
CHILD ELIGIBILITY

Q. Ethanol plants recruit and hire drivers to transport corn (before it is milled or cooked) from corn fields to the ethanol plant, and this is the individual’s only work activity. Is this considered qualifying work for purposes of the Migrant Education Program (MEP)?

No. For purposes of the MEP, “agricultural work” is the production or initial processing of raw agricultural products, such as crops, poultry, livestock; dairy work; as well as the cultivation or harvesting of trees, that is performed for wages or personal subsistence (see section 1309(2) of the Elementary and Secondary Education Act (ESEA) of 1965, as amended, and 34 CFR §200.81(a)).

The Office of Migrant Education (OME) does not consider transporting a raw agricultural product— in this case, corn— 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 (see MEP Non-Regulatory Guidance, Ch. II, F26).

PROVISION OF SERVICES

Q. May Migrant Education Program (MEP)-funded personnel serve as readers or scribes for migratory children taking the State assessment who have Individualized Education Plans (IEPs)? In my State, such testing accommodations are services provided under the Individuals with Disabilities Education Act (IDEA).

MEP-funded personnel may not serve as readers or scribes for migratory children taking the State assessment because, in accordance with section 1306(b)(2) of the Elementary and Secondary Education Act (ESEA) of 1965, as amended, MEP funds “shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs...[emphasis added].” See also Chapter V, G9 of the MEP Non-Regulatory Guidance, which explains that local operating agencies are required to provide migratory children access to the same Federal, State, and locally funded services that non-migratory children with disabilities receive to address their needs, and may not use MEP funds to provide services that school districts are required by law to provide through other programs.

Q. May Migrant Education Program (MEP) funds be used to pay for meals and snacks for migratory students on field trips?

If there are no other resources available, MEP funds may be used to pay for the costs of food while the migratory children are participating in the field trip, as long as the State MEP abides by the criteria that all State educational agencies (SEAs) and local operating agencies (LOAs) must consider when determining if they may use MEP funds for a particular activity or (instructional or support) service:

1. The activity or service comports with the results of the State's Comprehensive Needs Assessment (CNA) and the strategies outlined in the State's Service Delivery Plan (SDP).
2. MEP funds must first be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.
3. The activity or service meets the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs.
4. MEP funds are used to supplement, rather than supplant, the use of State and local funds.
5. The costs of the service or activity must comport with the cost principles described in the Uniform Guidance (Subpart E of 2 CFR Part 200). The cost principles require, among other things, that costs of the service or activity be reasonable and necessary, and be allocable (or chargeable) to the MEP relative to the benefit received. See MEP Non-Regulatory Guidance, Chapter X, Questions F1-F3 for additional information.

In terms of numbers 3 and 4 in the list above, documentation of your efforts to investigate non-MEP resources is important for quality control. It also serves as evidence of compliance with the statute in case of a State or Federal monitoring or audit. For example, if you speak with service agencies, another Federal program director, or local educational agency officials, be sure to document the name and title of individuals you spoke with and the date of the conversation.

FISCAL REQUIREMENTS

Q. How do the supplement, not supplant requirements in section 1118(b) of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015, apply to the Migrant Education Program (MEP)?

ESEA section 1304(c)(2) requires that MEP programs and projects be carried out in a manner consistent with the objectives of ESEA section 1118(b), which is the section that covers the supplement, not supplant (SNS) requirements for Title I, Part A. The specific requirements pertaining to the *methodology, special rule, prohibition, and timeliness* that are described in ESEA section 1118(b)(2)-(5) do not apply to MEP, but the *objectives* of SNS described in ESEA section 1118(b)(1) do apply. Therefore, MEP programs are still required to provide services that supplement, and do not supplant, those provided with State and local funds. SEAs should

continue to examine costs and services supported with MEP funds in order to determine whether MEP funds are supplementing, and not supplanting, State and local funds.

STATE ADMINISTRATION

Q. How much can a State educational agency (SEA) set aside from its Title I, Part C—Migrant Education Program (MEP) award for program administration?

There are two ways to set aside MEP funds at the State level for program administration. It depends on whether the funds are for general program administration (in which case there is a cap), or for administrative costs that are considered unique to the MEP (in which case there is no cap). See below for details:

1. General Administrative Costs

SEAs may set aside a portion of their awards from Title I, Part A, Part C (MEP), and Part D to carry out general administrative functions. These are activities related to program operation or oversight that are common across programs. Some examples of general administrative costs are:

- Design and distribution of forms required to operate the program, such as local educational agency (LEA) applications, performance and financial reports, and evaluation reports;
- Processing of project applications (but not necessarily the costs of reviewing them for compliance);
- Review and aggregation of reported data of the type generally reported under the ESEA;
- Monitoring of projects for fiscal compliance with the statutory and regulatory requirements;
- Maintenance of fiscal control and accounting procedures; and
- Dissemination of information.

In general, SEAs may set aside 1% from each of their Title I, Part A, Part C (MEP), and Part D awards for general costs of administering the programs (or \$400,000 total— whichever is greater). *However*, in any year when the total amount appropriated by Congress to all three programs exceeds \$14 billion, the law requires an adjustment to the actual amount SEAs may set aside from each program for general administrative costs, so it won't be exactly 1% of the amount the SEA received. This was the case in FY 2018 and for several prior years. Basically, award amounts are adjusted to calculate what each SEA would have received for each program, if \$14 billion total had been authorized, and SEAs base their 1% set aside on that adjusted amount. Each fall, the Department issues a spreadsheet to SEAs that shows the adjusted amount for the three programs.

SEAs may keep these set-asides separate for the administration of each program, or combine them into a single pool of funds that may be used for general administrative costs of any of those three programs.

(See section 1004 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended; 34 CFR §200.100(b); and Chapter XI, A1 and A2 of the MEP Non-Regulatory Guidance.)

2. Administrative Costs Unique to the MEP

In addition to the funds set aside for general administration of the program, SEAs may set aside additional funds from their MEP award for administrative functions that are more unique to the program. Some examples of administrative costs we consider to be “unique to the MEP”:

- Statewide identification and recruitment;
- Interstate and intrastate coordination of the State MEP and its local projects with other relevant programs and local projects in the State and in other States;
- Procedures beyond those required generally by State and local agencies for providing educational continuity for migratory children through the timely transfer of educational and health records;
- Collecting and using information needed for accurate distribution of subgrant funds;
- Collecting and using information needed to report Category 1 and Category 2 child counts;
- Development of the statewide needs assessment and comprehensive State plan for MEP service delivery;
- Supervision of instructional and support staff;
- Establishment and implementation of the State parent advisory council; and
- Conducting an evaluation of the effectiveness of the State MEP.

There is no specific cap in terms of dollar amount or percentage of the MEP award that may be set aside for these purposes. It depends on each State’s size and program design.

(See 34 CFR §200.82 and Chapter XI, A4 of the MEP Non-Regulatory Guidance.)