type="checkbox"/> employer's statement (comment needed), OR</p> <p><input type="checkbox"/> verification of State documentation for _____ [employer].</p>	
Agriculture or Fishing Work	Doing* _____ [describe agricultural or fishing work], <input type="checkbox"/> agricultural or <input type="checkbox"/> fishing work .	
Self-Employed Personal Subsistence	<p>*If applicable check (provide comment):</p> <p><input type="checkbox"/> personal subsistence <input type="checkbox"/> self-employed</p>	Comments:

Sample Interview Script

Section 6: Close the Interview

Sign COE Form	If the information that I have confirmed with you is correct, the interview is now over. Would you please sign the Certificate of Eligibility (COE) form here to confirm that the information that you have provided is correct? Your signature simply means that you confirm that I've written what you told me.
Give copy of COE to family	Here is a blank copy of the form that I went over with you that you can keep so you have a record of the questions that I asked you. <i>[Please give the family a copy of the form in the family's native language, if possible.]</i> If your child is determined to be eligible, I will mail a completed copy of this form to you. <i>[If the date the family signed and the date the interviewer signed are different, a brief explanation should be provided in the comment section.]</i>
Decide Eligibility	I need to take this form back to my office so my supervisor can decide whether the program can help your children. If we can, you will need to sign some permission forms. <i>[Describe other "next steps"]</i> . I will also get answers to your questions regarding <i>[describe questions]</i> . <i>[For children who are clearly not eligible, suggest other services that the family might find helpful.]</i>
Re-interviewing	Another person who works with the Migrant Education Program may follow up with you to make sure that I recorded all of your answers properly and to confirm that your child is eligible for the program.
Referrals	Do you know if there are any other children in this area who might be eligible for the Migrant Education Program? Would it be possible for me to leave some extra business cards that you could give to other families who are doing similar work and who may have children who might be eligible?
Thank You	Do you know if there are any other children in this area who might be eligible for the Migrant Education Program? Would it be possible for me to leave some extra business cards that you could give to other families who are doing similar work and who may have children who might be eligible?

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Websites and Links

- Adult Learning Resource Center – <http://www.thecenterweb.org/alrc/index.html>
- ESCORT – <http://www.escort.org>
- Federal Emergency Management Agency – [http://www.fema.gov/Health and Safety](http://www.fema.gov/Health%20and%20Safety)
- Safety/Training Orientation Guide for Outreach Workers (English, Spanish, or Hmong) – <http://www.mcw.edu/outreachsafetytraining>
- My Personal Safety Plan – [http://www.peelpolice.on.ca/Specialized%20Units/Community%20Support%20Bureaus/ecms.aspx/\\$prp/Images/Internal/family%20violence/MYPERSONALSAFETYPLAN.pdf](http://www.peelpolice.on.ca/Specialized%20Units/Community%20Support%20Bureaus/ecms.aspx/$prp/Images/Internal/family%20violence/MYPERSONALSAFETYPLAN.pdf)
- PR & First Aid Online Training & Certification – <http://www.ecprcertification.com>
- Online First Aide Course – <http://www.icpri.com>
- Harvest of Hope Foundation – <http://www.harvestofhope.net>
- Mexican Cities and States – http://www.maps-of-mexico.com/mexico_states.shtml
- National Center for Farmworker Health (NCFH) – <http://www.ncfh.org>
- National Head Start Association – <http://www.nhsa.org>
- National HEP CAMP Association – <http://www.hepcamp.org>
- National PASS Center (NPC) – <http://migrant.net/pass/> California
- Migrant Students Records Exchange Initiative (MSIX) – <https://msix.ed.gov>
- National Association of State Directors of Migrant Education (NASDME) – <http://www.nasdme.org>
- Office of Migrant Education (OME) – <http://www2.ed.gov/about/offices/list/oese/ome/index.html>
- Solutions for Out-of-school Youth – <http://www.osymigrant.org>
- Texas Migrant Interstate Program – <http://www.psjatmip.schoolfusion.us>
- U.S. Department of Agriculture (USDA) – <http://www.usda.gov>
- U.S. Department of Health and Human Services (HHS) – <http://www.hhs.gov>
- U.S. Department of Labor (DOL) – <http://www.dol.gov>
- U. S. Department of Education (USDE/ED) – <http://www.ed.gov>
 - Idaho Migrant Education Program -- http://www.sde.idaho.gov/site/migrant_edu/
 - Idaho State Department of Education -- <http://www.sde.idaho.gov/>
 - Boise State University C.A.M.P. -- <http://education.boisestate.edu/camp/index.htm>
 - University of Idaho C.A.M.P. -- <http://www.uidaho.edu/studentaffairs/oma/camp>
 - Boise State University HEP Program -- <http://hep.boisestate.edu/>
 - Idaho Migrant Student Data Collection Information -- http://www.sde.idaho.gov/site/migrant_edu/studentData.htm
 - Idaho PASS Program Information -- http://www.sde.idaho.gov/site/migrant_edu/pass.htm

Appendix 3 - Idaho Agricultural Information

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CROP ACTIVITY 2011

NORTHERN IDAHO

Idaho Department of Labor Offices

Office	Address	Contact Person	Phone
Bonnars Ferry	6541 Main St.	Patsy Stockdale	267-5581 x3827
Kootenai County	600 N. Thornton St., Post Falls	Kim Roby	457-8789 x3907
Grangeville	305 N. State St.	Bobbi Tidwell	983-0440 x3790
Lewiston	1158 Idaho St.	Don Schnabel	799-5000 x3525
Moscow	1350 Troy Rd., Ste. 1	Shirley Ackerman	882-7571 x3813
Orofino	410 Johnson Ave.	Heather Leach	476-5506 x3751
St. Maries	105 N. 8th St.	Shirley Ackerman	245-2518 x3813
Sandpoint	2101 W. Pine St.	Bridgette Bradshaw-Fleer	263-7544 x3923
Silver Valley (Kellogg)	35 Wildcat Way	Alivia Body	769-1558 x3486

Crop Activities*

Crop	Activity	Dates	Hourly Wages
All Hay	Harvest	May to September	\$7.70 - \$10
All Grain	Harvest	Mid-August to Mid-September	\$7.70 - \$10
Hops	Stringing	April-May	\$9.00 - \$10.15
	Training	May-June	\$9.00 - \$10.15
	Harvest	Mid-August to Late August	\$9.00 - \$10.15
Peas Lentils & Garbanzos	Harvest	Mid-August to Mid-September	\$7.70 - \$10
Grass Seed	Harvest	August	\$7.70 - \$10

* Only crop activities with significant labor demand are shown.

CROP ACTIVITY 2011

SOUTHWESTERN IDAHO

Idaho Department of Labor Offices

Office	Address	Contact Person	Phone
Boise	219 W. Main St.	Dan Holmes	332-3575 x3775
Meridian	1090 E. Watertower Lane	John Van Dyke	332-3570 x3199
Canyon County (Caldwell)	4514 Thomas Jefferson St..	Neils Tidwell	364-7781 x3091
Emmett	2030 S. Washington St.	Cory Braden	364-7780 x3042
McCall	299 S. 3rd St.	Jim Thackeray	634-7102 x3094
Mountain Home	1150 American Legion Blvd.	Elsa Guillen	364-7788 x3518
Payette	501 N. 16th St., Ste. 107	Jim Trenkel	642-9361 x3006

Crop Activities*

Crop	Activity	Dates	Hourly Wages
All Hay	Irrigation	May to September	\$7.25 - \$9
	Harvest	May to October	\$9 - \$10
Beans	Irrigation	May to August	\$7.25 - \$10
	Hoeing	Mid-May to Mid-July	\$7.25 - \$9.25
	Harvest	End of August to Mid-September	\$9 - \$10
All Corn	Irrigation	June to September	\$7.25 - \$9.25
	Topping	July	\$9 - \$10
Apples & Other Fruits	Harvest	August to September	\$7.25 - \$10
Cherries	Harvest	June to Early July	\$7.25 - \$9.25
All Grain	Irrigation	Mid-April to September	\$7.25 - \$10
	Harvest	August to September	\$7.25 - \$10
All Mint	Irrigation	May to September	\$7.25 - \$10
Onions	Irrigation	Mid-April to July	\$7.25 - \$10
	Hoeing	May to July	\$7.25 - \$10
	Topping	August to September	\$7.25 - \$10
Potatoes	Hoeing	June and July	\$7.25 - \$10
	Irrigation	Mid-May to October	\$7.25 - \$10
	Harvest	Mid-August to October	\$7.25 - \$10
Sugar Beets	Irrigation	May to October	\$7.55 - \$9
	Weeding/Thinning	May to October	\$7.25 - \$8.50
	Harvest	September to October	\$7.25 - \$8

* Only crop activities with significant labor demand are shown.

CROP ACTIVITY 2011

SOUTH CENTRAL IDAHO

Department of Labor Offices

Office	Address	Contact Person	Phone
Blaine Cnty (Bellevue)	733 N. Main St., Suite. C	Carlos Hernandez	788-3526 x3426
Magic Valley (Twin Falls)	420 Falls Ave	Virginia Enriquez	735-2500 x3655
		Johnny Moreno	725-2500 x3643
Mini-Cassia (Burley)	127 W. 5th St. North	Chet Jeppesen	678-5518 x3109

Crop Activities*

Crop	Activity	Dates	Hourly Wages
All Hay	Irrigation	April to September	\$7.50 - \$9
	Harvest	June to September	\$7.50 - \$9
Beans	Irrigation	May to September	\$7.50 - \$90
	Hoeing	Mid-May to July	\$7.25 - \$7.50
Apples & Other Fruits	Harvest	August to September	\$7.50 - \$9.90
All Grain	Irrigation	May to September	\$7.50 - \$9.90
	Harvest	July to October	\$7.25 - \$9.90
Potatoes	Irrigation	May to September	\$7.50 - \$9.90
	Harvest	Mid-August to Mid-October	\$7.25 - \$9.90
Sugar Beets	Irrigation	May to October	\$7.50 - \$9
	Weeding/Thinning	May to Mid-July	\$7.25 - \$7.50
	Harvest	September and October	\$7.25 - \$9
Tractor Operators		May to October	\$10 - \$12
Truck Drivers		May to November	\$9 - \$13

* Only crop activities with significant labor demand are shown.

CROP ACTIVITY 2011

SOUTHEASTERN & EAST CENTRAL IDAHO

Idaho Department of Labor Offices

Office	Address	Contact Person	Phone
Blackfoot	155 N. Maple St.	Rosalva Ramos	236-6713 x3753
Idaho Falls	1515 E. Lincoln Rd.	Eric Erickson	557-2500 x3557
Pocatello	430 N. 5th Ave.	Selenia Mena	236-6710 x3685
Rexburg	1133 Stocks Ave.	Dave Angell	557-2501 x3881
Salmon	1301 Main St., Unit 1	Merry Logan	756-2234 x3092
Soda Springs	95 E. Hooper Ave. #20	Selenia Mena	236-6710 x3685

Crop Activities*

Crop	Activity	Dates	Wages
All Hay	Irrigation	Mid-April to September	\$0.18 - \$0.20 per pipe
	Irrigation	Mid-April to September	\$4 - \$5.50 per line
	Irrigation	Mid-April to September	\$7.25 - \$9.90 per hour
	Harvest	June to September	\$7.25 - \$9.90 per hour
All Grain	Irrigation	May to September	\$0.18 - \$0.20 per pipe
	Irrigation	May to September	\$4 - \$5.50 per line
	Irrigation	May to September	\$7.25 - \$9.90 per hour
	Harvest	August to September	\$7.25 - \$9.90 per hour
Potatoes	Irrigation	May to September	\$0.18 - \$0.20 per pipe
	Irrigation	May to September	\$4 - \$5.50 per line
	Harvest Preparation	September	\$7.25 - \$9.90 per hour
	Harvest	September to October	\$7.25 - \$9.90 per hour
Sugar beets	Irrigation	May to October	\$0.18 - \$0.20 per pipe
	Irrigation	May to October	\$7.25 - \$9.90 per hour
	Weeding/Thinning	Mid-May to Mid-July	\$7.25 - \$9.90 per hour
	Harvest	September to November	\$7.25 - \$9.90 per hour
Truck Drivers		May to November	\$8 - \$11 per hour
Equip. Operators		May to November	\$8 - \$10 per hour

* Only crop activities with significant labor demand are shown.