

Navigating the Murky Waters of MEP Eligibility

Sarah Martinez
Celeste Rodriguez Jensen

October 29, 2014

Presented at ESCORT's
Identification & Recruitment (ID&R) Forum
Jacksonville, FL

*The mission of the Office of Migrant
Education is to provide excellent leadership,
technical assistance, and financial support, to improve
the educational opportunities and academic success of
migrant children, youth, agricultural workers, fishers
and their families.*



For more information on
CAMP, HEP, and MEP visit
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Objectives

- Collaborate with peers to develop correct and complete responses to eligibility scenarios
- Share strategies for resolving eligibility questions
- Gain a better understanding of how the Office of Migrant Education (OME) approaches challenging eligibility scenarios

Authorities for MEP 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).

Statute

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



Regulation

Code of Federal Regulations, 34 CFR 200.81 and 200.103(a)



Guidance

MEP Non-Regulatory Guidance, Chapter II (August 2010)

Eligibility Requirements: 5 Key Factors

AGE:

The child is younger than 22 years of age.

SCHOOL COMPLETION:

The child is eligible for a free public education through Grade 12 (no HS diploma or equivalent).

MOVE:

The child and worker “moved” in the preceding 36 months.

IN ORDER TO OBTAIN:

One purpose of the worker’s move was to seek or obtain “qualifying work.”

QUALIFYING WORK:

Temporary or seasonal employment in agricultural or fishing work.

Activity: Scenarios

- Spend the next 15 minutes discussing the eligibility scenario that corresponds to your table # (e.g., table #1 will discuss scenario #1).
- Each table should designate one person to report out to the group.
- We will ask each table's designee to summarize their discussion, and the eligibility determination for their assigned scenario.
- Participants will receive copies of all scenarios, including OME's determinations, at the conclusion of the session.

Scenario 1

A 16 year old young man, Jose, leaves his home in Columbia, fearing for his life due to increased gang violence in his neighborhood. He intends to move to the U.S., as he feels he will be safer there, and he has a cousin in New York with whom he can live, at least temporarily. Shortly after crossing the U.S. border in Texas, Jose is detained by Immigration and Customs Enforcement (ICE). Jose is considered part of the growing number of unaccompanied youth crossing the U.S. border, and he is temporarily placed in a shelter run by the Department of Health and Human Services (HHS). While he is awaiting immigration proceedings, Jose is allowed to live with his cousin in New York. His cousin helps him get a seasonal job in the apple orchards where he works. Is Jose now eligible for the MEP?

Eligibility Determination for Scenario 1

Jose is **NOT ELIGIBLE** for the MEP.

- Although Jose did obtain qualifying work after moving to New York, he is not eligible for the MEP due to the reasons for his move.
- It is not clear that his move was due to economic necessity, nor was his intent in moving to seek or obtain work.

Scenario 2

A recruiter in Maine encounters a family— two parents and their 12 year old son— that moved together from Florida one month ago, in search of any type work. The mother has not been able to find work, but the father is currently employed picking blueberries. He just started the job a week ago. Immediately after the move, he worked a short-term construction job at an apartment complex. Based on the information provided, is their child eligible for the MEP?

Eligibility Determination for Scenario 2

The child is **ELIGIBLE** for the MEP.

- Even though the father performed non-qualifying work immediately after the move, he still moved to seek or obtain any work, and obtained qualifying work (seasonal employment in agricultural work) “soon after” the move.

Scenario 3

An 18 year old, pregnant woman moves across school district boundaries, in search of qualifying work. She obtains qualifying work (seasonal employment in agricultural work), and gives birth to a son four months after the move. The young woman does not have a high school diploma or its equivalent. Who is eligible for the MEP?

Eligibility Determination for Scenario 3

The mother is **ELIGIBLE** for the MEP, assuming she obtained the work soon after the move. Her son is **NOT ELIGIBLE** for the MEP.

- Children who were born after a move occurred are not considered eligible for the MEP.
- The son may be eligible if he and his mother make a subsequent qualifying move.

Scenario 4

A father and his two school-age sons move across school district boundaries in search of qualifying agricultural work. The father has a history of such moves, and is usually able to find seasonal work picking various crops. On the most recent move, the father is unable to find work picking crops, but he is offered temporary employment at one farm doing various odd jobs. These tasks include mowing the lawn around the owner's farmhouse, cleaning out the stalls of the dairy cows, and feeding the chickens. Are the children eligible for the MEP based on this most recent move?

Eligibility Determination for Scenario 4

Yes, the children are **ELIGIBLE** based on the most recent move.

- The father is temporarily employed in agricultural work. OME considers at least some of the tasks to meet the MEP's definition of agricultural work.
- Although some of the tasks— e.g., mowing the lawn around the owner's home— would *not* meet the MEP's definition of agricultural work, the fact that the worker performs non-qualifying work in addition to qualifying work has no impact on his children's MEP eligibility.

Scenario 5

A recruiter in Florida identifies an out-of-school youth who does not have a high school diploma or equivalent, and is currently employed in seasonal agricultural work. The young man moved on his own to Florida in search of work, three months ago at the age of 21. By the time the recruiter identifies this young man however, he has since turned 22. Should the recruiter proceed with completing a Certificate of Eligibility (COE) for this young man?

Eligibility Determination for Scenario 5

No, the recruiter should **NOT complete a COE** for the young man in the scenario.

- Although the young man was likely eligible for the MEP at one time, the young man is not eligible for the MEP on the date that the recruiter identifies the young man, and therefore, the recruiter should not proceed with recruiting him for the program.

Scenario 6

A mother and her two school-age children left their home in California with the intent of obtaining qualifying work in Washington. On the way to Washington, their car broke down in Oregon. Unable to afford the necessary repairs, the mother decided to remain in Oregon and find some sort of temporary work. Within a couple of weeks, she was able to obtain qualifying work (picking grapes) and tells the recruiter the family plans to stay just until she can afford to repair their car, estimating 3 months. Are the children eligible for the MEP?

Eligibility Determination for Scenario 6

Yes, the children are **ELIGIBLE** for the MEP.

- Although the family did not make it to their original destination, the move to Oregon was a change in residence due to economic necessity.
- Although she did not specify that she was looking for seasonal or temporary employment *in agricultural or fishing work* in Oregon, the fact that she was looking for any type of work, and obtained qualifying work (temporary employment in agricultural work) soon after the move does meet the requirement for MEP eligibility.

Scenario 7

A recruiter has over 20 years of experience working for the state MEP. He visits a meat processing facility and interviews workers on their lunch break. One worker appears to meet all of the MEP eligibility criteria- she is 18 years old; does not have a high school diploma or its equivalent; moved to the area (from out of state) a month ago in search of any type of work; and found a job at the processing facility within a week of her move. When asked how long she plans to stay employed by the company, the worker responds that she plans to stay as long as possible. She would like to enroll in night classes, and the job pays more than any job she's had in the past. The nature of the work and the turnover he's seen at this work site lead the recruiter to believe that despite what she says now, the worker has been on the job for less than a month, and will likely end up staying maybe six months at the most. Should the recruiter to qualify this worker for the MEP?

Eligibility Determination for Scenario 7

No, the recruiter should **NOT QUALIFY** this worker based on the facts provided.

- Although the worker appears to meet most of the MEP eligibility criteria, the recruiter's experience is not enough to support a determination that the employment is temporary.
- There are three ways to determine that employment is temporary: worker's statement, employer's statement, or the State's documentation to support its determination that the employment is temporary.

Scenario 8

A mother with two young children (both under the age of five) moves across school district boundaries in search of seasonal agricultural work. She has moved several times for seasonal work in various crops. The owner of the first farm she visits tells her that the picking and sorting jobs have been filled, but he is interested in hiring someone to work in the on-site day care facility for the season. The day care facility is provided for children of workers, at reduced rates. The woman accepts the job, and her own children are allowed to enroll in the daycare. Do her children qualify for the MEP?

Eligibility Determination for Scenario 8

Yes, the children are **ELIGIBLE** for the MEP.

- The mother's employment is seasonal, but it is not considered agricultural work .
- However, she still fits the eligibility criteria based on the fact that even though she was unable to obtain qualifying work, she moved with the intent of seeking qualifying work (seasonal employment in agricultural work), and has a prior history of moves to obtain qualifying work.

Eligibility Determinations: Phase 1

The following tips are meant to complement the States' procedures and processes for resolving eligibility questions:

- Gather available information about all of the factors.
- Do research. Look up information about possible employers and possible work.
- Review the statute and regulations to understand what the laws say (if anything) about the question.
- Review the MEP guidance and the policy Q&As posted on the RESULTS website to see if the same question has been asked and answered.

Eligibility Determinations: Phase 2

- If the question has not been answered, try applying the thinking about another question to your question.
- Discuss the question with people in your network.
- Consider whether your decision is a reasonable interpretation, and in line with the intent, of the statute and regulations.
- Consider the long term implications/negative consequences of your decision.

Eligibility Determinations: Phase 3

- Describe the facts as you understand them.
- Provide a complete answer – address all of the eligibility factors or establish necessary assumptions.
- Provide a reference to current statute, regulation, and/or guidance.
- Provide a statement or two that explains why/how you came to your decision.
- Provide an example if one would be helpful.

Sending Questions to OME

We are happy to provide feedback on eligibility questions.

Please follow your State's process for resolving eligibility questions, and then submit unresolved questions to us.

In correspondence sent to your MEP Program Officer, please include:

- All relevant facts;
- The # of children affected;
- Your analysis of the situation, and the response you would provide.

THANK YOU!

For Questions Please Contact:

Your MEP Program Officer or

Sarah Martinez

sarah.martinez@ed.gov

Celeste Rodriguez Jensen

Celeste.rodriquez@ed.gov

U.S. Department
of
Education

400 Maryland Ave S.W.
Washington, D.C. 20202
www.ed.gov



Office of Migrant
Education

